LIVERMORE
CALIFORNIA

CITY COUNCIL

AGENDA
MONDAY, MAY 13, 2024

REGULAR MEETING – 7:00 PM

CLOSED SESSION - 6:30 PM

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

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

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

TV29:
Comcast TV Channel 29
tv29live.org

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

1. CLOSED SESSION - 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 Paul Spence Assistant City 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's 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 Paul Spence Assistant City 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's 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 Paul Spence Assistant City 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's negotiators may negotiate with Sara Rieck and Becky Bremser, Chief of Land Acquisition, on behalf of the East Bay Regional Park District. The instructions will concern price and terms of payment.

1.4 Conference with Real Property Negotiator. To meet with Paul Spence Assistant City Manager and Andy Ross Economic Development Manager, the City's negotiators pursuant to Government Code section 54956.8, regarding the purchase, sale, exchange, or lease of real property at Assessor's Parcel No. 902-9-3-2 and 902-9-3-1. The City's negotiators may negotiate with property owners Harford Estates Ltd. The instructions will concern price and terms of payment.

1.5 Conference with Real Property Negotiator. To meet with Paul Spence Assistant City Manager and Andy Ross Economic Development Manager, the City's negotiators pursuant to Government Code section 54956.8, regarding the purchase, sale, exchange, or lease of real property at Assessor's Parcel No. 99B-5300-10. The City's negotiators may negotiate with Lisa Quisito, on behalf of Sharon Albright & Karen Red Elk Trust. The instructions will concern whether there is interest in acquiring the property for open space purposes, and if so, instructions will also concern price and terms of payment.

2. CALL TO ORDER

ROLL CALL

Council Member Ben Barrientos
Council Member Evan Branning
Council Member Brittni Kiick

Vice Mayor Robert W. Carling
Mayor John Marchand

PLEDGE OF ALLEGIANCE

REPORT OF ACTION TAKEN IN CLOSED SESSION

3. PROCLAMATIONS AND PRESENTATIONS

3.1 Proclamation recognizing East Bay Housing Organizations 40th Anniversary, presented to Darin Lounds, East Bay Housing Organizations Board Member.

Recommendation:
Staff recommends the City Council recognize East Bay Housing Organizations 40th Anniversary.

Staff Report
Attachments:
1. Proclamation

3.2 Proclamation declaring May 2024 as Jewish American Heritage Month, presented to Tsahala David, President of Congregation Beth Emek

Recommendation:
Staff recommends City Council declare May 2024 as Jewish American Heritage Month.

Staff Report
Attachments:
1. Proclamation

3.3 Proclamation declaring May 19-25, 2024, as Public Works Week in the City of Livermore, presented to Judy Erlandson, City of Livermore Acting Public Works Director.

Recommendation:
Staff recommends City Council declare May 19-25, 2024, as Public Works Week in the City of Livermore.

Staff Report
Attachments:
1. Proclamation

3.4 Proclamation declaring June as Safety Awareness Month, presented to Jas Sidhu, City of Livermore Risk Manager.

Recommendation:
Staff recommends the City Council declare June as Safety Awareness Month.

Staff Report

Attachments:
1. Proclamation

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 Adoption of an ordinance amending Title 11, Chapter 11.08, Airport Rules and Regulations, Chapters 11.08.010 Definitions and 11.08.110 Aviation Fueling Operations in the Livermore Municipal Code to Require Fixed Base Operators to provide certain aviation fuels by December 12, 2025.

Recommendation:
Staff recommends that the City Council **adopt an ordinance** amending Title 11, Chapter 11.08, Airport Rules and Regulations, Chapters 11.08.010 Definitions and 11.08.110 Aviation Fueling Operations in the Livermore Municipal Code to update the definition of Fuel and include a provision requiring Fixed Base Operators (FBOs) to provide Unleaded Aviation Fuel.

Staff Report
Attachments:
1. Redline Changes
2. Ordinance

5.2 Resolution authorizing execution of a first amendment to the agreement with Schaaf & Wheeler Consulting Engineers for on-call design of repairs for sites damaged during the 2017 and 2023 storm events, hydraulic modeling support, and annual Stream Maintenance Program projects, increasing the not-to-exceed amount from $400,000 to $1,000,000 and extending the term of the agreement two additional years to December 31, 2027.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a first amendment to the agreement with Schaaf & Wheeler Consulting Engineers for on-call design of repairs for sites damaged during the 2017 and 2023 storm events, hydraulic modeling support, and annual Stream Maintenance Program projects, increasing the not-to-exceed amount from $400,000 to $1,000,000 and extending the term of the agreement two additional years to December 31, 2027.

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

5.3 Resolution authorizing execution of a first amendment to the agreement with Gannett Fleming, Inc. increasing the not-to-exceed amount from $952,000 to $2,052,000 for additional construction management and inspection services associated with the Livermore Village Parking Garage Construction Project 586003.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a first amendment to the agreement with Gannett Fleming, Inc. increasing the not-to-exceed amount from $952,000 to $2,052,000 for additional construction management and inspection services associated with the Livermore Village Parking Garage Construction Project 586003.

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

5.4 Resolutions authorizing execution of agreements with Independent Code Consultants Inc. and 4LEAF Inc. to provide on-call plan review, inspections, and permit technician services in an amount not-to-exceed $460,000 per contract over a five-year term.

Recommendation:
Staff recommends the City Council adopt resolutions authorizing the City Manager to execute agreements with Independent Code Consultant Inc. and 4LEAF Inc. to provide on-call plan check, site inspections, permit technician services, and Certified Access Specialist (CASp) consultation. Each contract has a not-to-exceed amount of $460,000 over a five-year term ending on June 30, 2029.

Staff Report
Attachments:
1. Resolution - Independent Code Consultants
2. Exhibit A - Agreement Independent Code Consultants Inc.
3. Resolution - 4LEAF Inc.
4. Exhibit A - Agreement 4LEAF Inc.

5.5 Resolution authorizing execution of an agreement with TruePoint Solutions LLC to implement Accela Citizen Access, DigEplan electronic plan review, on-call Accela permit software programming, and LTC DigEplan subscription agreement. The contract has a not-to-exceed amount of $455,000 over a five-year term.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute an agreement with TruePoint Solutions LLC for services to implement Accela Citizen Access, DigEplan electronic plan review, on-call Accela permit software programming, and LTC DigEplan subscription agreement. The contract has a not-to-exceed amount of $455,000 over a five-year term.

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

5.6 Resolution authorizing the execution of an agreement with Golden State Emergency Vehicle Services Inc. for repairs to fire apparatuses manufactured by Pierce Manufacturing and Boise Mobile Equipment in an amount not-to-exceed $350,000 for a three-year term ending May 31, 2027.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the execution of an agreement with Golden State Emergency Vehicle Services Inc. for repairs to fire apparatuses manufactured by Pierce Manufacturing and Boise Mobile Equipment in an amount not-to-exceed $350,000 for a three-year term ending May 31, 2027.

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

5.7 Resolution authorizing approval of a cooperative implementation agreement with Caltrans that defines the terms for the City to install two trash capture devices at Southfront Lane and the Southern Conveyance Facility and to receive up to $1,480,000 in reimbursements from Caltrans as part of 2024 Storm Drain Trash Capture Project 2024-25.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a cooperative implementation agreement with Caltrans that defines the terms for the City to install two trash capture devices at Southfront Lane and the Southern Conveyance Facility and to receive up to $1,480,000 in reimbursements from Caltrans as part of 2024 Storm Drain Trash Capture Project 2024-25.

Staff Report
Attachments:
1. Vicinity Map

2. Resolution
3. Exhibit A - Agreement

5.8 Resolution authorizing execution of a ten-year Master License Agreement for Wireless Facilities on Vertical Infrastructure in the Public Rights-of-Way between the City of Livermore and New Cingular Wireless PCS, LLC to provide the general framework for the installation and maintenance of small cell antennas and associated equipment on City streetlights within the City's rights-of-way.

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

1. Finding the approval of the Master License Agreement for small cell wireless facilities is not a project within the meaning of CEQA Guidelines Section 15378 because it has no potential for resulting in physical change in the environment, directly or indirectly. It is also exempt under the commonsense exemption set forth in CEQA Guidelines Section 15061(b)(3). Approval of small cell wireless facilities that may be approved by the Master License Agreement are exempt under CEQA Guidelines Sections 15301 (Existing Facilities) as minor additions to existing facilities and/or 15303 (New Construction or Conversion of Small Structures) for new, small facilities or structures; and
2. Authorizing the City Manager to sign the Master License Agreement between the City of Livermore and New Cingular Wireless PCS, LLC, to provide the general framework for the installation and maintenance of small cell antennas and associated equipment on City streetlights within the City’s rights-of-way.

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

5.9 Resolution authorizing the execution of an agreement with One Diversified, LLC (Diversified) to upgrade, reconfigure and provide 36 months of ongoing maintenance of the Civic Center Meeting Hall in an amount not-to-exceed $300,000 and appropriate $300,000 from the City’s Public Educational and Government (PEG) fees.

Recommendation:
Staff recommends the City Council adopt a resolution:

1. Appropriating $300,000 from the City's Public Educational and Government (PEG) fees; and
2. Authorizing the City Manager to execute an agreement with One Diversified, LLC to upgrade, reconfigure and provide ongoing maintenance for the first phase of a multi-phase project to upgrade the production capabilities of the City Council Chambers and the Mendenhall Community Room in an amount not-to-exceed $300,000.

Staff Report
Attachments:

1. Resolution
2. Exhibit A - Agreement

5.10 Resolution authorizing the execution of a purchase order with CDW-G for hardware and remote installation services in an amount not-to-exceed $267,000 to replace the Police Department's and Library's primary data storage systems.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a purchase order with CDW-G in an amount not-to-exceed $267,000 for a hardware and remote installation services purchase to replace the Police Department's and Library's primary data storage systems.

Staff Report
Attachments:
1. CDW-G Quotes
2. Resolution

5.11 Resolution authorizing execution of a purchase order with 72 Hour LLC DBA National Auto Fleet Group, for six Ford F150 All-Wheel Drive Electric Vehicle (AWD EV) Lightning pickup trucks in an amount not-to-exceed of $451,117.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a purchase order with National Auto Fleet Group in an amount not-to-exceed $451,117 for six 2024 Ford F150 AWD EV Lightning pickup trucks.

Staff Report
Attachments:
1. Sourcewell Contract 091521-NAF
2. National Auto Fleet Group Quotation
3. Resolution

5.12 Resolution authorizing execution of a Low-Income For Sale Housing Agreement with DeNova Homes, Inc. for a 172-unit subdivision located at the intersection of North Canyons Parkway and Triad Drive (VTTM 8657), "Triad East/Amarone".

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a Low Income For Sale Housing Agreement with DeNova Homes, Inc. for a 172-unit subdivision located at the intersection of North Canyons Parkway and Triad Drive (VTTM 8657) Triad East/Amarone.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Low Income Housing Agreement DeNova

5.13 Resolution adding Traffic Operation Center Upgrade, Project 2023-28 to the 2023-2028

Capital Improvement Plan, authorizing reallocations of Gas Taxes in the amount of $260,000 in FY 2023-24, approving an exception to the Livermore Municipal Code bidding requirements, and authorizing issuance of a purchase order in an amount not-to-exceed $240,000 for Novani, LLC to upgrade the Traffic Operation Center Hardware as part of the Traffic Operation Center Upgrade Project 2023-28.

Recommendation:
Staff recommends the City Council adopt a resolution:

1. Adding Traffic Operation Center Upgrade Project 2023-28 to the 2023-2028 Capital Improvement Plan,
2. Reallocating $200,000 in Gas Taxes from the FY 2023-24 budget of Bluebell Dr. Bridge Repair at Altamont Creek Project 2017-21 to the FY 2023-24 budget of Traffic Operation Center Upgrade Project 2023-28.
3. Reallocating $60,000 in Gas Tax from the FY 2023-24 budget of Bridge Rehabilitation Project 2022-19 to the FY 2023-24 budget of Traffic Operation Center Upgrade Project 2023-28.
4. Approving an exception to the bidding requirement contained in Livermore Municipal Code Section 2.68.370.B.2 because the supplies and equipment are unique and available from one source so there is no competitive advantage to be gained by inviting bids; and
5. Authorizing the City Manager to execute a purchase order in an amount not-to exceed $240,000 for Novani, LLC to upgrade Livermore Traffic Operation Center hardware as part of the Traffic Operation Center Upgrade Project 2023-28.

Staff Report
Attachments:
1. Project Location Map
2. CIP Book Page
3. Resolution

5.14 Resolution authorizing reallocations of Measure BB Local Streets and Roads in the amount of $540,000 in FY 2024-25 to Traffic Signal Modification 2019-2021 Project 2019-33 and authorizing an agreement with DC Electric Group, Inc., in an amount not-to-exceed $460,000, to replace six traffic signal controller cabinet assemblies as part of the Traffic Signal Modification 2019-2021 Project 2019-33.

Recommendation:
Staff recommends the City Council adopt a resolution:

1. Reallocating $240,000 in Measure BB Local Streets and Roads Fund 688 from the FY 2023-24 budget of Traffic Signal Modification 2019-2021 Project 2019-33 to FY 2024-25;
2. Reallocating $300,000 in Measure BB Local Streets and Roads Fund 688 from the FY 2023-24 budget of East Avenue Corridor ATP Implementation Project 2022-22 to the FY 2024-25 budget of Traffic Signal Modification 2019-2021 Project 2019-33; and
3. Authorizing the City Manager to execute an agreement with DC Electric Group, Inc., in an amount not-to-exceed $460,000, to replace six traffic signal controller cabinet assemblies as part of Traffic Signal Modification 2019-2021 Project 2019-33.

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

5.15 Resolution amending the City of Livermore Salary Plan dated May 2024 to reflect an MOU adjustment for the Livermore Police Officers Association in accordance with California Code of Regulations, Title 2, Section 570.5 and assigning new Class Code numbers to all Job Classifications in connection with the implementation of the new payroll system.

Recommendation:
Staff recommends the City Council adopt a resolution amending the City of Livermore Salary Plan dated May 2024 to reflect an MOU adjustment for the Livermore Police Officers Association and assigning new Class Code numbers to all Job Classifications in connection with the implementation of the new payroll system.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Salary Plan May 2024

5.16 Resolution authorizing the display of the Philadelphia rainbow pride flag for the month of June 2024.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the display of the Philadelphia rainbow pride flag on the flagpole at the Civic Center Campus for the month of June 2024.

Staff Report
Attachments:
1. Resolution

5.17 Resolution calling for and giving notice of the holding of a General Municipal Election and consolidating services with Alameda County on Tuesday, November 5, 2024 for the election of certain officers of the City.

Recommendation:
The City's General Municipal Election is scheduled for Tuesday, November 5, 2024. Staff recommends the City Council adopt a resolution calling for the election and directing the City Clerk, in cooperation with the Alameda County Registrar of Voters, to conduct the election and request consolidation from the Alameda County Registrar of Voters.

Staff Report
Attachments:
1. District Map

2. Resolution

5.18 Resolution accepting the Single Audit Report related to federal grants for the Fiscal Year Ending June 30, 2023.

Recommendation:
Staff recommends the City Council adopt a resolution accepting the Single Audit Report for Fiscal Year 2022-23 as completed.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Federal Awards Report in Accordance with the Uniform Guidance

5.19 Resolution establishing an interim appeals board to hear and decide appeals of building code violations pursuant to California Building Code section 1.8.8 and directing staff to prepare an ordinance establishing a permanent appeals board.

Recommendation:
The City Attorney's Office recommends that the City Council adopt a resolution:

1. Establishing an interim appeals board to, pursuant to Section 1.8.8 of the California Building Code, hear and decide appeals of building code violations and public nuisance determinations based on those violations, which shall be comprised of three members who are not employees of the City but who are knowledgeable about all applicable building codes, regulations, and ordinances, and which shall sunset on February 28, 2025 unless otherwise replaced by resolution or ordinance.
2. Delegating its authority to hear and decide appeals of building code violations and public nuisance determinations based on those violations to the interim appeals board.
3. Delegating its authority to the City Council Subcommittee on Advisory Bodies to interview and appoint members to fill vacancies on and remove members of the interim appeals board.
4. Directing the City Clerk to facilitate the recruitment of members of the interim appeals board for consideration by the City Council Subcommittee on Advisory Bodies.
5. Directing the interim appeals board to comply with the procedures for administrative hearings outlined in Chapter 8.15 of the Livermore Municipal Code as if it were a "hearing officer."
6. Authorizing the City Attorney, or their designee, to establish any additional procedures as appropriate for the conduct of appeals heard and decided by the interim appeals board.
7. Directing staff to draft an ordinance for consideration by the City Council on or before February 28, 2025, which establishes a permanent appeals board to hear and decide appeals of building code violations and public nuisance determinations based on those violations.

Staff Report
Attachments:
1. Resolution

5.20 Approval to send a six-month extension notification letter to Republic Services Vasco Road Landfill.

Recommendation:
Staff recommends the City Council direct staff to send a six-month extension notification letter to Republic Services Vasco Road Landfill to extend the term of the Amended and Restated Agreement Between the City of Livermore and Republic Services Vasco Road, LLC for Disposal of Solid Waste to June 30, 2025.

Staff Report
Attachments:
1. Draft Extension Letter

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 Public Hearing to approve the Livermore Sanitation, Inc. requested 3.68% rate adjustment to be effective July 1, 2024.

Recommendation:
Staff recommends the City Council hold a public hearing and approve rates listed in Exhibit H of the Third Amended and Restated Agreement for Solid Waste, Recyclable Materials, and Compostable Materials Services effective July 1, 2024.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Livermore Sanitation Customer Rates for Rate Period Fifteen Exhibit H

7. MATTERS FOR CONSIDERATION - NONE.

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).

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

9. ADJOURNMENT

To a Special Meeting on Monday, May 20, 2024 at 5:00 pm and a Regular City Council meeting on Monday, June 10, 2023 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue.

10. SUPPLEMENTAL MATERIALS

10.1 Supplemental materials received prior to the meeting.

Staff Report
Attachments:
1. Supplemental Materials

10.2 Supplemental materials received at the meeting.
Staff Report
Attachments:
1. Items Received at the Meeting

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: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Paul Spence, Assistant City Manager

SUBJECT: Proclamation recognizing East Bay Housing Organizations 40th Anniversary, presented to Darin Lounds, East Bay Housing Organizations Board Member.

RECOMMENDED ACTION

Staff recommends the City Council recognize East Bay Housing Organizations 40th Anniversary.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Proclamation

Prepared by: Trisha Howard
Management Analyst II

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Proclamation

of the
City of Livermore

Recognizing

EAST BAY HOUSING ORGANIZATIONS

40th ANNIVERSARY

WHEREAS, *quality, affordable housing is vital to healthy, safe and racially-just communities. Increasing housing costs can lead longtime residents to be displaced, live in overcrowded homes, or experience homelessness, threatening racial diversity and economic opportunities; and*

WHEREAS, *regional efforts to address the growing Bay Area housing crisis are an essential part of combating homelessness and supporting low-income seniors, families, youth, veterans, people with disabilities or special needs. Local housing organizations recognize May as Bay Area Affordable Housing Month to increase awareness of homelessness; and*

WHEREAS, *founded in April 1984, East Bay Housing Organizations (EBHO) has been the leading affordable housing advocacy coalition serving Alameda and Contra Costa Counties for over 40 years. EBHO is a member-driven organization working to preserve, protect and create affordable housing for low-income communities in the East Bay by educating, advocating, organizing and building coalitions; and*

WHEREAS, *each May, EBHO joins community partners across the Bay Area to host Affordable Housing Month to promote opportunities to come together to build support for affordable housing and racial justice. This year, through the month of May, EBHO partnered with 31 organizations to host 30 free events to educate communities on how affordable housing benefits everyone. These events include ground-breakings, ribbon cuttings, panel discussions, and educational webinars covering topics such as affordable housing finance, homeownership for middle-income families of color and the role of housing in healthcare;*

NOW, THEREFORE, *the City Council of the City of Livermore, in honor of EBHO's 40th Anniversary, thanks EBHO's Board, staff, volunteers, members and funding partners for their efforts and encourages residents to support local programs to bring affordable housing to all community members to ensure that everyone has a safe, healthy, and affordable place to call home.*

Mayor John Marchand

Vice Mayor Robert W. Carling

Council Member Ben Barrientos

Council Member Evan Branning

Council Member Brittni Kiick

CORPORATE SEAL OF THE CITY OF LIVERMORE, CA.

LIVERMORE
CALIFORNIA

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

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Marianna Marysheva, City Manager

SUBJECT: Proclamation declaring May 2024 as Jewish American Heritage Month, presented to Tsahala David, President of Congregation Beth Emek

RECOMMENDED ACTION

Staff recommends City Council declare May 2024 as Jewish American Heritage Month.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Proclamation

Prepared by: Stephanie Egidio
Assistant to the City Manager

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Proclamation

of the
City of Livermore

Declaring

JEWISH AMERICAN HERITAGE MONTH

May 2024

WHEREAS, *the City of Livermore has been and continues to be home to people of many different national origins, immigration or refugee status, cultures, histories, races, ethnicities, religious affiliations or none, gender identities, sexual orientations, ages, education, economic status and physical, mental or emotional abilities. Our strength is derived from our diversity and inclusiveness; and*

WHEREAS, *the City Council believes that a city can best embrace unity and tolerance through leading by example and living our shared community values of welcome, inclusion, and respect, and by developing common ground in venues that allow us to talk and work together for service each other and our community; and*

WHEREAS, *on April 20, 2006, the Federal Government proclaimed May as Jewish American Heritage Month, stating, "As a nation of immigrants, the United States is better and stronger because Jewish people from all over the world have chosen to become American citizens," and, since then, proclamations in support of Jewish American Heritage Month have been made by Presidents of the United States annually; and*

WHEREAS, *Jewish residents of Livermore have been and continue to be an important part of Livermore's past and present, contributing to the arts, science and technology, education, and government, as well as building community and advocating for social justice for all;*

NOW, THEREFORE, *the City of Livermore City Council hereby declares the month of May as Jewish American Heritage Month in appreciation of the achievements and contributions made by members of the Jewish community. The City Council supports opportunities for all to learn more about Jewish American history and culture and celebrate Jewish Americans who have, in collaboration with others, woven the fabric of our community and country.*

Mayor John Marchand

CORPORATE SEAL OF THE CITY OF LIVERMORE, CA.

Vice Mayor Robert W. Carling

Council Member Ben Barrientos

Council Member Evan Branning

Council Member Brittni Kiick

LIVERMORE
CALIFORNIA

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

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Judy Erlandson, Acting Public Works Director

SUBJECT: Proclamation declaring May 19-25, 2024, as Public Works Week in the City of Livermore, presented to Judy Erlandson, City of Livermore Acting Public Works Director.

RECOMMENDED ACTION

Staff recommends City Council declare May 19-25, 2024, as Public Works Week in the City of Livermore.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Proclamation

Prepared by: Kathy Hughes
Administrative Assistant

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Proclamation

of the

City of Livermore

Declaring

NATIONAL PUBLIC WORKS WEEK

May 19-25, 2024

WHEREAS, *public works professionals focus on infrastructure, facilities, and services that are of vital importance to public health, high quality of life and well-being for the residents of Livermore; and*

WHEREAS*, the Public Works Department encompasses Water, Sewer, Streets, Lighting, Landscaping, Fleet, Facilities, Solid Waste and Recyclables Collection, Asset Management, and Airport Operations; and*

WHEREAS, *these services could not be provided without the dedicated efforts of public works professionals, who are responsible for rebuilding, improving, and protecting the City's roads, water supply, water treatment and solid waste systems, public buildings, landscaping, streets, fleet, traffic signals and street lighting, airport operations and other structures and facilities essential for our residents; and*

WHEREAS, *it is in the public interest for the residents and civic leaders of the City of Livermore to gain knowledge on understanding of the importance of public works and public works programs; and*

WHEREAS, *2024 marks the 64th annual National Public Works Week with this year's theme "Advancing Quality of Life for All" shining a spotlight on the way public works employees advance the quality of life for the residents of Livermore through hard work and dedication;*

NOW, THEREFORE, *the City Council of the City of Livermore proclaims the week of May 19-25, 2024 as Public Works Week in the City of Livermore, and encourages residents to recognize the contributions that Public Works staff make every day to their health, safety, comfort and quality of life.*

Mayor John Marchand

Vice Mayor Brittni Kiick

Council Member Ben Barrientos

Council Member Evan Branning

Council Member Robert W. Carling

CORPORATE SEAL OF THE CITY OF LIVERMORE, CA.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 3.4**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Jason Alcala, City Attorney

SUBJECT: Proclamation declaring June as Safety Awareness Month, presented to Jas Sidhu, City of Livermore Risk Manager.

RECOMMENDED ACTION

Staff recommends the City Council declare June as Safety Awareness Month.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Proclamation

Prepared by: Jas Sidhu
Risk Manager

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Proclamation

of the

City of Livermore

Proclaiming

SAFETY AWARENESS MONTH

June 2024

WHEREAS, *the rate of accidental injuries and related deaths, in the United States, remains at undesirable levels; and*

WHEREAS, *City of Livermore employees and residents deserve to live and work in communities that promote safe and healthy living; and*

WHEREAS, *the City of Livermore supports national safety efforts and has taken a proactive stance in providing a safe and healthy work environment for its employees and residents through the formation of the Central Safety Committee and through the development of new safety protocols; and*

WHEREAS, *City of Livermore employees, including the Central Safety Committee, work to ensure the safety of all staff and residents by providing training, education, and outreach, and encouraging continual improvement in community and workplace safety and health; and*

WHEREAS, *the Livermore City Council joins the members of the National Safety Council and other organizations in their annual observance of June as National Safety Month; and*

WHEREAS, *the Risk Management Division will hold Safety Awareness Month consisting of safety trainings and activities to take place in the month of June;*

NOW, THEREFORE, *the City Council of the City of Livermore proclaims June 2024 as Safety Awareness Month and urges all residents to help reduce accidents, injuries, and illnesses by practicing safe and healthy behaviors in all aspects of their lives.*

Mayor John Marchand

CORPORATE SEAL OF THE CITY OF LIVERMORE, CA.

Vice Mayor Robert W. Carling

Council Member Ben Barrientos

Council Member Evan Branning

Council Member Brittni Kiick

LIVERMORE
CALIFORNIA

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

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Judy Erlandson, Acting Public Works Director

SUBJECT: Adoption of an ordinance amending Title 11, Chapter 11.08, Airport Rules and Regulations, Chapters 11.08.010 Definitions and 11.08.110 Aviation Fueling Operations in the Livermore Municipal Code to Require Fixed Base Operators to provide certain aviation fuels by December 12, 2025.

RECOMMENDED ACTION

Staff recommends that the City Council **adopt an ordinance** amending Title 11, Chapter 11.08, Airport Rules and Regulations, Chapters 11.08.010 Definitions and 11.08.110 Aviation Fueling Operations in the Livermore Municipal Code to update the definition of Fuel and include a provision requiring Fixed Base Operators (FBOs) to provide Unleaded Aviation Fuel.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Redline Changes
2. Ordinance

Prepared by: Deborah Davis
Administrative Assistant

Approved by:



Marianna Marysheva
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

11.08.010 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“Abandoned or unclaimed aircraft” means an aircraft that has not been utilized, flown or worked on for a period of 13 consecutive months when stored inside a hangar or on a tie-down, and/or has not been maintained in flyable condition. Abandoned or unclaimed aircraft are aircraft which do not appear to cause or constitute an imminent or immediate danger to the health or safety of persons using the airport.

“Accident” means a collision or other contact between any part of an aircraft, vehicle, person, stationary object and/or other thing which results in property damage, personal injury, or death; or an entry into or emergence from a moving aircraft or vehicle by a person which results in personal injury or death to such person or some other person or which results in property damage.

“Aeronautical activity” means any activity that involves, makes possible, facilitates, is related to, assists in or is required for the operation of an aircraft or airport or which contributes to, or is required for, the safety of aircraft and/or airport operations.

“Affiliate” means any company that controls, or is controlled by, or is under common control with another company.

“Agreement,” “license” or “permit” means a written contract, executed by both parties and enforceable by law, between the City and an individual or entity granting a concession, transferring rights or interest in land and/or improvements, and/or otherwise authorizing and/or prohibiting the conduct of certain activities. Such agreement will recite the terms and conditions under which the activity will be conducted at the airport including, but not limited to, the term of the agreement, rents, fees, and charges to be paid by the individual or entity; and the rights and obligations of the respective parties. Examples include, but are not limited to, commercial aviation permits and hangar lease agreements.

“Air traffic control” means the service, control and authority established by FAA or contract tower personnel to promote the safe, orderly, and expeditious flow of air traffic.

“Aircraft” means any contrivance now known or hereafter invented which is used or designed for navigation of or flight in air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. This includes, but is not limited to, airplanes, airships, balloons, dirigibles, rockets,

helicopters, gliders, gyrocopters, ground-effect machines, sailplanes, amphibians, ultralights, light sport and seaplanes.

“Aircraft maintenance” means the repair, maintenance, alteration, preservation, or inspection of aircraft including the replacement of parts and shall be considered either major repairs or minor repairs. “Major repairs” include major alterations to the airframe, powerplant, and propeller as defined in 14 CFR Part 43. “Minor repairs” include normal, routine annual inspection with attendant maintenance, repair, calibration, or adjustment of aircraft and their accessories.

“Aircraft operator” means a person who uses, causes to be used, or authorizes to be used an aircraft, with or without the right of legal control (as owner, lessee, or otherwise), for the purpose of air navigation including the piloting of aircraft, or on any part of the surface of the airport.

“Airframe and powerplant mechanic” (or “A and P mechanic”) means a person who holds an aircraft mechanic certificate with both the airframe and powerplant ratings. This certification is issued by the Federal Aviation Administration (“FAA”) under the provisions of 14 CFR Part 65.

“Airplane” means, more specifically, an engine-driven, fixed-wing aircraft heavier than air that is supported in flight by the dynamic reaction of the air against its wings.

“Airport” means the Livermore municipal airport, located in the City of Livermore, state of California.

“Airport Commission” means those persons appointed to that position by the City Council.

“Airport manager” means the person appointed to this job classification by the City, or the City’s authorized representative.

“Airport operating area” or “AOA” means any area of the airport used or intended to be used for landing, taking off, or surface maneuvering of aircraft.

“Aviation-related activity” means any activity conducted on airport property that provides service and support to airport users. The following are examples of aviation-related activities; they include but are not limited to ground transportation, restaurants, auto parking lots, concessions, etc.

“Based aircraft” means any aircraft assigned a reserved tie-down, shelter or hangar space for the majority of the calendar year, whether or not such assignment is made under a written lease with the City.

"Commercial aviation permit" or "CAP" means the legal agreement between the airport and an individual or entity providing a commercial aeronautical activity which is consistent with the adopted minimum standards for commercial aeronautical activities and which grants permission to perform such activity on or from the airport property, whether directly or indirectly related to aviation activities or aeronautical activities, and with the intent to generate and/or secure earnings, income, compensation (including exchange or barter of goods and services), and/or profit, whether or not such objectives are accomplished.

"Derelict aircraft or vehicle" means any vehicle, aircraft or other property which causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the persons using the airport or a significant portion thereof.

"Essential services" means those services that owners and operators of non-turbojet powered aircraft less than 12,500 pounds maximum takeoff weight need to maintain airworthiness of such aircraft. At a minimum, these services shall include avionics, airframe and powerplant major repair and alteration performed by Federal Aviation Administration (FAA) certificated repair station(s).

"FAA" means the Federal Aviation Administration, which is the agency of the United States government that has the responsibility of promoting safety in the air.

"Fixed base operator" or "FBO" means a person, partnership, corporation, unincorporated association, their assignees or sub-lessees which perform a commercial aeronautical activity upon the airport pursuant to an agreement between the City and the individual or entity.

"Fuel" means any substance (solid, liquid, or gaseous) used to operate any engine in aircraft, e.g., avgas (leaded), avgas (unleaded), jet fuel, ethanol-free premium auto fuel, diesel, ~~and~~ biofuel, and any other alternative Fuel (e.g. Mogas and hydrogen) that are authorized for use by the FAA or use in an aircraft engine, an aircraft engine/airframe combination, and rotor wing aircraft either through an ASTM designation or a Supplemental Type Certificate. The fuel must have an industry standard detailing specific requirements for the quality and safe use of the fuel (i.e. ASTM), where the fuel is also accompanied by risk mitigation protection with established product liability insurance coverage provided by the manufacturer or distributor. These fuels may also be used in vehicles or equipment, as appropriate and permitted. "Fuel handling" means the transportation, delivering, fueling, or drainage of fuel or fuel waste products.

"Hangar" means a fully enclosed, lockable storage space for one or more aircraft, further defined by size and purpose as follows:

1. Commercial hangar: These hangar units encompass no less than 10,000 square feet of floor and office space and are generally intended to be occupied by one or more FBOs.

2. Corporate hangar: These square or rectangular hangars encompass more than 3,600 square feet and are generally intended to house larger corporate or business-type single- and twin-engine aircraft.

3. Executive hangar: These square or rectangular hangars encompass at least 2,500 square feet of floor space and are generally intended to house corporate or business-type single- and twin-engine airplanes.

4. Rectangular hangar: These hangar units encompass at least 1,800 square feet of floor space and are generally intended to accommodate large single- or twin-engine airplanes.

5. T-hangar: These hangar units are configured to accommodate an airplane's "T" shape, encompass at least 900 square feet of floor space, and are generally intended to accommodate smaller single- and twin-engine airplanes. The T-hangars located at the end of each hangar building contain an additional half of the square footage of a T-hangar unit, and are referred to as "T-combo" units.

"Hazardous materials" means any oil, petroleum products, flammable substances, explosives, radioactive materials, wastes, or substances or any other wastes, material or pollutants which pose a hazard to the health and safety of any person on or entering the airport property or which are classified as hazardous materials under applicable regulatory measures.

"Lessee" or "tenant" means an individual or entity that has entered into an agreement with the airport to occupy, use, and/or develop land and/or improvements and engage in aeronautical activities.

"Long-term lease" means a ground lease with any initial term longer than five years.

"Medium-term lease" means a facility lease with any initial term longer than 30 days but no more than five years.

"Minimum standards" means those guidelines, qualifications, standards, and criteria set forth as the minimum requirements to be met as a condition precedent to the right to engage in activities at the airport, adopted by the City Council by resolution and as may be amended from time to time. These are also referred to as the minimum standards for commercial aeronautical activities.

"Movement areas" are those portions of the AOA that are under the control and jurisdiction of FAA air traffic control, primarily taxiways and runways.

“Operator” means an individual or entity that has entered into an agreement with the airport to engage in commercial aeronautical activities.

“Person” means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity.

“Preventive maintenance” means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations.

“Regulatory measures” means federal, state, county, and city laws, codes, ordinances, policies, rules and regulations, all as may be in existence, hereafter enacted, and amended from time to time.

“Rules and regulations” means the provisions contained in this title and adopted by ordinance by the City Council and which pertain to the use and operations of the airport.

“Self-fueling” means the fueling of an aircraft by the owner of the aircraft with his or her own employees and using his or her own equipment.

“Special event” means a specific occasion so arranged or planned for a particular purpose that is in addition to or more than the permitted activities engaged in by an individual (including an operator, lessee or third parties) or entity at the airport pursuant to an agreement.

“Specialized aviation service operator” (or “SASO”) means a commercial operator engaged in providing a single aeronautical service, or a combination of aeronautical services, including but not limited to aircraft maintenance, avionics or instrument maintenance, aircraft rental and/or flight training, aircraft charter or aircraft management, aircraft sales, and/or aircraft storage, as permitted. A SASO is not permitted to engage in aeronautical activities involving the sale of aviation fuel.

“SWPPP” means the current stormwater pollution and prevention program in place at the airport, as may be amended from time to time.

“Tie-down” means the area, paved or unpaved, suitable for parking and mooring of aircraft wherein suitable tie-down points have been located.

“Transient aircraft” means any aircraft which utilizes the airport for occasional temporary purposes, generally no longer than seven days, and which is based at another airport and is not assigned a reserved tie-down or hangar at the airport.

"Unmet essential services" means a condition that exists whenever aircraft owners and operators are not able to obtain essential services at the Livermore Airport. (Ord. 2149 § 1 (Exh. A), 2023; Ord. 2085 § 1(A), 2019; Ord. 2065 § 1(A), 2018; Ord. 1916 § 1(5), 2010; Ord. 1905 § 1, 2010)

11.08.110 Aviation fueling operations.

A. Fueling, defueling, and fuel storage activities on the airport shall conform to the current applicable provisions of CFR Title 14, and guidelines; all appropriate National Fire Protection Act guidelines; FAA Advisory Circular 150/5230-4 (including updates or amendments); applicable provisions of the airport's SWPPP; and applicable provisions of the Environmental Protection Agency and the California Environmental Protection Agency relating to these activities.

B. Except for self-fueling, fuels shall only be dispensed on the airport by those FBOs and self-fueling entities that have a written agreement with the City granting such permission, and shall comply with all orders, procedures and minimum standards for commercial aeronautical activities set forth by the City and adopted by resolution of the City Council.

C. A properly trained operator shall be present and responsive, remaining in direct view of all operating controls and equipment at all times while fuel delivery vehicles transfer fuel into or out of any fuel storage facility. The operator shall not block open, disengage, and/or deactivate the "deadman" switch while fueling and/or transferring fuel.

D. No person shall fuel or defuel an aircraft until that person is properly trained. Records shall be kept by all fixed base operators documenting the training provided and qualifications of each person trained. Recurrent training shall be provided on a regularly scheduled basis, but not less than every year. All records shall be subject to review of and/or inspection by the airport manager or fire marshal.

E. No aircraft shall be fueled with an engine running (hot-fueling) unless prior authorization has been obtained from the airport manager and the fueling operator.

F. No aircraft shall be fueled or defueled unless the point of contact between the fuel transfer device (e.g., fuel nozzle) and the aircraft fuel tank is at least eight feet away from any hangar structure or enclosed space. Aircraft fuel handling shall be conducted outdoors and at least 50 feet from any combustion and ventilation air-intake to any boiler, heater, or incinerator room or as approved by the fire marshal.

G. Fueling hoses, funnels and apparatus shall be equipped with a bonding device to prevent ignition of volatile liquids. During any fueling process, the aircraft and the fueling apparatus shall both be bonded to equalize voltage potential.

H. Pouring or gravity transfer of fuel from containers is prohibited unless approved by airport manager.

I. No person shall smoke or use any material or equipment which is likely to cause a spark or ignition within 100 feet of any fueling or defueling operations or use any material or equipment which is likely to cause a spark or ignition.

J. All fuel handled on the airport shall be treated with due caution and circumspection with regard to the rights and safety of others so as not to endanger, or likely to endanger, persons or property.

K. Care shall be exercised to prevent spillage of fuel. The airport manager shall be notified any time spillage in excess of five gallons occurs. Any fuel spilled during transfer shall be removed immediately. No engine of any aircraft shall be started when fuel is on the ground under such aircraft, except sump drain checks.

L. Each refueling vehicle shall have a minimum 15-gallon spill kit. Each fuel storage facility shall have a minimum 55-gallon spill kit.

M. Fuels not meeting motor vehicle fuels specifications, such as aviation gasoline, jet fuel and transmix, are prohibited from being supplied, sold or transported for use in motor vehicles (Title 13 California Code of Regulations, Sections 2250 et seq.).

N. Any aircraft owner desiring to self-fuel shall apply for a self-fueling permit. Issuance of the permit to the aircraft owner (permittee) is based upon conformance with the following standards:

1. Self-fueling shall be limited to those aircraft that are owned by the permittee with full and exclusive custody and control of the aircraft.

2. Fuel cooperative organizations, whereby there is joint ownership of a fuel tank and fuel, are not authorized.

3. Fueling services may only be provided by the permittee or a direct employee of the permittee utilizing the vehicles and equipment owned or leased by the permittee. If not utilizing their own employees and/or equipment permittees are only authorized to have their aircraft fueled, washed, or repaired by those operators and lessees authorized to provide such service pursuant to an agreement with the City.

4. Fueling shall only be conducted on paved apron areas leased or subleased by permittee. The paved areas shall be of a sufficient size to permit proper aircraft storage, service, access to the taxiway/runway system, and be adequate to satisfy the number of aircraft owned by the permittee.

5. Self-fueling activities shall comply with all applicable federal, state, and local laws, regulations, and codes. Self-fueling activities shall be subject to inspection and approval by the airport manager, fire marshal and other local government inspectors having jurisdiction. Permittee must have a fuel spill containment and fire emergency plan and procedures and shall provide such plan and procedures to the airport manager for review and approval.

6. Permittee and all employees conducting fueling operations on permittee's premises shall attend safety and training programs, which are subject to approval by the airport manager and fire marshal. Records of training, fuel dispensing equipment, and fuel storage equipment installation and maintenance shall be maintained for five years and provided to the airport manager upon request.

7. Permittee may maintain fuel storage tanks for Avgas and Jet A fuels and each type of fuel shall be maintained in separate aboveground storage tanks, compliant with safety ratings in the fire code, NFPA, and California Department of Health and Environmental Oil Inspection Regulation System. Storage tanks shall have a minimum capacity of 10,000 gallons each. Fuel storage tanks shall have separate filter-equipped dispensing pumps and meters for each grade of fuel. The permittee shall provide at least one fuel truck for each grade of fuel maintained by permittee with a minimum truck tank capacity of 1,500 gallons for Jet A and 750 gallons for Avgas.

8. Permittee shall enter into a lease agreement with the City for the tank storage to be located at a dedicated location determined by the airport manager. All fuel equipment and facilities shall be properly maintained and kept in a safe and clean condition.

9. The self-fueling permittee shall maintain liability insurance with coverage for products and completed operations with limits of not less than $25,000,000 per occurrence. Self-fueling permit holders must follow the current insurance schedule as required by City of Livermore risk manager's office.

O. In the event of a declared disaster and the disruption of regular fuel deliveries to the airport, the City shall have the authority to appropriate any fuel stored on the airport for emergency operations. The owner of the fuel will be compensated at the market price on the day before the disaster declaration.

P. Any entity permitted to dispense fuel on the airport, including self-fueling permit holders, shall pay a fuel flowage fee established by the airport rates and charges fee schedule, as revised from time to time and approved by City Council resolution. Fueling activity reports shall be submitted to the airport manager monthly. (Ord. 2085 §§ 1(B), (C), (D), 2019; Ord. 2065 § 1(A), 2018; Ord. 1905 § 1, 2010)

Q. A full service Fixed Base Operator (FBO) must minimally provide the following aviation Fuel as required by this Code and by *Section 2:General Requirements and Standards* and *Part 3: Fixed Base Operator (FBO) / Full Service* as described in the Livermore Municipal Airport Minimum Standards for Commercial Aeronautical Activities.

1. Jet A
2. Avgas (Leaded)
3. Avgas (Unleaded)
4. Optionally, or as requested, any alternative fuel (e.g. Mogas and hydrogen) as described in this Code in section 11.080.010, Definitions and as described in Part 1, Definitions of the Minimum Standards for Commercial Aeronautical Activity for Livermore Airport.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE AMENDING TITLE 11, CHAPTER 11.08, *AIRPORT RULES AND REGULATIONS*, CHAPTERS 11.08.010 *DEFINITIONS* AND 11.08.110 *AVIATION FUELING OPERATIONS* IN THE LIVERMORE MUNICIPAL CODE TO REQUIRE FIXED BASE OPERATORS TO PROVIDE CERTAIN AVIATION FUELS BY DECEMBER 12, 2025

The Livermore Aviation fueling operations establishes procedures for proper fueling provisions, activities, and guidelines, as well as types of fuels available at the Livermore Municipal Airport (Airport).

Fuel sales are done onsite by a Fixed Base Operator (FBO) and the City of Livermore (City) does not directly sell fuel at the Airport.

On October 23, 2023, the City Council directed staff to update the Airport's Minimum Standards for Commercial Aeronautical Activities (Minimum Standards) in response to community requests.

On November 6, 2023, the Airport Commission reviewed and recommended the Minimum Standards for City Council approval.

On December 11, 2023, City Council adopted a resolution amending the Minimum Standards to require the provision of Unleaded Aviation Fuel by the FBO.

The amended Minimum Standards now requires the FBO to offer unleaded aviation fuel by December 12, 2025.

With the updates to the Minimum Standards, it is now necessary to update the Livermore Municipal Code to require an FBO to make certain aviation fuels available by December 12, 2025.

Amending the Livermore Municipal Code reflects the significant actions the City is taking to assist in the mitigation of lead exposure from the Livermore Municipal Airport.

This is not a project as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15378 and therefore, is not subject to environmental review.

The adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act under the common sense exemption set forth in CEQA Guidelines Section 15061(b)(3) 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 ordinance may have a significant effect on the environment, it is not subject to CEQA.

ORDINANCE NO. _____

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

Section 1. ***Purpose.*** This ordinance update expands the definition of fuel and adds the provision for unleaded aviation fuel by the FBO no later than December 12, 2025.

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

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

A. 11.08.010 *Definitions* "Fuel" is hereby amended so it reads as follows:

"Fuel" means any substance (solid, liquid, or gaseous) used to operate any engine in aircraft, e.g., avgas (leaded), avgas (unleaded), jet fuel, ethanol-free premium auto fuel, diesel, ~~and~~ biofuel, and any other alternative Fuel (e.g. Mogas and hydrogen) that are authorized for use by the FAA or use in an aircraft engine, an aircraft engine/airframe combination, and rotor wing aircraft either through an ASTM designation or a Supplemental Type Certificate. The fuel must have an industry standard detailing specific requirements for the quality and safe use of the fuel (i.e. ASTM), where the fuel is also accompanied by risk mitigation protection with established product liability insurance coverage provided by the manufacturer or distributor. These fuels may also be used in vehicles or equipment, as appropriate and permitted.

B. Section Q is added to 11.08.110 *Aviation Fueling Operations* to read as follows:
(Q) A full service Fixed Base Operator (FBO) must minimally provide the following aviation fuel as required by this Code and by Section 2: General Requirements and Standards and Part 3: Fixed Base Operator (FBO)/Full Service as described in the Livermore Municipal Airport Minimum Standards for Commercial Aeronautical Activities.

1. Jet A
2. Avgas (Leaded)
3. Avgas (Unleaded)
4. Optionally, or as requested, any alternative fuel (e.g. Mogas and hydrogen) as described in this Code in section 11.080.010, Definitions and as described in Part 1, Definitions of the Minimum Standards for Commercial Aeronautical Activity for Livermore Airport.

Section 4. ***Environmental.*** The adoption of this ordinance is not a project as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15378 and therefore, is not subject to environmental review. The adoption of the ordinance is also exempt from CEQA under the common sense exemption set forth in CEQA

Guidelines Section 15061(b)(3) 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 ordinance may have a significant effect on the environment, it is not subject to CEQA.

***Section 5. Severability*.** If any part of this ordinance is declared invalid by a court, such invalidity shall not affect any of the remaining parts.

Section 6. Publication. This ordinance shall be published once in a newspaper of general circulation of the City of Livermore within fifteen days after its adoption.

Section 7. Effective date. This Ordinance shall take effect 30 days after its adoption.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Livermore held on April 15, 2024, by the following vote:

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

The ordinance was adopted at the regular meeting of the City Council held on May 13, 2024, by the following vote:

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

_____
Mayor, City of Livermore

ATTEST:

Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

LIVERMORE
CALIFORNIA

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

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing execution of a first amendment to the agreement with Schaaf & Wheeler Consulting Engineers for on-call design of repairs for sites damaged during the 2017 and 2023 storm events, hydraulic modeling support, and annual Stream Maintenance Program projects, increasing the not-to-exceed amount from $400,000 to $1,000,000 and extending the term of the agreement two additional years to December 31, 2027.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a first amendment to the agreement with Schaaf & Wheeler Consulting Engineers for on-call design of repairs for sites damaged during the 2017 and 2023 storm events, hydraulic modeling support, and annual Stream Maintenance Program projects, increasing the not-to-exceed amount from $400,000 to $1,000,000 and extending the term of the agreement two additional years to December 31, 2027.

SUMMARY

The City of Livermore (City) experienced storm damage at various sites during the heavy rain events that occurred in 2017 and 2023. Damage included creek bank erosion, sedimentation, trail damage, and debris build-up.

The Engineering Division utilizes an on-call engineering consultant to provide engineering design services for various City projects including the design of repairs for sites damaged during the 2017 and 2023 storm events, design of the annual Stream Maintenance Program projects, and to provide other services as requested.

This first amendment to Schaaf & Wheeler Consulting Engineers agreement increases the not-to-exceed contract amount from $400,000 to $1,000,000 and extends the term of the agreement to December 31, 2027.

DISCUSSION

The Engineering Division utilizes an on-call engineering consultant to provide engineering design services for various City projects including repairs for sites damaged during the 2017 and 2023 storm events, the design of the annual Stream Maintenance Program projects, and for other engineering services as requested.

On June 15, 2023, City Council authorized the City Manager to execute an on-call engineering services agreement with Schaaf & Wheeler Consulting Engineers (Consultant) in the amount of $400,000 to provide engineering design services for the sites damaged in the 2023 storm events for a two-and half-year term.

During the current term, the Consultant completed several 2023 storm damage repair projects. In addition to completing the design of repairs for 2023 storm damage, staff is now requesting Schaaf & Wheeler Consulting Engineers to complete the design of repairs to sites damaged during the 2017 storm events which includes the Cottonwood Creek improvements, the Las Positas golf course, and the Arroyo Las Positas Creek improvements. These projects are funded by the Federal Emergency Management Agency. Staff is also requesting Schaaf & Wheeler provide engineering design services for the annual Stream Maintenance Program projects which include removing accumulated silt and debris from creeks and channels.

Additional budget is required to complete the design for sites damaged in the 2017 and 2023 storm events and for the annual Stream Maintenance Program projects. This first amendment increases the Consultant's compensation from $400,000 to a total of $1,000,000 and extends the term of the original agreement to December 31, 2027.

FISCAL AND ADMINISTRATIVE IMPACTS

Funding for services rendered under this agreement will be derived from the various capital improvement projects in the approved FY 2023-28 Capital Improvement Plan and the engineering operating budget for miscellaneous consultant services. Therefore, no additional appropriation is necessary.

COMMUNITY PILLAR

5: A City That Works

GOAL

14: Develop, operate, and maintain the City’s infrastructure.

GUIDING DOCUMENT

Stream Maintenance Program Manual

ATTACHMENTS

1. Resolution
2. Exhibit A - First Amendment to Agreement

Prepared by: Mallika Ramachandran
Assistant City Engineer

Approved by:



Marianna Marysheva
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF A FIRST AMENDMENT TO THE ENGINEERING SERVICES AGREEMENT WITH SCHAAF & WHEELER CONSULTING ENGINEERS FOR ON-CALL DESIGN OF REPAIRS FOR SITES DAMAGED DURING THE 2023 STORM EVENTS AND HYDRAULIC MODELING SUPPORT, REPAIRS TO SITES DAMAGED DURING 2017 STORM EVENTS, AND ANNUAL STREAM MAINTENANCE PROGRAM PROJECTS, INCREASING THE NOT-TO-EXCEED AMOUNT FROM $400,000 TO $1,000,000 AND EXTENDING THE TERM OF THE AGREEMENT TWO ADDITIONAL YEARS TO DECEMBER 31, 2027

The City of Livermore ("City") experienced storm damage at various sites throughout the City during the heavy rain events that occurred in 2017 and 2023. Damage included creek bank erosion, sedimentation, trail damage, and debris build-up.

Schaaf & Wheeler Consulting Engineers has provided engineering design services for the 2017 and 2023 storm events, the annual Stream Maintenance Program projects, and they provide other engineering services as requested.

Additional budget is required to complete these projects. This First Amendment increases the Consultant's compensation from $400,000 to a total of $1,000,000 and extends the term of the Original Agreement to December 31, 2027.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LIVERMORE, AS FOLLOWS:

1. The City Council authorizes the City Manager to execute a First Amendment to the Engineering Services Agreement with Schaaf & Wheeler Consulting Engineers for on-call design of repairs for sites damaged during the 2023 storm events and hydraulic modeling support, increasing the not-to-exceed amount from $400,000 to $1,000,000 to complete the design of repairs to sites damaged during 2017 storm events and to design annual Stream Maintenance Program projects, and extending the term of the agreement two additional years to December 31, 2027. A copy of the Agreement is attached as Exhibit A and is incorporated by this reference.

2. The City Council authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Resolution.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS

ATTEST:

Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – First Amendment to Agreement

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FIRST AMENDMENT TO ENGINEERING SERVICES AGREEMENT

THIS FIRST AMENDMENT, is made and entered into this ____ day of _____, 2024, by and between the City of Livermore, a municipal corporation ("City"), and Schaaf & Wheeler Consulting Engineers, a California Corporation ("Consultant").

RECITALS

On June 15, 2023, City and Consultant entered into an agreement for Consultant to provide engineering design services to repair sites damaged during the 2023 storm events (Agreement 23-0171) for 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 include engineering design services to complete the design for sites damaged in the 2017 storm events and to design the annual Stream Maintenance Program projects, and increase the Consultant's compensation by $600,000, and extend the term of the Original Agreement to December 31, 2027. 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 Recitals, Paragraph 1 of the Original Agreement is amended to read as follows:

      City requires engineering services to provide on-call engineering services for various City projects including design of repairs for sites damaged during the 2023 storm events, complete the design for sites damaged in the 2017 storm events and to design the annual Stream Maintenance Program projects and provide other services as requested.

   B. Section 6a of the Original Agreement is amended to read as follows:

      Compensation and Payment.

      a) The total compensation payable by City to Consultant for the Services required in the Original Agreement and this First Amendment SHALL NOT EXCEED the sum of $1,000,000 ("not to exceed amount").

         1. The compensation payable by the City to the Consultant for the Services required by "Exhibit A" to the Original Agreement SHALL

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NOT Exceed the sum of $400,000.

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 $600,000.

City shall compensate Consultant for the Services rendered at the hourly rates set forth in "Exhibit A" to the Original Agreement and "Exhibit A-1" to the First Amendment.

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 cost or 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 7 of the Original Agreement is amended to read as follows:

Term. The term of this Agreement commences on the Effective Date and terminates upon the depletion of funds or December 31, 2027, whichever occurs first.

2. These amendments are prospective and only apply to the Services rendered by Consultant after the execution of this Amendment. Unless otherwise stated herein, this Amendment does not relieve the parties of the terms and conditions of the Original Agreement as written and in effect at the time the Services were rendered.

3. Except as amended above, the Original Agreement remains in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

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:
Dan Schaff
9C782431136745B...

3/26/2024 | 9:40 AM PDT

By: Dan Schaaf
Title: Vice President

CITY OF LIVERMORE: **Dated:**

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

DocuSigned by:
Tara Mazzanti
19DF47CAC5D0451...

Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Jas Sidhu
A3F7D34BB8A748A...

Risk Manager/Analyst

Attachment:
Exhibit A-1 to the First Amendment

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EXHIBIT A-1

ENGINEERING SERVICES FOR ON-CALL STORM DAMAGE REPAIR DESIGN

Engineering services shall include the following:

1. Project development, topographic survey, geotechnical and geomorphology investigations, hydrology/hydraulics studies, structural calculations, other engineering technical studies, environmental studies, etc.
2. Prepare Plans Specification and Estimates and Construction Documents
3. Prepare project schedules
4. Prepare CEQA Environmental Document (IS/MND)
5. Prepare Environmental Regulatory Permits and coordinate permit approvals with regulatory agencies
6. Provide Bid and Construction Phase Support
7. Prepare meeting minutes
8. Other task as assigned

Deliverables:

- Engineering Technical Studies and Memorandums
- Environmental Studies
- Geotechnical Report
- CEQA IS-MND
- Regulatory Permits
- Plans, Specification and Estimates (30% to 100% and Construction Documents)
- Project schedules
- Meeting minutes
- Other deliverables as requested

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EXHIBIT A-1
BILLING RATES

Schaaf & Wheeler
CONSULTING CIVIL ENGINEERS
4699 Old Ironsides Dr., Suite 350
Santa Clara, CA 95054-1860
(408) 246-4848

1. Hourly Charge Rate Schedule

Personnel Charges

Charges for personnel engaged in professional and/or technical work are based on the actual hours directly chargeable to the project.

Current rates by classification are listed below:

Classification	2023	2024	2025	2026	2027
Principal Project Manager	$275	$285	$295	$305	$315
Senior Project Manager	$250	$260	$270	$280	$290
Senior Engineer	$235	$245	$250	$260	$270
Associate Engineer	$210	$220	$225	$235	$245
Assistant Engineer	$195	$205	$210	$220	$230
Junior Engineer	$185	$195	$200	$210	$220
Designer	$175	$185	$190	$200	$210
GIS Analyst	$175	$185	$190	$200	$210
Technician	$160	$165	$170	$175	$180
Engineering Trainee	$135	$140	$145	$150	$155
Construction Manager	$250	$260	$270	$280	$290
Senior Resident Engineer	$235	$245	$250	$260	$270
Resident Engineer	$210	$220	$225	$235	$245
Assistant Resident Engineer	$190	$200	$205	$215	$225

Litigation Charges

Work done in preparation for litigation and other very high level-of-expertise assignments is charged at $400 per hour. Court or deposition time as an expert witness is charged at $500 per hour.

Materials and Services

Subcontractors, special equipment, outside reproduction, data processing, computer services, etc., will be charged at 1.10 times cost.

Effective 1/1/23

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SBI
Swaim Biological Inc.

Classifications and Hourly Rates (2023-2027)

Title	2023 Hourly Rate	2024 Hourly Rate	2025 Hourly Rate	2026 Hourly Rate	2027 Hourly Rate
Principal Biologist II	$195.00	$200.85	$206.88	$213.08	$219.47
GIS Manager	$175.00	$180.25	$185.66	$191.23	$196.96
Principal Biologist I	$165.00	$169.95	$175.05	$180.30	$185.71
Program Manager	$160.00	$164.80	$169.74	$174.84	$180.08
Principal Regulatory Specialist	$150.00	$154.50	$159.14	$163.91	$168.83
Assistant Project Manager	$130.00	$133.90	$137.92	$142.05	$146.32
Biologist III	$135.00	$139.05	$143.22	$147.52	$151.94
Biologist II	$115.00	$118.45	$122.00	$125.66	$129.43
Biologist I	$90.00	$92.70	$95.48	$98.35	$101.30

Mileage billed at current federal rate, direct expenses billed at cost.

RATE SCHEDULE

Effective: January 1, 2023

wra
Environmental Consultants

Director/Principal.....$256-272
Senior Associate.....$237-256
Associate.....$210
Senior Scientist.....$185
Scientist.....$171
Senior Technician.....$147
Technician.....$123

Rates shown are per hour and subject to an annual adjustment each January 1st.

Necessary project expenses and subconsultants are billed at cost plus ten percent.

Landscape Design
Senior Restoration Designer.....$256
Sr Associate Landscape Architect.....$237
Associate Landscape Architect.....$210
Landscape Architect.....$185
Senior Landscape Designer.....$171
Landscape Designer II.....$147
Landscape Designer I.....$132

Environmental Planning
Environmental Planning Director.....$256
Senior Environmental Planner.....$256
Senior Open Space Planner.....$256
Sr Associate Environmental Planner.....$237
Associate Environmental Planner.....$210
Environmental Planner II.....$185
Environmental Planner I.....$171
Assistant Environmental Planner II.....$147
Assistant Environmental Planner.....$132

Conservation Strategies
Conservation Strategies Sr Project Mgr.....$256
Conservation Strategies Sr Associate.....$237
Conservation Strategies Associate.....$216
Conservation Strategies Sr Scientist.....$190
Conservation Strategies Scientist.....$173
Conservation Strategies Sr Technician.....$154
Conservation Strategies Technician.....$136

Engineering
Senior Engineer.....$256
Sr Associate Engineer.....$237
Associate Engineer.....$216
Engineer II.....$190
Engineer I.....$173
Assistant Engineer II.....$154
Assistant Engineer.....$136

GIS Mapping & Analysis
GIS Manager.....$237
GIS Professional II.....$198
GIS Professional.....$171
GIS Sr Technician.....$147
GIS Technician.....$132

Compliance Monitoring
(Overtime = Rate x 1.5)
Project Biologist.....$100

Field Specialists
Senior Field Technician.....$171
Field Technician.....$132
Junior Field Technician.....$106

Clerical Support.....$91
Expert Witness.....Rate x 1.5

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KIER+WRIGHT

HOURLY RATE SCHEDULE

Effective March 1, 2023, through February 29, 2024. Rates are subject to annual adjustment

Principal	$ 293.00 / Hour
Principal Engineer	$ 266.00 / Hour
Senior Engineer Manager	$ 245.00 / Hour
Technical Manager	$ 245.00 / Hour
Senior Engineer	$ 232.00 / Hour
Engineer III	$ 216.00 / Hour
Engineer II	$ 180.00 / Hour
Engineer I	$ 150.00 / Hour
Senior Survey Construction Manager	$ 239.00 / Hour
Senior Land Surveyor	$ 239.00 / Hour
Project Surveyor III	$ 214.00 / Hour
Project Surveyor II	$ 173.00 / Hour
Project Surveyor I	$ 148.00 / Hour
Survey Coordinator	$ 204.00 / Hour
Engineering Tech III	$ 194.00 / Hour
Engineering Tech II	$ 176.00 / Hour
Engineering Tech I	$ 164.00 / Hour
Draftsman / Survey Tech III	$ 150.00 / Hour
Draftsman / Survey Tech II	$ 124.00 / Hour
Draftsman / Survey Tech I	$ 114.00 / Hour
3-Man Survey Crew	$ 420.00 / Hour
2-Man Survey Crew	$ 332.00 / Hour
1-Man Survey Crew	$ 205.00 / Hour
Testimony (Trial or Deposition)	$ 572.00 / Hour
Project Coordinator III	$ 140.00 / Hour
Project Coordinator II	$ 123.00 / Hour
Project Coordinator I	$ 107.00 / Hour
Engineering / Survey Intern	$ 62.00 / Hour
3D Laser Scanning Crew	$ 409.00 / Hour

All blueprinting and reproduction will be billed at cost plus 10%.

Time spent for preparation for testimony will be billed in accordance with the above hourly rates.

EXHIBIT A

CORNERSTONE EARTH GROUP

Prevailing Wage Hourly Fee Rates and Equipment Charges

Through December 31, 2023.. Rates are subject to annual adjustment

Administrative Assistant	$105
Engineering Technician I	$180
Construction Services Administrator	$135
Engineering Technician II	$180
Technical Illustrator/CAD Operator	$150
Supervisory Technician	$180
Staff Engineer or Geologist	$180
Senior Supervisory Technician	$180
Senior Staff Engineer or Geologist	$193
Project Engineer or Geologist	$215
Principal Construction Services	$215
Senior Project Engineer or Geologist	$220
Principal Engineer or Geologist	$265
Senior Principal Engineer or Geologist	$295

Charges for personnel will be made in accordance with the above rates. For field engineers, geologists and technicians, regular rates are normal workday construction hours (Monday through Friday). For time spent over 8 hours in a day, time spent after 5 p.m., time spent on swing shifts, and time spent on Saturdays by field personnel, overtime rates will be charged at 1.5 times the hourly rate. Work on Sundays and holidays and work in excess of 12 hours in one day will be charged at 2.0 times the hourly rate. Field rates are based on a 48-hour notice. For less than a 48-hour notice, a 10 percent surcharge will be added. All field personnel, vehicle and equipment charges are portal to portal. Reproduction of project documents will be charged as a project expense. The hourly rate for professional staff to attend legal proceedings will be 2.0 times the hourly rate specified above.

Equipment Charges	
Vehicle	$28 per hour
Nuclear Density Gauge	$11 per test
55-Gallon Drum	$100 each
GPS Unit	$90 per day
Hand Auger Equipment	$50 per day
Power Auger	$125 per day
PDR-1000 Dust Meter (3)	$300 per day, $1,200 per week, $4,000 per month
PID ppm_v	$130 per day, $600 per week, $2,000 per month
PID ppb_v	$150 per day, $650 per week, $1,950 per month
Air Pump	$80 per day, $350 per week, $1,000 per month
Weather Station	$80 per day, $350 per week, $1,000 per month
Benkelman Beam	$175 per day, $750 per week, $2,800 per month
Double Ring Infiltrometer	$100 per day
Dynamic Cone	$100 per day
Differential Pressure Gauge	$50 per day
Air Flow Sensors	$50 per day
Pressure Control Testing	$275 per day
Depth Sounder	$50 per day
Liner and Two Caps	$12 each
Core N One Sampler	$50 each triplicate sample
Core N One Handle	$60 each
Modeling Software	$25 per hour
Plotter	$10 per plot
Drone	$50 per hour

Geotechnical Laboratory Tests	Tests Run During Normal Workday Hours	Tests Run Outside Workday Hours
Compaction Curve	$330 each	$495 each
Compaction Check Point	$170 each	$270 each
Plasticity Index	$250 each	$350 each
Sieve/Hydrometer	$250 each	$350 each
Moisture Content	$8 each	$10 each
Moisture/Density	$30 each	$50 each
-#200 Wash	$60 each	$80 each
Sieve < ¾ inch Liner (small)	$125 each	$190 each
Sieve > ¾ inch Bucket (Large)	$225 each	$330 each
Lime Stability	$360 each	$550 each
Consolidation	$415 each	$680 each
Soil Corrosion Testing	$235 each	$450 each

Direct Expenses

Reimbursement for the direct expenses listed below incurred in connection with the Work will be billed at cost plus 18 percent.

1) Drillers, utility locators, laboratories, contractors, hygienists, and consultants
2) Rented vehicles, public transportation, tolls, and air flights
3) Permits and special fees, insurances and licenses required to perform Work
4) Computer programs and rented field equipment
5) Large volume copying of project documents
6) Maps, photographs, and environmental databases
7) Overnight or same day delivery charges
8) Copying or production of over-sized figures and plans

If personnel are assigned to a project 100 miles or more from an office, $175 per diem per person allowance will be charged. Unless mutually agreed in writing, Cornerstone will hold samples collected during the performance of the Work no longer than thirty (30) calendar days after their date of collection; project samples requested to be held greater than thirty (30) calendar days will be billed at $100 per every ninety (90) calendar days. If payment is not received within 30 days of invoice date, the samples will be discarded.

Payment

Payment for Work completed is due upon receipt of Cornerstone's statement. Fixed fee or lump sum services will be billed for the agreed fixed fee. A service charge of 1.5 percent per month will be charged on accounts not paid within 30 days.

Prevailing Wage

Client must notify Cornerstone in writing if the Work is subject to "prevailing wage" under local, state or federal laws.

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Biggs Cardosa Associates

Name/Job Title/Classification[1]	Hourly Billing Rates[3] Straight	OT(1.5x)	OT(2x)	Effective date of hourly rate From	To	Actual or Avg. Hourly Rate[4]	% or $ increase	Hourly range - for classifications only		
Anthony Notaro / Structures Manager / Associate	$ 228.24	N/A	N/A	1/1/2023	9/30/2023	$ 78.75		Not Applicable		
	$ 239.65	N/A	N/A	10/1/2024	9/30/2024	$ 82.69	5.00%	Not Applicable		
	$ 251.63	N/A	N/A	10/1/2025	9/30/2025	$ 86.82	5.00%	Not Applicable		
	$ 264.22	N/A	N/A	10/1/2026	9/30/2026	$ 91.16	5.00%	Not Applicable		
Francisco Castillo / Structures Lead / Engineering Manager	$ 186.85	N/A	N/A	1/1/2023	9/30/2023	$ 64.47		Not Applicable		
	$ 196.19	N/A	N/A	10/1/2024	9/30/2024	$ 67.69	5.00%	Not Applicable		
	$ 206.00	N/A	N/A	10/1/2025	9/30/2025	$ 71.08	5.00%	Not Applicable		
	$ 216.30	N/A	N/A	10/1/2026	9/30/2026	$ 74.63	5.00%	Not Applicable		
Principal	$ 289.83	N/A	N/A	1/1/2023	9/30/2023	$ 100.00		$ 100.00	to	$ 120.00
	$ 304.32	N/A	N/A	10/1/2024	9/30/2024	$ 105.00	5.00%	$ 105.00	to	$ 126.00
	$ 319.54	N/A	N/A	10/1/2025	9/30/2025	$ 110.25	5.00%	$ 110.25	to	$ 132.30
	$ 335.51	N/A	N/A	10/1/2026	9/30/2026	$ 115.76	5.00%	$ 115.76	to	$ 138.92
Associate	$ 275.34	N/A	N/A	1/1/2023	9/30/2023	$ 95.00		$ 86.00	to	$ 99.00
	$ 289.10	N/A	N/A	10/1/2024	9/30/2024	$ 99.75	5.00%	$ 90.30	to	$ 103.95
	$ 303.56	N/A	N/A	10/1/2025	9/30/2025	$ 104.74	5.00%	$ 94.82	to	$ 109.15
	$ 318.74	N/A	N/A	10/1/2026	9/30/2026	$ 109.97	5.00%	$ 99.56	to	$ 114.60
Engineering Manager	$ 231.86	N/A	N/A	1/1/2023	9/30/2023	$ 80.00		$ 75.00	to	$ 85.00
	$ 243.46	N/A	N/A	10/1/2024	9/30/2024	$ 84.00	5.00%	$ 78.75	to	$ 89.25
	$ 255.63	N/A	N/A	10/1/2025	9/30/2025	$ 88.20	5.00%	$ 82.69	to	$ 93.71
	$ 268.41	N/A	N/A	10/1/2026	9/30/2026	$ 92.61	5.00%	$ 86.82	to	$ 98.40
Senior Engineer	$ 202.88	N/A	N/A	1/1/2023	9/30/2023	$ 70.00		$ 68.00	to	$ 74.00
	$ 213.02	N/A	N/A	10/1/2024	9/30/2024	$ 73.50	5.00%	$ 71.40	to	$ 77.70
	$ 223.67	N/A	N/A	10/1/2025	9/30/2025	$ 77.18	5.00%	$ 74.97	to	$ 81.59
	$ 234.86	N/A	N/A	10/1/2026	9/30/2026	$ 81.03	5.00%	$ 78.72	to	$ 85.66
Project Engineer	$ 176.80	N/A	N/A	1/1/2023	9/30/2023	$ 61.00		$ 60.00	to	$ 65.00
	$ 185.63	N/A	N/A	10/1/2024	9/30/2024	$ 64.05	5.00%	$ 63.00	to	$ 68.25
	$ 194.92	N/A	N/A	10/1/2025	9/30/2025	$ 67.25	5.00%	$ 66.15	to	$ 71.66
	$ 204.66	N/A	N/A	10/1/2026	9/30/2026	$ 70.62	5.00%	$ 69.46	to	$ 75.25
Staff Engineer	$ 162.30	N/A	N/A	1/1/2023	9/30/2023	$ 56.00		$ 54.00	to	$ 59.00
	$ 170.42	N/A	N/A	10/1/2024	9/30/2024	$ 58.80	5.00%	$ 56.70	to	$ 61.95
	$ 178.94	N/A	N/A	10/1/2025	9/30/2025	$ 61.74	5.00%	$ 59.54	to	$ 65.05
	$ 187.89	N/A	N/A	10/1/2026	9/30/2026	$ 64.83	5.00%	$ 62.51	to	$ 68.30
Assistant Engineer	$ 144.91	N/A	N/A	1/1/2023	9/30/2023	$ 50.00		$ 48.00	to	$ 53.00
	$ 152.16	N/A	N/A	10/1/2024	9/30/2024	$ 52.50	5.00%	$ 50.40	to	$ 55.65
	$ 159.77	N/A	N/A	10/1/2025	9/30/2025	$ 55.13	5.00%	$ 52.92	to	$ 58.43
	$ 167.76	N/A	N/A	10/1/2026	9/30/2026	$ 57.88	5.00%	$ 55.57	to	$ 61.35
Junior Engineer	$ 127.52	N/A	N/A	1/1/2023	9/30/2023	$ 44.00		$ 40.00	to	$ 47.00
	$ 133.90	N/A	N/A	10/1/2024	9/30/2024	$ 46.20	5.00%	$ 42.00	to	$ 49.35
	$ 140.60	N/A	N/A	10/1/2025	9/30/2025	$ 48.51	5.00%	$ 44.10	to	$ 51.82
	$ 147.63	N/A	N/A	10/1/2026	9/30/2026	$ 50.94	5.00%	$ 46.31	to	$ 54.41
Senior Computer Drafter	$ 153.61	N/A	N/A	1/1/2023	9/30/2023	$ 53.00		$ 50.00	to	$ 55.00
	$ 161.29	N/A	N/A	10/1/2024	9/30/2024	$ 55.65	5.00%	$ 52.50	to	$ 57.75
	$ 169.35	N/A	N/A	10/1/2025	9/30/2025	$ 58.43	5.00%	$ 55.13	to	$ 60.64
	$ 177.82	N/A	N/A	10/1/2026	9/30/2026	$ 61.35	5.00%	$ 57.88	to	$ 63.67
Computer Drafter	$ 104.34	N/A	N/A	1/1/2023	9/30/2023	$ 36.00		$ 30.00	to	$ 45.00
	$ 109.55	N/A	N/A	10/1/2024	9/30/2024	$ 37.80	5.00%	$ 31.50	to	$ 47.25
	$ 115.03	N/A	N/A	10/1/2025	9/30/2025	$ 39.69	5.00%	$ 33.08	to	$ 49.61
	$ 120.78	N/A	N/A	10/1/2026	9/30/2026	$ 41.67	5.00%	$ 34.73	to	$ 52.09
BIM/Visualization Specialist	$ 139.12	N/A	N/A	1/1/2023	9/30/2023	$ 48.00		$ 40.00	to	$ 52.00
	$ 146.07	N/A	N/A	10/1/2024	9/30/2024	$ 50.40	5.00%	$ 42.00	to	$ 54.60
	$ 153.38	N/A	N/A	10/1/2025	9/30/2025	$ 52.92	5.00%	$ 44.10	to	$ 57.33
	$ 161.05	N/A	N/A	10/1/2026	9/30/2026	$ 55.57	5.00%	$ 46.31	to	$ 60.20
Admin/ Secretarial Services	$ 104.34	N/A	N/A	1/1/2023	9/30/2023	$ 36.00		$ 30.00	to	$ 45.00
	$ 109.55	N/A	N/A	10/1/2024	9/30/2024	$ 37.80	5.00%	$ 31.50	to	$ 47.25
	$ 115.03	N/A	N/A	10/1/2025	9/30/2025	$ 39.69	5.00%	$ 33.08	to	$ 49.61
	$ 120.78	N/A	N/A	10/1/2026	9/30/2026	$ 41.67	5.00%	$ 34.73	to	$ 52.09

NOTES:
1. Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**).All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended.
3. Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans. All costs must comply with the Federal cost principles for reimbursement.
4. For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

LIVERMORE
CALIFORNIA

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

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing execution of a first amendment to the agreement with Gannett Fleming, Inc. increasing the not-to-exceed amount from $952,000 to $2,052,000 for additional construction management and inspection services associated with the Livermore Village Parking Garage Construction Project 586003.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a first amendment to the agreement with Gannett Fleming, Inc. increasing the not-to-exceed amount from $952,000 to $2,052,000 for additional construction management and inspection services associated with the Livermore Village Parking Garage Construction Project 586003.

SUMMARY

This Professional Services Agreement with Gannett Fleming, Inc. provides for construction management services in connection with the Livermore Village (L Street) Parking Garage. The L Street Parking Garage is currently under construction east of L Street, between Veterans Way and First Street as shown in Attachment 1. When completed, the parking garage will be 4 levels and contain 452 parking spaces.

This amendment increases the budget for construction management services and adds inspection services to the contract. Services include providing daily inspections and reports, leading weekly meetings, maintaining project documentation, coordinating construction activities, managing submittals, elevator inspections and commissioning, assistance with change orders, project commissioning, and project close-out. This first amendment in the amount of $1,100,000 increases the total not-to-exceed amount of the agreement from $952,000 to $2,052,000.

DISCUSSION

The L Street Garage Construction Project 586003 consists of two phases. Phase 1 has been completed and included reconfiguring the surface parking lot east of the future garage, constructing a trash enclosure facility, and installing infrastructure for 16 electrical vehicle fast chargers. Phase 2 involves

construction of the parking garage and the remaining site improvements. City Council awarded the Phase 2 construction contract on November 28, 2022, and began construction April 17, 2023.

On February 14, 2023, Council approved a professional services agreement with Gannett Fleming in an amount of $952,000 for construction management services. In order to complete the project, additional construction management activities are required. As the vertical construction of the garage begins, additional inspections will be required to ensure structural reinforcement, plumbing, electrical, security, and technology systems are installed correctly prior to concrete pours. Commissioning services will also be required to witness and confirm testing of the different systems in the garage. This first amendment will ensure uninterrupted full-time construction management support services through completion of the Phase 2 construction.

Additional construction management services include the following:

- Maintaining project documentation
- Reviewing and analyzing the contractor's schedule updates
- Coordinating construction activities and inspections
- Overseeing inspections
- Providing daily inspections and daily inspection reports
- Managing submittals and requests of information
- Identifying problems and assisting with change orders
- Providing elevator inspections and commissioning services
- Assisting with commissioning and project close-out

This first amendment will increase the amount of the agreement by $1,100,000 to a total amount of $2,052,000. The $2,052,000 contract amount is approximately 6.8% of the $30,090,000 construction contract. This is within the typical range for construction management services which can be up to 10% of the construction contract.

FISCAL AND ADMINISTRATIVE IMPACTS

The budget for Livermore Village Parking Garage Construction Project 586003 in the 2023-2028 Capital Improvement Plan covers the cost of this first amendment and all other project costs; therefore, no additional appropriations are necessary. Funding is from 2022 COP Debt Construction Fund 320.

COMMUNITY PILLAR

4: Inclusive & Inviting Spaces & Places

GOAL

3: Continue to implement the Downtown Specific Plan

GUIDING DOCUMENT

Downtown Specific Plan

ATTACHMENTS

1. Site Plan
2. Resolution
3. Exhibit A - Agreement

Prepared by: Farnoush Levers
Assistant City Engineer

Approved by:



Marianna Marysheva
City Manager

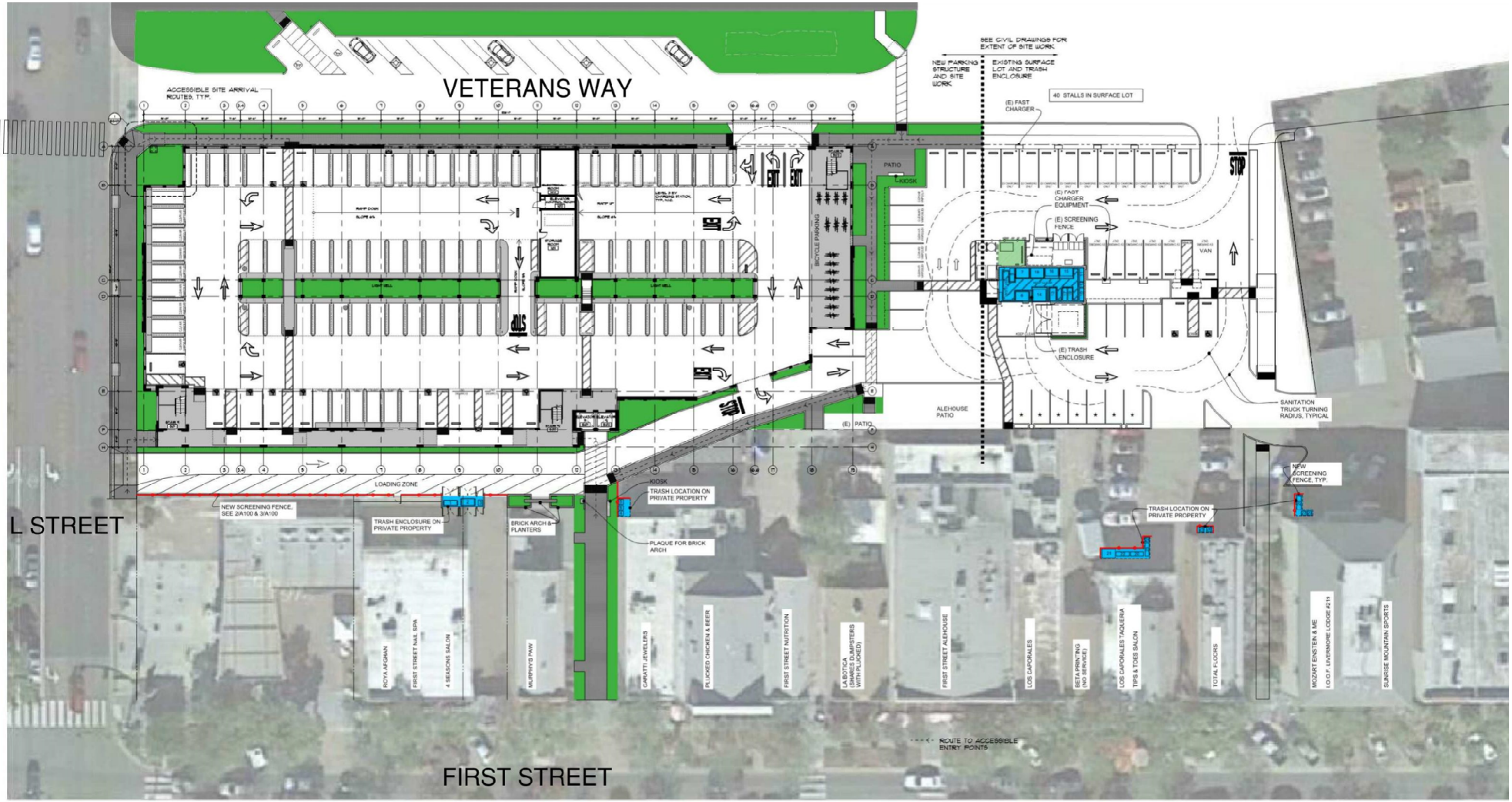
Fiscal Review by:



Tina Olson
Administrative Services Director

Livermore Village Garage

Site Plan



LIVERMORE CALIFORNIA

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF A FIRST AMENDMENT TO THE AGREEMENT WITH GANNETT FLEMING, INC. INCREASING THE NOT-TO-EXCEED AMOUNT FROM $952,000 TO $2,052,000 FOR ADDITIONAL CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES

(Livermore Village Parking Garage Construction Project 586003)

The Engineering Division requires a consultant to provide construction management services for the Livermore Village (L Street) Parking Garage Construction, Project 586003.

The project involves constructing a four level, 452 space parking garage, and other site improvements, at the Livermore Village Site.

On February 14, 2023, the City of Livermore (City) entered into a Professional Services Agreement with Gannett Fleming, Inc. for construction management services associated with the L Street Garage Construction Project 586003.

Additional construction management and inspection services are required to manage and support construction of the Livermore Village Parking Garage (L Street Garage) Construction, Project No. 586003. Staff recommends executing a First Amendment to the Professional Services Agreement with Gannett Fleming, Inc., increasing the not-to-exceed amount from $952,000 to $2,052,000, for the Livermore Village Parking Garage project.

This First Amendment will ensure uninterrupted full-time construction management support services through completion of the L Street Garage.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes the City Manager to execute a First Amendment to the Professional Services Agreement with Gannett Fleming, Inc., attached hereto as Exhibit A, increasing the not-to-exceed amount from $952,000 to $2,052,000 for additional construction management and inspection services associated with the Livermore Village (L Street) Parking Garage Construction Project 586003.

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – First Amendment to the Agreement with Gannett Fleming, Inc.

DocuSign Envelope ID: 13BBA02B-0BF1-466C-90F8-50A21ACD10DA

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST AMENDMENT is made and entered into this ____ day of _____, 2024, by and between the City of Livermore ("City"), a municipal corporation, and Gannett Fleming, Inc. ("Consultant"), a Delaware corporation.

RECITALS

On February 14, 2023, City and Consultant entered into an agreement for Consultant to provide professional construction management services to City ("Original Agreement"). Section 21 of the Original Agreement requires that any modifications to it must be in writing and signed by the parties.

City and Consultant desire to amend the Original Agreement to increase total compensation from $952,000 to $2,052,000.00. This is the first amendment to the Original Agreement.

AGREEMENT

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

1. The Original Agreement is amended as follows:

   A. Section 3 of the Original Agreement is amended to read as follows: Description of Services. Consultant shall provide construction management services as more particularly set forth in Exhibit A to the Original Agreement and Exhibit A-1 to the First Amendment to the Agreement.

   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 $2,052,000.00 ("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 $952,000.00.
      2. The compensation payable by the City to Consultant for the Services required by Exhibit A-1 to the First Amendment SHALL NOT EXCEED $1,100,000.00.

   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 and Exhibit A-1 to the First Amendment up to the not-to-exceed

amount. Except as provided in the body of this Agreement, the hourly rates, task amounts or travel expenses are intended to be the 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.

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:
Rany Chek
228B900B0F05440...

4/17/2024 | 9:03 AM PDT

Rany Chek
Vice President

CITY OF LIVERMORE: **Dated:**

_____ _____

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

DocuSigned by:
Tara Mazzanti
19DF47CAC5D0451...

Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Jas Sidhu
A5F7D34BB6A746A...

Risk Manager/Analyst

Attachments:
Exhibit A-1

DocuSign Envelope ID: 13BBA02B-0BF1-466C-90F8-50A21ACD10DA

GANNETT FLEMING

Exhibit A-1

City of Livermore
Cost of Construction Management Services-LIVERMORE VILLAGE PARKING GARAGE PROJECT &
LIVERMORE VILLAGE TRASH ENCLOSURE

April 1, 2024-Amendment No. 1

Estimated NTP (CM Services): February 1,2023
Estimated Completion: February 28,2025
25 months

Project Schedule		2023												2024												2025	
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
	Calendar days	31	28	31	30	31	30	31	31	30	31	30	31	31	28	31	30	31	30	31	31	30	31	30	31	31	28
	Work days	21	20	23	21	22	22	20	23	21	21	20	21	21	20	23	21	22	22	20	23	21	21	20	21	21	20
Task 1: Pre-Construction																											
Task 2: Construction			228	252	224	232	232	216	240	224	392	376	392	224	216	292	532	532	532	532	532	488	488	488			
Task 3: Post-Construction																										148	148

Position	Name	Actual	Loaded	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Hours	Totals	
Task 1: Pre-Construction																																
Project Manager	MauriceEl Hage, PE	$ 128.00	$ 342.76																										0			
Construction Manager/RE	Felix Ajayi	$ 80.00	$ 214.22																										0			
ConstructionInspector No. 1- (Contingency for Concurrent Operations Coverage)**	Brian Barcelona	$ 85.00	$ 227.61																										0			
Office Engineer/Document Control	Maryanne Martinez	$ 58.00	$ 155.31																										0			
Part Time Scheduler	James Gallego	$ 95.00	$ 254.39																										0			
Elevator Inspector (VTX, a GF Company)	TBD	85	228																													
As-Directed Services																																
SUBTOTAL: LABOR																														$ -		
Subconsultant:																													0	$ -		
Subconsultant:																														$ -		
SUBTOTAL: SUBCONSULTANTS																														$ -		
SUBTOTAL Task 1: Pre-Construction:																																$ -
Task 2: Construction																																
Project Manager	Maurice El Hage, PE	$ 128.00	$ 342.76		8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8			184	$ 63,067.84	
Construction Manager/RE	Felix Ajayi	80	214.22		160	184	168	176	176	160	184	168	168	160	168	168	160	184	168	168	168	168	168	168	168	168	168			3896	$ 834,601.12	
Construction Inspector No. 1- (Contingency for Concurrent Operations Coverage)**	Brian Barcelona	85	227.61										168	160	168	0	0	0	168	168	168	168	168	168	168	168	168			2008	$ 457,040.88	
Office Engineer/Document Control	Ellen Petrini	58	155.31		40	40	40	40	40	40	40	40	40	40	40	40	40	40	128	128	128	128	128	128	128	128	128			1712	$ 265,890.72	
Part Time Scheduler	James Gallego	95	254.39		20	20	8	8	8	8	8	8	8	8	8	8	8	60	60	60	60	60	60	60	16	16	16			596	$ 151,616.44	
Elevator Inspector (VTX, a GF Company)	TBD	85	227.61								~~16~~					~~16~~						~~16~~								~~48~~		
As-Directed Services																																
SUBTOTAL: LABOR																															$ 1,772,217.00	
Subconsultant:	0	$ -	$0.00																										0	$ -		
Subconsultant:			$0.00																											$ -		
SUBTOTAL: SUBCONSULTANTS																														$ -		
SUBTOTAL Task 2: Construction:																																$ 1,772,217.00
Task 3: Post-Construction																																
Project Manager	MauriceEl Hage, PE	$ 128.00	$ 342.76																									8	8	16	$ 5,484.16	
Construction Manager/RE	Felix Ajayi	$ 80.00	$ 214.22																									84	84	168	$ 35,988.96	
ConstructionInspector No. 1- (Contingency for Concurrent Operations Coverage)**	Brian Barcelona	$ 85.00	$ 227.61																									0	0	0		
Office Engineer/Document Control	Ellen Petrini	$ 58.00	$ 155.31																									40	40	80	$ 12,424.80	
Part Time Scheduler	James Gallego	$ 95.00	$ 254.39																									16	16	32	$ 8,140.48	
ElevatorInspector (VTX, a GF Company)	TBD	$ 85.00																														
As-Directed Services																																
SUBTOTAL: LABOR																															$ 62,038.40	
Subconsultant:	0	$ -	$0.00																										0	$ -		
Subconsultant:			$0.00																											$ -		
SUBTOTAL: SUBCONSULTANTS																														$ -		
SUBTOTAL Task 3: Post-Construction:																																$ 62,038.40
ODCs																																
Vehicles (Each permonth)	$957.00				1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			25	$ 23,925.00	
Procore-Document Control System	$500.00				1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			25	$ 12,500.00	
Per Diem/Travel/rental car (for VTX)																															$ 10,650.00	
SUBTOTAL: ODCs																															$ 47,075.00	
SUBTOTAL ODCs:																																$ 47,075.00
																														REVISED TOTAL OF CONTRACT	$	$2,052,000

Original Contract	$952,000
Revised work plan	$929,330
Contingency	$170,670
Amendment Amount	$1,100,000

Notes and Assumptions:
* Inspector Rates, if needed, are based on current DIR Prevailing Wage Determination.
** Construction inspector No. 1 as backup (as-needed). Proposing as Contingency for Complete Project Coverage of Concurrent Contractor Operations.
• Fees are based on estimated 18 month project duration with professional services NTP anticipated Decem ber 15, 2022.
• Should the actual schedule require more or less professionalservices than proposed adjustments to this estimate may be required.
• Above rates are straight-time rates. Overtime, rain, holidays and potential time extensionsor delays may resul tin additional professional services.
- Night work and Overtime will be billedat a pro-rataadjustedrate.
• Overtime billedin accordance with State and Federal La w.
• Wages forinspection subject to Calif. Labor Code Section 1772.
* Denotesemployees/classifications that are subject toprevailing wage.
•This estimate is basedon specific scope of work assumptions.
• Client will be billedonlyfor hours work ed.

Rany Chek

Rany Chek, PE, DSD
Construction Services West - California and Northwest Regional Leader

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.4**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Paul Spence, Assistant City Manager

SUBJECT: Resolutions authorizing execution of agreements with Independent Code Consultants Inc. and 4LEAF Inc. to provide on-call plan review, inspections, and permit technician services in an amount not-to-exceed $460,000 per contract over a five-year term.

RECOMMENDED ACTION

Staff recommends the City Council adopt resolutions authorizing the City Manager to execute agreements with Independent Code Consultant Inc. and 4LEAF Inc. to provide on-call plan check, site inspections, permit technician services, and Certified Access Specialist (CASp) consultation. Each contract has a not-to-exceed amount of $460,000 over a five-year term ending on June 30, 2029.

SUMMARY

Staff recommends approval of agreements for professional services to perform work duties otherwise performed by multiple vacant positions and anticipated increased workload due to multiple housing and commercial projects approved for construction. The consultants will perform permit technician duties, inspections, Certified Access Specialist (CASp) consultation, and on-call review of plans and related documents for compliance with the State of California Building Law, and provide customer consultation, including job site visits, inspections, technical support, and training to staff as directed. The agreement with Independent Code Consultant Inc. and 4LEAF Inc. will allow the City to supplement staffing resources for a period of five years and will be part of the Fiscal Year 2024-25, 2025-26, 2026-27, 2027-28, and 2028-29 budgets.

DISCUSSION

The building division requires two consultants to provide plan review, permit technician services, site inspections, CASp consultation, technical support, and training for staff as directed. The consultants will assist staff in performing timely plan review during workload surges and low staffing times. Currently, the building division has multiple vacant positions, including a building inspector position, and plan check Engineer.

Staff recommends renewing professional services agreements with two building consulting firms that

were previously approved in 2022, 2023, and 2024. The two firms were selected based on overall experience, familiarity with Livermore processes, quality of personnel, and their ability to respond to the City's needs on a timely basis. Both firms and their personnel have worked satisfactorily under prior agreements on permits, plan reviews, field inspections, and customer consultations. Over the past two years, both firms have provided much needed assistance on a variety of projects, including photovoltaic projects, new commercial buildings, new residential multi-unit developments, single-family projects, electrical vehicle chargers, and additional work related to structural reviews for multifamily and commercial projects. Building activity is anticipated to continue growing steadily based on the number of projects that are in the Planning and Building review pipeline. Additionally, multiple housing and commercial projects have been approved for construction and Public EV charging facilities installation has been increasing to meet the Electric vehicle demand, adding to the need for these services.

Each proposed agreement begins July 1, 2024, and terminates June 30, 2029, with a maximum expenditure allowance of $460,000 per agreement over the 5-year period. These agreements authorize the Chief Building Official to approve work tasks related to the contract within the overall budget amount.

FISCAL AND ADMINISTRATIVE IMPACTS

The total amount of work between the two consulting firms is expected to be approximately $920,000 over a 5-year period beginning on July 1, 2024. Funding for services rendered under these agreements is partially included in the building operating budget for consultant services in FY 2024-25 and the remaining funding will be added to the subsequent budgets.

COMMUNITY PILLAR

1: A Safe Community That Thrives

GOAL

6: Provide efficient and effective permit processing services.

ATTACHMENTS

1. Resolution - Independent Code Consultants
2. Exhibit A - Agreement Independent Code Consultants Inc.
3. Resolution - 4LEAF Inc.
4. Exhibit A - Agreement 4LEAF Inc.

Prepared by: Franc Moufarrej
Acting Assistant Community Development Director

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 EXECUTION OF AN AGREEMENT WITH INDEPENDENT CODE CONSULTANTS INC. FOR ON-CALL CONSULTING SERVICES IN AN AMOUNT NOT-TO-EXCEED $460,000 FOR A FIVE-YEAR TERM

The Building Division requires two building consultants to provide plan review, permit technician services, site inspections, CASp consultation, technical support, and training for staff as directed. The consultants will assist staff in performing timely plan review and customer service during workload surges and low staffing times.

City of Livermore ("City") Staff selected two firms based on overall experience, familiarity with Livermore processes, quality of personnel, and ability to respond to the City's needs on a timely basis. Based on the evaluation of the written proposals and interview results, two consultants, including Independent Code Consultants Inc., were selected for on-call plan review services, permit technician services, field inspections, and to provide customer consultation.

The proposed agreement allows for on-call plan check, site inspections, and permit technician services to commence July 1, 2024, and terminate June 30, 2029.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby authorizes the City Manager to execute an agreement with Independent Code Consultants Inc., attached hereto as Exhibit A, for on-call plan check, permit technician, inspections, and CASp consultation services, in an amount not-to-exceed $460,000 for a five-year term.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – Independent Code Consultants Agreement

DocuSign Envelope ID: E26C969D-2961-4AEC-ADE9-BB935C7F18FA

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ___ day of _____, 2024, by and between the City of Livermore ("City"), a municipal corporation, and Independent Code Consultants Inc. ("Consultant"), a California corporation.

RECITALS

City requires professional services to perform 'on-call' permit technician duties; inspections; CASp consultations; and review of plans and related documents for compliance to State of California Building Law as generally contained in the California Code of Regulations Title 24, Parts 2, 2.5, 3, 4, 5, 6, 8, 9, 11, 12; and provide customer consultation, including visit job sites, inspections, technical support, and training to staff as requested..

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

AGREEMENT

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

1. Retention as Consultant. City hereby retains Consultant, and Consultant hereby accepts such engagement, to perform the services described in Section 3 below subject to the terms and conditions in this Agreement.

2. Relationship of Parties – Independent Contractors. The relationship of the parties shall be that of independent contractors. Consultant and its employees are not City officers or employees. Consultant is responsible for the supervision and management of its employees, including any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the delivery of the services contemplated by this Agreement.

3. Description of Services. Consultant shall provide the following professional services as more particularly set forth in Exhibit "A" (collectively "the Services"):

On call and as requested by the City at the prices listed in Exhibit A: Professional Plan Review, CASp Consultations, Inspection and Permit Technician services to provide customer consultation on behalf of the City. Duties include: visit job sites; provide technical support; provide training to staff as directed; inspections; and perform review of plans and related documents for compliance to State of California Building Law as generally contained in the California Code of Regulations Title 24, Parts 2, 2.5, 3, 4, 5, 6, 8, 9, 11, and 12, which covers structural, fire and life safety, disabled access, electrical, plumbing, mechanical, green building, and energy conservation requirements - all as modified and adopted by the City of Livermore.

DocuSign Envelope ID: E26C969D-2961-4AEC-ADE9-BB935C7F18FA

4. Consultant's Responsibilities. Consultant 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 Consultant to practice its profession and to provide the Services;

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

(f) Coordinate the Services with Franc Moufarrej, Chief Building Official ("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 Consultant by the Project Manager, to answer questions or inquiries related to the Services;

(h) Only invoice City for the Services rendered. Consultant's invoice shall be in writing and describe the Services performed for the payment requested. Consultant shall not submit an invoice to City more frequently than once a 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 Consultant and must include time sheets, work progress reports, and other documentation to adequately explain all the Services invoiced for payment. Consultant shall make the invoices and records immediately available to City upon delivery of a written request to examine, audit, or copy them at City's place of business during normal business hours. Consultant shall give City 30 calendar-days' written notice prior to destroying the invoices and records and allow City an opportunity to take possession. If City wants them, Consultant and City shall coordinate their delivery to City in the most efficient manner possible;

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

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(l) If applicable, Consultant shall ensure that all work for compensation is provided 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. If applicable, Consultant 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. If any violation of prevailing wage law associated with this Agreement is deemed to have occurred by any court or administrative authority, Consultant 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,

(m) Consultant's services provided pursuant to this Agreement shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

5. Compensation and Payment.

(a) The total compensation payable by City to Consultant for the Services **SHALL NOT EXCEED** the sum of $460,000 ("not-to-exceed amount"). City shall compensate Consultant for the Services rendered at the hourly rates, task amounts or travel expenses set forth in Exhibit "A" up to the not-to-exceed amount. Except as provided in the body of this Agreement, the hourly rates, task amounts or travel expenses are intended to be Consultant's only compensation for the Services and is inclusive of all costs of labor, licensing, permitting, overhead and administrative costs, and any-and-all other costs, expenses, and charges incurred by Consultant, its agents, and employees to provide the Services.

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

6. Term. The term of this Agreement commences on July 1, 2024, and terminates upon the completion of the Services or June 30, 2029, whichever occurs first.

7. Termination by City. City may terminate any portion or all of the Services by giving Consultant at least 30 calendar-days written notice. Upon receipt of a termination notice, Consultant shall immediately stop all work in progress on the Services except where necessary to preserve the benefit of the work, and then assemble the work on the Services for delivery to City on the termination date. All compensation for Services performed prior to the termination date shall be payable to Consultant in accordance with Section 5.

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

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9. Copyright and Right of Use. All items created by Consultant for City under this Agreement are works made for hire, and Consultant shall give City the copyright and all intellectual property rights to all items developed, prepared, and delivered as part of the Services. Consultant agrees that all aspects of the Services and items created thereby will be original works of creation and will not use, in whole or in part, any work created by any other party, except when expressly disclosed by Consultant to City and Consultant obtains a license to such items for the benefit of City. All licenses must be perpetual, world-wide, non-exclusive, and royalty free sufficient in scope to permit City's full use and enjoyment of its ownership rights in the items created by the Services.

10. Confidentiality. Consultant shall not disclose any confidential or proprietary information received from City to anyone except Consultant's employees who require access to the information to perform the Services. This obligation shall survive termination and remain in full force and effect until the information, and any copies thereof, are destroyed or returned to City.

11. Defense, Indemnity, and Hold Harmless. To the fullest extent permitted by law, Consultant 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 Consultant's performance of the services contemplated by this Agreement, or in connection with Consultant'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. Consultant's obligations to hold harmless, indemnify, and defend shall not be excused because of Consultant's inability to evaluate Liability or because Consultant evaluates Liability and determines that Consultant is not liable to the claimant. 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. Consultant 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 Consultant'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 Consultant'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).

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12. Insurance. Consultant shall procure and maintain insurance during the term of this Agreement in the amounts and under the terms set forth in Exhibit "B" against claims that may arise from or in connection with this Agreement and performance of the Services. Upon reasonable written notice, Consultant shall comply with any changes in the amounts and terms of insurance as may be required from time-to-time by City's Risk Manager.

13. Acceptance of Final Payment. Consultant's acceptance of final payment will release City from any and all claims and liabilities for compensation under this Agreement.

14. Acceptance of Work. City's acceptance of, or payment to Consultant for, the Services does not release Consultant from its responsibility for the accuracy, completeness, or competency of the Services, nor do the actions constitute an assumption of Consultant's responsibility or liability by City for any defect or error in the Services.

15. Conflict of Interest. Consultant represents that no City employee or official has a financial interest in Consultant. Consultant shall not offer, encourage, or accept any financial interest in any part of Consultant's business by or from a City employee or official during the term of this Agreement or as a result of being awarded this Agreement. If any of the Services are paid by reimbursement from an agreement between City and a private party, Consultant represents that it has not performed any work for that private party during the 12-month period prior to the execution of this Agreement, and that it shall not negotiate, offer or accept any contract for services from that party during the term of this Agreement.

16. Economic Disclosure. Consultant shall comply with City's local conflict of interest code and the Political Reform Act, and prepare and file an economic disclosure statement if the Services involve making, or participation in making, decisions which may have a material effect on the Consultants' financial interest. While it is Consultant's sole responsibility to evaluate its conflicts of interest, the Consultant nevertheless agrees to prepare and file an economic disclosure statement if requested by City.

17. Non-Exclusive Agreement. This is a non-exclusive agreement. City reserves the right to provide, and to retain other consultants to provide, services that are the same or similar to the Services described in this Agreement.

18. No Assignment. Consultant shall not assign or subcontract any of the Services without City's prior written consent. For the purposes of this section, a change of fifty-percent or more in the ownership or control of Consultant constitutes an assignment.

19. Remedies. All remedies permitted or available under this Agreement, or at law or in equity, are cumulative and alternative, and the invocation of a right or remedy will not be construed to waive or elect a remedy with respect to any other available right or remedy. As a condition precedent to commencing legal action involving a claim or dispute against City arising from this Agreement, the Consultant must present a written claim to City in accordance with Chapter 3.42 of the Livermore Municipal Code.

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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: Franc Moufarrej, Chief Building Official
City of Livermore
1052 S Livermore Avenue
Livermore, California 94550

TO CONSULTANT: Attention: Abigail Obligacion,
Independent Code Consultants Inc..
5870 Stoneridge Mall Road, suite 200
Pleasanton, CA 94588

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.

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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

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:
DB5A248ACA3E429...
Abigail Obligacion
President

3/27/2024 | 3:19 PM EDT

CITY OF LIVERMORE: **Dated:**

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

DocuSigned by:
Katherine Mirassou
D48B6A0C4F27411...
Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Amber Hatfield
12BC7F4D88224F6...
Risk Manager/Analyst

Attachments:

Exhibit A – Scope of Work
Exhibit B – Insurance Requirements

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EXHIBIT A

PRICING &TIMELINES

FEE SCHEDULE

Building Plan Review Services	Unit Rate	Unit
Complete Plan Review Fee (first submittal plus two (2) additional subsequent submittal)	65% of Plan Review Fee	
All other Building, Safety Plan Review Submittals	$145.00	Hour
Structural Only Review	$145.00	Hour
Non-Structural Review	$115.00	Hour
Fire Review	$145.00	Hour
CASp Only Review	$145.00	Hour
Building Department Support Staff	**Unit Rate**	**Unit**
On-Site Plans Examiner/Engineer	$145.00	Hour
Building Inspector I	$80.00	Hour
Building Inspector II	$90.00	Hour
Senior Building Inspector	$100.00	Hour
CASp Inspector	*Rate varies by building	
Building and Planning Permit Technician	$70.00	Hour
Administrative Assistant	$55.00	Hour
Permit Software Technical Support	$145.00	Hour

Basis of Charges	Unit Rate
Work over 8 hours a day	Time and One-Half
Work over 12 hours, Monday through Friday	Double Time
Work on Saturdays	Time and One-Half
Work over 8 hours on Saturday	Double Time
Work on Sundays/Holidays	Double Time
Reimbursables	Cost

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EXHIBIT A

PLAN REVIEW TIMELINE

Independent Code Consultants will meet your plan review needs, which includes attending meetings and workshops when necessary. We also are able to meet or exceed the following timelines for plan review services:

Small to Mid-Scale Projects		Larger to More Complex Projects	
Standard Turnaround Times:		Standard Turnaround Times:	
First Submittals:	10 days	First Submittals:	15 days
Subsequent Submittals:	5 days	Subsequent Submittals:	10 days

Small to Mid-Scale Projects		Larger to More Complex Projects	
Expedited Turnaround Times**:		Expedited Turnaround Times**:	
First Submittals:	5 days	First Submittals:	10 days
Subsequent Submittals:	3 days	Subsequent Submittals:	7 days

** Expedited Turnaround Times will be subject to discussion by all concerned parties to ensure milestones are met and completed on-time and on-schedule.

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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:
   $1,000,000 per occurrence/**$2,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability".
4. Professional Liability/Errors and Omissions:
   $1,000,000 per claim. Consultant/Contractor warrants that any retroactive date under this policy shall precede the effective date of this contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two years beginning at the time work under this contract is completed.

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated

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volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant/Contractor; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.

2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

Consultant/Contractor shall furnish certificates of insurance and endorsement(s) effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements are to be received and approved by the City of Livermore before work commences. The City of Livermore reserves the right to require complete and certified copies of all insurance policies required by this Agreement.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH 4LEAF INC. FOR ON-CALL CONSULTING SERVICES, IN AN AMOUNT NOT-TO-EXCEED $460,000 FOR A FIVE-YEAR TERM

The Building Division requires two building consultants to provide plan review, permit technician services, site inspections, CASp consultation, technical support, and training for staff as directed. The consultants will assist staff in performing timely plan review and customer service during workload surges and low staffing times.

Staff selected two firms based on overall experience, familiarity with Livermore processes, quality of personnel, and ability to respond to the City's needs on a timely basis. Based on the evaluation of the written proposals and interview results, two consultants, including 4LEAF Inc., were selected for on-call plan review services, permit technician services, field inspections, and to provide customer consultation.

The proposed agreement allows for on-call plan check, site inspections, and permit technician services to commence July 1, 2024, and terminate June 30, 2029

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby authorizes the City Manager to execute an agreement with 4LEAF Inc, attached hereto as Exhibit A, for on-call plan check, permit technician, inspections, and CASp consultation services, in an amount not-to-exceed $460,000 for a five-year term.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – 4LEAF, Inc. Agreement

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PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ___ day of _____, 2024, by and between the City of Livermore ("City"), a municipal corporation, and 4LEAF Inc. ("Consultant"), a California corporation.

RECITALS

City requires professional services to perform 'on-call' permit technician duties; inspections; CASp consultations; and review of plans and related documents for compliance to State of California Building Law as generally contained in the California Code of Regulations Title 24, Parts 2, 2.5, 3, 4, 5, 6, 8, 9, 11, 12; and provide customer consultation, including visit job sites, inspections, technical support, and training to staff as requested.

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

AGREEMENT

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

1. Retention as Consultant. City hereby retains Consultant, and Consultant hereby accepts such engagement, to perform the services described in Section 3 below subject to the terms and conditions in this Agreement.

2. Relationship of Parties – Independent Contractors. The relationship of the parties shall be that of independent contractors. Consultant and its employees are not City officers or employees. Consultant is responsible for the supervision and management of its employees, including any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the delivery of the services contemplated by this Agreement.

3. Description of Services. Consultant shall provide the following professional services as more particularly set forth in Exhibit "A" (collectively "the Services"):

On call and as requested by the City at the prices listed in Exhibit A: Professional Plan Review, CASp Consultations, Inspection and Permit Technician services to provide customer consultation on behalf of the City. Duties include: visit job sites; provide technical support; provide training to staff as directed; inspections; and perform review of plans and related documents for compliance to State of California Building Law as generally contained in the California Code of Regulations Title 24, Parts 2, 2.5, 3, 4, 5, 6, 8, 9, 11, and 12, which covers structural, fire and life safety, disabled access, electrical, plumbing, mechanical, green building, and energy conservation requirements - all as modified and adopted by the City of Livermore.

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4. Consultant's Responsibilities. Consultant 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 Consultant to practice its profession and to provide the Services;

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

(f) Coordinate the Services with Franc Moufarrej, Chief Building Official ("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 Consultant by the Project Manager, to answer questions or inquiries related to the Services;

(h) Only invoice City for the Services rendered. Consultant's invoice shall be in writing and describe the Services performed for the payment requested. Consultant shall not submit an invoice to City more frequently than once a 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 Consultant and must include time sheets, work progress reports, and other documentation to adequately explain all the Services invoiced for payment. Consultant shall make the invoices and records immediately available to City upon delivery of a written request to examine, audit, or copy them at City's place of business during normal business hours. Consultant shall give City 30 calendar-days' written notice prior to destroying the invoices and records and allow City an opportunity to take possession. If City wants them, Consultant and City shall coordinate their delivery to City in the most efficient manner possible;

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

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(l) If applicable, Consultant shall ensure that all work for compensation is provided 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. If applicable, Consultant 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. If any violation of prevailing wage law associated with this Agreement is deemed to have occurred by any court or administrative authority, Consultant 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,

(m) Consultant's services provided pursuant to this Agreement shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

5. Compensation and Payment.

(a) The total compensation payable by City to Consultant for the Services **SHALL NOT EXCEED** the sum of $460,000 ("not-to-exceed amount"). City shall compensate Consultant for the Services rendered at the hourly rates, task amounts or travel expenses set forth in Exhibit "A" up to the not-to-exceed amount. Except as provided in the body of this Agreement, the hourly rates, task amounts or travel expenses are intended to be Consultant's only compensation for the Services and is inclusive of all costs of labor, licensing, permitting, overhead and administrative costs, and any-and-all other costs, expenses, and charges incurred by Consultant, its agents, and employees to provide the Services.

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

6. Term. The term of this Agreement commences on July 1, 2024, and terminates upon the completion of the Services or June 30, 2029, whichever occurs first.

7. Termination by City. City may terminate any portion or all of the Services by giving Consultant at least 30 calendar-days written notice. Upon receipt of a termination notice, Consultant shall immediately stop all work in progress on the Services except where necessary to preserve the benefit of the work, and then assemble the work on the Services for delivery to City on the termination date. All compensation for Services performed prior to the termination date shall be payable to Consultant in accordance with Section 5.

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

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9. Copyright and Right of Use. All items created by Consultant for City under this Agreement are works made for hire, and Consultant shall give City the copyright and all intellectual property rights to all items developed, prepared, and delivered as part of the Services. Consultant agrees that all aspects of the Services and items created thereby will be original works of creation and will not use, in whole or in part, any work created by any other party, except when expressly disclosed by Consultant to City and Consultant obtains a license to such items for the benefit of City. All licenses must be perpetual, world-wide, non-exclusive, and royalty free sufficient in scope to permit City's full use and enjoyment of its ownership rights in the items created by the Services.

10. Confidentiality. Consultant shall not disclose any confidential or proprietary information received from City to anyone except Consultant's employees who require access to the information to perform the Services. This obligation shall survive termination and remain in full force and effect until the information, and any copies thereof, are destroyed or returned to City.

11. Defense, Indemnity, and Hold Harmless. To the fullest extent permitted by law, Consultant 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 Consultant's performance of the services contemplated by this Agreement, or in connection with Consultant'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. Consultant's obligations to hold harmless, indemnify, and defend shall not be excused because of Consultant's inability to evaluate Liability or because Consultant evaluates Liability and determines that Consultant is not liable to the claimant. 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. Consultant 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 Consultant'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 Consultant'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).

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12. Insurance. Consultant shall procure and maintain insurance during the term of this Agreement in the amounts and under the terms set forth in Exhibit "B" against claims that may arise from or in connection with this Agreement and performance of the Services. Upon reasonable written notice, Consultant shall comply with any changes in the amounts and terms of insurance as may be required from time-to-time by City's Risk Manager

13. Acceptance of Final Payment. Consultant's acceptance of final payment will release City from any and all claims and liabilities for compensation under this Agreement.

14. Acceptance of Work. City's acceptance of, or payment to Consultant for, the Services does not release Consultant from its responsibility for the accuracy, completeness, or competency of the Services, nor do the actions constitute an assumption of Consultant's responsibility or liability by City for any defect or error in the Services.

15. Conflict of Interest. Consultant represents that no City employee or official has a financial interest in Consultant. Consultant shall not offer, encourage, or accept any financial interest in any part of Consultant's business by or from a City employee or official during the term of this Agreement or as a result of being awarded this Agreement. If any of the Services are paid by reimbursement from an agreement between City and a private party, Consultant represents that it has not performed any work for that private party during the 12-month period prior to the execution of this Agreement, and that it shall not negotiate, offer or accept any contract for services from that party during the term of this Agreement.

16. Economic Disclosure. Consultant shall comply with City's local conflict of interest code and the Political Reform Act, and prepare and file an economic disclosure statement if the Services involve making, or participation in making, decisions which may have a material effect on the Consultants' financial interest. While it is Consultant's sole responsibility to evaluate its conflicts of interest, the Consultant nevertheless agrees to prepare and file an economic disclosure statement if requested by City.

17. Non-Exclusive Agreement. This is a non-exclusive agreement. City reserves the right to provide, and to retain other consultants to provide, services that are the same or similar to the Services described in this Agreement.

18. No Assignment. Consultant shall not assign or subcontract any of the Services without City's prior written consent. For the purposes of this section, a change of fifty-percent or more in the ownership or control of Consultant constitutes an assignment.

19. Remedies. All remedies permitted or available under this Agreement, or at law or in equity, are cumulative and alternative, and the invocation of a right or remedy will not be construed to waive or elect a remedy with respect to any other available right or remedy. As a condition precedent to commencing legal action involving a claim or dispute against City arising from this Agreement, the Consultant must present a written claim to City in accordance with Chapter 3.42 of the Livermore Municipal Code.

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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: Franc Moufarrej, Chief Building Official
City of Livermore
1052 S Livermore Avenue
Livermore, California 94550

TO CONSULTANT: Attention: Craig Tole,
4LEAF, INC.
2126 Rheem Drive
Pleasanton, CA 94588

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

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:
813734D554DD4B5...
Kevin J. Dugan
President

3/28/2024 | 2:14 PM PDT

CITY OF LIVERMORE: **Dated:**

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

DocuSigned by:
Katherine Mirassou
D48B6A0C4F27411...
Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Amber Hatfield
12BC7F4D88224F6...
Risk Manager/Analyst

Attachments:

Exhibit A – Scope of Work
Exhibit B – Insurance Requirements

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4LEAF, INC.
CONSTRUCTION MANAGEMENT · PLAN CHECK
INSPECTION · PLANNING · CODE ENFORCEMENT

EXHIBIT A

SECTION 5: FEE SCHEDULE

FY2024-2025 FEE SCHEDULE & BASIS OF CHARGES

FOR THE CITY OF LIVERMORE

All Rates are Subject to Basis of Charges

PLAN REVIEW COST STRUCTURE	NOTES
Plan Review Percentage: 70% *(Inclusive of all disciplines except Fire and Civil which are billed on an hourly basis)* **Hourly Plan Review**: $144 Non-Structural Review $165 Structural Review	Fee includes: ➢ Initial review and two (2) rechecks. Hourly charges apply after three (3) or more rechecks. ➢ Shipping, courier, and electronic service.

Building

Chief Building Official	$175/hour
Structural Plan Review Engineer	$165/hour
Non-Structural Plans Examiner	$144/hour
Certified Access Specialist (CASp) Inspector	$175/hour
Certified Access Specialist (CASp) Plans Examiner	$175/hour
Senior Combination Building Inspector (Building Inspector III)	$139/hour
Commercial Building Inspector (Building Inspector II)	$118/hour
Residential Building Inspector (Building Inspector I)	$101/hour
Permit Manager	$124/hour
Senior Permit Technician	$103/hour
Permit Technician	$93/hour
Clerk/Administrator	$82/hour
Supervising Inspector of Record	$180/hour
Inspector of Record	$165/hour
DSA Class 1 / OSHPD A Inspector	$160/hour
DSA Class 2 / OSHPD B Inspector	$118/hour
DSA Class 3 / OSHPD C Inspector	$108/hour

Code Enforcement

Code Enforcement Director	$175/hour
Code Enforcement Manager	$185/hour
Senior Code Enforcement Officer	$129/hour
Code Enforcement Officer II	$122/hour
Code Enforcement Officer I	$115/hour
Code Enforcement Officer	$108/hour
Housing Inspector	$95/hour

EXHIBIT A

4LEAF, INC.
CONSTRUCTION MANAGEMENT · PLAN CHECK
INSPECTION · PLANNING · CODE ENFORCEMENT

Hearing Officer.....$150/hour
Principal-in-Charge.....$250/hour
Hourly overtime charge per inspecton.....1.5 x hourly rate
Mileage (for inspections performed within the City).....IRS Rate + 20%

Fire

Fire Protection Engineer (FPE).....$211/hour
Fire Prevention Officer $160/hour
Fire Plans Examiner $149/hour
Fire Inspector II.....$129/hour
Fire Inspector I.....$118/hour

Planning

Housing Policy Director $227/hour
Planning Director.....$206/hour
Principal/Planning Manager $175/hour
Senior Planner $160/hour
Associate Planner $139/hour
Assistant Planner $113/hour
Planning Technician.....$93/hour

Project Management

Project Manager.....$210/hour
Principal-in-Charge $283/hour

Engineering, Public Works Inspection, & Construction Management (Prevailing Wage)

Civil Plan Review (Grading, Improvement Plans) $175/hour
Traffic Engineer..... $230/hour
Construction Manager..... $162/hour
Public Works Inspector (Regular Time) $160/hour
Public Works Inspector Apprentice..... $99/hour
Public Works Plans Examiner..... $145/hour

BASIS OF CHARGES

- Rates are inclusive of “tools of the trade” such as forms, telephones, and consumables.
- All invoicing will be submitted monthly.
- Staff Augmentation work (excluding plan review) is subject to 4-hour minimum charges unless stated otherwise. Services billed in 4-hour increments.
- Most plan reviews will be done in 10 business days or less and 5 business days or less for re-checks. This is not inclusive of holidays or the day of the pick-up of plans.
- Expedited reviews will be billed at 1.5x the plan review fee listed in the fee schedule. Return time will be within seven (7) days of receipt of the plans from the City.

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EXHIBIT A

4LEAF, INC.
CONSTRUCTION MANAGEMENT · PLAN CHECK
INSPECTION · PLANNING · CODE ENFORCEMENT

- Plan review of deferred submittals & revisions will be billed at the hourly rates listed.
- All plan review services will be subject to a $305.00 minimum fee if percentage-based fee or 2-hour minimum charge if hourly rates apply.
- Larger complex plan reviews can be negotiated to achieve the best possible pricing.
- All plan review services will be subject to 2-hour minimum fee.
- All plan review services are billed on a percentage basis and includes the initial review and 2 rechecks.
    - Plan reviews will be billed on an hourly basis only after the initial review and 2 rechecks unless otherwise agreed upon on a case-by-case basis.
    - Fire and Civil Reviews are billed on an hourly basis and are not included in our plan review percentage.
- 4LEAF assumes that these rates reflect the FY2024-2025 contract period. There will be a 3% escalation for FY2025-2026, FY2026-2027
- Overtime and Premium time will be charged as follows:
    - *Regular time (work begun after 5AM or before 4PM)* — *1 x hourly rate*
    - *Nighttime (work begun after 4PM or before 5AM)* — *1.125 x hourly rate*
    - *Overtime (over 8-hour M-F or Saturdays)* — *1.5 x hourly rate*
    - *Overtime (over 8 hours Sat or 1st 8-hour Sun)* — *2 x hourly rate*
    - *Overtime (over 8 hours Sun or Holidays)* — *3 x hourly rate*
- Overtime will only be billed with prior authorization of the Director or other designated City personnel.
- All work with less than 8 hours rest between shifts will be charged the appropriate overtime rate.
- Mileage driven during the course of Inspections will be charged at cost plus 20%.
- Payment due on receipt. All payments over 30 days will be assessed a 1.5% interest charge.
- Client shall pay attorneys' fees, or other costs incurred in collecting delinquent amounts.
- Client agrees that 4LEAF's liability will be limited to the value of services provided.
- In accordance with California's Meal Break and Rest Break Law requirements, Client will be billed one (1) additional hour per day at the regular rate for each missed meal or rest break due to Client-directed tasks or requirements. Client should allow 4LEAF's non-exempt, hourly employees the opportunity to take their entitled rest and meal breaks during each work shift.

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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:
   $1,000,000 per occurrence/**$2,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability".
4. Professional Liability/Errors and Omissions:
   $1,000,000 per claim. Consultant/Contractor warrants that any retroactive date under this policy shall precede the effective date of this contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two years beginning at the time work under this contract is completed.

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated

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volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant/Contractor; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.

2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

Consultant/Contractor shall furnish certificates of insurance and endorsement(s) effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements are to be received and approved by the City of Livermore before work commences. The City of Livermore reserves the right to require complete and certified copies of all insurance policies required by this Agreement.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.5**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Paul Spence, Assistant City Manager

SUBJECT: Resolution authorizing execution of an agreement with TruePoint Solutions LLC to implement Accela Citizen Access, DigEplan electronic plan review, on-call Accela permit software programming, and LTC DigEplan subscription agreement. The contract has a not-to-exceed amount of $455,000 over a five-year term.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute an agreement with TruePoint Solutions LLC for services to implement Accela Citizen Access, DigEplan electronic plan review, on-call Accela permit software programming, and LTC DigEplan subscription agreement. The contract has a not-to-exceed amount of $455,000 over a five-year term.

SUMMARY

Staff recommends approval of an agreement for professional services to perform work duties that are specialized, technical, and outside the expertise of staff. The consultant will perform tasks that involve writing software code, creating protocols for processes, and modifying the software to fit Livermore's needs. The consultant will continue to implement Accela Citizen Access, DigEplan electronic plan review, provide on-call Accela permit software programming, LTC DigEplan subscription agreement, technical support, and training to staff as directed. The agreement with TruePoint Solutions LLC will allow the City of Livermore to completely implement paperless permitting. This agreement is for a period of five years and will be part of the Fiscal Year 2024-25, 2025-26, 2026-27, 2027-28, and 2028-29 budgets.

DISCUSSION

To modernize the permitting process and implement paperless plan reviews in alignment with the state's Paper Reduction Act (PRA) and the City of Livermore's Climate Action Plan, Accela Citizen Access and DigEplan software will need to be fully implemented. Progress has been made in several permit types that have been transitioned to paperless in the last year. This contract will allow the City to complete the transition for the remaining permit types.

Staff recommends renewing professional services agreements with Truepoint Solutions LLC that were previously approved in 2022, 2023, and 2024. The firm was selected based on overall experience, familiarity with Livermore processes, quality of personnel, and their ability to respond to the City's needs on a timely basis. TruePoint Solutions LLC and their personnel have worked satisfactorily under prior agreements providing on-call services, Accela Citizen Access maintenance and upgrades, DigEplan electronic plan review, and DigEplan subscription. Over the past two years, the consultant has provided much needed assistance on a variety of permit types, including paperless implementation of roofing, plumbing, electrical, electrical vehicle charger permits, and integration of SolarApp photovoltaic permits into the Accela platform. Additionally, TruePoint Solutions LLC has integrated DigEplan plan review software into Accela for solar, electrical vehicle chargers, dwelling, and accessory dwelling unit permits. This contract with TruePoint Solutions LLC will allow the City of Livermore to fully implement paperless plan reviews in compliance with state laws and our Climate Action Plan.

The proposed agreement begins May 20, 2024, and terminates May 20, 2029, with a maximum expenditure allowance of $455,000 over the 5-year period. This agreement allows the Community Development Department, including the Building, Planning, and Engineering Divisions to complete paperless implementation for plan reviews.

FISCAL AND ADMINISTRATIVE IMPACTS

The total amount of work is expected to be approximately $455,000 over a 5-year period beginning on May 20, 2024. Funding for services rendered under this agreement is partially included in the CDD operating budget for consultant services in FY 2024-25 and the remaining funding will be added to subsequent budgets.

COMMUNITY PILLAR

5: A City That Works

GOAL

11: Modernize key business systems and processes to increase efficiency and improve transparency.

ATTACHMENTS

1. Resolution
2. Exhibit A - Agreement

Prepared by: Franc Moufarrej
Acting Assistant Community Development Director

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 AN AGREEMENT WITH TRUEPOINT SOLUTIONS LLC, TO IMPLEMENT ACCELA CITIZEN ACCESS, DIGEPLAN SUBSCRIPTION, ELECTRONIC PLAN REVIEW, AND ON-CALL ACCELA SOFTWARE PROGRAMMING IN AN AMOUNT NOT-TO-EXCEED $455,000 FOR A FIVE-YEAR TERM

The agreement with TruePoint Solutions LLC will allow the City of Livermore to complete implementation of Accela Citizen Access, fully implement DigEplan electronic plan review, provide on-call Accela permit software programming, and DigEplan subscription agreement for five years with a not-to-exceed contract amount of $455,000.

The full implementation of Accela Citizen Access and DigEplan will update the City of Livermore's processes and achieve our objectives to go paperless aligning with our sustainability goals, modernization, and Climate Action Plan.

The on-call Accela programming will keep our systems updated, solve unexpected system failures, and incorporate the annual fee changes into the system, with the goal to continue providing high-quality customer service and meet required timelines for processing permits and plan reviews.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes the City Manager to execute an agreement with TruePoint Solutions LLC, attached hereto as Exhibit A, to fully implement Accela Citizen Access and DigEplan, provide on-call Accela permit software programming, and DigEplan subscription agreement for five years with a not-to-exceed contract amount of $455,000.

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Resolution.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – TruePoint Solutions LLC Agreement

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PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ___ day of _____, 2024, by and between the City of Livermore ("City"), a municipal corporation, and TruePoint Solutions LLC ("Consultant"),a California Limited Liability Corporation.

RECITALS

City requires professional services to implement Accela Citizen Access, DigEplan Electronic Plan review, and provide on-call Accela permit software programming to include: creating reports, fee calculations, integration with City credit card vendor and business license software, scripts, aid with GIS connections, and provide training as requested.

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

AGREEMENT

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

1. Retention as Consultant. City hereby retains Consultant, and Consultant hereby accepts such engagement, to perform the services described in Section 3 below subject to the terms and conditions in this Agreement.

2. Relationship of Parties – Independent Contractors. The relationship of the parties shall be that of independent contractors. Consultant and its employees are not City officers or employees. Consultant is responsible for the supervision and management of its employees, including any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the delivery of the services contemplated by this Agreement.

3. Description of Services. Consultant shall provide the following professional services as more particularly set forth in Exhibit "A" (collectively "the Services"):

Implement Accela Citizen Access, DigEplan electronic plan review, and provide on-call Accela permit software programming. Provide LTC DigEplan subscription agreement as set forth in Exhibit C.

4. Consultant's Responsibilities. Consultant 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;

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(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 Consultant to practice its profession and to provide the Services;

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

(f) Coordinate the Services with Franc Moufarrej, Chief Building Official ("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 Consultant by the Project Manager, to answer questions or inquiries related to the Services;

(h) Only invoice City for the Services rendered. Consultant's invoice shall be in writing and describe the Services performed for the payment requested. Consultant shall not submit an invoice to City more frequently than once a 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 Consultant and must include time sheets, work progress reports, and other documentation to adequately explain all the Services invoiced for payment. Consultant shall make the invoices and records immediately available to City upon delivery of a written request to examine, audit, or copy them at City's place of business during normal business hours. Consultant shall give City 30 calendar-days' written notice prior to destroying the invoices and records and allow City an opportunity to take possession. If City wants them, Consultant and City shall coordinate their delivery to City in the most efficient manner possible;

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

(l) If applicable, Consultant shall ensure that all work for compensation is provided 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. If applicable, Consultant 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. If any violation of prevailing wage law associated with this Agreement is deemed to have

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occurred by any court or administrative authority, Consultant 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,

(m) Consultant's services provided pursuant to this Agreement shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

5. Compensation and Payment.

(a) The total compensation payable by City to Consultant for the Services **SHALL NOT EXCEED** the sum of $455,000 ("not-to-exceed amount"). City shall compensate Consultant for the Services rendered at the hourly rates, task amounts or travel expenses set forth in Exhibit "A" up to the not-to-exceed amount. Except as provided in the body of this Agreement, the hourly rates, task amounts or travel expenses are intended to be Consultant's only compensation for the Services and is inclusive of all costs of labor, licensing, permitting, overhead and administrative costs, and any-and-all other costs, expenses, and charges incurred by Consultant, its agents, and employees to provide the Services.

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

6. Term. The term of this Agreement commences on May 20, 2024, and terminates upon the completion of the Services or May 20, 2029, whichever occurs first.

7. Termination by City. City may terminate any portion or all of the Services by giving Consultant at least 30 calendar-days written notice. Upon receipt of a termination notice, Consultant shall immediately stop all work in progress on the Services except where necessary to preserve the benefit of the work, and then assemble the work on the Services for delivery to City on the termination date. All compensation for Services performed prior to the termination date shall be payable to Consultant in accordance with Section 5.

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

9. Copyright and Right of Use. All items created by Consultant for City under this Agreement are works made for hire, and Consultant shall give City the copyright and all intellectual property rights to all items developed, prepared, and delivered as part of the Services. Consultant agrees that all aspects of the Services and items created thereby will be original works of creation and will not use, in whole or in part, any work created by any other party, except when expressly disclosed by Consultant to City and Consultant obtains a license to such items for the benefit of City. All licenses must be perpetual, world-wide, non-exclusive, and royalty free sufficient in scope to permit City's full use and enjoyment of its ownership rights in the items created by the Services.

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10. Confidentiality. Consultant shall not disclose any confidential or proprietary information received from City to anyone except Consultant's employees who require access to the information to perform the Services. This obligation shall survive termination and remain in full force and effect until the information, and any copies thereof, are destroyed or returned to City.

11. Defense, Indemnity, and Hold Harmless. To the fullest extent permitted by law, Consultant 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 Consultant's performance of the services contemplated by this Agreement, or in connection with Consultant'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. Consultant's obligations to hold harmless, indemnify, and defend shall not be excused because of Consultant's inability to evaluate Liability or because Consultant evaluates Liability and determines that Consultant is not liable to the claimant. 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. Consultant 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 Consultant'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 Consultant'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. Consultant shall procure and maintain insurance during the term of this Agreement in the amounts and under the terms set forth in Exhibit "B" against claims that may arise from or in connection with this Agreement and performance of the Services. Upon reasonable written notice, Consultant shall comply with any changes in the amounts and terms of insurance as may be required from time-to-time by City's Risk Manager.

13. Acceptance of Final Payment. Consultant's acceptance of final payment will release City from any and all claims and liabilities for compensation under this Agreement.

14. Acceptance of Work. City's acceptance of, or payment to Consultant for, the Services does not release Consultant from its responsibility for the accuracy, completeness, or competency of the Services, nor do the actions constitute an

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assumption of Consultant's responsibility or liability by City for any defect or error in the Services.

15. Conflict of Interest. Consultant represents that no City employee or official has a financial interest in Consultant. Consultant shall not offer, encourage, or accept any financial interest in any part of Consultant's business by or from a City employee or official during the term of this Agreement or as a result of being awarded this Agreement. If any of the Services are paid by reimbursement from an agreement between City and a private party, Consultant represents that it has not performed any work for that private party during the 12-month period prior to the execution of this Agreement, and that it shall not negotiate, offer or accept any contract for services from that party during the term of this Agreement.

16. Economic Disclosure. Consultant shall comply with City's local conflict of interest code and the Political Reform Act, and prepare and file an economic disclosure statement if the Services involve making, or participation in making, decisions which may have a material effect on the Consultants' financial interest. While it is Consultant's sole responsibility to evaluate its conflicts of interest, the Consultant nevertheless agrees to prepare and file an economic disclosure statement if requested by City.

17. Non-Exclusive Agreement. This is a non-exclusive agreement. City reserves the right to provide, and to retain other consultants to provide, services that are the same or similar to the Services described in this Agreement.

18. No Assignment. Consultant shall not assign or subcontract any of the Services without City's prior written consent. For the purposes of this section, a change of fifty-percent or more in the ownership or control of Consultant constitutes an assignment.

19. Remedies. All remedies permitted or available under this Agreement, or at law or in equity, are cumulative and alternative, and the invocation of a right or remedy will not be construed to waive or elect a remedy with respect to any other available right or remedy. As a condition precedent to commencing legal action involving a claim or dispute against City arising from this Agreement, the Consultant must present a written claim to City in accordance with Chapter 3.42 of the Livermore Municipal Code.

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.

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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: Franc Moufarrej, Chief Building Official
City of Livermore
1052 S Livermore Avenue
Livermore, California 94550

TO CONSULTANT: Attention: Kent Johnson, CEO
TruePoint Solutions, LLC
3262 Penryn Road, Suite 100-B
Loomis, CA 95650

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

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:
Kent Johnson
127F61394E5E4A7...

3/29/2024 | 3:32 PM PDT

Kent Johnson
Chief Executive Officer

CITY OF LIVERMORE: **Dated:**

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

DocuSigned by:
Tara Mazzanti
19DF47CAC5D0451...

Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Amber Hatfield
12BC7F4D88224F6...

Risk Manager/Analyst

Attachments:

Exhibit A – Scope of Work
Exhibit B – Insurance Requirements
Exhibit C - LTC DigEplan Subscription Agreement

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City of Livermore, CA

On-Going Service and Support Proposal

2/8/2024

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I. Vendor Background & Qualifications

TruePoint Company History

TruePoint Solutions, LLC is a privately held software and solutions company based in the Sacramento region. We bring an unparalleled level of experience designing, developing, implementing, and supporting complex government IT solutions. Our team has an average of 16+ years of public sector IT experience.

TruePoint Solutions was established in 2004 and became an Accela certified implementation partner in early 2005. Current implementation projects which TruePoint is involved include:

Cities	Cities	Counties	Counties
Albany, OR	Oakland, CA	Yuba City, CA	San Diego County, CA
Alameda, CA	Oklahoma City, OK	Adams County, CO	San Mateo County, CA
Atlanta, GA	Omaha, NE	Arapahoe County, CO	Santa Barbara County, CA
Asheville, NC	Ontario, CA	Bexar County, TX	Santa Clara County, CA
Aurora, CO	Papillion, NE	Boulder County, CO	Solano County, CA
Benecia, CA	Pleasant Hill, CA	Buncombe County, NC	Stanislaus County, CA
Berkeley, CA	Reno, NV	Clackamas County, OR	Weld County, CO
Boise, ID	Rochester, MN	Carroll County, MD	Washoe County, NV
Ceres, CA	Palo Alto, CA	Chesterfield County, VA	Yakima County, WA
Clearwater, FL	Peoria, AZ	Cobb County, GA	
Cleveland, OH	Pleasanton, CA	Contra Costa County, CA	
Colorado Springs, CO	Ridgefield, WA	Douglas County, NV	**Other State Agencies**
Concord, CA	Roseville, CA	Guilford County, NC	Boston Public Health Commission
Corvallis, OR	Sacramento, CA	Gwinnett County, GA	CA, Dept. of Water Resources
El Paso, TX	Salt Lake City, UT	Hillsborough County, FL	CA – OSHPD
Fort Collins, CO	San Antonio, TX	Jackson County, OR	State of Massachusetts
Fountain, CO	Santa Clara, CA	King County, WA	State of Nevada, Taxicab Auth
Fremont, CA	Santa Monica, CA	Lake County, CA	State of New York
Grand Rapids, MI	Seattle, WA	Leon County, FL	TRPA-Tahoe Regional Pln. Auth.
Grass Valley, CA	Spokane, WA	Maricopa County, AZ	CA State Lands Commission
Hesperia, CA	Socorro, TX	Marion County, IN	City & County of Denver
Indianapolis, IN	Stockton, CA	Martin County, FL	City & County of San Francisco
Lincoln, NE	Sunnyvale, CA	Monterey County, CA	University of Minnesota
Livermore, CA	Tacoma, WA	Multnomah County, OR	Unified Government, KC and Wyandotte
Madison, WI	Tigard, OR	Napa County, CA	
Martinez, CA	Torrance, CA	Nevada County, CA	**Towns and Villages**
Maryland Heights, MO	Virginia Beach, VA	Olmstead County, MN	Elk Grove Village, IL
McAllen, TX	Visalia, CA	Osceola County, FL	Town of Los Gatos, CA
Menlo Park, CA	Walnut Creek, CA	Pasco County, FL	Town of Paradise, CA
Menlo Park Fire, CA	Watertown, WI	Placer County, CA	Town of Queen Creek, AZ
Meridian, ID	West Sacramento, CA	Pima County, AZ	Town of Sahuarita AZ
Missoula, MT	Westminster, CO	Pinal County, AZ	
Moreno Valley, CA	Whistler, BC	Sacramento County, CA	
New York City, NY	Yorba Linda, CA	San Benito County, CA	

Legend
TruePoint Accela Automation Projects/Clients
Accela Legacy Upgrade - Tidemark
Accela Legacy Upgrade - Permits Plus
Hansen Upgrades
Accela Legacy Upgrade - Kiva

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II. TruePoint Staff

TruePoint will assign talented staff that have in-depth knowledge of your current implementation. Below is a summary of team members and Accela experience.

TruePoint Solutions

TruePoint Solutions Services Team

			Proj. Mgmt.		Implementation												Technical																	
					AA Imp. Methodology												Reporting			Scripting					Interfaces					Data Conv.					
					Business Analysis				Configuration								Oracle/MS SQL								Web Services					Oracle&PL/SQL					
Consultant	Primary Role	Public Sector	Sr. Proj. Manager	Proj. Manager	Land Management	Business License	Asset Management	Citizen Access	Accela Automation	Citizen Access	Mobile Office	Accela GIS	Accela IVR	EDR	Ad-hoc	Crystal Reports	SSRS	Master Scripts	ACA Pageflow	Batch / Set	Expressions	EMSE API	GovXML	Financial / Cashier	XAPO / Contact	ePayment	EDMS	APO Conversion	Licensed Prof.	History Conv.	Document Conv.				
Keith Hobday	Implementation Consultant	30 yrs.		●	●	●	●	●	●	●	●			●	●			●	●	●	●				●									
Terry Dunn	Implementation Consultant	20 yrs.		●	●	●		●	●	●	●			●	●			●	●	●	●													
Cory Probasco	Implementation Consultant	23 yrs.	●		●	●	●	●	●	●	●	●		●	●			●	●	●	●													
David Brown	Implementation Consultant	17 yrs.		●	●	●		●	●	●	●	●		●	●			●	●		●													
Thomas Hornick	Technical Consultant	21 yrs.			●			●	●	●	●				●	●	●	●	●		●							●	●	●	●				
Joe Cipriano	Technical Consultant	22 yrs.														●	●	●		●	●	●	●	●	●	●	●	●	●	●	●				
Richard Holland	Technical Consultant	12 yrs.														●	●								●			●	●	●					
Michele Niccore	Implementation Consultant	12 yrs.		●	●			●	●	●	●				●			●	●		●				●									
McKenzie Helvick	Implementation Consultant	13 yrs.			●	●		●	●	●	●			●	●			●	●	●	●													
Jay Lum	Technical Consultant	29 yrs.					●								●	●	●																	
David Boucher	Implementation Consultant	12 yrs.		●	●	●		●	●	●	●			●	●	●	●	●	●		●													
Deborah Herman	Implementation Consultant	22 yrs.		●	●			●	●	●	●				●	●	●	●	●		●													
Johnny Guest	Implementation Consultant	14 yrs.			●			●	●																									
Erin Griffith	Technical Consultant	14 yrs.													●	●	●																	
Jackie Ramirez	Implementation Consultant	10 yrs.		●	●	●		●	●	●	●				●			●	●		●							●						
Tyler Suarez	Implementation Consultant	5 yrs.			●			●	●	●					●								●	●										
Ray Schug	Implementation Consultant	26 yrs.		●	●	●		●	●	●	●	●	●	●	●			●	●	●	●	●	●	●	●	●	●	●	●	●				
Erica Rodriguez	Implementation Consultant	14 yrs.			●			●	●	●					●								●	●										
Nick Graf	Implementation Consultant	10 yrs.		●	●	●		●	●	●	●	●	●	●	●			●	●	●	●	●	●	●	●	●	●	●	●	●				
Greg Lamy	Implementation Consultant	5 yrs.			●		●	●	●	●					●								●	●										
Michael Becker	Implementation Consultant	5 yrs.			●	●		●	●	●	●				●	●	●	●		●	●	●	●	●	●	●	●	●	●	●				
Melissa Bouquin	Implementation Consultant	26 yrs.	●		●	●	●	●	●	●	●	●		●	●			●	●	●	●													
Alex Charlton	Implementation Consultant	5 yrs.		●	●	●		●	●	●	●				●			●	●		●													
Cristine Cannon	Implementation Consultant	3 yrs.		●	●	●		●	●	●	●				●			●	●		●													

Keith Hobday will be the main point of contacts for this engagement and ultimately responsible for all members of the TruePoint team.

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III. Project Scope

Project Understanding

TruePoint Solutions appreciates the opportunity to continue to work with the City to enhance the utilization of your Accela Civic Platform products and support the day to day needs of your end users. TruePoint has experience with your current configuration. As we support your needs, we will also focus on knowledge transfer of the Accela Civic Platform features.

TruePoint Solutions proposes a blanket as needed support agreement to work with your staff to support and enhance the Accela Automation functionality. TruePoint can advise, configure, support, and train all aspects of the Accela Civic platform and currently works with over 60 Accela customers in a support role. As you can see from our client list most of our customers are in California.

Proposed Services

As Needed Expert Support and General Maintenance

This service will provide day-to-day as needed or on call support above and beyond what is provided by Accela CRC. It will also provide a budget to continually enhance and expand the City's Accela configuration.

- Training as need on any aspect of Accela. Training can be done on-site or remote
- Advise on how to most efficiently configure the Accela Civic Platform based on experience we have gained from over 140 customers
- Misc. Configuration changes as requested
- Scripting for business process automation
- Fee configuration and enhancements
- Report Development and Support using Ad-Hoc, Crystal or SSRS
- ACA support and enhancements
- Accela Mobile support
- Accela GIS support
- Day-to-day phone support and issue resolution
- Accela install and upgrade support
- DigEplan - Plan Review support

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Services Costs

Tasks	Hours	Rate	Total	Comment
Implementation Consultant	300	$165.00	$49,500.00	
Travel Budget			TBD	On-site support is available if needed
Total budget not to exceed			**$49,500.00**	

Services will be billed monthly on a T@M hourly basis as work is requested and approved by the City.

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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:
   $3,000,000 per occurrence/**$6,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability".
4. Professional Liability/Errors and Omissions:
   $3,000,000 per claim. Consultant/Contractor warrants that any retroactive date under this policy shall precede the effective date of this contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two years beginning at the time work under this contract is completed.

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated

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volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant/Contractor; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.

2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

Consultant/Contractor shall furnish certificates of insurance and endorsement(s) effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements are to be received and approved by the City of Livermore before work commences. The City of Livermore reserves the right to require complete and certified copies of all insurance policies required by this Agreement.

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Between
TruePoint Solutions representing LCT Software LLC (DigEplan)

and
City of Livermore, CA

Master Services Agreement

www.digeplan.com

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Parties

1. This Master Service Agreement (this "**Agreement**") is entered into as of the date of last signature (the "**Effective Date**") by and between LCT Software LLC a Florida corporation principally located at 4500, 140th Avenue North Suite, 101 Clearwater, FL 33762 ("LCT Software"), and the City of Livermore, 1052 S. Livermore Ave, Livermore, CA, 94550 (the **Customer**.)

Background

a) The Supplier has developed certain software applications and platforms which it makes available to subscribers via the internet on a pay-per-use basis for the purpose of subscribers.
b) The customer wishes to use the Supplier's service in its business operations.
c) The Supplier has agreed to provide, and the customer has agreed to take and pay for the Supplier's service subject to the terms and conditions of this agreement.

Agreed terms

1.1. **Definitions** - Unless otherwise defined in this Agreement, terms used herein have the same meanings as set out in the Exhibits to this Agreement (including any supplements or attachments thereto).

1.2. "**Optional Services**" refers to certain optional add-ons to the Subscription Service as may be offered by LCT Software from time to time.

1.3. "**Professional Services**" refers to LCT Software's delivery, training, performance optimization and related services as set out in the Professional Services Terms. The Professional Services described in this Agreement are applicable to Customer if and as ordered.

1.4. "**Professional Services Terms**" refers to those additional Professional Services Terms and Conditions.

1.5. "**Services**" refers to the Subscription Service together with any Professional Services and/or Optional Services, as applicable.

1.6. **"Subscription Service"** refers to DigEplan's cloud-based service designed to provide government entities with Integrated Electronic Plan Review.

1.7. **"Subscription T's & C's**" refers to the Subscription Terms and Conditions attached hereto at Exhibit C

Customer agrees that its purchase of the Services hereunder is neither contingent on the delivery of nor any oral or written comments about any future functionality or features of the Subscription Service.

2. Procurement of Services

Customer may purchase the Services by submitting orders in a form designated or approved by LCT Software (each, an "**Order**") or, in the case of certain Professional Services, by executing Statements of Work designated or approved by LCT Software (each an "**SOW**"). Upon Order (or SOW) acceptance and subject to Customer's payment of the corresponding Services Fees, LCT Software will make the Services available to Customer.

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2.1. **Governing Terms**. The Subscription Service will be subject to this Agreement and the Subscription T's & C's for the Subscription Period and number of End Users as specified in each Order. Professional Services will be subject to this Agreement and the Professional Services Terms for the designated performance period as specified in the applicable Order or SOW. Any Optional Services will be subject to the Subscription Terms or such other documentation as designated by LCT Software.

2.2. **Order Acceptance**. No Order for Services will be deemed accepted by LCT Software unless and until LCT Software accepts such Order (or SOW) in writing. Any terms and conditions contained in any quote, invoice, purchase order or Order that are inconsistent with the terms and conditions of this Agreement will be deemed stricken, unless expressly agreed to in writing by LCT Software with explicit reference to the accepted terms and conditions. All Orders and SOWs will reference this Agreement. Upon acceptance of an Order as provided above, it will become part of this Agreement.

2.3. **Adding End Users**. If Customer desires to increase the number of End Users that are permitted to use the Subscription Service, a new Order must be issued for the additional End Users. LCT Software may, in its discretion, allow or require the initial Subscription Period of newly purchased subscriptions to be adjusted to expire or renew simultaneously with Customer's pre-existing subscription(s).

2.4. **Optional Services**. Purchase of Optional Services from LCT Software will be subject to any price quote LCT Software provides to Customer and the Order procedure described above. As designated by LCT Software at the time of Customer's purchase, use of the Optional Services may be subject to adadditional terms and conditions beyond or in lieu of those in Exhibit C.

3. Fees, Piggyback Procurement and Payment for Services

3.1. **Fees**. Customer will pay all fees for the Services per the prices quoted to Customer by LCT Software and finalized via an Order or SOW. Unless expressly set out in an Order or SOW, price increases will not apply to any Order or SOW that has already been accepted by LCT Software. Except as otherwise agreed by the parties in writing, Services Fees are quoted and payable in United States dollars, and Customer's payment obligations are non-cancelable, and Fees paid are non-refundable.

3.2. **Piggyback procurement.** The City reserves the right to extend the terms and conditions of this solicitation to any and all other agencies within the State of California as well as any other federal, state, municipal, county, or local governmental agency under the jurisdiction of the United States and its territories. This shall include but not be limited to private schools, parochial schools, non-public schools such as charter schools, special districts, intermediate units, non- profit agencies providing services on behalf of government, and/or state.

This is conditioned upon mutual agreement of all parties pursuant to special requirements, which may be appended thereto. The supplier/contractor agrees to notify the issuing body of those entities that wish to use any contract resulting from this proposal and will provide usage information, which may be requested. A copy of the contract pricing and the proposal requirements incorporated in this contract will be supplied to requesting agencies.

Each participating jurisdiction or agency shall enter into its own contract with the Awarded Proposer(s), and this contract shall be binding only upon the principles signing such an agreement. Invoices shall be submitted in duplicate "directly" to the ordering jurisdiction for each unit purchased.

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Disputes over the execution of any contract shall be the responsibility of the participating jurisdiction or agency that entered into that contract.

Disputes must be resolved solely between the participating agency and the Awarded Proposer. The City of Livermore does not assume any responsibility other than to obtain pricing for the specifications provided.

3.3. **Invoicing and Payment**. LCT Software will invoice Customer in advance for the Services unless otherwise expressly agreed by the parties.

3.4. **Subscription Service fees** are due upon invoice and payable within thirty (30) days of the invoice date. Subscription Service fees will be due no later than the first day of each Subscription Period to which the payment relates. If Customer orders additional End User quantities part-way through an existing Subscription Period, and the initial Subscription Period for the additional quantity is adjusted as described in Section 2.3, then the Subscription fee for such additional quantity will be pro-rated accordingly. Optional Services will be due at the same time as payment for the corresponding Subscription Service, or (if applicable) as otherwise specified in the applicable Order or governing terms. Subscription Service fees will be subject to an automatic annual increase by the percentage of the prior year's Subscription Service fees (the "Uplift") listed in the Order.

3.5. **Professional Services fees and expenses** are due upon invoice and payable within thirty (30) days of the invoice date. Professional Services fees and expenses may be subject to additional payment terms if and as designated in the applicable Order or SOW. Generally, Professional Services expenses will be billed as accrued and invoiced to Customer monthly in accordance with LCT Software's expenses travel policy.

3.6. **Billing Info & Overdue Charges**. Customer is responsible for keeping LCT Software accurately and fully informed of Customer's billing and contact information, including providing any purchase order numbers in advance of invoice issuance. If any Fees are not received from Customer by the due date, they will accrue interest at the rate of one and a half percent (1.5%) of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower.

3.7. **Overdue Payments**. If any amount owing by Customer under this Agreement for any of the Services is thirty (30) or more days overdue, LCT Software may, without limiting LCT Software's other rights and remedies, accelerate Customer's unpaid fee obligations under this Agreement (including any Order or SOW) so that all such obligations become immediately due and payable, suspend the Subscription Service and/or stop performance of the Professional Services until such amounts are paid in full.

3.8. **Taxes**. LCT Software's Services fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "**Taxes**"). If LCT Software has the legal obligation to pay or collect Taxes for which Customer is responsible under this paragraph, the appropriate amount will be invoiced to and paid by Customer, unless Customer provides LCT Software with a valid tax exemption certificate authorized by the appropriate taxing authority prior to invoice issuance. For clarity, LCT Software is solely responsible for taxes assessable against it based on LCT Software income, property and employees.

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4. Term and Termination

4.1. **Term of Agreement**. Unless terminated earlier in accordance with Section 4.2, this Agreement will commence on the Effective Date and will expire on the dates in the **Subscription Fees and Terms** clause.

4.1.1. **Subscription Service**. The Subscription T's & C's at **Exhibit C** will commence on the date listed in the first Order and continue for a period of one (1) year (the "Initial Subscription Period"). Thereafter, the Subscription Term will automatically renew for two additional one-year periods (each a "Renewal Subscription Period") unless and until either party gives written notice of non-renewal at least thirty (30) days in advance. Customer must send written notice of non-renewal to **Accounts@lctsoftware.com** Should Customer not provide written notice of non-renewal at least thirty (30) days in advance, then Customer is obligated to pay for the subsequent renewal in full. Two additional one year extensions may be authorized by Customer, through amendment of this agreement. Full term shall not exceed 5 years.

4.1.2. **Professional Services**. If and as applicable to Customer, the Professional Services Terms will commence on the date listed in the first Order or SOW and continue for the period designated in such Order or SOW. The effectiveness of the Professional Services Terms will be automatically extended to the last date specified in all SOWs and Professional Services Orders issued by LCT Software. Upon Customer request, LCT Software may, in its sole discretion, reinstate expired Professional Services Terms after a lapse in effectiveness under previously issued SOWs or Professional Services Orders.

4.2. **Termination.** Either party may terminate this Agreement upon written notice if the other party materially breaches this Agreement and fails to correct the breach within thirty (30) days following written notice specifying the breach. The Services will be subject to additional termination provisions if and as designated in the respective Exhibits to this Agreement.

4.3. **Effect of Termination**. Termination or expiration of this Agreement will not terminate any then-current Customer Subscriptions to the Subscription Service (which will continue to be governed by the terms of this **Exhibit C**, including the termination provisions set forth therein); provided, however, that in the case of termination of this Agreement by LCT Software for Customer's uncured breach of this Agreement, LCT Software may simultaneously terminate any such Subscriptions. Subject to the Professional Services Terms, termination of this Agreement will terminate all on-going and planned Professional Services.

5. Additional customer terms.

Any terms and conditions required by Customer under applicable statute, judicial order or agency policy will be as stated in this Section 5 (the "Additional Customer Terms"). Alternatively, the Parties may set forth Additional Customer Terms at Exhibit C to this Agreement as warranted under the circumstances. Notwithstanding anything to the contrary in Section 6, the Additional Customer Terms will govern over the body of this Agreement in the event of a direct conflict of terms. In the absence of any inclusion of Additional Customer Terms in this Section 5 or at Exhibit C, the parties agree that no additional contractual obligations are intended in respect of the Services provided hereunder.

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6. General

6.1 The parties acknowledge that the terms of each of the Exhibits to this Agreement (inclusive of any supplements or attachments thereto), including, but not limited to, the disclaimers, limitations of liability, and other general provisions thereof, are incorporated into and form a part of this Agreement.

6.2 In the event of a direct conflict between the body of this Agreement and the terms of the Exhibits hereto, the terms in the body of this Agreement will govern. Each party specifies its address set forth above for receipt of notices under this Agreement. This Agreement may be signed in one or more identical counterparts, each of which will be an original, but all of which together will constitute one instrument.

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Subscription Fees and Term

1. Subscription Fees

For each Year during the Subscription there will be Subscription fees, the initial subscription fees shall amount to a total of $39,529.13. This is an enterprise license with a total not to exceed active user count of 60 users.

2. Additional User Subscription Fees

Additional User Subscriptions may be purchased by the Agency in accordance with clause 2.3.

3. Initial Subscription Term: 1 year, from May 1st, 2024, to April 30th, 2025. Each additional yearly subscription renewal will have a 3% uplift.

Exhibits List:
Exhibit C1 - Standard Support Policy
Exhibit C2 - Service Level Commitment
Exhibit C3 Subscription Terms and Conditions

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Exhibit – C1

Standard Support Policy

This LCT Software LLC's SaaS Support Policy ("Support Policy") is a policy governing the use of DigEplan's software-as- service products (the "Service(s)") under the terms of the services agreement (the "Agreement") between LCT Software, LLC and its affiliates ("LCT Software", "us" or "we") and the purchaser of DigEplan's Service ("Customer"). This Support Policy may be updated from time to time by LCT Software at its sole discretion.

General Requirements and Hours of Operation

Ticketing Support: LCT Software will provide access to a ticketing system, which will be available twenty-four (24) hours per day, seven (7) days per week. A qualified support specialist shall use commercially reasonably efforts to answer questions and resolve problems regarding the Subscription Service during normal business hours of Monday-Friday, 8:00 A.M. until 5:00 P.M PST.

Telephone and E-mail Support: DigEplan's Customer Support Department, a live technical support facility, will be available to Customer from 8:00 A.M. until 5:00 P.M. Pacific Standard Time Monday through Friday, excluding LCT Software LLC's observed holidays.

Online Support Material: Available twenty-four (24) hours, seven (7) days a week, LCT Software will make available to Customer certain technical information in DigEplan's online support database.

Updates

Updates may address security fixes, critical patches, general maintenance functionality, and documentation and shall be made available at LCT Software's discretion. LCT Software is under no obligation to develop any future functionality or enhancements unless otherwise specified in the Agreement. If an update for the Service is made available to Customer pursuant to this Support Policy, it will automatically replace the previous version of the applicable Service.

Where practical, LCT Software will schedule Updates during non-business hours and will provide Customers with advance notice of all Updates.

Upgrade/Downgrade of Severity Level

If, during the Support Request process, the issue either warrants assignment of a higher severity level than currently assigned or no longer warrants the severity level currently assigned based on its current impact on the production operation of the SaaS offering, then the severity level will be upgraded or downgraded accordingly to the severity level that most appropriately reflects its current impact.

Third Party Product Support

If any third-party software is not supplied by LCT Software, LCT Software disclaims all support obligations for such third-party software, unless expressly specified by LCT Software in Customer's Agreement.

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Exclusions

The following Support Exclusions are not covered by this Support Policy: (a) Support required due to Customer's or any End User's or third party's misuse of the Services; (b) Support during times outside of LCT Software regular business hours stated above; (c) Support necessitated by external factors outside of LCT Software's reasonable control, including any force majeure event or Internet access or related problems beyond the Service demarcation point; (d) Support of or caused by customizations (if outside of LCT Software's best practice recommendations), configuration changes, scripting, or data loss caused by or on behalf of Customer or any End User; (e) Support of or caused by Customer's or any End User's or third party's equipment, software or other technology (other than third party equipment within LCT Software's direct control); (f) Support to resolve or work-around conditions which cannot be reproduced in LCT Software's support environment and (g) Support of any software add-ons supplied together with the Service (except where specified in the Agreement). Any support services falling within these Support Exclusions may be provided by LCT Software at its discretion and, if so provided, may be subject to additional pricing and support terms as specified by LCT Software

Support Classifications

Error Classification	Criteria
Critical Severity Issue (Priority 1)	The Service is down or there is a major malfunction (deeming Service non-functional or severely affected), resulting in a business revenue loss and impacting the Service functionality for a majority of users. No reasonable workaround exists.
High Severity Issue (Priority 2)	High loss of Service functionality or performance, impacting the Service functionality for a high number of users (e.g. Service response is very slow, day to day operations continue, but are impacted by the issue). No reasonable workaround available or the workaround is impractical.
Medium Severity Issue (Priority 3)	Moderate loss of Service functionality or performance, impacting multiple users. A convenient workaround exists (e.g. non-critical feature is unavailable or requires additional user intervention).
Low Severity Issue (Priority 4)	Minor loss of Service functionality or feature in question.

Functional Definitions: For the purposes of error classification, essential or major functions include: data capture features, SLA and alarming features, performance management features and application performance problem resolution features.

Response Time: LCT Software shall use commercially reasonable efforts to respond to error reports in accordance with the table set forth below. LCT Software will use reasonable means to repair the error and keep Customer informed of progress. LCT Software makes no representations as to when a full resolution of the error may be made.

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Error Classification	Initial Response and Acknowledgement	Updates	Resolution Goal
Critical	1 Business Hour	Daily	LCT Software will put forth our best effort to provide a workaround, fix, or estimated completion date within seventy-two (**72**) hours after the problem has been diagnosed and/or replicated.
High	4 Business Hours	Weekly	LCT Software will put forth our best effort to provide a workaround or fix or estimated completion date within four (**4**) business days after the problem has been diagnosed and/or replicated.
Medium	8 Business Hours	As available	LCT Software will put forth our best effort to provide a workaround or fix or estimated completion date within seven (**7**) business days after the problem has been diagnosed and/or replicated.
Low	24 Business Hours	None	Resolution for the Issue may be released as a patch set or be incorporated into a future schedule release of the product.

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Exhibit C2

SERVICE LEVEL COMMITMENT

This SaaS Service Level Commitment ("SLC") is a policy governing the use of LCT software-as-service products (individually or collectively, the "Service" or "DigEplan") under the terms of the LCT Software Master Services Agreement (the "Agreement") between LCT Software LLC and its affiliates ("LCT Software", "us" or "we") and the purchaser of LCT Software's Subscription Service ("Customer").

Unless otherwise provided herein, this SLC is subject to the terms of the Agreement and capitalized terms will have the meaning specified in the Agreement. LCT Software reserves the right to change the terms of this SLC in accordance with the Agreement.

Definitions

"Monthly Uptime Percentage" is calculated by subtracting from 100% the percentage of minutes during the month in which the Service was Unavailable. Measurement of the Monthly Uptime Percentage excludes downtime resulting directly or indirectly from any SLC Exclusion.

"Service Credit" is a dollar credit, calculated as set forth below, that LCT Software may credit back to an eligible Customer account.

"Unavailable" means, as applicable: (i) Customer is repeatedly unable to log into the Service; (ii) Customer experiences repeated connection request failures; (iii) Customer experiences lack of connectivity of external, public instances or sites lasting for more than ten (10) minutes;

The foregoing events must be verifiable or replicable by LCT Software or its designee. Availability of Accela APIs which are used by DigEplan to connect, is expressly excluded from this SLC.

Service Commitment

LCT Software will use commercially reasonable efforts to make the Service available with a Monthly Uptime Percentage of at least 99.9%, in each calendar month of the Subscription Period (the "Commitment"). In the event the Service does not meet this Commitment, Customer will be eligible to receive a Service Credit as described below.

Scheduled & Emergency Maintenance

LCT Software will maintain certain scheduled maintenance windows during which regular, planned maintenance of the Service may be performed. LCT Software will use commercially reasonable efforts to provide Customer with no less than twenty-four (24) hours' notice prior to Services unavailability due to planned maintenance. LCT Software's standard maintenance window will generally fall between the hours of 12:00 AM (00:00) and 5:00 AM [05:00] on a day of our choosing, local time.

In exceptional circumstances where updates may take more time than the weekly time slot, it may be necessary to run updates over w-ends.

LCT Software will endeavour to provide as much notice as is practicable under the circumstances for patches, updates, fixes and other emergency maintenance activities which may be applied on an urgent basis.

LCT Software will provide three (3) business days' notice prior to any planned network, server hardware, operating environment, or database modifications of a material nature.

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Service Credits Monthly Uptime Percentage	Service Credit Percentage
Less than 99.9% but equal to or greater than 99.0%	2%
Less than 99.0%	5%

LCT Software will apply any Service Credits only against future Service payments otherwise due from Customer. Service Credits will not entitle Customer to any refund or other payment from LCT Software.

Service Credits may not be transferred or applied to any other account.

Unless otherwise provided in the Agreement, Customer's sole and exclusive remedy for any unavailability, non-performance, or other failure by LCT Software to provide the Service is the receipt of a Service Credit (if eligible) in accordance with the terms of this SLC.

Service Credit Requests

To receive a Service Credit, Customer must submit a claim in writing to accounts@lctsoftware.com

To be eligible for a Service Credit, the claim must be received by LCT Software in the calendar quarter in which the incident occurred and must include:

- the words "SLC Credit Request" in the subject line;
- the dates and times of each Unavailability incident that Customer is claiming; and
- the quantity or scope of affected Users (as indicated by User ID, number of departments or similar metric);
- Supporting evidence from the support service desk

If the Monthly Uptime Percentage of such Service Credit request is confirmed by us and is less than the Service Commitment, LCT Software will issue the Service Credit to Customer within one billing cycle following the month in which Customer's request is confirmed by LCT Software. Customer's failure to provide the request and other information as required above will disqualify Customer from receiving a Service Credit.

SLC Exclusions

The Service Commitment does not apply to any unavailability, suspension or termination of the Service or any Service performance issues: (i) caused by factors outside of LCT Software's reasonable control, including any force majeure event or Internet access or related problems beyond the Service demarcation point; (ii) that result from customizations (if outside of LCT Software's best practice recommendations), configuration changes by or on behalf of Customer or any End User; (iii) that result from Customer's or any End User's or third party's equipment, software or other technology or integrations (other than third party equipment within LCT Software's direct control); (iv) that result from any maintenance as provided for pursuant to the above terms; or (vii) arising from our suspension or termination of Customer's right to use the Service in accordance with the Agreement (collectively, the "SLC Exclusions"). If availability is impacted by factors other than those used in the Monthly Uptime Percentage calculation, LCT Software may issue a Service Credit with consideration to pertinent factors as assessed by LCT Software in its sole discretion.

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EXHIBIT C3

Subscription Terms & Conditions

Purchase or use of the Service (defined below) is subject to these Subscription Terms and Conditions (these "**Terms**").

1. DEFINITIONS

"**Agreement**" means these Terms and, if applicable, the written master service agreement or other written agreement between Customer and LCT Software LLC that incorporates these Terms by reference.

"**Communication Data**" means any and all information transmitted, shared, or exchanged between Customer and any End User, or between End User and any third party (including any third-party network or website), using the Service, with respect to any transaction or other communication enabled by the Service, but excluding Security Data.

"**Customer**" means the entity that purchases a subscription to the Service, directly from LCT Software or through an authorized reseller, distributor, or other channel partner of LCT Software. Customer also includes the entity's officials, employees, and agents.

"**End Users**" means individuals who are authorized by Customer to use the Service and for whom Customer has purchased a subscription to the Service. End Users may include but are not limited to Customer's employees, contractors and agents. Each End User will be associated with a single, unique email address for purposes of accessing (and being identified within) the Service.

"**Intellectual Property Rights**" means patent rights (including, without limitation, patent applications and disclosures), copyrights, trade secrets, know-how, and any other intellectual property rights recognized in any country or jurisdiction in the world.

"**Optional Services**" mean the optional add-ons to the Service that may be available for purchase either directly from LCT Software or through an authorized reseller or partner of LCT Software, as more particularly described or identified in the applicable Order.

"**Order**" means written orders to purchase subscriptions to use the Service (or, where applicable, to purchase Optional Services).

"**Security Data**" means any and all information provided by Customer or any End User to establish secure transmissions through use of the Service, including but not limited to personal information, information used to identify account names or numbers, routing information, usernames, passwords, access codes and prompts.

"**Service**" or "**Subscription Service**" means the cloud-based network security service(s) for which Customer has obtained a subscription either directly from LCT Software or through an authorized reseller or other partner of LCT Software, as more particularly described in the applicable agreement or order under which such subscription was obtained. If and as designated in the Specifications, the Service may be inclusive of application programming interfaces (APIs) developed by LCT Software to enable interaction and integration with the Service. Unless otherwise specified herein or other applicable contractual terms, all references to "Service" will be deemed to include any and all Optional Services.

"**Software**" means any software (including client software for End Users' devices) that LCT Software makes available for download or otherwise provides for use with the Service.

"**Subscription Period(s)**" means the duration of Customers and End Users active, paid access to the Service, as designated in the Order(s).

"Supported Modification" means a configuration of or modification to the Service requested by Customer that can be consistently supported by LCT Software via APIs, does not require direct database changes and is

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capable of being tested and maintained by LCT Software.

2. AUTHORIZED USERS. Only End Users may access or use the Service under Customer's account. Each End User may use any reasonable number of compatible devices for purposes of accessing the Service; provided that, LCT Software reserves the right to determine whether a number of devices is reasonable and, in its sole discretion, to place a corresponding cap on the number of devices. Unless expressly authorized by LCT Software, End User subscriptions cannot be shared or used by more than one individual but may be permanently reassigned to new End Users. The number of End User subscriptions purchased may be increased (under a new Order) but cannot be decreased during any Subscription Period.

3. USE OF THE SERVICE 3.1. **LCT Software's Responsibilities**. LCT Software will: (i) provide to Customer support related to the Service in accordance with the LCT Software Support Terms accessible at **https://zdrive.eu/gVe** (which URL location and content may be updated from time to time by LCT Software) and (ii) provide the Service only in accordance with applicable laws and government regulations.

3.2. **Customer's Responsibilities**. Customer will (i) be responsible for meeting LCT Software's applicable minimum system requirements for use of the Service; (ii) be responsible for End Users' compliance with these Terms and for any other activity (whether or not authorized by Customer) occurring under Customer's account, (iii) be solely responsible for the accuracy, quality, integrity and legality of Communication Data, (iv) use commercially reasonable efforts to prevent unauthorized access to or use of the Service under its account, and notify LCT Software promptly of any such unauthorized access or use, and (v) use the Service only in accordance with the applicable documentation, laws and government regulations, and any written instructions provided by LCT Software to Customer.

3.3. **Prohibitions.** Customer will not, and will endeavor to ensure that its End Users do not, (i) make the Service available to anyone other than End Users; (ii) sell, resell, rent, lease or transfer the Service in whole or in part to any third party (including Customer affiliates) without the express permission of LCT Software and execution of designated transfer documentation; (iii) use the Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy or intellectual property rights; (iv) use the Service to store or transmit viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs; (v) interfere with or disrupt the integrity or performance of the Service or third-party data contained therein; (vi) attempt to gain unauthorized access to the Service or any related systems or networks; or (vii) obtain intellectual property rights to the use of any component of the Services (inclusive of APIs).

3.4. **Software**. End Users may need to download and install client Software (as made available by LCT Software or other third party authorized by LCT Software) on each device through which they intend to use the Service. All use of such Software will be governed by terms of the applicable license agreement or terms of use that accompanies or is made available in connection with the Software. Customer acknowledges that each End User (or authorized Customer representative) must accept such license agreement, and have Service-compatible device(s), to download, install, and/or use the Software. Nothing in these Terms will be deemed to grant to Customer rights of any kind in the Software.

3.5**. Security Data and Privacy**. Customer understands that failure to protect Security Data may allow an unauthorized person or entity to access the Service. In addition, Customer acknowledges that LCT Software generally does not have access to and cannot retrieve lost Security Data. If Customer loses Security Data, Customer may no longer have access to the Service. Customer agrees that: (i) Customer (or its End User) is solely responsible for collecting, inputting and updating all Security Data; (ii) LCT Software assumes no responsibility for supervision, management or control of Customer's and End Users' Security Data; and (iii) LCT Software assumes no responsibility for any fraudulent or unauthorized use of the Software or any portion of the Service. To the extent that LCT Software has access to any personally identifiable information gathered from Customer or from End Users in connection with the Service, such information will be governed by the provisions of the LCT's Privacy Policy, a copy of which is available on the LCT Software's website at **https://www.digeplan.com/privacy-policy/**
(which URL location and content may be updated from time to time by LCT Software).

4. **PROPRIETARY RIGHTS**

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4.1. **Reservation of Rights**. Subject to the limited rights expressly granted hereunder, LCT Software reserves all rights, title and interest in and to the Service and any associated Software and documentation, including all related Intellectual Property Rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

4.2. **Restrictions**. In addition to the other prohibitions set forth in these Terms, Customer will not and will ensure that its agents do not (i) create derivate works based on the Service, (ii) copy, frame or mirror any part or content of the Service, other than copying or framing on Customer's own intranets or otherwise for Customer's internal business purposes in accordance with LCT Software's applicable documentation, (iii) reverse engineer the Service, or (iv) access the Service (inclusive of any APIs) in order to build or patent a competitive product or service or to copy any features, functions or graphics of the Service.

4.3. **Communication Data Ownership**. Customer reserves all its rights, title and interest in and to the Communication Data. No rights are granted to LCT Software hereunder with respect to the Communication Data, except that LCT Software may (i) store, copy, process, and transmit such Communication Data for purposes of providing the Service to Customer and (ii) otherwise utilize Communication Data if and as permitted by the LCT Software's Privacy Policy.

4.4. **Customer Suggestions**. Customer grants LCT Software a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into the Service (or LCT's other software or services) any suggestions, enhancement requests, recommendations, or other feedback provided by Customer or End Users relating to the operation or features of the Service.

5. **CONFIDENTIALITY**

5.1. Definition. As used herein, "**Confidential Information**" means all confidential information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. However, Confidential Information will not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

5.2. **Protection**. Except as otherwise permitted in writing by the Disclosing Party and subject to the other terms of this Agreement (including LCT Software's Privacy Policy), (i) the Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of these Terms, and

(ii) the Receiving Party will limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with these Terms and who are legally bound to protect such Confidential Information consistent with these Terms.

5.3. **Compelled Disclosure**. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest, limit, or protect the disclosure.

6. **WARRANTIES AND DISCLAIMERS**

6.1. Specifications. Subject to the limitations set forth below, LCT Software warrants that the Service will operate in all material respects in accordance with the Specifications. As Customer's sole and exclusive remedy and LCT Software's entire liability for any breach of the foregoing warranty, LCT Software will use commercially reasonable efforts to modify the Service so that it conforms to foregoing warranty.

6.2. **Service Level Commitment**. During the Subscription Period, LCT Software further warrants that the Service will meet the performance level specified in the Service Level Commitment, as made available by LCT Software at **https://zdrive.eu/gVe** (which URL location and content may be updated from time to time by LCT Software).

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The Service Level Commitment sets forth Customer's sole and exclusive remedy for LCT Software's failure to achieve the stated Service performance level.

6.3. **Disclaimers**. EXCEPT AS EXPRESSLY PROVIDED HEREIN, LCT SOFTWARE DOES NOT MAKE ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND LCT SOFTWARE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTIES ARISING OUT OF THE COURSE OF DEALING OR USAGE OF TRADE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. LCT Software will not be responsible to the extent failure of the Service to operate as warranted is caused by or results from: (i) any modification to the Service other than a Supported Modification; (ii) combination, operation or use of the Service with Customer's or a third party's applications, software or systems; (iii) abuse, willful misconduct or negligence by anyone other than LCT Software or LCT Software's designee; (iv) use of the Service other than in accordance with the terms of this Agreement and/or the applicable Specifications and LCT Software documentation or (v) any of the SLC Exclusions (as defined in the Service Level Commitment).

7. **MUTUAL INDEMNIFICATION (Removed form agreement)**

8. **LIMITATIONS OF LIABILITY.** EXCEPT THE PARTIES' INDEMNIFICATION OBLIGATIONS UNDER SECTIONS 7.1 AND 7.2, IN NO EVENT WILL PARTY'S LIABILITY TO OTHER PARTY OR ANY THIRD PARTY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR FROM THE USE OF OR INABILITY TO USE THE SERVICE, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER HEREUNDER OR, WITH RESPECT TO ANY SINGLE INCIDENT, THE AMOUNT PAID BY CUSTOMER HEREUNDER IN THE TWELVE (12) MONTH PERIOD PRECEDING THE INCIDENT.

8.1. **Exclusion of Damages**. NEITHER PARTY NOR ANY OTHER PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICE WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA OR LOSS OF GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR FROM THE USE OF OR INABILITY TO USE THE SERVICE, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY. THE FOREGOING EXCLUSIONS APPLY WHETHER OR NOT PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, AND EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. NOTHING IN THESE TERMS EXCLUDES OR RESTRICTS THE LIABILITY OF EITHER PARTY FOR DEATH OR PERSONAL INJURY RESULTING FROM ITS NEGLIGENCE.

8.2. **Security and Other Risks**. Customer acknowledges that, notwithstanding security features of the Service, no product, hardware, software or service can provide a completely secure mechanism of electronic transmission or communication and that there are persons and entities, including enterprises, governments and quasi-governmental actors, as well as technologies, that may attempt to breach any electronic security measure.

Subject only to its limited warranty obligations set forth in Section 6, LCT Software will have no liability for any security breach caused by any such persons, entities, or technologies. Customer further acknowledges that the Service is not guaranteed to operate without interruptions, failures, or errors. If Customer or End Users use the Service in any application or environment where failure could cause personal injury, loss of life, or other substantial harm, Customer assumes any associated risks and will indemnify LCT Software and hold it harmless against those risks.

8.3. **Basis of Bargain**. THE LIMITATIONS OF LIABLITY AND EXCLUSIONS OF DAMAGES SET FORTH IN THIS SECTION 8 ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN LCT SOFTWARE AND CUSTOMER AND WILL APPLY TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW.

9. **SUBSCRIPTION PERIOD AND TERMINATION**

9.1. Term of End User Subscriptions. End User Subscriptions purchased by Customer commence on the start date specified in the applicable Order and, unless terminated earlier in accordance with these Terms, continue

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for the term specified therein (the "**Subscription Period**"). A Subscription Period and/or pricing there on may be subject to prorating where LCT Software deems it appropriate to cause newly purchased Subscriptions to expire or renew simultaneously with Customer's pre-existing Subscription(s). Except as otherwise specified in the applicable Order, all Subscriptions will automatically renew, following the Initial Subscription Period, for two additional one-year periods (each a "Renewal Subscription Period") unless and until either party gives written notice of non-renewal at least thirty (30) days in advance. Two additional one year extensions may be authorized by Customer, through amendment of the Agreement. Full term shall not exceed 5 years. The per-unit pricing during any such renewal Subscription Period may be subject to annual pricing increase as designated by LCT Software and notified to Customer. Pricing increases will be effective upon renewal of the Subscription Period and annually thereafter, unless otherwise agreed to by the parties. If either party provides notice of non-renewal as set forth above, Customer's right to use the Service will terminate at the end of the relevant Subscription Period.

9.2. **Termination or Suspension for Cause**. A party may terminate any Subscription for cause upon thirty (30) days written notice to the other party of a material breach if such breach remains uncured at the expiration of such thirty (30) day period. In addition, LCT Software may, at is sole option, suspend or terminate Customer's or any End User's access to the Service, or any portion thereof, immediately if LCT Software, in its sole discretion: (i) if suspects that any person other than Customer or an End User is using or attempting to use Security Data, (ii) suspects that Customer or an End User is using the Service in a way that violates these Terms and could expose LCT Software or any other entity to harm or legal liability, or (iii) is or reasonably believes it is required to do so by law or court order.

9.3. **Effect of Termination**. Within thirty (30) calendar days following the end of Customer's final Subscription Period, Customer may request in writing LCT Software to provide a copy of Customer's data and associated documents in a database dump file format. LCT Software will comply in a timely manner with such request; provided that, Customer (a) pays all costs of and associated with such copying, as calculated at LCT Software then-current time-and-materials rates; and (b) pays any and all unpaid amounts due to LCT Software.

9.4. **Surviving Provisions**. Sections 4 (Proprietary Rights), 5 (Confidentiality), 6.2 (Disclaimer), 7 (Mutual Indemnification), 8 (Limitation of Liability), 9.3 (Effect of Termination), 9.4 (Surviving Provisions) and 10 (General Provisions) will survive any termination or expiration of this Agreement.

10. **GENERAL**

10.1. Notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder will be in writing and will be deemed to have been given upon: (i) personal delivery, (ii) the second business day after overnight mailing, or (iii) sending by confirmed email if sent during the recipient's normal business hours (or, if not, then on the next business day). Notices will be sent to the address specified by the recipient in writing when entering into this Agreement or establishing Customer's account for the Service (or such other address as the recipient may thereafter specify by notice given in accordance with this Section 10.1).

10.2. **Governing Law and Jurisdiction**. This Agreement and any action related thereto will be governed by the laws of the State of California without regard to its conflict of law's provisions. The exclusive jurisdiction and venue of any action related to the Service or this Agreement will be the state and federal courts located in California and each of the parties hereto waives any objection to jurisdiction and venue in such courts.

10.3. **Compliance with Laws**. Each party will comply with all applicable laws and regulations with respect to its activities under this Agreement including, but not limited to, export laws and regulations of the United States and State of California. Without limiting the foregoing, Customer will not permit End Users to access or use the Service in violation of any U.S. export embargo, prohibition or restriction.

10.4. **Relationship of the Parties**. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or similar relationship between the parties.

10.5. **Waiver and Cumulative Remedies**. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

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10.6. **Severability**. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement will remain in effect.

10.7. **Assignment**. Customer may not assign or transfer this Agreement, whether by operation of law or otherwise, without the prior written consent of LCT Software. Any attempted assignment or transfer, without such consent, will be void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

10.8. **Publicity**. Subject to the provisions of Section 5, each party will have the right to publicly announce the existence of the business relationship between parties. In addition, during the Subscription Period of Customer's Service use, LCT Software may use Customer's name on LCT Software's websites and marketing materials to identify Customer as LCT Software's customer, and for providing the Service to Customer.

10.9. **Force Majeure**. The Parties will not be liable for any delay or failure to perform under this Agreement to the extent such delay or failure results from circumstances or causes beyond the reasonable control of the Party.

10.10. **Entire Agreement.** These Terms, including any attachments hereto as mutually agreed upon by the Parties, constitute the entire agreement between the parties concerning its subject matter and supersedes all prior communications, agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of these Terms will be effective unless in writing and signed by a duly authorized representative of each party against whom the modification, amendment or waiver is to be asserted. Notwithstanding any language to the contrary therein, no additional or conflicting terms or conditions stated in Customer's order documentation will be incorporated into or form any part of these Terms, and all such terms or conditions will be null.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.6**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Judy Erlandson, Acting Public Works Director

SUBJECT: Resolution authorizing the execution of an agreement with Golden State Emergency Vehicle Services Inc. for repairs to fire apparatuses manufactured by Pierce Manufacturing and Boise Mobile Equipment in an amount not-to-exceed $350,000 for a three-year term ending May 31, 2027.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the execution of an agreement with Golden State Emergency Vehicle Services Inc. for repairs to fire apparatuses manufactured by Pierce Manufacturing and Boise Mobile Equipment in an amount not-to-exceed $350,000 for a three-year term ending May 31, 2027.

SUMMARY

Staff is requesting to designate Golden State Emergency Vehicle Service, Inc. (Golden State) as a sole source service provider for the repairs to the City of Livermore's (City) fleet fire apparatuses that are manufactured by Pierce Manufacturing and Boise Mobile Equipment. In 2012, the City and Livermore Pleasanton Fire Department (LPFD) began purchasing fire apparatuses manufactured by Pierce Manufacturing and Boise Mobile Equipment to replace the existing fire engine and truck fleet that was comprised of multiple manufacturers. Golden State is the authorized service center for the Pierce Manufacturing and Boise Mobile Equipment fire apparatuses in Northern California and is headquartered in Sacramento.

DISCUSSION

The City and LPFD currently own and operate 5 fire apparatuses manufactured by Pierce Manufacturing or Boise Mobile Equipment with 4 more apparatuses purchased. Occasionally these vehicles require factory authorized repairs or accident damage repairs that occur during emergency responses that can cause significant body and frame damage. Golden State provides estimates and repairs to Pierce Manufacturing and Boise Mobile Equipment apparatuses for any factory authorized repairs, unanticipated accident repairs, and any general repairs that cannot be performed by Fleet staff. Staff recommends entering into an agreement with Golden State to provide these services.

FISCAL AND ADMINISTRATIVE IMPACTS

The total not-to-exceed cost for this three-year agreement is $350,000 which is currently budgeted in the Fleet Division's FY 2023-24 and FY 2024-25 General Fund budget and will be included in future budget years as well.

COMMUNITY PILLAR

5: A City That Works

GOAL

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

ATTACHMENTS

1. Resolution
2. 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

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH GOLDEN STATE EMERGENCY VEHICLE SERVICE, INC. FOR ON-CALL EMERGENCY SERVICE VEHICLE EVALUATIONS AND REPAIRS IN AN AMOUNT NOT-TO-EXCEED $350,000 FOR A THREE-YEAR TERM

The City of Livermore ("City") owns fire apparatuses manufactured by Pierce Manufacturing Inc. and Boise Mobile Equipment and occasionally requires factory authorized repairs for these apparatuses and associated equipment. The nearest authorized service center for these fire apparatuses is Golden State Emergency Vehicle Service, Inc. in Sacramento, California.

The proposed agreement with Golden State Emergency Vehicle Service, Inc. provides for diagnostic evaluations and factory authorized repairs, unanticipated accident repairs, and general repairs of fire apparatuses and associated equipment that cannot be performed by City staff. The term of the agreement will commence on June 1, 2024, and terminate on May 31, 2027, and the not-to-exceed amount will total $350,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby authorizes the City Manager, or her designee, to execute a general services agreement with Golden State Emergency Vehicle Service, Inc., attached hereto as Exhibit A, for factory authorized repairs, unanticipated accident repairs, and general repairs of fire apparatuses and associated equipment in an amount not-to-exceed $350,000 for a three year term.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

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

Exhibit A – General Services Agreement with Golden State Emergency Vehicle Service, Inc.

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AGREEMENT FOR SERVICES

THIS AGREEMENT is made and entered into this day of , 2024, by and between the City of Livermore ("City"), a municipal corporation, and Golden State Emergency Vehicle Service, Inc. ("Contractor"), a California corporation.

RECITALS

City requires services to evaluate and repair emergency service vehicles on an as-needed basis.

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 evaluate and repair emergency service vehicles on an as-needed basis 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 Scott Kooreman-Public Works Supervisor Fleet ("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. 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. 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,

(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.

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5. Compensation and Payment.

(a) The total compensation payable by City to Contractor for the Services **SHALL NOT EXCEED** the sum of $350,000 ("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 June 1, 2024, and terminates upon the completion of the Services or May 31, 2027, whichever occurs first. This Agreement may be extended for one additional two-year term by mutual written agreement of the parties.

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, excluding proprietary or confidential manuals, drawings, designs, data, photographs, and reports, prepared or obtained by Contractor in the performance of the Services that relate to the agreed specific repairs 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

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access to the information to perform the Services. This obligation shall survive termination and remain in full force and effect until the information, and any copies thereof, are destroyed or returned to City.

11. 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 performance of the services contemplated by this Agreement, 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 or because Contractor evaluates Liability and determines that Contractor is not liable to the claimant. 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.

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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 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:

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TO CITY: Attention: Scott Kooreman
City of Livermore
1052 S Livermore Avenue
Livermore, California 94550

TO CONTRACTOR: Attention: Daron M. Wright
Golden State Emergency Vehicle Service, Inc.
7400 Reese Road
Sacramento, CA 95828

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

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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:
689B01838DA942C...

4/25/2024 | 2:04 PM PDT

By: Daron Wright
Title: President

CITY OF LIVERMORE: **Dated:**

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

DocuSigned by:
Molly O'Toole
A006EFED3B6514A5...

Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Amber Hatfield
12BC7F4D88224F6...

Risk Manager/Analyst

Attachments:

Exhibit A – Scope of Work
Exhibit B – Insurance Requirements

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EXHIBIT A
SCOPE OF WORK

Golden State Emergency Vehicle Service, Inc. ("Contractor") shall provide all necessary labor, materials, equipment, and supplies to perform the following duties:

1. Contractor shall coordinate towing services* to transport City vehicles and equipment to Contractor's repair facility and return said vehicles and equipment to a location designated by the Project Manager.
2. Contractor shall provide a diagnostic evaluation and repair, as requested by the Project Manager and agreed upon by Contractor and the project Manager, for the following types of vehicles and equipment on an as-needed basis: Pierce Saber Pumper, Quantum Enforcer, Quantum Tiller- Aerial, Velocity Tiller-Aerial, all Boise Mobile Equipment, and other Pierce fire apparatus. If a unit is damaged beyond repair of the Contractor, it may be transferred to the Pierce repair facility in Weyauwega, WI as authorized by the Project Manager.
3. Contractor shall make all repairs necessary to return vehicle and equipment back to pre-accident condition. This includes services provided under warranty.

TERMS

4. This agreement does not obligate the City to any particular amount of work to be completed by Contractor.
5. All employees of Contractor shall wear uniforms clearly identifying them as employees of Contractor at all times while on City premises for the purpose of completing work.
6. City reserves the right to halt work at any time for noncompliance with this agreement, or unsafe work conditions or practices.
7. City and Contactor will agree on scope of work for each repair to a City vehicle or equipment to be done before any work is started. Any changes to the agreed-upon scope of work will need to be authorized by the Project Manager before proceeding.
8. Contractor shall warranty all work, excluding electrical repairs, for a minimum of ninety days after the completion of the work. Any work with installation or materials that does not meet the standards of the National Fire Protection Association standard 1911.17 shall be at the sole cost of the Contractor within this ninety-day period. Acceptance or rejection of repairs will be made by City within 10 calendar days of receipt of the vehicle or equipment. Equipment repaired by Contractor may not be placed into front line or reserve status until the equipment has been accepted by City and City has notified Contractor of the acceptance.

COMPENSATION

I. City shall compensate Contractor at the rates set forth in the table below.

Activity	2024 Rates
Shop Labor	$180.00 per hour
Mobile Service Labor	$180.00 per hour
After Hours Call Out Fee	$300.00 per occurrence
After Hours Labor Rate	$180.00 per hour
Sublet Repairs/Towing	Cost approved by City as needed

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	*Towing services are the financial responsibility of City.
All parts, materials, and parts-related charges	Charged to City at Contractor's cost with no additional markup.

2. Starting on January 1, 2025, Contractor may increase the hourly rates for labor once per calendar year. Said hourly labor rates, including any increased hourly rates, shall conform to industry-standard hourly labor rates in the vehicle mechanic industry for repair of specialized emergency vehicles of the type and character specified in this Exhibit A. Any rate increase shall be submitted in writing to the Project Manager at least thirty (30) days before the rate increase takes effect.
3. Contractor shall agree to provide parts to complete the agreed upon tasks at the best possible pricing. Additional parts-related charges may include, but are not limited to, hazardous disposal, shop/wielding supplies, fuel top-off, freight charges, sales tax, and service fees such as electronic tooling hookup fees. No additional markup will be charged on parts, materials, and additional parts-related charges.
4. Contractor shall make reasonable efforts to use original equipment manufacturer (OEM) parts or comparable high quality/warrantable parts and materials. OEM parts must have at least a six-month warranty period.
5. All part or material warranties will be provided to City upon job completion. If a part or material fails within the warranty period, Contractor will work with City and part or material vendors to recover costs and/or replacements. Warranties available would mirror OEM warranties on labor, parts, and materials.
6. At City's request Contractor must provide an itemized list of all labor and parts on all invoices.
7. Expedited shipping of parts must be agreed upon by the Project Manager before vendor places the order.
8. Contractor shall deliver all invoices via email to maintenance-request@livermoreca.gov.

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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:
   $1,000,000 per occurrence/**$2,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability".
4. Garage Keepers:
   $500,000 per occurrence.

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the 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

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officers, officials, employees, or volunteers.

2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

Consultant/Contractor shall furnish certificates of insurance and endorsement(s) effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements are to be received and approved by the City of Livermore before work commences. The City of Livermore reserves the right to require complete and certified copies of all insurance policies required by this Agreement.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.7**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Paul Spence, Assistant City Manager

SUBJECT: Resolution authorizing approval of a cooperative implementation agreement with Caltrans that defines the terms for the City to install two trash capture devices at Southfront Lane and the Southern Conveyance Facility and to receive up to $1,480,000 in reimbursements from Caltrans as part of 2024 Storm Drain Trash Capture Project 2024-25.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a cooperative implementation agreement with Caltrans that defines the terms for the City to install two trash capture devices at Southfront Lane and the Southern Conveyance Facility and to receive up to $1,480,000 in reimbursements from Caltrans as part of 2024 Storm Drain Trash Capture Project 2024-25.

SUMMARY

The 2024 Storm Drain Trash Capture Project 2024-25 involves the installation of 8 large-scale trash capture devices at various locations across the City of Livermore (City). These trash capture devices will help the City meet the trash reduction requirement in the City's Municipal Regional Stormwater Permit administered by the California Regional Water Quality Control Board.

Caltrans is also tasked with meeting trash reduction requirements and reached out to the City to see if any of the devices in our project also treat runoff from Caltrans's right-of-way. Two of the devices in the City's project treat significant portions of Caltrans runoff and qualify for Caltrans reimbursements. This cooperative implementation agreement with Caltrans lays out the terms for the City to install these devices and receive reimbursements from Caltrans. Attachment 1 shows the locations of the two devices associated with the agreement.

DISCUSSION

The City's Regional Water Quality Control Board Regional Stormwater Permit requires 100% trash reduction by June 30, 2025. In order to achieve this, the City needs to install 8 large-scale trash capture

devices in 2025. These devices will reduce the amount of trash washed into creeks during storm events. The trash capture devices will be installed as part of the 2024 Storm Drain Trash Capture Project 2024-25.

On January 23, 2024, the City entered into an agreement with Schaaf & Wheeler Consultant Engineers to provide professional design services for the 2024 Storm Drain Trash Capture Project 2024-25. Caltrans reviewed the preliminary design plans prepared by Schaaf and Wheeler and agrees that two of the devices proposed in the project treat a significant amount of runoff from Caltrans's right-of-way. Caltrans then had the San Francisco Bay Regional Water Quality Control Board review the proposed plans as well in order to give their conceptual concurrence on the design.

With this agreement, Caltrans will be able to receive credits for the runoff treated by two of the City's devices and will reimburse the City for the cost to construct these devices. Allowing Caltrans to receive runoff credit has no impact on the amount of credits the City is expected to receive from this project. The City will own and maintain the trash capture devices installed with this project.

FISCAL AND ADMINISTRATIVE IMPACTS

The Storm Drain Trash Capture Project 2024-25 has a total budget of $8,000,000 in Fiscal Years 2023-24 and 2024-25 in the 2023-2028 Capital Improvement Plan. The budget covers all project expenses including design, construction, project management, inspection, and materials testing. The project is funded 75% with Storm Water (Fund 220) and 25% with Storm Drain (Fund 221). This cooperative implementation agreement will authorize Caltrans to reimburse the City up to $1,480,000 for the installation of two trash capture devices that treat portions of Caltrans runoff. The City will receive this reimbursement upon completion of the project. This reimbursement will reduce the final City funded expenditures from an estimated $8,000,000 down to $6,520,000.

COMMUNITY PILLAR

5: A City That Works

GOAL

14: Develop, operate, and maintain the City's infrastructure

ATTACHMENTS

1. Vicinity Map
2. Resolution
3. Exhibit A - Agreement

Prepared by: Jarrett Rasmussen
Junior Engineer

Approved by:



Marianna Marysheva
City Manager

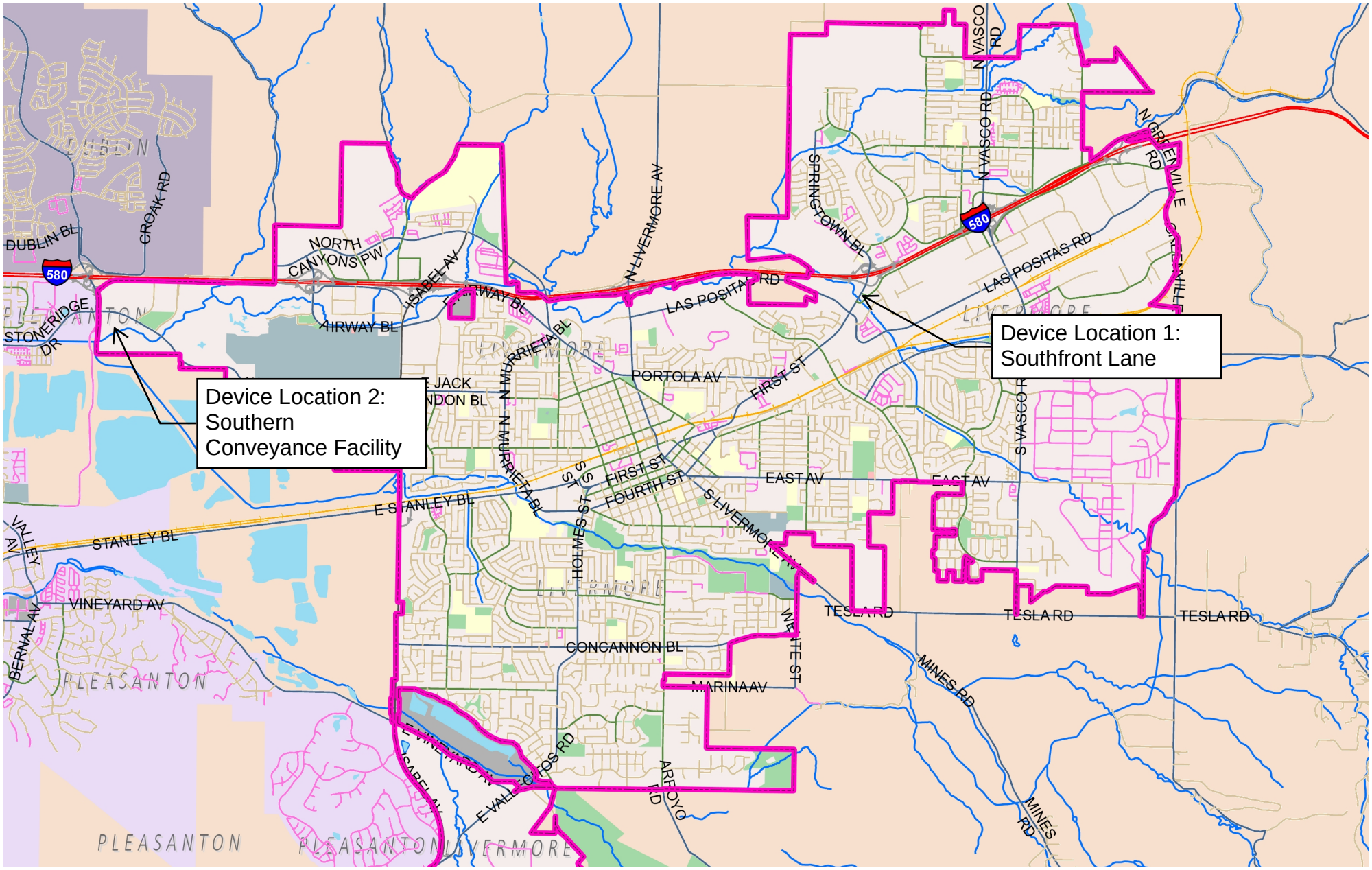
Fiscal Review by:



Tina Olson
Administrative Services Director

LIVERMORE CALIFORNIA

Vicinity Map



10,666.7 0 5,333.33 10,666.7 Feet

NAD_1983_2011_StatePlane_California_III_FIPS_0403_Ft_US
Livermore IT, GIS Services

1: 64,000

This map is based on City of Livermore GIS Information and reflects the most current information at the time of this printing. The map is intended for reference purposes only and the City and its staff is not responsible for errors or omissions.

Notes

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING APPROVAL OF A COOPERATIVE IMPLEMENTATION AGREEMENT WITH CALTRANS THAT DEFINES THE TERMS FOR THE CITY TO INSTALL TWO TRASH CAPTURE DEVICES AT SOUTHFRONT LANE AND THE SOUTHERN CONVEYANCE FACILITY AND RECEIVE UP TO $1,480,000 IN REIMBURSEMENTS FROM CALTRANS.

(2024 Storm Drain Trash Capture Project 2024-25)

The 2024 Storm Drain Trash Capture Project 2024-25 involves the installation of 8 large-scale trash capture devices at various locations across the City of Livermore ("City"). These trash capture devices will help the City meet the trash reduction requirement in the City's Municipal Regional Stormwater Permit administered by the California Regional Water Quality Control Board.

Caltrans is also tasked with meeting trash reduction requirements and reached out to the City to see if any of the devices in the project also treat runoff from Caltrans' right-of-way. Two of the devices in the City's project treat significant portions of Caltrans' runoff and qualify for Caltrans reimbursements. This Cooperative Implementation Agreement with Caltrans lays out the terms for the City to install these devices and receive reimbursements from Caltrans.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby authorizes the City Manager to execute a Cooperative Implementation Agreement with Caltrans, attached hereto as Exhibit A, that defines the terms for the City to install two trash capture devices at Southfront Lane and the Southern Conveyance Facility as part of 2024 Storm Drain Trash Capture Project 2024-25 and receive up to $1,480,000 in reimbursements from Caltrans.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A- Cooperative Implementation Agreement

COOPERATIVE IMPLEMENTATION AGREEMENT

THIS AGREEMENT, ENTERED INTO EFFECTIVE ON March 5th 2024, (the EFFECTIVE DATE) is between the State of California acting by and through its Department of Transportation, referred to herein as CALTRANS and the City of Livermore, a municipal corporation of the State of California, referred to herein as AGENCY. CALTRANS and AGENCY are together referred to as PARTIES.

RECITALS

1. CALTRANS and AGENCY, pursuant to California Streets and Highways Code (SHC) Sections 114 and 130, are authorized to enter into a Cooperative Agreement for improvements to the State Highway System (SHS) as a watershed stakeholder within AGENCY's jurisdiction.
2. As per Attachment D of the Caltrans National Pollutant Discharge Elimination Permit Order 2022-0033-DWQ (NPDES Permit), Section 5.1 and/or Attachment E, Section 3 of the NPDES Permit, CALTRANS and AGENCY may collaboratively implement the NPDES Permit requirements as they have been identified as stakeholders in the Total Maximum Daily Load (TMDL) or contain Significant Trash Generating Areas (STGA) for Device 550 on Southfront Lane and Device 6000 off El Charro Road (hereinafter referred to as "PROJECT"). CALTRANS has agreed to contribute an amount not to exceed One Million Four hundred and Eighty Thousand Dollars ($1,480,000) to AGENCY for AGENCY to construct the PROJECT, within the regional area under the jurisdiction of AGENCY to comply with the TMDL or to treat STGAs. The NPDES Permit (including Attachments D and E) is located at: www.waterboards.ca.gov/water_issues/programs/stormwater/caltrans.html
3. AGENCY has agreed to implement the PROJECT subject to the terms and conditions of this Agreement including all documents attached hereto that are incorporated herein and hereby made a part of this Agreement (collectively referred to as the AGREEMENT).
4. AGENCY will be responsible for all management, maintenance and operations, including costs of the constructed PROJECT.
5. For NPDES Permit compliance, CALTRANS will claim acreage-based PCB and Mercury credit from the Caltrans area treated by the PROJECT for pollutant waste load reductions granted by the San Francisco Bay Regional Water Quality Control Board for the PROJECT. CALTRANS intends to use the acreage-based PROJECT waste load reductions to demonstrate equivalent load reductions required to meet its TMDL waste load allocations.
6. Cooperative implementation has the following advantages: cooperative implementation (i) allows for water quality improvement projects off the ROW, at locations that may otherwise have space, access, or safety limitations within the ROW; (ii) provides for the involvement of local watershed partners who have an interest and expertise in the best way to protect, manage, and enhance water quality in the watershed; (iii) allows for implementation of Best Management Practices (BMPs) and other creative solutions not typically available to CALTRANS; (iv) allows for larger watershed-scale projects; and (v) leverages resources from other entities.

7. All services performed by AGENCY pursuant to this AGREEMENT are intended to be performed in accordance with all applicable Federal, State and AGENCY laws, ordinances, and regulations, and with CALTRANS published manuals, policies, and procedures. In case of a conflict between Federal, State and AGENCY laws, ordinances, or regulations, the order of precedence applicability of these laws shall be Federal, State and then AGENCY laws and regulations, respectively.

8. CALTRANS share of PROJECT funding is as follows:

FUND TITLE	FUND SOURCE	DOLLAR AMOUNT
State Highway Account	**State of California**	**$1,480,000**

SECTION I

All sections of this AGREEMENT including the recitals are enforceable.

1. AGENCY has agreed to implement the PROJECT in accordance with Attachment II-SCOPE SUMMARY. The SCOPE SUMMARY that is attached to and made a part of this AGREEMENT defines in detail the PROJECT's scope of work, description, schedule, location and budget.
2. AGENCY will be responsible for all management, maintenance and operations, including costs of the constructed PROJECT.
3. AGENCY will develop and construct the PROJECT in accordance with the applicable laws, policies, practices, procedures and standards. This applies to all procurements, including land acquisitions, licenses and permits.
4. AGENCY shall prepare initial engineering and geotechnical assessments, and detailed design as well as acquire environmental reviews and right of way (ROW) needed for the PROJECT. This work is equivalent to CALTRANS process of Project Initiation Document (PID), Project Approval & Environmental Document (PA&ED) and Plans, Specification and Estimate (PS&E). AGENCY will pay for, coordinate, prepare, obtain, implement, renew, and amend all permits needed to complete the PROJECT. AGENCY will prepare CEQA environmental documentation to meet California Environmental Quality Act (CEQA) requirements.
5. AGENCY will advertise, open bids, award, and approve the construction contract in accordance with the California Public Contract Code and the California Labor Code and will be responsible for the administration, acceptance, and final documentation of the construction contract.
6. CALTRANS shall reimburse AGENCY for actual costs of the PROJECT not exceeding the amount set forth in Section 8 below.
7. CALTRANS shall have the right to inspect the PROJECT work to be performed hereunder at any time during its progress and to make final inspection upon completion thereof. Failure of CALTRANS to object within 30 days after final inspection shall indicate satisfactory performance of this AGREEMENT by AGENCY.
8. The total amount CALTRANS will reimburse to AGENCY pursuant to this AGREEMENT shall not exceed $1,480,000 ("Contract Sum"). Costs incurred by AGENCY for PROJECT work under this AGREEMENT in excess of the Contract Sum will be borne by AGENCY. It is understood and agreed that this AGREEMENT fund limit is an estimate and that CALTRANS will only reimburse the cost of services actually rendered as authorized by the CALTRANS Contract Manager or designee at or below the fund limitation amount set forth in this AGREEMENT and in accordance with the Budget included in Attachment II.
9. All administrative draft and administrative final reports, studies, materials, and documentation relied upon, produced, created or utilized for the PROJECT will be held in confidence to the extent permitted by law, and where applicable, the provisions of California Government Code section 7921.505 shall govern the disclosure of such documents in the event said documents are shared between the PARTIES. Parties will not distribute, release, or share said documents with anyone without prior written consent of the

party authorized to release said documents except: (i) to employees, agents, and consultants who require access to complete the work described within this AGREEMENT; or (ii) where release is required or authorized by law.

10. HM-1 is defined as hazardous material (including but not limited to hazardous waste) that requires removal and disposal pursuant to Federal or State law, whether it is disturbed by the PROJECT or not. HM-2 is defined as hazardous material (including but not limited to hazardous waste) that may require removal and disposal pursuant to Federal or State law, only if disturbed by the PROJECT.
11. CALTRANS, independent of the PROJECT costs, is responsible for any HM-1 found within existing CALTRANS ROW. CALTRANS will undertake HM-1 management activities with minimum impact to the PROJECT schedule and will pay all costs associated with HM-1 management activities.
12. CALTRANS has no responsibility for management activities or costs associated with HM-1 found outside the CALTRANS existing ROW. AGENCY, independent of PROJECT costs, is responsible for any HM-1 found within PROJECT limits outside existing CALTRANS ROW, and will pay, or cause to be paid, all costs associated with HM-1 management activities. AGENCY will undertake, or cause to be undertaken, HM-1 management activities with minimum impact to the PROJECT schedule.
13. If HM-2 is found within the limits of the PROJECT, the AGENCY responsible for advertisement, award, and administration (AAA) of the PROJECT construction contract will be responsible for HM-2 management activities. Any management activity cost associated with HM-2 is a PROJECT construction cost.
14. This AGREEMENT may only be amended or modified by mutual written agreement of the PARTIES.

SECTION II- GENERAL PROVISIONS

1. TERMINATION

A. This AGREEMENT may be terminated by the PARTIES upon mutual written agreement. In the event of a termination CALTRANS will reimburse AGENCY all allowable, authorized, and non-cancelable obligations and costs incurred by AGENCY prior to the termination.

B. CALTRANS reserves the right to terminate this AGREEMENT before the AGENCY awards the PROJECT construction contract or begins to do project work. CALTRANS will reimburse AGENCY reasonable, allowable, authorized and non-cancelled costs up to the date of termination that are attributable to the PROJECT.

C. This AGREEMENT will terminate upon completion of PROJECT when all PARTIES have met all scope, cost, and schedule commitments included in this AGREEMENT and have signed a closure statement, which is a document signed by the PARTIES that verifies the completion of PROJECT, except that all indemnification, document retention, audit, claims, environmental commitment, pending legal challenge, hazardous material, operation, maintenance and ownership provisions of this AGREEMENT will remain in effect until terminated or modified by mutual written agreement.

D. AGENCY has sixty (60) days after the date this AGREEMENT is terminated or expires, or such other time agreed upon in writing by the PARTIES, to submit invoices to CALTRANS to make final allowable payments for PROJECT costs in accordance with the terms of this AGREEMENT. Failure to submit invoices within this period may result in a waiver by AGENCY of its right to reimbursement of expended costs.

2. BUDGET CONTINGENCY CLAUSE

All obligations of CALTRANS under the terms of this AGREEMENT are subject to the appropriation of resources by the Legislature, and the State Budget Act authority. It is mutually agreed that if the State Legislature does not appropriate sufficient funds for the program, this AGREEMENT shall be amended if possible to reflect any reduction in funds, but nothing herein obligates the PARTIES to provide additional funding or proceed if sufficient funding is unavailable.

3. ALLOWABLE COST, PAYMENTS AND INVOICING

A. The method of payment for this AGREEMENT will be based on actual allowable costs. CALTRANS will reimburse AGENCY for expended actual allowable direct costs and indirect costs, including, but not limited to labor costs, employee benefits, travel (overhead is reimbursable only if the AGENCY has an approved indirect costs allocation plan) and contracted consultant services costs incurred by AGENCY in performance of the PROJECT work, not to exceed the Contract Sum of the PROJECT.

B. Reimbursement of AGENCY expenditures will be authorized only for those allowable costs actually incurred by AGENCY in the performance of the PROJECT work. AGENCY must not only have incurred the expenditures on or after the EFFECTIVE DATE of this

AGREEMENT and before the date it is terminated or expires, but must have also paid for those costs to claim any reimbursement.

C. PARTIES will agree upon CALTRANS' annual reimbursement of the PROJECT costs, throughout its duration. Total reimbursement will not exceed the Contract Sum (as defined in Section I above). The encumbered funds are to be expended and invoiced to CALTRANS by AGENCY by May 1 of the third fiscal year from the fiscal year CALTRANS encumbered them. Any funds encumbered, but not expended by the end of the third fiscal year, will not be reimbursed to AGENCY by CALTRANS.

D. Travel, per diem, and third-party contract reimbursements are PROJECT costs only after those hired by AGENCY to participate in the PROJECT incur and pay those costs. Payments for travel and per diem will not exceed the rates paid rank and file state employees under current California Department of Human Resources rules current at the EFFECTIVE DATE of this AGREEMENT.

E. CALTRANS will reimburse AGENCY for all allowable PROJECT costs no more frequently and no later than monthly in arrears and as promptly as CALTRANS fiscal procedures permit upon receipt of itemized signed invoices. Invoices shall reference this AGREEMENT Number and shall be signed and submitted electronically to the Contract Manager at the following address:

ken.johansson@dot.ca.gov cc: kriti.uppal@dot.ca.gov

If electronic submittal is not possible, mail invoice to:

California Department of Transportation
Division of Environmental Analysis – Fiscal Analysis Unit, MS 27
1120 N Street, Sacramento, CA 95814-5680

F. Invoices shall include the following information:

1) Invoice Cover Sheet The invoice cover sheet summarizes the previous, current and total amounts billed for the AGREEMENT. Details included on the cover sheet are:
   a. "INVOICE" near top of page
   b. Invoice Date
   c. Contract Number (D43CIAxx000x)
   d. Invoice Number [minimum format: City Initials-3-digit Invoice Number (XXX-001)]
   e. Billing period (performance period), specified with beginning and ending dates (towards top of page). All work performed must be during the billing period. Invoice billing periods must not overlap.
   f. Brief description of the work performed
   g. Summary of total dollar amount billed to date
      i. Previous month invoice balance
      ii. Amount billed this month
      iii. Total amount billed including current invoice amount
   h. Total amount due
   i. Summary of charges

i. AGENCY (municipality) labor costs
ii. Sub-Vendor labor costs (consultant)
iii. Sub-vendor direct costs (materials, equipment, miscellaneous itemized costs)
iv. Other direct costs

j. Discounts (if applicable)
k. Remittance information including name and address [MUST match *Payee Data Record Declaration of Business Location* (Form FA-204) submitted at contract execution or on file]
l. AGENCY Contract Manager's name, address and phone number
m. AGENCY Contract Manager's signature and signature block
n. CALTRANS Contract Manager's name and address
o. CALTRANS Contract Manager's signature block.

2) Invoice and Supports

All invoice charges must match the rates on the contract cost proposal and personnel request. (Changes in billing rates must be approved before billing.) The CALTRANS' Contract Manager must be provided invoices or other documentation with sufficient detail to verify the charges are allowable under this AGREEMENT with sufficient support to allow them to verify charges. Supporting documentation, such as receipts, is required for all costs included on the invoice that are not for hourly or sub-contract labor.

AGENCY labor charges need to show person's name, hours worked, billing rate and brief description of work performed. Supporting documents (timesheet or payroll report) need to be provided. These documents need to include:

a. Name (first and last)
b. Hours charged
c. Brief description -- identify the work is for the project funded by the Cooperative Implementation Agreement
d. Month, day and year of the charges (must be within the billing period)
e. Worker and supervisor's signatures (Exceptions can be made for electronic timesheets.) All overtime must be approved in advance by the CALTRANS Contract Manager.

Direct costs (such as material costs, vehicle rental) are reimbursable. These costs need to be verified, therefore, a copy of the receipt, paid purchase order or other documentation that shows the items and cost needs to be attached to the invoice.

AGENCY personnel travel costs may be reimbursed according to the Consultant and Contractor travel guidelines located on the CALTRANS' website at: www.dot.ca.gov/hq/asc/travel/ch12/1consultant.htm. The Travel Expense Claim (TEC) form is available at: www.dot.ca.gov/hq/asc/travel/ch5/1tec.htm.

Subcontractor costs are reimbursed after providing a copy of the paid invoice. This invoice needs to show that the AGENCY contract manager reviewed and approved the

payment. CALTRANS requires its vendors to submit proof of costs incurred, such as timesheet or payroll records, travel reimbursement form (that includes the reason and dates for travel) with receipts, receipts for materials, lab services or other items) and CALTRANS assumes the AGENCY has similar requirements that are documented.

3) Progress Reports

Each invoice needs to be accompanied by a progress report for the billing period. This report includes:

a. Work performed during the billing period (can be in a bullet format)
b. Contract progress estimate -- percentage of work completed (not dollar based)
c. Work anticipated during the next billing cycle (can be in a bullet format)
d. Total amount spent during the billing period (AGENCY personnel, AGENCY direct costs, subcontractor costs and total)
e. Total amount spent to date (AGENCY, subcontractor, total)
f. CIA not to exceed amount
g. Percentage of Cooperative Implementation Agreement (CIA) funds used to date. [Total (AGENCY and subcontractor)/CIA not to exceed amount)]

4. COST PRINCIPLES

A. If PARTIES fund any part of PROJECT with state or federal funds, each PARTY will comply, and will ensure that any sub-recipient, contractor or subcontract hired to participate in PROJECT will comply with the federal cost principles and administrative requirements of 2 CFR, Part 200. These principles and requirements apply to all funding types included in this AGREEMENT.

B. Any PROJECT costs for which AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, and/or Title 48, Chapter 1, Part 31, are subject to repayment by AGENCY to CALTRANS. Should AGENCY fail to reimburse moneys due CALTRANS within thirty (30) days of discovery or demand, or within such other period as may be agreed in writing between the PARTIES hereto, CALTRANS is authorized to intercept and withhold future payments due AGENCY from CALTRANS.

C. The PARTIES will maintain and make available to each other all PROJECT related documents, including financial data, during the term of this AGREEMENT. PARTIES will retain all PROJECT-related records for three (3) years after the final payment voucher.

5. INDEMNIFICATION

Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by AGENCY, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon AGENCY under this AGREEMENT. It is understood and agreed that AGENCY, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual,

inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by AGENCY, its contractors, sub-contractors, and/or its agents under this AGREEMENT.

6. RETENTION OF RECORDS/AUDITS

A. AGENCY, its contractors, subcontractors and sub-recipients shall establish and maintain an accounting system and records that properly accumulate and segregate incurred PROJECT costs. The accounting system of AGENCY, its contractors, all subcontractors, and sub-recipients shall conform to Generally Accepted Accounting Principles (GAAP), shall enable the determination of incurred costs at interim points of completion, and shall provide support for reimbursement payment vouchers or invoices. All books, documents, papers, accounting records and other supporting papers and evidence of performance under this AGREEMENT of AGENCY, its contractors, subcontractors and sub-recipients connected with PROJECT performance under this AGREEMENT shall be maintained for a minimum of three (3) years from the date of final payment to AGENCY and shall be held open to inspection, copying, and audit by representatives of CALTRANS, the California State Auditor, and auditors representing the federal government during business hours with appropriate notice. Copies thereof will be furnished by AGENCY, its contractors, its subcontractors and sub-recipients upon receipt of any request made by CALTRANS or its agents. In conducting an audit of the costs under this AGREEMENT, CALTRANS will rely to the maximum extent possible on any prior audit of AGENCY pursuant to the provisions of State and AGENCY law. In the absence of such an audit, any acceptable audit work performed by AGENCY's external and internal auditors may be relied upon and used by CALTRANS when planning and conducting additional audits.

B. AGENCY, its sub-recipients, contractors, and subcontractors will permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other AGENCY of the State of California designated by CALTRANS, for the purpose of any investigation to ascertain compliance with this AGREEMENT.

C. This AGREEMENT shall be subject to a pre-award audit prior to execution of the AGREEMENT to ensure AGENCY has an adequate financial management system in place to accumulate and segregate reasonable, allowable and allocable costs.

D. CALTRANS, the state auditor, and the Federal Government, (if the PROJECT utilizes federal funds), will have access to all PROJECT-related records held by AGENCY or by any party hired by AGENCY to participate in PROJECT.

E. The examination of any records will take place in the offices and locations where said records are generated and/or stored and will be accomplished during reasonable hours of operation.

F. Upon completion of the final audit, AGENCY has thirty (30) calendar days to refund or invoice as necessary in order to satisfy the obligation of the audit.

7. DISPUTES

A. PARTIES will first attempt to resolve AGREEMENT disputes at the PROJECT team level. If they cannot resolve the dispute themselves, the CALTRANS Chief Environmental Engineer and the executive officer of AGENCY will attempt to negotiate a resolution.

B. If PARTIES do not reach a resolution, AGENCY's legal counsel will initiate mediation. PARTIES agree to participate in mediation in good faith and will share equally in its costs.

C. Neither the dispute nor the mediation process relieves PARTIES from full and timely performance of the PROJECT in accordance with the terms of this AGREEMENT. However, if either PARTY stops fulfilling PROJECT obligations, the other PARTY may seek equitable relief to ensure that the PROJECT continues.

D. Except for equitable relief, no PARTY may file a civil complaint until after mediation, or 45 calendar days after filing the written mediation request, whichever occurs first.

E. PARTIES will file any civil complaints in the Superior Court of the county in which the CALTRANS district office signatory to this AGREEMENT resides or in the Superior Court of the county in which the PROJECT is physically located. The prevailing PARTY will be entitled to an award of all costs, fees, and expenses, including reasonable attorney fees as a result of litigating a dispute under this AGREEMENT or to enforce the provisions of this article including equitable relief.

F. Additional Dispute Remedies. PARTIES maintain the ability to unanimously pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.

8. RELATIONSHIP OF PARTIES

It is expressly understood that this AGREEMENT is an agreement executed by and between two independent governmental entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of an independent party.

9. NOTIFICATION OF PARTIES

A. AGENCY:

Jarrett Rasmussen, Junior Engineer, jsrasmussen@livermoreca.gov, 925960-4519

B. CALTRANS: Ken Johansson, Stormwater Program Manager, ken.johansson@dot.ca.gov, 9916-956-8170.

C. All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and received by the PARTIES at their respective addresses:

City of Livermore
Jarrett Rasmussen
1052 South Livermore Avenue, Livermore, CA 94550

California Department of Transportation

Division of Environmental Analysis - MS 27
Attention: Ken Johansson
1120 N Street, Sacramento, CA 95814-5680

SECTION III ATTACHMENTS

The following attachments are incorporated into and are made a part of this AGREEMENT by this reference and attachment.

I. AGENCY Resolution, Certification of Approval, order, motion, ordinance or other similar document from the local governing body authorizing execution of the AGREEMENT.

II. Scope of Work, Description, Schedule, Location and Budget.

SECTION IV- SIGNATURES

Signatories may execute this AGREEMENT through individual signature pages provided that each signature is an original. This AGREEMENT is not fully executed until all original signatures are attached. PARTIES are empowered by California Streets and Highways Code (SHC) sections 114 and 130 to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and covenant to have followed all the necessary legal requirements to validly execute this AGREEMENT.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION		**CITY OF LIVERMORE**	
Signature:		Signature:	
Print Name:	**KEN JOHANSSON**	Print Name:	**JOEL WAXDECK**
Title:	**Stormwater Coordinator**	Title:	**City Engineer**
Date:		Date:	
Signature:		Signature:	
Print Name:	**HARDEEP TAKHAR**	Print Name:	**MARIANNA MARYSHEVA**
Title:	**Assistant Chief, Division of Environmental Analysis**	Title:	**City Manager**
Date:		Date:	
Signature:		Approved As to Form:	
Print Name:	**JEREMY KETCHUM**	Print Name:	**TARA MAZZANTI**
Title:	**Chief, Division of Environmental Analysis**	Title:	**Assistant City Attorney**
Date:		Date:	

ATTACHMENT II

SCOPE SUMMARY

City of Livermore Water Capture Project

Introduction

Trash capture device 6000 (TCD 6000) will capture runoff from 78.9 acres of the city of Livermore and 2.3 acres from Caltrans, of which 2.3 acres are Significant Trash Generating Areas (STGAs). The project is located at the outlet control structure for the El Charro development hydromodification basin #1, which is located east and adjacent to El Charro Road, South of W. Jack London Boulevard, north of Arroyo Las Positas, and west of Livermore Outlets Drive (see Figure 1).

Background

The city of Livermore is located in Alameda County and as such is subject to the requirements contained in the second five-year term of the Municipal Regional Permit (MRP) issued by the San Francisco Bay Regional Water Board (Board).

The city is required to comply with section C.10 of the MRP which requires the removal of trash from the city's Municipal Separate Storm Sewer System (MS4) before it discharges to the receiving water bodies. Specifically, the city must capture debris greater than 0.5 mm in runoff from trash generating areas for the 1-year 1-hour storm event. Trash generating areas were mapped for the city to develop the baseline trash generation for the city and reported to the Board. The city is required to capture 100% of trash generating areas by June 30, 2025.

Proposed Project

TCD 6000 (Figure 1 Figure 1and Figure 2) will be installed at the outlet control structure for the El Charro development hydromodification basin #1, which is located east and adjacent to El Charro Road, South of W. Jack London Boulevard, north of Arroyo Las Positas, and west of Livermore Outlets Drive. The TCD is located near the boundary of the City of Livermore with the City of Pleasanton. Two potential alternatives for this location are: 1) louvered panels (5-millimeter) installed at an angle along a concrete channel intake for the outlet control structure 2) a connector pipe screen (CPS) unit installed on the 36" outflow pipe of the outlet control structure. All dry-weather urban runoff and the first flows of wet-weather runoff will be conveyed to TCD 6000, from the area adjacent to eastbound I-580 and El charro Road and the commercial area east of El Charro Road. TCD 6000 will be an approved Full Capture System (FCS) device that will remove trash and debris before discharging to Arroyo Las Positas.



Figure 1: Project Vicinity

The project will involve an evaluation of the current outlet control structure and hydraulic design to ensure the design flow rates will still be able to be conveyed with the proposed modifications to the outlet control structure.

The site would capture discharges from a tributary area of approximately 78.9 acres (see Figure 2). The drainage area is split between three jurisdictions: the City of Livermore, Caltrans, and the City of Pleasanton. Caltrans tributary area includes discharge from approximately 2.3 acres of I-580 drainage (of which 2.3 acres are STGA).

The project involves initial engineering, boundary research, utility locating, detailed design, environmental compliance, and installation of the TCD. The City of Livermore will file a CEQA Categorical exemption for the site. It is assumed that environmental permitting will not be required at this location.

The project will include a Memorandum of Understanding (MOU) with the City of Livermore for the long-term operation and maintenance of the constructed water capture facility.

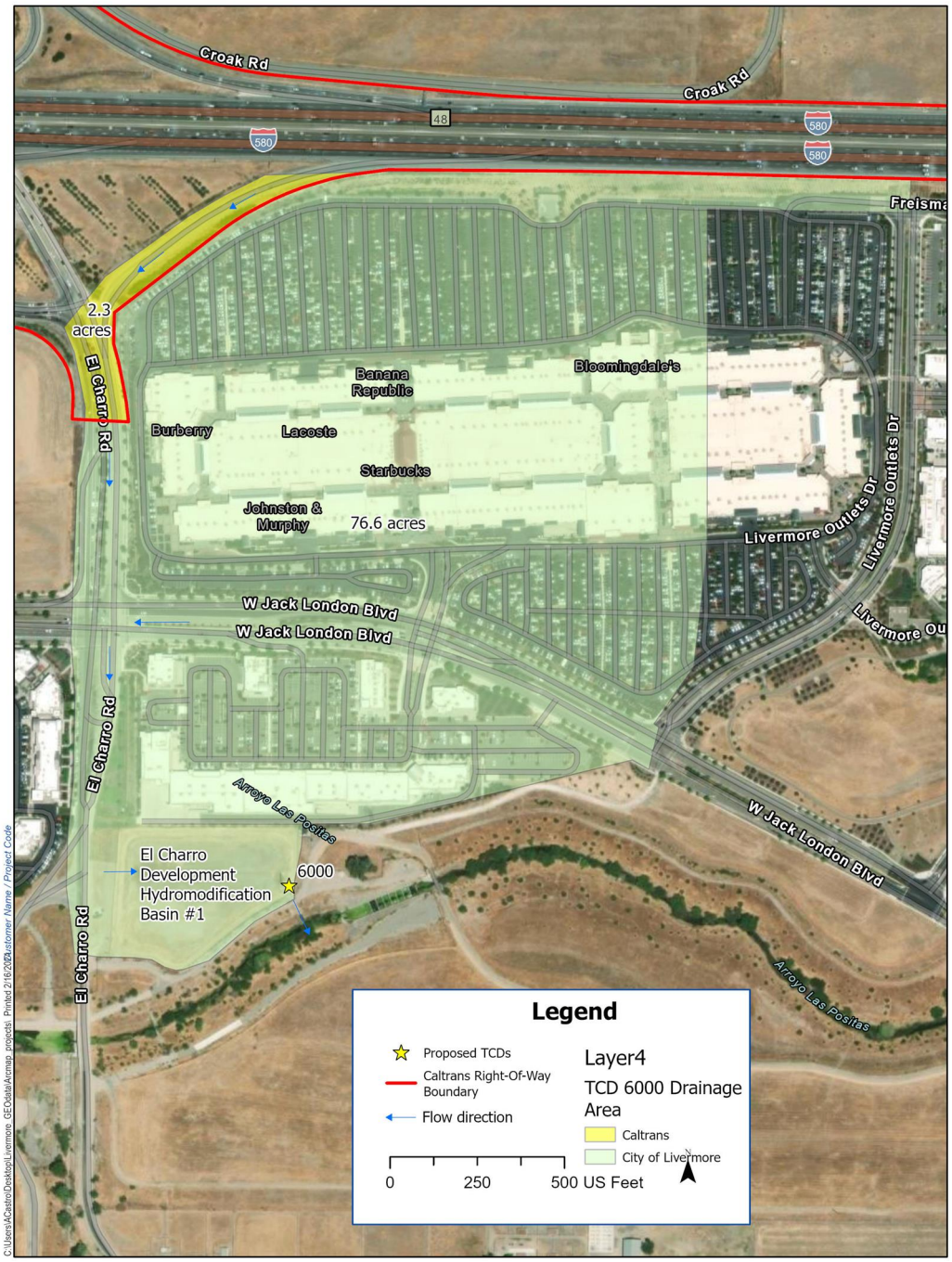


Figure 2: Proposed TCD Location and Drainage Area

Cost Estimate

The following planning-level cost estimate has been prepared for TCD 6000. The cost estimate is based on a conceptual project design. These estimates consider the costs associated with design, an environmental assessment, construction, contingency, and mobilization. The cost estimate will be subject to adjustment as more information becomes available during detailed design.

Preliminary Budget

• Mobilization/Demolition and Miscellaneous	$20,000
• Construction	$30,000
Construction Subtotal:	**$ 50,000**
• Construction Contingency	$11,000
Construction Total:	**$61,000**
• Planning and Design	$29,000
Project Total:	**$90,000**

Preliminary Project Schedule

These dates are subject to refinement as the project is developed.

- Approval of 20% Design	4/5/2024
- Complete Additional Site Investigation	6/28/2024
- Construction Drawings – 60% Milestone	8/23/2024
- Construction Drawings – 90% Milestone	10/18/2024
- Secure Regulatory Permits	10/18/2024 (CEQA CatEx)
- Construction Drawings – 100% Complete	11/15/2024
- Advertise for Bids	2/7/2025
- Award Construction Contract	3/7/2025
- Commence Construction (6 months)	3/10/2025
-Complete As-Builts	9/9/2025
- Deadline to Bill Caltrans for FY23/24 Funding Allocation	5/1/2024

City may request adjustments to the schedule line items except for the deadlines to expend Caltrans funding allocations.

ATTACHMENT II

SCOPE SUMMARY

City of Livermore Water Capture Project

Introduction

Trash capture device 550 (TCD 550) will capture runoff from 182.6 acres of the city of Livermore and 15.92 acres from Caltrans, of which 8.6 acres are Significant Trash Generating Areas (STGAs). The project is located on Southfront Lane, between Southfront Road and First Street (see Figure 1). The City of Livermore is subject to the San Francisco Bay Regional Water Quality Control Board's (Water Board's) Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP). Under the updated MRP, known as MRP 3.0, Bay Area cities within the MRP jurisdiction must reduce the amount of trash discharging from their storm drainage systems by 100 percent by June 30, 2025.

Caltrans is required to prevent the discharge of trash from 8,910 acres in accordance with the San Francisco Bay Water Board issued trash discharge Cease and Desist Order (CDO) (No. R2-2019-0007 as amended by R2-2021-0030) by 2026. Further, Caltrans is required to reduce PCB and Mercury loading from 2,970 acres of ROW tributary to the San Francisco Bay in accordance with Attachment D of the Caltrans NPDES Permit (Order 2022-0033-DWQ).

The Caltrans NPDES Permit allows an acreage credit of three times the credit recognized for Caltrans funded regional partnership projects that reduce PCB and Mercury loading in old industrial areas. Caltrans and Livermore will work with the San Francisco Bay Water Board individually to determine appropriate PCB and mercury reduction crediting toward their respective stormwater NPDES permit requirements based on the land uses within the treatment shed and removal efficiencies of the installed devices.

Background

The city of Livermore is located in Alameda County and as such is subject to the requirements contained in the second five-year term of the Municipal Regional Permit (MRP) issued by the San Francisco Bay Regional Water Board.

The MRP requires compliance with TMDL requirements, specifically the San Francisco Bay Mercury TMDL (SFRWQCB, 2004, amended by SFRWQCB, 2006) and the San Francisco PCB TMDL (SFRWQCB, 2008). Water quality objectives were established in each TMDL to protect beneficial uses of the impaired receiving water, mainly San Francisco Bay. PCB concentrations tend to be highest in sediments, thus typical bioaccumulation starts with bottom-feeding species and transfers along the flood chain, with the additional issue of biomagnification (increased concentrations in organisms higher up on the food chain) known to occur with PCBs. Mercury is also strongly associated with sediments and builds up through bioaccumulation and biomagnification. Methylmercury, the organic form of mercury, is of particular concern due to the toxicity and increased bioavailability to aquatic organisms. Overall, the consumption of some fish in San Francisco Bay can be a threat to human health given the elevated levels of PCBs and

mercury in fish tissue. The legacy nature of the pollutants of concerns and lack of knowledge on dispersion and degradation processes contributed to the uncertainty in future conditions.

The PCB TMDL established two water quality objectives; a fish tissue target of 10 micrograms per kilogram (µg/kg) and a sediment target of 1 µg/kg based on a food web model developed by the San Francisco Estuary Institute (SFEI). To achieve these objectives, the total mass of PCBs in the active layer of the Bay must be reduced to 160 kilograms. Based on a mass budget model in the TMDL, external loads to the Bay must be reduced to 10 kilograms per year to achieve the required reduction within 30 years. The waste load allocation (WLA) for urban stormwater is 2 kilograms per year, which must be achieved by 2030. Allocations were further broken down by County based on respective Bay-side populations in the year 2000, resulting in a WLA for Alameda County of 0.2 kilograms per year. The baseline PCB load from stormwater runoff was estimated at 20 kilograms per year, based on grab samples from Water Year (WY) 2005, resulting in a required load reduction of 10 kilograms per year (90% reduction).

The Mercury TMDL established two water quality objectives; a fish tissue target applying to 60-centimeter-long striped bass of 0.2 mg/kg (to protect consumption of fish) and a fish target applying to 3-5-centimeter-long fish of 0.03 mg/kg (to protect aquatic organisms and wildlife). To achieve these objectives, the suspended sediment mercury concentration must be reduced to 0.2 mg/kg dry sediment. The WLA for mercury in stormwater is 82 kilograms per year, of which Alameda County has a WLA of 8.4 kilograms per year. The baseline/existing load from urban stormwater was estimated at 160 kilograms per year, based on box models for sediment and mercury corresponding to WY 2003. The required load reduction from stormwater is therefore 78 kilograms per year. MRP Permittees are responsible for a load reduction of 62 kilograms per year, to be achieved by 2028, of which Alameda County is responsible for reducing 8.0 kilograms per year.

These reduction rates are required by the MRP as part of the process to achieve compliance with the Mercury and PCBs TMDLs for San Francisco Bay. Alameda County permittees are also required to reduce trash discharges to the Bay from municipal storm drain systems. This requirement began with the issuance of the first MRP in 2009, with a 40% reduction required in 2014. Under the current MRP term, no adverse impact on receiving waters from trash is required by 2025.

These reductions will largely be accomplished through the implementation of green infrastructure, including stormwater capture and use and/or infiltration to groundwater. SMCWPPP developed a countywide Storm Water Resource Plan (SWRP) that focuses primarily on stormwater capture with a multi-benefit approach to overall water resources planning, including water quality. This plan is being followed by local Green Infrastructure Plans (GI Plans) to meet MRP requirements. Development of the GI Plans will be a multi-year effort that includes preparation of a reasonable assurance analysis (RAA) to demonstrate that long-term GI Plan implementation by all MRP permittees will reduce PCB loads by three kilograms per year by 2040.

Proposed Project

TCD 550 (Figure 1 and Figure 2) will be installed at the culvert on Southfront Lane, between Southfront Road and First Street, on Caltrans right-of-way. The culvert consists of two 4 adjacent feet high by 6 feet wide reinforced concrete boxes. The proposed TCD will be either a diversion structure, which will convey stormwater to an offline hydrodynamic separator (HDS), or an inline debris separating baffle box (DSBB). All dry-weather urban runoff and the first flows of wet-weather runoff will be conveyed to TCD 550 from a ditch adjacent to eastbound I-580 and Southfront Road. TCD 550 will be an approved Full Capture System (FCS) device that will remove trash, debris, and sediment before conveying the water to the existing downstream pipe.



Figure 1: Project Vicinity

The project will utilize the storm drain master plan model for the City of Livermore for device sizing. The 1-year 1-hour storm event will be developed within the existing model to determine trash flow rates and impacts due to head loss on the system during the 10-year event at the FCS location. Coordination with state approved FCS device manufacturers will occur to obtain device and bypass head loss values, maintenance information, and costs.

The site would capture discharges from a tributary area of approximately 199.3 acres (see Figure 2). The drainage area is split between two jurisdictions: the City of Livermore and Caltrans. Caltrans tributary area includes discharges from approximately 15.9 acres of I-580 drainage (of which 8.6 acres are STGA).

The project involves initial engineering and geotechnical assessments, topographical survey, boundary research, and utility locating, detailed design, environmental compliance, construction of a diversion structure (if needed), installation of the TCD, disposal of excavated soil, and reconstruction of disturbed portions of the site. The City of Livermore will file a CEQA Categorical exemption for the site; therefore, it is assumed that environmental permitting will not be required at this location.

The project will include a Memorandum of Understanding (MOU) with the City of Livermore for the long-term operation and maintenance of the constructed water capture facility.

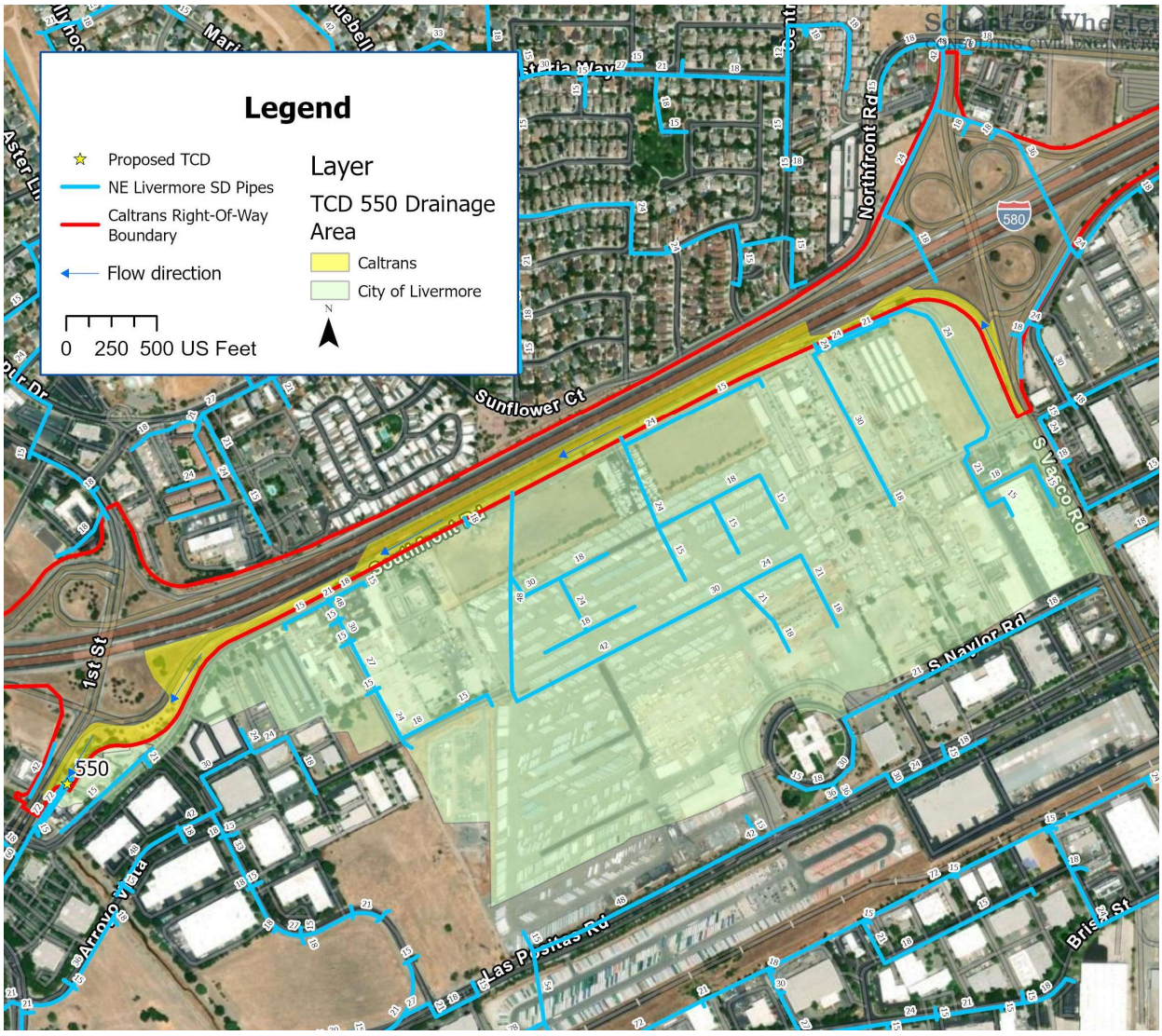


Figure 2: Proposed TCD Location and Drainage Area

Cost Estimate

The following planning-level cost estimate has been prepared for TCD 550. The cost estimate is based on a conceptual project design. These estimates consider the costs associated with design, an environmental assessment, construction, contingency, mobilization, and site preparation. The cost estimate will be subject to adjustment as more information becomes available during detailed design.

Preliminary Budget

• Mobilization/Demolition and Miscellaneous	$90,000
• Site Preparation	$20,000
• Construction.	$490,000
Construction Subtotal:	**$ 600,000**
• Construction Contingency	$150,000
Construction Total:	**$750,000**
• Planning and Design	$160,000
Project Total:	**$910,000**

Preliminary Project Schedule

These dates are subject to refinement as the project is developed.

- Approval of 20% Design	4/5/2024
- Complete Additional Site Investigation	6/28/2024
- Construction Drawings – 60% Milestone	8/23/2024
- Construction Drawings – 90% Milestone	10/18/2024
- Secure Regulatory Permits	10/18/2024 (CEQA CatEx)
- Construction Drawings – 100% Complete	11/15/2024
- Advertise for Bids	2/7/2025
- Award Construction Contract	3/7/2025
- Commence Construction (6 months)	3/10/2025
-Complete As-Builts	9/9/2025

City may request adjustments to the schedule line items except for the deadlines to expend Caltrans funding allocations.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.8**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Paul Spence, Assistant City Manager

SUBJECT: Resolution authorizing execution of a ten-year Master License Agreement for Wireless Facilities on Vertical Infrastructure in the Public Rights-of-Way between the City of Livermore and New Cingular Wireless PCS, LLC to provide the general framework for the installation and maintenance of small cell antennas and associated equipment on City streetlights within the City's rights-of-way.

RECOMMENDED ACTION

Staff recommends that the City Council adopt a resolution:

1. Finding the approval of the Master License Agreement for small cell wireless facilities is not a project within the meaning of CEQA Guidelines Section 15378 because it has no potential for resulting in physical change in the environment, directly or indirectly. It is also exempt under the commonsense exemption set forth in CEQA Guidelines Section 15061(b)(3). Approval of small cell wireless facilities that may be approved by the Master License Agreement are exempt under CEQA Guidelines Sections 15301 (Existing Facilities) as minor additions to existing facilities and/or 15303 (New Construction or Conversion of Small Structures) for new, small facilities or structures; and
2. Authorizing the City Manager to sign the Master License Agreement between the City of Livermore and New Cingular Wireless PCS, LLC, to provide the general framework for the installation and maintenance of small cell antennas and associated equipment on City streetlights within the City’s rights-of-way.

SUMMARY

One of the City Council's goals is to improve wireless communication services throughout the City of Livermore (City). New Cingular Wireless PCS, LLC (AT&T) requested to enter into the City’s Master License Agreement for purposes of installing and maintaining their wireless communications facilities, consisting of small cellular wireless antennas and associated equipment, throughout the City on City owned streetlights within the public rights-of-way.

To meet the Council's goal for improving wireless communication services throughout the city, staff and AT&T have negotiated a Master License Agreement. This agreement provides the general framework within which AT&T will install their wireless communication facility infrastructure. Detailed approvals of the installation will occur through the issuance of one or more site licenses and/or encroachment permits by the City.

DISCUSSION

New Cingular Wireless PCS, LLC (AT&T), a wireless communication company based out of Texas, has proposed to improve wireless service throughout the city by installing small cell antennas and associated equipment on City streetlights within the City's rights-of-way. AT&T has their certificate of public convenience from the California Public Utility Commission (CPUC) which gives AT&T the authority to locate their services in the public right of way. These rights pre-empt some of the discretionary authority the City has in determining approvals of these proposed installations within the public right of way. Staff met with AT&T to understand their proposed project and explore options that would allow them to provide this service consistent with each other's rights. It was determined by both staff and AT&T, that a Master License Agreement would be the appropriate mechanism to allow this to happen. The agreement will provide for the process and general framework within which AT&T will install and maintain their wireless communications facilities. As part of this framework, the City has no obligation to allow these facilities to be installed on decorator streetlights nor upon any traffic signal infrastructure. Certain other specific physical design aspects of the infrastructure, aesthetics, locations and detailed approvals of the installation will occur through the issuance of one or more individual site licenses and/or encroachment permits by the City.

In accordance with this agreement, upon the submission of a site license application and review by staff, AT&T will first obtain a site license for a specific location for their wireless communication facility. Once the location, physical and aesthetic design aspects have been reviewed and approved by the City, the City will issue a site license to AT&T for that location. AT&T will then obtain encroachment permits from the City to install and maintain their wireless communications facilities on City streetlights within the City's rights-of-way based upon their approved site licenses and in compliance with the provisions of all City codes, ordinances, standards and specifications. To minimize impacts of trenching in the streets and sidewalks, when necessary, AT&T will coordinate with other telecommunication companies to perform their work jointly when possible. AT&T must coordinate with the City to avoid possible conflicts with public capital improvement projects including the City's annual street resurfacing program.

Staff will update and educate the general public through social media, including the locations of the antennas as they are applied for, aesthetic aspects of their installations and the benefits that will be gained by this service.

FISCAL AND ADMINISTRATIVE IMPACTS

AT&T will pay the City a $3,000 one-time Master License Agreement administrative fee, a $270 annual license fee for each approved site license that increases by 3% annually, and a minimum $1,474 one-time site license administrative fee for the processing and issuance of each encroachment permit. These fees are based upon actual costs incurred for reviewing and approving each of the items listed above.

COMMUNITY PILLAR

4: Inclusive and Inviting Spaces and Places.

GOAL

6: Provide effective support for community events.

ATTACHMENTS

1. Resolution
2. Exhibit A - Master License Agreement

Prepared by: Mike Pato
Management Analyst II

Approved by:



Marianna Marysheva
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF A TEN-YEAR MASTER LICENSE AGREEMENT FOR WIRELESS FACILITIES ON VERTICAL INFRASTRUCTURE IN THE PUBLIC RIGHTS-OF-WAY BETWEEN THE CITY OF LIVERMORE AND NEW CINGULAR WIRELESS PCS, LLC TO PROVIDE THE GENERAL FRAMEWORK FOR THE INSTALLATION AND MAINTENANCE OF SMALL CELL ANTENNAS AND ASSOCIATED EQUIPMENT ON CITY STREETLIGHTS WITHIN THE CITY'S RIGHTS-OF-WAY

One of the City Council's goals is to improve wireless communication services throughout the City of Livermore (City).

New Cingular Wireless PCS, LLC (AT&T) requested entry into the City of Livermore's Master License Agreement for purposes of installing and maintaining their wireless communications facilities, consisting of small cellular wireless antennas and associated equipment, throughout the City on City owned streetlights within the public rights-of-way.

To meet the City Council's goal for improving wireless communication services throughout the City, City staff and AT&T have negotiated a draft Master License Agreement. This Agreement provides for the general framework within which AT&T will install their wireless communication facility infrastructure. Detailed approvals of the installation will occur through the issuance of one or more site licenses and/or encroachment permits by the City.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Finds that the approval of the Master License Agreement for small cell wireless facilities is not a project within the meaning of CEQA Guidelines Section 15378 because it has no potential for resulting in physical change in the environment, directly or indirectly. It is also exempt under the common sense exemption set forth in CEQA Guidelines Section 15061(b)(3). Approval of small cell wireless facilities that may be approved by the Master License Agreement are exempt under CEQA Guidelines Sections 15301 (Existing Facilities) as minor additions to existing facilities and/or 15303 (New Construction or Conversion of Small Structures) for new, small facilities or structures.

2. Authorizes the City Manager to sign, on behalf of the City of Livermore, a Master License Agreement between the City of Livermore and New Cingular Wireless PCS, LLC, to provide the general framework for the installation and maintenance of small cell antennas and associated equipment on City streetlights within the City's rights-of-way. A copy of the agreement is attached as Exhibit A and is incorporated by this reference.

3. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Resolution.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024 by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – AT&T Master License Agreement

MASTER LICENSE AGREEMENT FOR WIRELESS FACILITIES ON VERTICAL INFRASTRUCTURE IN THE PUBLIC RIGHTS-OF-WAY

between

CITY OF LIVERMORE,
a California municipal corporation

and

NEW CINGULAR WIRELESS PCS, LLC,
a Delaware limited liability company

EFFECTIVE DATE: _____

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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 Licensee or its parent company. In the event that the City of Livermore has tendered a claim to Licensee/Lessee, or its insurer, or its insurer has denied coverage to the City of Livermore, Licensee/Lessee (in a local _____ office) will make available to the City of Livermore within fifteen (15) days of the City's written request to Licensee/Lessee, a copy of actual, authentic and applicable insurance policies for review (but not for copying, faxing or otherwise reproducing any part of any policy or other insurance correspondence), subject to the City of Livermore first executing Licensee's/Lessee's standard non-disclosure agreement. The policy review is limited to no more than three days during a consecutive six-month period and must be conducted during Licensee's normal business hours while the City of Livermore's representative is accompanied by a Licensee/Lessee Risk Management professional. Upon completion of review no copies will be made and all policies will be returned to Licensee's/Lessee's Corporate Risk Management Department Failure to exercise this right shall not constitute a waiver of right to exercise later....49
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MASTER LICENSE AGREEMENT FOR WIRELESS FACILITIES ON VERTICAL INFRASTRUCTURE IN THE PUBLIC RIGHTS-OF-WAY

This Master License Agreement for Wireless Facilities on Vertical Infrastructure in the Public Rights-of-Way (this "**Master License**") dated _____, 2024 (the "**Effective Date**") is between the **CITY OF LIVERMORE**, a California municipal corporation (the "**City**"), and **NEW CINGULAR WIRELESS PCS, LLC**, a Delaware limited liability company("**Licensee**").

RECITALS

A. Technological developments in wireless communications, new and reallocated electromagnetic spectrum band licenses and consumer demand for high-speed mobile broadband, and other information services have caused wireless service providers to invest in distributed antenna system ("DAS"), distributed network systems ("DNS"), and so-called "small cell" deployments that typically utilize smaller equipment placed on existing infrastructure in the public rights-of-way that serve a smaller physical area than as compared to traditional "macro cell" deployments on freestanding towers or rooftops.

B. The City owns, as its personal property, certain Vertical Infrastructure in or on the public rights-of-way within the City's jurisdictional boundaries that may be suitable or useful as support structures for Licensee's Equipment and City has the right and authority to license use of such Vertical Infrastructure to Licensee.

C. Licensee installs, maintains, and operates wireless facilities as its principal business, and represents to City that Licensee holds all Regulatory Approvals to install and maintain Equipment in public rights-of-way and provide wireless broadband services within the geographic area that encompasses the City's jurisdictional boundaries.

D. Licensee desires to install, maintain, and operate wireless facilities on the City's Vertical Infrastructure.

E. The parties desire to enter into this Master License to establish a process by which Licensee may request to license from the City individual locations where Licensee's equipment is affixed or otherwise attached on or in the City's Vertical Infrastructure, and also to establish the rates, terms, and conditions that will be generally applicable to all Vertical Infrastructure licensed to Licensee by the City.

F. Consistent with California law, the City intends, and Licensee acknowledges, that this Master License will be applicable to only the City's Vertical Infrastructure, and that the City does not intend this Master License or any Site License to require or be construed to require any revenue-generating consideration to the City as a precondition to access to the public rights-of-way for any telephone corporation, as that term is defined in the California Public Utilities Code.

G. Consistent with federal and California law, the City does not intend this Master

License to grant the Licensee any exclusive right to use or occupy the public rights-of-way within the City's territorial and/or jurisdictional boundaries, and Licensee expressly acknowledges that the City may in its sole discretion enter into similar or identical agreements with other entities, which include without limitation Licensee's competitors.

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NOW, THEREFORE, for good, valuable, and sufficient consideration received and acknowledged by the City and Licensee, the City and Licensee agree as follows:

AGREEMENT

1. GENERAL DEFINITIONS

"Acknowledgment Letter" means the letter that Licensee submits to the City that indicates the Licensee has obtained all Regulatory Approvals and other requirements more particularly described in Exhibit A-3 (Form of Acknowledgment Letter), and that serves as Licensee's notice to proceed with the installation after the City countersigns the Acknowledgment Letter and tenders it to Licensee.

"Additional Fees" means, collectively, any sums payable by Licensee to the City in its proprietary capacity as the licensor, which includes without limitation any late charges, costs in connection with a request for the City's consent to an assignment or other transfer under Section 20 (Assignment and Other Transfers) and Default Fees under Section 18.3.4; provided, however, that the term excludes any (1) Site License Fees; (2) Administrative Fees; (3) costs for Staff Augmentation; (4) any other amounts payable to the City by Licensee in connection with reviewing Site License Applications or coordinating and inspecting Equipment installed on the License Area; and, (5) any other payments to the City in its regulatory capacity, which includes without limitation cost-based fees for permit issuance.

"Adjustment Date" means the annual anniversary of the Commencement Date for each Site License on which date the Site License Fee shall be increased.

"Administrative Fees" means the Master License Administrative Fee (as defined in Section 4.2.1) and any Site License Administrative Fees (as defined in Section 4.2.2), collectively.

"Affiliate" means an entity that directly or indirectly Controls, is Controlled by or is under Common Control with Licensee.

"Agent" means a party's agent, employee, director, officer, contractor, subcontractor, or representative in relation to this Master License, any Site License, or the License Area.

"Agreement" means the Master License Agreement for Wireless Facilities on vertical infrastructure in the public rights of way.

"Approved Plans" means the detailed plans and equipment specifications, which include without limitation all Equipment and other improvements proposed by Licensee and approved by the City in connection with the License Area, as more particularly described in Exhibit A-2 (Licensee's Plans and Specifications) and the approved Site License for a License Area.

"Broker" means any licensed real estate broker or other person who could claim a right to a

commission or "finder's fee" in connection with the license(s) or other real estate rights contemplated or conveyed in this Master License.

"City Attorney" means the City Attorney of the City of Livermore.

"City Manager" means the City Manager of the City of Livermore.

"City Property" means any property now or hereafter held by the City or over which the City exercises any rights of management control, including but not limited to the surface of, and the space above and below, any right-of-way such as a public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, boulevard, parkway, drive, or other easement and any structures, fixtures, or appurtenances affixed thereto.

"Claim" means any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, whether direct or indirect.

"Commencement Date" means the date on which a Site License commences, which is defined as the first day of the month after the city countersigns the Acknowledgement letter.

"Common Control" means two or more entities that are Controlled by a same third entity.

"Control" means (1) as to a corporation, stock ownership with the right to exercise more than fifty percent (50%) of the total combined voting power of all classes of stock, issued and outstanding, of the controlled corporation; or (2) as to partnerships and other business association forms, more than fifty percent (50%) ownership of the beneficial interest and voting control of such association.

"CPUC" means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or the duly appointed successor agency to the California Public Utilities Commission.

"Default Fee" means the same as that term is defined in Section 18.3.4 (Default Fees).

"Environmental Laws" means any Laws in relation or connection to industrial hygiene, environmental condition, or Hazardous Material (as defined in this Master License).

"Equipment" means antennas, radios and any associated utility or equipment box, and battery backup, transmitters, receivers, amplifiers, ancillary fiber-optic cables and/or wiring, and ancillary equipment used for radio or other wireless communication (voice, data or otherwise) transmission and/or reception, which includes without limitation the means, devices, mounts, hardware, conduits, and apparatus used to attach any Equipment to any licensed Vertical Infrastructure, and any ancillary equipment such as wiring, cabling, conduits, chases, concealment elements, risers, trays, pipes, vaults, pull boxes, hand holes, power feeds, or an similar things, and any ground mounted equipment necessary and identified in the Approved Plans for the operation of the Equipment, as well as any signage attached to such Equipment that may be approved by the City or required by Law.

"Expiration Date" means the date that is ten (10) years after the Execution date for this Master License, and which date is the date when this Master License and, all Site Licenses

will automatically expire.

"FCC" means the Federal Communications Commission or its duly appointed successor agency.

"Hazardous Material" means any material that, due to its quantity, concentration, or physical or chemical characteristics, is at any time now or hereafter deemed by any local, regional, state or federal body with jurisdiction and responsibility for issuing Regulatory Approvals in accordance with applicable Laws to pose a present or potential hazard to human health, welfare or safety, or to the environment. The term "Hazardous Material" as used in this Master License or any Site License will be broadly construed, and includes, without limitation, the following: (1) any material or substance defined as a "hazardous substance", or "pollutant" or "contaminant" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (codified as 42 U.S.C. §§ 9601 *et seq.)* or section 25316 of the California Health & Safety Code; (2) any "hazardous waste" listed California Health & Safety Code section 25140; or (3) any petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

"Indemnified City Parties" means the same as that term is defined in Section 13 (Indemnification).

"Investigate and Remediate" means the undertaking of any activities to determine the nature and extent of Hazardous Material that may be located in, on, under or about the License Area or that has been, is being, or is in danger of being Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor or otherwise control such Hazardous Material.

"Laws" means all present and future statutes, ordinances, codes, orders, policies, regulations, and implementing requirements and restrictions by federal, state, county and/or municipal authorities, whether foreseen or unforeseen, ordinary as well as extraordinary, as adopted or as amended at the time in question.

"License Area" means those certain and specific spaces licensed to Licensee that are on, or within the open spaces inside, the City's Vertical Infrastructure and other City Property where the Equipment is attached or located for the installation, operation, and maintenance of the Equipment that is, as more particularly described in Section 2.2 (License Area). The parties may use the term "License Area" to refer to those spaces licensed to Licensee under an individual Site License, or to refer to all spaces collectively licensed to Licensee under all Site Licenses, in connection with this Master License.

"License Year" means any 12-month period that begins on the Commencement Date for each Site License.

"Licensee's On-Call Representative" mean the person(s) assigned by Licensee to be on-call and available to the City regarding the operation of Licensee's Equipment. Such person(s) shall be qualified and experienced in the operation of Equipment and shall be authorized to act on behalf of Licensee in any emergency in and in day-to-day operations of the Equipment.

"NESC" means the National Electrical Safety Code, as may be amended or superseded,

published by the Institute of Electrical and Electronics Engineers.

"Network Emergency" means a non-scheduled period of time wherein Licensee's Equipment is affected by a failure or malfunction resulting in the Equipment becoming inoperable, operating significantly below its designed capacity, or is adversely affecting Licensee's network in such a way that must be resolved by conducting on-site Equipment repairs.

"OSHA" means the Occupational Safety and Health Administration of the United States Department of Labor, or OSHA's duly appointed successor agency.

"Permitted Use" means the uses for the License Area and the Vertical Infrastructure as more particularly described in Section 5 (Use).

"Public Works Department" means the Public Works Department of the City of Livermore.

"Regulatory Approvals" means licenses, permits and other approvals necessary for Licensee to install, operate, and maintain Equipment on or in the License Area for a Site License.

"Release" when used with respect to Hazardous Material includes any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing on, under or about the License Area, other City Property or the environment.

"RF" means radio frequency or electromagnetic waves.

"Site License" means the document in the form of Exhibit A (Form of Site License Agreement) that, when fully executed, incorporates the provisions of this Master License and authorizes Licensee to install, operate and maintain Equipment for the Permitted Use on Vertical Infrastructure identified in the Site License.

"Site License Application" means the same as that term is defined in Section 6.2 (Site License Application).

"Site License Effective Date" means the first day of the month after both the City and Licensee fully execute a Site License. As an illustration, and not a limitation, if the last party to execute signs a Site License on August 2, 2019, the Site License Effective Date would be September 1, 2019.

"Site License Administrative Fee" means the Site License Administrative Fee (as defined in Section 4.2.2) as it may be adjusted from time-to-time as set forth in that section.

"Site License Fee" means the annual fee for each licensed Vertical Infrastructure authorized under any Site License, as specified in Schedule 1 (Site License Fee Schedule).

"Term" means the time period for this Master License, as defined in Section 3.1 (Master License Term).

"Vertical Infrastructure" means all poles or similar facilities owned or controlled by the City in the public rights-of-way or public utility easements and meant for, or used in whole or in part for,

communications service, electric service, street lighting, or similar functions. The term "Vertical Infrastructure" includes the underground utilities associated with the pole or similar facilities. The term "Vertical Infrastructure" expressly excludes traffic signals.

2. SCOPE OF LICENSE

2.1. Site License Issuance and Effect

Pursuant and subject to the terms and conditions in this Master License, the City in its proprietary capacity as the Vertical Infrastructure owner will issue one or more Site Licenses, which will grant Licensee a nonexclusive contractual privilege to access, use, and occupy certain space on or within the Vertical Infrastructure identified in the License Areas and covered by such Site License(s) for the Permitted Use and to access, install, operate, and maintain the Equipment as shown in the Approved Plans attached to such Site License(s). After the City issues a Site License to Licensee, the City shall not grant any third parties any license, easement, franchise, or any possessory interest (whether present, future, contingent, or otherwise), or real property interest to use or occupy the same Licensee Area occupied by Licensee as shown in the Approved Plans; provided, however, the City may grant rights or privileges to use other spaces on the same Vertical Infrastructure for any other purpose except to the extent expressly provided otherwise in this Master License.

2.2. License Area

2.2.1. Limitations on License Areas

This Master License applies to only Vertical Infrastructure identified in the final and fully executed Site License. The License Areas are limited to those specific areas where the Equipment is affixed or otherwise attached to the Vertical Infrastructure, the space inside the Vertical Infrastructure that is physically occupied by the Equipment, and the physical space occupied on City Property by the Equipment, as well as the airspace occupied physically by the Equipment. This Master License does not authorize Licensee or any other persons or entities to access or use any other City Property, except the License Areas specified in a final and fully executed Site Licenses. Licensee expressly acknowledges and agrees that the City will not be obligated to issue any Site License or other license to Licensee for any purpose related to: (1) any decorative pole, which includes any Vertical Infrastructure or light standard with ornate features or characteristics designed or intended to enhance the appearance of the pole, light standard or other Vertical Infrastructure; or, (2) any traffic signal, which includes any Vertical Infrastructure, light standard or mast-arm that supports or includes traffic signals, flashers or other device intended to control the flow of traffic or to alert drivers to potential hazards.

2.2.2. License Area Condition

Licensee expressly acknowledges and agrees to access and use the License Area in its "as-is and with all faults" condition. The City makes no representations or warranties whatsoever, whether express or implied, as to the License Area's condition or suitability for Licensee's use. Licensee expressly acknowledges and agrees that neither the City nor its Agents have made, and the City expressly disclaims, any representations or warranties whatsoever, whether express or implied, with respect to the License Area's physical, structural or environmental condition, the License Area's present or future suitability for the Permitted Use or any other matter related to the License Area.

2.2.3. Licensee's Due Diligence

Licensee expressly represents and warrants to the City that Licensee has conducted a reasonably diligent and independent investigation, either for itself or through an Agent selected by Licensee, into the License Area's condition and suitability for Licensee's intended use, and that Licensee relies solely on its due diligence for such determination. Licensee further expressly represents and warrants to the city that Licensee's intended use is the Permitted Use as defined in Section 5.1 (Permitted Use) in this Master License.

2.2.4. Certified Access Specialist Disclosure

Pursuant to California Civil Code section 1938, as may be amended or superseded, and to the extent applicable to this Master License, the City expressly advises Licensee, and Licensee expressly acknowledges, that a Certified Access Specialist (as defined in California Civil Code section 55.53) has not inspected any License Area in whole or in part to determine whether it meets all applicable construction-related accessibility requirements.

2.3. Limitations on Licensee's Interests

2.3.1. Limited Interest Created

Licensee expressly acknowledges and agrees that: (1) Licensee does not have any rights to use or interest in any Vertical Infrastructure or other City Property for any purpose whatsoever until and unless the City issues a Site License that covers such Vertical Infrastructure or other City Property; and, (2) neither this Master License nor any Site License issued pursuant to this Master License creates or will be deemed to create any leasehold, easement, franchise, or any other possessory interest (whether present, future, contingent, or otherwise) or real property interest whatsoever in the License Area.

2.3.2. Limited Rights Created

Any Site License the City approves pursuant to this Master License grants Licensee only a non-possessory, non-exclusive, and revocable license to access and use the License Area for the Permitted Use in accordance with the terms and conditions in this Master License and the applicable Site License. Licensee expressly acknowledges and agrees that: (1) neither this Master License, nor any Site License, is coupled with an interest; (2) the City retains legal possession and control over all Vertical Infrastructure and Licensee Areas for the City's municipal functions, which will be superior to Licensee's rights and interest in the Vertical Infrastructure and License Areas, if any, at all times; (3) subject to the terms and conditions in this Master License, the City may terminate a Site License in whole or in part at any time; (4) except as specifically provided otherwise in this Master License, the City may enter into any agreement with third parties to use and/or occupy any Vertical Infrastructure and/or other City Property; and, (5) neither this Master License nor any Site License creates or will be deemed to create any partnership or joint venture between the City and Licensee.

2.3.3. No Impediment or Limitations on City's Municipal Functions

Except as specifically provided otherwise in this Master License, neither this Master License nor any Site License will limit, alter, or waive the City's absolute right to use any Vertical Infrastructure, City Property, or License Area, in whole or in part, as infrastructure or property

established and maintained for the City's and the public's benefit, nor shall this Master License nor any Site License in any way impede or limit a municipal function.

2.3.4. Diminutions in Light, Air, or Signal Transmission or Reception

In the event that any existing or future structure diminishes any light, air, or signal propagation, transmission, or reception, whether erected by the City or not, Licensee shall not be entitled to any reduction in any Site License Fee, Additional Fees, or any other sums payable to the City under this Master License or any Site License, the City shall have no liability to Licensee whatsoever and such diminution will not affect this Master License, any Site License or Licensee's obligations except as may be expressly provided in this Master License, including without limitation, Licensee's right to terminate this Master License or the applicable Site License.

3. TERM

3.1. Master License Term

The Term will commence on the Effective Date and automatically expire ten (10) years from the Effective Date (the **"Initial Term**") on the Expiration Date, unless earlier terminated in accordance with this Master License. Following the Initial Term, the Parties agree to negotiate a new Agreement or an Amendment to this Agreement. City agrees that this renegotiation may include a renewal for up to two (2) additional periods of five (5) years each upon Licensee providing written notice to City of its intent to renew the Agreement. Due to its long-term nature, the Parties agree to internally review this Agreement at least one year before the expiration of the Initial Term and any renegotiated additional term to ensure that the needs of the Parties are being served. Either Party may request a meeting to discuss the Agreement and any changes or amendments which might be needed.

3.2. Site License Term

Each Site License will commence on the Commencement Date and will automatically expire on the Expiration Date unless earlier terminated in accordance with this Master License.

4. SITE LICENSE FEE AND OTHER PAYMENTS

4.1. Site License Fee

4.1.1. Site License Fee Amount

Licensee shall pay an annual Site License Fee in the amount of $270 as specified in Schedule 1 for each licensed Vertical Infrastructure authorized under any Site License.

4.1.2. Site License Fee Payment

Licensee shall tender the first Site License Fee payment to the City, without any deduction or setoff for any reason, at the same time Licensee delivers the Acknowledgment Letter to the City. After the first Site License Fee payment, on or before the Commencement Date anniversary, Licensee shall pay each annual Site License Fee to the City in advance without any prior demand, deduction, setoff or counterclaim for any reason, except to account for a partial year in the event this Master License expires or terminates, or any abatement rights

expressly granted in this Master License. Any amounts for less than a full year or full month will be calculated based on a 360-day year and a 30-day month.

4.1.3. Annual Site License Fee Adjustment

Each year throughout the Term on the Adjustment Date, the Site License Fee for each Site License that has been approved and has not been terminated will be increased by three percent (3%) over the Site License Fee payable in the immediately previous year. Schedule 1 contains the applicable Site License Fee per licensed Vertical Infrastructure in any given year throughout the Term. For the ease of administration, the City Licensee and the City have agreed to a flat percentage increase rather than utilizing a CPI adjustment factor.

4.2. Administrative Fees

4.2.1. Master License Administrative Fee

At the time Licensee delivers to the City a partially executed counterpart to this Master License, Licensee shall pay to the City a nonrefundable administrative fee equal to Three Thousand *and* 00/100 Dollars ($3,000.00) (the "**Master License Administrative Fee**") to cover the City's costs to review and execute this Master License. The City will not be obligated to execute any Master License until the City receives the Master License Administrative Fee.

4.2.2. Site License Administrative Fee

At the time Licensee delivers to City a Site License Application, Licensee shall pay to the City a nonrefundable fee equal to One Thousand Four Hundred and Seventy-four Dollars and 00/100 ($1,474) ("Site License Administrative Fee"), and as that fee is adjusted from time-to-time as set forth in this subsection, for each proposed Vertical Infrastructure location for a Site License. The Site License Administrative Fee is equal to the amounts established by City's official Master Fee Schedule approved by the City Council for encroachment permit, inspection, and plan check fees for Telecom Encroachment Permit – Basic Project and shall be adjusted from time-to-time when that City Council adjusts those fees. The City will not be obligated to commence its review for any Site License Application until the City receives the Site License Administrative Fee.

4.3. Late Charges

In the event that Licensee fails to pay any Site License Fee, Additional Fee, Administrative Fees, or any other amount payable to the City within thirty (30) days after Licensee receives written notice from City that such amounts are due and unpaid, such amounts will be subject to a late charge equal to five percent (5%) of any unpaid amounts.

4.4. Liquidated Charges and Fees

The parties agree that the Additional Fees payable under this Master License represent a fair and reasonable estimate of the administrative costs that the City will incur in connection with the matters for which they are imposed and that the City's right to impose the Additional Fees is in addition to, and not in lieu of, any other rights it may have under this Master License. Furthermore:

THE PARTIES ACKNOWLEDGE AND AGREE THAT THE CITY'S

ACTUAL ADMINISTRATIVE COSTS AND OTHER DETRIMENT ARISING FROM LICENSEE DEFAULTS AND OTHER ADMINISTRATIVE MATTERS UNDER THIS MASTER LICENSE WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. BY PLACING THEIR INITIALS BELOW, EACH PARTY'S AUTHORIZED REPRESENTATIVE ACKNOWLEDGES THAT THE PARTIES HAVE AGREED, AFTER A NEGOTIATION, ON THE AMOUNT OF THE ADDITIONAL FEES AS REASONABLE ESTIMATES OF THE CITY'S ADDITIONAL ADMINISTRATIVE COSTS (WHICH DOES NOT INCLUDE THE ADMINISTRATIVE FEES, SITE LICENSE FEES, DEFAULT FEES, AND CITY STAFF AUGMENTATION COSTS) AND OTHER DETRIMENT.

Licensee _____ City_____

4.5. City's Payment Address

Licensee shall pay all Site License Fees, Additional Fees, Administrative Fees and all other amounts due and payable to the City in cash or other immediately available funds by either: (1) local check payable to the City of Livermore, 1052 S Livermore Ave, Livermore, CA 94550; or, (2) electronic wire transfer to the City of Livermore following instructions provided by the City's Finance Division. Any payment made with a dishonored check or payment will be deemed unpaid.

5. USE

5.1. Permitted Use

Pursuant and subject to the terms and conditions in this Master License, the Licensee may use the License Area solely for the installation, operation, and maintenance of Equipment identified in the Approved Plans for a Site License for the transmission and reception of wireless communications signals for small cell deployments and/or distributed antenna system installations and distributed network systems (the "**Permitted Use**") in compliance with all applicable Laws and any conditions in any Regulatory Approvals. This Master License does not authorize any other use whatsoever for the License Area.

5.2. Small Cell, Distributed Antenna System, and Distributed Network System Installations Only

The City and Licensee intend this Master License and any Site License to cover only "small cell" distributed antenna systems and/or distributed network system installations, as those terms are commonly understood to mean small, unobtrusive wireless facilities intended to cover relatively small geographic areas, or as such small systems may be defined by the Federal Communications Commission or other Federal Law consistent with this intent. Licensee expressly acknowledges and agrees that the Permitted Use under this Master License does not include the right to use any Vertical Infrastructure as a support structure for a "macro cell" or a traditional wireless tower typically constructed on private property.

5.3. Prohibition on Nuisances and Illegal Uses

Licensee shall not use the License Area in whole or in part in any unlawful manner or for any illegal purpose. In addition, Licensee shall not use the License Area in whole or in part in any

manner that constitutes a public nuisance as determined by the City in its sole judgment. Licensee shall take all precautions to eliminate any nuisances or hazards in connection with its uses and activities on or about the License Area.

5.4. Signs or Advertisements

Licensee acknowledges and agrees that its rights under this Master License and any Site License do not authorize Licensee to erect, post or maintain, or permit others to erect, post or maintain, any signs, notices, graphics, or advertisements whatsoever on the License Area, except as may be specifically authorized under this Master License, any Site License or as may be required for compliance with any applicable Laws.

5.5. Repair and Replacement

Licensee may repair Equipment identified in the Approved Plans for a Site License in the License Area. Repair and replacement of all Equipment shall comply with the provisions of Section 7.9 of this Master License. Licensee may replace Equipment like-for-like identified in the Approved Plans for a Site License in the License Area. Replacement of Equipment shall include the most current generation of Equipment that is available to Licensee at the time of the repair and replacement of Equipment. Licensee also agrees that at the time of installation, Licensee shall only use Equipment that has been designed by and has passed the applicable manufacturer's inspection procedures. Any changes in the Equipment must comply with the requirements in section 7.9 (Replacement or Upgrade of Equipment Shown on the Approved Plans).

6. SITE LICENSES

6.1. City Approval Required

Licensee shall not have any right to use any Vertical Infrastructure or City Property in whole or in part for any purpose until and unless the City approves a Site License for a License Area. Licensee may obtain a Site License only after the City approves a Site License Application as provided in this Section 6 (Site License). Subject to any express limitations in this Master License, the City will not be obligated to subordinate its municipal functions or proprietary interest in any manner whatsoever to Licensee's interest under any Site License. When the City considers whether to approve or disapprove any Site License Application, the City may consider any matter that affects its municipal functions or proprietary interests, which include without limitation: (1) Licensee's proposed plans and Equipment specifications; (2) compliance with any applicable Laws; (3) impacts on the City's street light or other municipal functions; (4) any potential hazards or unsafe conditions that could result from Licensee's installation, operation or maintenance; (5) in the event the proposed Equipment does not conform to Approved Plans in Exhibit A-2 (Licensee's Plans and Specifications), or otherwise conform to the City's objective design standards, the City may consider any potential visual or aesthetic impacts; (6) the additional load on the Vertical Infrastructure the proposed Equipment would create; (7) any municipal functions planned for the Vertical Infrastructure or City Property in the proposed License Area; and, (8) any additional load on the City's streetlight wiring infrastructure and any connections to that infrastructure.

6.2. Site License Application

A complete Site License Application must include the following: (1) two partially executed duplicate counterparts of a Site License in the form attached as Exhibit A (Form for Site License

Agreement), together with: (a) a fully completed Exhibit A-1 (Vertical Infrastructure Location/License Area), which shall contain a summarized list that identifies all Vertical Infrastructure and City Property covered under the Site License Application; (b) a fully completed Exhibit A-2 (Licensee's Plans and Specifications), which shall contain detailed construction plans for the proposed installation(s) and an inventory for all proposed Equipment to be installed on the Vertical Infrastructure covered under the Site License Application, and shall highlight any changes to the plans and specifications in Exhibit A-2 warranted by the License Area; and (c) a true and correct copy of Schedule 1 attached to this Master License; (2) the Site License Administrative Fee; (3) all other information and materials required for a complete application for all Regulatory Approvals issued, or to be issued, by the City's departments, which the City may update from time-to-time in accordance with applicable Laws; and, (4) a deposit for the estimated City Staff Augmentation costs that are allowable by law pursuant to Section 6.3.3 (City Staff Augmentation) if utilized by the City to review and process the Site License Applications in a timely manner.

6.3. Site License Application Review Procedures

6.3.1. Site License Application Priority

Licensee expressly acknowledges that the City either already has or may in the future enter into similar master license agreements for its Vertical Infrastructure with other persons or entities, and that Licensee and such third parties may from time-to-time desire to license the same Vertical Infrastructure from the City. To promote a fair and competitively neutral process, the City shall implement a first-in-time prioritization process as provided in this Section 6.3.1. The City shall review each Site License Application, which includes without limitation any Site License Applications submitted by other licensees, in the order received. The City shall date and time stamp each Site License Application when it is received by the City, and that stamp shall control the Site License Application's priority relative to other Site License Applications. In the event that the City receives two Site License Applications for the same Vertical Infrastructure, the applications with lower priority will be held in abeyance until the higher-priority application is withdrawn, denied or timed-out as provided in this Master License, at which time the City will commence to review the next-highest priority Site License Application for that Vertical Infrastructure.

6.3.2. Timeframe for City's Review

Except as provided in section 6.3.1 (Site License Application Priority) for Site License Applications that are held in abeyance, the City will review each complete Site License Application within sixty (60) days of the date the application is deemed complete, taking into account any tolling periods for such timeframes as provided in applicable Laws. For any Site License Application that covers more than five proposed installations on Vertical Infrastructure, the City and Licensee shall work together to process such Site License Applications in a timely manner and Licensee will provide City with needed information to allow City to do the same.

6.3.3. City Staff Augmentation

To assist the City review and process Site License Applications in a timely manner, the City shall have the right to select and retain temporary staff members, consultants and/or other independent contractors with qualifications and expertise acceptable to the City ("**Staff Augmentation**"). Licensee shall be responsible for all actual and reasonable costs incurred by the City in

connection with Staff Augmentation that are allowable by law. Upon the City's request, Licensee shall furnish the City with a deposit in an amount reasonably estimated by the City to cover the Staff Augmentation costs for a particular Site License Application. The City may withdraw funds from the deposit during the review process only: (1) as needed to pay invoices in connection with Staff Augmentation before such invoices become past-due; and (2) upon notice to Licensee that includes copies of such invoices or other documentation to evidence Staff Augmentation costs incurred by the City. If the deposit is insufficient to cover the City's costs, Licensee shall reimburse the City for the difference between the deposited amount and the total Staff Augmentation costs within thirty (30) days after Licensee receives the City's demand for reimbursement, together with copies of invoices or other documentation to evidence the City's costs. The City shall maintain a ledger or other similar document that records the date and amounts of Licensee's deposits, and any withdrawal of funds to pay for City costs, a copy of which shall be provided to Licensee at Licensee's written request. If funds remain after Staff Augmentation is complete, the funds will be returned to the Licensee.

6.3.4. Consultation with Other City Departments

The City, in its proprietary capacity as the licensor under this Master License, may consult with other departments within the City to assess whether Licensee's proposed Equipment impedes or limits any municipal function or poses any concerns, which includes without limitation any concerns about aesthetics, impacts on historic resources, or environmental impacts, traffic control, pedestrian access, and general right-of-way management. Licensee acknowledges that any consultation with any other City departments in accordance with this Section 6.3.3 and any actions or failures to act by the City that may result from such consultations would be in the City's proprietary capacity as the Vertical Infrastructure owner and not an exercise of the City's regulatory authority.

6.3.5. Amendments to Site License Applications

In the event that the city determines for any reason that the Site License Application is incomplete or the Permitted Use at any particular proposed License Area would impede or limit its municipal functions or otherwise negatively affects its proprietary interests, the city will provide a notice of incompletion to Licensee as soon as reasonably practicable. The city is not obligated to review or approve any incomplete Site License Application. Licensee will have Thirty (30) days from such notice of incompletion to amend its Site License Application without any impact on the Site License Application's priority relative to any other applications then under review or later received by the City. Solely for purposes of determining priority relative to any other applications then under review or later received by the City, any amendments received after the thirty (30) day period or any other changes Licensee may make to the Site License Application will cause the date and time on which the application was submitted or deemed submitted to be changed to the date and time on which Licensee submitted the proposed changes.

6.3.6. Site License Application Approvals

The City shall review each Site License Application and issue a Site License unless the City determines that: (1) the application is incomplete; (2) the application proposes a use that is inconsistent with the Permitted Use or the terms and conditions of this Master License; (3) the Site License or use of the Licensed Area would impede or limit a municipal function; (4) the Site License would impede or interfere with the City's proprietary interests in the Licensed Area; or, (5) the Site License would create a hazardous or unsafe condition. In the event that the city approves a Site License Application, the city will return one fully executed Site License to Licensee. Such

approval may occur before or simultaneous with any approvals or denials for any Regulatory Approvals to be issued by the City in its regulatory capacity. In the event that Licensee fails to commence construction pursuant to the Site License within one year from the date the City fully executes the Acknowledgment Letter, and such delay does not arise out of the acts or omissions of City or other force majeure event that can neither be anticipated nor controlled, the Site License shall automatically expire unless the City Manager grants a written extension that may not exceed one additional year. Licensee shall not be entitled to any refund for any fees, which include without limitation the Site License Fee, paid in connection with a Site License that expires pursuant to this Section 6.3.6. Nothing in this Section 6.3.6 is intended to prohibit or prevent Licensee from submitting a new Site License Application for the same or substantially the same Vertical Infrastructure as those covered under a Site License that expired pursuant to this Section 6.3.6. If a Site License is approved, Licensee shall not commence any work to install Equipment in the License Area for the Site License until all Regulatory Approvals have been obtained and the City has executed the Acknowledgement Letter as set forth in Section 7.1 (Prior Regulatory Approvals Required) and Section 7.2 (Acknowledgement Letter as Licensee's Notice to Proceed).

6.3.7. Site License Application Denials

Licensee acknowledges that the City reserves the absolute right to disapprove any Site License Application in whole or in part when the City determines in its sole judgment that the proposed Equipment would impede or limit a municipal function or proprietary interests or create a hazardous or unsafe condition. The City shall provide Licensee with a written denial that states the basis for the denial.

6.4. Replacement Vertical Infrastructure

Licensee may request the City's permission to replace existing Vertical Infrastructure for the purpose of installing Licensee's Equipment. In the event that the City grants Licensee's request to replace any existing Vertical Infrastructure, or in the event that the City requires Licensee to replace any existing Vertical Infrastructure as a condition on the City's approval for a Site License, Licensee shall: (1) design and/or procure the replacement Vertical Infrastructure to be, in the discretion of the City, that is (a) the same, or as nearly the same, as the existing Vertical Infrastructure to be replaced, (b) consistent with the City's specifications for similar Vertical Infrastructure, and (c) consistent with the City's objective design standards; and, (2) install the replacement Vertical Infrastructure at Licensee's sole cost and expense and in accordance with all applicable provisions in this Master License, which includes without limitation Section 7 (Equipment Installation). Subject to the foregoing conditions, the City may, in the City's sole and absolute discretion, permit Licensee to replace a decorative pole, which includes any Vertical Infrastructure or light standard with ornate features or characteristics designed or intended to enhance the appearance of the pole, light standard, or other Vertical Infrastructure. After Licensee installs any replacement Vertical Infrastructure, the City will have the right to inspect the improvements and installation work and may accept, reject, or require corrections to such improvements or installation work. Licensee shall make any and all necessary corrections to any replacement Vertical Infrastructure within sixty (60) days after a rejection by the City, except that for any Vertical Infrastructure that is rejected due to a violation of any law designed to protect the public health, safety, or welfare, shall be removed within twenty-four (24) hours of the rejection. After the City accepts the replacement Vertical Infrastructure, Licensee shall transfer title to the replacement Vertical Infrastructure to the City by a written instrument mutually acceptable to the parties. Licensee acknowledges and agrees that the City's approval of the Site License will be the only consideration due to Licensee in exchange for transferring title to any replacement

Vertical Infrastructure to the City, and Licensee will not be entitled to any other pecuniary or non-pecuniary consideration.

7. EQUIPMENT INSTALLATION

7.1. Prior Regulatory Approvals Required

Licensee shall not commence any work on or about the License Area for a Site License until and unless Licensee first obtains: (1) an acknowledgement letter from the City as required by Section 7.2 (Acknowledgment Letter as Licensee's Notice to Proceed); and (2) all necessary Regulatory Approvals, which includes without limitation any encroachment permits, building permits, excavation permits, electrical permits prior to installing any Equipment. Any work performed by Licensee, or its Agents without such Regulatory Approvals will be a default under this Master License in addition to any other liabilities or penalties the City, in its regulatory capacity, may impose on Licensee for the same acts or omissions.

7.2. Acknowledgment Letter as Licensee's Notice to Proceed

After Licensee obtains all necessary prior Regulatory Approvals, Licensee shall tender a partially executed Acknowledgment Letter to the City that includes (1) copies of all permits issued by the City's departments; (2) insurance certificates; (3) Contractor's insurance certificates; (4) first License year's Site License Fee; and (5) the required Surety Bond under Section 27 of this Master License, or evidence reasonably satisfactory to the City that the required Surety Bond under Section 27 of this Master License has been delivered to the City. The City shall use reasonable efforts to review, countersign, and tender the fully executed Acknowledgment Letter to Licensee within ten (10) business days from the date on which the City receives a partially executed Acknowledgment Letter with all required attachments. Licensee shall not commence any work on or about the License Area until and unless Licensee first obtains a fully executed Acknowledgment Letter from the City. Such fully executed Acknowledgment Letter will serve as Licensee's notice to proceed with its installation work.

7.3. Installation Work

Licensee shall perform all work in connection with the License Area in strict compliance with the Approved Plans and in a diligent, skillful, and workmanlike manner.

7.3.1. Changes to Approved Plans Required by Regulatory Approvals

Licensee may amend any Approved Plans when such changes are required to obtain or maintain compliance with Regulatory Approvals necessary to install the Equipment, so long as Licensee obtains the City's prior written consent, which the City shall not unreasonably withhold.

7.3.2. Corrections to Approved Plans

Licensee shall have the obligation to correct any errors or omissions in any Approved Plans and related Regulatory Approvals. Licensee shall immediately send written notice to the City in the event that Licensee discovers any such defects. Any Approved Plans and/or amendments to Approved Plans by the City will not release or excuse Licensee's obligations under this Section 7.3.2.

7.3.3. Alterations to City Property

Licensee shall not remove, damage, or in any manner alter any City Property without prior written consent from the City and any other public agencies with jurisdiction over the subject City Property. The City may withhold consent in its sole and absolute discretion and may reasonably condition its consent in each instance based upon the scope and nature of the proposed alterations. Licensee shall immediately notify the City if any removal, damage, or other alteration occurs to City Property that is caused by Licensee or its Agents.

7.3.4. Licensee's Contractors

Licensee shall use only qualified and trained persons and appropriately licensed contractors for all work performed on or about the License Area. At least five (5) business days before to any installation or other work commences on or about the License Area for Equipment Installation, Licensee shall provide the City with: (1) a schedule with all activities to be performed in connection with the work; and, (2) a list with all the names, contractors' license numbers, contact information, and business addresses for all contractors or subcontractors who will perform the work.

7.4. Labor and Material Costs

Licensee shall be responsible for all direct and indirect costs (labor, materials and overhead) in connection with designing, purchasing and installing all Equipment and any replacement Vertical Infrastructure in accordance with the Approved Plans and all applicable Laws. Licensee shall also bear all costs to obtain and maintain all Regulatory Approvals required in connection with the installation, which includes without limitation all of the direct and indirect costs to comply with any approval conditions or mitigation measures that arise from Licensee's proposed installation. Licensee shall timely pay for all labor, materials, Equipment, replacement Vertical Infrastructure, and all professional services related to the Permitted Use or furnished to the License Area at Licensee's direction or for Licensee's benefit.

7.5. Project Managers

The City and Licensee each designate the person listed in this Section 7.5 as its project manager to coordinate Licensee's Equipment design and installation and serve as each party's respective primary contact person for all design, engineering, construction and installation issues that may arise between the parties in connection with this Master License.

City's Project Manager: **City Engineer**
1052 South Livermore Avenue
Livermore, CA 94550
(925) 960-4500

Licensee's Project Manager: **Marc Grabisch**
5005 Executive Pkwy
San Ramon, CA 94583
(925) 549-9671

Licensee acknowledges that the City's project manager is not exclusively assigned to this Master License or any Site License, and that the City's project manager may not always be immediately available to Licensee or its project manager. Licensee further acknowledges that the authority delegated by the City to the City's project manager is limited to the administration of this Master License, any Site License Applications, and any approved Site Licenses. The parties' respective

project managers will have no obligation to personally perform any term or covenant to be performed by the other party under this Master License. Notices to the parties' respective project managers alone will not be deemed effective notice for any purpose under this Master License.

7.6. Coordination with the City

Licensee must coordinate all its installation, construction, maintenance, repair, replacement, upgrade, or any other work in, on, or about the License Area with the City so as to avoid any interference (physical, electronic, or otherwise) with any existing utilities, substructures, facilities, City Property, and the City's municipal functions. As provided in Section 7.3.4 (Licensee's Contractors) and Section 7.9 (Replacement or Upgrade of Equipment Shown on the Approved Plans), Licensee shall provide prior notice to the City prior to performing any installation, construction, maintenance, and other work in, on, or about the License Area on or about the License Area, Licensee shall provide the City with: (1) a schedule with all activities to be performed in connection with the work; and (2) a list with all the names, contractors' license numbers, contact information, and business addresses for all contractors or subcontractors who will perform the work.

7.7. Title to Licensee's Equipment and Other Improvements

Except as specifically provided otherwise in this Master License, all Equipment and other improvements installed, constructed, or placed on or about the License Area by Licensee or its Agents will be and remain at all times Licensee's personal property. Subject to Section 26 (Surrender of License Area), Licensee may remove its Equipment from the License Area at any time after thirty (30) days' prior written notice to the City.

Within thirty (30) days of the date this Master License expires or is terminated, the Licensee shall remove all Equipment approved by the City and shown in the Approved Plans for each Site License. Within thirty (30) days of the date a specific Site License expires or is terminated, the Licensee shall remove all Equipment approved by the City and shown in the Approved Plans for that specific Site License. However, the Licensee may request, and the City it is sole discretion may agree in writing to allow the Equipment to remain in place, in which case the title to Equipment will automatically transfer from the Licensee to the City.

7.8. Prevailing Wages

The services to be provided under the Master License or Site License may be subject to prevailing wage rate payment as set forth in California Labor Code Section 1771. Accordingly, to the extent that any such services are subject to the prevailing wage rate payment requirements, Licensee shall comply with all applicable California Labor Code requirements pertaining to "public works," including the payment of prevailing wages in connection with the services to be provided to the City hereunder (collectively, "Prevailing Wage Policies"). If Licensee's services are subject to Prevailing Wage Policies, Licensee shall submit, upon request by the City, certified copies of payroll records to the City and shall maintain and make such records available to the City or the City's duly authorized representative for inspection and copying in a manner consistent with Licensee's obligations under Section 24 (Records).

Licensee shall defend, indemnify and hold the City and its Indemnified City Parties harmless from and against any and all present and future Claims, that arise from or in connection with Licensee's obligation to comply with all Laws with respect to the work and Prevailing Wage Policies, which includes without limitation any and all Claims that may be made by contractors, subcontractors

or other third parties pursuant to California Labor Code Sections 1726 and 1781, and as may be amended or superseded in the future.
[Intentionally Omitted]

7.9. Replacement or Upgrade of Equipment Shown on the Approved Plans

At any time after the Commencement Date, Licensee may, upon written notice to the City, replace or upgrade the Equipment shown in the Approved Plans so long as such replacement or upgraded Equipment: (1) is Equipment that is the most current generation of repair and replacement of Equipment used for "small cell" deployments at the time of installation that is available to Licensee at the time of the repair and replacement of Equipment and is the same or smaller in both size and weight than the Equipment in the Approved Plans for the Site License for that Vertical Infrastructure. Licensee shall also only use Equipment that has been designed by, and has passed the applicable manufacturer's inspection procedures; (2) will fit within the same License Areas on or within the Vertical Infrastructure where the Equipment in the Approved Plans for the Site License is affixed or otherwise attached to the Vertical Infrastructure; and, (3) will fit within the same airspace physically occupied by the Equipment in the Approved Plans for the Site License. Licensee shall not be required to submit a new Site License Application for the replacement or upgrade to Equipment that meets the standards set forth above. However, for any other replacement, upgrade, changes, additions, or expansions to the Equipment shown in the Approved Plans the Licensee shall submit a new Site License Application, including a new Site License Administrative Fee, to the City to obtain the City's prior written consent in accordance with the provisions in Section 6 (Site Licenses) before performing any work for the replacement or upgrade. Licensee shall perform all replacement and upgrades in accordance with the provisions in Section 7 (Equipment Installation).

At least five (5) business days before to any installation or other work commences on or about the License Area for the replacement or upgrade of Equipment shown on the Approved Plans for a Site License, Licensee shall provide the City with: (1) an request to replace or upgrade the Equipment shown in the Approved Plans that describes the existing Equipment and the proposed Equipment for the replacement or upgrade along with information that describes their respective, size and locations so the City can confirm whether prior approval is required as set forth herein; (2) a schedule with all activities to be performed in connection with the work; and, (3) a list with all the names, contractors' license numbers, contact information, and business addresses for all contractors or subcontractors who will perform the work.

7.10. As Built Plans

Within sixty (60) days after Licensee completes the initial installation of the Equipment, or any modification, replacement, upgrade thereafter, Licensee shall, at its sole cost, tender to the City as-built plans and Equipment specifications for the initially installed or subsequently modified, replaced, or upgraded Equipment. The City shall review such as-built plans and approve or reject them consistent with Section 6.3.7. After the City's approval, such as-built plans will replace the portions of Approved Plans for the Equipment in the Site License that depicted the Equipment prior to the modification, replacement, or upgrade.

8. LICENSEE'S MAINTENANCE OBLIGATIONS

8.1. Equipment Repair and Maintenance

Licensee shall at its sole cost and expense, maintain all Equipment installed on the License Area

in good condition at all times, and shall promptly repair any damage to any Equipment installed on the License Area whenever repair or maintenance may be required, subject to the City's prior approval if required under Section 7 (Equipment Installation). Except as provided in Section 12.5.3 (Licensee's Response to Network Emergency), Licensee shall provide the City with notice at least two (2) business days before any commencing any repair, maintenance, or other work in, on, or about the License Area on or about the License Area, and provide: (1) a schedule with all activities to be performed in connection with the work; and, (2) a list with all the names, contractors' license numbers, contact information, and business addresses for all contractors or subcontractors who will perform the work.

Licensee must obtain the City's prior written approval before replacing or upgrading any Equipment in the Approved Plans for a Site License as required by Section 7.9 (Replacement or Upgrade of Equipment Shown on the Approved Plan). Licensee expressly acknowledges and agrees that Licensee shall not perform any repair, maintenance, replacement or other work authorized under this subsection until and unless Licensee obtains all Regulatory Approvals required for such work.

8.2. Damage to Vertical Infrastructure

8.2.1. Notice to City

If Licensee discovers any damage to the License Area from any cause, Licensee shall promptly give notice to the City, including direct notification to the City's Risk Manager, who can be contacted at (925) 960-4172, that describes damage and the location(s) where the damage occurred. Licensee will not be deemed to have assumed liability for any life threatening or hazardous conditions by giving such notice, unless such conditions were caused by or arose in connection with Licensee's or its Agent's negligent or reckless acts or omissions, or willful misconduct.

8.2.2. Damage Caused by Licensee

In the event that any installation, operation, maintenance, replacement or upgrade of the Equipment, or access to the Licensed Areas, by Licensee or its Agents causes any damage to any Vertical Infrastructure or City Property, Licensee must repair such damage to the City's standards and specifications within thirty (30) days after the City provides a notice to Licensee that describes such damage and verifies that such damage was caused by Licensee, or its Agents. Such thirty (30) day cure period may be extended to a date certain if the City agrees the cure reasonably requires more time. In the event that Licensee fails to timely cure the damage, the City may repair the damage at Licensee's expense and Licensee will reimburse the City for all such costs incurred to repair such damage within thirty (30) days after Licensee receives the City's demand for payment, together with copies of invoices or other evidence to document the costs incurred.

8.2.3. No Right to Repair Vertical Infrastructure

Absent notice from the City with a demand to cure any damage to any Vertical Infrastructure, Licensee is not authorized to make any repairs to any Vertical Infrastructure. Licensee expressly waives all rights it may have under any applicable laws to make repairs at the City's expense.

8.3. Graffiti Abatement

In addition to Licensee's other maintenance obligations under this Master License and any Site License, Licensee shall remove any graffiti or other similar markings from the License Area promptly upon actual notice, but in no event later than forty eight (48) hours after notice from the City, which time period may be extended if the cure reasonably takes more than forty eight (48) hours and Licensee commences the cure within such 48 hour period and reasonably pursues it to completion.

8.4. Maintenance Work Performance Standards

All work performed by or for Licensee under this Section 8 shall be: (1) performed at Licensee's sole cost and expense; (2) performed by persons who are qualified, trained, and appropriately licensed to perform the work; (3) performed in a manner and with Equipment and materials that will not impeded or limit a municipal function on or about the License Area; and, (4) performed in a manner compliant with all applicable Laws and Regulatory Approvals, this Master License, and the Approved Plans for the applicable Site License.

8.5. Maintenance Certification

Once in every five (5) year period throughout the Term, upon City's written request, Licensee shall inspect (or cause to be inspected) all its Equipment installed pursuant to this Master License and any Site Licenses and submit a written report to the City that (1) identifies each Vertical Infrastructure licensed to Licensee; (2) inventories the Equipment installed on such Vertical Infrastructure; (3) certifies that all installations are in compliance with this Master License, the applicable Site License and the most current approved plans.

In the event that the CPUC or any other governmental authority requires Licensee to perform the same or substantially similar inspection, the City agrees that it will accept a written report prepared in connection with such inspection so long as it meets the requirements described in items (1), (2), (3) and (4) in this subsection and such report was prepared within the last twelve (12) months.

9. UTILITIES

Licensee shall be responsible to secure its own utility services for its Permitted Use. This may include a separate power service or a PG&E approved submeter with power being supplied from the City's streetlight power source through the City's streetlight wiring infrastructure. Licensee shall not connect to the City's streetlight power source through the City's streetlight wiring infrastructure without the City's prior written consent, which consent the City may withhold in its sole and absolute discretion, as well as the consent of PG&E, if necessary. Licensee shall timely pay when due all charges for all utility service furnished to its Equipment in the License Area.

10. TAXES, ASSESSMENTS, AND OTHER IMPOSITIONS

Licensee agrees to pay when due (and prior to delinquency) any and all taxes, assessments, charges, excises and exactions whatsoever, including without limitation any possessory interest taxes, that arise from or in connection with Licensee's use within the License Area or Licensee's Equipment that may be imposed on Licensee under applicable Laws. Licensee shall not allow or suffer any lien for any taxes assessments, charges, excises or exactions whatsoever to be imposed on the License Area or Licensee's Equipment. In the event that the City receives any tax or assessment notices on or in connection with the License Area or Licensee's Equipment, the City shall promptly (but in no event later than thirty (30) calendar days after receipt) forward

the same, together with reasonably sufficient written documentation that details any increases in the taxable or assessable amount attributable to Licensee's Equipment. Licensee understands and acknowledges that this Master License and any Site License may create a possessory interest subject to taxation and that Licensee will be required to pay any such possessory interest taxes. Licensee further understands and acknowledges that any sublicense or assignment under this Master License and any options, extensions or renewals in connection with this Master License or any Site License may constitute a change in ownership for taxation purposes and therefore result in a revaluation for any possessory interest created under this Master License.

11. LICENSEE'S OBLIGATIONS TO MAINTAIN COMPLIANCE WITH LAWS

11.1. Compliance with CPUC General Orders

In addition to all other Laws, Licensee shall conduct all activities on the License Area in accordance with all applicable CPUC general orders, which includes without limitation CPUC General Order 95 and CPUC General Order 128 as those orders may be amended or superseded in the future, and the rules, regulations and other requirements adopted or enacted by the CPUC under such general orders.

11.2. Compliance with Building and Electric Codes

In addition to Licensee's compliance with all other Laws, Licensee shall conduct all activities on the License Area in accordance with the requirements in the California Building Code, the California Electric Code, the NESC and any applicable local building and electrical code, as those codes exist now or may be amended in the future. To the extent that CPUC General Order 95 does not address cellular telephone antenna installations on Vertical Infrastructure carrying electrical lines, Licensee shall comply with City requirements.

11.3. Compliance with RF Exposure Regulations

In addition to Licensee's compliance with all other Laws, Licensee shall maintain compliance with all Laws related to human exposure to RF emissions by the FCC, which are based on the recommendations of various federal health and safety agencies including OSHA.

12. PUBLIC WORKS' OPERATIONS

12.1. City's Access to License Area

Except as specifically provided otherwise in this Master License, the City and its Agents have the absolute right to access any License Area in whole or in part at any time for any purpose and without notice to the Licensee. The City will not be liable, and Licensee waives any Claims against the City and its Agents, for damages that may arise from the City's or its Agents' access to the License Area, which includes, without limitation, any Equipment removed in an emergency or other exigent circumstances pursuant to Section 12.4 (Emergencies), except to the extent that the damage arises from the City's or its Agent's gross negligence or willful misconduct.

12.2. City's Maintenance, Repair, or Alteration of Vertical Infrastructure

The City through its Public Works Department or Agents will: (1) maintain and repair Vertical Infrastructure as needed, in the City's sole judgment, for its streetlight operations and other municipal functions; and, (2) correct any immediately hazardous condition. Except as provided

in Section 19 (Termination), neither any City work on any Vertical Infrastructure nor any condition on any Vertical Infrastructure will: (a) entitle Licensee to any damages unless caused by City's gross negligence or willful misconduct; (b) excuse or reduce any obligation by Licensee to pay any Site License Fees or Additional Fees or perform any covenant under this Master License or any Site License; or (c) constitute or be construed as a constructive termination of this Master License or any Site License. The City and License's respective rights, duties, and responsibilities related to the damage or destruction of the vertical infrastructure are set forth in Section 22 (Damage or Destruction of License Area).

12.3. City's Maintenance, Repair, or Alteration of Other City Property

The City may at any time, alter, add to, repair, remove from and/or improve the License Area in whole or in part for any municipal function, which includes without limitation maintenance and improvements in connection with street light services and compliance with all applicable Laws; provided, however, that the City: (1) makes a good-faith effort to provide prior notice to Licensee's On-Call Representative; (2) allows Licensee's On- Call Representative to observe the City's work; and (3) the City takes reasonable steps not to disrupt Licensee's ordinary operations on the License Area, taking into account any exigencies that may threaten persons or property. The provisions in this Section 12.3 will not be construed to allow Licensee's ordinary operations to impede, limit, or delay the City's authority and ability to make changes to the License Areas necessary to maintain streetlight services, any municipal utility services (to the extent permissible under applicable Laws), or any other municipal functions carried out for the public's health, safety, welfare or benefit. The City and License's respective rights, duties, and responsibilities related to the damage or destruction of the City Property or License Area are set forth in Section 22 (Damage or Destruction of License Area).

12.4. Emergencies

In emergencies or other exigent circumstances that pose an imminent threat to the public health, safety, and welfare, or in response to the damage or destruction of the Vertical Infrastructure or License Area as set forth in Section 22 (Damage or Destruction of License Area), the City's work and operations will take precedence over Licensee's operations, which includes without limitation any Equipment operated on the License Area unless expressly provided in applicable Laws, and the City may access the License Area in whole or in part as the City deems necessary in its sole and absolute determination and in accordance with this Section 12.4, without notice to Licensee. When safe and practicable, as determined by the City, the City will notify Licensee of any emergency or other exigent circumstances that required the City to remove or replace any Vertical Infrastructure or other City Property and will allow Licensee to remove its Equipment before the City removes or replaces such Vertical Infrastructure or other City Property; provided, however, that the City will remove the Equipment from the License Area when in the City's reasonable determination it would: (1) be unsafe or not practicable to wait for Licensee to perform (or cause to be performed) the work; (2) result in significant delay; or, (3) otherwise threaten or compromise public health, safety, welfare or public services. The City will remove any Equipment with reasonable care and store such Equipment for retrieval by Licensee. Licensee shall have the right to reinstall such removed Equipment (or equivalent replacement Equipment) at Licensee's sole expense on the repaired or replaced Vertical Infrastructure and/or License Area and in accordance with Section 7 (Equipment Installation). Licensee expressly acknowledges that any act(s) taken by the City pursuant to this Section 12.4, which includes without limitation any Equipment removal or storage, will not be deemed to be a forcible or unlawful entry onto the License Area or any interference with Licensee's contractual privilege to use the License Area.

12.5. EMERGENCY CONTACTS

12.5.1. Coordination of Emergency Events

In case of an emergency due to interference, failure of traffic light signal system, or any unforeseen events, City will act to protect the public health and safety of its citizens, and to protect public and private property, notwithstanding any provision in this Agreement. City will make every reasonable effort to coordinate its emergency response with the Licensee. To that end, the city will use the following emergency contacts: The Licensee's On-Call Representative and network operations center may be reached 24/7 at 800-638-2822 On each Vertical Infrastructure and/or License Area, Licensee must install one identification plate in strict compliance with the size, material, form and substance as shown on the Approved Plans. The identification plate must include Licensee's corporate name and telephone number at which Licensee's emergency contact may be reached at all times (24 hours and 7 days a week). Licensee must replace the identification plate in the event that any information on such plate changes.

12.5.2. Licensee's Duty to Maintain Current Emergency Contacts

Licensee will maintain the emergency contact information current at all times with the City.

12.5.3. Licensee's Response to Network Emergency

In case of a Network Emergency, Licensee may access the Vertical Infrastructure and/or License Area without first obtaining a City permit provided Licensee has conducted network trouble-shooting and diagnostic tests and has reasonably identified the point or points of network failure or malfunction. While acting under this provision to address a Network Emergency, Licensee shall conduct its activities within the public rights-of-way in such a manner as to protect public and private property. Licensee will make every reasonable effort to coordinate its emergency response' with the City. To that end, prior to entering the public rights-of-way, Licensee will contact the City at the designated emergency contact phone number: 925-960-8042 and give notice to Licensor of the Network Emergency and an estimated time period to address the situation. After the Network Emergency has been addressed, Licensee shall follow up with a report on what equipment repair work was completed.

12.5.4. City's Duty to Maintain Emergency Contacts

City will maintain the emergency contact information current at all times with Licensee.

13. INDEMNIFICATION

13.1. Licensee's Indemnification Obligations

Licensee, for itself and its Agents, successors, and assigns, shall indemnify, defend and hold the City and its Agents, elected and appointed officials, officers, employees, agents, and designated volunteers (collectively, the "**Indemnified City Parties**") harmless from and against any and all Claims asserted in connection with or arising in whole or in part from: (1) death or personal injury to any person or damage or loss to any property to the extent arising out of the negligence or willful misconduct of Licensee or its Agents while acting on behalf of Licensee that occurs on or about the License Area or to the extent the same arises in connection with Licensee's or its Agents' negligence or willful misconduct while performing Permitted Uses or unauthorized uses

or activities on or about the License Area; (2) Licensee's failure or refusal to observe or perform any term, covenant, condition or other provision in this Master License to be observed or performed by Licensee; (3) Licensee's or its Agents' use or occupancy of the License Area, or the manner in which Licensee or its Agents use or occupy the License Area; (4) any exposure to RF emissions from the Equipment; (5) the License Area condition or any occurrence on or about the License Area attributable to the events described in in this Section 13 (Indemnification); or (5) any negligence or willful misconduct by Licensee or its Agents on or about the License Area, except to the extent that such Claims arise directly from any Indemnified City Parties' gross negligence or willful misconduct. Licensee's obligations under this Section 13 includes, without limitation, all reasonable fees, costs and expenses for attorneys, consultants and experts, and the City's actual costs to investigate any Claim. Licensee expressly acknowledges and agrees that: (a) it has an immediate and independent obligation to defend any Indemnified City Parties from any Claim that actually or potentially falls within this Section 13, even when the allegations in the Claim are or appear to be groundless, fraudulent or false; and, (b) Licensee's obligations arise at the time any Indemnified City Parties tender such Claim to Licensee and continue until such Claim's final resolution. Licensee's obligations under this Section 13 for claims arising during the Term shall survive this Master License's and any applicable Site License's expiration or termination.

13.2. Licensee's Defense of City

In the event that any Claim is brought against any Indemnified City Parties in connection with any subject matter for which any Indemnified City Parties are indemnified by Licensee under this Master License or any Site License, Licensee shall, upon written notice and at Licensee's sole cost and expense, resist and defend against such Claim with legal counsel acceptable to the City. The City shall not unreasonably withhold its consent to legal counsel selected by Licensee; provided, however, that the City may reject any legal counsel that: (1) has less than ten (10) years' direct experience representing public agencies in similar actions or proceedings as that brought against the Indemnified City Parties; (2) has any past disciplinary actions by any United States tribunal or state bar association; or, (3) has any actual or potential conflicts of interest with any Indemnified City Parties. Licensee shall not, without the City's written consent, enter into any compromise or settlement agreement on any Indemnified City Parties' behalf that: (a) admits any liability, culpability or fault whatsoever on any Indemnified City Parties' part; or, (b) requires any Indemnified City Party to take any action, which includes without limitation any change in the City's policies, or pay any money. Nothing in this Master License shall be construed to limit or preclude any Indemnified City Parties or their respective legal counsel from cooperating with Licensee and participating in any judicial, administrative or other litigation or proceeding.

14. INSURANCE

Prior to any activities by Licensee on the License Area or other City Property, Licensee shall comply with all insurance requirements and other obligations contained in Exhibit B (Licensee's Insurance Obligations). The City shall have the right to amend or replace the insurance requirements and other obligations contained in Exhibit B on sixty (60) days' prior written notice to Licensee.

15. LIMITATIONS ON LIABILITY

15.1. General Limitation on City's Liability

Licensee expressly acknowledges that the City is not responsible or liable to Licensee for any

and all Claims that arise in connection with (1) acts or omissions by persons or entities using the sidewalk, street or other areas adjoining, adjacent to or connected with any License Area; (2) any utility service interruption; (3) theft; (4) burst, stopped or leaking water, gas, sewer, steam or other pressurized pipes; (5) fires, floods, earthquakes or other force majeure event that can neither be anticipated nor controlled; and, (6) any vehicular collision on or about the License Area or other City Property; all except to the extent such events are caused by the City's or its Agents' negligence or willful misconduct. Licensee expressly waives and releases all Claims it may have against the City or its Agents that arise in connection with the events described in this Section 15.1 as may be related to this Master License, any Site License or on or about the License Area, except for damages that arise directly from any Indemnified City Parties' gross negligence or willful misconduct.

15.2. Consequential, Indirect, or Punitive Damages

Each party fully releases, waives and discharges forever any and all Claims against the other for consequential and incidental damages that may arise from or in connection with this Master License or any Site License, which includes without limitation any lost profits related to any disruption to Equipment, any interference with uses or operations conducted by either party under this Master License and/or any Site Licenses, from any cause whatsoever, and whether or not due to the active or passive negligence or willful misconduct by Licensee, the City or any Indemnified City Parties, and covenants not to sue for such damages Licensee, the City, the indemnified City Parties, the City's other departments and agencies, officers, directors and employees, and all persons acting by, through or under them. Except for indemnity claims as described in Section 13, in no event will either party be liable to the other for any special, consequential or indirect damages.

15.3. No Relocation Assistance

Neither this Master License nor any Site License creates any right in Licensee to receive any relocation assistance or payment for any reason under the California Relocation Assistance Law (California Government Code §§ 7260 et seq.), the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. §§ 4601 et seq.) or similar Laws upon or after any termination. To the extent that any such Laws may apply, Licensee waives, releases and relinquishes forever any and all Claims that it may have against the City for any compensation from the City except as provided in Section 23 (Condemnation).

15.4. Mutual Personal Liability Waiver

In no event will any individual City member, official, officer, employee, or other Agent be personally liable to Licensee, it successors or assigns, for any default, breach, other nonperformance or sum unpaid sum by the City. In no event will any individual Licensee member, official, officer, employee or other Agent be personally liable to the City for any for any default, breach, other nonperformance or sum unpaid sum by Licensee.

16. HAZARDOUS MATERIALS

16.1. Hazardous Materials in the License Area

Licensee covenants and agrees that neither Licensee nor its Agents cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated, disposed of or Released in, on, under or about the License Area or any other City Property, in whole or part, or transported

to or from any City Property in violation of any Environmental Laws, except that Licensee may use small quantities of Hazardous Materials as needed for routine operation, cleaning and maintenance of Licensee's Equipment that are customarily used for routine operation, cleaning and maintenance of such Equipment and so long as all such Hazardous Materials are contained, handled and used in compliance with all manufacturer specifications and Environmental Laws.

16.2. Hazardous Material Release Notice

Licensee shall immediately notify the City if and when Licensee learns or has reason to believe any Hazardous Material Release has occurred in, on, under or about the License Area or other City Property. Licensee will not be deemed to have assumed liability for any such Release by giving such notice, unless such Release were caused by or arose in connection with Licensee's or its Agent's or invitee's acts, omissions or negligence.

16.3. Licensee's Hazardous Material Indemnification Obligations

If Licensee breaches any obligations contained in this Section 16 (Hazardous Material), or if any act, omission or negligence by Licensee or its Agents results in any contamination on or about the License Area or other City Property, or in a Hazardous Material Release from, on, about, in or beneath the License Areas or any other City Property, in whole or in part, or any Environmental Law violation, then Licensee, for itself and its successors and assigns, shall indemnify, defend and hold the City and any Indemnified City Parties harmless, from and against any and all Claims (including damages for decrease in value of the License Area or other City Property, the loss or restriction of the use of usable space in the License Area, or other City Property, and sums paid in settlement of Claims, attorneys' fees, consultants' fees, and experts' fees and related costs) that arises during or after the Term related to or in connection with such Release or violation; provided, however, Licensee shall not be liable for any Claims to the extent such Release or violation was caused by an Indemnified City Parties' gross negligence or willful misconduct. Licensee's indemnification obligation includes all costs incurred in connection with any activities required to Investigate and Remediate any Hazardous Material brought or Released onto the License Area or other City Property by Licensee or its Agents and to restore the License Area or other City Property to its condition prior to such introduction or Release, or to correct any Environmental Law violation. Licensee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City and the other Indemnified City Parties from any Claim that actually or potentially falls within this indemnity provision even if the allegations supporting the Claim are or may be groundless, fraudulent or false, and which obligation arises at the time such Claim is tendered to Licensee by the Indemnified City Party and continues until the Claim is finally resolved. Without limiting the foregoing, if Licensee or any of its Agents causes any Hazardous Material Release on, about, in or beneath the License Area or other City Property, then in any such event Licensee shall, immediately, at no expense to any Indemnified City Party, take any and all necessary actions to return the License Area and/or other City Property, as applicable, to the condition existing prior to such Hazardous Materials Release on the License Area or other City Property or otherwise abate the Release in accordance with all Environmental Laws, except to the extent such Release was caused by the City's or Indemnified City Parties' gross negligence or willful misconduct. Licensee shall afford the City a full opportunity to participate in any discussions with Regulatory Agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise or proceeding that involves Hazardous Material Release on or about the License Area.

17. INTERFERENCE

17.1. Licensee's Obligations Not to Cause Communication or Computer Equipment Inference

Licensee will not install, maintain, or operate any Equipment in a manner that interferes with or impairs other communication (radio, telephone, data and/or other transmission or reception) or computer equipment lawfully used by any persons or entities, which includes the City and its Agents. If uncured, upon verification that such interference is caused by the Licensee or its Equipment, the interference will be a default by Licensee under this Master License and any applicable Site License. Upon notice of the interference form the City or from any person or entity lawfully using communication or computer equipment affected by the interference, Licensee shall promptly eliminate such interference at no cost to the City. Licensee will be required to use its best efforts to remedy and cure such interference without any impairment to any City operations. If Licensee does not promptly cure such default, the parties acknowledge that continued interference may cause irreparable injury to the City and, therefore, Licensee may power down the interfering Equipment and only energize the Interfering Equipment for periodic testing, in an effort to cure the interference, and if the interference is not cured then the City will have the right to bring an action against Licensee to, at the City's election, immediately enjoin such interference and/or to terminate all Site Licenses where the Equipment causes interference or impairment.

17.2. Interference Caused by a Change in City's Use

If any change in any use on or about the License Area by the City during the Term results in measurable, material and adverse impairment to Licensee's normal and lawful operations, which makes it necessary for Licensee to alter the Equipment to mitigate the adverse effect, Licensee shall notify the City and provide evidence to substantiate the claimed impairment. After the City receives such notice, the City will have the right to make its own reasonable determination and, if it agrees with Licensee, the City will investigate whether it can reasonably and economically mitigate that interference. The City will provide notice to Licensee of the City's determination. If the City determines, in its sole discretion, that mitigation is reasonably and economically feasible, the City's notice will specify when the City will mitigate the adverse effect. The City's mitigation will effect a cure, and the City will not be liable to Licensee in any other way or be required to take any other measures with respect to the Equipment. If the City determines, in its sole discretion, that mitigation is not reasonably or economically feasible, Licensee may elect either to: (1) terminate the affected Site License and receive a pro-rata refund in the Site License Fee for those Site Licenses terminated after the first License Year; or (2) take steps itself at its own cost to mitigate the adverse effect and continue to operate the Equipment on the License Area, and receive from the City a written waiver from the obligation to pay the Site License Fee for the affected Site License location for the first six months in the next License Year to offset the mitigation costs. Licensee agrees that the City's temporary and a partial abatement of the Site License Fee for the affected Site License location, or waiver under this Section 17.2, will be the only compensation due to Licensee for costs incurred or otherwise arising from the adverse effect as liquidated damages fully compensating Licensee for all Claims that may arise from or be related to the adverse effects. Under no circumstances will the City be required to alter its operations at the identified License Area or provide a replacement License Area to Licensee.

17.3. Interference Caused by City Access

Licensee acknowledges and agrees that it will not be entitled to any Site License Fee abatement if the City exercises its rights to access, remove, and/or store Equipment under Section 12 (Public Works' Operations) unless the City's activities cause Licensee to be unable to operate Equipment

on the License Area for its Permitted Use for a period of more than ten (10) days; in which case, subject to proof, the Site License Fee for the Site License with the affected License Area will be abated on a pro-rata basis for the entire period that Licensee is unable to operate any Equipment in that affected License Area.

18. DEFAULT

18.1. Defaults and Cure Periods

The parties agree that any failure to perform or observe any term, condition, obligation or other provision in this Master License or any Site License shall be a default. For any monetary default, the defaulting party shall have thirty (30) days after receipt of written notice from the non-defaulting party to perfect a cure. The defaulting party shall not be entitled to any additional time to cure a monetary default. For any non-monetary default, the defaulting party shall have thirty (30) days after written notice from the non-defaulting party to perfect a cure; provided, however, that for any non-monetary default that cannot reasonably be cured within thirty (30) days, the defaulting party shall have additional time as is reasonably necessary to perfect the cure if the defaulting party commences to cure the default within the first thirty (30) days after notice and diligently pursues the cure to completion.

18.2. Licensee's Remedies

Except as may be otherwise provided elsewhere in this Master License, Licensee's sole remedies for the City's uncured default will be to: (1) to terminate the Site License(s) affected by the uncured default on thirty (30) days prior written notice; or, (2) an action for damages subject to the limitations in Section 15 (Limitations on Liability).

18.3. City's Remedies

In addition to all other legal and equitable rights and remedies available to the City, the City has the following remedies after an uncured default by Licensee:

18.3.1. License Continuation

Without prejudice to its right to other remedies, the City may continue this Master License and any applicable Site Licenses then in effect, with the right to enforce all its rights and remedies, which include without limitation the right to receive all Administrative Fees, Site License Fees, Additional Fees, Default Fees, City Staff Augmentation costs and other sums as they may become due.

18.3.2. Site License Termination

If Licensee's default affects one or more Site Licenses and remains uncured beyond all applicable cure periods, the City may terminate such Site Licenses on thirty (30) days' prior written notice to Licensee. Notwithstanding the foregoing, the City's termination of such Site Licenses shall terminate Licensee's rights only in specific Vertical Infrastructure identified in such Site Licenses that are affected by Licensee's default and as determined by the City; Licensee's rights in specific Vertical Infrastructure and site locations that are not affected by Licensee's default shall continue in full force and effect.

18.3.3. Default Fees

In addition to all other rights and remedies available to the City, the City may require Licensee to pay an additional fee to offset the City's administrative cost to enforce compliance with this Master License or any Site License as more particularly described on Schedule 2 (each a "**Default Fee**"). Licensee shall pay the Default Fee within fifteen (15) days after a written demand from the City. If Licensee fails to timely pay the Default Fee or cure the underlying default within the applicable cure period, the City shall have the right (but not the obligation) to send Licensee a follow-up notice and demand for an additional Default Fee that will be due and payable within fifteen (15) days. Licensee's obligation to pay Default Fees is separate and distinct from the underlying default. Default Fee payments shall not be deemed to cure the underlying default.

18.4. Cumulative Remedies

Except as otherwise provided in this Master License, all rights and remedies available to the City or Licensee are cumulative, and not a substitute for, any rights or remedies otherwise available to the City or Licensee.

19. TERMINATION

19.1. Master License Termination by Licensee

Except as otherwise provided in this Master License, Licensee may not terminate this Master License during the first five (5) years of the initial ten (10) year Term. After the first five (5) years of the initial ten (10) year Term, Licensee may terminate this Master License without cause on one (1) year's prior written notice to the City. To avoid any doubts, Licensee may not terminate this Master License within the first five (5) years of the initial ten (10) year Term for any reason other than for cause as provided in this Master License.

19.2. Site License Termination by Licensee

Except as otherwise provided in this Master License, Licensee may not terminate any Site License within the first License Year. At any time after the first License Year, Licensee may, in Licensee's sole discretion and for any or no reason, terminate any Site License on ninety (90) days' prior written notice to the City.

19.3. Master License Termination by City

The City may terminate this Master License upon written notice if 66% of sites remain in default beyond any applicable cure period.

19.4. Site License Termination by City

The City has the right to terminate any or all Site Licenses.

The City's right to terminate any or all Site Licenses on ninety (90) days' prior written notice to Licensee when the City determines based on evidence, that Licensee's operations on or about the License Area adversely affects or threatens public health and safety in violation of Laws, materially interferes with the City's municipal functions, requires the City to maintain Vertical Infrastructure that the City no longer needs for its own purposes, in response to a default by Licensee as set forth in this Master License, or as a result of the termination of this Master

License. In the event that the City terminates any Site License for reasons unrelated to Licensee's failure to perform its obligations under this Master License, the City shall refund any pre-paid Site License Fee on a pro-rata basis. In addition, the City shall prioritize Licensee's Site License Application for any Site License to replace the terminated Site License; provided, however, that: (1) the City shall prioritize only as many Site License Applications as Site Licenses terminated by the City; and, (2) the City's prioritization will not affect Licensee's obligations under this Master License.

20. ASSIGNMENT AND OTHER TRANSFERS

20.1. General Restriction on Assignment and Other Transfers

Except as specifically provided in Section 20.3 (Permitted Assignments), Licensee shall not directly or indirectly assign or transfer its interests or rights, whether in whole or in part, in connection with this Master License, any Site License, any License Area, or any Vertical Infrastructure without the City's prior written consent, which the City may withhold or condition its consent in its sole and absolute discretion for any or no reason. In addition, Licensee shall not mortgage or grant a security interest (including any liens) in this Agreement, any Site License, any License Area, or any Vertical Infrastructure, and Licensee shall not create, permit, or suffer any other encumbrances affecting any portion of the License Area.

20.2. General Assignment and Other Transfer Procedures

20.2.1. Proposed Assignment Notice

In the event that Licensee desires to assign or otherwise transfer any right, title or interest in this Master License or any Site License, whether in whole or in part, and such assignment or other transfer is not a Permitted Assignment, Licensee shall first send written notice to the City (the "**Proposed Assignment Notice**"), which states in detail the proposed terms and conditions for the proposed assignment or other transfer and provides complete information that the City reasonably requires to fully evaluate Licensee's request and render an informed decision, which includes business track records, references, financial ability to assume the duties and responsibilities set forth in this Master License, and other information about the proposed assignee or transferee (the "**Proposed Assignee**") due to the provisions in Section 20.5 (Assumption by Assignee of Transferee). The notice may require the disclosure of proprietary, trade secret, or other confidential information (collectively "**Confidential Information**"). If the Licensee believes the Confidential Information should be withheld from production in response to request made pursuant to the California Public Records Act, then the Licensee shall identify such Confidential Information when it is provided to the City, request the Confidential Information be withheld from any request pursuant to the California Public Records Act, and explain why the Confidential Information qualifies for withholding pursuant to the California Public Records Act. The City shall return such Confidential Information to the Licensee after the City completes its review. In the event that Licensee does not provide all such information simultaneously with the Proposed Assignment Notice, the Proposed Assignment Notice shall not be deemed complete for action by the City until the Licensee delivers such information as the City may reasonably require.

20.2.2. City's Response to Proposed Assignment Notice

The City shall consent to, or deny, an assignment or other transfer within thirty (30) days after

the City receives a complete Proposed Assignment Notice (the "**Assignment Response Period**"). If the City fails to respond within the Assignment Response Period, the request for assignment or other transfer will be deemed denied. If the City delivers to Licensee written consent to the proposed assignment or other transfer, then Licensee shall have one (1) year from such written consent to complete the assignment or other transfer. The City's consent will be deemed to be automatically revoked if Licensee fails to complete the proposed assignment or other transfer within said one (1) year period; provided, however, that the one (1) year period may be extended to a date certain in a written agreement, which the City shall not unreasonably refuse if the extension is necessitated by circumstances outside Licensee's control.

20.3. Permitted Assignments

20.3.1. General Authorization

The City agrees that Licensee will be permitted to assign or otherwise transfer this Master License and any Site License(s) issued under it without the City's prior consent, but with notice to the City as provided below, to: (1) an Affiliate; (2) an entity that acquires all or substantially all Licensee's assets in the market area where the License Area is located (as the "market area" is or may be defined by the FCC); (3) an entity that acquires a controlling interest Licensee by a change in stock ownership or partnership interest; (4) an entity Controlled by Licensee; or, (5) an entity that is a successor to Licensee either merger, acquisition, or other consolidation of Licensee (each such assignment or transfer shall be referred to as a "**Permitted Assignment**").

20.3.2. Conditions on Permitted Assignments

All Permitted Assignments, and all consents to an assignment or other transfer, are subject to all the following conditions: (1) the Proposed Assignee may use the License Area only for the Permitted Use and has all Regulatory Approvals necessary to lawfully install, operate, and maintain Equipment on the License Area; (2) Licensee provides the City with written notice within thirty (30) days before the Permitted Assignment becomes effective, and such notice shall state the contact information for the Proposed Assignee and provide financial information establishing that the Proposed Assignee meets the capital and fiscal qualifications necessary to perform Licensee's obligations under this Master License and any Site License and as set forth in section 20.5 (Assumption by Assignee of Transferee); and, (3) Licensee is in good standing under this Master License.

20.4. Effect of Assignment or Other Transfer

No assignment or other transfer by Licensee, consent to assignment by the City, or Permitted Assignment under Section 20.3 (Permitted Assignments) will relieve Licensee from any obligation on its part under this Master License or any Site License. Any assignment or other transfer that is not in compliance with this Master License will be void and is a material default by Licensee without a requirement for notice from the City and with a right to cure by the Licensee. The City's acceptance of any Site License Fee, Additional Fee, or other payments from a Proposed Assignee will not be deemed to be the City's consent to such assignment or other transfer, recognition of any assignee or transferee or waiver of any failure of Licensee or other transferor to comply with this Section 20 (Assignments and Other Transfers).

20.5. Assumption by Assignee or Transferee

Each Proposed Assignee shall assume all Licensee's obligations under this Master License and

each assigned Site License and will be, and will remain, jointly and severally liable with Licensee for all obligations to be performed by Licensee. No assignment or other transfer will be binding on the City unless Licensee or the Proposed Assignee delivers to the City evidence satisfactory to the City that the Proposed Assignee has obtained all Regulatory Approvals required to operate as a wireless communications service provider in the market area where the assigned License Area is located, a copy of the assignment or other transfer agreement (or other document reasonably satisfactory to the City in the event of a Permitted Assignment under Section 20.3 (Permitted Assignments)) and an instrument in recordable form that contains a covenant of assumption by such Proposed Assignee satisfactory in substance and form to the City, consistent with the requirements in this Section 20 (Assignment and Other Transfers). However, the failure or refusal by a Proposed Assignee to execute such instrument will not release such Proposed Assignee from its liability as set forth in this Section. Except for a Permitted Assignment as provided in Section 20.3 (Permitted Assignments), Licensee shall reimburse the City on demand for any reasonable costs that the City incurs in connection with any proposed assignment, which includes the costs to investigate the acceptability of the Proposed Assignee and legal costs incurred in connection with considering any requested consent. The City agrees that its right to reimbursement under this Section for the reasonable costs to investigate the acceptability of a Proposed Assignee will be limited to Two Thousand Dollars and 00/100 Dollars ($2,000.00) for each request.

21. LICENSEE'S CUSTOMERS AND CO-LOCATORS

Licensee may provide capacity to Licensee's customers using, or permit such customers to use, the Equipment installed by Licensee without the City's consent required in Section 20 (Assignment and Other Transfers) provided, however, that: (1) Licensee remains solely responsible for such Equipment and (2) such use by Licensee or Licensee's customers does not involve any physical changes to the Equipment other than changes permitted under Section 7.9 (Replacement or Upgrade of Equipment Shown on the Approved Plans. In any other case, Licensee may provide capacity to Licensee's customers using, or permit such customers to use, the Equipment installed by Licensee upon prior written notice to the City that: (a) identifies the customer who will be using the Equipment and the location(s) where such use will occur; and, (b) includes the appropriate Annual Site License Fee for the additional carrier to be the same as the Annual Site License Fee paid by Licensee to the City, prorated to account for any partial year. Thereafter, Licensee shall pay the additional carrier's Site License Fee each year in the same manner as the Site License Fee so long as the additional carrier continues to use the Equipment. Notwithstanding anything in this Master License to the contrary, Licensee shall not be required to pay any additional fee to allow Licensee's customers to use wireline Equipment for data transport, backhaul or similar services.

22. DAMAGE OR DESTRUCTION OF LICENSE AREA

22.1. City's Rights after Damage or Destruction

22.1.1. City's Election to Repair or Replace Vertical Infrastructure

Within thirty (30) days after the date on which the City discovers damage or destruction on or about any Vertical Infrastructure, the City will give Licensee notice of the City's decision as to whether to repair or replace the damaged Vertical Infrastructure and its good faith estimate as to the time the City will need to complete the work. If the City cannot complete the work within thirty (30) days after the date that the City specifies in its notice, or if the City elects not to do the work, then Licensee will have the right to terminate the affected Site License(s) on thirty (30) days' prior

written notice to the City.

22.1.2. City's Election to Remove Vertical Infrastructure

If the City elects to remove, rather than repair or replace, any damaged Vertical Infrastructure licensed to Licensee, then the applicable Site License will automatically terminate on the last day of the month in which the removal occurs.

22.1.3. City's Election to Remove Equipment

If the acts by third parties or other force majeure event that can neither be anticipated nor controlled destroys or damages any Vertical Infrastructure, License Area or other City Property to such an extent that, in the City's reasonable determination, the Equipment on the Vertical Infrastructure, License Area or other City Property cannot be operated, the City may decide to terminate affected Site License on thirty (30) days' prior written notice to Licensee and require Licensee to remove the Equipment from the damaged Vertical Infrastructure before the termination date specified in the City's notice.

22.2. Licensee's Rights after Termination

After the City terminates a Site License pursuant to Section 22.1 (City's Rights After Damage or Destruction), the City will: (1) refund any pre-paid Site License Fee in connection with the terminated Site License on a pro-rata basis determined by the number of months left in the current License Year at the time such termination occurs, unless the termination occurs in the first 12 months after the Commencement Date; and (2) prioritize Licensee's Site License Application for one replacement Site License for each such license terminated by the City.

22.3. Licensee's Statutory Waiver

The parties understand, acknowledge and agree that this Master License fully governs their rights and obligations in the event that any licensed Vertical Infrastructure becomes damaged or destroyed, and, to the extent applicable, the City and Licensee each hereby waives and releases the provisions in California Civil Code sections 1932(2) and 1933(4) or any similar Laws.

23. CONDEMNATION

23.1. Permanent Takings

In the event that any person or entity with the power to condemn permanently takes any License Area, in whole or in part, or in the event that the City transfers any License Area in whole or in part to such entity in lieu of eminent domain, the following provisions will apply:

23.1.1. Termination Rights after Condemnation

Any affected Site License will automatically terminate as to the part taken or transferred on the date the permanent taking or transfer occurs. At the same time, the Site License Fee under the affected Site License will be reduced on a pro-rata basis to account for taking.

23.1.2. Award

The City will be entitled to any award paid or made in connection with the taking or any sums paid

in lieu of such taking. Licensee will have no Claim against the City for the value of any unexpired Term under either this Master License, any Site License or otherwise except that Licensee may claim any portion of the award that is specifically allocable to Licensee's loss or damage to Licensee's Equipment.

23.1.3. No Statutory Right to Terminate

The parties understand, acknowledge and agree that this Section 23.1 (Permanent Takings) is intended to fully govern the parties' rights and obligations with respect to a permanent taking for which just compensation is due. Licensee and the City each hereby waives and releases any right to terminate this Master License in whole or in part under California Code of Civil Procedure sections 1265.120 and 1265.130, as may be amended or superseded, to the extent applicable to this Master License and any Site License(s).

23.2. Temporary Takings

Any taking that affects any License Area, in whole or in part, for less than ninety (90) days will have no effect on the affected Site License, except that Licensee will be entitled to a pro-rata abatement in the applicable Site License Fee to the extent that such temporary taking materially impairs Licensee's ability to use the License Area for more than ten (10) days.

24. RECORDS

24.1. General Record Maintenance and Inspection

Licensee shall maintain throughout the Term (and for at least one year after this Master License expires or terminates) the following records in physical format at Licensee's physical office within the State of California and in an electronic format: (1) site identification information and physical location (e.g., a physical address and/or GPS coordinates) for all Vertical Infrastructure under active Site Licenses between the City and Licensee; (2) a ledger or other similar document that contains the amount and payment date for all Site License Fees paid to the City pursuant to this Master License and any Site Licenses; (3) true and correct copies of all Approved Plans and Regulatory Approvals issued in connection with the Equipment on Vertical Infrastructure; (4) copies of all insurance policies, endorsements and other related documents required to be obtained and maintained under Section 14 (Insurance); and (5) all correspondence with the City in connection with any matter covered under this Master License and any Site License. No more than once during any five (5) year period, to determine whether Licensee has fully and accurately paid all Site License Fees and other sums payable to the City under this Master License and any Site License, and to determine whether Licensee has complied with its other obligations, the City, or its designee, will have the right to inspect and audit Licensee's records (except proprietary, trade secret, or other information confidential by statutory authority) at Licensee's office in the State of California during regular business hours on ten (10) days' prior written notice to Licensee. In the event that any inspection or audit concludes that Licensee failed to pay Site License Fees and other sums by more than five percent (5%), Licensee shall, within thirty (30) days after a written demand from the City, pay all outstanding sums and reimburse the City for the City's reasonable, actual and documented costs and expenses to conduct the investigation or audit.

24.2. Equipment Inspections and Audits

The City has the right (but not the obligation) to inspect Licensee's License Area and the Equipment to evaluate Licensee's compliance with this Master License, any Site License and all

applicable Laws. In the event that any such inspection or evaluation concludes that Licensee installed Equipment without proper authorization or that five percent (5%) or more sites were not installed in compliance with the Approved Plans or all applicable Laws, Licensee shall, within thirty (30) days after a written demand from the City, reimburse the City for the City's reasonable, actual and documented costs and expenses to conduct the investigation or evaluation.

24.3. Estoppels

Licensee, at any time throughout the Term and on not less than 30 days' prior written notice from the City, shall execute, acknowledge and deliver to the City or its designee, an estoppel certificate with the following statements: (1) that Licensee has accepted the License Area (or, if Licensee has not done so, that Licensee has not accepted the License Area in whole or in part and specifying the applicable License Areas and reasons for non-acceptance); (2) the Commencement Dates for any Site Licenses then in effect; (3) the Effective Date and Expiration Date under this Master License; (4) that this Master License and any Site Licenses are unmodified and in full force and effect or, if modified, the manner in which they are modified; (5) whether any defenses currently exist against any action to enforce Licensee's obligations under this Master License (and, if so, specifying the same); (6) whether Licensee believes that the City failed to perform any obligations under this Master License or any Site License (and, if so, specifying any obligations that Licensee believes that the City has failed to meet); (7) the dates, if any, on which the Site License Fees and Additional Fees have been paid; and, (8) any other information that may be reasonably required by any such persons.

25. RULES AND REGULATIONS

At all times throughout the Term, Licensee shall fully and faithfully comply with any and all reasonable rules, regulations and instructions that the City may from time-to-time establish and/or amend with respect to the License Area.

26. SURRENDER OF LICENSE AREA

26.1. Licensee's Removal and Restoration Obligations

No later than ninety (90) days after this Master License or any Site License expires or terminates, Licensee shall: (1) peaceably remove its Equipment from the License Areas affected by the expiration or termination; (2) restore any such License Areas and other City Property affected by the removal to the condition that existed immediately before Licensee installed its Equipment, reasonable wear and tear excepted; and (3) surrender such License Area to the City free and clear from any debris, hazards, liens and encumbrances. The obligations under this Section 26.1 will survive this Master License's or any Site License's expiration or termination.

26.2. Abandonment

At its option, the City may deem any Equipment to be abandoned that remains on any Vertical Infrastructure, License Area or other City Property for more than ninety (90) days after this Master License or any Site License expires or terminates. In any case, the city may dispose of abandoned Equipment in any lawful manner. Licensee agrees that California Civil Code Sections 1980 et seq. and similar Laws addressing abandoned property by residential or commercial tenants do not apply to any abandoned Equipment.

26.3. Hold Over

If Licensee fails to surrender the License Area as required in this Master License, and the City consents to Licensee's holdover, the Term will be automatically extended for one (1) year on the same terms and conditions except that the Site License Fee shall automatically increase by one hundred twenty-five percent (125%) over the then-current Site License Fee. Any holdover without the City's consent will be a default by Licensee and will entitle the City to exercise any or all rights and remedies.

27. SURETY BOND

27.1. Surety Bond Amount

Prior to any work performed by Licensee pursuant to this Master License or any Site License, Licensee shall furnish the City with a surety bond in the amount equal to Seventy-Five Thousand and 00/100 Dollars ($75,000.00) (the "**Surety Bond**") as security to provide recourse for the City (at its option) in the event that Licensee defaults on any obligations under this Master License or any Site License. Such bond shall be with a company and in a form and amount reasonably satisfactory to the City Manager and the City Attorney.

27.2. Bond Amount Replenishment

In the event that the City applies or uses the Surety Bond, in whole or in part, to cure any default by Licensee under this Master License or any Site License, Licensee shall replenish the Surety Bond in the amount and on the date specified in a written notice to Licensee. The City may, in the City's reasonable judgment, require Licensee to increase the Surety Bond amount from time-to-time to an amount not to exceed One Hundred and Fifty Thousand and 00/100 Dollars ($150,000) if the City determines that the increase is warranted by the number of Site Licensees issued or determines that the Licensee's past acts or omissions in connection with the License Area, including draws upon the security requiring replenishment, warrant additional security.

27.3. Bond Application

Licensee agrees that the City may use the Surety Bond, in whole or in part, to remedy any damage to the License Area caused by Licensee, its Agents or any failure by Licensee to perform any term, covenant or condition in this Master License or any Site License (which includes, without limitation, any failure to pay any Site License Fee or other sums due under this Master License or any Site License either before or after any default). In the event that the City uses the Surety Bond in whole or in part, the City will not be deemed to have waived any rights under this Master License, or legal or equitable rights whatsoever. Licensee expressly waives any rights it may have under California Civil Code Section 1950.7 or any similar Laws and agrees that the City may retain from the Surety Bond any portion reasonably necessary to compensate the City for any foreseeable or unforeseeable loss or damage caused by Licensee's, or its Agents' acts or omissions, but any unused amount shall be returned to Licensee or the surety company providing the Bond.

28. MISCELLANEOUS PROVISIONS

28.1. Notices

Except as may be specifically provided otherwise in this Master License, all notices, demands or

other correspondence required to be given in connection with or pursuant to this Master License must be written and delivered through (1) an established national courier service that maintains delivery records and confirmations; (2) hand delivery; or (3) certified or registered U.S. Mail with prepaid postage and return receipt requested, and addressed as follows:

TO CITY: **Community Development Director**
1052 South Livermore Ave
Livermore, CA 94550
Telephone: 925-960-4400
Facsimile:
Email: cedd@livermoreca.gov

with copies to: **City Engineer**
1052 South Livermore Avenue
Livermore, CA 94550
Telephone: 925-960-4500
Facsimile: 925-960-4505
Email: engineering@livermoreca.gov

TO LICENSEE: New Cingular Wireless PCS, LLC
Attn: Tower Asset Group-Lease Admin; CRAN Group
Re: CCL04805 (CA)
Fixed Asset No: 10147886
1025 Lenox Park Blvd NE, 3rd Floor
Atlanta, GA 30319

With a copy to: New Cingular Wireless PCS, LLC
Attn: AT&T Legal Dept
Re: CCL04805 (CA)
Fixed Asset No: 10147886
208 S Akard Street
Dallas, TX 75202-4206

All notices, demands or other correspondence in connection with this Master License will be deemed to have been delivered: (a) two days after deposit if delivered by U.S. certified mail; (b) the date delivery is made by personal delivery or overnight delivery; or (d) the date an attempt to make delivery fails if a party changes its address without proper notice or refuses to accept delivery after an attempt. Telephone, facsimile and email information are provided for convenience and for couriers who may require such information, and any notice given solely through electronic means will not be deemed to be effective notice. Any copies required to be given constitute an administrative step for the parties' convenience and not actual notice. The parties may change the notice addresses above from time-to-time through written notice to the addresses above or the then-current notice address.

28.2. Waivers

No failure by either the City or Licensee to insist that the other strictly perform any obligation, term, covenant or condition under this Master License or to exercise any rights, powers or remedies in connection with the other party's failure to strictly perform such obligation, term,

covenant or condition no matter how long the failure to insist on such performance or exercise such rights, powers or remedies, will be deemed to waive any default for non-performance. No behaviors, patterns or customs that may arise between the parties with respect to their performance required under this Master License will be deemed to waive any rights, powers or remedies the parties' may have to insist on strict performance. Neither Licensee's payment nor the City's or its Agents acceptance of any Administrative Fees, Site License Fees, Additional Fees or any other sums due to the City or its Agents under this Master License during any such default will be deemed to cure any such default, waive the City's right to demand material compliance with such obligation, term, covenant or condition or be deemed to be an accord and satisfaction for any Claim the City may have for further or additional sums. Any express waiver by either the City or Licensee in connection with any default or obligation to perform any provision, term, covenant or condition under this Master License will: (1) be limited to the specific default or performance for which the express waiver is granted; (2) not be deemed to be a continuing waiver; and, (3) not affect any other default or performance no matter how similar or contemporaneous such other default or performance may be. The City's or Licensee's consent given in any specific instance in connection with or pursuant to this Master License will not relieve the City or Licensee from the obligation to secure the other's consent in any other or future specific instances, no matter how similar or contemporaneous the request for consent may be.

28.3. Integration; Amendments

This Master License constitutes the entire agreement and understanding between the parties, and supersedes any and all prior agreements and understandings, whether written or oral, with respect to the subject matter covered in this Master License. This Master License and any Site Licenses (and any default in connection with this Master License or any Site Licenses) may not be orally changed, waived, discharged, altered, modified, amended or terminated. This Master License and any Site Licenses (and any default in connection with this Master License or any Site Licenses) may not be changed, waived, discharged, altered, modified, amended or terminated, except by a written instrument signed by both parties.

28.4. Interpretation

The parties acknowledge and agree that the following interpretive rules will be applicable to this Master License and any Site License:

28.4.1. General

Whenever required by the context, the singular includes the plural and vice versa; the masculine gender includes the feminine or neuter genders and vice versa; and defined terms encompass all their correlated forms (e.g., the definition for "indemnify" applies to "indemnity," "indemnification," etc.).

28.4.2. Joint and Several Liability

In the event that the City consents to enter this Master License with more than one Licensee, which consent the City may withhold or condition in the City's sole and absolute discretion, the obligations and liabilities imposed on Licensee under this Master License will be joint and several among the multiple Licensees to this Master License.

28.4.3. Captions and Other Reference Material

The section captions in this Master License and the table of contents have been included for the parties' convenience and reference and neither the captions nor the table of contents in no way define or limit the scope or intent of any provision in this Master License.

28.4.4. Time

References in this Master License to "days" mean calendar days, unless specifically provided otherwise. A "business day" means a day other than a Saturday, Sunday or a bank or City holiday. If the last day in any period to give notice, reply to a notice or to undertake any other action occurs on a day that is not a business day, then the last day for giving notice, replying to the notice or undertaking any other action will be the next business day. Except as modified in this Section, time is of the essence with respect to all provisions in this Master License for which a definite time for performance is specified.

28.4.5. Inclusive Words and/or Phrases

Inclusive terms and/or phrases, which includes without limitation the terms and/or phrases "including," "such as" or similar words or phrases that follow any general or specific term, phrase, statement or matter may not be construed to limit the term, phrase, statement or matter to the stated terms, statements or matters, or the listed items that follow the inclusive term or phrase, whether any non-limitation language or disclaimers, such as "including, but not limited to" and/or "including without limitation" are used or not. Rather, the stated term, phrase, statement or matter will be interpreted to refer to all other items or matters that could reasonably fall within such term, phrase, statement or matter given its broadest interpretation.

28.5. Successors and Assigns

Except as may be expressly provided in this Master License, the conditions, covenants, promises and terms contained in this Master License will bind and inure to the benefit of the City and Licensee and their respective successors and assigns.

28.6. Brokers

The parties represent to each other that neither has had any contact, dealings or communications with any Broker in connection with this Master License, whose commission, if any, would be paid pursuant to a separate written agreement between such Broker and such party with which such Broker contracted. In the event that any Broker perfects any claim or finder's fee based upon any such contact, dealings or communications, the party to such written contract with such Broker shall indemnify the other party from all Claims brought by such Broker. This Section 28.6 will survive this Master License's expiration or earlier termination.

28.7. Governing Law; Venue

This Master License must be construed and enforced in accordance with the laws of the State of California, without regard to the principles of conflicts of law. This Master License is made, entered and will be performed in the City of Livermore, County of Alameda, State of California. Any action concerning this Master License must be brought and heard in the California Superior Court for the County of Alameda, or if federal claims are involved in the United States District Court for the Northern District of California.

28.8. Litigation Fees and Costs

In the event the City or Licensee prevails in an action to enforce its rights under this Master License or individual Site License, the prevailing shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, incurred in connection with such action.

28.9. Recording

Licensee acknowledges and agrees that: (1) this Master License and any Site License affects the City's personal property and therefore cannot be recorded in any official records; (2) Licensee shall not have the right to record this Master License, any Site License, any memorandum or any short-form agreement in relation to this Master License or any Site License; and, (3) Licensee shall, at Licensee's sole cost and expense, remove any document or other instrument recorded against the City's title to any City Property promptly upon the City's request or demand. In the event that this Master License or any Site License affects or is deemed to affect any real property owned by the City, Licensee may not record any document or instrument in connection with this Master License or any Site License without the City's prior written consent, which the City may withhold in the City's sole and absolute discretion.

28.10. No Third-Party Beneficiaries

Neither this Master License nor any Site License is intended to (and shall not be construed to) give any third party, which includes without limitation Licensee's customers or any other third-party beneficiaries, any right, title or interest in this Master License, any Site License or the real or personal property(ies) that may be affected by the same, unless such third parties are specifically and explicitly identified by their legal name in this Master License.

28.11. Non-Discrimination

Licensee shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, marital status, or sexual orientation. Licensee shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, military or veteran status, disability, medical condition, genetic information, marital status, or sexual orientation and shall make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

28.12. Survival

All terms, provisions, covenants, conditions and obligations in this Master License any Site License will survive this Master License's or the subject Site License's expiration or termination when, by their sense or context, such provisions, covenants, conditions or obligations: (1) cannot be observed or performed until this Master License's or any Site License's expiration or earlier termination; (2) expressly so survive; or, (3) reasonably should survive this Master License's or any Site License's expiration or earlier termination. Notwithstanding any other provision in this Master License or any Site License, the parties' rights to enforce any and all Indemnities,

representations and warranties given or made to the other party under this Master License, any Site License during its Term or any provision in this Master License or any Site License will not be affected by this Master License or any Site License expiration or termination.

28.13. Severability

If any provision in this Master License, any Site License or such provision's application to any person, entity or circumstances is or held by any court with competent jurisdiction to be invalid or unenforceable: (1) such provision or its application to such person, entity or circumstance will be deemed severed from this Master License or any Site License; and, (2) all other provisions in this Master License, any Site License or their application to any person, entity or circumstance will be valid and enforceable to the fullest extent permitted by Law, except to the extent that such enforcement would, (a) be manifestly unreasonable or manifestly inequitable under all the circumstances, or (b) undermine one or both parties' fundamental purpose in entering this Master License.

[END OF MASTER LICENSE - SIGNATURE PAGE APPEARS ON NEXT PAGE]

IN WITNESS WHEREOF, the City and Licensee executed this Master License on the Effective Date:

THE CITY:

City of Livermore,
a California municipal corporation

By: _____
Marianna Marysheva
City Manager

Date: _____

LICENSEE:

New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: _____
Print Name: Courtney Perillo
Its: Director Construction & Engineering
Date: April 11, 2024

APPROVED AS TO FORM:

By: _____
City Attorney/Assistant City Attorney

Date: _____

APPROVED AS TO INSURANCE

By: _____
Risk Manager/Risk Analyst

Date: _____

APPROVED BY CITY COUNCIL
RESOLUTION NO. _____

ATTEST:

By: _____
City Clerk

Date: _____

[END OF SIGNATURE PAGE - EXHIBITS & SCHEDULES BEGIN ON NEXT PAGE]

EXHIBIT A

FORM OF SITE LICENSE AGREEMENT

(appears behind this coversheet)

SITE LICENSE NO. *[INSERT NUMBER IN CONSECUTIVE ORDER]*

Pursuant to that certain Master License between the City of Livermore, a California municipal corporation (the **"City"**) and [insert fully licensee name] **("Licensee"),** Licensee submits to the City two partially executed counterparts of this Site License, together with all the materials listed below, as its Site License Application in accordance with Section 6 under the Master License:

1. **Exhibit A-1,** which contains a summarized list that identifies all Vertical Infrastructure covered under this Site License Application;

2. **Exhibit A-2,** which contains detailed construction plans for the proposed installation(s) and an inventory for all proposed Equipment to be installed on the Vertical Infrastructure covered under the Site License Application;

3. a true and correct copy of **Schedule 1** attached to this Master License

4. a Site License Fee equal to *[$ per site multiplied by number of sites];*

5. all other information and materials required for a complete application for all Regulatory Approvals issued by the City's departments, which the City may update from time-to-time in accordance with applicable Laws; and

6. if the City elects to augment its staff as provided in this Master License, a deposit for the City's estimated costs.

Licensee acknowledges that: (1) this Site License will not be effective until the City returns a fully executed copy to Licensee; and (2) Licensee will not have the right to access or install Equipment on the License Area until after Licensee has: (a) submitted a complete Acknowledgment Letter to the City with all information and funds required;
(b) submitted insurance information to the City as specified in **Exhibit B** to the Master License; and (c) the City has provided notice to proceed by returning to Licensee a countersigned copy of the Acknowledgment Letter.

This Site License is executed and effective on the last date written below and, upon full execution will be the City's authorization for the City to begin its review of the locations and plans and specifications proposed in this Site License Application.

[END OF SITE LICENSE - SIGNATURES APPEAR ON NEXT PAGE]

THE CITY:

City of Livermore,
a California municipal corporation

By: _____

Its: City Manager

Date: _____

LICENSEE:

New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: _____

Its: _____

Date: _____

EXHIBIT A-1

VERTICAL INFRASTRUCTURE LOCATIONS / LICENSE AREA

Site License No.

[Licensee to list all proposed Vertical Infrastructure requested in this Site License Application]

EXHIBIT A-2

LICENSEE'S PLANS AND SPECIFICATIONS

Site License No.

[Licensee to attach all plans and specifications for all Equipment proposed to be installed at all proposed Vertical Infrastructure]

EXHIBIT A-3

FORM OF ACKNOWLEDGMENT LETTER

Licensee to complete and submit after Regulatory Approvals obtained [date] [

insert addressee information]

RE: Site License No.

Dear City Manager:

This letter will confirm the following: (1) that Licensee has obtained all the Regulatory Approvals required for the Permitted Use under this Site License, and (2) the Commencement Date of this Site License is *[insert date],* which is the first day of the month after Licensee obtained all Regulatory Approvals.

This letter also confirms that Licensee has submitted all required insurance information to the City. A check for the full Site License Fee for the first License Year of this Site License is attached.

Please acknowledge the City's receipt of this letter and the items listed below and issue the City's approval for Licensee to begin installation of Equipment on the License Area by signing and returning a copy of this letter.

Sincerely,

_____
[insert name]
[insert title]

Enc.
[ ] copies of all permits issued by the City's departments
[ ] Insurance certificates
[ ] Contractor's insurance certificates
[ ] First License Year's Site License Fee
[ ] Surety Bond

SITE LICENSE NO. _____

APPROVED:

By: _____
Marianna Marysheva, City Manager

Date: _____

EXHIBIT B

LICENSEE'S INSURANCE OBLIGATIONS

Scope and Limits of Insurance

Licensee/Lessee shall maintain limits of :

1. Commercial General Liability per ISO form CG 00 01 or its equivalent, 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.
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 Licensee/Lessee is a sole proprietor, then Licensee/Lessee must sign "Contractor Release of Liability".
4. Property Insurance:
   Total value of all tenant improvements, betterments, and contents. The City of Livermore shall be included as loss payee as its interest may appear. The insurer shall waive all rights against City. Licensee/Lessee self-insures this risk.

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 Licensee or its parent company. In the event that the City of Livermore has tendered a claim to Licensee/Lessee, or its insurer, or its insurer has denied coverage to the City of Livermore, Licensee/Lessee (in a local _____ office) will make available to the City of Livermore within fifteen (15) days of the City's written request to Licensee/Lessee, a copy of actual, authentic and applicable insurance policies for review (but not for copying, faxing or otherwise reproducing any part of any policy or other insurance correspondence), subject to the City of Livermore first executing Licensee's/Lessee's standard non-disclosure agreement. The policy review is limited to no more than three days during a consecutive six-month period and must be conducted during Licensee's normal business hours while the City of Livermore's representative is accompanied by a Licensee/Lessee Risk Management professional. Upon completion of review no copies will be made and all policies will be returned to Licensee's/Lessee's Corporate Risk Management Department Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and eligible 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 by endorsement as respects: liability caused, in whole or in part by activities performed by or on behalf of the Licensee/Lessee; or automobiles owned, leased, hired or borrowed by the Licensee/Lessee. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or designated volunteers.
2. 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 Licensee's/Lessee's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or designated volunteers.
4. The Licensee's/Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. The requirements for coverage and limits shall be the coverage and limits specified in this agreement.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

Licensee/Lessee shall furnish certificates of insurance and required 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 License/Lease commences.

In the event that the City of Livermore has tendered a claim to Licensee/Lessee, or its insurer, or its insurer has denied coverage to the City of Livermore, Licensee/Lessee (in a local _____ office) will make available to the City of Livermore within fifteen (15) days of the City's written request to Licensee/Lessee, a copy of actual, authentic and applicable insurance policies for review (but not for copying, faxing or otherwise reproducing any part of any policy or other insurance correspondence), subject to the City of Livermore first executing Licensee's/Lessee's standard non-disclosure agreement. The policy review is limited to no more than three days during a consecutive six-month period and must be conducted during Licensee's normal business hours while the City of Livermore's representative is accompanied by a Licensee/Lessee Risk Management professional. Upon completion of review no copies will be made and all policies will be returned to Licensee's/Lessee's Corporate Risk Management Department.

SCHEDULE 1

SITE LICENSE FEE SCHEDULE

Site License No.

SITE LICENSE FEE SCHEDULE			
Annual Site License Fee per licensed Vertical Infrastructure			
2023	$270		
2024	$278.10		
2025	$286.44		
2026	$295.04		
2027	$303.89		
2028	$313.00		
2029	$322.39		
2030	$332.07		
2031	$342.03		

SCHEDULE 2

DEFAULT FEE SCHEDULE

DEFAULT FEE SCHEDULE		
VIOLATION	INITIAL NOTICE	EACH FOLLOW-UP NOTICE
unauthorized installations	$1,000	$1,500
failure to make required repairs	$300	$350
access violations	$300	$350
insurance violations	$300	$350

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.9**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Resolution authorizing the execution of an agreement with One Diversified, LLC (Diversified) to upgrade, reconfigure and provide 36 months of ongoing maintenance of the Civic Center Meeting Hall in an amount not-to-exceed $300,000 and appropriate $300,000 from the City's Public Educational and Government (PEG) fees.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. Appropriating $300,000 from the City's Public Educational and Government (PEG) fees; and
2. Authorizing the City Manager to execute an agreement with One Diversified, LLC to upgrade, reconfigure and provide ongoing maintenance for the first phase of a multi-phase project to upgrade the production capabilities of the City Council Chambers and the Mendenhall Community Room in an amount not-to-exceed $300,000.

SUMMARY

The City of Livermore's (City) Civic Center Meeting Hall serves as the City Council Chamber and the City's Emergency Operations Center and houses the Mendenhall Community Room. As the City's use of these facilities has expanded over the past five years to support the Planning Commission, most advisory body meetings, and several large public and private groups, staff proposes to add technology capabilities and functionality to the building. These additions require several upgrades and modifications to the existing systems.

Diversified installed the audio/visual equipment in the City Council Chamber and the Mendenhall Community Room during construction and continues to provide technical support for the existing hardware and software systems that operate the various control systems, cameras, and related hardware throughout the building.

Due to the complexity of these systems, and the successful partnership the City has with Diversified, staff elected to have Diversified perform the upgrades needed to complete the first phase of a multi-

phase process to upgrade the building's audio/visual capabilities.

DISCUSSION

The City's Civic Center Meeting Hall, built in 2017 and dedicated in 2019, serves as the City Council Chamber, the City's Emergency Operations Center and houses the Mendenhall Community Room. As the City's use of these facilities has expanded over the past five years to support the Planning Commission, most advisory body meetings, and several large public and private groups, staff identified several opportunities to add capabilities and functionality to the system.

Diversified installed the audio/visual equipment in the City Council Chamber and the Mendenhall Community Room during the building's construction and continues to provide technical support for the existing hardware and software systems that operate the various control systems, cameras, and other related hardware throughout the building.

Due to the complexity of these systems, and the successful partnership the City has with Diversified, staff elected to have Diversified perform the upgrades needed to complete the first phase of a multi-phase process to upgrade the building's audio/visual capabilities.

City staff met with design engineers from Diversified to develop a roadmap that would allow the City to achieve its future audio/visual goals in the Civic Center Meeting Hall. Several upgrades and modifications to the existing system are required to prepare for these upcoming projects including:

- Upgrade the control interface to make the system easier to use when broadcasting meetings on the City's public access channel, including:
    - Purpose specific preset configurations for each meeting type
    - Increasing automation of meeting production
    - Enhanced meeting controls for city staff
    - Upgrade lighting in system control room
    - Add an additional microphone to the podium to increase the vocal clarity of public speakers
    - Relocate several components of the system to allow for better airflow and additional future hardware additions
    - Replace the existing adaptive headsets to remain ADA compliant.

At the completion of this phase of the project, staff will identify additional sources of funding, including grant funding and PEG funding where appropriate, to implement additional enhancements to the Civic Center Meeting Hall, including:

- Producing video recordings of all advisory body meetings that will be broadcast on the City's public access channel
- Integrated digital kiosks
- Advanced, multi-screen wall displays
- Enhanced emergency management operational technology

FISCAL AND ADMINISTRATIVE IMPACT

The not-to-exceed amount for this first phase of the process is $300,000, which covers the hardware, software, programming changes, 36 months of maintenance and support for all systems in the Civic

Center Meeting Hall, and a small contingency fund to implement additional functionality upgrades identified during the project. There are sufficient PEG funds to cover the $300,000 appropriation.

There are no ongoing costs for this project.

COMMUNITY PILLAR

5: A City That Works

GOAL

11: Modernize key business systems and processes to increase efficiency and improve transparency

ATTACHMENTS

1. Resolution
2. Exhibit A - Agreement

Prepared by: Steve Rodriguez
Assistant Administrative Services Director

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 AN AGREEMENT WITH ONE DIVERSIFIED, LLC (DIVERSIFIED) TO UPGRADE, RECONFIGURE AND PROVIDE 36 MONTHS OF ONGOING MAINTENANCE OF THE CIVIC CENTER MEETING HALL IN AN AMOUNT NOT-TO-EXCEED $300,000 AND APPROPRIATE $300,000 FROM THE CITY'S PUBLIC EDUCATIONAL AND GOVERNMENT (PEG) FEES

The City of Livermore's (City) Civic Center Meeting Hall serves as the City Council Chamber, the City's Emergency Operations Center, and houses the Mendenhall Community Room.

As the City's use of these facilities has expanded over the past five years to support the Planning Commission, most advisory body meetings, and several large public and private groups, City staff proposes to add technology capabilities and functionality to the building. These additions require several upgrades and modifications to the existing systems.

In 2017, the Civic Center Meeting Hall was constructed, and in 2019 the City contracted with Diversified for the initial installation. Diversified installed the audio/visual equipment in the City Council Chamber and the Mendenhall Community Room during construction and continues to provide technical support for the existing hardware and software systems that operate the various control systems, cameras, and related hardware throughout the building.

Due to the complexity of these systems, and the successful partnership the City has with Diversified, staff elected to have Diversified perform the upgrades needed to complete the first phase of a multi-phase process to upgrade the building's audio/visual capabilities.

The not-to-exceed amount for this first phase of the process is $300,000, which covers the hardware, software, programming changes, 36 months of maintenance and support for all systems in the Civic Center Meeting Hall, and a small contingency fund to implement additional functionality upgrades identified during the project. There are sufficient PEG funds to cover the $300,000 appropriation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Approves the appropriation of $300,000 from the City's Public Educational and Government fees; and

2. Authorizes the City Manager to execute a general services agreement with One Diversified, LLC, attached hereto as Exhibit A, in an amount not-to-exceed 300,000.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – Agreement with One Diversified, LLC

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AGREEMENT FOR SERVICES

THIS AGREEMENT is made and entered into this day of , 2024, by and between the City of Livermore ("City"), a municipal corporation, and One Diversified, LLC ("Contractor"), a Georgia Limited Liability Company.

RECITALS

City requires services to do AV upgrades to the Council Chambers, Rack Room and Mendenhall.

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 do AV upgrades to the Council Chambers, Rack Room and Mendenhall 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 Steve Rodriguez ("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 and/or equipment ordered. Contractor's invoice shall be in writing and describe the Services performed and/or equipment ordered 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 10 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 contractor- related errors in the Services. Should Contractor fail to make a good faith effort for 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. 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. 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,

(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.

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5. Compensation and Payment.

(a) The total compensation payable by City to Contractor for the Services **SHALL NOT EXCEED** the sum of $300,000 ("not-to-exceed amount"). City shall compensate Contractor for the Services rendered at the hourly rates or task amounts set forth below, and 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.

Project-Related Sales

Deposit	20% of Total Fee	Due upon contract signing.
Progress Payment	50% of Total Fee	Due Net-30 days of invoice date.
Final Payment	Balance / 30% of Total Fee	Due Net-30 days of invoice date.

Client will be billed 20% of Total Fee at the time of PO/SOW acceptance, due in full upon receipt. Client will be billed a progress payment in the amount of 50% of the Total Fee when any Equipment is delivered to Client or Diversified staging facility regardless of whether Equipment is shipped in multiple installments; this invoice is due in full within thirty days of the invoice date. The balance of the Total Fee will be billed after completion of Services and due in full within thirty days of the invoice date.

(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.

(c) If during the performance of this contract, the cost of materials, equipment, or labor increases, the price of this contract shall be equitably adjusted by an amount reasonably necessary to cover any such increase in the costs of the labor, materials, and equipment. As used herein, a cost increase shall mean any increase in cost of materials, equipment, and/or labor exceeding 2% experienced by Contractor from the date of the contract signing through project completion. Such increase in material, equipment or labor costs shall be documented through quotes, invoices, or receipts. The additional cost shall be handled by change order and the customer is responsible for the additional cost. Where the delivery of materials or equipment is delayed and/or labor shortages cause delays, through no fault of the contractor, as a result of the shortage of labor or unavailability of the materials and equipment, contractor shall not be liable for any additional costs or damages associated with such delay(s).

6. Term. The term of this Agreement commences on May 13, 2024, and terminates upon the completion of the Services or June 30, 2025, whichever occurs first.

7. Termination for Cause

(a) Contractor Breach. Except as otherwise provided below, in the event of any breach of this Agreement by Contractor, City may terminate this Agreement, in whole or in

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part, by giving thirty (30) days' prior written notice; provided, however, that this Agreement shall not terminate at the end of the thirty (30) day notice period if (i) Contractor has cured the breach prior to the expiration of the thirty (30) day period, or (ii) the breach is of a nature which cannot be cured within the thirty (30) day period, Contractor commences to cure the breach within such thirty (30) day period and continues to diligently work to resolve the breach.

(b) City Breach. In the event that City fails to pay any undisputed amounts and such failure continues for thirty (30) days after City's receipt of written notice of such failure, Contractor shall have the right to terminate the PO to which the uncured payment default relates upon an additional ten (10) days' written notice; provided, however, that the subject PO shall not terminate at the end of the ten (10) day period if City has cured the breach by or before that date. In the event of any other breach of this Agreement by City, Contractor may terminate this Agreement, in whole or in part, by giving thirty (30) days' prior written notice; provided, however, that this Agreement shall not terminate at the end of the thirty (30) day notice period if (i) City has cured the breach prior to the expiration of the thirty (30) day period, or (ii) the breach is of a nature which cannot be cured within the thirty (30) day period, and City commences to cure the breach within the thirty (30) day period and diligently prosecutes the curing thereof to completion.

8. Ownership of Documents. All drawings, designs, data, photographs, reports and other items prepared or obtained by Contractor in the performance of and directly related to 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 provided thereby will be original works and will provide, in whole or in part, any work created by any other party, to City 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. The software manufacturer/vendor's terms and conditions, also known as the End User License Agreement ("EULA"), related to use of the software shall be the controlling terms. Those terms shall be included in each Software Services Order. Certain software the Contractor provides to the City may contain Third-Party Software, including but not limited to open source software. Use of the Third-Party Software and its Source Code may be governed by separate copyright notices and license provisions, which may be found or identified in the Documentation or on the media delivered with the Software; those separate notices and provisions are incorporated by reference into the License. The City shall not modify or combine the Software and/or any Third-Party Software in any manner that could cause the Software or any modifications to it to become subject to the terms of any license that applies to Third-Party Software. All Third-Party Software is bundled with the Equipment and licensed for use with the Equipment only.

10. Confidentiality. Contractor shall not disclose any confidential or proprietary information received from City to anyone except Contractor's employees who require

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access to the information to perform the Services. The Contractor may disclose the Confidential Information in response to a valid order of a court of competent jurisdiction, or other governmental body of the United States or any political subdivision thereof, or if it otherwise required by law to disclose the Confidential Information; provided, that the Contractor shall first have given prompt written notice to the City in order to allow the City to object to the disclosure of the Confidential Information. If requested, the Contractor will provide reasonable cooperation to the City in resisting or limiting the disclosure of the City's expense. This obligation shall remain in full force and effect until termination. The Contractor shall return or destroy, at its discretion, all Confidential Information (or any designated portion thereof) received under this Agreement, including all permitted and any copies thereof.

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 negligent acts, errors, or omissions as related to the Contractor's performance of the services contemplated by this Agreement, 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 or any other third parties' active negligence or willful misconduct. In no event shall Contractor's aggregate cumulative liability hereunder exceed the total fees actually paid to Contractor within a twelve (12) month period under this Agreement. 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 90 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

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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.

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

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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: Steve Rodriguez, Asst. Adm. Services Director
City of Livermore
1052 S Livermore Avenue
Livermore, California 94550

TO CONTRACTOR: Attention: Don Isbell, Senior Account Manager
One Diversified, LLC
5627 Stoneridge Drive
Pleasanton, CA 94588

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

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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:
Don Isbell
7848E34EFA684FC...

4/30/2024 | 3:32 PM PDT

By: Don Isbell - CTS
Title: Account Executive

CITY OF LIVERMORE: **Dated:**

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

DocuSigned by:
Tara Mazzanti
19DF47CAC5D0451...

Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Amber Hatfield
12BC7F4D88224F6...

Risk Manager/Analyst

Attachments:

Exhibit A – Scope of Work
Exhibit B – Insurance Requirements

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diversified
Create the unforgettable



AV Upgrades to the Council Chambers, Rack Room, and Mendenhall

Click or tap here to enter text.

City of Livermore

1052 S. Livermore Ave.
Livermore, CA 94550
USA

Project Price Proposal

Diversified Workplace
Quote Number: QUO-87743-N5Z9M9

April 25, 2024 v4

Valid for 60 Days

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April 25, 2024

Mr. Steve Rodriguez
IT Manager
City of Livermore
1052 S. Livermore Ave.

Livermore, CA 94550

Subject: AV Upgrades to the Council Chambers, Rack Room, and Mendenhall

Thank you for the opportunity to provide this Diversified Project Proposal to recommend upgrades to the Livermore City Council Chambers and adjacent meeting rooms.

As a project deployment concludes, Diversified's Managed Services will just begin to benefit your organization.

This offer includes our ASSURANCE Service and Support, with unlimited technical support, rapid initial response within 15 minutes, on-site support within 48-hours, and coverage of equipment still supported by a Manufacturer Warranty.

Managing a workplace technology is a demanding task, one that requires either outsourcing or maintaining the right skills on your team. Diversified offers an alternative solution with ADOPT®, a service that offers remote or on-site technical resources, when and where you need them, to supplement your team, drive technology adoption and generate the business metrics that matter most.

From our 24/7 Global Service Center, our proactive monitoring offering, PULSE, becomes the difference between simply having technology systems and strategically using those systems to meet business objectives. By monitoring network-connected IoT devices, our PULSE offering identifies issues and provide resolutions before your business operations are impacted.

We believe our offer is fully responsive to your requirements and we look forward to working with you on this exciting project!

Regards,

Don Isbell
Senior Account Executive
One Diversified, LLC
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disbell@diversifiedus.com

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1 Scope of Work

City of Livermore

Community Center Upgrades

Scope of Work

Note: The Numbers below correspond to the item number on the bill of materials.

Council Chambers

1. **Mitigate Heat Issue in Equipment Rack**

Provide and install 1 “Corner Style” and 1 Side air diverter on the 2 ceiling air registers to direct the air flow towards the front of the racks.

Install a 1-space rack fan in space 3.

Remove the unused amplifier at rack space 8 and replace it with a 1-space rack fan.

Install a 2-space rack fan in space 38/39.

Move the Crestron Pro3 control processor to the top of the IT (Information Technology) rack and replace it with a 2-space rack fan.

Test the control system after the control processor has been reconnected.

Note: Should the above not resolve the issue, a custom air diverter could be installed on the wall mounted AC unit. This option is not included with this quote.

2. **Touch Panel and Programming Changes**

- Create presets to preconfigure the room on the Main and Clerks panels.
  - City Council Meeting
  - Planning Commission Meeting
  - General Presentations
  - EOC (Emergency Operations Center)
  - There are existing presets, but no automated routing. The client must rout the video every time they start the system.
  - Include Video Routing. There are about a dozen routes that will need to be made for each of the above scenarios.
  - Recall Audio presets.
  - Recall Lighting preset if control is added.
- Remove buttons on Control room Panel.

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- Destinations - Staff Monitors, Dais Monitors
- Sources – Blu-ray
- Audio – Staff Speakers
- Remove the 3 buttons on the Main Panel labeled Send to Most, Send to Many, Send to All.

- Add Preview window on routing pages, Including Camera page.
- Auto route video to preview window when source is selected.
- Allow preview window to be changed to full screen.
- For the camera page, super impose the camera controls on top of the full screen preview.

- Modify the level controls for microphones on Main and clerks Touch Panel to be a single page.
- Provide a room map for selecting a mic, with a single Level/Mute control. Include a text window for each mic showing the mic level, and a radio button for Mute status.

- Change the Clerks touch panel to a 24” model and add a preview window on the routing and Camera pages.
- Auto route video to preview window when source is selected.
- Allow preview window to be changed to full screen.
- For the camera page, super impose the camera controls on top of the full screen preview.
- Crestron TSD-2220-B 21.5” HD Touch Screen Display, Black
- Crestron DM-DGE-200-C Digital Graphics Engine 200

- Troubleshoot the Sierra Video windowing processor programming.
- The program does not recall any layouts.
- I was trying to verify the correct control method for this, and it looks like either LAN or RS232. I did not find a Crestron module for it though.
- Sierra Video 04-SVG-Frame (28-2000-1210)12x2 HDMI Multiview Processor

- Review the program to see if there is any code that is triggering a source select on the projectors every time a source is selected.
- Every time a source is selected on the DM Switcher, the projector goes to blue screen for several seconds while it cycles through the different inputs and finally locks onto the HDMI input it was on when the switch was made.

- Add discrete level controls for microphones on TV30 Touch Panel
- This will require adding another page on the panel. Provide a room map for selecting a mic, with a single Level/Mute control. Include a text window for each mic showing the mic level, and a radio button for Mute status.

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3. Add 2nd Microphone at Lectern

Provide and install a 2nd identical microphone at the lectern. The mics will be secured at the optimum location to improve off axis voice pickup.

Programming will be added to control the new microphone.

7. Rack Cleanup, System Tuning, and Additional Testing

Remove unused cables from the rack.

Verify cables are labeled correctly and are accurately depicted on the drawings.

Verify cables are dressed properly to relieve tension on the connectors.

Address the image scaling issue with the projectors. The images are over scanned and therefore missing information. Adjust system wide EDID as needed to achieve consistent 1080P images.

Revisit the Audio gain structure to see if it is possible to get more headroom from the mics and improve the audio quality of the mics. The current level controls are not sensitive enough. The levels are almost all the way up and can only be adjusted 1 or 2 clicks before going into feedback or sounding bad.

Replace any microphones that are not working properly.

Initial tests show the following microphones may need to be repaired or replaced.

Note: Dais Mics 1 & 7 were not in use, so they were not tested. The lines will be tested to verify they are good.

Dais Mics 3-6, Mic 5 has already been swapped out with Mic 7 that was not being used.

Staff Mics 6-8

Remove unused equipment:

HDMI DA at Dais and staff table that was used for the displays that are no longer in use. The displays have already been removed.

The amplifier in the rack that is used to drive the speakers on the staff table. The speakers have already been removed.

Blu-Ray Player

11. Provide power control for system shut down and rebooting equipment

Design and install a power management system utilizing the existing power sequencers and relay-controlled power modules. Add RS232 control for the Middle Atlantic UPS-OL3000R. Provide shutdown of all non-essential equipment when the system is powered off. Add a power control page to the control room touch panel. On this page, provide a button to control a complete system shutdown. Note: A complete system shutdown will require a manual restart of the UPS (Uninterrupted Power Supplies). Provide the ability to individually reboot the following equipment from the touch panel:

DM-MD-64X64 Switcher

QSYS Core 510 Audio Processor

Crestron Pro3 Control Processor

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Up to 6 others as deemed necessary

12. Move recorders to above counter and add A/B Switch

Provide and install an 8-space equipment rack with power strip to sit on top of the existing 6-space equipment rack. Move the two recorders from the rack below the counter to the new rack. Install a 4X1 HDMI switch in the new rack. connect the 2 Video recorders and the record confidence monitor to the new switch to allow switching between the 2 recorders for viewing on the confidence monitor.

Note: The 8-space rack and the 4X1 switcher provide space for the additional recorders outlined in item 14 Below.

13. Track Lighting for Control Room

Note: Installation of the Track Lighting System will need to be performed by a qualified electrician. Installation with a dimmable circuit is recommended.

Provide two 8-foot sections of ceiling mounted track lighting system connected with a 90deg corner. Provide 5 dimmable LED fixtures with shutters for focusing the light on the work surface.

Mendenhall Community Room

17. Core System Redesign with Touch Panel and Programming Changes

Make rooms truly combinable.

Consolidate the existing rack equipment into a single rack.

Replace the 2 video switchers with a single 16X16 video switcher.

Replace the 2 Audio DSP’s with a single DSP.

Programming - Add Room Combine buttons on each touch panel. It will be necessary to press the room combine button on each panel to combine the rooms. This helps prevent accidental room combining.

Add Audio and Video Preset recall for Room Combining.

Currently, each room is controlled separately from a Crestron DMPS3-4K-150-C.

Add the ability to route all inputs, including the floor box inputs from the touch panels in the room.

The floor box inputs are currently routed from the control room touch panel through the DM-MD64X64.

Add an automatic shutdown at Midnight.

Replace the existing touch panels with the TSW-770-B-S purchased for the Zoom upgrade. Update the touch panel files to work with the TSW-770-B-S.

Review the program to see if there is any code that is triggering a source select on the projectors every time a source is selected. Adjust code as needed to eliminate the issue if possible.

Every time a source is selected on the DM Switcher, the projector goes to blue screen for several seconds while it cycles through the different inputs and finally locks onto the HDMI input it was on when the switch was made.

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Council Meeting Room

24. Assisted Listening Headsets

Provide replacements for missing Assisted listening Headsets for the Council Chambers, Mendenhall Community Room, and Council Meeting Room. Test systems to verify functionality.

26. Assurance Maintenance

Continue our On-Site Assurance for a period of three years after completion of work included in this SOW.

1.1 Project Specific Clarifications and / or Exclusions

1.1.1 Basis of Offer Documentation

1. Diversified has based this offer on the following documentation:
   - Provided Drawing Set from Diversified dating back to 2019 and Equipment List

1.2 Deliverables

1.2.1 Design Documentation

1. Floorplan View Layout drawings
2. Infrastructure drawings – Data, Conduit, Electrical and Structural requirements.
3. Room Elevation details & requirements – All structural, data & electrical requirements specific to AV system.
4. Rack Elevations

1.2.2 Close-Out Documentation:

1. Device Elevation and Location As-Builts
2. System Schematic As-Builts
3. IP Schema – Address tables inclusive of all identifiers. All Network Requirements.
4. Serial numbers & Mac Address on Device table by Room/ Area

1.3 Training

1. Proposal includes two (2), three (3)-hour sessions of on-site demonstration of Diversified supplied technology with customer end-user personnel. Training includes a high-level overview of the system from the perspective of a daily user; basic functions, user-interface (UX) overview.
2. The Training schedule will be coordinated by the Project Manager and approved by Customer contact authorized to sign off on project deliverables. If additional training deliverables or sessions and/or time are required, Diversified will provide additional pricing as requested.

1.4 Key Project Milestone Dates

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Pricing in this Proposal is based on the key milestone dates shown below. Modifications to these dates may result in the need to administer Change Management for costs associated with schedule impacts.

Proposal Award / Contract Signing: TBD

Date of ratified contract (signed by Customer and counter signed by Diversified). *Notice to Proceed (NTP) and/or Letter of Intent (LOI) do not constitute an award date.*

Project Startup: One Week ARO

Scope Confirmation/Approval: Two Weeks ARO

Approval date will trigger development on coordination deliverables such as construction documentation and long lead-time equipment identification which will impact the final project schedule.

Start Onsite Installation: Schedule TBD - Usually Eight Weeks ARO

Assume site readiness conditions are met.

Substantial Completion: 30 Days After Start of Onsite

1.5 Change Management

Modifications to SOW, Project Conditions, Price Proposal, Bill of Materials, and/or Terms and Conditions must be approved by Diversified and authorized customer representative. Modifications will be administered following the Change Management process.

Change Management Process

1. Diversified receives change condition data from Customer and considers impact to the current project conditions, i.e. SOW, Project Conditions, Price Proposal, Bill of Materials, and/or Terms and Conditions, etc.
2. If warranted, Diversified generates a Change Proposal, providing associated costs and scope narrative to address the impact condition.
3. Diversified submits the Change Proposal to Customer for review and acceptance. (No work related to the Change Proposal will begin until a Change Order is provided/authorized by Customer).
4. Customer authorizes the Change Proposal and returns a signed Change Order or Purchase Order to Diversified.
5. Diversified proceeds with ordering any additional materials and/or completes the work listed.
6. Diversified updates the contract scope of work, deliverables, and/or system drawings, as necessary.

1.6 Scope Notes

1. All Customer furnished drawings will be deemed accurate. Additional costs may be required if CAD drawings are not available.
2. Existing infrastructure and/or equipment to be utilized will be tested for proper functionality as part of the site readiness process. Neither Diversified, nor its subcontractors, will bare schedule or costs impacts caused by faulty Customer Furnished Equipment (CFE) or infrastructure.
3. It is assumed that all pathways have unfettered access and enough space for all system cable pulls.
4. Diversified assumes floor cores exist in each room where cables are run from display location to the table.

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5. Diversified is not a high voltage contractor; we are not licensed or staffed to administer any high voltage installation work – it is excluded.
6. Parking will be provided within a reasonable distance of the job site.
7. Building access through front doors, loading docks, elevators, etc. as required for large equipment and installation load in will be provided.
8. Any necessary keys, security badges, clearance, etc. will be provided as needed for the course and duration of the project.

1.7 Customer Network Responsibilities

Customer Furnished (CFE) network equipment and access is involved. Diversified will provide technology specifications and device requirements including, but not limited to, PIM/SM, IGMP Snooping, VLANS, Master Clock, Proxy Servers, QoS, Bandwidth, listen/connect ports, DHCP/DNS/IP, VoIP, security, Firewalls, protocols, and PoE. This may be coordinated via manufacturer documentation and/or a master technology requirements document.

Unless specifically detailed within this Scope of Work, the following are not included and therefore excluded from this proposal:

1. Network topology design, technology planning, and architecture
2. Network switch/server/appliance rack installation
3. Network switch/server/appliance configuration
4. Network switch/server/appliance configuration with other systems
5. Network switch/server/appliance configuration support with Customer
6. Patching to OFE network switches, appliances, and servers
7. Network commissioning and testing
8. Network security including switches and devices
9. Back-up of Customer data - Diversified shall have no liability with regards to Customer's data.

Diversified can provide a 'Network-Ready' checklist to ensure the customer has sufficiently designed, configured, tested, and commissioned the network prior to the Diversified commissioning the 'system(s)' detailed within this Scope of Work.

1.8 Systems Programming Qualifications

Diversified's Proposal includes the development of a graphical user interface (GUI) for users of all technical acumen. End-user experience is critical to adoption and use of furnished systems; Diversified performs a thorough GUI review process with our Customers.

- This Proposal assumes existing GUI standards, control code, and naming conventions have been provided or clearly described by Customer by date on Proposal. Diversified assumes supporting data for existing GUI standards will be provided in a timely manner.
- Control / GUI scope will be reviewed and agreed upon by Customer.
- Diversified recommends limiting end user participation to those with the institutional knowledge required to establish a standard.

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- Extensive deviations and/or functional changes presented after the Preliminary GUI Review Meeting will require the administration of Change Management to account for additional Programming / GUI development costs.

This Proposal includes the following:

1.8.1 One (1) Initial Control Scope Requirements Review Meeting (4 Hour Maximum - Virtual)

1. Initial review with the Programmer and Customer to confirm control and programming and GUI requirements.
2. Deviations and/or functional changes from accepted scope of work or future functionality requests may result in the need to administer the Change Management process.

1.8.2 One (1) Preliminary GUI Review Meeting (2 Hour Maximum - Virtual)

1. Once the Programmer has confirmation of the control scope, the GUI is developed, and a virtual GUI review meeting is scheduled.
2. Programmer presents button progressions, conveying end-user experience.
3. Based upon feedback from the Customer, the Programmer will make one (1) set of modifications to the GUI

1.8.3 One (1) Interim / Progress GUI Review Meeting (2 Hour Maximum - Virtual)

1. GUI review meeting to gather more feedback on changes made as a result of the Preliminary GUI review.

1.8.4 One (1) Final GUI Review Meeting (2 Hour Maximum - Virtual)

1. Final GUI review meeting to walk through end-user experience.

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2 Price Proposal

Pricing presented in this Project Proposal is based on the services shown in the Scope of Work section of this document. Any services not specifically identified in the Scope of Work section are not included in Diversified's pricing below.

2.1 Summary of Costs

Item	Manufacturer	Model	Description	Qty	Unit Price	Extended Price	Notes
1	**Council Chambers - Mitigate heat issue in equipment rack**						
1.10	ProCool	SX640	1SP RACK FAN	2.00	$212.58	$425.16	
1.20	ProCool	TV2280	(2U) Rack Mount Fan/ 4x TV80 fans	2.00	$225.16	$450.32	
1.30	McMaster-Carr	3531N12	Corner Air Diverter	2.00	$45.09	$90.18	
1.40	Middle Atlantic	FC-4-1CA	FAN CNTRL,STANDALONE	1.00	$206.04	$206.04	
					Items Subtotal	**$1,171.70**	
	zz.Miscellaneous Materials						
1.160	Diversified	MscMaterials	Miscellaneous Materials	1.00	$147.15	$147.15	
					Items Subtotal	**$147.15**	
	Professional Services						
1.50	Diversified	Engineer	Design Engineering Services	1.00	$0.00	$1,026.00	
1.60	Diversified	CAD Operator	Drafting Services	1.00	$0.00	$684.00	
1.70	Diversified	Project Manager	Project Management Services	1.00	$0.00	$820.00	
1.120	Diversified	Project Coordinator	Project Administration/Coordination	1.00	$0.00	$360.00	
1.130	Diversified	Contractors-Installation	Installer Prevailing Wage	1.00	$0.00	$2,784.00	
					Services	**$5,674.00**	
	General & Administrative						
1.140	Diversified	Freight	Freight	1.00	$31.05	$31.05	
					G&A Subtotal	**$31.05**	
	Travel & Expense						
1.150	Diversified	Travel Expense Budget	Travel and Expenses	1.00	$133.34	$133.34	
					Expense	**$133.34**	
					Room/Task Total	**$7,157.24**	
2	**Council Chambers - Touch Panel and Programming Changes**						
2.10	Crestron	TSD-2220-B	21.5" HD Touch Screen Display, Black	1.00	$1,383.65	$1,383.65	
2.20	Crestron	DM-DGE-200-C	Digital Graphics Engine 200 w/PinPoint™ UX & 4K DM 8G+® Input	1.00	$2,213.84	$2,213.84	
					Items Subtotal	**$3,597.49**	
	zz.Miscellaneous Materials						
2.140	Diversified	MscMaterials	Miscellaneous Materials	1.00	$490.29	$490.29	
					Items Subtotal	**$490.29**	
	Professional Services						
2.30	Diversified	Engineer	Design Engineering Services	1.00	$0.00	$1,026.00	
2.40	Diversified	CAD Operator	Drafting Services	1.00	$0.00	$342.00	
2.50	Diversified	Project Manager	Project Management Services	1.00	$0.00	$1,968.00	
2.60	Diversified	Field Engineer	Field Engineering Services	1.00	$0.00	$13,120.00	
2.70	Diversified	Programmer	Programming Services	1.00	$0.00	$12,880.00	
2.100	Diversified	Project Coordinator	Project Administration/Coordination	1.00	$0.00	$600.00	
2.110	Diversified	Contractors-	Installer Prevailing Wage	1.00	$0.00	$870.00	
					Services	**$30,806.00**	

	General & Administrative						
2.120	Diversified	Freight	Freight	1.00	$95.34	$95.34	
					G&A Subtotal	**$95.34**	
	Travel & Expense						
2.130	Diversified	Travel Expense Budget	Travel and Expenses	1.00	$1,194.45	$1,194.45	
					Expense	**$1,194.45**	
					Room/Task Total	**$36,183.57**	
3	**Council Chambers - Add 2nd Microphone at Lectern**						
3.10	Shure Inc	MX418D/S	Supercardioid-18" Desktop Gooseneck Condenser Microphone, Attached 10´ XLR Cable, Logic Functions, Programmable Switch and LED Indicator, Attached Desktop Base	1.00	$285.60	$285.60	
					Items Subtotal	**$285.60**	
	zz.Miscellaneous Materials						
3.140	Diversified	MscMaterials	Miscellaneous Materials	1.00	$392.86	$392.86	
					Items Subtotal	**$392.86**	
	Professional Services						
3.20	Diversified	Engineer	Design Engineering Services	1.00	$0.00	$855.00	
3.30	Diversified	CAD Operator	Drafting Services	1.00	$0.00	$342.00	
3.40	Diversified	Project Manager	Project Management Services	1.00	$0.00	$1,312.00	
3.50	Diversified	Field Engineer	Field Engineering Services	1.00	$0.00	$656.00	
3.60	Diversified	Programmer	Programming Services	1.00	$0.00	$644.00	
3.90	Diversified	Project Coordinator	Project Administration/Coordination	1.00	$0.00	$360.00	
3.100	Diversified	Contractors-Project	Field Integration Manager	1.00	$0.00	$328.00	
3.110	Diversified	Contractors-	Installer Prevailing Wage	1.00	$0.00	$4,176.00	
					Services	**$8,673.00**	
	General & Administrative						
3.120	Diversified	Freight	Freight	1.00	$7.57	$7.57	
					G&A Subtotal	**$7.57**	
	Travel & Expense						
3.130	Diversified	Travel Expense Budget	Travel and Expenses	1.00	$111.12	$111.12	
					Expense	**$111.12**	
					Room/Task Total	**$9,470.15**	
7	**Council Chambers - Rack cleanup, System Tuning, and additional testing**						
	zz.Miscellaneous Materials						
7.130	Diversified	MscMaterials	Miscellaneous Materials	1.00	$785.72	$785.72	
					Items Subtotal	**$785.72**	
	Professional Services						
7.10	Diversified	Engineer	Design Engineering Services	1.00	$0.00	$1,368.00	
7.30	Diversified	Project Manager	Project Management Services	1.00	$0.00	$1,968.00	
7.40	Diversified	Field Engineer	Field Engineering Services	1.00	$0.00	$6,560.00	
7.80	Diversified	Project Coordinator	Project Administration/Coordination	1.00	$0.00	$480.00	
7.90	Diversified	Contractors-Project	Field Integration Manager	1.00	$0.00	$328.00	
7.100	Diversified	Contractors-	Installer Prevailing Wage	1.00	$0.00	$9,744.00	
					Services	**$20,448.00**	
	Travel & Expense						
7.120	Diversified	Travel Expense Budget	Travel and Expenses	1.00	$777.78	$777.78	
					Expense	**$777.78**	
					Room/Task Total	**$22,011.50**	

11	**Council Chambers - Provide power control for system shut down and rebooting equipment**						
11.10	Crestron	CEN-IO-RY-104	Wired Ethernet Module with 4 Relay Ports	2.00	$256.61	$513.22	
					Items Subtotal	**$513.22**	
	zz.Miscellaneous Materials						
11.130	Diversified	MscMaterials	Miscellaneous Materials	1.00	$250.00	$250.00	
					Items Subtotal	**$250.00**	
	Professional Services						
11.20	Diversified	Engineer	Design Engineering Services	1.00	$0.00	$4,104.00	
11.30	Diversified	CAD Operator	Drafting Services	1.00	$0.00	$456.00	
11.40	Diversified	Project Manager	Project Management Services	1.00	$0.00	$1,968.00	
11.50	Diversified	Field Engineer	Field Engineering Services	1.00	$0.00	$2,624.00	
11.60	Diversified	Programmer	Programming Services	1.00	$0.00	$2,576.00	
11.90	Diversified	Project Coordinator	Project Administration/Coordination	1.00	$0.00	$480.00	
11.100	Diversified	Contractors-	Installer Prevailing Wage	1.00	$0.00	$4,524.00	
					Services	**$16,732.00**	
	General & Administrative						
11.110	Diversified	Freight	Freight	1.00	$13.60	$13.60	
					G&A Subtotal	**$13.60**	
	Travel & Expense						
11.120	Diversified	Travel Expense Budget	Travel and Expenses	1.00	$166.67	$166.67	
					Expense	**$166.67**	
					Room/Task Total	**$17,675.49**	
12	**Council Chambers - Move recorders to above counter and add A/B Switch**						
12.10	Middle Atlantic	RK8	8SP(14)RACK, 16DEEP	1.00	$140.38	$140.38	
12.20	Middle Atlantic	PD-815R-PL	POWER CENTER W/PILOT LT	1.00	$118.87	$118.87	
12.30	Extron	60-1604-01	Sw4 HD 4K Plus, Four Input 4K/60 HDMI Switcher	1.00	$465.41	$465.41	
12.40	Extron	60-190-10	RSu 126, 1U 6" Deep Universal Rack Shelf Kit	1.00	$109.44	$109.44	
					Items Subtotal	**$834.10**	
	zz.Miscellaneous Materials						
12.170	Diversified	MscMaterials	Miscellaneous Materials	1.00	$142.86	$142.86	
					Items Subtotal	**$142.86**	
	Professional Services						
12.50	Diversified	Engineer	Design Engineering Services	1.00	$0.00	$1,026.00	
12.60	Diversified	CAD Operator	Drafting Services	1.00	$0.00	$456.00	
12.70	Diversified	Project Manager	Project Management Services	1.00	$0.00	$984.00	
12.80	Diversified	Field Engineer	Field Engineering Services	1.00	$0.00	$656.00	
12.120	Diversified	Project Coordinator	Project Administration/Coordination	1.00	$0.00	$480.00	
12.130	Diversified	Contractors-Project	Field Integration Manager	1.00	$0.00	$164.00	
12.140	Diversified	Contractors-	Installer Prevailing Wage	1.00	$0.00	$2,088.00	
					Services	**$5,854.00**	
	General & Administrative						
12.150	Diversified	Freight	Freight	1.00	$166.67	$166.67	
					G&A Subtotal	**$166.67**	
	Travel & Expense						
12.160	Diversified	Travel Expense Budget	Travel and Expenses	1.00	$97.23	$97.23	
					Expense	**$97.23**	
					Room/Task Total	**$7,094.86**	

13	**Council Chambers - Track Lighting for Control Room**						
13.10	WAC Lighting	HLEBK	H SERIES LIVE END CONNECTOR	1.00	$20.11	$20.11	
13.20	One Diversified	HLLEFTBK	LEFT L CONNECTOR	1.00	$28.07	$28.07	
13.30	One Diversified	HT8BK	H SERIES 8FT TRACK W/ 2 ENDCAPS	2.00	$76.38	$152.76	
13.40	One Diversified	HTK178BK	PH SERIES LINE VOLT TRACK HEAD BLK	5.00	$29.85	$149.25	
13.50	One Diversified	TBARCLIP	T-Bar Drop Ceiling Clip in Chrome	6.00	$5.62	$33.72	
13.60	One Diversified	CSO	PAR20BD-BK - BARN DOOR FOR 178 & 188 FIXTURES	5.00	$39.58	$197.90	
					Items Subtotal	**$581.81**	
	zz.Miscellaneous Materials						
13.190	Diversified	MscMaterials	Miscellaneous Materials	1.00	$0.00	$0.00	
					Items Subtotal	**$0.00**	
	Professional Services						
13.70	Diversified	Engineer	Design Engineering Services	1.00	$0.00	$684.00	
13.90	Diversified	Project Manager	Project Management Services	1.00	$0.00	$656.00	
13.140	Diversified	Project Coordinator	Project Administration/Coordination	1.00	$0.00	$480.00	
13.150	Diversified	Contractors-Project	Field Integration Manager	1.00	$0.00	$164.00	
13.160	Diversified	Contractors-	Installer Prevailing Wage	1.00	$0.00	$696.00	
					Services	**$2,680.00**	
	General & Administrative						
13.170	Diversified	Freight	Freight	1.00	$55.00	$55.00	
					G&A Subtotal	**$55.00**	
					Room/Task Total	**$3,316.81**	
17	**Mendenhall - Core System Redesign with Touch Panel and Programming Changes**						
17.10	Crestron	DM-MD16X16-CPU3	16x16 DigitalMedia Switcher	1.00	$6,842.77	$6,842.77	
17.20	QSC	CORE 110f v2	Q-SYS Core 110f v2 Network + Analog I/O Processor	1.00	$3,177.36	$3,177.36	
17.30	RDL	STD-10K	RDL Passive Audio Divider/Combiner	2.00	$71.11	$142.22	
17.40	Crestron	CP4N	4-Series Control System	1.00	$1,937.11	$1,937.11	
17.50	Crestron	DMC-4KZ-C	DigitalMedia 8G+® 4K60 4:4:4 HDR Input Card for DM® Switchers, HDBaseT® Compatible	6.00	$761.01	$4,566.06	
17.60	Crestron	DMC-4KZ-HDO	2-Channel 4K Scaling HDMI Out	2.00	$1,245.29	$2,490.58	
17.70	Crestron	DMC-4KZ-CO-HD	2-Channel DigitalMedia 8G+® 4K60 4:4:4 HDR Output Card for DM® Switchers	4.00	$944.66	$3,778.64	
17.80	Crestron	DMC-VGA	VGA/Video Input Card for DM® Switchers	2.00	$691.83	$1,383.66	
17.90	Middle Atlantic	WRK-44-32	44SP/32D MULTIBAY WRK	1.00	$1,373.21	$1,373.21	
17.100	Middle Atlantic	LVFD-44	44SP,LARGE PERF FD,UNV,BK	1.00	$467.55	$467.55	
17.110	Middle Atlantic	SPN-44-312	PR BLK 44SP SDS FOR 31-32	1.00	$657.17	$657.17	
17.120	Middle Atlantic	MW-4QFT-FC	Middle Atlantic Integrated 4 1/2" Fan Top	1.00	$656.61	$656.61	
17.130	Middle Atlantic	UPX-2000R-2	NEXSYS UPS Backup Power System, Bank Control, 8 Outlets, 2000VA, 20 Amp (No Network Card)	1.00	$1,528.31	$1,528.31	
17.140	Middle Atlantic	PDT-1615C-NS	PD THIN,1-15A,16 OUT,CORD	1.00	$158.50	$158.50	
17.150	Middle Atlantic	Misc. Rack Parts	Blanks, Shelves, Lacing Bars, ETC.	1.00	$314.47	$314.47	
17.160	Middle Atlantic	VBK-W27-W32	27/32 DP WRK VENT BLOCK K	1.00	$23.78	$23.78	
17.170	Middle Atlantic	WL-60	MAGNETIC WORK LIGHT	1.00	$79.25	$79.25	
17.180	Middle Atlantic	WRK-RR44	ADD.44SP RAIL KIT	1.00	$139.25	$139.25	
17.190	Middle Atlantic	WRK-Z4	WRK SEISMIC BRACKETS	1.00	$46.14	$46.14	
					Items Subtotal	**$29,762.64**	
	zz.Miscellaneous Materials						
17.310	Diversified	MscMaterials	Miscellaneous Materials	1.00	$4,056.20	$4,056.20	
					Items Subtotal	**$4,056.20**	

	Professional Services						
17.200	Diversified	Engineer	Design Engineering Services	1.00	$0.00	$8,208.00	
17.210	Diversified	CAD Operator	Drafting Services	1.00	$0.00	$1,824.00	
17.220	Diversified	Project Manager	Project Management Services	1.00	$0.00	$3,936.00	
17.230	Diversified	Field Engineer	Field Engineering Services	1.00	$0.00	$9,840.00	
17.240	Diversified	Programmer	Programming Services	1.00	$0.00	$14,168.00	
17.250	Diversified	Fabrication Tech	Rack Fabrication Services	1.00	$0.00	$3,296.00	
17.270	Diversified	Project Coordinator	Project Administration/Coordination	1.00	$0.00	$1,440.00	
17.280	Diversified	Contractors-	Installer Prevailing Wage	1.00	$0.00	$22,272.00	
					Services	**$64,984.00**	
	General & Administrative						
17.290	Diversified	Freight	Freight	1.00	$788.72	$788.72	
					G&A Subtotal	**$788.72**	
	Travel & Expense						
17.300	Diversified	Travel Expense Budget	Travel and Expenses	1.00	$2,111.12	$2,111.12	
					Expense	**$2,111.12**	
					Room/Task Total	**$101,702.68**	
24	**Assisted Listening Headsets**						
	Council Chambers						
24.50	Listen	LA-423-01	4-Port USB Charger	1.00	$36.99	$36.99	
					Items Subtotal	**$36.99**	
	Council Chambers						
24.20	Listen	TILR03+	Induction Loop Receiver	6.00	$237.74	$1,426.44	
					Items Subtotal	**$1,426.44**	
	Council Meeting Room						
24.10	Listen	LA-405	Universal Single Ear Buds	2.00	$14.34	$28.68	
24.30	Listen	LR-4200-IR	Intelligent DSP IR Receiver	2.00	$203.02	$406.04	
					Items Subtotal	**$434.72**	
	North and South Meeting Rooms						
24.40	Listen	TILR03+	Induction Loop Receiver	6.00	$238.24	$1,429.44	
					Items Subtotal	**$1,429.44**	
	zz.Miscellaneous Materials						
24.170	Diversified	MscMaterials	Miscellaneous Materials	1.00	$0.00	$0.00	
					Items Subtotal	**$0.00**	
	Professional Services						
24.60	Diversified	Engineer	Design Engineering Services	1.00	$0.00	$342.00	
24.80	Diversified	Project Manager	Project Management Services	1.00	$0.00	$656.00	
24.90	Diversified	Field Engineer	Field Engineering Services	1.00	$0.00	$1,312.00	
24.130	Diversified	Project Coordinator	Project Administration/Coordination	1.00	$0.00	$240.00	
24.140	Diversified	Contractors-	Installer Prevailing Wage	1.00	$0.00	$348.00	
					Services	**$2,898.00**	
	General & Administrative						
24.150	Diversified	Freight	Freight	1.00	$100.00	$100.00	
					G&A Subtotal	**$100.00**	
	Travel & Expense						
24.160	Diversified	Travel Expense Budget	Travel and Expenses	1.00	$138.89	$138.89	
					Expense	**$138.89**	
					Room/Task Total	**$6,464.48**	

26	Custom Assurance On-Site Maintenance Contract						
	Service Contracts						
26.120	Diversified	Support Contract	Assurance, Three Years On-Site Priority Service, Labor Only, Yearly Preventative Maintence Visit.	1.00	$64,000.00	$64,000.00	
					Contract(s) Subtotal	**$64,000.00**	
						Room/Task Total	**$64,000.00**

			SUMMARY			
Item	**Room/Task Unit Price**		**Room/Task Description**	**Qty**		**Extended Price**
1	$7,157.24		Council Chambers - Mitigate heat issue in equipment rack	1.00		$7,157.24
2	$36,183.57		Council Chambers - Touch Panel and Programming Changes	1.00		$36,183.57
3	$9,470.15		Council Chambers - Add 2nd Microphone at Lectern	1.00		$9,470.15
7	$22,011.50		Council Chambers - Rack cleanup, System Tuning, and additional testing	1.00		$22,011.50
11	$17,675.49		Council Chambers - Provide power control for system shut down and rebooting equipment	1.00		$17,675.49
12	$7,094.86		Council Chambers - Move recorders to above counter and add A/B Switch	1.00		$7,094.86
13	$3,316.81		Council Chambers - Track Lighting for Control Room	1.00		$3,316.81
17	$101,702.68		Mendenhall - Core System Redesign with Touch Panel and Programming Changes	1.00		$101,702.68
24	$6,464.48		Assisted Listening Headsets	1.00		$6,464.48
26	$64,000.00		Assurance, Three Years On-Site Priority Service	1.00		$64,000.00
			Estimated Tax			$7,852.26
			Grand Total			**$282,929.04**

2.2 Payment Terms

	Payment Terms
1	Customer will be billed a deposit of 50% of the Base Project Total at the time of contract signing, due in full upon signature.
2	Customer will be billed a progress payment in the amount of 40% of the Total Fee when first Equipment is delivered to Diversified staging facility or Customer site, regardless of whether Equipment is shipped in multiple installments, and due Net 30 days from invoice date.
3	The balance of the Project Total, 10%, will be invoiced at the Project Completion milestone and due Net 30 days from invoice date.
4	Taxes (if shown) are an ESTIMATE and will be added to invoices in alignment to the federal, state and local taxing authorities at the project's location.

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2.3 Pricing Exclusions

1. All prices include Sales Tax. If taxes are shown, values are based on estimates and will be billed for actual tax costs at the time of invoicing. Customers, including government, general contractors and not for profit entities seeking a tax exemption must supply Diversified with a valid exemption certificate, or direct pay permit at the time of Proposal execution, or upon issuance of a Purchase Order.
2. Costs for Permits are not included in Diversified's pricing (unless stated otherwise).
3. Payment and Performance Bonds are excluded. If Diversified is required to carry a P&P bond, Diversified's total price will increase by .86% (Diversified's current bonding rate).
4. Pricing in this Proposal is based on Diversified corporate labor rates. Diversified is not a Unionized shop; we have not utilized any collectively bargained or trades organization's rates in our workforce cost estimations. If Diversified is required to utilize a 3rd party unionized trades organization for the execution of trades related work, their costs have been included as quoted by a Unionized trade entity.
5. This Proposal was not prepared in accordance with Davis Bacon or other Prevailing Wage Scale. If Diversified is informed that such wage rates are required for this project, Diversified will revise its Proposal accordingly.
6. Unless otherwise noted in this Proposal, labor rates used to calculate this estimate are based on work being administered during business hours (Monday – Friday / 0600-1800H Local Time). A revised proposal, which includes after-hours, weekends and/or holiday labor rates, can be provided upon request.
7. Pricing in this Proposal does not include Revit BIM work, unless stated explicitly. When Revit BIM services are included, Customer will provide Revit environment background and a library of device families for the required Revit BIM work. Diversified will add only those devices specifically identified in the Revit scope of this Proposal. Diversified will provide modeling of such devices to the extent of providing spatial representation in our models for the purposes of de-conflicting trade clashes. Diversified does not include granular visual representation modeling of its proposed products for the purposes of real-life renderings, etc.
8. Returned material must be resalable, unopened in its original packaging. Any material or containers that are opened, defaced, or damaged cannot be returned to Diversified. Restocking fees may apply for returned equipment.
9. Hoists, man-lifts, extra-long ladders, special safety equipment, and the like, shall be provided by others (or by Diversified at additional cost) when required.
10. Any man-hours or fees associated with building safety program conformance including but not limited to specific parking requirements, site IDs, hard hats, safety glasses, footwear, or safety training are not known or included in Diversified's pricing. Additional costs may be incurred and will be billed to our Customer if required.
11. Unforeseen cost impacts on equipment and materials due to international trade policies (steel, copper, precious metals, and country specific policies) may incur additional cost. Diversified shall

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attempt to time purchases to minimize the impact of such pricing fluctuations. Any pricing increase beyond 2% from time of Proposal to time of purchase shall be borne by our Customer.

12. This project may be impacted by current challenges within the global supply chain, which may cause unexpected timeline delays and changes in pricing for project equipment and services. Although these matters are outside Diversified's control, Diversified will endeavor to identify supply chain issues as early as possible, keeping our customers well informed of any supply chain issue and its potential impact and mitigation. In an effort to further reduce supply chain challenges, manufacturers are redesigning products with new components that are known to be more readily available. This may cause a product's price to change, or a current model to be discontinued (made End of Life) and replaced with a new model. Product substitutions, increased product and/or shipping costs will be identified by the Diversified project team and processed as a Change Order when required.
13. For all new project equipment and materials listed in the Bill of Materials (BoM), whether upon contract execution or following final design and Bill of Materials modification, that is sourced by our Customer directly through another supplier, such as an OEM, vendor, etc., Customer will provide to Diversified a copy of the vendor quote and resultant Customer Purchase Order. This detailed data will be utilized for project logistics, warehousing and insurances against risk of loss and damage. Additionally, Diversified will be entitled to a handling and insurance fee equal to four percent (4%) of the transaction value of the Customer Furnished Equipment (CFE) and materials, excluding freight and taxes.

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3 Project Conditions

3.1 General Conditions

1. Diversified's Project Manager (PM), Project Foreman (PF) and/or Field Engineer (FE) will coordinate with the Owner, General Contractor (GC), and other contractors as necessary to ensure a smooth and successful execution of the proposed Scope of Work. To that end, the PM, PF and/or FE will be available to attend one (1) coordination and/or progress type meeting with the Owner, Architect and/or GC every two weeks, not to exceed two (2) meetings in a consecutive thirty (30) day period. Should additional meetings be required, the Owner or GC shall inform Diversified's PM of the anticipated quantity of such coordination/progress meetings at which Diversified attendance is required so a revised proposal (if pre-approval) or change order proposal (if post-approval) may be submitted to the Owner or GC for approval.
2. Proposed changes to this Proposal document and/or additional labor charges resulting from changes to the proposed Scope, responsibilities, schedules and equipment selections are subject to review and approval of Diversified prior to commencement or work.
3. Any work performed on weekends or holidays, or in excess of 40 hours per week will be subject to increased rates.

3.2 Schedule

1. Project schedule as agreed upon by Diversified and customer will establish the milestones, dates, and period of performance.
2. Project schedule will be provided within fifteen (15) days of receipt of purchase order or signed contract. This schedule includes Customer milestones, design, equipment procurement, programming, on-site work, and customer training.
3. All work will be performed during regular business hours (Monday – Friday / 0600-1800H Local Time). Any work performed on weekends or holidays, or in excess of 40 hours per week will be subject to increased rates.
4. The Baseline Project Schedule will be reviewed after receipt of Purchase Order or ratified contract (signed by Customer and counter signed by Diversified).
5. Diversified's Project Manager and Customer contact (authorized to sign off on project deliverables) will establish the detailed milestones.
6. The ability for Diversified to meet the established milestones within the Project Schedule is dependent on the supporting trades timely completion of their work according to the Project Schedule. The conditions below will impact the Project Schedule and will need to be addressed and submitted as a Change Order.
    a. Modification(s) to the list of equipment due to additional requirements of any type, from any source including, but not limited to, Addendums not listed in the Scope of Services section, other revisions or editions of documents provided during bid process, interpretation of local fire codes, and changes requested by an Authority Having Jurisdiction (AHJ).
    b. Schedule and cost impact conditions such as accelerated schedule requests, delays caused by supporting trades (i.e.: Architect, General Contractor, Electrical Contractor, Low Voltage

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Contractor, IT Services Provider, Furniture Provider, etc.), or the addition of technology systems to Diversified scope. Examples of delays caused by supporting trades include, but are not limited to, incomplete infrastructure rough-in, core network services down, Customer owned licensing of devices not procured, and incomplete furniture installation.

c. Re-engineering due to unacceptable equipment lead times.

d. Costs associated with project delays due to factors beyond Diversified's control (including construction delays discussed in (4) above), will be reviewed for impact to the project costs and timeline as they arise. Diversified 's Project Manager will review the impact on the project's scope and schedule to identify methods to mitigate additional costs wherever possible. Net additional costs may be incurred for extending the project timeline at Diversified's current standard labor rates or by additional hours (regular and overtime rates as required) to maintain the existing timeline.

e. If project award date or other established milestones are missed, all subsequent milestones will shift accordingly, maintaining current durations for each subsequent task.

7. Pricing and schedules in this Proposal are provided with the understanding that Diversified will be able to perform the stated Scope of Work in a single, continuous period of performance. Costs associated with multiple mobilizations/demobilizations may result incur additional cost.

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3.3 Readiness

1. Diversified will have access to all necessary workspaces required to facilitate installation progress. Neither Diversified, nor its subcontractors, will assume accountability for, or absorb costs associated with, delays that are the direct result of Customer scheduling, policies, procedures, personnel or denied accessibility. In event that delays, or work stoppages occur, the Owner, or Owner's designated representative, will be billed at Diversified's current labor rates for onsite personnel affected by the delay until such time as the delay is remedied and installation work is allowed to proceed.
2. All workspaces will be unobstructed, clean, and dust free by the dates shown on the official project schedule.
3. All Customer furnished equipment and services will be available, in place and functional as defined in the Project Schedule including but not limited to: physical and technical infrastructure, including IP networks WAN, LAN, cable or satellite, telephony, phones lines as well as conduit, cable tray, cabling, floor boxes, wall boxes, pockets and HVAC etc.
4. All electrical services including AC power, power outlets, UPS, J-boxes, conduits/cable pathways, grounding systems, grounding wires and grounding rods will be provided by others.
5. All necessary ceiling trim work, drywall, woodwork, millwork painting, etc., will be in place as defined in the project schedule.
6. All Customer furnished sources will be available during system commissioning and training (this includes laptops, computers, satellite/cable feeds, etc.).
7. This Proposal's Scope of Work provides proprietary information developed by Diversified for the purpose of defining this specific project. This information may not be used by the Customer or other contractors without Diversified's written consent.

3.4 Customer Responsibilities

1. Assign a single Customer Contract, authorized to sign off on all project deliverables.
2. Communicate proposed changes to any scope, assumptions, or schedule as soon as they arise and follow prescribed Change Management process expeditiously.
3. Cover costs to resolve equipment damaged from dust or other contaminants during the course of the project.
4. Provide relevant architectural changes to the facility to accommodate the integration of equipment supplied by Diversified.
5. Identify third-party contractors (i.e., electricians, construction personnel, architects, and designers) and determine the Customer coordinator.
6. Provide clean and secure installation area during project period. Customer assumes risk for loss or damage to equipment in unclean or unsecure conditions.
7. Unless otherwise specified in the proposal document, all electrical services including AC power, power outlets, UPS, J-boxes, conduits/cable pathways, grounding systems, grounding wires and grounding rods, will be installed by Customer or contractor of Customer's choice in advance of Diversified's performance. .

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8. Provide, in advance, notification of any unique project or site requirements, hazardous locations and materials, security precautions, access restrictions or other extraordinary conditions, which may affect the execution of installation tasks described herein.
9. Any necessary keys, security badges, clearance, etc. will be provided as needed for the course and duration of the project.
10. Parking will be provided within a reasonable distance of the job site.
11. Provide a “Room Ready” state prior to installation of cabling, furniture and system componentry.
12. All necessary test equipment will be allowed on site with no restrictions.
13. Appropriate Customer representatives will be available during the course of the project and any scheduled training sessions.
14. Except in instances in which the services are agreed in writing to include backup services, Customer shall be solely responsible for backing up Customer’s data and Diversified shall have no liability with regards to Customer’s data.

3.5 Diversified Responsibilities

1. Local delivery office will administer a site readiness inspection.
2. Produce weekly Project Status Reports.
3. Communicate proposed changes in writing as soon as they arise and follow prescribed Change Management process expeditiously.
4. Complete the tasks listed in this Proposal’s Scope of Work section.
5. Provide Training after completion of system installation.
6. Clean up work area at end of each day.

3.6 Entirety of Offer

1. This document, including any referenced attachments, represents Diversified and the Customer’s mutual understanding of the scope, schedule, and functionality for the systems to be designed and installed.

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3.7 Closeout

1. Final completion and warranty engagement is reached when the items listed on this document are fulfilled. This includes testing, commissioning, and training on fully-operational integrated systems. In large multi-room projects, rooms may be brought online on a pre-determined schedule in order for warranty to remain in sync.

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4 Terms and Conditions

This agreement (the "Agreement") is made as of the date of signature below by **One Diversified, LLC**, ("Diversified") and **City of Livermore**, ("Customer"). The Parties agree as follows:

1. **Diversified:** Diversified shall provide the services and/or equipment ordered by Customer in a professional and workmanlike manner and in accordance with generally accepted industry standards. As used throughout this Agreement, any services described in an accepted scope of work (a "SOW"), shall be referred to as the "Services; equipment described in an accepted SOW, shall be referred to as the "Equipment"). Diversified may provide additional services or equipment beyond those described in the SOW if the parties mutually agree in writing to such services. Services and/or equipment not specifically described in the SOW shall be the responsibility of Customer or other third parties engaged by Customer.
2. **Customer Responsibilities:** Customer shall provide Diversified with all information, surveys, reports, and professional recommendations and any other related items reasonably requested by Diversified in order to perform the Services or deliver the Equipment. When available, Customer must provide Diversified with up-to-date plans in the event they impact the Scope of Work. Diversified may rely on the accuracy and completeness of these items without any obligation of independent verification. Customer will not be responsible for obtaining or paying for necessary permits from authorities with jurisdiction over the Services and/or Equipment unless Diversified provides written notification in the SOW stating otherwise.
3. **Prevailing Terms and Conditions:** By signing this Agreement, Customer represents and acknowledges that he/she has fully read, understands, and accepts the terms of this Agreement, including the terms and conditions included herein. There are no warranties, representations or understandings of any kind or description whatsoever made by either party to the other, except such as are expressly set forth herein.
4. **Delivery, Title and Risk of Loss – System Integration Projects:** In the case of a systems integration project with prefabrication at a Diversified integration facility, title and risks of loss of or damages to any Equipment and Products will pass to Customer upon Diversified's delivery of them to the Customer's place of business. In the event the Customer provides delivery services from Diversified's integration facility via their own chosen freight carrier, title and risk of loss and/or damage will pass F.O.B. point of shipment to Customer. All claims for damage or loss of Equipment and Products must be made directly to the Customer's freight carrier.
5. **Delivery, Title and Risk of Loss – Drop Shipments:** In the case of drop shipments, delivery dates are approximate and are based upon prompt receipt of all necessary information from Customer. Unless otherwise specified by Diversified or provided for in other signed agreements, delivery will be made and title and risks of loss and/or damage will pass F.O.B. point of shipment to Customer. All claims for damage or loss of Products must be made directly to the freight carrier.
6. **Taxes**: Taxes (if shown) are based on estimates and will be billed at actual at the time of invoicing. Customers, including government, general contractors and not for profit entities seeking a tax exemption must supply Diversified with a valid exemption certificate or direct pay permit at the time of proposal execution or upon issuance of a purchase order.

7. **Estimated Schedule and Delivery Time:** Diversified shall use commercially reasonable efforts to render the Services and/or Equipment in accordance with any committed timetable set forth in the SOW. During the course of providing the Services and/or Equipment, events outside the reasonable control of Diversified (collectively, "Force Majeure Events") may impact the completion schedule and Diversified shall not be held responsible for any such delays in meeting the completion schedule, failure to deliver or perform as a result of any delays resulting from any such occurrence. As used in this Agreement, Force Majeure Events include but are not limited to (i) any cause beyond Diversified's reasonable control, (ii) an act of God, act of Customer, act of civil or military authority, Governmental priority, strike or other labor disturbance, flood, epidemic, war, riot, delay in transportation or car shortage, or (iii) inability on account of a cause beyond the reasonable control of Diversified to obtain necessary materials, components, services or facilities. Diversified will notify Purchaser promptly of any material delay excused by this clause and will specify the revised delivery date as soon as practicable. Delays or movement in scheduled dependent predecessor tasks will not change the required minimum time for Diversified to complete their associated task/work. Diversified shall notify Customer of any such delays within 48 hours.
8. **Fees and Payment:** Customer shall pay Diversified the fees for Services and/or Equipment (the "Total Fee") set forth on the invoice consistent with the payment term provisions set forth above. All payments are due to Diversified upon receipt of the invoice, unless otherwise specified. Payments more than 30 days past due will accrue interest at the lesser of 1.5% per month, or the maximum rate permitted by applicable law. Customer shall reimburse Diversified for all reasonable costs and expenses of collection, including attorneys' fees.
9. **Labor and Equipment Price Increases:** Equipment, Material, and Labor costs have been calculated based on the current prices for labor, equipment, and the component materials, however, the market for electronic equipment and materials is considered to be volatile, labor shortages are possible, and sudden price increases may occur. When the price for any item of materials, equipment, or labor increases two percent (2%) or more between the Proposal or Quotation Date and the materials/equipment purchase date or the date labor is utilized for the relevant project, Customer shall pay to Diversified on request, all sums by which the cost to Diversified has increased beyond 2%, as demonstrated by Diversified. Where the delivery of equipment, materials, and/or the performance of labor are delayed or labor shortages occur, through no fault of Diversified, as a result of the shortage or unavailability of the equipment, materials, or labor, Diversified shall not be liable for any additional costs or damages associated with such delay(s).
10. **Standard Payment Terms:** Unless Payment Terms are specified elsewhere in this Proposal, Diversified's Standard Payment Terms will apply.

Payment Line Item	Bill/Invoice Value	Payment Due Date
Equipment-Only Sales	100% of Total Fee	Due upon delivery of Equipment to Customer or Diversified staging facility.
	Customer will be billed for Equipment as it is delivered to Diversified staging facility or Customer. If Equipment is shipped in installments, Customer will receive multiple invoices. All equipment invoices are due in full upon receipt.	

Project-Related Sales		
Deposit	50% of Total Fee	Due upon contract signing.
Progress Payment	40% of Total Fee	Due Net-30 days of invoice date.
Final Payment	Balance / 10% of Total Fee	Due Net-30 days of invoice date.

Customer will be billed a deposit of 50% of Total Fee at the time of contract signing, due in full upon receipt. Customer will be billed a progress payment in the amount of 40% of the Total Fee when any Equipment is delivered to Customer or Diversified staging facility regardless of whether Equipment is shipped in multiple installments; this invoice is due in full within thirty days of the invoice date. The balance of the Total Fee will be billed after Project completion and due in full within thirty days of the invoice date.

11. **Approval of Orders:** This Agreement and all SOWs for Services or Equipment under this Agreement are subject to acceptance by Diversified including, if appropriate, approval by Diversified Credit Department. Upon request, Customer will furnish Diversified such financial information as Diversified may reasonably request for this approval. Diversified may, in its sole discretion, cancel this Agreement at any time if Customer fails to meet credit requirements established by Diversified.

12. **Confidentiality:** During the course of this Agreement, each party, its employees, subcontractors, officers and agents may receive or have access to Confidential Information of the other party (each, a "Receiving Party" when the recipient of Confidential Information, and a "Disclosing Party" when the discloser of Confidential Information). In the event the Receiving Party obtains Confidential Information from the Disclosing Party, the Receiving Party agrees to keep such Confidential Information in the strictest confidence and safeguard such information using the same degree of care as it uses to safeguard its own Confidential Information, which in no case shall be less than a reasonable degree of care. Each party's Confidential Information consists of its business plans and customer lists, any information the Disclosing Party identifies as confidential at the time of disclosure (or if in writing the Disclosing Party marks as Confidential), and any information a reasonable person would consider confidential under the circumstances.

    a. **Mutual Obligations**: The Receiving Party shall (i) not use the Disclosing Party's Confidential Information for any purpose other than the exclusive purpose of fulfilling its obligations under this Agreement; (ii) not use, disclose or otherwise make available to any person or entity (except as permitted herein) any of the Disclosing Party's Confidential Information during the term of this Agreement or thereafter without the prior written consent of the Disclosing Party. (iii) limit access to Confidential Information to those employees, officers, subcontractors and agents on a need-to-know basis who has first executed a general written agreement committing such person to conduct that would not violate its obligations pursuant to this Agreement; (iv) be responsible for any breach of this Agreement by employees, subcontractors, officers and agents.

    b. **Exceptions:** Confidential Information will not include information to the extent that: (a) such information is or becomes publicly available other than through any act or omission of either party in breach of this Agreement; (b) such information was received by the Receiving Party from a third party, which third party had no obligation of confidentiality to the Disclosing Party; or (c) such

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information was in the possession of the Receiving Party at the time of the disclosure, or (d) was independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information; (e) such information is/are required to be disclosed pursuant law, judicial order, or government regulation, provided that, in the event the Receiving Party becomes legally compelled to disclose any of the information, the Receiving Party shall provide to Disclosing Party prompt notice thereof so that Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement.

13. **Termination / Suspension of Contract:** Either party may terminate this Agreement at any time upon not less than 30 days prior written notice to the other party. Customer shall pay Diversified for all Services rendered and Equipment delivered up to the effective date of termination plus any associated restocking fees for materials that cannot be returned for credit. Diversified is not required to release any work product unless Customer has made payment in full for the respective Services and/or Equipment. Diversified may terminate this Agreement or suspend the performance of the Services if Customer fails to pay Diversified any invoice issued pursuant hereto. Diversified shall have no liability to Customer or any third party as a result of any such suspension or termination.

14. **Independent Contractors; No Agency:** Each party is and shall act solely as an independent contractor. Nothing in this Agreement shall be construed to give either party the power or authority to act for, bind, or commit the other party in any way, or, to create the relationship of partners, principal and agent, or joint-venture partners between the parties.

15. **Indemnification:** Customer shall indemnify, defend and hold Diversified its officers, directors, employees and agents harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including, but not limited to, reasonable attorneys' fees and other expenses and fees incurred through appeal, and interest thereon, accruing or resulting to any and all persons, firms or any other legal entities on account of any damages or losses, including injuries or death, or economic losses, arising out of the Services; provided, however, Customer shall not be required to indemnify Diversified for claims where Diversified, its officers, directors, employees or agents are found to be solely responsible by final non-appealable judicial decision for such damages or losses based upon such entity's or person's willful misconduct or gross negligence.

16. **Warranty; Limitation of Liability:** Except as specifically set forth in LIMITED WARRANTY, Diversified makes no warranties whether express, implied or statutory, regarding the services and/or equipment provided under this agreement. to the greatest extent permitted by law, diversified specifically disclaims all implied warranties of merchantability, fitness for a particular purpose, and those arising from a course of dealing, usage or trade practice. Diversified shall not be liable for any indirect, punitive, special, incidental or consequential damages arising out of this agreement.

17. **Governing Law**: This Agreement shall be governed by and construed in accordance with the laws of the state of Georgia without regard to its conflict of laws provisions. Any legal action or proceeding relating to this Agreement shall be instituted in any state or federal court in Atlanta, Georgia, and the parties agree to submit to the jurisdiction of, and agree venue is proper in, the aforesaid courts in any such legal action or proceeding.

18. **Dispute Resolution:** In case of any dispute arising or related to this Agreement, Diversified and Customer, by mutual agreement, shall first attempt to resolve any dispute informally through mediation.

Mediation: Diversified and Customer shall submit the dispute to executives selected by each party (a maximum of two persons for each party). These executives shall meet as often as necessary to gather and analyze information relevant to resolving the dispute and shall negotiate in good faith. All proposals and information exchanged as well as discussions during this informal process will be considered settlement discussions and proposals and will be inadmissible in any subsequent proceedings. If no settlement is reached in the informal dispute discussions, either party may, within thirty (30) days from the date of a written communication that the informal dispute process was unsuccessful, give notice to the other party that the noticing party wishes to pursue formal mediation throughout arbitration.

Arbitration: In the event that the parties cannot amicably resolve a dispute or damage claim through mediation, the parties agree to resolve any such dispute or damage claim by arbitration. The arbitration proceeding shall be conducted in Atlanta, Georgia, in accordance with the rules of the American Arbitration Association then in effect with one (1) arbitrator to be selected by mutual agreement of the parties. If the parties cannot agree on an arbitrator, then the American Arbitration Association shall select an arbitrator from the National Panel of Arbitrators. The laws of the State of Georgia shall apply to the arbitration proceedings. The parties agree to initially split the costs of any arbitration, but the prevailing party, if any, is entitled to reimbursement for its portion of the arbitration fees. The parties agree that the arbitrator cannot award punitive damages to either party. The parties agree that such arbitration is fully binding and agree to be so bound by the arbitrator's findings. Judgment upon the award as rendered by the arbitrator may be entered in any court having jurisdiction.

19. **Assignment:** Neither party may assign this Agreement without the prior written consent of the other, though such consent shall not be unreasonably withheld. Nothing in this Agreement shall create a contractual relationship for the benefit of any third party.

20. **Notice:** Any notices required or permitted under this Agreement or required by law must be in writing and must be either: (i) delivered in person; (ii) sent by registered mail, return receipt requested; (iii) sent by overnight courier, (iv) or sent by facsimile, each case forwarded to the appropriate address set forth below.

If to Diversified:

Name:

Title:

Address:

Email:

Ofc: (_____) _____-_____ Fax: (_____) _____-_____

If to Customer:

Name:

Title:

Address:

Email:

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Ofc: (_____) _____-_____ Fax: (_____) _____-_____

21. **Non-Solicitation of Employees:** Customer agrees that during the provision of any Services as provided by Diversified under this Agreement and for a period of one (1) year after the termination of this Agreement, Customer will not solicit or induce, directly or by use of a third party, any employee of Diversified leave his/her employ with Diversified. If Customer violates this provision, Customer shall pay Diversified a fee equal to fifty (50%) of such employee's then-current salary at Diversified.
22. **Miscellaneous:** This Agreement is the entire and integrated agreement between Customer and Diversified with respect to the subject matter herein and supersedes all prior negotiations, statements or agreements, either written or oral. The parties may amend this Agreement only by a written instrument signed by authorized representatives of both Customer and Diversified. If any term or provision of this Agreement is found to be unenforceable or invalid for any reason, the remainder of this Agreement shall continue in full force and effect, and the parties agree that any unenforceable or invalid term or provision shall be amended to the minimum extent required to make such term or provision enforceable and valid. This Agreement may be executed in one or more counterparts, including facsimile, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument.

4.1 Diversified Limited Warranty

1. In addition to any other rights you may have, Diversified shall extend a one year (365 calendar days) limited defective equipment and workmanship warranty from the date of substantial or practical completion of the system installation or beneficial use of the system by the Customer whichever is first occurring, unless such period has been superseded by the purchase of a Diversified Service Agreement Package. Details describing our Service Agreement options are outlined in a separate document. Diversified's limited warranty shall cover defective equipment and defects in workmanship for installation work relating to but not limited to cabling, connectors, structural elements, mountings, equipment rack wiring and internal adjustments. Under the limited warranty, labor services will be provided at no charge. Defects in third party manufacturer equipment and/or installation or other services provided by the manufacturer are covered under the manufacturer's warranty and will be managed by Diversified during the limited warranty period. Product serial numbers must not be removed.
2. Diversified's limited warranty excludes coverage due to equipment or system abuse, neglect, alteration, lamps and bulbs, misuse including but not limited to: operating outside of environmental, user error, electrical, temperature or humidity specifications, system alterations neither approved nor performed by Diversified or repair by a service facility other than those authorized by the manufacturer. If within the limited warranty period, we are contacted with a support request that falls under this limited warranty exclusion, time, travel and equipment for this and any subsequent visit required will be billed at our current labor Time & Material rates
3. All service support requests made after the expiration date of the limited warranty will be billed at our current labor Time & Material rates.
4. If a warranty in excess of 90 days is required by law in the country, state or local jurisdiction of system installation, Diversified shall extend the minimum warranty term required by applicable law. To the extent permitted by applicable law, any implied warranties, guarantees, terms or conditions,

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replacement components last only during the term of the limited warranty. Some local jurisdictions, states or countries may not allow limitations on how long an implied warranty, guarantee, term or condition lasts, so this limitation may not apply.

5. Diversified's limited warranty gives specific legal rights, and you may also have other rights which vary from state to state. You may also have other rights which vary from country to country.
6. If any provision of Diversified's limited warranty is legally invalid, the limited warranty shall endure except for the invalid provision. However, if a court determines that any provision is invalid, the court may limit the provision, delete specific words or phrases, or replace the invalid provision with one that is valid and that comes closest to expressing the intent of the invalid provision.
7. TO THE EXTENT PERMITTED BY APPLICABLE LAW, DIVERSIFED SHALL NOT BE HELD LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING FROM A BREACH OF WARRANTY. SPECIFICALLY, DIVERSIFIED IS NOT RESPONSIBLE FOR ANY COSTS SUCH AS LOSS OF PROFITS OR REVENUE, LOSS OF DATA, BUSINESS DAMAGE OR OTHERWISE. SOME LOCAL JURISDICTIONS, STATES OR COUNTRIES MAY NOT ALLOW A LIMITATION ON SUCH DAMAGES, SO THIS LIMITATION MAY NOT APPLY.

Warranty Service Process

1. All new equipment provided by Diversified includes each manufacturer's full warranty from the date of Customer invoice. Diversified shall address all manufacturer warranty requirements as "Depot" (Return-to-Base / RTB) service only. Under Depot service, Customer ships equipment to an authorized factory warranty repair center. Diversified will act as liaison between Customer and manufacturer and assist with Return Materials Authorization (RMA) logistics support. Labor relating to defective equipment is covered for 365 days under this limited warranty and can be extended through the execution of a Service Level Agreement. All other time, travel and equipment for this and any subsequent visit required will be billed at our current labor Time & Material rates
2. Diversified shall respond to warranty support requests (via phone, email or on-site) during the normal working hours of 8a – 5p local (Customer site) time Monday - Friday, except recognized holidays. Service required outside of normal working hours shall be billed at current labor Time & Material rates for overtime work. Diversified will make every effort to address such issues within 72 hours after notification.
3. Upon arrival for warranty support, Diversified will expect access to the system and equipment. To avoid additional charges, please contact us 24 hours in advance if delays in access are to be expected. If our Technician arrives to a scheduled appointment and cannot gain access to the system or equipment to affect a proper diagnosis or repair, we will bill the service call for time, travel and equipment for this and any subsequent visit required at our current Time & Material rates.
4. If it is required that equipment be removed for repair, we will make every attempt to minimize the impact on the system operation while the unit is being repaired. However, it is not possible to guarantee any level of system operation. Loaner equipment is not included in our limited warranty or Service Agreements.

Service Level Agreement

In addition to the Limited Warranty described above, Diversified has included one year of our standard Assurance Service and Support. Standard Assurance Service and Support includes the following:

Service Offering Details				Service Type	
Service Offering	**Solutions**	**Solution Description**	**Capabilities**	**Standard**	**Optional**
Assurance	Remote Support	The Remote Support Solution represents our capabilities to remotely access and troubleshoot warranty audio and video equipment upon receiving an incident ticket from an end user. This process is possible through our highly trained tier 1(service desk), tier 2, and tier 3 representatives. This can include accessing a video conferencing system over the internet via remote network access or partner-specific portal to diagnose and fix issues or remotely adjusting settings on a microphone or other audio equipment. Remote support allows for quick and convenient problem resolution without needing a technician to be physically present.	Level 1 Support	✓	·
			Level 2 Support	✓	·
			Level 3 Support	✓	·
			Warranty Equipment Support	✓	·
			Non Warranty Equipment Support	·	✓
	Assurance - Onsite Support	Onsite support for audio and video solutions refers to technical support at the customer's location. When an issue cannot be resolved remotely and requires physical presence for further troubleshooting and resolution, an Onsite support solution is available to provide technical support, troubleshooting, and maintenance services at the customer's location.	Field Tech Dispatch	✓	·
			Filed engineer Level 2 Support	✓	·
			Filed engineer Level 3 Support	✓	·
	Assurance - Preventative Maintenance	Preventative maintenance involves inspecting and servicing the equipment periodically to ensure it functions correctly and prevents future breakdowns. This can include checking an tightening connections, updating the firmware (fix on the fail basis or critical security patches), and replacement of equipment & device that are in warranty.	PMV Visit and reporting	·	✓
	Assurance - Governance		Standard reporting	✓	·
			Custom Reporting	·	✓
			Leveraged Model	✓	·
			Dedicated Model	·	✓
			SLA – Response	✓	·
			SLA - Resolution	·	✓

			Customer ITSM	·	✓
			Diversified ITSM	✓	·
			Customer success Manager	✓	·

Diversified shall make a good faith effort to perform Assurance Services according to the standard service targets defined below:

Service Desk – Calls

Service Measure	Metric Description	Performance Target	Target	Measurement Window
Average speed to answer	The number of calls the Service Desk level 1 agents answers within 15 minutes is divided by the total number of answered calls.	<15 Minutes	**95%**	24/7/365

Service Desk – E-mail

Response Time				
Service Measure	Metric Description	Performance Target	Target	Measurement Window
E-mail response time	The number of e-mails a Service Desk agent responds to Customer e-mail within 4 hours is divided by the total number of e-mails received.	4 Hours	**90%**	24/7/365

Onsite Field Services

Diversified shall perform Onsite Services in accordance with the following standard service targets:

- Response time: Diversified will respond to onsite visits within 48 hours of receiving a request, provided that remote troubleshooting has been completed and a technician has been assigned to the job.
- Quality of service: Diversified will ensure that all Assurance Onsite Services are performed with due care, skill, and diligence in accordance with applicable industry standards and best practices.

The 48-hour SLA clock will start once remote troubleshooting is completed and a technician is assigned to the job.

Response Time				
Service Measure	Metric Description	Performance Target	Target	Measurement Window

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Onsite Response Visit	The number of tickets that had a technician onsite within 48 business hours vs. the total number of tickets that required onsite technician support	48 Hours	**95%**	Business Days/Hours Only

Preventative Maintenance

Diversified shall perform preventative maintenance visits based on the agreed timing and frequency determined by the Client and Diversified as outlined in this agreement.

This agreement includes one scheduled Preventive Maintenance visit per agreement term for each covered location/room. The preventative maintenance visits shall be scheduled at mutually agreeable times and dates.

Service Level Exclusions

Following deliverables/requirements are explicitly excluded from the Assurance element of this offer.

- Diversified shall not be liable for any service level breaches arising from any events beyond their reasonable control, including but not limited to natural disasters, civil unrest, strikes, and government regulations.
- If the Diversified Onsite technician is unable to access the site due to circumstances outside of its control, including but not limited to restrictions on access, denial of entry, or any other similar cause, the SLA clock shall be stopped until access to the site is restored.
- In the event that safety issues arise while accessing the site or equipment, the SLA clock shall stop. Once the safety issue has been resolved and it is safe to resume work, the SLA clock will begin again.
- If Diversified is unable to perform the services due to the customer not being available at the site, the SLA clock shall stop until such time as the customer is available. Diversified shall make reasonable efforts to schedule the services at a mutually agreed-upon time with the customer, and any delays caused by the customer's unavailability shall not be counted towards the SLA metrics.
- If a device or site is not covered under warranty, the service levels provided under this Agreement shall not apply to such device or site. Instead, the Diversified shall provide a service on a reasonable effort basis, taking into account the availability of resources and the nature of the issue. The parties shall work together to develop a mutually agreeable service plan for the device or site that is not covered under warranty, which shall include a description of the services to be provided and the associated fees if any.
- Diversified shall not be responsible for any damage arising out of or related to the provision of services for devices or sites that are not covered under warranty.

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5 Proposal Acceptance

Please review this Proposal for accuracy and if you agree, please sign below and return a copy to Diversified, keeping a copy for your records.

For City of Livermore	For Diversified
Authorized Signature	Authorized Signature
Printed Name	Printed name
Date	Date
Email Address	

Purchase Order Payment	
Purchase Order No.	AP/Billing Contact
Delivery Site Address	AP/Billing Contact Email
Billing Address	AP/Billing Contact Phone

ACH / Wire Instructions	Remittance Address
Please contact Diversified's Treasury Dept at 888.727.6274 to confirm bank account information. Account #: 3666013 Domestic ACH / Wires Routing: 071000288 Int'l Wires SWIFT Code (BIC): HATRUS44	**Lock Box Address** One Diversified, LLC Lockbox, PO Box 95330,Chicago, Illinois 60694-5330 **Overnight To** Conduent c/o BMO Harris LBX 95330 141 W. Jackson Blvd, Suite 1000 Chicago, Illinois 60604

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One Diversified LLC
37 Market St., Kenilworth, NJ 07033

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The entire content of this document is the intellectual property of Diversified. Please do not distribute or reproduce without our expressed written consent. The exception is that you may make copies of this document and distribute them to members of your staff charged with evaluation of our solution.

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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:
   $1,000,000 per occurrence/**$2,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability".
4. Professional Liability/Errors and Omissions:
   $1,000,000 per claim. Consultant/Contractor warrants that any retroactive date under this policy shall precede the effective date of this contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two years beginning at the time work under this contract is completed.

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated

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volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant/Contractor; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.

2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

Consultant/Contractor shall furnish certificates of insurance and endorsement(s) effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements are to be received and approved by the City of Livermore before work commences. The City of Livermore reserves the right to require complete and certified copies of all insurance policies required by this Agreement.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.10**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Resolution authorizing the execution of a purchase order with CDW-G for hardware and remote installation services in an amount not-to-exceed $267,000 to replace the Police Department's and Library's primary data storage systems.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a purchase order with CDW-G in an amount not-to-exceed $267,000 for a hardware and remote installation services purchase to replace the Police Department's and Library's primary data storage systems.

SUMMARY

The Police Department's and Library's primary data storage systems have reached the end of their useful lives and will no longer be supported by the manufacturer. It is an essential information technology infrastructure component that will be upgraded to a Pure Storage platform.

City staff selected CDW-G to provide the Pure Storage hardware and services through the OMNIA Partners (OMNIA) statewide agreement. The OMNIA agreement is a competitively bid contract that meets the City's purchasing guidelines. OMNIA agreement prices are pre-negotiated and require providers to match or beat the listed pricing for hardware or installation services.

DISCUSSION

The Police Department's and Library's primary data storage systems are at the end of their useful life and are no longer supported by the vendor. Additionally, those systems are based on older technology that relies on physical (electromechanical) hard drives. While this was the standard design in the past, newer solutions rely on a much faster technology using solid-state storage. This type of storage has no moving parts, generates very little heat, and can operate up to 10 times faster than physical hard drives.

The Police Department's and Library's primary data storage systems host most of the Police Department's and Library's file and application servers. By updating the speed and capability of the

underlying storage system, every server will receive an instantaneous upgrade with no additional cost or staff time needed beyond this project.

CDW-G is a reseller of technology solutions. As most hardware vendors do not sell directly to the end-user, the City engages with resellers who commit to using the City's preferred purchasing contracts such as OMNIA. In this case, the vendor provides pricing per the published OMNIA state contract price schedule already accepted by the City's purchasing policy. As such, staff recommends purchasing the Pure Storage's storage array from CDW-G.

After reviewing several options, City staff selected Pure Storage to upgrade the existing storage array. These options included upgrading to a newer version of the current vendor's platform and reviewing other solid-state array vendor offerings. The differences in cost were minimal, so City staff based their decision on the following factors:

- Performance ratings available on the vendor's website.
- Performance comparisons of solid-state versus electromechanical technologies.
- The rating received by the Gartner Magic Quadrant report for primary storage.

FISCAL AND ADMINISTRATIVE IMPACT

The not-to-exceed amount for procurement and deployment of the Police Department's and Library's primary data storage system is $267,000, which includes 36 months of maintenance for both systems.

All costs associated with the proposed contract are included in the current Information Technology Division's budget. Pure Storage includes installation, migration, and ongoing support as part of the City's maintenance fee.

Staff expects to reduce the total cost of ownership of the Police Department's and Library's primary data storage systems and future upgrade costs due to the Evergreen Program, which automatically refreshes the hardware and storage devices as they age at no additional cost to the City. After year three, ongoing costs are expected to be approximately $34,500 per year for both systems. This will significantly reduce the total cost of ownership as there will be no need for a complete replacement of the system in the future, and the hardware will not remain in the City beyond its useful life.

COMMUNITY PILLAR

5: A City That Works

GOAL

11: Modernize key business systems and processes to increase efficiency and improve transparency.

ATTACHMENTS

1. CDW-G Quotes
2. Resolution

Prepared by: Steve Rodriguez
Assistant Administrative Services Director

Approved by:



Marianna Marysheva
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

Thank you for choosing CDW. We have received your quote.

QUOTE CONFIRMATION

STEVE RODRIGUEZ,

Thank you for considering CDW•G for your technology needs. The details of your quote are below. **If you are an eProcurement or single sign on customer, please log into your system to access the CDW site.** You can search for your quote to retrieve and transfer back into your system for processing.

For all other customers, click below to convert your quote to an order.

Convert Quote to Order

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
NTCS451	2/19/2024	PURE PD - 45TB	2596246	$142,690.04

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Pure Storage X20R4 Fiber Channel 45TB Flash Array Mfg. Part#: FA-X20R4-FC-45TB-10X4.5TB CONTRACT: National IPA/OMNIA Technology Solutions # 2018011-01	1	7493846	$73,737.00	$73,737.00
PURE 1MO EVERGREEN FOREVER SUB Mfg. Part#: FA-X20R4-45TB, 1MO,PRM,FVR CONTRACT: National IPA/OMNIA Technology Solutions # 2018011-01	36	7493848	$1,650.00	$59,400.00
PURE STORAGE FLASH ARRAY INSTALL SVC Mfg. Part#: PS-FLASHARRAY-REMOTE-INSTALL CONTRACT: National IPA/OMNIA Technology Solutions # 2018011-01 Electronic distribution - NO MEDIA	1	6122627	$1,995.00	$1,995.00

SUBTOTAL	$135,132.00
SHIPPING	$0.00
SALES TAX	$7,558.04
GRAND TOTAL	**$142,690.04**

PURCHASER BILLING INFO	DELIVER TO
Billing Address: CITY OF LIVERMORE PURCHASING DIVISION/ACCTS PAYABLE 1052 S LIVERMORE AVE LIVERMORE, CA 94550-4899 **Phone:** (925) 960-4343 **Payment Terms:** Net 30 Days-Govt State/Local	**Shipping Address:** CITY OF LIVERMORE STEVE RODRIGUEZ 1052 S LIVERMORE AVE LIVERMORE, CA 94550-4899 **Phone:** (925) 960-4343 **Shipping Method:** DROP SHIP-COMMON CARRIER
	Please remit payments to:

Thank you for choosing CDW. We have received your quote.

QUOTE CONFIRMATION

STEVE RODRIGUEZ,

Thank you for considering CDW•G for your technology needs. The details of your quote are below. **If you are an eProcurement or single sign on customer, please log into your system to access the CDW site.** You can search for your quote to retrieve and transfer back into your system for processing.

For all other customers, click below to convert your quote to an order.

Convert Quote to Order

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
NTCS570	2/19/2024	PURE LIBRARY - 22TB (NEW)	2596246	$99,979.69

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Pure Storage X20R4 22TB Flash Array Mfg. Part#: FA-X20R4-FC-22TB-10X2.2TB CONTRACT: National IPA/OMNIA Technology Solutions # 2018011-01	1	7497762	$48,875.00	$48,875.00
Pure Storage Evergreen Forever Subscription - extended service agreement - Mfg. Part#: FA-X20R4-22TB, 1MO,PRM,FVR CONTRACT: National IPA/OMNIA Technology Solutions # 2018011-01 Electronic distribution - NO MEDIA	36	7498011	$1,225.00	$44,100.00
PURE STORAGE FLASH ARRAY INSTALL SVC Mfg. Part#: PS-FLASHARRAY-REMOTE-INSTALL CONTRACT: National IPA/OMNIA Technology Solutions # 2018011-01 Electronic distribution - NO MEDIA	1	6122627	$1,995.00	$1,995.00

SUBTOTAL	$94,970.00
SHIPPING	$0.00
SALES TAX	$5,009.69
GRAND TOTAL	**$99,979.69**

PURCHASER BILLING INFO	DELIVER TO
Billing Address: CITY OF LIVERMORE PURCHASING DIVISION/ACCTS PAYABLE 1052 S LIVERMORE AVE LIVERMORE, CA 94550-4899 **Phone:** (925) 960-4343 **Payment Terms:** Net 30 Days-Govt State/Local	**Shipping Address:** CITY OF LIVERMORE STEVE RODRIGUEZ 1052 S LIVERMORE AVE LIVERMORE, CA 94550-4899 **Phone:** (925) 960-4343 **Shipping Method:** DROP SHIP-COMMON CARRIER

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE EXECUTION OF A PURCHASE ORDER WITH CDW-G FOR HARDWARE AND REMOTE INSTALLATION SERVICES IN AN AMOUNT NOT-TO-EXCEED $267,000 TO REPLACE THE POLICE DEPARTMENT'S AND LIBRARY'S PRIMARY DATA STORAGE SYSTEMS

The Police Department's and Library's primary data storage systems are at the end of their useful life and are no longer supported by the vendor. Additionally, those systems are based on older technology that relies on physical (electromechanical) hard drives. While this was the standard design in the past, newer solutions rely on a much faster technology using solid-state storage. This type of storage has no moving parts, generates very little heat, and can operate up to 10 times faster than physical hard drives.

The Police Department's and Library's primary data storage systems host most of the Police Department's and Library's file and application servers. By updating the speed and capability of the underlying storage system, every server will receive an instantaneous upgrade with no additional cost or staff time needed beyond this project.

City staff selected CDW-G to provide the Pure Storage hardware and services through the OMNIA Partners (OMNIA) statewide agreement. The OMNIA agreement is a competitively bid contract that meets the City's purchasing guidelines. OMNIA agreement prices are pre-negotiated and require providers to match or beat the listed pricing for hardware or installation services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes the City Manager to execute a purchase order with CDW-G in an amount not-to-exceed $267,000.

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

RESOLUTION NO. _____

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.11**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Judy Erlandson, Acting Public Works Director

SUBJECT: Resolution authorizing execution of a purchase order with 72 Hour LLC DBA National Auto Fleet Group, for six Ford F150 All-Wheel Drive Electric Vehicle (AWD EV) Lightning pickup trucks in an amount not-to-exceed of $451,117.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a purchase order with National Auto Fleet Group in an amount not-to-exceed $451,117 for six 2024 Ford F150 AWD EV Lightning pickup trucks.

SUMMARY

The City of Livermore's Fleet Policy and the 25-year Fleet Replacement Plan recommend it is time to replace five existing pickups for the Street, Fleet, Water Resources and Landscape Divisions. The five vehicles have reached the end of their 15-year replacement cycle and staff is purchasing an additional vehicle for the restored Public Works Supervisor position. Staff has determined that the unit that best meets the needs to serve Public Works Maintenance Division and the Water Resources Division is the 2024 Ford F150 AWD EV Lightning Pickup Truck. National Auto Fleet Group in Watsonville, CA is the local Sourcewell contractor and the awarded vendor for Sourcewell contract #091521-NAF.

DISCUSSION

The City of Livermore's Fleet Policy guideline recommends replacing pickup trucks after 15 years of use or 100,000 miles. Staff has identified five assets to retire and replace with the Ford F150 AWD EV Lightning pickup truck that will meet the operational needs and fit the criteria specified by the City of Livermore Water Resources and Maintenance Divisions. Staff is purchasing an additional vehicle for the restored Public Works Supervisor position.

By replacing the internal combustion engine vehicles with electric vehicles, staff is following the California Air Resources Board guideline of 50% of all new medium and heavy-duty purchases must meet zero emission standard for 2024 under the Advances Clean Fleets regulation. The City is going in the direction of the California Air Resources regulation that states all new vehicle purchases must meet

zero emission standards by 2027. The purchase of these new trucks will help the City comply with these regulations. The new trucks will be utilized in multiple divisions of Public Works by staff in all areas of the City. The purchase of these trucks through a cooperative purchasing agreement will expedite the delivery of the vehicles.

Livermore Municipal Code (LMC) Section 2.68.370 requires competitive bidding for services and supplies exceeding $50,000. However, LMC Section 2.68.390 allows for procurement to be completed without individual bidding when done so through a cooperative purchasing arrangement. This alternate procedure is allowed regardless of whether the City is a named party to the agreement or an actual participant in such a program. The proposed procurement of these replacement pickup trucks uses the Sourcewell public procurement collective. Staff recommends purchasing these Ford F150 AWD EV Lightening pickup trucks utilizing Sourcewell Acceptance and Award contract #091521-NAF.

FISCAL AND ADMINISTRATIVE IMPACTS

The replacement purchase cost of $415,117 for these six Ford F150 EV Pickup Trucks is included in the FY 2023-24 Fleet Internal Service Fund's budget and is identified in the Fleet Master 25-year Replacement plan.

COMMUNITY PILLAR

1: A City That Works

GOAL

14: Develop, operate, and maintain the City's infrastructure.

ATTACHMENTS

1. Sourcewell Contract 091521-NAF
2. National Auto Fleet Group Quotation
3. Resolution

Prepared by: Scott Kooreman
Public Works Supervisor

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

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Solicitation Number: RFP #091521

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and 72 Hour LLC dba: National Auto Fleet Group, 490 Auto Center Drive, Watsonville, CA 95076 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Automobiles, SUVs, Vans, and Light Trucks with Related Equipment and Accessories from which Supplier was awarded a contract.

Supplier desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

A. EFFECTIVE DATE. This Contract is effective upon the date of the final signature below.

B. EXPIRATION DATE AND EXTENSION. This Contract expires November 8, 2025, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended one additional year upon the request of Sourcewell and written agreement by Supplier.

C. SURVIVAL OF TERMS. Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All rights will cease upon expiration or termination of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

A. EQUIPMENT, PRODUCTS, OR SERVICES. Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above.

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Supplier's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new and the current model. Supplier may offer close-out or refurbished Equipment or Products if they are clearly indicated in Supplier's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. WARRANTY. Supplier warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Supplier warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Supplier's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that extends beyond the expiration of the Supplier's warranty will be passed on to the Participating Entity.

C. DEALERS, DISTRIBUTORS, AND/OR RESELLERS. Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcewell receives the most current information.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced at or below the price stated in Supplier's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. SHIPPING AND SHIPPING COSTS. All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Supplier must permit the Equipment and Products to be

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returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

Supplier must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

B. SALES TAX. Each Participating Entity is responsible for supplying the Supplier with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Supplier may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Supplier determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Supplier may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Supplier Development Administrator. This approved form is available from the assigned Sourcewell Supplier Development Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;

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- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Change Request Form will become an amendment to this Contract and will be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Supplier understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier or its authorized subsidiary, distributor, dealer, or reseller. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell

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contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum; the terms of which will be negotiated directly between the Participating Entity and the Supplier. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. SPECIALIZED SERVICE REQUIREMENTS. In the event that the Participating Entity requires service or specialized performance requirements not addressed in this Contract (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements), the Participating Entity and the Supplier may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. TERMINATION OF ORDERS. Participating Entities may terminate an order, in whole or in part, immediately upon notice to Supplier in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the equipment, products, or services to be purchased; or
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements.

E. GOVERNING LAW AND VENUE. The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. PRIMARY ACCOUNT REPRESENTATIVE. Supplier will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

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- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Supplier must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, sales data reports, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Supplier must provide a contract sales activity report (Report) to the Sourcewell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;
- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Supplier.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Supplier will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Supplier may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Supplier will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased

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by Participating Entities under this Contract during each calendar quarter. Payments should note the Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Supplier agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Supplier is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Supplier in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Supplier's Authorized Representative is the person named in the Supplier's Proposal. If Supplier's Authorized Representative changes at any time during this Contract, Supplier must promptly notify Sourcewell in writing.

10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. AUDIT. Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. ASSIGNMENT. Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed assignment agreement. Such consent will not be unreasonably withheld. Any prohibited assignment will be invalid.

C. AMENDMENTS. Any amendment to this Contract must be in writing and will not be effective until it has been duly executed by the parties.

D. WAIVER. Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

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E. CONTRACT COMPLETE. This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of Articles 1-22 will govern.

F. RELATIONSHIP OF THE PARTIES. The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. INDEMNITY AND HOLD HARMLESS

Supplier must indemnify, defend, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any act or omission in the performance of this Contract by the Supplier or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law.

12. GOVERNMENT DATA PRACTICES

Supplier and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Supplier under this Contract.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:
   a. Sourcewell grants to Supplier a royalty-free, worldwide, non-exclusive right and license to use thetrademark(s) provided to Supplier by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Supplier.
   b. Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising and promotional materials for the purpose of marketing Supplier's relationship with Sourcewell.
2. *Limited Right of Sublicense*. The right and license granted herein includes a limited right of each party to grant sublicenses to their respective subsidiaries, distributors, dealers,

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resellers, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

a. Neither party may alter the other party's trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.

b. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's trademarks only in good faith and in a dignified manner consistent with such party's use of the trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. As applicable, Supplier agrees to indemnify and hold harmless Sourcewell and its Participating Entities against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Participating Entities by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Supplier in violation of applicable patent or copyright laws.

5. Termination. Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of suppliers which may be used until the next printing). Supplier must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. PUBLICITY. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Supplier individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. MARKETING. Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

D. ENDORSEMENT. The Supplier must not claim that Sourcewell endorses its Equipment, Products, or Services.

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14. GOVERNING LAW, JURISDICTION, AND VENUE

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

16. SEVERABILITY

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

17. PERFORMANCE, DEFAULT, AND REMEDIES

A. PERFORMANCE. During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Supplier will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Supplier may escalate the resolution of the issue to a higher level of management. The Supplier will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending*. Notwithstanding the existence of a dispute, the Supplier must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Supplier fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, the Supplier will bear any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed.

B. DEFAULT AND REMEDIES. Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

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The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

18. INSURANCE

A. REQUIREMENTS. At its own expense, Supplier must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*
Workers' Compensation: As required by any applicable law or regulation.
Employer's Liability Insurance: must be provided in amounts not less than listed below:
Minimum limits:
$500,000 each accident for bodily injury by accident
$500,000 policy limit for bodily injury by disease
$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Supplier will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.
Minimum Limits:
$1,000,000 each occurrence Bodily Injury and Property Damage
$1,000,000 Personal and Advertising Injury
$2,000,000 aggregate for Products-Completed operations
$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Supplier will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms

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no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:
$1,000,000 each accident, combined single limit

4. *Umbrella Insurance*. During the term of this Contract, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:
$2,000,000

5. *Network Security and Privacy Liability Insurance*. During the term of this Contract, Supplier will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Supplier's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:
$2,000,000 per occurrence
$2,000,000 annual aggregate

Failure of Supplier to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Supplier to provide certificates of insurance, in no way limits or relieves Supplier of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is

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primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. WAIVER OF SUBROGATION. Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Supplier must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Supplier conducts with Sourcewell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Supplier certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Supplier declares bankruptcy, Supplier must immediately notify Sourcewell in writing.

Supplier certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Supplier further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

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21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may have additional requirements based on specific funding source terms or conditions. Within this Article, all references to "federal" should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Supplier's Equipment, Products, or Services with United States federal funds.

A. EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause is incorporated herein by reference.

B. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148). When required by federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Supplier must be in compliance with all applicable Davis-Bacon Act provisions.

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C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of $150,000 require the non-federal award to agree 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). Supplier certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names

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of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Suppliers must file any required certifications. Suppliers must not have 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. Suppliers must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Supplier must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Supplier must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation

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and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

M. FEDERAL SEAL(S), LOGOS, AND FLAGS. The Supplier not use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. NO OBLIGATION BY FEDERAL GOVERNMENT. The U.S. federal government is not a party to this Contract or any purchase by an Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. FEDERAL DEBT. The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. CONFLICTS OF INTEREST. The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. U.S. EXECUTIVE ORDER 13224. The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

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22. CANCELLATION

Sourcewell or Supplier may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Supplier's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz
C0FD2A139D06489...

Jeremy Schwartz
Title: Chief Procurement Officer
Date: 11/4/2021 | 1:28 PM CDT

72 Hour LLC dba: National Auto Fleet Group

DocuSigned by:
By: Jesse Cooper
FACBB5730C1E467...

Jesse Cooper
Title: Fleet Manager
Date: 11/4/2021 | 10:46 AM CDT

Approved:

DocuSigned by:
By: Chad Coauette
7E42B8F817A64CC...

Chad Coauette
Title: Executive Director/CEO
Date: 11/4/2021 | 1:34 PM CDT

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ATTACHMENT 1

RFP 091521 - Automobiles, SUVs, Vans, and Light Trucks with Related Equipment and Accessories

Vendor Details

Company Name:	72 HOUR LLC
Does your company conduct business under any other name? If yes, please state:	National Auto Fleet Group
Address:	490 Auto Center Drive Watsonville, CA 95076
Contact:	Jesse Cooper
Email:	Jcooper@nationalautofleetgroup.com
Phone:	951-440-0585
Fax:	831-840-8497
HST#:	263297677

Submission Details

Created On:	Tuesday August 24, 2021 16:34:10
Submitted On:	Tuesday September 14, 2021 14:10:21
Submitted By:	Jesse Cooper
Email:	Jcooper@nationalautofleetgroup.com
Transaction #:	d2e890de-e761-4f47-9b23-bef3d512bd76
Submitter's IP Address:	76.81.241.2

ATTACHMENT 1

Specifications

Table 1: Proposer Identity & Authorized Representatives

General Instructions (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond "N/A" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *	
1	Proposer Legal Name (one legal entity only): (In the event of award, will execute the resulting contract as "Supplier")	72 Hour LLC	*
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	WCAF, LLC WCDJR, LLC Alan Jay Automotive Inc	*
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	NAFG has numerous subsidiaries and DBA's including but not limited to: National Auto Fleet Group, Chevrolet of Watsonville, Watsonville Ford Watsonville CDJR Watsonville Fleet Group Alan Jay Chrysler Jeep Inc Alan Jay Chevrolet, Cadillac Alan Jay Buick, GMC Alan Jay Auto Outlet Clewiston Motor Company, Inc Alan Jay Chrysler Dodge Ram Jeep Alan Jay Lincoln Alan Jay Ford Alan Jay Nissan Alan Jay Toyota	*
4	Proposer Physical Address:	490 Auto Center Drive Watsonville, CA 95076	*
5	Proposer website address (or addresses):	www.NationalAutoFleetGroup.com	*
6	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Jesse Cooper Fleet Manager 1-855-289-6572 490 Auto Center Drive Watsonville, CA 95076 Jcooper@nationalautofleetgroup.com	*
7	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Jesse Cooper Fleet Manager 1-855-289-6572 490 Auto Center Drive Watsonville, CA 95076 Jcooper@nationalautofleetgroup.com	*
8	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Clarke Cooper Fleet Manger 1-855-289-6572 490 Auto Center Drive Watsonville, CA 95076 ClarkeCooper@watsonvillefleetgroup.com	

Table 2: Company Information and Financial Strength

Line Item	Question	Response *	

9	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	National Auto Fleet Group started as a new division of 72 Hour LLC in the summer of 2010 in the heart of Southern California. We began our network with a single automobile dealership and have now grown our network to encompass numerous dealerships located in and outside of California. We stand by providing opportunities for advancement by hiring and promoting from within our organization. Many of the Fleet Managers who started with us in 2010 are still with us today. Through the years, we have evolved and adapted to the new technology driven trends that are revolutionizing the automotive industry today. However, our brand's fundamental core values have remained unchanged – We are committed to do right for the members. If we take care of them, they will in return take care of us. National Auto Fleet Group's operational blueprint and business philosophy has always been the "4 RIGHT's" for every member: We deliver the RIGHT vehicle, at the RIGHT time, to the RIGHT place at the RIGHT price. The integrity of our business stems on our deep family roots in the automotive industry. We are and always will be family owned and operated with our future generations already in their infant stages today. We are committed to pioneering our industry for decades to come.
10	What are your company's expectations in the event of an award?	If awarded, this would be our 5th Sourcewell Contract and we would execute as such. We will continue to serve your members and provide them with excellent customer service while continuing to advance customer satisfaction. Along with implementing new business growth strategies that will ultimately launch us into new heights once again. Furthermore, we will launch our Partner Program detailed in the attached "marketing Plan Compressed" Zip file. This next generation application will give members the power to select upfitters they would like NAFG to partner with in providing satisfactory quotes and service. We see tremendous value in building out these mutually beneficial partnerships, so we can provide 100% satisfactory turnkey solutions to the members.
11	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	To demonstrate NAFG's financial strength and stability, we have uploaded Bank Commitment letters under the Financial Strength Section of the online application. We have a direct line of credit of $52,000,00.00 that we are currently utilizing with our current and past Sourcewell Contracts. However, this number is not capped as we have the freedom to extend the cap to accommodate the revolving needs of the members. Referenced below is a short register of some of our market success from awarded government contracts that encompass over $140,000,000.00 worth of products and goods under our current Sourcewell Contract. A. City of San Diego, CA $ 72,000,000 contract under our Sourcewell Contract 120716-NAF. B. City of San Diego, CA $ 55,400,000 contract under our Sourcewell Contract 081716-NAF. C. Government Fleet Article Highlighting our transaction with the City of San Diego, CA procuring over 100 Police vehicles through NAFG Sourcewell Contract 120716-NAF. D. City of Los Angeles World Airports, CA Contract for $ 24,003,500 under Sourcewell Contract 120716-NAF for the procurement of 400 vehicles. E. City of Los Angeles Harbor, CA Contract Extension to $ 4,500,000 contract under Sourcewell Contract 120716-NAF. F. City of Los Angeles Harbor, CA Contract for $1,500,000 under our Sourcewell Contract 120716-NAF. G. City of Los Angeles Harbor, CA Renewal for another $ 1,500,000 under Sourcewell Contract Class 6, 7 and 8 Contract 081716-NAF. H. City of Costa Mesa, CA Contract $1,023,220 under our Sourcewell Contract 120716-NAF. I. Blanket Contracts with the State of Maryland, MD off our current Class 6, 7 and 8 Chassis Contract 081716-NAF. J. Blanket Contracts with the State of Maryland, MD off our Current Sourcewell Contract 120716-NAF. We have also attached our Commitment Letter's for unparallel support from leading nationally recognized upfit suppliers such The Knapheide Manufacturing Company. Along with regional suppliers such as Brand FX and Phenix Truck Body located in Southern California serve as regional support locations, whom we often work alongside to fulfill all member needs with past, present, and future orders with NAFG. Included are also Upfitter Recommendation letters to illustrate how National Auto Fleet Group has taken a proactive interest in building mutually beneficial relationship with our upfitters. Mutuality and reciprocity relationships between body companies and our dealer's are two of the key components that help members receive what they need in a smooth and efficient fashion. In addition, the adoption of our Class 6, 7, and 8 Contract from Anne Arundel County in the state of Maryland is as an example of how National Auto Fleet Group attracts and retains new clients by demonstrating to them there's a better and more efficient way of finding turnkey solutions. Lastly, we have attached supporting documents that help emphasize and exemplify our growth since our first awarded Sourcewell Contract in 2012. We sincerely hope it helps portray our commitment to building lifelong rapport and trust with our partner upfitters and members.
12	What is your US market share for the solutions that you are proposing?	. Of our respective brands and OEM's we represent, the US market share is estimated to be 60 – 75%.
13	What is your Canadian market share for the solutions that you are proposing?	It is difficult to estimate the market share for the brands and OEM's we represent, however we estimate that it should be the same 60 -75 % of the US share.
14	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No.

ATTACHMENT 1

15	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	National Auto Fleet Group is a dealer network best categorized as "a" Distributor/Dealer/Reseller and Dealer Partner for (15) OEM Manufacturers including Ford Motor Company, Chevrolet, RAM, GMC, Buick, Chrysler, Dodge, Jeep, Toyota, Nissan, KIA, BMW, Honda, Cadillac and Volkswagen, All orders are placed with the franchised dealer and ultimately titled directly to the member. All appropriate certification certificates and authorized DMV/Factory licenses may be found in the "Related Certification" section uploaded to this RFP. It should be noted we do not sell used equipment to members. *
16	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	Required licenses include a Dealer's License, a Franchise issued by the Manufacture, a Department of Motor Vehicles License, as well as a Reseller's permit license. All which NAFG and Dealer Partner's hold. Please review our attachment documents in section "Related Certification" for licenses that we either solely own or are jointly owned by our partner dealers that pertain to this RFP. A list of all our licenses are below, some of which may not pertain to class 1-3 but to class 4-8. CA Certificate of Good Standing 200824810190 State of Florida License Certificates: VF/1000974/4 VF/1000950/1 VF/1046516/1 VF/1024619/2 VF/1024619/1 VF/1018615/1 VF/1021891/1 VF/1000974/3 VF/1105916/1 VF/1020705/1 VF/1000969/1 CA State Seller's Permit 101-135239 CA State Seller's Permit 245364864-00001 Department of Motor Vehicle, Vehicle Dealer/ License Number 97772 Department of Motor Vehicle, Vehicle Dealer License Number 97771 Department of Motor Vehicle, Vehicle Dealer License Number 43609 Bureau of Automotive repair Registration # ARD00296319 123120 CA State Seller's Permit 232781952-00001 City of Watsonville Business License Number 1792 City of Watsonville Business License Number 4358 Fictitious Business Names from Santa Cruz County for National Auto Fleet Group FBN: 2017-0000138 California General Resale Certificate Dun & Bradstreet Number: 023680653 Government of The District of Columbia Certificate Government of the District of Columbia Tax Registration # 7815888160711 City of Los Angeles Tax Registration Government of The District of Columbia CLEAN HANDS CERTIFICATION San Diego Freightliner Seller's Permit Commonwealth of Virginia State Corporation Commission Certificate State of Maryland Good Standing Certificate Kansas Department of Revenue for Kansas City Peterbilt New Jersey Department of Treasury Registration Certificate New Jersey Business Registration Notice of Compliance of the Canton City Codified Ordinance Employee Information Report for the State of New Jersey State of Maryland New Sales and Use tax License CA State Seller's Permit 98-037902 00006 South Carolina Department of Motor Vehicles License Number 36133 State of South Carolina Retail License Commonwealth of Kentucky Vehicle Dealer License 1583 20 100 State of West Virginia Dealer License Commonwealth of Kentucky Vehicle Dealer License 1581 20 036 State of Tennessee Vehicle Dealer License *
17	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	Not Applicable, none. *

ATTACHMENT 1

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *	
18	Describe any relevant industry awards or recognition that your company has received in the past five years	National Auto Fleet Group's received its most prestigious award for Top Placement within Ford Motor Company as the leading dealership in Government Sales. In addition, our Chevrolet brand was highly ranked and honored 4/5 consecutive years by General Motors.	*
19	What percentage of your sales are to the governmental sector in the past three years	Within our fleet division, 90% of our contracts within the past three years have been with government accounts.	*
20	What percentage of your sales are to the education sector in the past three years	Within the past 3 years 90% of our sales have been to government accounts, 20% of which are within the education sector.	*
21	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	We hold the State of California contract with volumes from 200 to 500 units a year over the past three years. In addition, our Sourcewell Contract's 091219, 081716 and 120716 that we have maintained over the past three years has sold combined north of 400 million of Combined Quarterly Sales.	*
22	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	National Auto Fleet Group's focus lies on the Sourcewell Contract. NAFG holds no other GSA contract, Standing Offers, or Supply Arrangements other than the State of California contract. Our annual sales volume is estimated to be north of $200 million.	*

Table 4: References/Testimonials

Line Item 23. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *	
Port of Los Angeles, CA	Mr. Dave Comer	310-72-3794	*
County of Venture, CA	Mr. Jorge Bnilla	805-672-2044	*
City of Austin, TX	Mr. Matt Sager	512-978-2637	*
County of San Joaquin, CA	Mr. David Myers	209-468-9745	
City of Palo Alto, CA	Ms. Danitra Bahlman	650-496-5920	

Table 5: Top Five Government or Education Customers

Line Item 24. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
City of Austin	Government	Texas - TX	Purchaser	10-15 Vehicles at once, Vans and SUVs	Over 1M	*
Los Angeles Department of Water and Power	Government	California - CA	Purchaser	Over 120 Vehicles, Vans and SUVs	Over 3M	*
Port of Los Angeles	Government	California - CA	Purchaser	Over 80 Trucks, Vans and SUVs	Over 2M	*
Anne Arundel County	Government	Maryland - MD	Purchaser	Over 40 Trucks, Vans and SUVs	Over 1M	*
City of San Diego	Government	California - CA	Purchaser	Over 500 Trucks, Vans, SUV'	Over 15M	*

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *	
25	Sales force.	Our sales force consists of direct and an indirect sales force. Our direct sales force consists of direct employees and partner dealers, which exceeds an employee count of 300 personnel both full time and part time. Many of our sales force are spread across the US and we leverage our relationships with our larger class dealerships to service the members lower class vehicle needs as well. A cross sales force. These individuals help support our dealerships and NAFG Fleet Division directly. On the other hand, our indirect sales force made up of upfitters and partner suppliers consists of over 100 personnel with our partner network and sales force growing annually. With both direct and indirect sales force staff working together, NAFG has been able to successfully grow, maintain and service the demand of the members. As the number of your members grow, we will continuously welcome more staff to not only meet customer demand, but also to exceed customer expectations.	*

26	Dealer network or other distribution methods.	Our franchise network in Canada and the U.S. is fortunately second to none and the proposed OEMS previously mentioned, all of which have established a presence nationwide with factory stores strategically placed where all members can receive service and complete warranty repairs with their respective products. Simple put the North American and Canadian automobile supply chain network is one of the best in the world. Of the 15 brands we represent, the OEMs have put in place a dealer network across all 50 states that will allow us to best serve all members.	*
27	Service force.	The 15 manufactures we represent have thousands of service locations that would be easily accessible to all your members. Service centers and warranty repair facilities for all 15 OEMs are ample and ready to help service our members and their needs. However, Alaska and Hawaii may be exceptions as they may have farther distances between franchises where members can utilize the repair services.	*
28	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	The member may order their vehicles by navigating to our website, www.NationalAutoFleetGroup.com and going through the step-by-step process to generate an online quote or by calling one of our representatives at 855-289-6572 or by sending NAFG an email at Fleet@NationalAutoFleetGroup.com. Orders are then processed directly to the manufacturer who will work to supply the vehicle to the ship-to location for upfittinig or end user desired delivery location.	*
29	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	To best demonstrate our Customer Service program, kindly reference the ZIP file “Member Walk Through” that is attached in the Additional Documents folder. Please begin with and review in order that is explained below: How Members Can Get Quotes Online: A member can obtain most quotes by visiting our website www.NationalAutoFleetGroup.com where a simple one step form is needed for registration. This is to protect the price information from nonmembers. Once a member registers they will receive an automated welcome email with a demo video on how to use our site. Members will gain access to there very own dashboard which will house all there quotes in one safe secure login. Member’s can select which brand they are looking for and model year. Our site shows all the categories the brand offers such as: Cars, Vans, SUV’s Trucks and Chassis Cabs. Members will then be able to drill down for the right selection by picking from the filter menu of what cab there looking for (Regular, Extended or Crew) to 2 wheel or 4 wheel drive down to the bed length there looking for. All factory options are then presented for the member to select from, this will show all current factory orderable options, taking the guess work out for the member. Once a member selects a desire build, they will see there Sourcewell Price report showing the MSRP, there contract price, the saving in real dollars and as a percentage. In the PDF example you can see a saving of $ 9,175.96 of 22.345% to the member showing a significant savings. Members then can chose to add extra’s to there order like extra keys’ service manuals, sales tax and even request an upfit to be added to there quote. Lastly they will be given a complete turn key quote package to print which will include there customized Quote ID, Description and Specifications of what they built. How Members and Upfitters can Partner with NAFG: Our dedicated website www.NAFGPartner.com was built to accommodate the member who would like a certain upfitter to upfit there vehicles. It was also built for upfitters to have a place to go where they can find information on how to partner with NAFG to better serve there local members. Example of A Member with Upfit Quote: This is an example of how we use our Cab Chassis and combine them with an upfit to provide a turnkey solution for the member in a simple to follow format. ETA System for Members Walk Through: This is where members can easily come to our website, the same website they built there chassis on and track there order like they would a UPS package. We have a very simple display on our homepage “Track your order” where members can enter one of the following: Purchase Order Number, Quote ID, Upfit Quote ID or vin to easily see there in the process there particular order is in. Courtesy Confirmation Explained: After NAFG receives an order from a Member, we always like to send them a Courtesy Confirmation. This is were the member will double check some particulars on there order like, Color, Quantity, Upfit and Specification’s are all correct before order placement. We also like to ask for title information at this point so we can help process the paperwork at delivery promptly. Factory Order Cut Off Notices: Here is were we like to highlight were members can access any upcoming factory order cut off dates. We walk them through the process step by step to ensure everyone knows the upcoming order cut off date, we even print this information (if known at the time) right on the cover page of there quotes. Validation Walk Through Example: To demonstrate a price validation, we show what a member would see when they build a truck on our site. At check out the member would see the Total Configured MSRP of $ 35,730.00, A Sourcewell Price of $ 27,331.68, Total Saving of $ 8,398.32 or 23.505% for a 2020 F-250 followed by the pricing page which shows the Minimum Discount of at least 18.50%. As you see we provided an additional 5% discount on top of the 18.50% contract discount. This would be the case in most instances.	*
30	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	Our willingness and ability to service members nationwide is unparalleled. We have dedicated staff 5 days a week, from 7am to 7pm standing by ready to assist any member help find the best solution for there needs even if helping assist them to the best Sourcewell Contract that could be a solution. We have a dedicated live chat feature on our online quote generating website in case any member has any trouble at all in building there quotes. NAFG has established a chain of suppliers who are at the ready to serve if called upon by any member. We are here to help.	*
31	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	We are willing and eager to soon extend our business model and network into Canada. We believe partnering with local Canadian based dealer groups is key to success in the Canadian market. NAFG’s competitive pricing as well as a simple US Dollar to Canadian conversation will help NAFG expand into the Canadian market for participating Sourcewell members.	*
32	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	National Auto Fleet Group will handle servicing 100% of all geographic areas located in the United States. Although it is unclear what unseen obstacles we may face in Canada, NAFG is committed to building the same model to service Canada and providing the same level of customer satisfaction, service, and care as in the United States.	*

33	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	NAFG will continue to service all Sourcewell Members through our 24 hour a day, 7 days a week online portal with the exclusion of Non-Profits. Unfortunately, Non-Profits are often not eligible for the same discount's government entities are qualified for. However, Non-Profits are subject to a different pricing program and will be evaluated on a case to case basis.	*
34	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	The only possible logistical constraints we may face is the shipping constraints for shipments arriving in Alaska, Hawaii and US Territories. For example, we often provide members in Alaska or Hawaii with vehicles that often have upfits. To circumvent this potential issue, members allow us to add these extra shipping and port costs to their quotes.	*

Table 7: Marketing Plan

Line Item	Question	Response *	
35	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	National Auto Fleet Group encompasses a variety of marketing strategies to promote our products and services to streamline the vehicle purchasing process for government entities. Below are a few strategies used to serve as the gateway between our business and public agencies. Website and Inbound Marketing: The creation of a professional customer-focused website is one of our main features to market our products and services. The NAFG website encourages our members to interact and browse through products offered along with pricing and information about National Auto Fleet Group. Inbound marketing is created when potential members are directed to the company website. With this method, we are able to not only connect with members but to put the purchasing ability into the hands of each member. Our inbound marketing strategy attracts members by creating valuable content and experiences tailored to the needs of each individual. Examples include email campaign flyers on our products, informative and how-to videos, social media and engaging members with top-notched customer service to build brand awareness. Email Marketing: One of the main strategies used to engage current and potential members is Email Marketing. Our emails include different types of flyers that consist of information of the Sourcewell contract, promoting manufacturer brands, holiday themed flyers, discounts offered to first time buyers, important cutoff date reminders and upcoming products and events. The use of marketing campaigns plays a major role in enhancing the growth of our client database. Emails are a big part of our daily lives due to government agency employees utilizing emails as their main source of communication. We use campaigner.com as the emailing platform to reach our target members. Videos and descriptive images are used on all flyers and are compatible with a desktop or mobile device. Messages are short and to the point with links leading to the Sourcewell and NAFG homepage. The Campaigner email system allows the ability to track email activity based on open rate, unsubscribes and link clicks which is beneficial to understanding email effectiveness. Once potential members are directed to our website, they are welcomed with a wide range of options to explore an array of our products and services. They are able to register to become a member, view pricing, explore available in-stock vehicles, view how-to-videos, build a vehicle online to request an immediate quote or use our live chat assistant or call/email for live support. Face to Face Marketing Strategies: This strategy has proven to be successful in generating leads and creating lasting relationships by developing genuine connections with prospective members. National Auto Fleet Group attends several trades shows per year to engage members and put a face to the company. This in person meeting aids to build the brand by nurturing relationships between members and other vendors associated through the process. Trade shows attended include GFX, IAPPO, NIGP, ACT, CAPPO, and CASBO throughout the United States. NAFG has many opportunities to make in person presentations to propose products, services offered and to answer any questions potential members may have. These PowerPoint Presentations include topics on NAFG/Sourcewell process, how to facilitate the vehicle purchasing without bidding, informational videos, and the brands and services we provide. These meetings have been held at local cities, counties, school districts, water districts and ports. Relationship Marketing is a vital strategy used in building and maintaining long-term relationships practiced by National Auto Fleet Group on a daily basis. NAFG strives to create a positive and supportive connection with members by providing personalized and responsive customer service practices. The sales team has worked tirelessly to focus on providing outstanding customer support to create a powerful rapport with existing and new members. By going above and beyond, they have enhanced existing relationships and executed customer loyalty with repeat businesses. They strive to deviate from the "Car Salesperson" mentality which is 100% sales driven to a more product and customer service approach by instilling a sense of confidence in our clients. The goal is to regularly assist clients and address any needs and concerns even after the purchase has occurred. The strive to focus on solution selling vs. product selling develops into a mutually beneficial agreement for members and the business. Below are a few examples on successful relationship marketing from our Fleet Department: We had a member call in to request financing/lease options for a truck needed through our National Auto Fleet Group/Sourcewell vehicle contract. I contacted another Sourcewell vendor, Matt Geiselhart from NCL Gov Capital and he was happy to assist with a financing quote. The member also requested to trade in a current vehicle in their fleet and was directed to Govdeals for assistance in removing the outdated unit through an auction. The member was able to utilize three Sourcewell contracts to complete his transaction which simplified the entire process. The member was very satisfied with the amount of care and ease through his experience and became a repeat customer. By utilizing a cross-selling strategy, National Auto Fleet Group became his one stop shop to fulfill all fleet vehicle purchasing needs. "I had a member call in desperate to obtain a new truck because an employee had gotten into a serious accident and had the truck totaled. Due to covid restrictions, most manufacturers are currently experiencing microchip shortages which relays to production delays at the factory. We were able to direct buyer to our in-stock inventory on the NAFG website and member was ecstatic to locate truck to meet their needs. Instead of having to wait 30 weeks to receive the new vehicle, member was able to obtain the new truck within 3 weeks."	*

"I once had a member contact us two years after purchasing a vehicle from us. They had a malfunction with the liftgate on the box truck which caused a logistical nightmare. I was able to contact one of our body vendors that upfitted the lift gate installation and a service technician was able to go onsite to resolve the liftgate issue at no additional cost. The member was very impressed with the quality of our customer service even after purchase. "

"I had a member request a ¾ ton truck pricing but was unsure about their budget at the time. I took the time to go through each option with the client to provide a Sourcewell pricing quote through multiple manufacturers from Ram, Chevrolet and Ford. This empowered the member to have multiple pricing options for review to align with their budget as well as eliminating the need to shop anywhere else. "

"We work with many body companies to assist customers with the body upfitting process. One of our members called in a request to expedite a particular vehicle that was held up at one of their local body upfitters. I contacted the body company representative and put in a request to expedite the upfitting per request of the member. The body company was able to comply with the request and delivery was made sooner than expected."

Word-of-Mouth Marketing: The positive quality of service has led to more sales based on previous customers' impressions on their experience. NAFG's goal is to provide exemplary customer service throughout the entire purchasing process to encourage repeat business and advocate services to other members. NAFG has been fortunate to experience multiple instances of leads generated based solely on word-of-mouth marketing though our existing customers.

Cross-promotion: National Auto Fleet Group is currently collaborating with another Sourcewell Vendor, NCL Government Capital to promote each other's products and services. NCL Government Capital specializes in providing competitive equipment financing programs for municipalities and public education entities across the United States. As a team, NCL and NAFG produced a variety of marketing materials such as videos, flyers and info graphs to promote purchasing and leasing opportunities.

Hoglund Bus Company is another cross-promotion vendor NAFG had the opportunity to create a partnership with. Flyers were created to advertise Chassis from NAFG along with a variety of bus bodies from Hoglund Bus Company.

With cross-promotion, companies exchange knowledge and provide endorsements on websites, social media, and email campaigns. This strategy creates an influx of new leads, brand awareness, increased sales and recurrence of customers. National Auto Fleet Group will continue to create new partnerships and facilitate more cross-promotion opportunities in the near future to provide turnkey solutions for a variety of vehicle purchasing needs.

Coming in 2022, National Auto Fleet Group will be launching a NAFG Partner Website to further increase business growth. The website www.nafgpartner.com is expected to launch next year in 2022. The site encourages body upfitting companies throughout the United States to partner up with NAFG to become a preferred member. The benefits of becoming a preferred member include endorsements on website and social media avenues along with word-of-mouth referral for clients with upfitting needs. Our dedicated public relations representative will conduct phone and in person meetings to discuss the advantages of partnering up with NAFG, therefore generating more cross-promotion opportunities.

Members from government agencies are encouraged to go on the site to search for local body upfitting companies they are interested in working with. As a prerequisite in becoming a preferred vendor, they are required to advertise NAFG and the Sourcewell contract on their business website and refer their clients to purchase their cab/chassis needs through NAFG. This establishes a partnership that will generate increased sales all around. We are still currently building the website and interacting with body companies across the United States that would be interested in partnering up with NAFG.

36	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Social media plays a crucial element in the way people communicate and connect with each other. LinkedIn is the go-to platform used by NAFG as it offers a variety of ways to expand our network by locating and connecting with relevant professionals in the industry. National Auto Fleet Group has utilized LinkedIn to engage current and potential members through personalized messages and posts. Personalized messages include thanking them for registering on site as well as directing them to on our link to the website, LinkedIn, YouTube, Facebook and Instagram company pages. The goal is to unite with people already on our database as well as people that would benefit from our products and services. Current flyers or messages about our company are also posted on the LinkedIn site to generate and attract more business. Time is also spent on reading posts from connections and observe any needs that National Auto Fleet Group may assist with. National Auto Fleet Group has begun utilizing video marketing strategies to further promote and market products by engaging on social media channels and email flyers. Programs such as Vimeo, Video Scribe, Cartoon Animator, Adobe Animate, Illustrate, Captive, Photoshop and Movavi Video Editor Plus are employed to edit and create videos to assist in endorsing our company. The following videos were recently created by our marketing department along with outside video production companies: Explainer Video: The first video created was a 90 second explainer video about National Auto Fleet Group that used animated characters to visualize our products and services along with information on the Sourcewell awarded contract. The video has been incorporated into all our weekly email flyers and social media platforms as an informative video on our products and how to purchase vehicles off Sourcewell Government Contract. How To Videos: National Auto Fleet Group has also created step-by-step How-To videos on the process to purchase both Light Duty and Heavy-Duty vehicles off the contract. In Stock Vehicles: This video showcases our in-stock vehicles available and the process of requesting a quote. ETA Tracking System: This video was created to not only introduce but to encourage clients to self-track their vehicle status. Holiday Themed Videos: These amusing videos were created to celebrate the holidays and add humor and lightness to our company and products sold. Cross Promotion Video: This video markets our relationship with NCL Government Capital and Sourcewell to endorse EV vehicles. Videos for social media: Mini videos were created to advertise new vehicles available, pricing and cutoff date reminders. NAFG has recently introduced a newly built live chat feature on our website for customer convenience as well as improving customer service. Visitors have access to chat with a live sales representative 24 hours a day, 7 days a week. With this feature potential customers are provided with another avenue for assistance in addition to emailing and phone calls. The benefits of a live chat option include quicker response time to assist buyers in reaching a purchasing decision and answer their questions. Improving customer service will also lead to increased sales, customer loyalty and engagement. Many studies have shown a strong correlation between live chat and increase in conversion rates. Potential clients appreciate having their questions answered in real-time when trying to build a vehicle quote online and allowing the user to multi-task different projects.
37	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	Sourcewell's mission states: "Our commitment to service and exceeding client expectations." This statement integrates with our relationship marketing strategy with our commitment to go above and beyond for all our members. Sourcewell is a trusted brand that government entities can rely on to access a wide variety of products and services for their everyday needs. With over 40 years of partnerships and relationship building, they are the glue that connects government, education, and nonprofit agencies to companies of all sizes to offer turnkey solutions to their needs. Sourcewell is also a reliable resource for vendors by not only connecting with potential prospects but by providing valuable marketing materials readily available for download on their website. Resources and tools provided include flyers, vendor training videos along with compliance information. The Sourcewell brand integrates a thorough documentation review of all vendors prior to awarding their cooperative contracts to ensure products and services are from reputable vendors. The brand provides a sense of legitimacy of our company name and members recognize that products and services are from reliable sources that will meet their needs. Sourcewell's aim is to simplify the purchasing and procurement process of government entities by eliminating the costly bidding procedure. The process of researching the right vendor is not only stressful and time-consuming but can be expensive as well. Sourcewell has completed the bidding for government entities which simplifies the overall purchasing process by providing access to competitively bid contracts procured by a government agency. Sourcewell has provided NAFG with overwhelming opportunities to work with government agencies across the United States. The Sourcewell name represents a high standard of integrity and ethics which is a dynamic National Auto Fleet Group is proud to be part of. Sourcewell members have access to a contract that is more flexible than the standard bidding process. Sourcewell is an organization that aids government entities to stay competitive without the frustrations and issues involved with the traditional bidding process. This contract can be customized to meet the unique needs of each client. The sales team has incorporated not only this standard of integrity in their sales practice ensuring clients' purchasing needs will always be met. The cost savings and stress-free nature of the cooperative contracts favors that of the traditional bidding process. It enables vendors to work with qualifying government entities in a more efficient manner. We vow to maintain these levels of standards across the board throughout all departments within the company.

38	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	Our website provides a hands-on empowering approach to ordering vehicles online. Clients can search through many vehicles makes and models with the ability to customize a vehicle tailored to their specific needs of their agency. A personalized quote with pricing can be available in as little as 5 minutes depending on the complexity of the vehicle. If upfitting is needed, the buyer can list the details of the up-fit while building their vehicle on our website to receive a complete quote or a sales representative can be reached through phone, email or our new live chat feature built on our website. We have recently created and uploaded a "How-To Videos" section on the homepage of our website which highlights a step-by-step process on how to build an online quote. This informative video demonstrates how to navigate the website in how to generate a vehicle quote with or without upfitting options. It begins by explaining how to register on our website as a member and then details on how to select vehicle model and type and the factory options needed. Once a customized quote is built, clients have the option to finalize the sales transaction by submitting a purchase order to our sales team via email. This gives complete autonomy to the client to purchase vehicles without the need to speak to a sales rep. If assistance is needed, they can contact sales through email, live chat or phone. If assistance is required to build a quote, our sales rep is also available to walk a client through the e-procurement process step by step. This ensures someone is available to answer any questions if needed and empowering the client to make any future purchases on their own. Clients may also call or email the needs of the company and receive a customized vehicle quote.	*

Table 8: Value-Added Attributes

Line Item	Question	Response *	
39	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	National Auto Fleet Group extends any and all product, equipment, maintenance and operating programs provided by the Manufacturer directly to Sourcewell participating entities during the quoting process. The manufacturer will provide quotes to the member based on the vehicles class and size, and geographic location. NAFG will always pass these quotes onto members and treat them like an upfit to the vehicle.	*
40	Describe any technological advances that your proposed products or services offer.	Technological accomplishments by Manufactures like Ford Motor Company and General Motors serve members by keeping many models available for members to choose from. Additionally, NAFG allows members the ability to choose to electrify their vehicle by opting into the Motive Power Systems we can still help supply this kind of an upfit. For more information, we have attached the product and pricing information within the "Upfits Available" and "All 15 Manufactures" ZIP files under the supporting documents portion of the application.	*
41	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	. National Auto Fleet Group helped create the Climate Mayor Purchasing Collaborative by partnering with over 400 Mayors nationwide. This initiative was created for the benefit of members who wanted to create and sustain an all-electric fleet. We offer 100% purely electric vehicles your members to choose from. Some popular models include the Chevrolet Bolt, Ford Fusion, Ford Mustang Mach-E, as well as Ford's all electric F-150. We are confident that as more OEM's continue to manufacture new electric vehicles, we will provide them for members to select from. More information about this initiative can be found at www.Driveevfleet.org	*
42	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	NAFG has the California Air Resource Board (CARB) Certificate as well as the Ford Qualified Vehicle Modifier Certificate on file with some of our partner suppliers and upfitters hold these certifications and these certifications help illustrate how each vehicle conserves energy and remains energy efficient.	*
43	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	NAFG holds a current partnership with many suppliers some of which are veteran owed such as Pacific Truck Body located in CA. Our Ford, Chevrolet and Ram,Jeep,Dodge,Chrysler stores are jointly owned and operated by Minorities.	*
44	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	. National Auto Fleet Group was not only built on dedication and hard work, but also through quantifiable metrics that directly measure the results of our efforts to ensure real goals are being measured and met. Through measuring results, NAFG takes responsibility in ensuring we deliver only the best customer care to your members. NAFG offers members 24 hour website access to customer support to personably walk members through any questions they may have. No matter what the issue may be, we always think outside the box to help members find a solution.	*

ATTACHMENT 1

Table 9A: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *	
45	Do your warranties cover all products, parts, and labor?	Each of the 15 manufactures we represent cover their own products, parts, and labor. All warranty information may be found in our attachments under the ZIP File "All 15 Manufactures".	*
46	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	Prior to purchase, members should be aware of each manufacturer's restrictions. Such as improper use of the vehicle may result in disqualification of coverage under the OEM's warranty. An example of this may be an F-350 being used for a police related pursuit, which may void certain warranties. Although, we always welcome and encourage members to contact us for their particular warranty coverage.	*
47	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	In some cases, manufacturers will tow a member's vehicle to the nearest warranty repair facility in case of a breakdown and cover expenses, but prior approval is required.	*
48	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	This may vary from manufacturer to manufacturer. Thus, we encourage members to call in prior to purchase and inquire about their specific region and how their warranty repairs will be covered with their manufacturer.	*
49	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	All warranties are typically passed on to the original equipment manufacturer and any upfit warranty will be passed on to the upfitter to perform.	*
50	What are your proposed exchange and return programs and policies?	If a member changes their mind, NAFG will quickly make every effort to change or cancel the order with the factory. However, once the manufacturer begins producing the vehicle, there are no changes, exchanges, or refunds available. The order is then deemed non-cancellable. This includes any upfit equipment an upfitter has ordered for the unit.	*
51	Describe any service contract options for the items included in your proposal.	NAFG offers any and all manufacturer service contracts for all members. There are several parameters in which a service contract may be customizable. These customized service contracts will be treated as add factory options and following the same discount schedule provided in the pricing file.	*

Table 9B: Performance Standards or Guarantees

Describe in detail your performance standards or guarantees, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your performance materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *	
52	Describe any performance standards or guarantees that apply to your services	The only guarantee we can ever provide is the guarantee that we will treat and help every member that contacts with respect, integrity and professionalism.	*
53	Describe any service standards or guarantees that apply to your services (policies, metrics, KPIs, etc.)	NAFG and staff uphold high standards with how we provide service to the members, not only holding each other accountable but by embracing member feedback of how we can improve. Then we act upon it and implement improvements.	*

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *	
54	Describe your payment terms and accepted payment methods?	Standard payment terms are Net 20, with a 10 – day grace period.	*
55	Describe any leasing or financing options available for use by educational or governmental entities.	. In order to provide leasing or financing options, NAFG has partnered with National Cooperative Leasing to offer leasing terms for Sourcewell members for all NAFG quotes under the Sourcewell contract. For further review, we have attached a PDF called "NCL Sample Lease" in the "Member Walk Through" Zip file.	*
56	Describe any standard transaction documents that you propose to use in connection with an awarded contract (order forms, terms and conditions, service level agreements, etc.). Upload a sample of each (as applicable) in the document upload section of your response.	National Auto Fleet Group's transaction process (Purchase Order) is closely tracked, well documented, and neatly organized to monitor each transaction performed through our Sourcewell Contract. This way, NAFG may produce swift and accurate quarterly reporting.	*
57	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	Yes, NAFG accepts up to $2,500 per vehicle. However, any dollar amount higher than $2,500 will require a P-card/ Credit Card transactional fee that would be passed onto the member	*

ATTACHMENT 1

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *	
58	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	National Auto Fleet Group is offering Line-Item Discounts Off Manufacture Suggested Retail Price for 15 manufacturers that is detailed in the Price File. NAFG will also offer any Upfits to be added to any and all vehicles' that members wish to add. Details are located on the Price Summary Page in the Price File.	*
59	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	NAFG has an provided offerings from 15 Brands/OEMS and there respective percentage off vary and are detailed in the "Price File" zip Each Manufacture Range is detailed in the tabs below, here is an overview Chevrolet from -.077 to 24.45 % Ford Motor Company from -5.19 to 23.31 % GMC from 6.14 to 22.45 % Ram from 4.99 to 14.23 % Dodge from 3.09 to 9.96 % Jeep from 1.38 to 4.17 % Chrysler from 1.65 to 4.55 % Toyota from .03 to 8.98 % Honda from 1.34 to 4.9 % Nissan from -.085 to 14.61 % Buick from 2.36 to6.08 Kia from .69 to 8.39 % BMW from 3.8 to 4.77 % Cadillac from 4.22 to 6.77 % Volkswagen from 2.17 to 2.46 %	*
60	Describe any quantity or volume discounts or rebate programs that you offer.	If clients are considering an order of 150 or more units, we encourage members to contact us for any additional discounted quotes.	*
61	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	"Open Market" products or "Sourced Goods" will be considered and treated as regular upfits. However, they may be quoted up to a 10% mark up, if applicable.	*
62	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	All considerations have already been taken into account in its entirely. The Price Summary Page and Price Table contained in the price file includes all considered costs. Although if a member requested a specialized quote for a unique situation that requires special training, direction, or installation, the additional costs would be added as a part of the upfit and then included inside the member's quote.	*
63	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	All manufactures charge a standard "Factory Destination Charge". However, that is separate from the freight/destination cost that members may incur to ship a vehicle to and from an installer, if applicable. These subsequent locational movements may bare additional freight costs that will be outlined within the members quote for their review prior to purchase.	*
64	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Freight, shipping, and delivery terms among these regions sometimes carry additional logistical charges for added ferry, port and driver costs from both to and from the mainland. These added costs will be disclosed on the quote for members to review and approve prior to purchase.	*
65	Describe any unique distribution and/or delivery methods or options offered in your proposal.	National Auto Fleet Group already has a well-established Automobile Franchise Distribution Network that allows for swift and relatively seamless delivery to members and their end users.	*

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
66	c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	NAFG Strives to offer the best overall value to the member with each and every quote.

ATTACHMENT 1

Table 13: Audit and Administrative Fee

Line Item	Question	Response *	
67	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell. Provide sufficient detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template.	Sourcewell participating members are able to obtain proper pricing directly from our website, where they are able to use our user-friendly design to build and price their vehicles. The NAFG is updated daily to reflect updated manufacturer MSRP information. Our system will provide members with an accurate quote 99.99% of the time. In addition, NAFG has a stream line and organized process hat calculates administrative fees and allows NAFG to give a turnaround time of 15 – 30 days for quarterly reports.	*
68	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	One of the internal metrics NAFG uses to track and measure success with the Sourcewell Contract is maintained through our website. Our website keeps a detailed log of quotes that members are generating. We oversee and keep track of how many quotes are being generated and which quotes are met with a purchase order. Every month we evaluate our sales indicators and closely monitor the volume and frequency of sales. One example is by evaluating which members are purchasing from our platform – new members or frequent members to ensure we are growing our member base. We use these metrics to measure our projected growth rate and work to exceed our expectations.	*
69	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	NAFG will submit $ 300 per vehicle purchased through NAFG and $ 200 per vehicle purchased though our partner dealer Alan Jay Automotive. For the purpose of an admin fee there are no other partner dealer groups considered.	*

Table 14A: Depth and Breadth of Offered Equipment Products and Services

Line Item	Question	Response *	
70	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	NAFG has provided a "Model Roll Out" Charts in the "Price File" zip, but of the 15 manufacturers we represent, they have over 100 makes and models for members to choose from that range from Class 1-3 and supporting Class 4 Cab and Chassis trucks. NAFG's platforms can add any upfit of their choosing, ranging from toolboxes to Line Mechanic Bodies. Any and all upfits can be added to any one of our vehicles through one of our upfit partner suppliers or by an upfit supplier of the members choosing. NAFG and the supplier will work together to supply members with turnkey quotes.	*
71	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	National Auto Fleet Group lists the makes and models of all 15 manufacturers we represent under the ZIP File "All 15 Manufactures". These 15 OEMs make up over 100 combined makes, models, and engine combinations for members to select from along with several subtitle "Upfits" detailed for members in the price file.	*

Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments
72	Automobiles	(•) Yes ( ) No	15 Manufacturers totaling well above 700 makes and models
73	Sport Utility Vehicles	(•) Yes ( ) No	15 Manufacturers totaling well above 700 makes and models
74	Vans	(•) Yes ( ) No	15 Manufacturers totaling well above 700 makes and models
75	Trucks	(•) Yes ( ) No	15 Manufacturers totaling well above 700 makes and models
76	Vehicles described in Lines 72-75 above for Public Safety applications	(•) Yes ( ) No	15 Manufacturers totaling well above 700 makes and models
77	Conventional internal combustion models	(•) Yes ( ) No	15 Manufacturers totaling well above 700 makes and models
78	Natural gas or propane autogas, hybrid, or alternative fuel models	(•) Yes ( ) No	15 Manufacturers totaling well above 700 makes and models
79	Electric powered models	(•) Yes ( ) No	15 Manufacturers totaling well above 700 makes and models

Table 15: Exceptions to Terms, Conditions, or Specifications Form

ATTACHMENT 1

Line Item 80. NOTICE: To identify any exception, or to request any modification, to the Sourcewell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcewell and will not automatically be included in the contract.

Contract Section	Term, Condition, or Specification	Exception or Proposed Modification

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.

2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.

3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.

4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as “Marketing Plan.”

- Pricing - NAFG Price File for Bid 091521.zip - Monday September 13, 2021 19:29:27
- Financial Strength and Stability - Market Success and Financial Stability.zip - Monday September 13, 2021 19:30:12
- Marketing Plan/Samples - Marketing Plan Compressed.zip - Tuesday September 14, 2021 11:38:30
- WMBE/MBE/SBE or Related Certificates - Insurance and Related Documents.zip - Tuesday September 14, 2021 11:40:18
- Warranty Information - Warranties RFP 091521.zip - Tuesday September 14, 2021 11:40:36
- Standard Transaction Document Samples - Standard Transaction.zip - Monday September 13, 2021 19:54:48
- Upload Additional Document - ALL 15 Makes and Upfits.zip - Tuesday September 14, 2021 11:35:54

Addenda, Terms and Conditions

ATTACHMENT 1

PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.

2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.

3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.

4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.

5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.

6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.

7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.

8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.

9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.

10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

11. Proposer its employees, agents, and subcontractors are not:

    1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: https://www.treasury.gov/ofac/downloads/sdnlist.pdf;

    2. Included on the government-wide exclusions lists in the United States System for Award Management found at: https://sam.gov/SAM/; or

    3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

☑ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Jesse Cooper, Fleet Manager, 72 Hour LLC

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

○ **Yes** ◉ **No**

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "**I have reviewed this addendum**" below to acknowledge each of the addenda.

ATTACHMENT 1

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_6_ Autos_SUVs_Vans_Trucks_RFP_091521 Wed September 8 2021 06:27 PM	☑	1
Addendum_5_ Autos_SUVs_Vans_Trucks_RFP_091521 Tue September 7 2021 07:28 PM	☑	2
Addendum_4_ Autos_SUVs_Vans_Trucks_RFP_091521 Thu August 26 2021 05:55 PM	☑	1
Addendum_3_ Autos_SUVs_Vans_Trucks_RFP_091521 Mon August 23 2021 09:47 AM	☑	1
Addendum_2_ Autos_SUVs_Vans_Trucks_RFP_091521 Sun August 8 2021 09:02 PM	☑	1
Addendum_1_ Autos_SUVs_Vans_Trucks_RFP_091521 Thu August 5 2021 03:58 PM	☑	1

National Auto Fleet Group
A Division of Chevrolet of Watsonville
490 Auto Center Drive, Watsonville, CA 95076
(855) 289-6572 • (831) 480-8497 Fax
Fleet@NationalAutoFleetGroup.com

3/13/2024
3/21/2024 Re-Configured

Quote ID: **37720 R1**

Order Cut Off Date: **TBA**

Scott Kooreman
CITY OF LIVERMORE
Fleet

3500 Robertson Park Rd

Livermore, California, 94550

Dear Scott Kooreman,

National Auto Fleet Group is pleased to quote the following vehicle(s) for your consideration.
Six (6) New/Unused (2024 Ford F-150 Lightning (W1B) Pro 4WD SuperCrew 5.5' Box 145" WB,) and delivered to your specified location, each for

	One Unit (MSRP)	One Unit	Total % Savings	Extended Unit's (6)	Total Savings
Contract Price	$69,390.00	$67,888.06	2.164 %	$407,328.36	$9,011.64
1 Additional Key(s)		$300.00		$1,800.00	
Tax (10.2500 %)		$6,989.28		$41,935.68	
Tire fee		$8.75		$52.50	
Total		$75,186.09		$451,116.54	

- per the attached specifications.

This vehicle(s) is available under the **Sourcewell (Formerly Known as NJPA) Contract 091521-NAF** . Please reference this Contract number on all purchase orders to National Auto Fleet Group. Payment terms are Net 20 days after receipt of vehicle.

Thank you in advance for your consideration. Should you have any questions, please do not hesitate to call.

Sincerely,

Kevin Buzzard
Account Manager
Email: buzzard5150@gmail.com
Office: (626) 457-5590
Fax: (831) 480-8497

Buyer Info

Organization
CITY OF LIVERMORE

Department
Fleet

Sourcewell #
091521-NAF

State

First Name
Scott

Last Name
Kooreman

Email Address
smkooreman@LIVERMORECA.GOV

Phone Number
(925) 960-8031

Alternate Phone Number
(209) 404-8602

Order Cut Off is TBA

Vehicle Configuration Options

ENGINE	
Code	**Description**
997	Engine: Dual eMotor - Extended Range Battery (FLT), -inc: single onboard charging level 2 peak charging rate of 11.5kW and 131 kWh usable capacity extended range high-voltage battery, GVWR: 8,550 lbs (Fleet)
TRANSMISSION	
Code	**Description**
44L	Transmission: Single-Speed, (STD)
WHEELS	
Code	**Description**
643	Wheels: 18" Machined w/Black High Gloss Pockets, (STD)
PRIMARY PAINT	
Code	**Description**
YZ	Oxford White
SEAT TYPE	
Code	**Description**
VS	Medium Dark Slate, Vinyl Bucket Heated Front Seats, -inc: 2-way manual driver/passenger w/flow-through console and floor shifter
ADDITIONAL EQUIPMENT	
Code	**Description**
53D	Max Trailer Tow Package, -inc: increased tow capability, Max towing capability TBD, Trailer Brake Controller
___	GVWR: 8,550 lbs
479	Pro Power Onboard - 9.6 kW
OPTION PACKAGE	
Code	**Description**
110A	Equipment Group 110A Standard

2024 Fleet/Non-Retail Ford F-150 Lightning Pro 4WD SuperCrew 5.5' Box 145" WB

WINDOW STICKER

2024 Ford F-150 Lightning Pro 4WD SuperCrew 5.5' Box 145" WB

CODE	MODEL	MSRP
W1B	2024 Ford F-150 Lightning Pro 4WD SuperCrew 5.5' Box 145" WB	$54,995.00
	OPTIONS	
997	Engine: Dual eMotor - Extended Range Battery (FLT), -inc: single onboard charging level 2 peak charging rate of 11.5kW and 131 kWh usable capacity extended range high-voltage battery, GVWR: 8,550 lbs (Fleet)	$10,000.00
44L	Transmission: Single-Speed, (STD)	$0.00
643	Wheels: 18" Machined w/Black High Gloss Pockets, (STD)	$0.00
YZ	Oxford White	$0.00
VS	Medium Dark Slate, Vinyl Bucket Heated Front Seats, -inc: 2-way manual driver/passenger w/flow-through console and floor shifter	$0.00
53D	Max Trailer Tow Package, -inc: increased tow capability, Max towing capability TBD, Trailer Brake Controller	$1,100.00
	GVWR: 8,550 lbs	INC
479	Pro Power Onboard - 9.6 kW	$1,200.00
110A	Equipment Group 110A Standard	$0.00

Please note selected options override standard equipment

SUBTOTAL	**$67,295.00**
Advert/ Adjustments	$0.00
Manufacturer Destination Charge	$2,095.00
TOTAL PRICE	**$69,390.00**

Est City: N/A MPG
Est Highway: N/A MPG
Est Highway Cruising Range: N/A mi

Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions.

Notes

Standard Equipment

MECHANICAL

Engine: Dual eMotor - Standard Battery -inc: 98 kWh usable capacity standard range high-voltage battery (STD)
Transmission: Single-Speed (STD)

EXTERIOR

Wheels: 18" Machined w/Black High Gloss Pockets (STD)

TIRES

Tires: 275/65R18 A/T

ADDITIONAL EQUIPMENT

Transmission w/Driver Selectable Mode
Full-Time All-Wheel
Driver Selectable Rear Locking Differential
9.61 Axle Ratio
Battery w/Run Down Protection
Class IV Towing Equipment -inc: Hitch and Trailer Sway Control
Trailer Wiring Harness
2235# Maximum Payload
GVWR: 8,250 lbs
HD Front Shock Absorbers and Gas-Pressurized Rear Shock Absorbers
Front And Rear Anti-Rolls
Electric Power-Assist Speed-Sensing Steering
Permanent Locking Hubs
Double Wishbone Front Suspension w/Coil Springs
Trailing Arm Rear Suspension w/Coil Springs
Regenerative 4-Wheel Disc Brakes w/4-Wheel ABS, Front And Rear Vented Discs, Brake Assist, Hill Hold Control and Electric Parking Brake
Lithium Ion (li-Ion) Traction Battery w/11.5 kW Onboard Charger and1.517 Hrs Charge Time @ 440V
Regular Box Style
Aluminum Spare Wheel
Full-Size Spare Tire Stored Underbody w/Crankdown
Clearcoat Paint
Black Front Bumper w/Black Rub Strip/Fascia Accent and 2 Tow Hooks

Black Rear Step Bumper
Black Side Windows Trim
Black Door Handles
Black Manual Side Mirrors w/Manual Folding
Fixed Rear Window
Deep Tinted Glass
Variable Intermittent Wipers
Aluminum Panels
Black Grille
Tailgate Rear Cargo Access
Tailgate/Rear Door Lock Included w/Power Door Locks
Integrated Storage
Ford Co-Pilot360 - Autolamp Auto On/Off Projector Beam Led Low/High Beam Directionally Adaptive Auto High-Beam Daytime Running Lights Preference Setting Headlamps w/Delay-Off
Cargo Lamp w/High Mount Stop Light
LED Brakelights
Headlights-Automatic Highbeams
Fm Stereo w/Seek-Scan, Clock, Speed Compensated Volume Control, Steering Wheel Controls, Voice Activation, Radio Data System and External Memory Control
Radio: FM Stereo w/6 Speakers
Streaming Audio
Fixed Antenna
Vinyl Bucket Heated Front Seats -inc: 2-way manual driver/passenger w/flow-through console and floor shifter
Bucket Front Seats w/Vinyl Back Material
4-Way Driver Seat -inc: Manual Recline and Fore/Aft Movement
4-Way Passenger Seat -inc: Manual Recline and Fore/Aft Movement
60-40 Folding Split-Bench Front Facing Fold-Up Cushion Rear Seat
Manual Tilt/Telescoping Steering Column
Gauges -inc: Speedometer, Odometer, Engine Coolant Temp, Traction Battery Level, Power/Regen, Traction Battery Temperature, Trip Odometer and Trip Computer
Power Rear Windows
FordPass Connect 4G Mobile Hotspot Internet Access
Front Cupholder
Rear Cupholder
3 12V DC Power Outlets
Compass
Remote Keyless Entry w/Integrated Key Transmitter and Panic Button
Cruise Control w/Steering Wheel Controls
Voice Activated Dual Zone Front Automatic Air Conditioning
HVAC -inc: Underseat Ducts and Console Ducts

Locking Glove Box
Driver Foot Rest
Interior Trim -inc: Cabback Insulator, Metal-Look Door Panel Insert and Metal-Look Interior Accents
Full Cloth Headliner
Urethane Gear Shifter Material
Day-Night Auto-Dimming Rearview Mirror
Driver And Passenger Visor Vanity Mirrors
Full Floor Console w/Locking Storage, Mini Overhead Console w/Storage, 3 12V DC Power Outlets and 8 120V AC Power Outlets
Front Map Lights
Fade-To-Off Interior Lighting
Full Vinyl/Rubber Floor Covering
Plastic Floor Trim
Cargo Area Concealed Storage
Pickup Cargo Box And Cargo Space Lights
Smart Device Remote Engine Start
SYNC 4 w/Enhanced Voice Recognition -inc: 12" LCD capacitive touchscreen w/swipe capability, information on demand panel, wireless phone connection, cloud connected, AppLink w/App catalog, 911 Assist, wireless Apple CarPlay and Android Auto compatibility, digital owners manual, conversational voice command recognition and connected navigation (includes 3-year trial), Note: Navigation services require SYNC4 and FordPass Connect (optional on select vehicles), complimentary connect service and the FordPass app (see FordPass Terms for details), Eligible vehicles receive a complimentary 3-year trial of navigation services that begins on the new vehicle warranty start date, Customers must unlock the navigation service trial by activating the eligible vehicle w/a FordPass member account, If not subscribed by the end of the complimentary period, the connected navigation service will terminate, and the system will revert to embedded offline navigation, Connected service and features depend on compatible AT&T network availability, Evolving technology/cellular networks/vehicle capability may limit functionality and prevent operation of connected features, FordPass App, compatible w/select smartphone platforms, is available via a download, Message and data rates may apply
Instrument Panel Bin, Dashboard Storage, Interior Concealed Storage, Driver / Passenger And Rear Door Bins
Power 1st Row Windows w/Driver And Passenger 1-Touch Up/Down
Delayed Accessory Power
Power Door Locks w/Autolock Feature
Trip Computer
Outside Temp Gauge
Digital Appearance
Driver And Passenger Heated-Cushion, Driver And Passenger Heated-Seatback
Manual Adjustable Front Head Restraints and Manual Adjustable Rear Head Restraints
Front Center Armrest
Perimeter Alarm
3 12V DC Power Outlets and 8 120V AC Power Outlets
AdvanceTrac w/Roll Stability Control Electronic Stability Control (ESC) And Roll Stability Control (RSC)

ABS And Driveline Traction Control
Side Impact Beams
Dual Stage Driver And Passenger Seat-Mounted Side Airbags
Reverse Sensing System Rear Parking Sensors
BLIS (Blind Spot Information System) Blind Spot
Automatic Emergency Braking
Lane Keeping Alert Lane Keeping Assist
Lane Keeping Alert Lane Departure Warning
Collision Mitigation-Front
Driver Monitoring-Alert
Collision Mitigation-Rear
Tire Specific Low Tire Pressure Warning
Dual Stage Driver And Passenger Front Airbags
Safety Canopy System Curtain 1st And 2nd Row Airbags
Airbag Occupancy Sensor
Mykey System -inc: Top Speed Limiter, Audio Volume Limiter, Early Low Fuel Warning, Programmable Sound Chimes and Beltminder w/Audio Mute
Rear Child Safety Locks
Outboard Front Lap And Shoulder Safety Belts -inc: Rear Center 3 Point, Height Adjusters and Pretensioners
Ford Co-Pilot360 - Reverse Camera Back-Up Camera

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF A PURCHASE ORDER WITH 72 HOUR LLC DBA NATIONAL AUTO FLEET GROUP FOR SIX 2024 FORD F150 ALL WHEEL DRIVE ELECTRIC VEHICLE LIGHTNING PICKUP TRUCKS IN AN AMOUNT NOT-TO-EXCEED $451,117

The City of Livermore ("City") Maintenance and Water Resources Divisions utilize pickup trucks to haul tools and materials to remote work sites, as well as for supervisory tasks. The City's Fleet Policy currently recommends the replacement of five pickup trucks.

Livermore Municipal Code section 2.68.370 allows for the purchase of equipment with a value greater than $50,000 through a cooperative purchasing arrangement. Livermore Municipal Code section 2.68.390 identifies specific cooperative purchasing agencies and counties that are pre-approved.

72 Hour LLC, which does business as National Auto Fleet Group, holds a Sourcewell (formerly National Joint Powers Alliance) competitively bid cooperative purchasing contract for passenger cars and light duty pickup trucks, including police vehicles. Livermore Municipal Code section 2.68.390 identifies the National Joint Powers Alliance as an approved cooperative purchasing arrangement.

The City received a quote from National Auto Fleet Group for six 2024 Ford F150 All-Wheel Drive Electric Vehicle Lightning Pickup Trucks in the amount of $451,117. The City will utilize these new vehicles to retire and replace five existing pickup trucks and allocate an additional truck to a restored Public Works Supervisor position.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes the City Manager, or her designee, to execute a purchase order, on behalf of the City of Livermore, with National Auto Fleet Group in an amount not-to-exceed $451,117 for the purchase and delivery of six 2024 Electric Ford F150 All-Wheel Drive Electric Vehicle Lightning Pickup Trucks in accordance with the terms, specifications, and general provisions specified in Sourcewell Contract #091521-NAF and section 2.68.390 of the Livermore Municipal Code.

2. Authorizes the City Manager, or her designee, to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

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

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.12**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Paul Spence, Assistant City Manager

SUBJECT: Resolution authorizing execution of a Low-Income For Sale Housing Agreement with DeNova Homes, Inc. for a 172-unit subdivision located at the intersection of North Canyons Parkway and Triad Drive (VTTM 8657), “Triad East/Amarone”.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a Low Income For Sale Housing Agreement with DeNova Homes, Inc. for a 172-unit subdivision located at the intersection of North Canyons Parkway and Triad Drive (VTTM 8657) Triad East/Amarone.

SUMMARY

In May 2023, the City Council approved the 172-unit residential “Amarone” subdivision proposed by DeNova Homes, Inc. located at the intersection of North Canyons Parkway and Triad Drive, also known as the “Triad East Site”. In accordance with the City’s Affordable Housing Ordinance, the developer must enter into a Low Income For Sale Housing Agreement with the City and provide 34.4 residential units in the project at affordable prices for sale to median- and moderate-income homebuyers or obtain the City Council’s approval of an alternative. The developer proposes to provide 34 affordable units in the development for sale to median- and moderate-income households, and to provide an In-Lieu fee payment of $90,237 representing 0.4 affordable units in the development, as allowed by the City’s ordinance. Staff recommends approval of this proposal, further described in the Low Income For Sale Housing Agreement, as it will provide affordable first-time homebuyer opportunities, and an In-Lieu fee contribution to the City’s Affordable Housing Trust Fund that will support affordable housing throughout the City.

DISCUSSION

The City’s Affordable Housing Ordinance states that developers completing for-sale residential projects within the City’s Isabel Neighborhood Specific Plan Area (INSP) must satisfy the affordable housing requirement by providing twenty percent (20%) of those units at prices affordable for median- and moderate-income households or provide an equivalent alternative, subject to City Council approval. Alternative methods of compliance, including payment of an In-Lieu fee, are described in the Ordinance.

In June 2021, City Council approved an amendment to the In-Lieu Fee calculation methodology for developments of more than 10 units which bases the fee on the estimated cost of the inclusionary housing requirement for the subject development.

On May 22, 2023, City Council approved the 172-unit “Amarone” residential subdivision proposed by DeNova Homes, Inc. located at the intersection of North Canyons Parkway and Triad Drive (the “Development”). As a Condition of Approval, in accordance with the City’s Affordable Housing ordinance, the developer must enter into a Low Income For Sale Housing Agreement with the City to fulfill the Inclusionary Housing requirement. The development is subject to an affordability requirement of 34.4 units for sale to median- and moderate-income first-time homebuyers. The developer proposes to provide 34 affordable units on-site as required by the City’s Affordable Homeownership Program and to pay an equivalent In-Lieu Fee of $90,237 for the remaining 0.4 affordable units, as allowed under the ordinance.

In accordance with the updated fee methodology, the proposed fee was calculated based on a review of comparable home sales. As described in the Low Income For Sale Housing Agreement, the fee is calculated as the difference between the average affordable sales price of a 2-bedroom median- and moderate-income home, and the estimated market sales price of a 2-bedroom home in the subject development, based on current comparable units.

Staff recommends approval of the proposal as it meets the requirements of the City’s Affordable Housing ordinance, advances City Council’s affordable housing goals and meets the City’s Strategic Plan Community Pillar of providing a Safe Community that Thrives. The on-site affordable units priced at median- and moderate-income levels will serve a range of low- to moderate-income homebuyers with the assistance of other County and State Down Payment Assistance funds to support purchases. Prices for the affordable units will be determined in accordance with the established sales prices adopted by the City for the Affordable Homeownership Program at the time of sale.

The affordable units would be marketed throughout the community, and the applicant selection process would prioritize applicants that meet City Council’s established preferences, including Livermore residents and workers, Livermore Valley Joint Unified School District teachers, first responders, tenants of affordable rental units regulated by the City and veterans. All purchasers must meet the City’s Affordable Homeownership Program qualifying criteria, including first-time homebuyer qualification, a minimum 660 credit score, determination of creditworthiness, and a three percent (3%) down payment requirement. Buyers will be required to enter into a resale restriction agreement with the City along with a promissory note and recorded deed of trust which reflect the affordability subsidy amount (e.g., difference between the market value and the affordable sales price).

In addition, the project will make a fee payment for the fractional 0.4 affordable unit which will be contributed to the City’s Affordable Housing Trust, serving the housing needs of low- and very low-income families, seniors and unhoused individuals.

FISCAL AND ADMINISTRATIVE IMPACTS

If approved, the Low Income For Sale Housing Agreement (LIHA) will provide 34 affordable units for sale to median- and moderate-income homebuyers and an additional fee payment of $90,237 to the City’s Low Income Housing Fund which could be accessed for other housing purposes and goals of the City.

Upon sale of the affordable units, the City will hold a promissory note secured by a recorded deed of trust with the homebuyer in an amount that is the difference between the market rate appraised value of the home and the affordable for sale price at the time of sale. The promissory notes require no payment and may transfer to a new eligible buyer at resale. If the unit is sold at a market rate-unrestricted price to an ineligible buyer, the City collects the amount of the promissory note and all restrictions terminate on the unit.

The City will also receive an administrative fee of one and a half percent (1.5%) of the affordable sales price. The developer will pay this fee at close of escrow. The fee will be used to defray the City's marketing, application, selection and homebuyer education costs as well as to monitor resale restriction agreements and comply with all federal and state fair housing laws and regulations.

COMMUNITY PILLAR

1: A Safe Community that Thrives

GOAL

7: Expand and preserve the supply of affordable housing opportunities.

ATTACHMENTS

1. Resolution
2. Exhibit A - Low Income Housing Agreement DeNova

Prepared by: Fran Reisner
Housing and Human Services Manager

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE EXECUTION OF A LOW-INCOME FOR SALE HOUSING AGREEMENT WITH DENOVA HOMES, INC. FOR A 172-UNIT RESIDENTIAL SUBDIVISION LOCATED AT THE INTERSECTION OF NORTH CANYONS PARKWAY AND TRIAD DRIVE

DeNova Homes, Inc. ("the Developer") proposed Amarone, a 172-unit residential subdivision at the intersection of North Canyons Parkway and Triad Drive (VTTM 8657) ("the Development"), also known as the Triad East site.

On May 22, 2023, the City Council approved the Development, subject to the Conditions of Approval, which included compliance with all applicable City laws and ordinances. The Developer now desires to meet its inclusionary housing requirement for the Development by entering into a Low-Income For Sale Housing Agreement ("Agreement") with the City of Livermore. The Development would be subject to the twenty percent (20%) inclusionary requirement for the Isabel Neighborhood Specific Plan Area (INSP) whereby 34.4 units in the Development are required to be provided as affordable for purchase by median- and moderate-income homebuyers in the Development.

In accordance with the City of Livermore's Inclusionary Housing Ordinance (Livermore Development Code section 10.06.050), the Developer proposed to satisfy the twenty percent (20%) affordable housing requirement for the Development by providing 34 units for sale in the Development at prices that are affordable to median- and moderate-income households and through payment of an In-Lieu fee of $90,237 to the City of Livermore's Housing Trust Fund (F611) as the equivalent of the remaining 0.4 affordable units required. This proposal for satisfaction of the inclusionary housing requirement is reflected in the Low-Income For Sale Housing Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby authorizes the City Manager, or her designee, to sign on behalf of the City of Livermore the Low-Income For Sale Housing Agreement with DeNova Homes, Inc., for a 172-unit subdivision, attached hereto as Exhibit A, and all related and necessary documents.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – Low Income For Sale Housing Agreement with DeNova Homes, Inc.

Recording Requested By:
CITY OF LIVERMORE
And When Recorded Mail to:
The City of Livermore
1052 S. Livermore Avenue
Livermore, CA 94550
Attention: City Clerk

Documentary Transfer Tax $ Exempt R&T Code 11922

By:

City of Livermore

Recording Fee $0.00 Gov't Code 27383

APN (905-0010-004-03)

Low Income For Sale Housing Agreement
between
City of Livermore and DeNova Homes, Inc.

This Low Income For Sale Housing Agreement ("Agreement") is entered into on_____, _____, 2024 by and between the City of Livermore, a municipal corporation ("City"), and DeNova Homes, Inc. ("Developer"), with reference to the following facts:

RECITALS

A. A serious shortage of affordable housing exists in the City. Of particular concern is the shortage of housing for low-income and moderate-income households.

B. The impact that for-sale residential units have on the need to meet affordable housing was determined by conducting a Residential Nexus Analysis and Residential Feasibility Analysis. The analyses found that the need for affordable housing is commensurate with a 15% inclusionary requirement. The 20% inclusionary requirement for the Isabel Neighborhood Specific Plan was developed to be economically equivalent to the 15% inclusionary requirement for the General Plan Area.

C. The City's General Plan Housing Element has the goal of providing housing affordable to all economic segments of the community and requires that in the General Plan area 15% of the dwelling units be affordable, in the Downtown Specific Plan area 10% of the dwelling units be affordable, and in the Isabel Neighborhood Specific Plan Area 20% of the dwelling units be affordable. Chapter 10.06.050 of the Livermore Development Code provides that this affordability requirement may also be satisfied by alternative means including payments to the City's Housing Trust Fund for use in affordable housing projects.

D. The Developer desires to build a residential development in the Isabel Specific Plan Area of the City of Livermore, and to enter into this Agreement to satisfy its affordable housing requirement.

AGREEMENT

NOW THEREFORE, in consideration of the terms, conditions and covenants set forth herein, City and Developer agree that the recitals are true and correct and further agree as follows:

1) Development
The Developer intends to develop a subdivision consisting of 172 for sale single-family, attached housing units ("Units") as described in that certain Vesting Tentative Tract Map 8657 (the "Map"), located at the intersection of North Canyons Parkway and Triad Drive, in Livermore, California (the "Development").

2) Affordable Housing Requirement
Based on the Conditions of Approval for Vesting Tentative Tract Map 8657, and Chapter 10.06.050 of the Livermore Development Code, the Developer is required to provide 34.4 residential units ("Units") for sale at affordable prices to median-income and moderate-income households.

3) Satisfying the Affordable Housing Requirement
In satisfaction of the affordable housing requirement described in Section 2 above, the Developer hereby agrees to: (i) construct 34 Units within the Development, nine (9) of which will be reserved for sale at Median Income Sales Prices, and 25 of which will be reserved for sale at Moderate Income Prices as defined in Section 7 below, (the "Affordable Units"); and, (ii) for the fractional remainder of the requirement, pay to the City's Housing Trust Fund the in lieu fee, as defined in Section 4, below.

4) Payment Schedule and Calculation
The Development is to pay the in-lieu fee for 0.4 Units in the Development which totals $90,237 and is calculated as described in Attachment 2. The in-lieu fee shall be paid in equal installments of $653.89 per Unit at the time of building permit application for each of the 138 unrestricted, market rate Units in the Development (the "Market Rate Units").

The in-lieu fee amount shall be fixed for any Market Rate Units constructed in the Development within five (5) years of the date of execution of this Agreement. Thereafter, the in-lieu fee calculation shall be subject to adjustment to the current Affordable Housing In-Lieu fee per square foot as noted in Attachment 2.

5) Location and Description of Affordable Units

a) The Affordable Units shall be located on the base units described below.

Building Number	Unit Number	Plan	No. of Bedrooms	No. of Baths	Square footage	Affordable Sales Price Category
BLDG 1	1204	GF3	2	2	937	Moderate
BLDG 1	1206	GF4	2	2	995	Median
BLDG 1	1210	GF5	2	2	966	Moderate
BLDG 2	2212	GF1	1	1	626	Moderate
BLDG 2	2104	GF2	2	2	825	Moderate
BLDG 2	2202	GF3	2	2	937	Median
BLDG 2	2208	GF4	2	2	995	Moderate
BLDG 3	3208	GF1	1	1	626	Median
BLDG 3	3204	GF3	2	2	937	Moderate
BLDG 3	3214	GF3	2	2	937	Moderate
BLDG 3	3206	GF4	2	2	995	Moderate
BLDG 4	4212	GF1	1	1	626	Moderate
BLDG 4	4202	GF3	2	2	937	Moderate
BLDG 4	4216	GF3	2	2	937	Moderate
BLDG 4	4208	GF4	2	2	995	Moderate
BLDG 5	5102	GF2	2	2	825	Median
BLDG 5	5204	GF3	2	2	937	Moderate
BLDG 5	5214	GF3	2	2	937	Moderate
BLDG 5	5206	GF4	2	2	995	Moderate
BLDG 6	6202	GF3	2	2	937	Median
BLDG 6	6206	GF5	2	2	966	Moderate
BLDG 6	6106	GF6	3	2	1275	Moderate
BLDG 7	2813	TH2	2	2.5	1143	Median
BLDG 8	1137	TH2	2	2 + (2).5	1143	Median
BLDG 8	1121	TH1	2	2.5	1143	Moderate
BLDG 8	1117	TH2	2	2.5	1143	Moderate
BLDG 9	169	TH1	2	2.5	1143	Median
BLDG 9	153	TH1	2	2.5	1143	Moderate
BLDG 9	157	TH2	2	2.5	1143	Moderate
BLDG 10	121	TH1	2	2.5	1143	Moderate
BLDG 10	117	TH2	2	2.5	1143	Moderate
BLDG 12	3121	TH1	2	2 + (2).5	1143	Median
BLDG 13	4109	TH1	2	2.5	1143	Moderate
BLDG 13	4113	TH2	2	2.5	1143	Moderate

b) All Affordable Units shall be sold at the sales prices adopted by City Council that are applicable during the year the Affordable Units are sold (the "Median Income Price" and "Moderate Income Price"). For the initial year of this Agreement, the Median and Moderate Income Prices are as set forth in Attachment 3 attached hereto.

c) The units listed in Section 5.a on which the Affordable Units are to be constructed may be changed with the mutual written consent of the City and Developer not to be unreasonably withheld provided that any change in the units does not materially detract from the value of the Affordable Units as determined by the City in accordance with the City's affordable housing ordinance (Dev. Code § 10.06.050).

d) Each Affordable Unit shall
   i. be built in conformance with the models and plans noted in Section 5 (a) above as such plans were approved in connection with Vesting Tentative Tract Map 8657 and,
   ii. consist of the square feet of living space comprised of a family room, dining room, kitchen, laundry, bedrooms and bathrooms, as stated in Section 5 (a) above, and
   iii. contain the same standard amenities, fixtures and finishes, such as appliances, cabinets, counters, flooring, etc., as the market rate units in the Development. Any proposed amenities, fixtures and finishes that differ from those in the Market Rate Units must be pre-approved by the City in writing prior to marketing the first Affordable Unit.

6) Selection of Purchasers

The purchasers ("Purchasers") of the Affordable Units shall be participants in the City's Affordable Homeownership Program (the "Program") to the extent the Program has qualified participants; if not enough participants in the Program, Developer shall have the right to identify other qualified purchasers, subject to City's approval, for the deed restricted units, which meet the affordability requirements set forth in Section 6(a)-(c) of this Agreement. The Program requires, among other things that:

a) For those Affordable Units designated to be sold to median income households, each Purchaser's income shall not exceed one hundred percent (100%) of the median income for Alameda County, adjusted for actual household size, as published annually by the California Department of Housing and Community Development ("Median Income Purchaser").

b) For those Affordable Units designated to be sold to moderate income households, each Purchaser's income shall not exceed one-hundred twenty percent (120%) of the median income for Alameda County, adjusted for actual household size, as published annually by the California Department of Housing and Community Development ("Moderate Income Purchaser").

c) Median and Moderate Income Purchasers must be first time homebuyers and meet credit and eligibility standards described in the City's Affordable Homeownership Program Guidelines.

d) To the extent required under the Program, Developer agrees to market the Affordable Units through specified City programs, to the extent qualified participants/purchasers are available, to implement applicant selection preferences in accordance with City's Affordable Homeownership Program Guidelines. The Developer may elect to have the City identify and select eligible Median and Moderate Income Purchasers for the Affordable Units.

e) If the Developer elects to utilize the services of the City:
   i. The City will establish a list identifying income-eligible households based on preferences established by the Livermore City Council, provide first time homebuyers access to consumer credit counseling, identify to first time homebuyers possible financing options, assist homebuyers through the escrow process, monitor resale restriction agreements and related documents, and comply with all federal and state fair housing laws and regulations.

   ii. Upon close of escrow for the sale of each Affordable Unit, the City shall be paid from escrow an administrative fee equal to one and half percent (1.5%) of the Total Purchase Price to conduct the activities described in Section 6 (d)(i) on behalf of Developer.

   iii. In order to ensure timely delivery notification of eligible Purchasers, Developer shall send to the City's Housing and Human Services Division Manager, a written notice as soon as Developer, in its reasonable opinion, believes that a particular Affordable Unit is at least one hundred twenty (120) days from being ready for occupancy. At that point, the City will begin marketing and identifying eligible Median and Moderate Income Purchasers. The City shall provide to Developer the names of Median and Moderate Income Purchasers eligible under the Program.

f) If the Developer does not elect to utilize the services of the City, the Developer must meet all of the requirements described in this section (6.a-6.c). The City will monitor the Developer to ensure compliance.

7) Sales Price Limits
   a) For those Affordable Units sold to Median Income Purchasers and Moderate Income Purchasers, the purchase price for each unit shall not exceed the sum of (i) the "Median Income Price" or "Moderate Income Price". The Median Income Price and Moderate Income Price are established annually by the City and set forth as Affordable For-Sale Prices, Rental Rates and Maximum Income Limits. The 2024 schedule is attached hereto as

Attachment 3, incorporated herein as reference, and adopted by City Council Resolution 2001-204 ("Below Market Price Limits.") The Developer and the City acknowledge that the Below Market Price Limits may be adjusted from time to time and agree that in the event of such adjustment the Median Income Prices and Moderate Income Prices of the Affordable Units shall be adjusted to match the then current Below Market Price Limits at the time the Developer notices the City of an Affordable Unit(s) for sale and/or the marketing of the Affordable Unit(s) begins as mutually agreed upon.

b) For property assessment purposes, the Total Purchase Price for each Affordable Unit shall be reported to the Alameda County Assessor's Office.

8) Affordability Restrictions

To effectuate the affordability restrictions, as a condition to the close of escrow on any Affordable Unit, the Developer shall require Purchaser to execute a promissory note in favor of the City in an amount equal to the difference between the fair market value as determined by an appraisal of the Affordable Unit and the Median Income Price or Moderate Income Price(the "Promissory Note"). In addition to the Promissory Note, the Purchaser shall execute a deed of trust and a resale restriction agreement in favor of the City that will be recorded in a second-priority position at the close of escrow. The Resale Restriction Agreement, Deed of Trust and Promissory Note shall be referred to as the "City Loan Documents" and shall be substantially in the form of Attachment 4.

9) Assignment

This Agreement shall be binding upon the successors and assigns of the parties. Where the Developer sells or otherwise transfers title to any portion of the Property, that subsequent owner and Developer are jointly and severally liable for the obligations under this Agreement as to that portion of the Property sold or transferred unless Developer is released by City, which release shall not be unreasonably withheld, so long as the subsequent owner provides City with security equivalent to any security previously provided by Developer to secure performance of its obligations hereunder. Developer acknowledges that it shall be reasonable for City to condition such release of the Developer upon Developer and its successor entering into a written assignment and assumption agreement requiring the successor to satisfy Developer's outstanding obligations under this Agreement.

10) Breach

No party shall be in material breach of this Agreement unless and until (i) the breaching party receives from the non-breaching party a written notice ("Breach Notice") stating the nature of the breach and (ii) the breaching party has failed to cure such breach within thirty (30) days of the date it receives the Breach Notice; provided, however, if the nature of the breach is of a type or nature that cannot be cured within thirty (30) days, then the breaching party shall not be in material

default of this Agreement so long as it (i) commences curing of the breach within thirty (30) days of the date it receives the Breach Notice and (ii) diligently pursues curing the breach to completion.

11) Agreement Lawful and Enforceable.
The Developer acknowledges and concedes that this Agreement is lawful and enforceable and waives any and all legal challenges or other objections to this Agreement. The Developer shall not in any judicial action or proceeding, affirmatively or by way of defense, seek to invalidate or otherwise avoid the application of the terms of this Agreement.

12) Notice
Unless specified otherwise herein, any notice, tender or delivery to be given pursuant to this Agreement by either party shall be in writing and may be accomplished by delivery in person, express delivery service, or first-class certified mail, return receipt requested. Any notice shall be deemed received on the date shown on the receipt as the date of delivery, refusal of delivery or the date returned as undeliverable. Notices shall be addressed as set forth below, but each party may change his or her address by written notice in accordance with this Section.

TO CITY:
City of Livermore
1052 So. Livermore Ave.
Livermore, CA 94550
Attn: City Manager

DeNova Homes
Attention: Dana Tsubota, Esq.
1500 Willow Pass Court
Concord, CA 94520

With a copy to:
DeNova Homes, Inc.
Attention: Trent Sanson
1500 Willow Pass Court
Concord, CA 94520

TO DEVELOPER:

13) Attorneys' Fees
If any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach of this Agreement, then the party prevailing in any such action shall be entitled to recover all reasonable attorneys' fees and costs incurred.

14) Compliance
Compliance with this Agreement satisfies the affordable housing development obligations of Developer under the City's Affordable Housing Ordinance (Section 10.06.050 of the Livermore Development Code), and the Vesting Tentative Tract Map 8657 conditions of approval.

15) Modification
This Agreement shall not be modified except by written instrument executed by and between the parties.

16) Entire Agreement
This Agreement constitutes the entire understanding and agreement of the parties with respect to the sale of the Affordable Units.

17) Binding Effect
This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties.

18) Severability
If any term of this Agreement is held in a final disposition by a court of competent jurisdiction to be invalid, then the remaining terms shall continue in full force unless the rights and obligations of the parties have been materially altered by such holding of invalidity.

19) Governing Law
This Agreement shall be governed by the laws of the State of California.

20) Incorporation by Reference
Any exhibits referred to in this Agreement are incorporated in this Agreement by such reference.

21) Counterparts
This Agreement may be executed in counterparts, by actual or facsimile signature (with originals to be forwarded by overnight mail). Each counterpart shall be deemed an original and all, when taken together, shall constitute one agreement.

22) Termination
This Agreement and all terms and conditions contained herein and the encumbrance of this Agreement on title shall automatically terminate once all obligations under this Agreement have been satisfied by the Developer without signing or recording any instrument of release, provided City shall sign any such release to the extent requested by Developer and/or required by any title company insuring the sale or transfer of Units. Notwithstanding the foregoing this Agreement shall terminate in its entirety and be of no further force and effect with respect to, (a) any portion (or interest in) of the Property, upon dedication or conveyance to a homeowners association, public entity or public utility, and (b) any completed Unit, upon the sale of such Unit to a member of the general public. In any such event, such portion of the Property (or interest therein) shall be deemed automatically released from the encumbrance of this Declaration, without signing or recording any instrument of release, provided City shall sign any such release to the extent requested by Developer and/or required by the title company insuring such sales or transfers.

[Signatures and Attachment List on the Next Page]

IN WITNESS WHEREOF, the parties have executed this Agreement on or as of the date first written above.

DEVELOPER:

DENOVA HOMES, INC.
a California corporation

By: _____
Name: Ryan Parlett
Its: Authorized Signer
For:
Date: 4/29/2024

CITY OF LIVERMORE: **Dated:**

_____ _____
Marianna Marysheva
City Manager

APPROVED AS TO FORM:

_____
Deputy/Assistant/City Attorney

Attachments:

Attachment 1 – Intentionally Blank (please refer to Section 5.a)
Attachment 2 – Calculation of In Lieu Fee for Fractional Unit
Attachment 3 – Current Affordable Homeownership Program Sales Prices
Attachment 4 - Form of City Loan Documents

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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

State of California
County of _____ }

On _____ before me, _____,
Date *Here Insert Name and Title of the Officer*

personally appeared _____
Name(s) of Signer(s)

_____,

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

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

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

©2019 National Notary Association

EXHIBIT A

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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

State of California

County of Contra Costa

On April 29, 2024 before me, Laurel Nunez, Notary Public,
(Here insert name and title of the officer)

personally appeared Ryan Parlett,

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Laurel Nunez
Signature of Notary Public

LAUREL NUNEZ
Notary Public - California
Contra Costa County
Commission # 2425856
My Comm. Expires Nov 8, 2026
(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer

(Title)

- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

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Attachment 1
Location of Affordable Units

Please refer to Section 5.a for the detailed unit matrix

Note: The original plan is available on file as part of Vesting Tentative Tract Map 8657 at the City of Livermore Building Department, 1052 S. Livermore Avenue, Livermore CA 94550

Attachment 2

Calculation of In Lieu Fee Payment for Fractional Unit

(See next page)

In-Lieu Fee Calculator - Projects 10+ Units
Per Livermore Municipal Code 3.26 Housing In Lieu Fee

Development: Triad
Developer: DeNova Homes
Total Units: 172
Affordable (Inclusionary) Unit Requirement: 34.4 (20%)
Fractional Affordable Unit to be Provided in Fee: 0.4

Average Square Footage of Development Calculations									
	GF1	GF2	GF3	GF4	GF5	GF6	Th1	Th2	Total
Square feet of each Plan:	626	825	937	995	966	1,275	1,143	1,143	
Number of units of each Plan:	12	12	48	24	12	6	29	29	172
Total square feet of each Plan:	7,512	9,900	44,976	23,880	11,592	7,650	33,147	33,147	171,804
Average square footage of the Development:									999

$	712,287	Estimated Base Sales Price of Average Unit
- $	486,694	Affordable Sales Price for 2BR Unit
= $	225,593	In-lieu fee per (1) Affordable Unit
$	0.4	Remaining Fraction of required inclusionary units
x $	225,593	In-lieu fee per (1) Affordable Unit
= **$**	**90,237.20**	**Fractional Fee for (.4) Affordable Unit**

EXHIBIT A

Attachment 3

Current Affordable For-Sale Prices, Rental Rates and Maximum Income Limits
(adopted by City Council 01/08/24)

(See next page)

LIVERMORE

Attachment 3

City of Livermore
Affordable For-Sale Prices and Rental Rates

For-Sale Housing*							
		Low-Income (80%)		Median-Income (100%)		Moderate-Income (120%)	
No. Bedrooms	Household Size	Maximum Income	Maximum Purchase Price	Maximum Income	Maximum Purchase Price	Maximum Income	Maximum Purchase Price
Studio	1	$78,550	$210,629	$103,550	$295,625	$124,250	$366,001
1	2	$89,750	$248,707	$118,300	$345,772	$142,000	$426,347
2	3	$100,950	$286,785	$133,100	$396,089	$159,750	$486,694
3	4	$112,150	$324,863	$147,900	$446,406	$177,500	$547,041
4	5	$121,150	$355,461	$159,750	$489,233	$191,700	$595,318

**Effective January 8, 2024*

Rental Housing*													
		Ext. Low-Income (30%)		Very-Low Income (50%)		Lower-Income (60%)		Low-Income (80%)		Median-Income (100%)		Moderate-Income (120%)	
No. Bed-rooms	Size House-hold	Maximum Income	Maximum Rent	Maximum Income	Maximum Rent	Maximum Income	Maximum Rent	Maximum Income	Maximum Rent	Maximum Income	Maximum Rent	Maximum Income	Maximum Rent
Studio	1	$31,050	$776	$51,800	$1,295	$62,160	$1,554	$78,550	$1,964	$103,550	$2,589	$124,250	$3,106
1(*)	1.5	$35,500	$888	$55,500	$1,388	$66,600	$1,665	$84,150	$2,104	$110,925	$2,773	$133,125	$3,328
1	2	$39,950	$999	$59,200	$1,480	$71,040	$1,776	$89,750	$2,244	$118,300	$2,958	$142,000	$3,550
2	3	$44,350	$1,109	$66,600	$1,665	$79,920	$1,998	$100,950	$2,524	$128,500	$3,328	$159,750	$3,994
3	4	$47,900	$1,198	$73,950	$1,849	$88,740	$2,219	$112,150	$2,804	$142,800	$3,698	$177,500	$4,438
4	5	$51,450	$1,286	$79,900	$1,998	$95,880	$2,397	$121,150	$3,029	$159,750	$3,994	$191,700	$4,793

**Effective January 8, 2024*

NOTES: These limits are based on income data from the California Department of Housing and Community Development (HCD) for 2023. The Affordable Sales Prices are effective for the 2024 Affordable Homeownership Program year and thereafter until updated by City Council. The 2023 Area Median Income for a 4-person household of $147,900 published by State HCD is derived from the U.S. Department of Housing and Urban Development for Alameda County (Oakland-Fremont Metro Region) for the Section 8 Program.

(*) Low Income Housing Tax Credit (LIHTC) Household size

Sales Prices: assume a 6.75% interest rate, 30-year mortgage, and housing payments (PITI) which do not exceed 30% of the household's monthly income.
The Rental Housing limits are effective upon adoption by City Council and thereafter until updated by City Council. Rental affordability based on 30% of the household's monthly income and do not include tenant utility allowances. Utility allowances should be deducted from the maximum rents based on the Livermore Housing Authority's utility allowance schedule for the Section 8 Program.

Date Adopted by Livermore City Council: January 8, 2024

EXHIBIT A

Attachment 4

Form of City Loan Documents

(See next page)

COMPLIMENTARY RECORDING
REQUESTED PURSUANT TO
GOVERNMENT CODE SECTION 27383

When Recorded Mail To:
City Clerk
City of Livermore
1052 So. Livermore Avenue
Livermore, CA 94550

RESALE RESTRICTION AGREEMENT

Owner: _____

Residence: _____
Livermore, CA 94551

This Resale Restriction Agreement (the "Agreement") is entered into as of this _____ day of _____, 2021 by and between the City of Livermore, a municipal corporation (the "City") and _____ (the "Owner").

RECITALS

A. There is currently a shortage of single family housing in the City of Livermore that is affordable to low income households, causing many low and moderate income households to be unable to purchase single family homes.

B. To assist low and moderate income households in purchasing single family homes, the City has granted developers certain regulatory concessions and in return developers have agreed to cooperate with the City in developing affordable single family homes.

C. In order to further its plan to assist in the purchase of homes by low and moderate income households, the City has developed a secondary financing program designed to assist qualified purchasers to purchase single family homes while preventing unfair windfall profits to the purchasers (the "Affordable Homeownership Program").

D. Without the City's Inclusionary housing requirements, which require the developers to build homes at an affordable price, the Owner would not have had the opportunity to purchase a single family residence.

E. The City's secondary financing represents the value that the owner has received as a result of the City's Inclusionary requirements.

F. The Owner desires to purchase an affordable single family home and to participate in the Affordable Homeownership Program.

G. The Owner has qualified for City financing with a combined household income which does not exceed One Hundred Twenty percent (120%) of median income of Alameda County, adjusted for actual household size, as published by the California Department of Housing and Community Development.

H. The City wishes to establish resale controls to protect its financial interest in the Residence and to provide for the continued availability of affordable housing.

I. In order to protect its financial interest and its program of providing housing for low income households, the City has required the Owner to execute, in addition to this Agreement, a promissory note in favor of the City (the "City Note").

J. This Agreement and the City Note shall be secured by a deed of trust in a lesser lien position (the "City Deed of Trust") subordinate to the lien of that deed of trust executed by the Owner in favor of the First Lender.

K. The purpose of this Agreement is to place resale controls on the Residence and establish eligibility requirements for subsequent purchasers.

L. The City intends to apply the production of this Residence, to the extent permitted by law, toward the satisfaction of the requirements of Health and Safety Code Section 33413(b)(2).

AGREEMENT

NOW, THEREFORE, in consideration of the benefits received by the Owner and the City, the Owner and the City agree, as follows:

1. DEFINITIONS

The following terms are specially defined for this Agreement:

A. "Affordable Purchase Price" shall mean the maximum purchase price for Moderate Income (120% AMI) housing, adjusted for number of bedrooms, as adopted annually by the City Council of the City.

B. "Affordable Rent" shall mean the lesser of the actual housing costs (including mortgage, homeowners' insurance, hazard and flood insurance, homeowners' association dues) or City affordable rental maximum plus reasonable and customary property management services fee.

C. "City Option" shall mean the City's option to purchase Residence as defined in Section 15.A.

D. "Excess Rental Proceeds" shall mean all rental proceeds collected by the Owner that exceed the Affordable Rent.

E. "Excess Sales Proceeds" shall mean the portion of the gross sales proceeds received by the Owner from a subsequent purchaser, which exceeded the Affordable Sales Price for the Residence that is due to the City. The amount of Excess Sales Proceeds due to the City shall be no greater than the equivalent amount of 3% compounded annual interest on the principal amount of the City Note for a maximum of twenty (20) years. The actual amount of excess sales proceeds due to the City shall be calculated according to the number of years outstanding on the City's Note.

F. "Fair Market Value" shall be determined by an appraisal of the Residence performed as provided in the Resale Restriction Agreement. Nothing in this subparagraph shall preclude the Owner and the City from establishing the Fair Market Value of the Residence by mutual agreement in lieu of an appraisal.

G. "First Lender" shall mean .

H. "First Lender Deed of Trust" shall mean the deed of trust from Owner to .

I. "First Lender's Loan" shall mean the loan to Owner made by and any loan to Owner in the name of or held by CalHFA.

J. "Median Income" shall mean the median annual income, adjusted for household size, for a household in Alameda County as published by the California Department of Housing and Community Development.

K. "Proposed Purchaser" shall mean the potential home buyer proposed by the Owner to purchase the Residence from the Owner.

L. "Sales Price" shall mean the maximum sales price that the Owner may receive for any Transfer of the Residence to an eligible Purchaser, as calculated in accordance with Section 14 below.

M. "Transfer" shall mean any sale, assignment or transfer, voluntary or involuntary, of any interest in the Residence, including, but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, (other than as may be permitted in Section 8 of the Resale Restriction Agreement) or an interest evidenced by a land contract by which possession of the Residence is transferred and Owner retains title, or deed of trust.

A Transfer shall not include a transfer by gift, devise or inheritance: (i) to an existing spouse, domestic partner, surviving joint tenant, or child; (ii) by an Owner to a spouse or domestic partner where the spouse or domestic partner becomes the co-owner of the Residence; (iii) between spouses as part of a marriage dissolution proceeding; (iv) to an existing spouse or domestic partner of Owner by devise or inheritance following the death of Owner; (v) by Owner into an inter vivos trust in which Owner is the beneficiary; or (vi) refinance of the First Mortgage meeting the requirements of Section 17 of this Agreement; provided, however, that Owner shall provide written notice of all such transfers to City; and Owner shall continue to occupy the Residence as his or her principal place of residence (except where the transfer occurs pursuant to subsection (iii) or (iv) above, in which event the transferee shall owner-occupy the Residence and affirmatively assume Owner's obligations under this Agreement and the City Note.

2. DESCRIPTION OF PROPERTY

This Agreement concerns the real property commonly known as, _____, Livermore, California, (the "Residence"), which is more fully described in Exhibit A attached hereto and

incorporated by reference.

3. TERM OF AGREEMENT

The term of this Agreement shall commence as of the date of this Agreement and shall expire on that date fifty-five (55) years from the date of this Agreement (the "Term").

4. OWNER CERTIFICATIONS; OWNER OCCUPANCY MONITORING

The Owner certifies that all financial and other information provided in order to qualify to purchase the Residence is true and correct as of the date first written above.

The Owner further covenants and agrees to occupy the Residence as Owner's primary residence for the duration of Owner's ownership and shall not rent or lease the property or portion thereof during the Term of this Agreement without prior written approval of City. The Owner shall be considered as occupying the Residence if the Owner is living in the Residence for at least ten months out of each calendar year. The City may grant a temporary waiver of this occupancy requirement for good cause in its sole discretion. Without limiting the generality of the foregoing, any absence from the Residence by Owner for a period 60 days or more days shall be deemed an abandonment of the Residence as the primary residence of Owner in violation of the conditions of this Section 4. On or before May 1 of each calendar year, the Owner shall provide an annual written certification to the City, in the form shown in Exhibit C, that the Owner is occupying the Residence as Owner's principal place of residence, and that Owner is not renting the Residence, or any portion thereof, to another party. Owner shall comply with all applicable laws relating to the use and maintenance of the Residence, including but not limited to the City of Livermore Municipal Code, City of Livermore Planning and Zoning Code, and all other local, state and federal laws.

5. NO CRIMINAL ACTIVITY

Owner agrees that no resident residing on the Property, their guests or persons under their control shall permit, engage in, or facilitate criminal activity on the Property, in any building on the Property, or in the streets bordering the Property. This includes, without limitation the foregoing: (i) the illegal manufacture, sale, distribution, use or possession with the intent to manufacture, sell, distribute or use a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. § 802); (ii) the unlawful discharge of firearms; and (iii) all acts or threats of violence, harming, or intending to harm a person or

property.

6. NO RENTING OR LEASING OF HOME

The Owner shall not rent or lease the Residence, or any portion thereof, to another party, unless such rental or lease is first approved in writing by the City. The City shall approve the renting or leasing of the Residence only if *all* of the following conditions are met: (1) the term of the rental or lease is not greater than twelve (12) months and cannot be extended without City approval; (2) the Owner demonstrates to the City's reasonable satisfaction that the Owner will incur substantial hardship, that would at the City's discretion not otherwise be remedied through the sale of the property, if he or she is not permitted to rent or lease the Residence to a third party; (3) the tenant qualifies as an Income Eligible Household, as certified to the City, and (4) the rent for the Residence does not exceed the Affordable Rent. Any rental or lease of the Residence in violation of this Agreement is prohibited, and shall be a default under this Agreement and the City Deed of Trust. The Owner further agrees that, in the event the Owner rents or leases the Residence to a third party in violation of this Section 6, any Excess Rental Proceeds paid to the Owner by the lessee over the Affordable Rent shall be due and payable to the City immediately upon receipt thereof by the Owner. Owner agrees that the collection of rents shall be monitored and administered through an independent, licensed property manager who shall be pre-approved by the City. Such Excess Rental Proceeds shall be considered a recourse debt of the Owner to the City, as evidenced by the Note, which the City may collect by legal action against the Owner, including by foreclosure under the City Deed of Trust. The Owner hereby agrees that City shall not be responsible for any relocation, eviction, legal or moving expenses if the lessee is required to vacate the premises.

7. MAINTENANCE AND INSURANCE REQUIREMENTS

A. Maintenance. The Owner shall maintain the Residence, including landscaping, in good repair and in a neat, clean and orderly condition (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials. Owner will not permit deterioration of the Residence, and shall make all repairs and replacements necessary to keep the Residence in good condition and repair. Failure by the Owner to maintain the Residence shall constitute a default under this Agreement for which

the City may exercise the City Option to purchase the Residence pursuant to Section 15 below. In case of default, funds to clean-up or repair damage to the property shall come from the Owner.

B. Insurance. The Owner shall maintain a standard all risk property insurance policy equal to the replacement value of the Residence (adjusted every five (5) years by appraisal, if requested by City), naming the City as an additional insured. Additional insurance requirements are set forth in Section 2 of the City Deed of Trust. The Owner shall provide the City with evidence of required insurance coverage upon request of the City.

8. SALE AND TRANSFER RESTRICTIONS

A. Prohibition on Transfer. Any Transfer without satisfaction of the provisions of this Agreement is prohibited and shall constitute a default by Owner for which the City may exercise the City Option pursuant to Section 15 below.

B. Inheritance. In the event a Transfer occurs by devise or inheritance due to death of the Owner, the administrator of the Owner's estate or the person inheriting the Residence shall provide written notice to the City of the Owner's death within thirty (30) days of the date of death and the following procedures shall apply:

1. If the person inheriting the Residence (the "Inheriting Owner") is a qualified inheritor under the City's definition of eligible parties not subject to Transfer (an "Inheriting Party"), that person shall provide the City documentation of his or her qualifications as an Inheriting Party, to be verified by the City. If the Inheriting Party fails to provide required documentation demonstrating the his or her relationship to the Owner within 60 days of the date of the Owner's death, the party shall be deemed not to qualify as an Inheriting Party. The Inheriting Party shall succeed to the Owner's interest and obligations under this Agreement, the City Note, and the City Deed of Trust and shall execute an assumption agreement containing the terms of the Agreement, City Note and Deed of Trust between the Inheriting Owner and the City and recorded against the Residence.

2. If the Inheriting Owner is not a qualified Inheriting Party, he or she shall Transfer the Residence to an Eligible Purchaser at a price not exceeding the Affordable Purchase Price, pursuant to the procedures set forth in Sections 9 through 14 below and the City may exercise the City Option pursuant to Section 15 below. Prior to initiating a Transfer pursuant to this section, the Inheriting Owner shall provide the City with an Owner's

Notice of Intent to Sell within sixty (60) days of the date of death of the Owner.

3. Failure of an Inheriting Owner to follow the procedures and file the notices described in this Section 8 shall constitute a Default under this Agreement and the City may then exercise any of the remedies set forth in Section 18 below, including, without limitation, exercise of the City Option upon Default.

9. NOTICE OF INTENDED TRANSFER

In the event the Owner intends to Transfer or vacate the Residence, the Owner shall promptly notify the City in writing of such intent. The written notice shall be given in accordance with Section 26 of this Agreement at least one hundred twenty (120) days prior to the actual date of the Transfer or vacation of the Residence, or such other time period as may be mutually agreed upon by the Owner and the City. Said notice from the Owner shall be sent by certified mail, return receipt requested. Following receipt of such notice, the City may notify the Owner within thirty (30) days regarding exercise of the City Option. If the City chooses not to exercise the City Option, City will notify prospective Eligible Purchasers of the Residence that the Residence is available for purchase and shall further provide a Response Notice to Owner that will include the following information: (1) the maximum qualifying income for an Eligible Purchaser; (2) the certifications required of an Eligible Purchaser; and (3) the Sales Price the Owner may receive for the Residence, calculated by the City pursuant to Section 14 below. The Owner may receive referrals for Eligible Purchasers by the City and or its approved homeownership counseling provider for a reasonable administrative fee.

10. REPAYMENT OF CITY NOTE UPON TRANSFER BY OWNER

If a Transfer of the Residence occurs to other than an Eligible Purchaser, the Owner shall pay all amounts due under the City Note (Exhibit B). Thereafter, this Agreement shall terminate and have no further effect.

11. ASSUMPTION OF THE CITY NOTE

If the Owner transfers the Residence to an Eligible Purchaser in a transaction that meets the Eligible Transfer requirements of Section 13 of this Agreement, the City will allow the Eligible Purchaser to assume the obligations under the City Note and the City Deed of Trust, subject to the Eligible Purchaser executing a new promissory note in the amount of

the difference between the Fair Market Value and the Affordable Sales Price at the time of Transfer and a new deed of trust in favor of the City and a new resale restriction agreement. Upon the approval of an Eligible Purchaser's assumption of the Owner's obligations under the City Note and the City Deed of Trust and the execution of a new promissory note, deed of trust and resale restriction agreement by the Eligible Purchaser, the City shall release the Owner from any obligations under this Agreement, the City Note, and City Deed of Trust. The Eligible Purchaser's assumption of the Owner's obligations under the City Note and City Deed of Trust shall be credited by Owner to the Eligible Purchaser as a partial payment of the purchase price for the Residence in the amount of the City Note.

12. TRANSFER BY OWNER

The Owner may sell the Residence to a person of the Owner's choosing (the "Proposed Purchaser") on the terms set forth in this Section.

A. Transfer to Ineligible Purchasers. If the Owner Transfers the Residence in a transaction that does not meet the Eligible Transfer requirements of Section 13 below, the Owner shall first pay (i) all of the principal and interest due to the First Lender, and (ii) all principal and amounts owed on the City Note. Thereafter this Agreement shall terminate and have no further effect.

B. Transfer to Eligible Purchaser. If the Owner Transfers the Residence in a transaction that meets the Eligible Transfer requirements of Section 13 below, the City shall allow the obligations under the City Note to be assumed by the Eligible Purchaser pursuant to Section 13. A. (5) and (6) of this Agreement. The maximum amount that the Owner may receive for the Transfer after the payment of customary and reasonable closing costs for the sale of the Residence shall be lesser of: 1) the Fair Market Value of the Residence; or 2) the Affordable Purchase Price in effect at the date of sale as established by Council, subject to any adjustments due to Advances by the City or as described further in Section 14.

13. ELIGIBLE TRANSFER

A transfer that meets the requirements set forth in this Section shall qualify as an approved Transfer to an Eligible Purchaser ("Eligible Transfer").

A. Disclosures and Submittals. The Owner and the Proposed Purchaser shall provide the following information to City:

1. The name, address and telephone number in writing of the Proposed Purchaser.

2. A signed financial statement of the Proposed Purchaser in a form acceptable to the City and any other supporting documentation requested by the City. The financial information shall be used by the City to determine the income eligibility and credit worthiness of the Proposed Purchaser.

3. The proposed sales contract and all other related documents, which shall set forth the terms of the sale of the Residence, including the following terms:

   a. The sales price, setting out the amount of the first loan and the amount of the City Note which is to be assumed; and

   b. The price to be paid by the Proposed Purchaser for the Owner's personal property, if any, and for the services of the owner, if any.

4. A written certification, from the Owner and the Proposed Purchaser, in a form acceptable to the City that the sale shall be closed in accordance with the terms of the sales contract and other documents submitted to and approved by the City. The certification shall also provide that the Proposed Purchaser or any other party has not paid and will not pay to the Owner, and the Owner has not received and will not receive from Proposed Purchaser or any other party, money or other consideration in addition to what is set forth in the sales contract and documents submitted to the City, including personal property. The written certification shall also include a provision that in the event a Transfer is made in violation of the terms of this Agreement or false or misleading statements are made in any documents or certification submitted to the City, the City shall have the right to file an action at law or in equity to make the parties terminate and/or rescind the sales contract and/or declare the sale void, notwithstanding the fact that the sale may have closed and become final as between the Owner and the Proposed Purchaser. In any event, any costs, liabilities or obligations incurred by Owner and/or the Proposed Purchaser for the return of any moneys paid or received in violation hereunder or for any costs and legal expenses, shall be borne by Owner and/or the Proposed Purchaser and they shall hold the City harmless and reimburse their expenses, legal fees and costs for any action they reasonably take in good faith in enforcing the terms of this Agreement. An executed resale restriction agreement by the Proposed Purchaser with substantially the same provisions as this Agreement and subject to City approval. The recordation of the resale restriction agreement shall be a condition of the City's approval of the proposed sale. The City may require the Proposed Purchaser to pay a reasonable fee to the City and reimburse it for out of pocket costs to cover the costs of administering its rights and obligations under this Agreement.

5. An executed deed of trust and a promissory note from the Proposed Purchaser

in favor of the City except that the principal amount of the new promissory note shall equal the difference between the Fair Market Value and the Affordable Purchase Price at the time of Transfer. The new promissory note shall be subject to the Affordable Homeownership Program terms at the time of Transfer.

6. Upon the close of the proposed sale, certified copies of the recorded deed of trust, a copy of the recorded resale restriction agreement, a copy of the final sales contract, settlement statement, escrow instructions, and any other document which the City may reasonably request.

B. Eligibility Of Purchaser. A purchaser who meets the following requirements shall be an Eligible Purchaser ("Eligible Purchaser"):

1. Each purchaser shall certify that he or she will occupy the Residence as his or her principal residence. The Residence shall be considered the principal residence of the purchaser if the purchaser lives in the Residence for at least ten (10) months out of each calendar year.

2. The combined income for all household members of the purchaser does not exceed One Hundred Twenty percent (120%) of median income of Alameda County, adjusted for actual household size, as published by the California Department of Housing and Community Development.

14. DETERMINATION OF SALES PRICE

A. To Eligible Purchaser. The maximum sales price (the "Sales Price") that the Owner may charge for a Transfer of the Residence to an Eligible Purchaser shall be lesser of: (i) the Fair Market Value of the Residence; or (ii) the Affordable Purchase Price, plus the amount of the Excess Sales Proceeds. In the event that the sum of the Affordable Purchase Price plus the amount of the Excess Sales Proceeds under the City Note exceeds the Fair Market Value of the Residence, the amount of the City Note shall be reduced until the sum of the Affordable Purchase Price plus the amount of the City Note equals the Fair Market Value. No adjustments to the Affordable Purchase Price shall be made for any improvements or upgrades to the unit.

B. Adjustments to Owner's Net Proceeds Sales Price. The owner's net proceeds may be decrease by the amount necessary to repair damage to the Residence, if any, and to place the Residence into saleable condition as reasonably determined by the City

including, without limitation, amounts attributed to cleaning; painting; replacing worn carpeting and window coverings; making necessary structural, mechanical, electrical and plumbing repairs; addressing damage noted in the pest report, and repairing or replacing built-in appliances and fixtures. Owner hereby covenants to, at Owner's expense, maintain the Residence in the same condition as in existence on the date of City's Notice of Exercise, reasonable wear and tear excepted to cover any advances made by the City.

C. To Ineligible Purchaser. The sales price that the owner may charge for a Transfer of the Residence to an Ineligible Purchaser shall be reached by mutual consent between the owner and buyer of the residence. If the residence is sold to an ineligible purchaser the owner will be subject to conditions set forth in Section 12. A. of this Agreement.

D. Payment to City of Excess Sales Proceeds. If the Owner Transfers the Residence at an unrestricted price pursuant to this Section 14, or if the Owner makes a Transfer in violation of this Agreement, the Owner shall pay the principal balance of the City Note plus any Excess Sales Proceeds to the City.

15. OPTION TO PURCHASE

A. City Option to Purchase. Owner hereby grants to the City an option to purchase all of Owner's right, title and interest in and to the Residence ("City Option") upon the occurrence of an Option Event as defined in Section 15. C. below, subject to the terms and conditions contained herein.

B. Assignment of the City Option. The City may assign the City Option to another government entity, a nonprofit affordable housing or service provider, or a person or family that qualifies as an Eligible Purchaser. The City's assignment of the City Option shall not extend any time limits contained herein with respect to the exercise period of the City Option or the period within which the Residence must be purchased.

C. Events Giving Rise to Right to Exercise Option. The City shall have the right to exercise the City Option upon the occurrence of any of the following events (each an "Option Event"):

1. Receipt of a Notice of Intent to Transfer (as defined in Section 9);
2. Any actual, attempted or pending sale, conveyance, transfer, lease or other attempted disposition of the Residence or of any estate or interest therein,

except as defined as Events not constituting a Transfer in Section 1.M.;

3. Any actual, attempted or pending encumbrance of the Residence, including without limitation by way of mortgage or deed of trust, or by judgment, mechanics, tax or other lien, except as provided in Section 17 below;
4. Recordation of a notice of default and/or notice of sale pursuant to California Civil code section 2924 (or successor provisions) under any deed of trust or mortgage with a power of sale encumbering the Residence;
5. Commencement of a judicial foreclosure proceeding regarding the Residence;
6. Commencement of a proceeding or action in bankruptcy, whether voluntary or involuntary, pursuant to Title 11 of the United States Code or other bankruptcy statute, or any other insolvency, reorganization, arrangement, assignment for the benefit of creditors, receivership or trusteeship, concerning the Owner; or
7. Any violation by Owner of any provision of this Agreement including, without limitation, the conditions set forth in Sections 4, 5, 6, and 7 above.

16. FAIR MARKET VALUE

If it is necessary to determine the Fair Market Value of the Residence, the Fair Market Value shall be determined by a real estate appraiser approved by the Owner and the City. The cost of the Appraisal shall be borne equally by the Owner and the City. Nothing in this section shall preclude the Owner and the City from establishing the fair market value of the Residence by mutual agreement in lieu of an appraisal pursuant to this section.

17. REFINANCING OF THE RESIDENCE

If authorized by a First Lender, Owner may refinance the First Lender's loan provided the loan amount of such refinancing does not exceed the then outstanding balance of the First Lender's loan plus 2% non-recurring closing costs. However, Owner may not refinance a First Lender's loan with a loan that contains any provisions for negative amortization or balloon payments. Upon Owner's request, the City shall subordinate the City Deed of Trust to a deed of trust or mortgage made by or held by an institutional lender or investor which is given in connection with any refinancing of the First Lender's Loan which meets the criteria set out in this Section 17 of this Agreement.

18. DEFAULTS AND REMEDIES / DEFAULT BY OWNER

Upon a violation of any of the provisions of this Agreement by the Owner, the City shall give written notice to the owner specifying the nature of the violation. If the violation is not corrected to the satisfaction of the City within thirty (30) days after the date the notice is mailed, or within such further time as the City determines is necessary to correct the violation, the City may declare a default under this Agreement. Upon the declaration of a default or if the Owner makes any misrepresentation in connection with receiving any benefits under this Agreement, the City may: (a) declare all amounts due under the City Note immediately due and payable without further demand and may invoke the Power of Sale under the Deed of Trust; and/or (b) exercise the City Option; and/or (c) apply to a court of competent jurisdiction for specific performance of this Agreement, for an injunction prohibiting a proposed sale or transfer in violation of this Agreement, for a declaration that a transfer in violation of this Agreement is void, or for any such other relief at law or in equity as may be appropriate.

19. NOTICE OF DEFAULT AND FORECLOSURE

A request for notice of default and any notice of sale under any deed of trust or mortgage with power of sale encumbering the Residence shall be recorded by the City in the Office of the Recorder of Alameda County for the benefit of the City. The City may declare a default under this Agreement upon receipt of any notice given to the City pursuant to Civil Code Section 2924b, and may exercise its rights as provided in Section 15 of this Agreement.

In the event of default and foreclosure, the City shall have the same right as the Owner to cure defaults and redeem the Residence prior to the foreclosure sale. Nothing herein shall be construed as creating any obligation of the City to cure any such default, nor shall this right to cure and redeem operate to extend any time limitations in the default provisions of the underlying deed of trust or mortgage.

If the City failed to file the request for notice of default, the City Option shall commence from the date the notice of default is given by the City to the Owner.

20. BINDING EFFECT

This Agreement shall bind, and the benefit hereof shall inure to, the Owner, his or her heirs, legal representatives, executors, successors in interest and assigns, and to the City and its successors, until the earlier of (a) the date the City Note is repaid, or (b) the date of

a Transfer of the Residence to an Eligible Purchaser in accordance with Section 12. B. above, or (c) at least 55 years from the date of this Agreement.

21. SUPERIORITY OF AGREEMENT

The Owner covenants that he or she has not, and will not, execute any other agreement with provisions contradictory to or in opposition to the provisions hereof, and that, in any event, this Agreement is controlling as to the rights and obligations between and among the owner, the City and their respective successors.

22. RIGHTS OF BENEFICIARIES UNDER DEEDS OF TRUSTS

Notwithstanding any other provision hereof, this Agreement shall not diminish or affect the rights of a First Lender under the First Lender's Deed of Trust or any subsequent First Lender deeds of trust hereafter recorded against the Residence and the provisions of this Agreement shall be subordinate to the lien of a First Lender Deed of Trust and shall not impair the rights of a First Lender, or such lender's assignee or successor-in-interest (including but not limited to the United States Department of Housing and Urban Development (HUD), Federal National Mortgage Association (FNMA), or the Veterans Administration, if applicable), to exercise its remedies under the First Lender Deed of Trust in the event of default under the First Lender Deed of Trust by the Owner. Such remedies under a First Lender Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, this Agreement shall be forever terminated and shall have no further effect as to the Residence or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquired title to the Residence pursuant to a deed or assignment in lieu of foreclosure this Agreement shall automatically terminate upon such acquisition of title, provided that (i) the City has been given written notice of default under such First Lender Deed of Trust, which requirement shall be satisfied by recordation of a notice of default under California Civil Code Section 2924, and (ii) the City shall not have cured the default under the First Lender Deed of Trust within ninety (90) days of such notice.

23. AMENDMENTS AND MODIFICATIONS

This Agreement, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of any party hereto, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or

termination is sought.

24. SEVERABILITY

If any term, covenant or condition of this Agreement is held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such term, covenant or condition and the validity or enforceability of the remaining terms, covenants or conditions shall not in any way be affected.

25. CONTROLLING LAW

The terms of this Agreement shall be interpreted under the laws of the State of California.

26. NOTICES

Notices under this Agreement must be delivered to the addresses below by deposit in the United States mail or by overnight delivery service, with postage prepaid and delivery confirmation and shall be deemed to be effective as of the date received or the date delivery was refused as indicated on the return receipt as follows:

To the Owner:

To the City: City of Livermore
1052 S. Livermore Ave.
Livermore, CA 94550
Attn: City Manager

27. INTERPRETATION OF AGREEMENT

The terms of this Agreement shall be interpreted so as to avoid speculation on the Residence and to insure to the extent possible that its sales price and mortgage payment remain affordable to persons and families of low income.

28. EXHIBITS

Any exhibits referred to in this Agreement are incorporated in this Agreement by such reference.

29. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on or as of the date first written above.

CITY OF LIVERMORE:

By:_____
Marianna Marysheva, City Manager

OWNER:

_____

Approved as to form:

_____
Name:
Title: (Deputy/Assistant) City Attorney for
City of Livermore

CO-OWNER:

_____

Exhibits

A Residence Description
B City Note
C Sample Owner Occupancy Certification Form

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

State of California }
}
County of Alameda }

On _____ , before me, _____, Notary Public, personally appeared proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____ (Seal)

Signature of Notary Public

EXHIBIT 'A'

Legal Description

EXHIBIT 'B'

Promissory Note

NOTICE TO BORROWER: **Loan No.**

THIS DOCUMENT CONTAINS PROVISIONS
RESTRICTING RESALES AND ASSUMPTIONS

PROMISSORY NOTE

Secured by a Deed of Trust

$ Dated:

Livermore, California

FOR VALUE RECEIVED, the undersigned (the "Borrower") promises to pay to the order of the City of Livermore, a municipal corporation (the "City") at 1052 South Livermore Ave., Livermore, California, or such other place as the City may designate in writing, the principal sum of $ plus any amounts due the City as Excess Sales Proceeds.

1. Definitions. Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Resale Restriction Agreement, executed by the parties and of even date herewith.

2. Purpose of City Note. Borrower is purchasing the Residence pursuant to the City's Affordable Homeownership Program, which makes homes available at a price affordable to low or moderate income households. Pursuant to the City's Affordable Housing Ordinance, Livermore Development Code Section 10.06.050, the purchase price of the Residence is substantially below the market value to ensure the Residence will be affordable for purchase by low or moderate income households. Because the purchase price has been set below the market value, the Borrower is required and has agreed to execute a Resale Restriction Agreement that restricts the price of the Residence upon resale and requires the Borrower to pay any Excess Sales Proceeds to City upon resale . In addition, the Resale Restriction Agreement prohibits the renting or leasing of the Residence except with prior written approval of the City.

3. Borrower's Obligation. This Note evidences the Borrower's obligation to pay the City the principal amount of Dollars ($) plus Excess Sales Proceeds for the repayment of the financial assistance provided to the Borrower by the City in connection with the purchase of the Residence as defined in Paragraph 4, below.

4. Security. This Note is secured by a Deed of Trust (the "Deed of Trust") dated the same date as this Note recorded against the property located at , Livermore, California (the "Residence").

5. Repayment. The total amount of the principal and any Excess Sales Proceeds owed under this Note shall immediately become due and payable (i) in the event of an uncured default by Borrower under this Note, the Deed of Trust, or the Resale Restriction Agreement between the City and Borrower, or (ii) on the date a Transfer is made to other than an Eligible Purchaser whether voluntarily, involuntarily, or by operation of law and whether by deed, contract of sale, gift, devise, bequest or otherwise

There shall be no payments due on amounts owed under this Note so long as the Borrower owns the Residence and is not in violation of any provisions of this Note, the Resale Restriction Agreement, or the Deed of Trust. This Note is due and payable upon sale or transfer of title.

At the request of the Borrower, the City shall relieve Borrower of all obligations under this Note, provided that the Residence is sold to an Eligible Purchaser pursuant to the Resale Restriction Agreement, and the Eligible Purchaser executes a new resale restriction agreement, deed of trust, and a new promissory note pursuant to provisions of the Resale Restriction Agreement.

The City shall forgive the principal due under this Note at the time of a Transfer or repayment of this Note to the extent necessary to ensure that the Borrower's obligations to repay the principal due on this Note and on all promissory notes secured by deeds of trust superior to the Deed of Trust do not exceed the Fair Market Value of the Residence.

6. Assumption of Note is Restricted. Borrower acknowledges that this Note is given in connection with the purchase of the Residence as part of a program of the City to assist in the purchase of homes by low or moderate-income persons. Consequently, this Note is not automatically assumable, but is subject to Section 711.5 of the California Civil Code, which allows the City to accelerate all amounts due under this Note if any subsequent sale or transfer of the Residence of any kind does not comply with the provisions of the Resale Restriction Agreement executed between the Borrower and the City and dated the same date as this Note.

7. Prepayments. Borrower may prepay all or any amount of the principal balance due under this Note.

8. Default and Acceleration. Upon the occurrence of an uncured default under this Note, the Resale Restriction Agreement or the Deed of Trust, the City shall have the right to declare the full amount of the principal along with any Excess Sales Proceeds under this Note immediately due and payable. Any failure by the City to pursue its legal and equitable remedies upon default shall not constitute a waiver of the City's right to declare a default and exercise all of its rights under this Note, the Deed of Trust, and the Resale Restriction Agreement. Nor shall acceptance by the City of any payment provided for herein constitute a waiver of the City's right to require prompt payment of any remaining principal and interest owed.

9. No Offset. Borrower hereby waives any rights of offset it now has or may hereafter have against the City, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.

10. Waiver; Attorneys' Fees. Borrower and any endorsers or guarantors of this Note, for themselves, their heirs, legal representatives, successors and assigns, respectively, severally waive diligence, presentment, protest, and demand, and notice of protest, dishonor and non-payment of this Note, and expressly waive any rights to be released by reason of any extension of time or change in terms of payment, or change, alteration or release of any security given for the payments hereof, and expressly waive the right to plead any and all statutes of limitations as a defense to any demand on this Note or agreement to pay the same, and jointly and severally agree to pay all costs of collection when incurred, including reasonable attorneys fees. If an action is instituted on this Note, the undersigned promises to pay, in addition to the costs and disbursements allowed by law, such sum as a court may adjudge reasonable as attorneys' fees in such action.

11. Severability. If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

12. No Waiver by the City. No waiver of any breach, default or failure of condition under the terms of this Note shall be implied from any failure of the City to take, or any delay by the City in taking, action with respect to such breach, default or failure or from any previous waiver of any similar or unrelated breach, default or failure; and a waiver of any term of the Note must be made in writing and shall be limited to the express written terms of such waiver.

13. Joint and Several Obligations. This Note is the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

14. Governing Law. This Note shall be construed in accordance with and be governed by the laws of the State of California.

15. Non-recourse; Assignment by City. This Note constitutes a portion of the unpaid balance of the purchase price of the Residence. Borrower shall have no personal liability for any deficiency on this Note and the only remedy available to the City or any holder in due course shall be foreclosure pursuant to law as provided in the Deed of Trust. The City may assign its right to receive the proceeds under this Note to any person and upon notice to Borrower by the City all payments shall be made to the assignee.

DATE: BORROWER:

_____

DATE: CO-BORROWER:

_____

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO
City of Livermore
1052 S. Livermore Avenue
Livermore, Ca. 94550-4899

Complimentary Recording Request Pursuant To Government Code Section 27383

Loan No.:

Space Above This Line for Recorder's Use Only

A.P.N.:

File No.:

DEED OF TRUST AND ASSIGNMENT OF RENTS
(Short Form)

THIS DEED OF TRUST, made this between

TRUSTOR: whose address is

TRUSTEE:
and BENEFICIARY: City of Livermore, a Municipal Corporation

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE IN TRUST, WITH POWER OF SALE, that property in the City of Livermore, Alameda County, State of California, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

The lien of this Deed of Trust is inferior and subordinate to the lien of that certain Trust Deed executed by Trustors named above for the benefit of dated securing an original amount of $, which is recorded concurrently herewith.

If the Trustor/Grantor shall sell, convey or alienate said property, or any part thereof, or any interest therein, or shall be divested of his title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of the Beneficiary being first had and obtained, Beneficiary shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any Note evidencing the same, immediately due and payable.

TOGETHER WITH the rents, issues, and profits thereof, SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Beneficiary by paragraph 10 of the provisions, incorporated by reference, to collect and apply such rents, issues and profits.
FOR THE PURPOSE OF SECURING: 1. Performance of each agreement of Trustor, incorporated by reference or contained herein. 2. Payment of the indebtedness evidenced by one Promissory Note of even date herewith, and any extension or renewal thereof, in the principal sum of $, executed by Trustor in favor of Beneficiary or order. 3. Payment of such further sums as the then record Owner of said property hereafter may borrow from Beneficiary, when evidenced by another Note (or Notes) reciting it is so secured
TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES: By the execution and delivery of this Deed of Trust and the Note secured hereby, that provisions (1) to (14), inclusive, of the fictitious deed of trust recorded in Santa Barbara County and Sonoma County on October 18, 1961, and in all other counties on October 23, 1961, in the book and page of the Official Records in the office of the county recorder of the county where said property is located, noted below and opposite the name of such county, viz:

County	Book	Page	County	Book	Page	County	Book	Page	County	Book	Page	County	Book	Page
Alameda	435	684	Imperial	1091	501	Merced	1547	538	San Benito	271	383	Siskiyou	468	181
Alpine	1	250	Inyo	147	598	Modoc	184	851	San Bernadino	5567	61	Solano	1105	182
Amador	104	348	Kern	3427	60	Mono	52	429	San Francisco	A332	905	Sonoma	1851	689
Butte	1145	1	Kings	792	833	Monterey	2194	538	San Joaquin	2470	311	Stanislaus	1715	456
Calaveras	145	152	Lake	362	39	Napa	639	86	San Luis Obispo	1151	12	Sutter	572	297
Colusa	296	617	Lassen	171	471	Nevada	305	320	San Mateo	4078	420	Tehama	401	289
Contra Costa	3978	47	Los Angeles	T2055	899	Orange	5889	611	Santa Barbara	1878	860	Trinity	93	366
Del Norte	78	414	Madera	810	170	Placer	895	301	Santa Clara	5336	01	Tulare	2294	275
El Dorado	568	456	Marin	1508	339	Plumas	151	5	Santa Cruz	1431	494	Tuolumne	135	47
Fresno	4626	572	Mariposa	77	292	Riverside	3005	523	Shasta	684	528	Venutra	2062	386
Glenn	422	184	Mendocino	579	530	Sacramento	4331	62	Sierra	29	335	Yolo	653	245
Humboldt	657	527				San Diego Series 2 Book 1961, Page 183887						Yuba	334	486

which provisions, identical in all counties, are printed below) hereby are adopted and incorporated herein and made a part hereof as fully as though set forth herein at length; that he will observe and perform said provisions; and that the references to property, obligations, and parties in said provisions shall be construed to refer to the property, obligations, and parties set forth in this Deed of Trust.

In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale be mailed to Trustor at Trustor's address hereinbefore set forth, or if none shown, to Trustor at property address.

FURTHERMORE, in the event of foreclosure or deed in lieu of foreclosure, any provisions herein or any provisions in any other collateral agreement restricting the use of the Property to low or moderate-income households or otherwise restricting the Trustor's ability to sell the Property shall have no further force or effect. Any person (including successors or assigns thereto) receiving title to the Property through a foreclosure or deed in lieu of foreclosure shall receive title to the Property free and clear from such restrictions.

NOTICE: A COPY OF ANY NOTICE OF DEFAULT AND OF ANY NOTICE OF SALE WILL BE SENT TO THE ADDRESS CONTAINED IN THIS RECORDED REQUEST. IF YOUR ADDRESS CHANGES, A NEW REQUEST MUST BE RECORDED.

Signature of Trustor(s)

_____

Dated: _____

_____

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

STATE OF California }
}ss.
COUNTY OF Alameda }

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____ (Seal)
Signature of Notary Public

DO NOT RECORD

The following is a copy of provisions (1) to (14), inclusive, of the fictitious Deed of Trust, recorded in each county in California, as stated in the foregoing Deed of Trust and incorporated by reference in said Deed of Trust as being a part thereof as if set forth at length therein.

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

(1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide, maintain and deliver to Beneficiary fire Insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.

(4) To pay: at least ten days before delinquency, all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

(5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the rate called for in the note secured hereby, or at the amount allowed by law at date of expenditure, whichever is greater, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

(6) That any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in this same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

(7) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(8) That at any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(9) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee is such reconveyance may be described as "the person or persons legally entitled thereto." Five years after issuance of such full reconveyance, Trustee may destroy said Note and this Deed of Trust (unless directed in such request to retain them.)

(10) That as additional security, Trustor here6y gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, Issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act pursuant to such notice.

(11) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, said Note(s) and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and In such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the persons or persons legally entitled thereto .. -

(12) Beneficiary, or any successor in ownership of any Indebtedness secured hereby may, from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its titJe, estate, rights, powers and duties, must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust Is recorded and the name and address of the new Trustee.

(13) That this Deed of Trust applies to, insures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, Including pledgees, of the Note secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so required, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(14) That Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be party unless brought by Trustee.

----------DO NOT RECORD----------

REQUEST FOR FULL RECONVEYANCE

To be used only when note has been paid.

To: , a Corporation, **Trustee**

Dated: _____

The undersigned is the legal owner and holder of all indebtedness secured by the within Deed of Trust. All sums secured by said Deed of Trust have been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel all evidences of indebtedness, secured by said Deed of Trust, delivered to you herewith together with said Deed of Trust, to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, the estate now held by you under the same.

Mail Reconveyance to:

_____

_____

_____

_____

_____

By _____

_____

By _____

Do not lose or destroy this Deed of Trust OR THE NOTE which it secures.
Both must be delivered to the Trustee for cancellation before reconveyance will be made.

_____

Short Form
DEED OF TRUST
WITH POWER OF SALE
INDIVIDUAL

_____

EXHIBIT 'C'

LIVERMORE
CALIFORNIA

Annual Compliance Report

Certificate of Owner Occupancy

Due by May 1st Annually

Address: Livermore CA

I/We hereby certify that I/we have continuously occupied the unit located at the above named address as our Primary Residence as defined according to the City's loan documents. I/We understand that failure to occupy the unit as our Primary Residence shall be cause for default under the City's loan agreements.

Signature(s): Date:

_____ _____

_____

☐ Copy of the most current (April) PG&E statement/bill included (first page only).

Changes to phone or email contact? Please update here:

_____

For concerns about providing this information, changes in property owner status or other questions, please contact the City's Housing and Human Services Division at (925)960-4580.

Mail or deliver completed form and documents to:

City of Livermore
Housing and Human Services Division
1052 S. Livermore Avenue
Livermore, CA 94550

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.13**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Paul Spence, Assistant City Manager

SUBJECT: Resolution adding Traffic Operation Center Upgrade, Project 2023-28 to the 2023-2028 Capital Improvement Plan, authorizing reallocations of Gas Taxes in the amount of $260,000 in FY 2023-24, approving an exception to the Livermore Municipal Code bidding requirements, and authorizing issuance of a purchase order in an amount not-to-exceed $240,000 for Novani, LLC to upgrade the Traffic Operation Center Hardware as part of the Traffic Operation Center Upgrade Project 2023-28.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. Adding Traffic Operation Center Upgrade Project 2023-28 to the 2023-2028 Capital Improvement Plan,
2. Reallocating $200,000 in Gas Taxes from the FY 2023-24 budget of Bluebell Dr. Bridge Repair at Altamont Creek Project 2017-21 to the FY 2023-24 budget of Traffic Operation Center Upgrade Project 2023-28.
3. Reallocating $60,000 in Gas Tax from the FY 2023-24 budget of Bridge Rehabilitation Project 2022-19 to the FY 2023-24 budget of Traffic Operation Center Upgrade Project 2023-28.
4. Approving an exception to the bidding requirement contained in Livermore Municipal Code Section 2.68.370.B.2 because the supplies and equipment are unique and available from one source so there is no competitive advantage to be gained by inviting bids; and
5. Authorizing the City Manager to execute a purchase order in an amount not-to exceed $240,000 for Novani, LLC to upgrade Livermore Traffic Operation Center hardware as part of the Traffic Operation Center Upgrade Project 2023-28.

SUMMARY

To support the updated software used in the City of Livermore (City) Traffic Operations Center (TOC) including the Advanced Traffic Management System (ATMS) and future technologies, staff recommends creating and funding a new project to upgrade hardware.

Novani, LLC installed the ATMS and TOC in 2001 and has been providing technical support to Livermore

since that time. They perform their work efficiently and promptly, providing valued support. Using services from Novani to upgrade the TOC hardware will increase efficiency and minimize project soft costs. Staff recommends the City Council approve a sole source purchase of hardware and hardware implementation from Novani, LLC to upgrade the TOC hardware.

DISCUSSION

In 2001, the City of Livermore (City)'s Advanced Traffic Management System (ATMS) and the Traffic Operation Center (TOC) were installed as part of the Project 1991-44, a federally funded I-580 Smart Corridors Project. Since the system was installed, the ATMS software has constantly been updated; however, the hardware, including the server, workstations, etc., have exceeded their useful life, and need to be upgraded to support the latest ATMS software and future technologies, including Connected Vehicles.

Novani, LLC was selected as the vendor for the I-580 Smart Corridor Project in 2001. Since the system was installed, Novani, LLC has been the only on-call vendor to provide technical support to staff for the ATMS system and the TOC. Throughout the years, Novani, LLC has provided high quality technical support with both their industry and local expertise and rapid and professional responsiveness to the city. Using services from Novani, LLC to upgrade the TOC hardware will increase efficiency and minimize project soft costs.

Section 2.68.370.B.2 of the Livermore Municipal Code provides exceptions to the bidding procedure where it is determined that the supplies and equipment are unique or available only from one source so that there is no competitive advantage to be gained by soliciting bids.

FISCAL AND ADMINISTRATIVE IMPACTS

The new Traffic Operation Center Upgrade Project 2023-28 requires supplemental appropriations of Gas Taxes (Fund 650) in the amount of $260,000 in Fiscal Year 2023-2024, to cover a purchase order for Novani, LLC in the not-to-exceed amount of $240,000, and project management. Staff proposes reallocating unused Gas Taxes (Fund 650) from two projects to fully fund the purchase order with Novani, LLC and associated project management costs. The table below summarizes the proposed Gas Taxes (Fund 650) reallocations:

Project	FY23-24 (Current)	FY23-24 (Proposed)
	Gas Tax Fund 650	Gas Tax Fund 650
Traffic Operation Center Upgrade Project 2023-28	$0	$260,000
Bluebell Dr Bridge Repair at Altamont Creek Project 2017-21	$250,000	$50,000
Bridge Rehabilitation Project 2022-19	$100,000	$40,000
Total	$350,000	$350,000

The hardware upgrades in the traffic operation center will not increase operating and maintenance costs.

COMMUNITY PILLAR

1: A Safe Community That Thrives

GOAL CATEGORY

10: Work to maintain a safe and efficient local transportation network and address safety concerns.

ATTACHMENTS

1. Project Location Map
2. CIP Book Page
3. Resolution

Prepared by: Joanna Liu
Senior Transportation Engineer

Approved by:

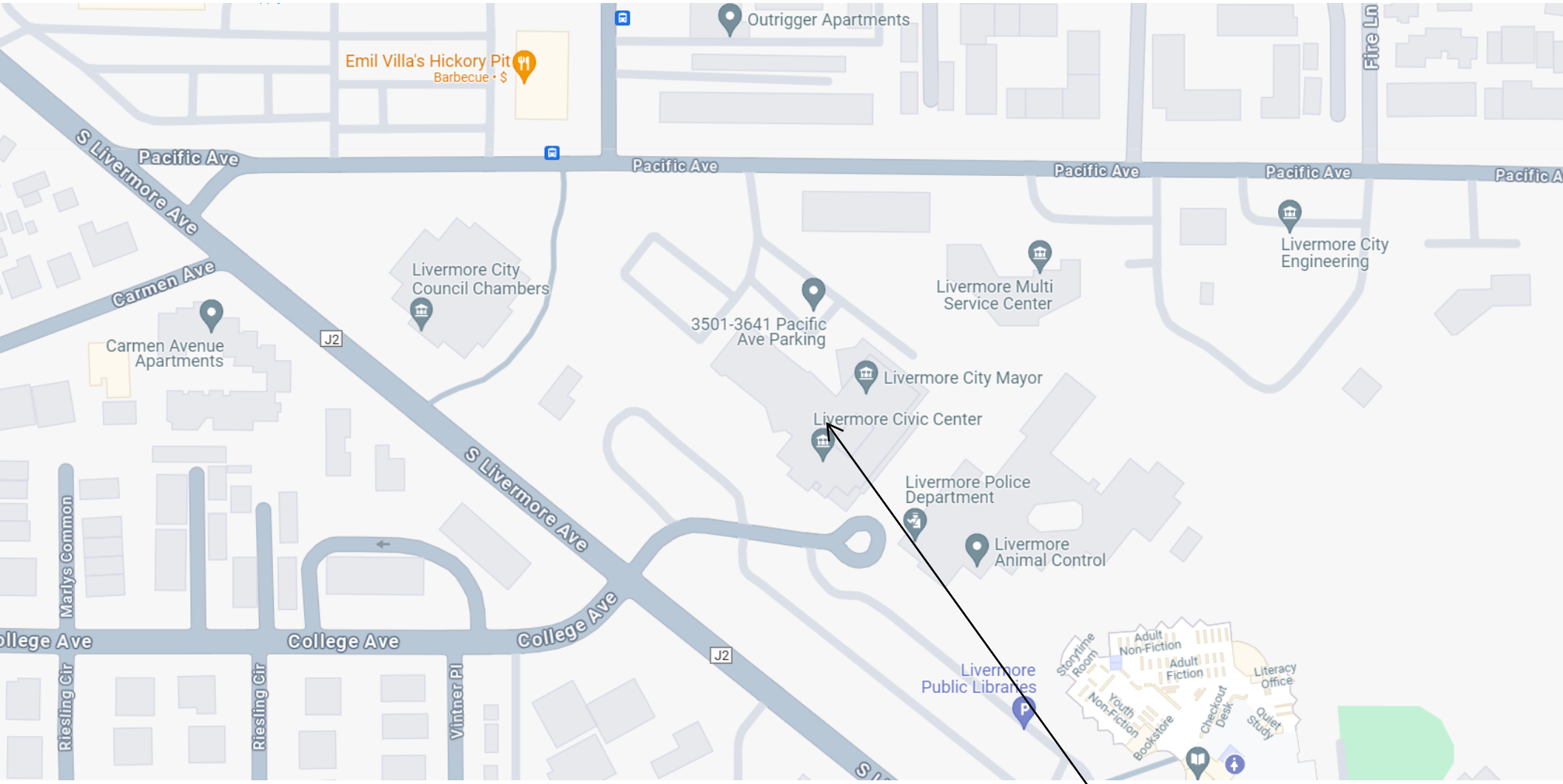


Marianna Marysheva
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director



Traffic Operation Center

CITY OF LIVERMORE CALIFORNIA

FY 2023-28 Capital Improvement Plan

Project Description
The project will upgrade Advanced Traffic Management System hardware in the Livermore Traffic Opertion Center, including but not limited to the server and workstations, which have exceeded their useful life. The project will also upgrade the Traffic Operation Center including replacing the old projector with a large LED screen.

Project Justification
The Advanced Traffic Management System was installed in the Livermore Traffic Operation Center in 2001. While the software has been consistently updated as needed, project will allow the City's Advanced Traffic Management System to continue operating smoothly and be able to suport future technologies such as Connected Vehicles.



Project Funding
Gas Taxes - Fund 650

O&M Cost Assumptions
The upgrades to the Traffic Operations Center will not increase operating and maintenance costs.

Funding Source and Budgeted Expenditures - Project #202328 - Traffic Operation Center Upgrade

	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	FY2028-43
(650) Gas Tax	$0	$260,000	$0	$0	$0	$0	$0
Total	$0	$260,000	$0	$0	$0	$0	$0

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION ADDING TRAFFIC OPERATION CENTER UPGRADE TO THE 2023-2028 CAPITAL IMPROVEMENT PLAN, AUTHORIZING REALLOCATIONS OF GAS TAXES (FUND 650) IN THE AMOUNT OF $260,000 IN FISCAL YEAR 2023-24, APPROVING AN EXCEPTION TO THE LIVERMORE MUNICIPAL CODE BIDDING REQUIREMENTS, AND AUTHORIZING ISSUANCE OF A PURCHASE ORDER IN AN AMOUNT NOT-TO-EXCEED $240,000 FOR NOVANI, LLC TO UPGRADE THE TRAFFIC OPERATION CENTER HARDWARE

(Traffic Operation Center Upgrade Project 2023-28)

To support the updated software used in the Livermore Traffic Operation Center (TOC), including the Advanced Traffic Management System (ATMS) and future technologies, City of Livermore (City) staff recommends creating and funding a new project to upgrade hardware in the Livermore Traffic Operation Center (TOC).

Novani, LLC installed the Livermore ATMS and TOC in 2001 and has been providing technical support to staff ever since. They perform their work efficiently and promptly providing value support. Using service from Novani, LLC to upgrade the TOC hardware will increase efficiency and minimize project soft cost. City Staff recommends the City Council approve a sole source purchase of hardware and hardware implementation from Novani, LLC to upgrade the TOC hardware.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Approves adding Traffic Operation Center Upgrade Project 2023-28 to the 2023-2028 Capital Improvement Plan;

2. Authorizes reallocating $200,000 in Gas Taxes (Fund 650) from the Fiscal Year 2023-24 budget of Bluebell Dr. Bridge Repair at Altamont Creek Project 2017-21 to the Fiscal Year 2023-24 budget of Traffic Operation Center Upgrade Project 2023-28;

3. Authorizes reallocating $60,000 in Gas Taxes (Fund 650) from the Fiscal Year 2023-24 budget of Bridge Rehabilitation Project 2022-19 to the Fiscal Year 2023-24 budget of Traffic Operation Center Upgrade Project 2023-28;

4. Approves an exception to the bidding requirement contained in Livermore Municipal Code Section 2.68.370.B.2 because the supplies and equipment are unique and available from one source so there is no competitive advantage to be gained by inviting bids; and

5. Authorizes the City Manager to execute a Purchase Order, in an amount not-to exceed $240,000, for Novani, LLC to upgrade Livermore Traffic Operation Center hardware as part of the Traffic Operation Center Upgrade Project 2023-28.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.14**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Paul Spence, Assistant City Manager

SUBJECT: Resolution authorizing reallocations of Measure BB Local Streets and Roads in the amount of $540,000 in FY 2024-25 to Traffic Signal Modification 2019-2021 Project 2019-33 and authorizing an agreement with DC Electric Group, Inc., in an amount not-to-exceed $460,000, to replace six traffic signal controller cabinet assemblies as part of the Traffic Signal Modification 2019-2021 Project 2019-33.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. Reallocating $240,000 in Measure BB Local Streets and Roads Fund 688 from the FY 2023-24 budget of Traffic Signal Modification 2019-2021 Project 2019-33 to FY 2024-25;
2. Reallocating $300,000 in Measure BB Local Streets and Roads Fund 688 from the FY 2023-24 budget of East Avenue Corridor ATP Implementation Project 2022-22 to the FY 2024-25 budget of Traffic Signal Modification 2019-2021 Project 2019-33; and
3. Authorizing the City Manager to execute an agreement with DC Electric Group, Inc., in an amount not-to-exceed $460,000, to replace six traffic signal controller cabinet assemblies as part of Traffic Signal Modification 2019-2021 Project 2019-33.

SUMMARY

The Traffic Signal Modification 2019-2021 Project 2019-33 will replace traffic signal controller cabinet assemblies at the six locations shown in Attachment 1. In order to complete this work, a total of $540,000 of Measure BB Local Streets and Road Fund 688 needs to be reallocated to this project in Fiscal Year 2024-25. Staff recommends hiring DC Electric Group, the 2023 Request for Proposals top ranked contractor, to replace the traffic signal controller cabinets.

DISCUSSION

There are a total of 112 signalized intersections in Livermore, a majority of which were constructed between 1970 and 1990. Maintenance of the controller cabinets has increased at the following six intersections and replacing them will prevent unanticipated malfunctions:

- Greenville Road / Las Positas Road
- Olivina Avenue-Chestnut Street / N. P Street
- E. Stanley Boulevard / Railroad Avenue
- E. Stanley Boulevard / Fenton Street
- E. Stanley Boulevard / Wall Street
- N. Canyons Parkway / Triad Place

Staff from the Maintenance Division of the Public Works Department issued a Request for Proposals on April 19, 2023, soliciting proposals from qualified contractors to provide streetlight and traffic signal maintenance and repair services, and utilized a multi-step process to determine which company represented the best value as defined by Livermore Municipal Code (LMC) 2.68.040. Four service providers responded with responsive proposals. All four proposers showed sufficient relevant experience in order to successfully complete the desired scope of work. Staff recommended DC Electric Group, Inc. as the best value.

Staff negotiated a scope of work and fee with the top ranked contractor, DC Electric Group, Inc., to replace the six signal controller cabinets assemblies listed above. DC Electric provides industry and local expertise and they have demonstrated rapid and professional responsiveness on similar projects with the City. They perform their work efficiently and promptly providing value to field and administrative staff. Therefore, staff recommends the City Council adopt a resolution authorizing the City Manager to execute an agreement, in the amount of $460,000, with DC Electric Group, Inc, for the Traffic Signal Modification 2019-2021 Project 2019-33.

FISCAL AND ADMINISTRATIVE IMPACTS

Funding for the Traffic Modification 2019-2021 Project 2019-33 is included in the 2023-2028 Capital Improvement Program with $410,000 of Measure BB Local Streets and Road Fund 688 in Fiscal Year 2023-24. Based on the current schedule, most of this work will be completed in Fiscal Year 2024-25. Staff recommends reallocating $240,000 of the budget for this project in Fiscal Year 2023-24 to Fiscal Year 2024-25. An additional $300,000 in Fiscal Year 2024-25 will be required to complete all of the work. Staff recommends reallocating $300,000 in unused Measure BB Local Streets and Roads (Fund 688) from the East Avenue Corridor ATP Implementation Project 2022-22 to the Traffic Modification 2019-2021 Project 2019-33 to fully fund the improvements. The proposed total project budget of $710,000 ($170,000 in Fiscal Year 2023-24 and $540,000 in Fiscal Year 2024-25) covers this $460,000 agreement with DC Electric, a purchase order in an amount not to exceed $120,000 for six cabinet assemblies, construction contingencies, project management, and inspection.

The table below summarizes the proposed Measure BB Local Streets and Road Fund 688 reallocations:

Project	FY23-24 (Existing)	FY23-24 (Proposed)	FY24-25 (Existing)	FY24-25 (Proposed)
	Measure BB Fund 688	Measure BB Fund 688	Measure BB Fund 688	Measure BB Fund 688
Traffic Signal Modification 2019-2021 Project 2019-33	$410,000	$170,000	$0	$540,000

East Ave Corridor ATP Implementation Project 2022-22	$500,000	$200,000	$600,000	$600,000
Total	$910,000	$370,000	$600,000	$1,140,000

Replacing controller cabinet assemblies will not increase operating and maintenance costs.

COMMUNITY PILLAR

1: A Safe Community that Thrives.

GOAL CATEGORY

10: Work to maintain a safe and efficient local transportation network and address safety concerns.

ATTACHMENTS

1. Site Locations
2. Resolution
3. Exhibit A - Agreement

Prepared by: Joanna Liu
Senior Transportation Engineer

Approved by:

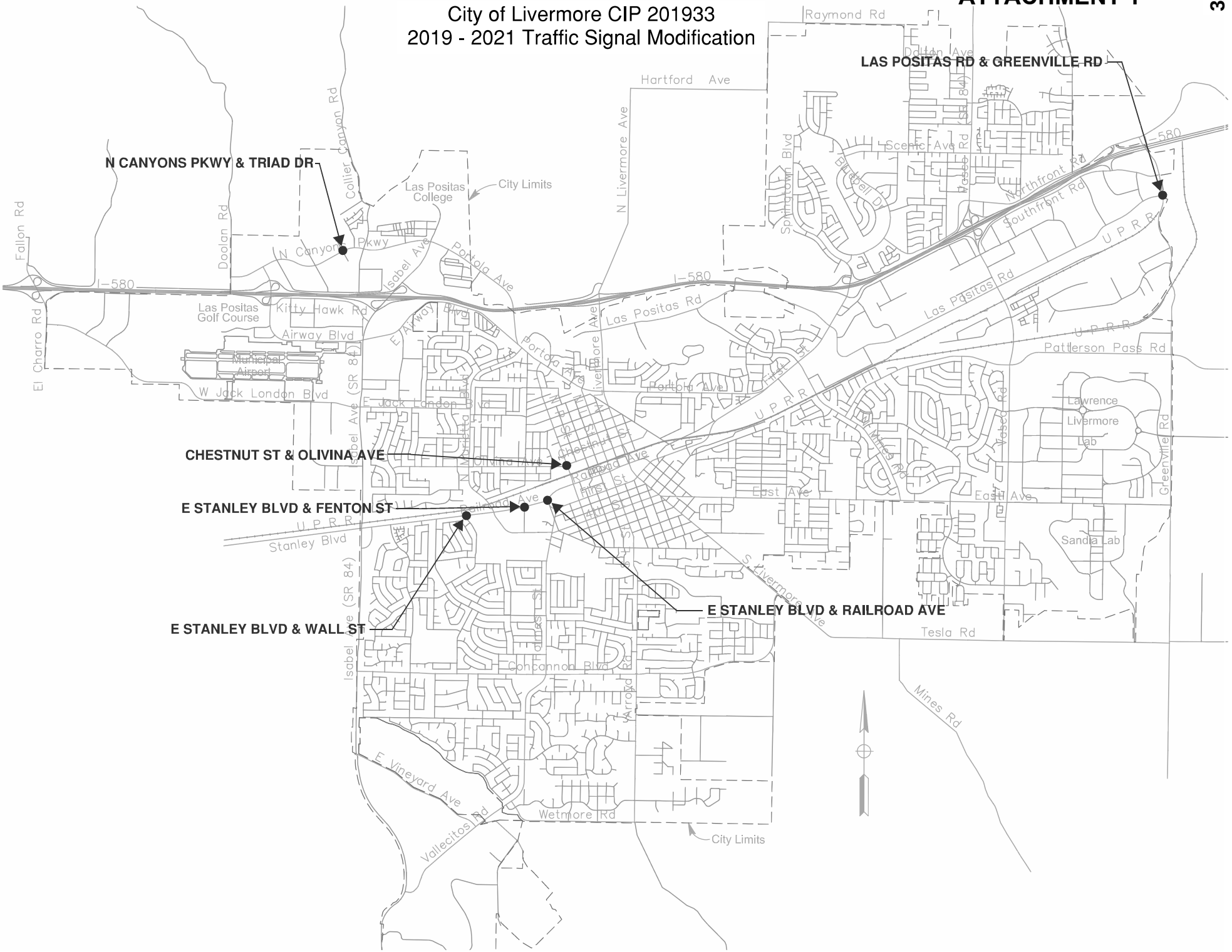
Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

ATTACHMENT 1

City of Livermore CIP 201933
2019 - 2021 Traffic Signal Modification



IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING REALLOCATIONS OF MEASURE BB LOCAL STREETS AND ROADS (FUND 688) IN THE AMOUNT OF $540,000 IN FISCAL YEAR 2024-25 TO TRAFFIC SIGNAL MODIFICATION PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH DC ELECTRIC GROUP, INC., IN AN AMOUNT NOT-TO-EXCEED $460,000, FOR REPLACING SIX TRAFFIC SIGNAL CONTROLLER CABINET ASSEMBLIES

(Traffic Signal Modification 2019-2021 Project 2019-33)

The Traffic Signal Modification 2019-2021 Project 2019-33 will replace six traffic signal controller cabinet assemblies at the following six locations:

- Greenville Road / Las Positas Road
- Olivina Avenue-Chestnut Street / N P Street
- E Stanley Boulevard / Railroad Avenue
- E Stanley Boulevard / Fenton Street
- E Stanley Boulevard / Wall Street
- N Canyons Parkway / Triad Place

In order to complete this work, a total of $540,000 of Measure BB Local Streets and Road Fund 688 needs to be reallocated to this project in Fiscal Year 2024-25. Staff recommends hiring DC Electric Group, the 2023 Request for Proposals top ranked contractor, to replace the traffic signal controller cabinets.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Reallocates $240,000 in Measure BB Local Streets and Roads Fund 688 from the Fiscal Year 2023-24 budget of Traffic Signal Modification 2019-2021 Project 2019-33 to the Fiscal Year 2024-25 budget of Traffic Signal Modification 2019-2021 Project 2019-33.
2. Reallocates $300,000 in Measure BB Local Streets and Roads Fund 688 from the Fiscal Year 2023-24 budget of East Avenue Corridor ATP Implementation Project 2022-22 to the Fiscal Year 2024-25 budget of Traffic Signal Modification 2019-2021 Project 2019-33.
3. Authorizes the City Manager to execute an agreement with DC Electric Group, Inc., attached hereto as Exhibit A, and incorporated by this reference, in an amount not-to-exceed $460,000, to replace six traffic signal controller cabinet assemblies as part of the Traffic Signal Modification 2019-2021 Project 2019-33.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

RESOLUTION NO. _____

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – Agreement with D.C. Electric Group, Inc.

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AGREEMENT FOR SERVICES

THIS AGREEMENT is made and entered into this day of , 2024, by and between the City of Livermore ("City"), a municipal corporation, and DC Electric Group, Inc. ("Contractor"), a California corporation.

RECITALS

City requires services to replace the existing traffic signal controller cabinet assemblies with low-voltage Advanced Transportation Controller (ATC) cabinet assemblies at six locations for the Traffic Signal Modifications 2019-2021 Project (CIP 201933).

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 replace the existing trafffic signal controller cabinet assemblies with low-voltage Advanced Transportation Controller (ATC) cabinet assemblies at six locations 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;

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(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;

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

(f) Coordinate the Services with Joanna Liu ("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. 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. 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 $460,000 ("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 May 13, 2024, and terminates upon the completion of the Services or June 30, 2025, 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 performance of the services contemplated by this Agreement, 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 or because Contractor evaluates Liability and determines that Contractor is not liable to the claimant. 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

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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 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:

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TO CITY: Attention: Joanna Liu
City of Livermore
1052 S Livermore Avenue
Livermore, California 94550

TO CONTRACTOR: Attention: John Abraham
DC Electric Group, Inc.
PO Box 7525
Cotati, CA 94931

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

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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:

DocuSigned by:
John Abraham
1F1BF4B2A391405...

By: John Abraham
Title: Regional Manager

Dated:

4/10/2024 | 3:25 PM PDT

CITY OF LIVERMORE:

Marianna Marysheva
City Manager

Dated:

APPROVED AS TO FORM:

DocuSigned by:
Tara Mazzanti
19DF47CAC5D0451...

Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Jas Sidhu
A5F7D34BB6A748A...

Risk Manager/Analyst

Attachments:

Exhibit A – Scope of Work
Exhibit B – Insurance Requirements

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EXHIBIT A

Scope of Services

CIP 201933 – Traffic Signal Modifications 2019-2021

1. UNDERSTANDING

The project will replace the existing traffic signal controller cabinet assemblies with low-voltage CUBIC Trafficware Advanced Transportation Controller (ATC) cabinet assemblies at:

- Greenville Road / Las Positas Road
- Olivina Avenue-Chestnut Street / N P Street
- E Stanley Boulevard / Railroad Avenue
- E Stanley Boulevard / Fenton Street
- E Stanley Boulevard / Wall Street
- N Canyons Parkway / Triad Place

The work will also include installing new cabinet foundation, concrete maintenance pads and retaining walls, and possibly trenching and boiling.

2. SCOPE OF SERVICES

The scope of services shall include and not be limited to:

2.1 Greenville Road / Las Positas Road

- Furnish and install new III-AF Service Pedestal w/maint pad
- Pull new signal wire using Caltrans cable for entire intersection 14/12c to all mast arm poles, 14/9c to all 1B poles and 14/3c to all PPBs per conduit schedule
- Replace (42) Vehicle LED's and (4) Pedestrian LED's with 48VDC LEDs
- Replace Existing TS cabinet with City furnished ATC cabinet

2.2 Olivina Avenue-Chestnut Street / N P Street

- Furnish and install new III-AF Service Pedestal w/maint pad
- Excavate and pour new cabinet foundation w/maint pad, trench and install conduits, replace existing pull box with new N36, demo old foundation
- Pull new signal wire using Caltrans cable for entire intersection 14/12c to all mast arm poles, 14/9c to all 1B poles and 14/3c to all PPBs per conduit schedule
- Replace (2) PV signal heads & framework, (10) 8" signal heads & framework and (3) 14" ped heads & framework to accommodate 48VDC LEDs
- Replace all (50) Vehicle LED's and (8) Pedestrian LED's with 48VDC LEDs (assumes PV and 8" heads are replaced)
- Replace Existing TS cabinet with City furnished ATC cabinet

2.3 E Stanley Boulevard / Railroad Avenue

- Excavate and pour new cabinet foundation w/maint pad, trench and install conduits, demo old foundation
- Pull new signal wire using Caltrans cable for entire intersection 14/12c to all mast arm poles, 14/9c to all 1B poles and 14/3c to all PPBs per conduit schedule
- Replace all (52) Vehicle LED's and (8) Pedestrian LED's with 48VDC LEDs…

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- Replace (2) existing PV heads and framework with standard 12" signal heads to accommodate 48VDC LED's
- Replace Existing TS cabinet with City furnished ATC cabinet

2.4 E Stanley Boulevard / Fenton Street

- Excavate and pour new cabinet foundation w/maint pad, trench and install conduits, demo old foundation Pull new signal wire using Caltrans cable for entire intersection 14/12c to all mast arm poles, 14/9c to all 1B poles and 14/3c to all PPBs per conduit schedule
- Replace all (54) Vehicle LED's and (8) pedestrian LED's with 48VDC LEDs
- Replace (1) existing PV heads with standard 12" signal head to accommodate 48VDC LEDs
- Replace Existing TS cabinet with City furnished ATC cabinet

2.5 E Stanley Boulevard / Wall Street

- Excavate, build retaining wall 7' x 4' and pour concrete maintenance pad behind existing cabinet foundation
- Pull new signal wire using Caltrans cable for entire intersection 14/12c to all mast arm poles, 14/9c to all 1B poles and 14/3c to all PPBs per conduit schedule
- Replace all (43) Vehicle LED's and (8) Pedestrian LED's with 48VDC LEDs
- Replace Existing TS cabinet with City furnished ATC cabinet

2.6 N Canyons Parkway / Triad Place

- Excavate and pour new cabinet foundation trench and install conduits, demo old foundation, build retaining wall 12' x 6' to encompass service and new cabinet, pour concrete maintenance pad 12' x 6'
- Pull new signal wire using Caltrans cable for entire intersection 14/12c to all mast arm poles, 14/9c to all 1B poles and 14/3c to all PPBs per conduit schedule
- Replace all (60) Vehicle LED's and (8) Pedestrian LED's with 48VDC LEDs
- Replace Existing TS cabinet with City furnished ATC cabinet

3. GENERAL REQUIREMENTS

3.1 The Contractor shall identify the Project Manager who will function as the main point of contact. It is expected that the concrete cutting team proposed under this agreement will remain unchanged throughout the duration of the term of the Agreement, unless requested by the City. Replacement of key staff without consultation with the City will not be permitted.

3.2 The Contractor shall provide staff with relevant experience with concrete cutting jobs.

3.3 All individuals working on this job must be full-time employees of Contractor 's company and covered by the company with the necessary Worker's compensation insurance, as required by the Contractor's State License Board and the State of California.

4. LICENSE AND REGISTRATION REQUIREMENTS

4.1 License – Contractor shall possess a valid California contractor's license for the following classification: **Class C-10 OR Class A**. Additionally, the Contractor representative in charge on site shall possess an IMSA certification –Level 2 (Field

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Tech) or Journeyman Electrician certification with at least 3 years' experience in the traffic signal technology. If the Contractor subcontracts the concrete work and/or traffic control work, subcontractor shall possess a valid California Class **C-8** contractor's license for concrete work, and **C-31** contractor's license for traffic control for the duration of the project.

4.2 All Contractors and subcontractors must be registered with the State of California Department of Industrial Relations (DIR). The registration form is located on the DIR's website at http://www.dir.ca.gov/Public-Works/PublicWorks.html.

4.3 Contractor shall obtain City of Livermore's business license.

4.4 Performance, Payment, and Warranty Bonds – The Contractor will be required to provide performance and payment bonds each in the amount of 100% of the Contract Price and a Warranty Bond in the amount of 15% of the Contract Price.

4.5 Prevailing Wage Requirements - This concrete cutting service is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. The agreement will be subject to compliance monitoring and enforcement by the California Department of Industrial Relations, under Labor Code, Section 1771.4. The prevailing rates are available online at http://www.dir.ca.gov/DLSR. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to work on the Project. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half.

5. HOURS OF WORK

5.1 Operation of noise producing equipment, as specified in Chapter 9.36 of the Livermore Municipal Code, is prohibited between the hours of 6:00 p.m. Saturday to 7:00 a.m. Monday; 8:00 p.m. to 7:00 a.m. on Monday, Tuesday, Wednesday, and Thursday; 8:00 p.m. Friday to 9:00 a.m. on Saturday, and on all City observed Holidays.

5.2 Lane closures are not anticipated for the cabinet replacement work. If necessary, the city will review request from the contractor for temporary lane closures to perform work.

5.3 All legal holidays are observed as nonworking hours.

5.4 Should the Contractor choose to work on a Saturday, Sunday, City Holidays or on a holiday recognized by the labor unions, the Contractor shall reimburse the City of Livermore the actual cost of engineering, inspection, testing, superintendent, and/or other overhead expenses which are directly chargeable to the contract. Should such work be undertaken at the request of the City, reimbursement will not be required.

6. PROSECUTION OF WORK

6.1 Contractor shall diligently prosecute work and only shall start work that can be completed that same day.

6.2 Contractor shall maintain the site safe at all times. The Contractor shall erect barricades, warning signs, and any other devices to prevent unauthorized access to work areas by the public.

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6.3 Work shall be performed in an orderly manner with minimum disturbance and inconvenience to the public. The Contractor shall confine and limit its personnel to only those areas required in performing the work.

6.4 All traffic control devices required must comply with CAMUTCD 2014, revision 6 requirements and latest amendments.

6.5 Contractor will be responsible for removal and proper disposal of all waste materials and surplus items prior to leaving the site each day.

6.6 Contractor shall obtain a no cost Encroachment Permit from the city. Prior to obtaining the encroachment permit, the Contractor must submit the proposed traffic control plans. Work can only start after the Engineer approves the traffic control plans and issues the encroachment permit.

7. COORDINATION OF WORK AND PUBLIC SAFETY

7.1 Contractor shall always allow for safe passage to all pedestrians within the construction zone area. If a sidewalk, driveway etc., is closed due to construction activity, the Contractor shall place Sidewalk Closed and one-way arrow signs on Type II barricades at the nearest intersection/ crosswalks.

7.2 Contractor shall always keep the work area safe and clean to protect the public. Repair equipment and all other items incidental to the work shall not be left or stored on the sidewalk or on private property while not in use.

7.3 If the Contractor damages any property adjacent to his work, the Contractor shall be required to repair all damages to the property owner's expectations at no additional costs to the City.

8. INVOICES

8.1 Contractor is required to provide weekly certified payrolls. One hard copy and one email copy must be sent to the city.

8.2 Monthly invoice will not be processed if the weekly certified payrolls are not submitted to the city.

8.3 Contractor must provide proof that all concrete and debris is disposed or recycled in a proper, environmentally safe manner. Construction demolition Recycling Report within 14 days of project completion and include receipts and/or weight tags at no additional costs to the city.

8.4 The Contractor shall only invoice for work completed in place.

9. AMERICANS WITH DISABILITIES ACT

9.1 Contractor must guarantee specified repair slope (1:10, 1:12 based upon requirements outlined by the Americans with Disabilities Act) is achieved for any sidewalk replacement. If defined slope is not achieved, Contractor must repair to specification at no additional charge within 24 hours of discovery.

10. BEST MANAGEMENT PRACTICES

10.1 Dust shall be collected using a high-powered vacuum dust control system, eliminating most of the dust from entering into the atmosphere. The system requires multiple heads for the high capacity vacuum, and a controlled filtration system that will eliminate dust from entering the atmosphere. The suction device shall be

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attached to the hand-held electrically powered cutting equipment to assure that all dust be collected before it's released into the atmosphere. No water- cooling is allowed, as it creates slurry and contaminates storm drains, possibly causing excessive environmental impact

10.2 Contractor shall implement Best Management Practices and implement Erosion and Sediment Control measures.

10.3 Contractor shall adhere to all clean water regulations and exercise best management practices.

11. SPECIFICATIONS

See City of Livermore Standard Specification Section 344100.

12. COMPENSATION

ITEM	WORK DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
1	Install City Furnished ATC Cabinet	EA	6	$5,900.00	$35,400.00
2	Install New Concrete Cabinet Foundation 48" x 32"	EA	4	$14,071.00	$56,284.00
3	Furnish and Install New Type III-AF Service Cabinet and Foundation	EA	2	$12,884.00	$25,768.00
4	Pull New Intersection Wiring to Mast Arm Poles - Caltrans 14/12c cable	LF	3800	$9.50	$36,100.00
5	Pull New Intersection Wiring to Mast Arm Poles - Caltrans 14/9c cable	LF	4125	$9.10	$37,537.50
6	Pull New Intersection Wiring to Mast Arm Poles - Caltrans 14/3c cable	LF	6330	$4.30	$27,219.00
7	Replace Vehicle LED with new 48VDC LED	EA	304	$177.00	$53,808.00
8	Replace Pedestrian LED with new 48VDC LED	EA	40	$325.00	$13,000.00
9	Replace Vehicle Signal Head and Framework with New 12" vehicle Signal Head and Framework	EA	15	$1,624.00	$24,360.00
10	Replace 14" Pedestrian Signal Head and Framework with New 16" Pedestrian Signal Head and Framework	EA	3	$1,050.00	$3,150.00
11	Install Retroreflective Tape on Existing Vehicle Signal Head Backplate	EA	87	$57.00	$4,959.00
12	Pull New Video Detection Camera Wiring and Terminate (per camera)	EA	4	$1,142.00	$4,568.00
13	Install Retaining Wall for Maintenance Pad	LF	45	$692.00	$31,140.00
14	Pour Concrete Maintenance Pad	SQ/FT	100	$202.00	$20,200.00
15	Install New N36 Pull Box	EA	3	$832.00	$2,496.00
16	Demo Old Cabinet Foundation Below Grade	EA	4	$3,234.00	$12,936.00
17	Mobilization	EA	1	$6,714.00	$6,714.00
	TOTAL				**$395,639.50**

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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.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.15**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Resolution amending the City of Livermore Salary Plan dated May 2024 to reflect an MOU adjustment for the Livermore Police Officers Association in accordance with California Code of Regulations, Title 2, Section 570.5 and assigning new Class Code numbers to all Job Classifications in connection with the implementation of the new payroll system.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution amending the City of Livermore Salary Plan dated May 2024 to reflect an MOU adjustment for the Livermore Police Officers Association and assigning new Class Code numbers to all Job Classifications in connection with the implementation of the new payroll system.

SUMMARY

Staff recommends the following changes to the Salary Plan:

1. Amend the Livermore Police Officers Association Salary Plan to incorporate a 4% salary increase effective May 6, 2024; and
2. Assigning new Class Code numbers to all Job Classifications in connection with the implementation of the new payroll system.

DISCUSSION

1. On April 26, 2021, the City Council adopted a successor MOU with the Livermore Police Officers Association. The Memorandum of Understanding provides for a base salary increase of 4% effective May 6, 2024.

2. The City recently implemented a new payroll system. In building the system, new four-digit class code numbers were created for all job classifications in the City. The numbers were assigned by bargaining unit and are reflected in the updated salary plan.

FISCAL AND ADMINISTRATIVE IMPACTS

The 4% wage increase was included in the FY 2024-25 adopted budget.

COMMUNITY PILLAR

5: A City that Works

GOAL

8: Attract, develop, engage, and retain a diverse and highly skilled workforce across the organization

ATTACHMENTS

1. Resolution
2. Exhibit A - Salary Plan May 2024

Prepared by: Kaylin Larson
HR Analyst II

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AMENDING THE CITY OF LIVERMORE SALARY PLAN DATED MAY 2024 TO REFLECT AN MOU ADJUSTMENT, IN ACCORDANCE WITH CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 570.5, AND ASSIGNING NEW CLASS CODE NUMBERS TO ALL JOB CLASSIFICATIONS

The proposed City of Livermore Salary Plan, attached hereto as Exhibit A, is intended to make the following amendments:

- Incorporate wage related adjustments for the Livermore Police Officers Association effective May 6, 2024, as approved in the Memorandum of Understanding (MOU);
- Assign new Class Code numbers to all Job Classifications

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that, in accordance with California Code of Regulations, Title 2, Section 570.5, it hereby approves the amended Salary Plan dated May 2024, attached hereto as Exhibit A, to modify the Livermore Police Officer Association Salary Schedule, effective May 6, 2024, and to assign new Class Code numbers to all Job Classifications.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Jason R. Alcala
Jason R. Alcala
City Attorney

Exhibit A – Salary Plan dated May 2024

LIVERMORE
CALIFORNIA

Salary Plan

May 2024

CITY OF LIVERMORE
ASSOCIATION OF LIVERMORE EMPLOYEES
EFFECTIVE 10/09/2023

CLASS CODE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
4001	ACCOUNT CLERK	66,819.84	70,054.84	73,441.56	76,997.62	80,731.49
		5,568.32	5,837.90	6,120.13	6,416.47	6,727.62
		1,285.00	1,347.21	1,412.34	1,480.72	1,552.53
		32.12492	33.68021	35.30844	37.01809	38.81322
4000	ACCOUNT CLERK, JUNIOR	60,576.07	63,488.86	66,547.28	69,758.63	73,130.53
		5,048.01	5,290.74	5,545.61	5,813.22	6,094.21
		1,164.92	1,220.94	1,279.76	1,341.51	1,406.36
		29.12311	30.52349	31.99388	33.53780	35.15891
4002	ACCOUNT CLERK, SENIOR	72,677.86	76,195.73	79,889.49	83,767.95	87,840.33
		6,056.49	6,349.64	6,657.46	6,980.66	7,320.03
		1,397.65	1,465.30	1,536.34	1,610.92	1,689.24
		34.94128	36.63256	38.40841	40.27305	42.23093
4020	ACCOUNTANT, JUNIOR	86,792.41	91,054.48	95,529.67	100,228.61	105,162.51
		7,232.70	7,587.87	7,960.81	8,352.38	8,763.54
		1,669.08	1,751.05	1,837.11	1,927.47	2,022.36
		41.72712	43.77619	45.92773	48.18683	50.55890
4010	ACCOUNTING TECHNICIAN	77,171.53	80,914.10	84,843.78	88,969.95	93,302.44
		6,430.96	6,742.84	7,070.32	7,414.16	7,775.20
		1,484.07	1,556.04	1,631.61	1,710.96	1,794.28
		37.10170	38.90101	40.79028	42.77401	44.85694
4030	ADMINISTRATIVE ASSISTANT	80,842.05	84,768.14	88,890.52	93,219.04	97,763.97
		6,736.84	7,064.01	7,407.54	7,768.25	8,147.00
		1,554.65	1,630.16	1,709.43	1,792.67	1,880.08
		38.86637	40.75391	42.73583	44.81685	47.00191
4052	ADMINISTRATIVE CLERK I	60,576.11	63,488.90	66,547.33	69,758.67	73,130.58
		5,048.01	5,290.74	5,545.61	5,813.22	6,094.22
		1,164.93	1,220.94	1,279.76	1,341.51	1,406.36
		29.12313	30.52351	31.99391	33.53782	35.15893
4051	ADMINISTRATIVE CLERK II	64,925.25	68,055.49	71,342.24	74,793.35	78,416.99
		5,410.44	5,671.29	5,945.19	6,232.78	6,534.75
		1,248.56	1,308.76	1,371.97	1,438.33	1,508.02
		31.21406	32.71899	34.29915	35.95834	37.70048
4040	ADMINISTRATIVE TECHNICIAN	80,842.05	84,768.14	88,890.52	93,219.04	97,763.97
		6,736.84	7,064.01	7,407.54	7,768.25	8,147.00
		1,554.65	1,630.16	1,709.43	1,792.67	1,880.08
		38.86637	40.75391	42.73583	44.81685	47.00191
5000	AIRPORT SERVICE ATTENDANT	70,739.04	74,159.99	77,751.97	81,523.55	85,483.71
		5,894.92	6,180.00	6,479.33	6,793.63	7,123.64
		1,360.37	1,426.15	1,495.23	1,567.76	1,643.92
		34.00915	35.65384	37.38075	39.19401	41.09794
5001	AIRPORT SERVICE ATTENDANT SENIOR	75,875.80	79,553.58	83,415.24	87,469.99	91,727.48
		6,322.98	6,629.47	6,951.27	7,289.17	7,643.96
		1,459.15	1,529.88	1,604.14	1,682.12	1,763.99
		36.47875	38.24691	40.10348	42.05288	44.09975

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4060	ANIMAL CONTROL OFFICER	80,206.76	84,101.09	88,190.12	92,483.60	96,991.75
		6,683.90	7,008.42	7,349.18	7,706.97	8,082.65
		1,542.44	1,617.33	1,695.96	1,778.53	1,865.23
		38.56094	40.43322	42.39910	44.46327	46.63065
5010	ASSET MANAGEMENT SPECIALIST	108,017.74	113,302.62	118,851.73	124,678.30	130,796.19
		9,001.48	9,441.89	9,904.31	10,389.86	10,899.68
		2,077.26	2,178.90	2,285.61	2,397.66	2,515.31
		51.93161	54.47241	57.14025	59.94149	62.88278
4130	BUILDING INSPECTOR I	94,998.40	99,632.31	104,497.90	109,606.78	114,971.10
		7,916.53	8,302.69	8,708.16	9,133.90	9,580.93
		1,826.89	1,916.01	2,009.58	2,107.82	2,210.98
		45.67231	47.90015	50.23938	52.69557	55.27457
4131	BUILDING INSPECTOR II	102,077.46	107,065.32	112,302.57	117,801.68	123,575.74
		8,506.46	8,922.11	9,358.55	9,816.81	10,297.98
		1,963.03	2,058.95	2,159.66	2,265.42	2,376.46
		49.07570	51.47371	53.99162	56.63542	59.41141
4132	BUILDING INSPECTOR III	105,063.34	110,200.49	115,594.49	121,258.19	127,205.08
		8,755.28	9,183.37	9,632.87	10,104.85	10,600.42
		2,020.45	2,119.24	2,222.97	2,331.89	2,446.25
		50.51122	52.98100	55.57427	58.29721	61.15629
4133	BUILDING INSPECTOR, SENIOR	110,200.49	115,594.49	121,258.19	127,205.08	133,449.32
		9,183.37	9,632.87	10,104.85	10,600.42	11,120.78
		2,119.24	2,222.97	2,331.89	2,446.25	2,566.33
		52.98100	55.57427	58.29721	61.15629	64.15833
4093	CIVIL ENGINEER, ASSISTANT	113,280.25	118,828.25	124,653.63	130,770.30	137,192.81
		9,440.02	9,902.35	10,387.80	10,897.53	11,432.73
		2,178.47	2,285.16	2,397.19	2,514.81	2,638.32
		54.46166	57.12897	59.92963	62.87034	65.95808
4100	CIVIL ENGINEER, ASSOCIATE	122,668.21	128,685.61	135,003.88	141,638.06	148,603.95
		10,222.35	10,723.80	11,250.32	11,803.17	12,383.66
		2,359.00	2,474.72	2,596.23	2,723.81	2,857.77
		58.97510	61.86808	64.90571	68.09522	71.44421
4091	CIVIL ENGINEER, JUNIOR	99,649.46	104,515.91	109,625.69	114,990.96	120,624.49
		8,304.12	8,709.66	9,135.47	9,582.58	10,052.04
		1,916.34	2,009.92	2,108.19	2,211.36	2,319.70
		47.90839	50.24803	52.70466	55.28412	57.99254
4140	COMMUNITY SERVICE SPECIALIST	70,824.73	74,249.94	77,846.44	81,622.74	85,587.87
		5,902.06	6,187.50	6,487.20	6,801.90	7,132.32
		1,362.01	1,427.88	1,497.05	1,569.67	1,645.92
		34.05035	35.69709	37.42617	39.24170	41.14801
4141	COMMUNITY SERVICE SPECIALIST II	73,934.02	77,630.72	81,512.26	85,587.87	89,867.26
		6,161.17	6,469.23	6,792.69	7,132.32	7,488.94
		1,421.81	1,492.90	1,567.54	1,645.92	1,728.22
		35.54520	37.32246	39.18859	41.14801	43.20541

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4150	CRIME & INTELLIGENCE ANALYST	92,146.03	96,637.32	101,353.16	106,304.81	111,504.03
		7,678.84	8,053.11	8,446.10	8,858.73	9,292.00
		1,772.04	1,858.41	1,949.10	2,044.32	2,144.31
		44.30098	46.46025	48.72748	51.10808	53.60771
4160	CRIME PREVENTION SPECIALIST	76,419.34	80,124.29	84,014.48	88,099.19	92,388.13
		6,368.28	6,677.02	7,001.21	7,341.60	7,699.01
		1,469.60	1,540.85	1,615.66	1,694.22	1,776.69
		36.74007	38.52129	40.39158	42.35538	44.41737
4170	CRISIS INTERVENTION SPECIALIST	97,854.20	102,708.03	107,804.57	113,155.93	118,774.86
		8,154.52	8,559.00	8,983.71	9,429.66	9,897.91
		1,881.81	1,975.15	2,073.16	2,176.08	2,284.13
		47.04529	49.37886	51.82912	54.40189	57.10330
4050	DIVISION CLERK	68,410.33	71,714.84	75,184.57	78,827.77	82,653.16
		5,700.86	5,976.24	6,265.38	6,568.98	6,887.76
		1,315.58	1,379.13	1,445.86	1,515.92	1,589.48
		32.88958	34.47829	36.14643	37.89797	39.73710
4180	ECONOMIC DEVELOPMENT SPECIALIST	88,694.16	93,012.86	97,547.50	102,308.85	107,308.26
		7,391.18	7,751.07	8,128.96	8,525.74	8,942.36
		1,705.66	1,788.71	1,875.91	1,967.48	2,063.62
		42.64142	44.71772	46.89784	49.18695	51.59051
5090	ELECTRICIAN	95,136.49	99,815.77	104,729.03	109,887.93	115,304.79
		7,928.04	8,317.98	8,727.42	9,157.33	9,608.73
		1,829.55	1,919.53	2,014.02	2,113.23	2,217.40
		45.73870	47.98835	50.35050	52.83074	55.43500
4092	ENGINEER, ASSISTANT	108,017.73	113,302.61	118,851.72	124,678.29	130,796.18
		9,001.48	9,441.88	9,904.31	10,389.86	10,899.68
		2,077.26	2,178.90	2,285.61	2,397.66	2,515.31
		51.93160	54.47241	57.14025	59.94149	62.88278
4090	ENGINEER, JUNIOR	95,014.74	99,649.48	104,515.92	109,625.70	114,990.97
		7,917.90	8,304.12	8,709.66	9,135.48	9,582.58
		1,827.21	1,916.34	2,009.92	2,108.19	2,211.36
		45.68016	47.90840	50.24804	52.70466	55.28412
4080	ENGINEERING SPECIALIST	108,017.73	113,302.61	118,851.72	124,678.29	130,796.18
		9,001.48	9,441.88	9,904.31	10,389.86	10,899.68
		2,077.26	2,178.90	2,285.61	2,397.66	2,515.31
		51.93160	54.47241	57.14025	59.94149	62.88278
4070	ENGINEERING TECHNICIAN, ASSIST	92,947.14	97,478.47	102,236.38	107,232.19	112,477.78
		7,745.60	8,123.21	8,519.70	8,936.02	9,373.15
		1,787.45	1,874.59	1,966.08	2,062.16	2,163.03
		44.68613	46.86465	49.15211	51.55394	54.07586
4071	ENGINEERING TECHNICIAN, ASSOC	99,649.46	104,515.91	109,625.69	114,990.96	120,624.49
		8,304.12	8,709.66	9,135.47	9,582.58	10,052.04
		1,916.34	2,009.92	2,108.19	2,211.36	2,319.70
		47.90839	50.24803	52.70466	55.28412	57.99254

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4072	ENGINEERING	103,509.58	108,569.05	113,881.48	119,459.54	125,316.50
	TECHNICIAN, SENIOR	8,625.80	9,047.42	9,490.12	9,954.96	10,443.04
		1,990.57	2,087.87	2,190.03	2,297.30	2,409.93
		49.76422	52.19666	54.75071	57.43247	60.24832
5030	FACILITIES MAINTENANCE	60,247.85	63,144.22	66,185.42	69,378.67	72,731.59
	TRAINEE	5,020.65	5,262.02	5,515.45	5,781.56	6,060.97
		1,158.61	1,214.31	1,272.80	1,334.21	1,398.68
		28.96531	30.35780	31.81991	33.35513	34.96711
5031	FACILITIES MAINTENANCE	67,430.13	70,685.61	74,103.86	77,693.04	81,461.68
	WORKER I	5,619.18	5,890.47	6,175.32	6,474.42	6,788.47
		1,296.73	1,359.34	1,425.07	1,494.10	1,566.57
		32.41833	33.98347	35.62686	37.35242	39.16427
5032	FACILITIES MAINTENANCE	72,289.11	75,787.55	79,460.91	83,317.95	87,367.82
	WORKER II	6,024.09	6,315.63	6,621.74	6,943.16	7,280.65
		1,390.18	1,457.45	1,528.09	1,602.27	1,680.15
		34.75438	36.43632	38.20236	40.05671	42.00376
5033	FACILITIES MAINTENANCE	75,875.80	79,553.58	83,415.24	87,469.99	91,727.48
	WORKER, SENIOR	6,322.98	6,629.47	6,951.27	7,289.17	7,643.96
		1,459.15	1,529.88	1,604.14	1,682.12	1,763.99
		36.47875	38.24691	40.10348	42.05288	44.09975
5034	FACILITIES MAINTENANCE	85,349.29	89,500.73	93,859.75	98,436.73	103,242.55
	WORKER, SUPERVISING	7,112.44	7,458.39	7,821.65	8,203.06	8,603.55
		1,641.33	1,721.17	1,805.00	1,893.01	1,985.43
		41.03331	43.02920	45.12488	47.32535	49.63584
4190	FAMILY THERAPIST	93,505.05	98,064.29	102,851.49	107,878.04	113,155.93
		7,792.09	8,172.02	8,570.96	8,989.84	9,429.66
		1,798.17	1,885.85	1,977.91	2,074.58	2,176.08
		44.95435	47.14629	49.44783	51.86444	54.40189
5040	FLEET SERVICES WORKER	60,247.89	63,144.27	66,185.47	69,378.72	72,731.64
		5,020.66	5,262.02	5,515.46	5,781.56	6,060.97
		1,158.61	1,214.31	1,272.80	1,334.21	1,398.69
		28.96533	30.35782	31.81994	33.35515	34.96713
4200	GIS SPECIALIST	108,017.73	113,302.59	118,851.71	124,678.28	130,796.17
		9,001.48	9,441.88	9,904.31	10,389.86	10,899.68
		2,077.26	2,178.90	2,285.61	2,397.66	2,515.31
		51.93160	54.47240	57.14025	59.94148	62.88277
5050	GROUNDSKEEPER	60,247.85	63,144.22	66,185.41	69,378.66	72,731.58
	TRAINEE	5,020.65	5,262.02	5,515.45	5,781.56	6,060.97
		1,158.61	1,214.31	1,272.80	1,334.21	1,398.68
		28.96531	30.35780	31.81991	33.35513	34.96711
5051	GROUNDSKEEPER I	67,430.13	70,685.61	74,103.86	77,693.04	81,461.68
		5,619.18	5,890.47	6,175.32	6,474.42	6,788.47
		1,296.73	1,359.34	1,425.07	1,494.10	1,566.57
		32.41833	33.98347	35.62686	37.35242	39.16427

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5052	GROUNDSKEEPER II	72,289.11	75,787.56	79,460.91	83,317.95	87,367.82
		6,024.09	6,315.63	6,621.74	6,943.16	7,280.65
		1,390.18	1,457.45	1,528.09	1,602.27	1,680.15
		34.75438	36.43633	38.20236	40.05671	42.00376
5053	GROUNDSKEEPER III	75,875.80	79,553.58	83,415.24	87,469.99	91,727.48
		6,322.98	6,629.47	6,951.27	7,289.17	7,643.96
		1,459.15	1,529.88	1,604.14	1,682.12	1,763.99
		36.47875	38.24691	40.10348	42.05288	44.09975
5055	GROUNDSKEEPER, SUPERVISING	85,349.29	89,500.73	93,859.75	98,436.73	103,242.55
		7,112.44	7,458.39	7,821.65	8,203.06	8,603.55
		1,641.33	1,721.17	1,805.00	1,893.01	1,985.43
		41.03331	43.02920	45.12488	47.32535	49.63584
4210	INFORMATION TECHNOLOGY TECHNICIAN	80,654.75	84,609.95	88,762.91	93,123.52	97,702.15
		6,721.23	7,050.83	7,396.91	7,760.29	8,141.85
		1,551.05	1,627.11	1,706.98	1,790.84	1,878.89
		38.77632	40.67786	42.67448	44.77092	46.97219
4211	INFORMATION TECHNOLOGY TECHNICIAN, SENIOR	88,499.94	92,847.39	97,412.22	102,205.29	107,238.01
		7,375.00	7,737.28	8,117.69	8,517.11	8,936.50
		1,701.92	1,785.53	1,873.31	1,965.49	2,062.27
		42.54805	44.63817	46.83280	49.13716	51.55674
5054	LANDSCAPE MAINTENANCE SPECIALIST	81,112.97	85,052.59	89,189.20	93,532.64	98,093.25
		6,759.41	7,087.72	7,432.43	7,794.39	8,174.44
		1,559.86	1,635.63	1,715.18	1,798.70	1,886.41
		38.99662	40.89067	42.87942	44.96762	47.16022
4230	LIBRARIAN I	73,089.45	76,627.91	80,343.28	84,244.43	88,340.63
		6,090.79	6,385.66	6,695.27	7,020.37	7,361.72
		1,405.57	1,473.61	1,545.06	1,620.09	1,698.86
		35.13916	36.84034	38.62658	40.50213	42.47146
4231	LIBRARIAN II	80,998.52	84,932.43	89,063.03	93,400.16	97,954.15
		6,749.88	7,077.70	7,421.92	7,783.35	8,162.85
		1,557.66	1,633.32	1,712.75	1,796.16	1,883.73
		38.94160	40.83290	42.81876	44.90392	47.09334
4221	LIBRARY ASSISTANT	68,828.76	72,154.18	75,645.87	79,312.15	83,161.75
		5,735.73	6,012.85	6,303.82	6,609.35	6,930.15
		1,323.63	1,387.58	1,454.73	1,525.23	1,599.26
		33.09075	34.68951	36.36821	38.13084	39.98161
4222	LIBRARY ASSISTANT, SUPERVISING	77,171.53	80,914.10	84,843.78	88,969.95	93,302.44
		6,430.96	6,742.84	7,070.32	7,414.16	7,775.20
		1,484.07	1,556.04	1,631.61	1,710.96	1,794.28
		37.10170	38.90101	40.79028	42.77401	44.85694
4220	LIBRARY CLERK	60,576.11	63,488.90	66,547.33	69,758.67	73,130.58
		5,048.01	5,290.74	5,545.61	5,813.22	6,094.22
		1,164.93	1,220.94	1,279.76	1,341.51	1,406.36
		29.12313	30.52351	31.99391	33.53782	35.15893

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5060	MAINTENANCE TRAINEE	60,247.85	63,144.22	66,185.41	69,378.66	72,731.58
		5,020.65	5,262.02	5,515.45	5,781.56	6,060.97
		1,158.61	1,214.31	1,272.80	1,334.21	1,398.68
		28.96531	30.35780	31.81991	33.35513	34.96711
5061	MAINTENANCE WORKER I	67,430.13	70,685.61	74,103.86	77,693.04	81,461.68
		5,619.18	5,890.47	6,175.32	6,474.42	6,788.47
		1,296.73	1,359.34	1,425.07	1,494.10	1,566.57
		32.41833	33.98347	35.62686	37.35242	39.16427
5062	MAINTENANCE WORKER II	72,289.11	75,787.55	79,460.91	83,317.95	87,367.82
		6,024.09	6,315.63	6,621.74	6,943.16	7,280.65
		1,390.18	1,457.45	1,528.09	1,602.27	1,680.15
		34.75438	36.43632	38.20236	40.05671	42.00376
5063	MAINTENANCE WORKER III	75,875.80	79,553.58	83,415.24	87,469.99	91,727.48
		6,322.98	6,629.47	6,951.27	7,289.17	7,643.96
		1,459.15	1,529.88	1,604.14	1,682.12	1,763.99
		36.47875	38.24691	40.10348	42.05288	44.09975
5070	MECHANIC	83,676.63	87,744.45	92,015.64	96,500.41	101,209.42
		6,973.05	7,312.04	7,667.97	8,041.70	8,434.12
		1,609.17	1,687.39	1,769.53	1,855.78	1,946.34
		40.22915	42.18483	44.23829	46.39443	48.65838
5071	MECHANIC SENIOR	90,843.18	95,269.32	99,916.76	104,796.59	109,920.41
		7,570.27	7,939.11	8,326.40	8,733.05	9,160.03
		1,746.98	1,832.10	1,921.48	2,015.32	2,113.85
		43.67461	45.80256	48.03690	50.38298	52.84635
4240	NEIGHBORHOOD PRESERVATION OFFICER	99,649.46	104,515.91	109,625.69	114,990.96	120,624.49
		8,304.12	8,709.66	9,135.47	9,582.58	10,052.04
		1,916.34	2,009.92	2,108.19	2,211.36	2,319.70
		47.90839	50.24803	52.70466	55.28412	57.99254
5020	PARTS AND INVENTORY CONTROL WORKER	70,559.98	73,971.95	77,554.53	81,316.24	85,266.04
		5,880.00	6,164.33	6,462.88	6,776.35	7,105.50
		1,356.92	1,422.54	1,491.43	1,563.77	1,639.73
		33.92307	35.56344	37.28583	39.09435	40.99329
4250	PERMIT TECHNICIAN	71,853.77	75,330.44	78,980.95	82,813.98	86,838.67
		5,987.81	6,277.54	6,581.75	6,901.17	7,236.56
		1,381.80	1,448.66	1,518.86	1,592.58	1,669.97
		34.54508	36.21656	37.97161	39.81441	41.74936
4251	PERMIT TECHNICIAN II	76,721.09	80,441.12	84,347.17	88,448.50	92,754.90
		6,393.42	6,703.43	7,028.93	7,370.71	7,729.58
		1,475.41	1,546.94	1,622.06	1,700.93	1,783.75
		36.88514	38.67362	40.55152	42.52332	44.59370
4260	PLAN CHECK ENGINEER	122,565.32	128,577.57	134,890.42	141,518.94	148,478.88
		10,213.78	10,714.80	11,240.87	11,793.25	12,373.24
		2,357.03	2,472.65	2,594.05	2,721.52	2,855.36
		58.92563	61.81614	64.85116	68.03795	71.38408

CITY OF LIVERMORE
ASSOCIATION OF LIVERMORE EMPLOYEES
EFFECTIVE 10/09/2023

CLASS CODE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
4120	PLANNER, ASSISTANT	99,348.37	104,199.78	109,293.75	114,642.43	120,258.52
		8,279.03	8,683.32	9,107.81	9,553.54	10,021.54
		1,910.55	2,003.84	2,101.80	2,204.66	2,312.66
		47.76364	50.09605	52.54507	55.11655	57.81660
4121	PLANNER, ASSOCIATE	114,642.43	120,258.52	126,155.43	132,347.19	138,848.53
		9,553.54	10,021.54	10,512.95	11,028.93	11,570.71
		2,204.66	2,312.66	2,426.07	2,545.14	2,670.16
		55.11655	57.81660	60.65165	63.62846	66.75410
4122	PLANNER, SENIOR	120,258.55	126,155.45	132,347.21	138,848.55	145,674.96
		10,021.55	10,512.95	11,028.93	11,570.71	12,139.58
		2,312.66	2,426.07	2,545.14	2,670.16	2,801.44
		57.81661	60.65166	63.62847	66.75411	70.03604
4270	POLICE CLERK	66,569.99	69,782.46	73,155.58	76,697.35	80,416.19
		5,547.50	5,815.21	6,096.30	6,391.45	6,701.35
		1,280.19	1,341.97	1,406.84	1,474.95	1,546.47
		32.00480	33.54926	35.17095	36.87373	38.66163
4271	POLICE CLERK, SENIOR	69,782.54	73,155.65	76,697.42	80,416.26	84,321.07
		5,815.21	6,096.30	6,391.45	6,701.36	7,026.76
		1,341.97	1,406.84	1,474.95	1,546.47	1,621.56
		33.54930	35.17099	36.87376	38.66166	40.53898
4272	POLICE CLERK, SUPERVISING	82,386.88	86,390.21	90,593.70	95,007.38	99,641.73
		6,865.57	7,199.18	7,549.48	7,917.28	8,303.48
		1,584.36	1,661.35	1,742.19	1,827.07	1,916.19
		39.60908	41.53375	43.55466	45.67663	47.90468
4280	POLICE IDENTIFICATION TECHNICIAN	83,941.57	88,022.62	92,307.74	96,807.11	101,531.46
		6,995.13	7,335.22	7,692.31	8,067.26	8,460.96
		1,614.26	1,692.74	1,775.15	1,861.68	1,952.53
		40.35652	42.31857	44.37872	46.54188	48.81320
4290	PROPERTY AND EVIDENCE SPECIALIST	70,824.73	74,249.94	77,846.44	81,622.74	85,587.87
		5,902.06	6,187.50	6,487.20	6,801.90	7,132.32
		1,362.01	1,427.88	1,497.05	1,569.67	1,645.92
		34.05035	35.69709	37.42617	39.24170	41.14801
4291	PROPERTY AND EVIDENCE SPECIALIST, SUPERVISING	80,054.86	83,941.59	88,022.64	92,307.76	96,807.13
		6,671.24	6,995.13	7,335.22	7,692.31	8,067.26
		1,539.52	1,614.26	1,692.74	1,775.15	1,861.68
		38.48791	40.35653	42.31858	44.37873	46.54189
4300	PUBLIC SAFETY DISPATCHER	82,386.88	86,390.21	90,593.70	95,007.38	99,641.73
		6,865.57	7,199.18	7,549.48	7,917.28	8,303.48
		1,584.36	1,661.35	1,742.19	1,827.07	1,916.19
		39.60908	41.53375	43.55466	45.67663	47.90468
4301	PUBLIC SAFETY DISPATCHER, SENIOR	86,390.17	90,593.66	95,007.33	99,641.69	104,507.76
		7,199.18	7,549.47	7,917.28	8,303.47	8,708.98
		1,661.35	1,742.19	1,827.06	1,916.19	2,009.76
		41.53374	43.55464	45.67660	47.90466	50.24412

CITY OF LIVERMORE
ASSOCIATION OF LIVERMORE EMPLOYEES
EFFECTIVE 10/09/2023

CLASS CODE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
4302	PUBLIC SAFETY	95,060.69	99,697.72	104,566.58	109,678.90	115,046.82
	DISPATCHER, SUPERVISING	7,921.72	8,308.14	8,713.88	9,139.91	9,587.24
		1,828.09	1,917.26	2,010.90	2,109.21	2,212.44
		45.70225	47.93160	50.27239	52.73024	55.31097
4310	PURCHASING SPECIALIST,	86,517.46	90,843.33	95,385.50	100,154.77	105,162.51
	SUPERVISING	7,209.79	7,570.28	7,948.79	8,346.23	8,763.54
		1,663.80	1,746.99	1,834.34	1,926.05	2,022.36
		41.59493	43.67468	45.85841	48.15133	50.55890
4320	RECYCLING SPECIALIST	88,694.15	93,012.84	97,547.48	102,308.83	107,308.24
		7,391.18	7,751.07	8,128.96	8,525.74	8,942.35
		1,705.66	1,788.71	1,875.91	1,967.48	2,063.62
		42.64142	44.71771	46.89783	49.18694	51.59050
5081	TRAFFIC SIGNAL	73,126.04	76,666.33	80,383.63	84,286.80	88,385.12
	TECHNICIAN TRAINEE	6,093.84	6,388.86	6,698.64	7,023.90	7,365.43
		1,406.27	1,474.35	1,545.84	1,620.90	1,699.71
		35.15675	36.85881	38.64598	40.52250	42.49285
5080	TRAFFIC SIGNAL	78,082.45	81,870.55	85,848.08	90,024.46	94,409.68
	TECHNICIAN	6,506.87	6,822.55	7,154.01	7,502.04	7,867.47
		1,501.59	1,574.43	1,650.92	1,731.24	1,815.57
		37.53964	39.36084	41.27312	43.28099	45.38927
5082	TRAFFIC SIGNAL	85,349.29	89,500.73	93,859.75	98,436.73	103,242.55
	TECHNICIAN, SENIOR	7,112.44	7,458.39	7,821.65	8,203.06	8,603.55
		1,641.33	1,721.17	1,805.00	1,893.01	1,985.43
		41.03331	43.02920	45.12488	47.32535	49.63584
4110	TRANSPORTATION	122,668.21	128,685.61	135,003.88	141,638.06	148,603.95
	ENGINEER, ASSOCIATE	10,222.35	10,723.80	11,250.32	11,803.17	12,383.66
		2,359.00	2,474.72	2,596.23	2,723.81	2,857.77
		58.97510	61.86808	64.90571	68.09522	71.44421
5150	WASTEWATER COLLECTIONS	60,247.85	63,144.22	66,185.41	69,378.66	72,731.58
	SYSTEMS TRAINEE	5,020.65	5,262.02	5,515.45	5,781.56	6,060.97
		1,158.61	1,214.31	1,272.80	1,334.21	1,398.68
		28.96531	30.35780	31.81991	33.35513	34.96711
5151	WASTEWATER COLLECTIONS	69,594.68	72,996.87	76,569.18	80,320.10	84,258.56
	SYSTEMS WORKER I	5,799.56	6,083.07	6,380.77	6,693.34	7,021.55
		1,338.36	1,403.79	1,472.48	1,544.62	1,620.36
		33.45898	35.09465	36.81211	38.61543	40.50892
5152	WASTEWATER COLLECTIONS	76,388.79	80,130.69	84,059.69	88,185.13	92,516.85
	SYSTEMS WORKER II	6,365.73	6,677.56	7,004.97	7,348.76	7,709.74
		1,469.02	1,540.97	1,616.53	1,695.87	1,779.17
		36.72538	38.52437	40.41331	42.39670	44.47925
5153	WASTEWATER COLLECTIONS	83,900.11	88,017.58	92,340.92	96,880.43	101,646.90
	SYSTEMS WORKER III	6,991.68	7,334.80	7,695.08	8,073.37	8,470.58
		1,613.46	1,692.65	1,775.79	1,863.09	1,954.75
		40.33659	42.31614	44.39467	46.57713	48.86870

CITY OF LIVERMORE
ASSOCIATION OF LIVERMORE EMPLOYEES
EFFECTIVE 10/09/2023

CLASS CODE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
5160	WATER DISTRIBUTION OPERATOR TRAINEE	64,302.75	67,401.88	70,655.96	74,072.74	77,660.37
		5,358.56	5,616.82	5,888.00	6,172.73	6,471.70
		1,236.59	1,296.19	1,358.77	1,424.48	1,493.47
		30.91478	32.40475	33.96921	35.61189	37.33672
5161	WATER DISTRIBUTION OPERATOR I	71,988.60	75,472.00	79,129.58	82,970.05	87,002.53
		5,999.05	6,289.33	6,594.13	6,914.17	7,250.21
		1,384.40	1,451.38	1,521.72	1,595.58	1,673.13
		34.60990	36.28462	38.04307	39.88945	41.82814
5162	WATER DISTRIBUTION OPERATOR II	82,438.82	86,444.75	90,650.97	95,067.50	99,704.85
		6,869.90	7,203.73	7,554.25	7,922.29	8,308.74
		1,585.36	1,662.40	1,743.29	1,828.22	1,917.40
		39.63405	41.55998	43.58220	45.70553	47.93502
5163	WATER DISTRIBUTION OPERATOR III	88,848.28	93,174.67	97,717.40	102,487.26	107,495.59
		7,404.02	7,764.56	8,143.12	8,540.61	8,957.97
		1,708.62	1,791.82	1,879.18	1,970.91	2,067.22
		42.71552	44.79551	46.97952	49.27272	51.68057
5164	WATER DISTRIBUTION SENIOR OPERATOR	93,174.69	97,717.42	102,487.28	107,495.61	112,754.39
		7,764.56	8,143.12	8,540.61	8,957.97	9,396.20
		1,791.82	1,879.18	1,970.91	2,067.22	2,168.35
		44.79552	46.97953	49.27273	51.68058	54.20884
5165	WATER DISTRIBUTION SUPERVISING OPERATOR	102,260.14	107,257.14	112,503.97	118,013.15	123,797.80
		8,521.68	8,938.10	9,375.33	9,834.43	10,316.48
		1,966.54	2,062.64	2,163.54	2,269.48	2,380.73
		49.16353	51.56593	54.08845	56.73709	59.51817
5170	WATER RESOURCES COORDINATOR	96,076.78	100,803.07	105,765.69	110,976.43	116,447.72
		8,006.40	8,400.26	8,813.81	9,248.04	9,703.98
		1,847.63	1,938.52	2,033.96	2,134.16	2,239.38
		46.19076	48.46301	50.84889	53.35405	55.98448
5171	WATER RESOURCES COORDINATOR - ELECTRICAL & INSTRUMENTATION	99,815.77	104,729.03	109,887.93	115,304.79	120,992.50
		8,317.98	8,727.42	9,157.33	9,608.73	10,082.71
		1,919.53	2,014.02	2,113.23	2,217.40	2,326.78
		47.98835	50.35050	52.83074	55.43500	58.16947
5100	WR INSTRUMENT CONTROL TECHNICIAN	90,803.82	95,266.47	99,952.26	104,872.33	110,038.40
		7,566.99	7,938.87	8,329.36	8,739.36	9,169.87
		1,746.23	1,832.05	1,922.16	2,016.78	2,116.12
		43.65568	45.80119	48.05397	50.41939	52.90308
5110	WR LABORATORY TECHNICIAN	86,768.80	91,029.71	95,503.66	100,201.29	105,133.82
		7,230.73	7,585.81	7,958.64	8,350.11	8,761.15
		1,668.63	1,750.57	1,836.61	1,926.95	2,021.80
		41.71577	43.76428	45.91522	48.17370	50.54511
5120	WR MECHANIC I	81,088.31	85,103.86	89,320.19	93,747.33	98,395.83
		6,757.36	7,091.99	7,443.35	7,812.28	8,199.65
		1,559.39	1,636.61	1,717.70	1,802.83	1,892.23
		38.98476	40.91532	42.94240	45.07083	47.30569

CITY OF LIVERMORE
ASSOCIATION OF LIVERMORE EMPLOYEES
EFFECTIVE 10/09/2023

CLASS CODE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
5121	WR MECHANIC II	91,455.39	95,989.29	100,749.89	105,748.52	110,997.08
		7,621.28	7,999.11	8,395.82	8,812.38	9,249.76
		1,758.76	1,845.95	1,937.50	2,033.63	2,134.56
		43.96894	46.14870	48.43745	50.84063	53.36398
5131	WR OPERATOR - GRADE I	81,895.01	85,873.73	90,051.41	94,437.95	99,043.82
		6,824.58	7,156.14	7,504.28	7,869.83	8,253.65
		1,574.90	1,651.42	1,731.76	1,816.11	1,904.69
		39.37260	41.28545	43.29395	45.40286	47.61722
5132	WR OPERATOR - GRADE II	85,863.06	90,040.19	94,426.19	99,031.47	103,867.03
		7,155.26	7,503.35	7,868.85	8,252.62	8,655.59
		1,651.21	1,731.54	1,815.89	1,904.45	1,997.44
		41.28032	43.28855	45.39721	47.61128	49.93607
5133	WR OPERATOR - GRADE III	92,663.41	97,180.57	101,923.58	106,903.74	112,132.90
		7,721.95	8,098.38	8,493.63	8,908.65	9,344.41
		1,781.99	1,868.86	1,960.07	2,055.84	2,156.40
		44.54972	46.72143	49.00172	51.39603	53.91005
5130	WR OPERATOR - TRAINEE	69,215.90	72,560.68	76,072.70	79,760.32	83,632.32
		5,767.99	6,046.72	6,339.39	6,646.69	6,969.36
		1,331.08	1,395.40	1,462.94	1,533.85	1,608.31
		33.27688	34.88494	36.57341	38.34631	40.20785
5134	WR SENIOR OPERATOR	97,194.51	101,938.23	106,919.11	112,149.05	117,640.49
		8,099.54	8,494.85	8,909.93	9,345.75	9,803.37
		1,869.13	1,960.35	2,056.14	2,156.71	2,262.32
		46.72813	49.00876	51.40342	53.91781	56.55793
5141	WR SOURCE CONTROL INSPECTOR	91,164.82	95,645.53	100,350.26	105,290.23	110,477.21
		7,597.07	7,970.46	8,362.52	8,774.19	9,206.43
		1,753.17	1,839.34	1,929.81	2,024.81	2,124.56
		43.82924	45.98343	48.24532	50.62030	53.11404
5140	WR SOURCE CONTROL TECHNICIAN	85,835.21	90,010.96	94,395.49	98,999.24	103,833.18
		7,152.93	7,500.91	7,866.29	8,249.94	8,652.77
		1,650.68	1,730.98	1,815.30	1,903.83	1,996.79
		41.26693	43.27450	45.38245	47.59579	49.91980
5135	WR SUPERVISING OPERATOR	106,674.96	111,892.68	117,371.29	123,123.84	129,164.01
		8,889.58	9,324.39	9,780.94	10,260.32	10,763.67
		2,051.44	2,151.78	2,257.14	2,367.77	2,483.92
		51.28604	53.79456	56.42850	59.19415	62.09808
4330	YOUTH SERVICES CASE COORDINATOR	85,414.84	89,569.56	93,932.04	98,512.62	103,322.24
		7,117.90	7,464.13	7,827.67	8,209.39	8,610.19
		1,642.59	1,722.49	1,806.39	1,894.47	1,986.97
		41.06483	43.06229	45.15963	47.36184	49.67415

CITY OF LIVERMORE
POLICE OFFICER'S ASSOCIATION
EFFECTIVE 05/06/2024

CLASS CODE	CLASSIFICATION	SALARY RANGE @ ANNUAL, MONTHLY, WEEKLY, HRLY RATES STEP A	STEP B	STEP C	STEP D	STEP E
3110	POLICE OFFICER	115,358.76	121,126.70	127,183.04	133,542.19	140,219.30
		9,613.23	10,093.89	10,598.59	11,128.52	11,684.94
		2218.44	2329.36	2445.83	2568.12	2696.53
		55.46094	58.23399	61.14569	64.20298	67.41313
3100	POLICE SERGEANT	143,541.70	150,718.78	158,254.72	166,167.46	174,475.83
		11,961.81	12,559.90	13,187.89	13,847.29	14,539.65
		2760.42	2898.44	3043.36	3195.53	3355.30
		69.01043	72.46095	76.08400	79.88820	83.88261
3120	POLICE TRAINEE (Non-Sworn)	40.40550	-	-	-	-

CITY OF LIVERMORE
MANAGEMENT SALARY SCHEDULE
$7,730 - $17,650/month
Effective July 3, 2023

Class Code	Classification	Monthly Salary Range		
		$14,095.31	-	$17,619.14
2010	Assistant Administrative Services Director			
2015	Assistant City Attorney			
2030	Assistant Community Development Director			
2045	Assistant Public Works Director			
2060	City Engineer			
		$13,112.20	-	$16,390.25
2025	Assistant City Engineer			
2050	Building Official			
2090	Finance Manager			
2125	Maintenance and Golf Operations Manager			
2145	Planning Manager			
2220	Water Resources Division Manager			
		$12,465.09	-	$15,581.36
2005	Airport Manager			
2095	Housing & Human Services Manager			
		$12,335.20	-	$15,419.00
2200	Senior Transportation Engineer			
		$11,836.61	-	$14,795.76
2140	Permit Center Manager			
		$11,812.81	-	$14,766.01
2190	Senior Civil Engineer			
		$11,671.70	-	$14,589.63
2070	IT Operations Manager			
2115	Information Technology Manager			
		$11,331.75	-	$14,164.69
2055	City Clerk			
2100	Housing Programs Manager			
2105	Human Services Programs Manager			
2165	Police Support Services Manager			
2170	Principal Planner			
2240	Youth and Family Services Manager - Clinical			
		$10,698.76	-	$13,373.45
2035	Assistant Finance Manager			
2040	Assistant Library Director			
2085	Economic Development Manager			
2120	Inspection & Neighborhood Preservation Manager			
2225	Water Resources Operations Manager			
2230	Water Resources Technical Programs Manager			
2245	Youth and Family Services Manager - Programs			

CITY OF LIVERMORE
MANAGEMENT SALARY SCHEDULE
$7,730 - $17,650/month
Effective July 3, 2023

Class Code	Classification	Monthly Salary Range		
		$10,170.15	-	$12,712.69
2000	Accounting Supervisor			
2110	Information Technology Coordinator			
2195	Management Analyst, Senior			
2175	Public Works Manager			
2210	Systems Administrator			
2215	Water Distribution Operations Manager			
		$10,062.21	-	$12,577.76
2065	Construction Inspection Manager			
		$10,016.28	-	$12,520.35
2075	Deputy City Attorney			
2150	Police Business Services Manager			
2155	Police Facility & Equipment Manager			
		$9,505.31	-	$11,881.64
2020	Assistant City Clerk			
2135	Management Analyst II			
2160	Police Media & Community Relations Analyst			
2180	Public Works Supervisor			
		$7,730.03	-	$9,662.54
2080	Deputy City Clerk			
2130	Management Analyst I			
2205	Supervising Librarian			
2235	Water Resources Communications Representative			

CITY OF LIVERMORE
MANAGEMENT CONFIDENTIAL SALARY SCHEDULE
$7,730 - $19,000/month

Effective July 3, 2023

Class Code	Classification	Monthly Salary Range		
2440	Assistant City Attorney, Senior (Confidential)	$15,196.70	-	$18,995.88
2400	Assistant to the City Manager (Confidential)	$12,465.09	-	$15,581.36
2420	Human Resources Manager (Confidential)	$13,112.20	-	$16,390.25
2450	Human Resources Analyst, Senior (Conf)	$10,170.15	-	$12,712.69
2411	Human Resources Analyst II (Confidential)	$9,505.31	-	$11,881.64
2410	Human Resources Analyst I (Confidential)	$7,730.03	-	$9,662.54
2460	Management Analyst, Senior (Confidential)	$10,170.15	-	$12,712.69
2431	Management Analyst II (Confidential)	$9,505.31	-	$11,881.64
2430	Management Analyst I (Confidential)	$7,730.03	-	$9,662.54
2465	Risk Manager (Confidential)	$11,480.26	-	$14,350.33

CITY OF LIVERMORE
CONFIDENTIAL SALARY SCHEDULE
$5,120 - $10,670/month
Effective July 3, 2023

Class Code	Classifications	Monthly Salary Range		
2600	Administrative Receptionist	$5,120.02	-	$6,400.02
2610	Administrative Specialist I	$5,926.26	-	$7,407.83
2611	Administrative Specialist II	$6,665.14	-	$8,331.43
2620	Executive Assistant	$8,532.40	-	$10,665.50
2630	Human Resources Clerk I	$5,926.26	-	$7,407.83
2631	Human Resources Clerk II	$6,519.55	-	$8,149.44
2640	Human Resources Technician	$7,153.66	-	$8,942.08
2650	Law Office Supervisor	$8,532.40	-	$10,665.50
2660	Legal Assistant	$7,085.67	-	$8,857.09

CITY OF LIVERMORE
POLICE MANAGEMENT SALARY SCHEDULE
$14,500 - $22,480/month
Effective January 1, 2024

Class Code	Classification	Salary Range		
3000	Police Captain	$17,983.66	-	$22,479.58
3010	Police Lieutenant	$14,501.26	-	$18,126.57

CITY OF LIVERMORE
EXECUTIVE MANAGEMENT SALARY SCHEDULE
$14,095 - $25,416/month
Effective November 20, 2023

Class Code	Classification	Monthly Salary Range		
1215	Administrative Services Director	$16,435.43	-	$20,544.29
1200	Assistant City Manager	$17,729.26	-	$22,161.58
1220	Community Development Director	$16,435.43	-	$20,544.29
1205	Deputy City Manager	$14,095.31	-	$17,619.14
1210	Deputy City Manager/City Clerk	$14,095.31	-	$17,619.14
1225	Innovation & Economic Development Dir	$16,435.43	-	$20,544.29
1230	Library Services Director	$16,435.43	-	$20,544.29
1235	Police Chief	$20,332.79	-	$25,415.99
1240	Public Works Director	$16,435.43	-	$20,544.29

CITY OF LIVERMORE
APPOINTED MANAGEMENT

Class Code	Classification	Annual Salary	Effective
1000	City Manager	$344,796	11/20/2023
1100	City Attorney	$307,580	11/20/2023

CITY OF LIVERMORE
UNCLASSIFIED AND HOURLY SALARY SCHEDULE

Class Code	Classification	Hourly Salary Range	Effective Date
8200	Department Assistant	$16.00 - $26.00	01/01/24
8205	Field/Maintenance Aide	$16.00 - $26.00	01/01/24
8210	Law Clerk	$16.00 - $26.00	01/01/24
8230	Temporary Librarian	$22.00 - $32.00	01/01/24
8235	Temporary Library Assistant	$20.00 - $30.00	01/01/24
8240	Temporary Library Clerk	$18.00 - $28.00	01/01/24
8215	Library Aide	$16.00 - $20.00	01/01/24
8220	Police Cadet	$16.00 - $26.00	01/01/24
8225	Special Projects Coordinator	$20.00 - $100.00	12/20/21

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.16**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Marianna Marysheva, City Manager

SUBJECT: Resolution authorizing the display of the Philadelphia rainbow pride flag for the month of June 2024.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the display of the Philadelphia rainbow pride flag on the flagpole at the Civic Center Campus for the month of June 2024.

SUMMARY

On April 15, 2024, consistent with the Commemorative Flag Display policy and at the request of Council Member Branning, the City Council directed staff to return with a resolution for Council consideration which would authorize the display of the Philadelphia rainbow pride flag at the Civic Center Campus for the month of June 2024.

DISCUSSION

At the September 23, 2019 Council meeting, Council adopted a Commemorative Flag Display policy. The policy allows a Council Member to request display of a commemorative flag at the Civic Center Campus, on the City of Livermore flagpole, beneath the City of the Livermore flag. Once a request has been made by a Council Member, the Council will consider the request at a duly noticed public meeting.

The City's policy is constructed to allow the display of commemorative flags as a form of government expression. Such flags may be displayed for a period of time that is reasonable or customary for the subject that is to be commemorated, but no more than thirty-one consecutive days.

At the April 15, 2024 Council meeting, Council Member Branning requested to display the Philadelphia rainbow pride flag for the month of June 2024, in order to commemorate Pride Month.

FISCAL AND ADMINSTRATIVE IMPACTS

There are no fiscal or administrative impacts associated with flying the Philadelphia rainbow pride flag for

the month of June 2024.

COMMUNITY PILAR

1: A City That Works

GOAL

1: Engage effectively with the Mayor and City Council

ATTACHMENTS

1. Resolution

Prepared by: Marie Weber
Deputy City Manager

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE DISPLAY OF THE PHILADELPHIA RAINBOW PRIDE FLAG FOR THE MONTH OF JUNE 2024

On September 23, 2019, the City Council adopted a commemorative flag display policy.

On April 15, 2024, consistent with the commemorative flag display policy, Council Member Branning requested display of the Philadelphia rainbow pride flag for the month of June 2024.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes and directs staff to display the Philadelphia rainbow pride flag for the month of June 2024.

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Resolution.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.17**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Marianna Marysheva, City Manager

SUBJECT: Resolution calling for and giving notice of the holding of a General Municipal Election and consolidating services with Alameda County on Tuesday, November 5, 2024 for the election of certain officers of the City.

RECOMMENDED ACTION

The City's General Municipal Election is scheduled for Tuesday, November 5, 2024. Staff recommends the City Council adopt a resolution calling for the election and directing the City Clerk, in cooperation with the Alameda County Registrar of Voters, to conduct the election and request consolidation from the Alameda County Registrar of Voters.

SUMMARY

The purpose of this election is to elect a Mayor at-large for a two-year term and two members of the City Council, each for a four-year term, from the following districts:

1 Vacancy – District 3	City Council	4-year term to expire 11/2028
1 Vacancy – District 4	City Council	4-year term to expire 11/2028

DISCUSSION

Pursuant to the State of California Elections Code, the nomination period for the positions of Mayor and City Councilmembers opens Monday, July 15, 2024 at 8:00 a.m. and closes Friday, August 9, 2024 at 5:00 p.m. Per the California Elections Code, if any incumbent does not file papers by 5:00 p.m. on August 9, 2024, the nomination period is to be extended for five days, until Wednesday, August 14, 2024 at 5:00 p.m., for any qualified candidate except the incumbent.

Candidates are required to pay the full cost of printing a candidate's statement in the sample ballot. Costs include translating, typesetting, printing and mailing. Candidates pay a deposit and are billed for the remainder of the costs after the election. Staff recommends that candidates pay a $500 deposit for the 2024 election.

FISCAL AND ADMINISTRATIVE IMPACTS

The estimated cost for the November 5, 2024 election provided by the Alameda County Registrar of Voters is $4-$6 per registered voter (excluding sample ballot cost and Spanish, Chinese, Tagalog and Vietnamese translation). Currently there are 56,567 registered voters in Livermore, estimating the cost to be between $226,268 and $339,402. Staff anticipates the actual cost for the November 5, 2024 election to be at the lower end of the estimate provided by the Registrar of Voters based on the expenses incurred from past elections as shown in the following table:

Year	Number of Registered Voters	Cost per Registered Voter	Consolidation Election Costs
2022	56,968	$5.30	$301,943
2020	58,287	$5.21	$303,725
2018	52,641	$4.16	$219,316
2016	51,854	$1.77	$92,298
2014	48,407	$1.61	$77,975

The total amount budgeted for the November 5, 2024 election is $385,000 including estimations for printing, translations, binding, and mailing costs for sample ballots and voter information pamphlets; resident education and outreach; and an anticipated surcharge from the Registrar of Voters to pay for replacement voting machines.

COMMUNITY PILAR

1: A City That Works

GOAL

1: Engage effectively with the Mayor and City Council

ATTACHMENTS

1. District Map
2. Resolution

Prepared by: Debbie Elam
Acting City Clerk

Approved by:

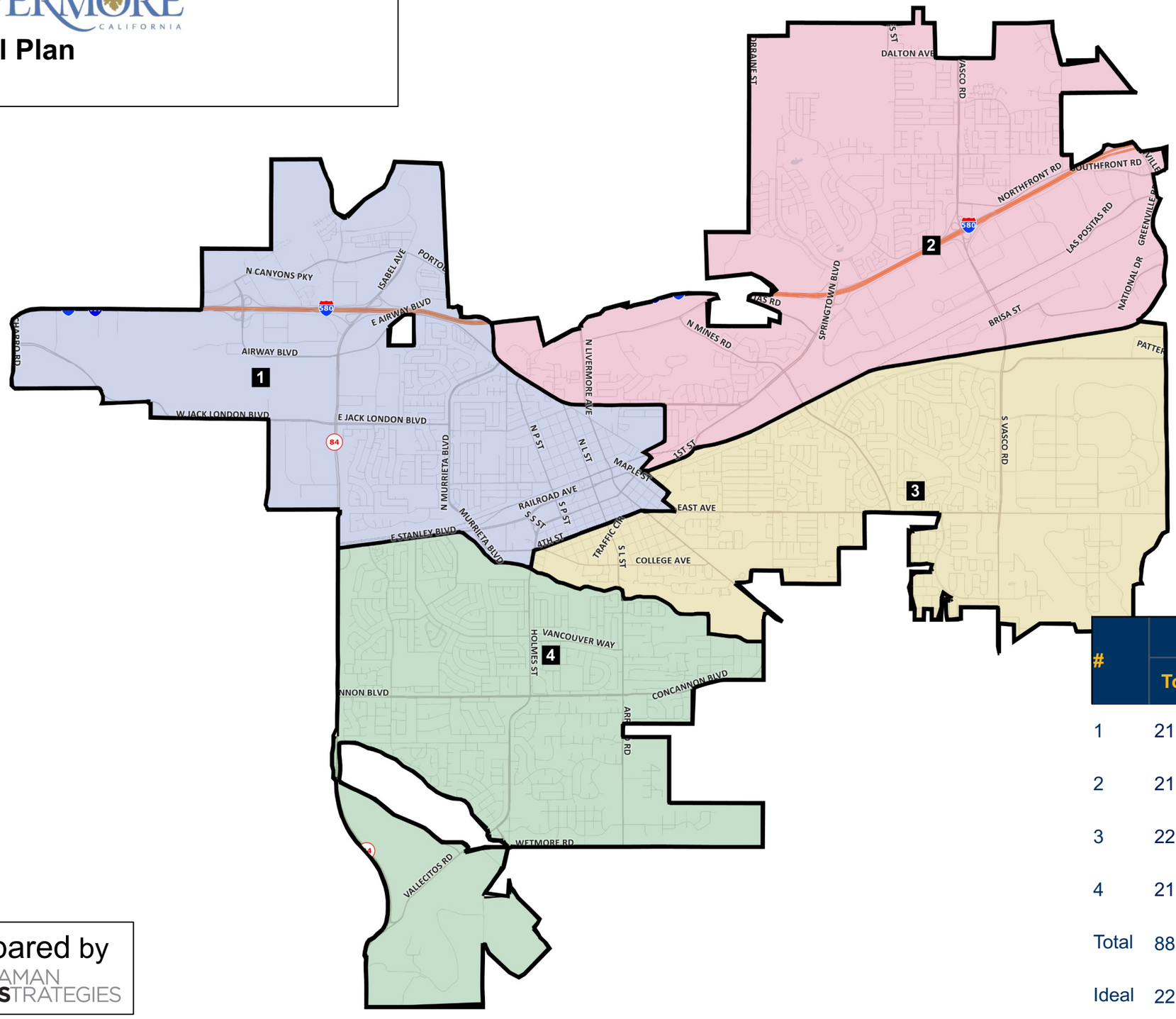
Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

LIVERMORE
CALIFORNIA

Final Plan



Prepared by
WAGAMAN STRATEGIES

^ 2020 Census Redistricting Data. Adjusted for incarcerated populations
+ 2015-2019 American Community Survey Special Tabulation
** Calculated pursuant to OMB BULLETIN NO. 00-02*

#	Population^		Citizen Voting Age Population+				
	Total	Deviation	Total	Latino*	Asian*	Black*	NH-White
1	21,778	-1.0%	14,799	20.3%	11.8%	3.6%	62.7%
2	21,910	-0.4%	15,242	15.0%	15.3%	3.4%	65.0%
3	22,461	+2.1%	16,030	10.8%	11.1%	2.9%	74.2%
4	21,857	-0.7%	15,883	12.6%	8.8%	0.9%	76.0%
Total	88,006	3.1%	61,954	14.6%	11.7%	2.6%	69.6%
Ideal	22,002						

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION CALLING FOR AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION IN THE CITY OF LIVERMORE TO BE CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION ON NOVEMBER 5, 2024

A General Municipal Election is to be held on Tuesday, November 5, 2024, in the City of Livermore; and

Certain actions are required in connection with said election.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that the General Municipal Election to be held in the City of Livermore on November 5, 2024, is hereby called.

BE IT FURTHER RESOLVED by the City Council of the City of Livermore, California, that:

Section 1. Under the requirements of the laws of the State of California relating to general law cities within the State, there is hereby called and ordered to be held in the City of Livermore, County of Alameda, State of California, on Tuesday, November 5, 2024.

Section 2. A general municipal election of the qualified electors of the City of Livermore will be conducted for the following offices on the November 5, 2024 ballot:

1 Vacancy – At Large Mayor 2-year term to expire 11/2026

1 Vacancy – District 3 City Council 4-year term to expire 11/2028

1 Vacancy – District 4 City Council 4-year term to expire 11/2028

Section 3. Voting shall be available in the following ways:

a) Early Voting at the Alameda County Registrar of Voters office and Vote by Mail Ballots will be available beginning October 7, 2024
b) 11-day vote centers starting October 26, 2024 from 9:00 a.m. to 5:00 p.m. in Alameda County
c) 4-day vote centers starting November 2, 2024 from 9:00 a.m. to 5:00 p.m. in Alameda County
d) Day of Election polling locations shall remain open continuously from 7:00 a.m. until 8:00 p.m. of the same day when the polls shall be closed.

Section 4. Notice of the time and place of holding the election is hereby given and the City Clerk is directed to give such further or additional notice of the election in the time, form, and manner as required by law.

Section 5. Under Elections Code section 10002, the City Council of the City of Livermore requests the Alameda County Board of Supervisors to permit the Registrar of Voters to render assistance in all required election services in the conduct of the November 5, 2024 municipal election. The requested services include, but are not limited to, the following:

a) Precinct consolidation, establishment of voting centers, securing election officers, preparing and mailing notices of appointment and publication of precinct officers and vote center locations;

b) Typesetting, printing, and translating sample ballots, which includes ballot notifications, ballot arguments, statements of candidates' qualifications, and mailing to registered voters;

c) Printing of official ballots;

d) Purchasing precinct supplies and vote by mail voter supplies;

e) Providing for vote by mail voting;

f) Delivery of voting booths, ballots, ballot boxes, and precinct supplies to precincts/election officers;

g) Tabulation of votes;

h) Canvassing and certifying to the City Clerk the results of elections; and

i) All things necessary or incidental to the above in accordance with California election law in effect at the time of the election or other functions as may be requested from time to time by the City.

Section 6. The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Alameda.

Section 7. The County Election Department is authorized to canvass the returns of the election.

Section 8. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 9. Procedures for this election shall be as follows:

a) A tie vote shall be decided by lot.

b) Each candidate shall pay the full cost of printing that candidate's statement in the sample ballot.

c) Candidates' statements shall be limited to 200 words.

Section 10. This resolution shall take effect immediately.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Jason Alcala
Jason Alcala
City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.18**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Resolution accepting the Single Audit Report related to federal grants for the Fiscal Year Ending June 30, 2023.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution accepting the Single Audit Report for Fiscal Year 2022-23 as completed.

SUMMARY

The Single Audit Report which contains the Auditor's Opinion, for the fiscal year ending June 30, 2023, is complete and ready for City Council acceptance. The Single Audit Report is required of each local government expending $750,000 or more in Federal awards.

DISCUSSION

The audited Annual Comprehensive Financial Report (ACFR) and other required audit compliance reports were presented to the City Council on January 22, 2024 in accordance with the Livermore Municipal Code §2.28.020 and Government Code §37208. The Single Audit was not presented at that time as it was still being completed. The Single Audit is required to be completed nine months after fiscal year end, which makes its deadline March 31, 2024. The Single Audit report was completed on March 29, 2024 and is now ready for review and acceptance by City Council.

The Single Audit report is required of each local government expending $750,000 or more in Federal awards. The Single Audit Act of 1984, as amended by the Office of Management and Budget (OMB) Guidance for Grants and Agreements in 2013, requires having an audit conducted in accordance with the 2 CFR (Code of Federal Regulations) Part 200. The City expended $1,196,753 in federal awards during the fiscal year that ended on June 30, 2023, and therefore was required to undergo a Single Audit. The total amount expended by each funding category is as follows:

- Department of Housing and Urban Development - $654,978
- Department of Homeland Security - $442,859

- Department of Transportation - $91,411
- U.S. Department of Justice - $7,505

The City's auditors tested the following federal program for this year's audit:

- CDBG Grant – Community Development Block Grants (CDBG) / Entitlement Grants

A Single Audit Report includes two reports: (1) a Report on Internal Control over Financial Reporting and on Compliance and Other Matters based on an audit of financial statements performed in accordance with Government Auditing Standards; and (2) Report on Compliance for Each Major Federal Program; Report on Internal Control over Compliance in accordance with OMB Guidance 2 CFR Part 200; Report on Schedule of Expenditures of Federal Awards (SEFA). The auditors have issued an unqualified opinion with no findings.

FISCAL AND ADMINISTRATIVE IMPACTS

There is no direct fiscal impact in accepting the FY 2022-23 audit reports. Total audit and report preparation costs of approximately $155,582 are within budget and are allocated to the General Fund, enterprise funds, Measure B funds, Measure BB funds and transportation funds as the audits and reports are completed. The total fee also includes preparation costs of certain reports not requiring City Council acceptance that are transmitted directly to the California State Controller, including the Special Districts Financial Transactions Report for the Livermore Capital Projects Financing Authority (LCPFA), the Cities Financial Transactions Report for the City of Livermore, and the Livermore Annual Streets and Roads Report.

COMMUNITY PILLAR

5: A City That Works

GOAL

17: Ensure effective use of public resources

ATTACHMENTS

1. Resolution
2. Exhibit A - Federal Awards Report in Accordance with the Uniform Guidance

Prepared by: David Doyle
Accounting Supervisor

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 SINGLE AUDIT REPORT RELATED TO FEDERAL GRANTS FOR FISCAL YEAR 2022-23

At its meeting on May 13, 2024, the Single Audit Report for the fiscal year ended June 30, 2023, was presented to the City Council in accordance with Livermore Municipal Code section 2.28.020.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Accepts the Single Audit Report for Fiscal Year 2022-23, attached hereto as Exhibit A.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Jason R. Alcala
Jason R.Alcala
City Attorney

Exhibit A – (Single Audit Report) Federal Awards Report in Accordance with the Uniform Guidance

CITY OF LIVERMORE, CALIFORNIA

FEDERAL AWARDS REPORT IN ACCORDANCE WITH THE UNIFORM GUIDANCE

FOR THE YEAR ENDED
JUNE 30, 2023

CITY OF LIVERMORE, CALIFORNIA
FEDERAL AWARDS REPORT IN ACCORDANCE WITH THE UNIFORM GUIDANCE

FOR THE YEAR ENDED
JUNE 30, 2023

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CPAs & BUSINESS ADVISORS

Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

To Honorable Mayor and Members
of the City Council of the City of Livermore
Livermore, California

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States (*Government Auditing Standards*), the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Livermore (City), California, as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise City's basic financial statements and have issued our report thereon date December 31, 2023. Our report included an emphasis of matter relating to the adoption of GASB Statement No. 96, *Subscription-Based Information Technology Arrangements*.

Report on Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered the City's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that have not been identified. We identified a deficiency in internal control, described in the accompanying Schedule of Findings and Responses as items 2023-001 that we consider to be material weakness.

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

City's Response to Findings

Government Auditing Standards requires the auditor to perform limited procedures on the City's response to the findings identified in our audit and described in the accompanying Schedule of Findings and Responses. The City's response was not subjected to the other auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on the response.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Eide Bailly LLP

Menlo Park, California
December 31, 2023

EideBailly

CPAs & BUSINESS ADVISORS

Independent Auditor's Report on Compliance for the Major Federal Program; Report on Internal Control Over Compliance; and Report on the Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

To Honorable Mayor and Members
of the City Council of the City of Livermore
Livermore, California

Report on Compliance for the Major Federal Program

Opinion on the Major Federal Program

We have audited the City of Livermore (City), California's compliance with the types of compliance requirements identified as subject to audit in the OMB *Compliance Supplement* that could have a direct and material effect on the City's major federal program for the year ended June 30, 2023.The City's major federal program is identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

In our opinion, the City complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on its major federal program for the year ended June 30, 2023.

Basis for Opinion on the Major Federal Program

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*); and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of the City and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for the major federal program. Our audit does not provide a legal determination of the City's compliance with the compliance requirements referred to above.

Responsibilities of Management for Compliance

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules and provisions of contracts or grant agreements applicable to the City's federal program.

Auditor's Responsibilities for the Audit of Compliance

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on the City's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material, if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the City's compliance with the requirements of the major federal program as a whole.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the City's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- Obtain an understanding of the City's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

Report on Internal Control over Compliance

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the Auditor's Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses or significant deficiencies in internal control over compliance may exist that were not identified.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise the City's basic financial statements. We issued our report thereon dated December 31, 2023, which contained unmodified opinions on those financial statements. Our report included an emphasis of matter relating to the adoption of GASB Statement No. 96, *Subscription-Based Information Technology Arrangements*. Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the basic financial statements as a whole.

Eide Bailly LLP

Menlo Park, California
March 28, 2024

CITY OF LIVERMORE, CALIFORNIA
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2023

Federal Grantor/Pass-Through Grantor Program Title	Federal Financial Assistance Listing	Pass-through Entity Identifying Number	Federal Expenditures	Amount Passed - Through to Subrecipients
Department of Housing and Urban Development				
CDBG-Entitlement Grants Cluster				
Direct Grants				
Community Development Block Grants/Entitlement Grants	14.218		$ 477,565	$ 262,551
Total CDBG-Entitlement Grants Cluster			477,565	262,551
Passed through Alameda County Housing and Community Development				
Home Investment Partnerships Program	14.239	M20-DC060201	177,413	168,707
Total Department of Housing and Urban Development			654,978	431,258
U.S. Department of Justice				
Direct Grants				
Bulletproof Vest Partnership Program	16.607		5,872	-
Passed through Alameda County Housing and Community Development				
Edward Byrne Memorial Justice Assistance Grant Program	16.738		1,633	-
Total U.S. Department of Justice			7,505	-
Department of Transportation Programs				
Direct Grants				
Airport Improvement Program	20.106		3,398	-
Highway Safety Cluster				
Passed through California Office of Traffic Safety - Selective Traffic Enforcement Program				
State and Community Highway Safety	20.600	PT22163	14,327	-
State and Community Highway Safety	20.600	PT23120	35,755	-
Total Highway Safety Cluster			50,082	-
Passed through California Office of Traffic Safety				
Minimum Penalties for Repeat Offenders for Driving While Intoxicated	20.608	PT22163	3,490	-
Minimum Penalties for Repeat Offenders for Driving While Intoxicated	20.608	PT23120	34,441	-
Total Department of Transportation Programs			91,411	-
Department of Homeland Security				
Passed through California Governor's Office of Emergency Services				
Disaster Grants- Public Assistance	97.036	FEMA-4308-DR-CA	32,255	-
Disaster Grants- Public Assistance	97.036	FEMA-4344-DR-CA	410,604	
Total Department of Homeland Security			442,859	-
Total Federal Financial Assistance			$ 1,196,753	$ 431,258

See accompanying notes to schedule of expenditures of federal awards.

CITY OF LIVERMORE, CALIFORNIA
NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2023

A. Basis of Presentation

The accompanying schedule of expenditures of federal awards (the schedule) includes the federal award activity of the City of Livermore, California (City) under programs of the federal government for the year ended June 30, 2023. Federal awards received directly from federal agencies and received through other governmental agencies are included on the schedule of expenditures of federal awards. The grant period may be different from the City's fiscal year, which is from July 1 through June 30. The information is presented in accordance with the requirements of Title 2 U.S. *Code of Federal Regulations*, Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Because the schedule presents only a selected portion of the operations of the City, it is not intended to and does not present the financial position, changes in net position, or fund balances, or cash flows of the City.

B. Summary of Significant Accounting Policies

Expenditures reported in the schedule are reported on the modified and full accrual basis of accounting, depending on which fund the federal expenditures were incurred except for subrecipient expenditures, which are recorded on the cash basis. When applicable, such expenditures are recognized following the cost principles contained in the Uniform Guidance, wherein certain types of expenditures are not allowable or are limited as to reimbursement. The City has not elected to use the 10-percent de minimis indirect cost rate as allowed under the Uniform Guidance.

C. Reporting Entity

The Schedule of Expenditure of Federal Awards (the Schedule) includes expenditures of federal awards for the City of Livermore, California and its component units as disclosed in the notes to the Basic Financial Statements.

CITY OF LIVERMORE, CALIFORNIA
SUMMARY OF AUDITOR'S RESULTS
FOR THE YEAR ENDED JUNE 30, 2023

Financial Statements

Type of auditor's report issued on whether the financial statements audited were prepared in accordance with GAAP:	Unmodified
Internal control over financial reporting:	
Material weakness(es) identified?	Yes
Significant deficiency(ies) identified not considered to be material weaknesses?	None Reported
Noncompliance material to financial statements noted?	No

Federal Awards

Internal control over major federal programs:	
Material weakness(es) identified?	No
Significant deficiency(ies) identified not considered to be material weaknesses?	None Reported
Type of auditor's report issued on compliance for major federal programs:	Unmodified
Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a)	No

Identification of major federal programs:

Federal Finanical Assistance Listing	Name of Federal Program or Cluster
14.218	Community Development Block Grants/Entitlement Grants

Dollar threshold used to distinguish between Type A and Type B programs:	$ 750,000
Auditee qualified as low-risk auditee?	Yes

CITY OF LIVERMORE, CALIFORNIA
FINANCIAL STATEMENT FINDINGS
FOR THE YEAR ENDED JUNE 30, 2023

The following finding represents a material weakness related to the financial statements that are required to be reported in accordance with *Government Auditing Standards*.

2023-001 Restatement of the beginning net position of the governmental activities, the fund balance of the Low Income Housing-Special Revenue Fund and the fund balance of the Nonmajor Governmental Funds

Criteria

Management is responsible for the design, implementation, and maintenance of internal controls to ensure the financial statements are free from material misstatement, whether due to error or fraud. Such internal controls should ensure that all notes receivables are reported on the City's financial statements.

Condition

The prior year financial statements contained an error that was discovered during the current year. The net position of the governmental activities, the fund balance of the Low Income Housing-Special Revenue Fund and the fund balance of the Nonmajor Governmental Funds underreported housing loans receivables that were tracked by a contractor of the City.

Effect

The City restated its financial statements in accordance with Generally Accepted Accounting Principles (GAAP).

Cause

Many of these loans were incorrectly tracked and were not included in the financial statements.

Recommendation

We recommend that management performs an evaluation of the outstanding loans and work with the City's contractor to ensure all activities presented in the financial statements are in accordance with GAAP.

Repeat Finding

No.

Views of Responsible Officials

The City agrees with the finding and has restated its beginning net position and fund balance. The City will continue to monitor the activities of the loans in the current year ensuring that all loans are reported on the financial statements.

CITY OF LIVERMORE, CALIFORNIA
FEDERAL AWARD FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2023

None reported.

CITY OF LIVERMORE, CALIFORNIA
SCHEDULE OF PRIOR AUDIT FINDINGS
FOR THE YEAR ENDED JUNE 30, 2023

None reported.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.19**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Jason Alcala, City Attorney

SUBJECT: Resolution establishing an interim appeals board to hear and decide appeals of building code violations pursuant to California Building Code section 1.8.8 and directing staff to prepare an ordinance establishing a permanent appeals board.

RECOMMENDED ACTION

The City Attorney's Office recommends that the City Council adopt a resolution:

1. Establishing an interim appeals board to, pursuant to Section 1.8.8 of the California Building Code, hear and decide appeals of building code violations and public nuisance determinations based on those violations, which shall be comprised of three members who are not employees of the City but who are knowledgeable about all applicable building codes, regulations, and ordinances, and which shall sunset on February 28, 2025 unless otherwise replaced by resolution or ordinance.
2. Delegating its authority to hear and decide appeals of building code violations and public nuisance determinations based on those violations to the interim appeals board.
3. Delegating its authority to the City Council Subcommittee on Advisory Bodies to interview and appoint members to fill vacancies on and remove members of the interim appeals board.
4. Directing the City Clerk to facilitate the recruitment of members of the interim appeals board for consideration by the City Council Subcommittee on Advisory Bodies.
5. Directing the interim appeals board to comply with the procedures for administrative hearings outlined in Chapter 8.15 of the Livermore Municipal Code as if it were a "hearing officer."
6. Authorizing the City Attorney, or their designee, to establish any additional procedures as appropriate for the conduct of appeals heard and decided by the interim appeals board.
7. Directing staff to draft an ordinance for consideration by the City Council on or before February 28, 2025, which establishes a permanent appeals board to hear and decide appeals of building code violations and public nuisance determinations based on those violations.

SUMMARY

The California Building Code establishes certain minimum requirements for the construction, alteration, and demolition of buildings and structures in California. The California Court of Appeal recently clarified

that local jurisdictions must comply with the appeals processes outlined in the California Building Code for all appeals involving state and local building code violations and any public nuisance determinations based on those violations. As a result, the City Attorney's Office recommends that the City establish an interim appeals board comprised of three members who are not employees of the City but who are knowledgeable about applicable building codes, regulations, and ordinances to hear said appeals, which shall sunset on February 28, 2025, unless otherwise replaced by resolution or ordinance.

DISCUSSION

On May 11, 2020, the City Council adopted Ordinance No. 2096, which enacted Chapter 8.15, Procedure for Abatement of Public Nuisances, of the Livermore Municipal Code. Chapter 8.15 permits a responsible party or property owner to administratively appeal a notice and order to abate public nuisances that violate the Livermore Municipal Code. These appeals are heard by a hearing officer appointed by the Community Development Director.

The California Court of Appeal recently clarified that local jurisdictions must comply with the appeals processes outlined in the California Building Code for all administrative appeals involving state and local building code violations and any public nuisance determinations based on those violations. Section 1.8.8 of the California Building Code requires local jurisdictions to establish a process to hear and decide appeals of orders, decisions, and determinations made by the local jurisdiction relative to the application and interpretation of the California Building Code and other regulations governing construction, use, maintenance, and change of occupancy. Said appeals must be heard by the City Council, but the Building Code permits local jurisdictions to establish an appeals board comprised of individuals knowledgeable in applicable building codes, regulations, and ordinances to hear and decide these appeals.

The appeals procedures outlined in Chapter 8.15 of the Livermore Municipal Code must be supplemented to satisfy the appeal requirements of the California Building Code, as recently clarified by the California Court of Appeal. Currently, Chapter 8.15 provides that appeals of notices and orders to abate violations of the Livermore Municipal Code and, by extension, the California Building Code, are heard by a single administrative hearing officer appointed by the Community Development Director. However, the California Building Code requires said appeals to be heard by the City Council or a hearing board appointed by the City Council, and not an administrative hearing officer.

The City is in receipt of at least one administrative appeal challenging a notice and order to abate certain violations of the Livermore Municipal Code and the California Building Code. As a result, the City Attorney's Office recommends that the City Council establish and delegate its authority to an interim appeals board, comprised of three members who are not employees of the City, to hear and decide appeals of building code violations and public nuisance determinations based on those violations, so that the City may comply with its obligations under the California Building Code, as recently clarified by the California Court of Appeal. The City Attorney's Office also recommends that the members of the interim appeals board are knowledgeable about all applicable building codes, regulations, and ordinances, as required by Section 1.8.8 of the California Building Code.

To facilitate recruitment and appointment so that the City may timely process pending and forthcoming administrative appeals, the City Attorney's Office recommends that the City Council direct the City Clerk to facilitate the recruitment of the interim appeals board and delegate its authority to interview and appoint members to fill vacancies on and remove members of the interim appeals board to the City

Council Subcommittee on Advisory Bodies. While this is not within the Subcommittee's current purview, the Subcommittee has relevant experience interviewing and appointing members of the public to advisory bodies, which is similar (although not identical) to the appointment of members to an interim appeals board.

The California Building Code also specifies that local jurisdictions must establish a process to hear appeals of building code violations and any public nuisance determinations based on those violations. Chapter 8.15 of the Livermore Municipal Code establishes a process to hear administrative appeals of notices and orders to abate public nuisances that violate the Livermore Municipal Code, which specifies, among other things, the process a hearing officer must comply with when conducting an administrative hearing and preparing a written order pursuant thereto. The City Attorney's Office recommends that the City Council direct the interim appeals board to comply with the procedures outlined in Chapter 8.15 as if it were the "hearing officer," but only to the extent Chapter 8.15 is consistent with the requirements of the California Building Code, and authorize the City Attorney, or his designee, to establish additional procedures as appropriate for the conduct of appeals heard by the interim appeals board.

The interim appeals board is a temporary solution to ensure that the City may timely process current, and any forthcoming, appeals of building code violations in compliance with its obligations under the California Building Code, as recently clarified by the California Court of Appeal. However, the City Attorney's Office recommends that the City Council direct staff to prepare an ordinance establishing a permanent appeals board on or before February 28, 2025, which shall memorialize the duties and obligations carried out by the interim appeals board in the Livermore Municipal Code.

FISCAL AND ADMINISTRATIVE IMPACTS

There are no hard costs associated with the establishment and operation of an interim appeals board. The fiscal and administrative impacts are limited to staff time incurred to: (a) facilitate recruitment; (b) appoint members to the interim appeals board; (c) provide support to the board; and (d) prepare an ordinance establishing a permanent appeals board.

COMMUNITY PILLAR

1: A Safe Community That Thrives

GOAL

14: Update development standards, codes, and ordinances.

ATTACHMENTS

1. Resolution

Prepared by: Molly O'Toole
Deputy City Attorney

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 ESTABLISHING AN INTERIM APPEALS BOARD TO HEAR AND DECIDE APPEALS OF BUILDING CODE VIOLATIONS PURSUANT TO CALIFORNIA BUILDING CODE SECTION 1.8.8 AND DIRECTING STAFF TO PREPARE AN ORDINANCE ESTABLISHING A PERMANENT APPEALS BOARD

On May 11, 2020, the City Council adopted Ordinance No. 2096, which enacted Chapter 8.15, *Procedure for Abatement of Public Nuisances*, of the Livermore Municipal Code. Chapter 8.15 permits a responsible party or property owner to administratively appeal a notice and order to abate public nuisances that violate the Livermore Municipal Code. These appeals are heard by a hearing officer appointed by the Community Development Director.

On March 6, 2024, the California Court of Appeal clarified that local jurisdictions must comply with the appeals processes outlined in the California Building Code for all appeals involving state and local building code violations and any public nuisance determinations based on those violations. Section 1.8.8 of the California Building Code requires local jurisdictions to establish a process to hear and decide administrative appeals of orders, decisions, and determinations made by the local jurisdiction relative to the application and interpretation of the California Building Code and other regulations governing construction, use, maintenance, and change of occupancy. Said appeals must be heard by the City Council, but the Building Code permits local jurisdictions to establish an appeals board comprised of individuals knowledgeable in applicable building codes, regulations, and ordinances to hear and decide these appeals.

The City of Livermore ("City") is in receipt of an appeal of a notice and order to abate certain violations of the Livermore Municipal Code and the California Building Code. In light of the recent clarifications to the appeals requirements set forth in the California Building Code, the City must supplement its appeals procedures outlined in Chapter 8.15 of the Livermore Municipal Code to satisfy the requirements of Section 1.8.8 of the Building Code. As a result, the City desires to establish an interim appeals board to hear and decide appeals of any matters as required pursuant to Section 1.8.8 of the California Building Code, including state and local building code violations and any public nuisance determinations based on those violations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Establishes an interim appeals board to hear and decide appeals of orders, decisions, and determinations made by City staff relative to the application and interpretation of the California Building Code and other regulations governing construction, use, maintenance, and change of occupancy, as specified in Section 1.8.8 of the California Building Code, which shall be comprised of three members who are not employees of the City but who are knowledgeable about all applicable building codes, regulations, and ordinances, and which shall sunset on February 28, 2025, unless otherwise replaced by resolution or ordinance.

2. Delegates its authority to hear and decide appeals of building code violations as specified in Section 1.8.8 of the California Building Code to the interim appeals board established pursuant to this resolution.

3. Delegates its authority to and directs the City Council Subcommittee on Advisory Bodies to interview and appoint members to fill vacancies on and remove members of the interim appeals board who shall not be employees of the City but who shall have knowledge of applicable building codes, regulations, and ordinances.

4. Directs the City Clerk to, as soon as practicable, facilitate recruitment of the members of the interim appeals board for consideration by the City Council Subcommittee on Advisory Bodies.

5. Directs any hearings conducted by the interim appeals board established pursuant to this resolution to comply with the procedures for administrative hearings outlined in Chapter 8.15 of the Livermore Municipal Code, with the interim appeals board complying Chapter 8.15 as if it were the "hearing officer" as set forth in Chapter 8.15, but only to the extent Chapter 8.15 is consistent with the California Building Code or other applicable law governing administrative appeals of violations of the California Building Code.

6. Authorizes the City Attorney, or their designee, to establish any additional procedures as appropriate for the conduct of appeals heard and decided by the interim appeals board established pursuant to this resolution.

7. Directs staff to draft an ordinance for consideration by the City Council on or before February 28, 2025, which establishes a permanent appeals board to hear and decide building code violations pursuant to the requirements in Section 1.8.8 of the California Building Code and that will replace the interim appeals board established pursuant to this resolution.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024, by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

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

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.20**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Judy Erlandson, Acting Public Works Director

SUBJECT: Approval to send a six-month extension notification letter to Republic Services Vasco Road Landfill.

RECOMMENDED ACTION

Staff recommends the City Council direct staff to send a six-month extension notification letter to Republic Services Vasco Road Landfill to extend the term of the Amended and Restated Agreement Between the City of Livermore and Republic Services Vasco Road, LLC for Disposal of Solid Waste to June 30, 2025.

SUMMARY

Currently, the Vasco Road Landfill accepts all of the City of Livermore's solid waste as described by the Amended and Restated Agreement Between the City of Livermore and Republic Services Vasco Road, LLC for Disposal of Solid Waste (Disposal Agreement); this Disposal Agreement is scheduled to expire on December 31, 2024.

City Council previously directed staff to negotiate solely with Republic Services for a long-term future agreement. Although negotiations yielded consensus on many of the terms of the current Disposal Agreement, pricing was not as favorable as hoped. Therefore, staff is now preparing to release a Request for Proposal (RFP) to solicit bids for disposal services.

Staff recommends the City Council direct staff to send a six-month extension notification letter to Republic Services Vasco Road Landfill to extend the term of the Disposal Agreement to June 30, 2025. Republic Services Vasco Road Landfill staff have agreed to the terms as outlined in the extension notification letter. This extension will allow the City additional time if needed to negotiate a new, long-term disposal agreement for municipal solid waste.

DISCUSSION

The Amended and Restated Agreement Between the City of Livermore and Republic Services Vasco Road, LLC for Disposal of Solid Waste (Disposal Agreement) initial term ended on December 31, 2023.

Currently, the Vasco Road Landfill accepts all of the City of Livermore's solid waste as described by the Disposal Agreement.

On February 27, 2023, the City Council directed staff to notify Republic Services Vasco Road Landfill of the City's desire to extend the Disposal Agreement for one year; Republic Services Vasco Road Landfill concurred with this request.

Per Section 2.04 of the Disposal Agreement, either party may request an extension of the Disposal Agreement with 180 days written notification prior to the end of the term. Both Republic Services and the City of Livermore must agree to the terms of the extension.

Also, on February 27, 2023, City Council directed staff to negotiate solely with Republic Services for a long-term Disposal Agreement. At that time, Republic Services staff had indicated a willingness to revise the current Disposal Agreement with nearly all of the current terms, including the commitment that the City of Livermore will have the lowest per ton price for municipal solid waste among all of the jurisdictions served by the Vasco Road Landfill. Although negotiations yielded agreement on many of the terms of the current Disposal Agreement, pricing was not as favorable as hoped.

Staff is now preparing to release a Request for Proposal (RFP) to solicit bids for disposal services. Two near-by landfills, Republic Services Vasco Road Landfill and Waste Management's Altamont Landfill, would likely be candidates to submit a proposal for disposal services. Other, out-of-county landfills could potentially accommodate the City's municipal solid waste stream but would likely be comparatively more expensive due to the cost of transport, and result in increased emissions and other environmental impacts. Once the RFP process is completed, staff will negotiate a draft disposal agreement for the City Council's consideration.

This extension will allow the City additional time to negotiate a new, long-term disposal agreement for municipal solid waste. If the City enters into a finalized and fully-executed long-term disposal agreement with the existing or any new disposal company on or before December 31, 2024, the extension becomes null and void and the Disposal Agreement will terminate on December 31, 2024.

Staff recommends the City Council direct staff to prepare a six-month extension notification letter to include a 5.34% Water Sewer Trash Consumer Price Index rate increase, which translates to a base rate increase to $22.80 per ton, exclusive of government fees as described by Sections 5.04 and 5.05 of the Disposal Agreement. A draft of this letter is attached to this report, and Republic Services Vasco Road Landfill staff have agreed to the terms as outlined in the extension notification letter.

FISCAL AND ADMINISTRATIVE IMPACTS

Livermore Sanitation rates include a pass-through provision for disposal costs and any increase to costs will impact Livermore Sanitation rate adjustments.

PILLAR

3: Environmental Stewardship

GOAL

2: Manage the City's solid waste contract and develop and implement the City's recycling program ensuring compliance with state and local regulations.

ATTACHMENTS

1. Draft Extension Letter

Prepared by: Judy Erlandson
Acting Public Works Director

Approved by:



Marianna Marysheva
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

LIVERMORE
CALIFORNIA

VIA CERTIFIED MAIL

May __, 2024

Republic Services Vasco Road, LLC
Josh Mills
General Manager
901 Bailey Road
Pittsburg, CA 94565

District Vice President
Republic Services Vasco Road, LLC
4001 North Vasco Road
Livermore, CA 94550

Re: Request to Extend Term of Disposal Agreement

Dear Mr. Mills:

On May 24, 2010, the City Council of the City of Livermore adopted Resolution No. 2010-090 authorizing the execution of the Amended and Restated Agreement between the City of Livermore ("City") and Republic Services Vasco Road, LLC ("Contractor") for Disposal of Solid Waste ("Disposal Agreement"). The term of the Disposal Agreement commenced on January 1, 2004 and was to terminate on December 31, 2023 unless extended by the parties.

On February 27, 2023, the City Council approved staff's recommendation to request a one-year extension of the Disposal Agreement. The City then requested, and the parties agreed to, a one-year extension. As a result, the term of the Disposal Agreement now terminates on December 31, 2024 unless otherwise extended by the parties.

Section 2.04 of the Disposal Agreement permits either Contractor or the City to request an extension of the term of the Disposal Agreement by giving written notice to the other party no later than 180 days before the termination of any extension period. Both Contractor and the City must agree to the terms and conditions of the extension, and the option to extend the term is subject to Contractor's ability to secure the necessary permits and capacity to accept the City's solid waste generated during the extension period.

On _____, the City Council approved staff's recommendation to request a six-month extension of the Disposal Agreement. This letter serves as the City's written notice, pursuant to Section 2.04 of the Disposal Agreement, that it desires to extend the term of the Disposal Agreement for a period of six months, or through June 30, 2025. The City proposes that this six-month extension term include a 5.34% Water Sewer Trash Consumer Price Index rate increase, which translates to a base rate increase to $22.80 per ton, exclusive of government fees as described by Sections 5.04 and 5.05 of the Disposal Agreement.

This extension will allow the City time to negotiate a new, long-term disposal agreement for municipal solid waste. If the City enters into a finalized and fully-executed long-term disposal agreement with Contractor or another owner and/or operator of a solid waste landfill on or before December 31, 2024, this extension becomes null and void and the Disposal Agreement shall terminate on December 31, 2024.

If you have any questions, or need further clarification, please contact Judy Erlandson at 925-960-8002.

Sincerely,

Marianna Marysheva
City Manager
City of Livermore

cc Jason Alcala, City Attorney
Kevin Divincenzo, Area President, Republic Services

CONTRACTOR'S ACKNOWLEDGMENT

By signing below, Contractor[1]:

1. Acknowledges and accepts this written notice of extension from the City and agrees that this written notice satisfies the requirements, as outlined in Section 2.04 of the Disposal Agreement,[2] necessary for the City to express its desire to extend the term of the Disposal Agreement;

2. Acknowledges and agrees that the representations and warranties that Contractor provided in Article 9 of the Disposal Agreement are, as of the date of Contractor's signature below, correct;

3. Acknowledges and agrees that the term of the Disposal Agreement shall be extended for a period of six months, or through June 30, 2025, only if the City does not enter into a new, fully executed long-term disposal agreement with Contractor or another owner and/or operator of a solid waste landfill for the disposal of municipal solid waste on or before December 31, 2024; and

4. Acknowledges and agrees that if the City enters into a new, fully executed long-term disposal agreement with Contractor or another owner and/or operator of a solid waste landfill for the disposal of municipal solid waste, the Disposal Agreement shall terminate as of December 31, 2024.

_____ _____

Josh Mills, General Manager Date

[1] For the purposes of Contractor's Acknowledgment, the term "Contractor" shall mean Republic Services Vasco Road, LLC, a wholly owned subsidiary of Republic Services, Inc.
[2] For the purposes of Contractor's Acknowledgment, the term "Disposal Agreement" shall mean the Amended and Restated Agreement Between The City of Livermore and Republic Services Vasco Road, LLC for Disposal of Solid Waste, dated May 24, 2010.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 6.1**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Judy Erlandson, Acting Public Works Director

SUBJECT: Public Hearing to approve the Livermore Sanitation, Inc. requested 3.68% rate adjustment to be effective July 1, 2024.

RECOMMENDED ACTION

Staff recommends the City Council hold a public hearing and approve rates listed in Exhibit H of the Third Amended and Restated Agreement for Solid Waste, Recyclable Materials, and Compostable Materials Services effective July 1, 2024.

SUMMARY

On December 29, 2023, Livermore Sanitation, Inc. (LSI) submitted the required rate adjustment application indicating a baseline cost increase of 3.68% is necessary.

Staff recommends that the City Council approve the requested rates as described in Exhibit H to be effective July 1, 2024.

DISCUSSION

On April 27, 2020, the City Council adopted a resolution authorizing the execution of the Third Amended and Restated Agreement with Livermore Sanitation, Inc. for Solid Waste, Recyclable Materials, and Compostable Materials Services (Franchise Agreement). This action extended the Franchise Agreement term for a minimum period of 10 years, until June 30, 2030, and included new trucks and other equipment, and enhanced services for the Livermore rate payers.

For the rate period commencing July 1, 2024, the Franchise Agreement allows LSI to adjust its rates using an index-based methodology. The index-based methodology utilizes various cost adjustment factors such as the percentage change in the consumer price index and percentage change in the disposal fees. The City's role in approving the rate increase is to determine that the rate adjustment is consistent with the methodology as identified in the Franchise Agreement.

As required by the franchise agreement, LSI submitted a rate adjustment application for Rate Year 15

(FY 2024-25) indicating that Total Calculated Costs for all services are projected to equal $33.2 million, a 3.68% increase compared to Rate Year 14 Total Calculated Costs.

According to Article 8 of the Franchise Agreement, LSI is responsible for proposing rates; the City Council is responsible for approving rates. Currently, 20- and 32-gallon subscriptions make up more than 80% of the approximately 26,500 residential accounts in Livermore. Proposed rates for residential customers and commercial customers that subscribe to cart service, are noted in Table 1; all customer increases are available in Exhibit H of the Franchise Agreement.

Commercial, and Single- and Multi-family Accounts	Current Monthly Rates	Proposed Rate Rate Year 15 (FY 2024-2025)	$ Increase Per Month
20-gal Cart	$32.76	$33.97	$1.21
32-gal Cart	$43.02	$44.60	$1.58
64-gal Cart	$63.91	$66.26	$2.35
96-gal Cart	$99.80	$103.47	$3.67

Table 1 – Current and Proposed Rates

FISCAL AND ADMINISTRATIVE IMPACTS

The City's General Fund currently receives approximately $3.3 million in franchise fees annually from LSI. The proposed rate changes would result in an increase in the amount of franchise fee received by approximately $115,000.

PILLAR

3: Environmental Stewardship

GOAL

2: .Manage the City's solid waste contract and develop and implement the City's recycling program ensuring compliance with state and local regulations.

ATTACHMENTS

1. Resolution
2. Exhibit A - Livermore Sanitation Customer Rates for Rate Period Fifteen Exhibit H

Prepared by: Judy Erlandson
Acting Public Works Director

Approved by:



Marianna Marysheva
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION APPROVING AN AMENDMENT UPDATING EXHIBIT H OF THE THIRD AMENDED AND RESTATED FRANCHISE AGREEMENT WITH LIVERMORE SANITATION, INC. TO INCLUDE A RATE ADJUSTMENT TO BE EFFECTIVE JULY 1, 2024

On September 28, 2009, the Livermore City Council adopted Resolution No. 2009-189 approving a franchise agreement for solid waste collection services: *Agreement between the City of Livermore and Livermore Sanitation, Inc. for Solid Waste, Recyclable Materials and Compostable Materials Services* (the "Original Agreement").

On May 9, 2011, the City Council adopted Resolution No. 2011-069 approving the *Amended and Restated Agreement between the City of Livermore and Livermore Sanitation, Inc. for Solid Waste, Recyclable Materials and Compostable Materials Services.*

On September 8, 2014, the City Council adopted Resolution No. 2014-141 approving the *Second Amended and Restated Agreement between the City of Livermore and Livermore Sanitation, Inc. for Solid Waste, Recyclable Materials and Compostable Materials Services.*

On June 8, 2015, the City Council adopted Resolution No. 2015-075 approving the Special Rate Review Amendment to the Franchise Agreement.

On November 9, 2015, the City Council adopted Resolution No. 2015-157 approving the Second Amendment to the Franchise Agreement.

On April 27, 2020, the City Council adopted Resolution No. 2020-051 approving the *Third Amended and Restated Agreement between the City of Livermore and Livermore Sanitation, Inc. for Solid Waste, Recyclable Materials and Compostable Materials Services.*

On May 9, 2022, the City Council adopted Resolution No. 2022-167 approving the *First Amendment to the Third Amended and Restated Agreement between the City of Livermore and Livermore Sanitation, Inc. for Solid Waste, Recyclable Materials and Compostable Materials Services* to describe the methodology allocating revenues to a rate reserve fund.

On November 28, 2022, the City Council adopted Resolution No. 2022-192 approving the *Second Amendment to the Third Amended and Restated Agreement between the City of Livermore and Livermore Sanitation, Inc. for Solid Waste, Recyclable Materials and Compostable Materials Services (the "Third Amended and Restated Franchise Agreement")* to consent to the transfer of ownership to Waste Connections.

For the rate period commencing July 1, 2024, the Third Amended and Restated Franchise Agreement allows Livermore Sanitation, Inc. to adjust its rates using an index-based methodology. The index-based methodology utilizes various cost adjustment factors such as the percentage change in the consumer price index and the percentage change in

the tipping fees. The City of Livermore's role in approving an index-based rate increase is to determine whether the requested rate adjustment is consistent with the methodology.

City staff reviewed the requested rate adjustments to be effective July 1, 2024, and determined that they comply with the rate methodology in the Third Amended and Restated Franchise Agreement, and staff therefore recommended its approval by the City Council.

Following the public hearing and review, the City Council agreed to the recommended rate structure and services provided in connection therewith to the Third Amended and Restated Franchise Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Finds, based upon staff's recommendation, that the index-based rate adjustment is consistent with the methodology in the Third Amended and Restated Franchise Agreement, and therefore approves, effective July 1, 2024, the Solid Waste, Recyclable Materials, and Compostable Materials Service rates shall be as set forth in the revised Exhibit H which is attached as Exhibit A to this resolution, and be incorporated for all purposes into the Franchise Agreement.

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution, including approving minor changes.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on May 13, 2024 by the following vote:

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

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Jason R. Alcala
Jason R. Alcala
City Attorney

Exhibit A – Exhibit H Customer Rates for Rate Period Fifteen (effective July 1, 2024 – June 30, 2025)

EXHIBIT A

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

RATES FOR SINGLE FAMILY CART SERVICE CUSTOMERS

Basic Monthly Collection Service (including Recyclables and Compostables)

Container Size	Curbside Monthly Rate	Backyard or Sideyard Monthly Rate
20-gallon Solid Waste Cart*	$33.97	$41.81
32-gallon Solid Waste Cart*	$44.60	$63.00
64-gallon Solid Waste Cart*	$66.26	$103.73
96-gallon Solid Waste Cart*	$103.47	$162.51
Additional Carts (Rate per Additional Cart per Month)		
Extra 32-gallon Solid Waste Cart	$39.70	$58.72
Extra 64-gallon Solid Waste Cart	$72.82	$109.67
Extra 96-gallon Solid Waste Cart	$106.75	$161.78
Extra Compostable Materials Cart*	$11.24	$11.24
Extra Recyclable Materials Cart*	$11.24	$11.24

* Monthly rate also includes one 96-gallon Cart for Compostables and one 96-gallon Cart for Recyclables. Customers can request smaller cart sizes for Recyclables or Compostables; however, the monthly rate shall be the same as listed above.

Income-Based Program Monthly Collection Service (including Recyclables and Compostables)

Container Size	Curbside Monthly Rate
20-gallon Solid Waste Cart**	$33.97
32-gallon Solid Waste Cart**	$33.97
64-gallon Solid Waste Cart**	$33.97

** Must qualify and Participate in the Pacific Gas and Electric Company's California Alternate Rates for Energy (CARE) Program

** If CARE Program discontinued Income-Based Program may be discontinued

** Only customers with individual Single Family accounts are eligible

**Verification required every year to participate

Rates for Bulky Items and E-Waste On-Call Pick-Up Service

(Applicable for Single Family, Multi-Family, Commercial, and Government Customers)

Material Type	Examples	Rate Per Pickup
E-Waste	Cell Phones, CPUs, Monitors, Copiers, Fax Machines, Laptops, Mouse, Keyboards, Printers, Televisions, Radios, Stereos, Speakers, Telephones, VCRs, DVDs, and Camcorders	$29.17
Major Appliances	Air Conditioners, Refrigerators, Freezers any items containing oil, fuel or Freon	$145.87
Bulky Items	All other large items Bathtubs, furniture, bicycles used exercise equipment beds, box springs, tires etc.	$72.94

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

Rates for Miscellaneous Service for Single Family Cart and Multi Family Cart Customers

Service	Description of Service	Rate per Occurrence
Handy Hauler Service (4 Cubic Yard Bin; Temp-orary Use)	Per placement and removal of 4 cubic yard bin provided for occasional use	$187.39
	Rate for rental of 4 cubic yard bin in excess of 7 days	$36.75
	Per pull and return of 4 cubic yard bin (pull and return involves the collection of solid waste at the premises and leaving the empty handy hauler on the premises)	$134.90
Cart Replacement	Charge if customer requires cart replacement in excess of one replacement per year at no cost for each instance of container replacement related to service level changes due to delinquent payment, damage or theft.	$97.95
Trip Charge	If driver must return due to Resident error, such as failure to place Cart Curbside before Collection time, overfilled Cart, incorrect Cart placement, contaminated materials	$16.97
Cart Delivery / Pick-Up	Cart delivery/pick-up (charge if Customer requests a change in Cart size more than once per year)	$16.97
Organic Overage	Company supplied Kraft bag paid for in advance	$11.68
Organic Overage	Customer supplied Kraft Bag	$7.29

EXHIBIT A

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

RATES FOR MULTI FAMILY CART SERVICE CUSTOMERS

Solid Waste Collection Rates (Cost per month)*

Container Size	Pick-Ups per Week 1	2	3	4	5	6
32-gallon Cart	$44.60	$91.60	$139.46	$189.05	$240.40	$293.48
64-gallon Cart	$66.26	$136.63	$208.30	$282.56	$359.46	$438.95
96-gallon Cart	$103.48	$214.05	$326.65	$443.37	$564.19	$689.08

* Multi-Family Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Recyclables Collection Rates for More Frequent Service (Cost per Month)**

Container Size	Pick-Ups per Week 1	2	3	4	5	6
32-gallon Cart	$0.00	$73.28	$111.57	$151.24	$192.33	$234.78
64-gallon Cart	$0.00	$109.30	$166.64	$226.05	$287.57	$351.16
96-gallon Cart	$0.00	$171.24	$261.32	$354.69	$451.35	$551.27

** Multi-Family Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Compostables Collection Rates for More Frequent Service (Cost per Month)***

Container Size	Pick-Ups per Week 1	2	3	4	5	6
32-gallon Cart	$0.00	$73.28	$111.57	$151.24	$192.33	$234.78
64-gallon Cart	$0.00	$109.30	$166.64	$226.05	$287.57	$351.16
96-gallon Cart	$0.00	$171.24	$261.32	$354.69	$451.35	$551.27

*** Multi-Family Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Recyclables Collection Rates for Additional Carts (Cost per Month)**

Container Size	Pick-Ups per Week 1	2	3	4	5	6
32-gallon Cart	$11.24	$73.28	$111.57	$151.24	$192.33	$234.78
64-gallon Cart	$11.24	$109.30	$166.64	$226.05	$287.57	$351.16
96-gallon Cart	$11.24	$171.24	$261.32	$354.69	$451.35	$551.27

** Multi-Family Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

Compostables Collection Rates for Additional Carts (Cost per Month)***

Container Size	Pick-Ups per Week 1	2	3	4	5	6
32-gallon Cart	$11.24	$73.28	$111.57	$151.24	$192.33	$234.78
64-gallon Cart	$11.24	$109.30	$166.64	$226.05	$287.57	$351.16
96-gallon Cart	$11.24	$171.24	$261.32	$354.69	$451.35	$551.27

*** Multi-Family Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Additional On-Call Pick-Up Service for Solid Waste, Recyclables or Compostables Cart (Cost per Pick-Up)

	Container Size 32 to 35-gal	64-gal	96-gal
Pick-Up On Regularly Scheduled Day	$12.99	$27.41	$44.46
Pick-Up Other than Regularly Scheduled Day	$12.99	$27.41	$44.46

Rates for Bulky Items and E-Waste On-Call Pick-Up Service

Rates for bulky items and e-waste on-call pick-up service for Multi Family customers are provided on Page H-1 of this Exhibit.

Rates for Miscellaneous Service

Additional rates for miscellaneous service for Multi Family cart customers are provided on Page H-1 of this Exhibit.

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

RATES FOR COMMERCIAL CART CUSTOMERS

Solid Waste Collection Rates (Cost per month)*

	Pick-Ups per Week					
Container Size	1	2	3	4	5	6
32-gallon Cart	$44.60	$91.60	$139.46	$189.05	$240.40	$293.48
64-gallon Cart	$66.26	$136.63	$208.30	$282.56	$359.46	$438.95
96-gallon Cart	$103.48	$214.05	$326.65	$443.37	$564.19	$689.08

* Commercial Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Recyclables Collection Rates for More Frequent Service (Cost per Month)**

	Pick-Ups per Week					
Container Size	1	2	3	4	5	6
32-gallon Cart	$0.00	$73.28	$111.57	$151.24	$192.33	$234.78
64-gallon Cart	$0.00	$109.30	$166.64	$226.05	$287.57	$351.16
96-gallon Cart	$0.00	$171.24	$261.32	$354.69	$451.35	$551.27

** Commercial Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Compostables Collection Rates for More Frequent Service (Cost per Month)***

	Pick-Ups per Week					
Container Size	1	2	3	4	5	6
32-gallon Cart	$0.00	$73.28	$111.57	$151.24	$192.33	$234.78
64-gallon Cart	$0.00	$109.30	$166.64	$226.05	$287.57	$351.16
96-gallon Cart	$0.00	$171.24	$261.32	$354.69	$451.35	$551.27

*** Commercial Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Recyclables Collection Rates for Additional Carts (Cost per Month)**

	Pick-Ups per Week					
Container Size	1	2	3	4	5	6
32-gallon Cart	$35.69	$73.28	$111.57	$151.24	$192.33	$234.78
64-gallon Cart	$53.01	$109.30	$166.64	$226.05	$287.57	$351.16
96-gallon Cart	$82.78	$171.24	$261.32	$354.69	$451.35	$551.27

** Commercial Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

EXHIBIT A

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

Compostables Collection Rates for Additional Carts (Cost per Month)***

Container Size	Pick-Ups per Week 1	2	3	4	5	6
32-gallon Cart	$35.69	$73.28	$111.57	$151.24	$192.33	$234.78
64-gallon Cart	$53.01	$109.30	$166.64	$226.05	$287.57	$351.16
96-gallon Cart	$82.78	$171.24	$261.32	$354.69	$451.35	$551.27

*** Commercial Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Additional On-Call Pick-Up Service for Solid Waste, Recyclables or Compostables Cart (Cost per Pick-Up)

	Container Size 32 to 35-gal	64-gal	96-gal
Pick-Up On Regularly Scheduled Day	$12.99	$27.41	$44.46
Pick-Up Other than Regularly Scheduled Day	$12.99	$27.41	$44.46

Rates for Bulky Items and E-Waste On-Call Pick-Up Service

Rates for bulky items and e-waste on-call pick-up service for commercial customers are provided on Page H-1 of this Exhibit.

RATES FOR COMMERCIAL AND RESIDENTIAL BIN CUSTOMERS

Solid Waste Rates (Cost per Month per Bin)****

	Loose Materials						Compacted Materials					
	Pick-Ups per Week						Pick-Ups per Week					
Bin Size	1	2	3	4	5	6	1	2	3	4	5	6
1 cubic yard	$130.71	$266.64	$407.79	$554.19	$705.81	$880.92	$261.43	$533.29	$815.60	$1,108.38	$1,411.63	$1,761.82
2 cubic yard	$261.40	$533.28	$832.86	$1,131.84	$1,441.50	$1,798.59	$522.82	$1,066.55	$1,665.72	$2,263.70	$2,882.99	$3,597.18
3 cubic yard	$392.12	$816.84	$1,249.30	$1,733.18	$2,207.35	$2,697.87	$784.24	$1,633.71	$2,498.61	$3,466.36	$4,414.70	$5,395.74
4 cubic yard	$522.83	$1,089.14	$1,700.49	$2,310.90	$2,943.13	$3,670.67	$1,045.65	$2,178.26	$3,400.95	$4,621.81	$5,886.27	$7,341.32
5 cubic yard	$667.36	$1,389.81	$2,125.61	$2,947.64	$3,754.08	$4,680.19	$1,334.71	$2,779.62	$4,251.20	$5,895.30	$7,508.17	$9,360.40
6 cubic yard	$800.83	$1,667.78	$2,550.71	$3,537.18	$4,504.90	$5,616.23	$1,601.68	$3,335.55	$5,101.43	$7,074.37	$9,009.78	$11,232.46
7 cubic yard	$934.30	$1,945.75	$3,036.64	$4,126.71	$5,360.96	$6,680.08	$1,868.61	$3,891.48	$6,073.28	$8,253.43	$10,721.91	$13,360.16

**** Commercial Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Recyclables Rates (Cost per Month per Bin)

	Loose Materials						Compacted Materials					
	Pick-Ups per Week						Pick-Ups per Week					
Bin Size	1	2	3	4	5	6	1	2	3	4	5	6
1 cubic yard	$104.56	$213.31	$326.24	$443.36	$564.65	$704.73	$209.14	$426.63	$652.48	$886.70	$1,129.30	$1,409.46
2 cubic yard	$209.12	$426.62	$666.29	$905.48	$1,153.20	$1,438.87	$418.26	$853.23	$1,332.58	$1,810.96	$2,306.39	$2,877.74
3 cubic yard	$313.69	$653.47	$999.44	$1,386.54	$1,765.88	$2,158.30	$627.39	$1,306.97	$1,998.89	$2,773.09	$3,531.77	$4,316.59
4 cubic yard	$418.26	$871.31	$1,360.39	$1,848.72	$2,354.51	$2,936.53	$836.52	$1,742.61	$2,720.76	$3,697.45	$4,709.01	$5,873.06
5 cubic yard	$533.89	$1,111.84	$1,700.49	$2,358.12	$3,003.27	$3,744.15	$1,067.77	$2,223.70	$3,400.96	$4,716.24	$6,006.53	$7,488.31
6 cubic yard	$640.67	$1,334.22	$2,040.57	$2,829.75	$3,603.92	$4,492.98	$1,281.34	$2,668.44	$4,081.14	$5,659.49	$7,207.82	$8,985.98
7 cubic yard	$747.45	$1,556.60	$2,429.32	$3,301.37	$4,288.76	$5,344.06	$1,494.89	$3,113.19	$4,858.62	$6,602.75	$8,577.53	$10,688.13

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

Compostables (Cost per Month per Bin)

	Loose Materials						Compacted Materials					
	Pick-Ups per Week						Pick-Ups per Week					
Bin Size	1	2	3	4	5	6	1	2	3	4	5	6
1 cubic yard	$104.56	$213.31	$326.24	$443.36	$564.65	$704.73	$209.14	$426.63	$652.48	$886.70	$1,129.30	$1,409.46
2 cubic yard	$209.12	$426.62	$666.29	$905.48	$1,153.20	$1,438.87	$418.26	$853.23	$1,332.58	$1,810.96	$2,306.39	$2,877.74
3 cubic yard	$313.69	$653.47	$999.44	$1,386.54	$1,765.88	$2,158.30	$627.39	$1,306.97	$1,998.89	$2,773.09	$3,531.77	$4,316.59
4 cubic yard	$418.26	$871.31	$1,360.39	$1,848.72	$2,354.51	$2,936.53	$836.52	$1,742.61	$2,720.76	$3,697.45	$4,709.01	$5,873.06
5 cubic yard	$533.89	$1,111.84	$1,700.49	$2,358.12	$3,003.27	$3,744.15	$1,067.77	$2,223.70	$3,400.96	$4,716.24	$6,006.53	$7,488.31
6 cubic yard	$640.67	$1,334.22	$2,040.57	$2,829.75	$3,603.92	$4,492.98	$1,281.34	$2,668.44	$4,081.14	$5,659.49	$7,207.82	$8,985.98

Additional On-Call Pick-Up for Solid Waste, Recyclables or Compostables Bin (Cost per Pick-Up)

	Loose Materials						Compacted Materials					
	Container Size						Container Size					
	1 cu yd	2 cu yd	3 cu yd	4 cu yd	5 cu yd	6 cu yd	1 cu yd	2 cu yd	3 cu yd	4 cu yd	5 cu yd	6 cu yd
Pick-Up On Regularly Scheduled Day	$33.41	$66.79	$100.22	$133.57	$200.37	$233.76	$66.81	$133.59	$200.43	$267.14	$400.73	$467.51
Pick-Up Other than Regularly Scheduled Day	$59.35	$91.21	$123.36	$155.17	$213.33	$251.01	$118.69	$182.41	$246.72	$310.33	$426.65	$502.02

Rates for Bulky Items and E-Waste On-Call Pick-Up Service

Rates for bulky items and e-waste on-call pick-up service for Commercial bin customers are provided on Page H-1of this Exhibit.

Contaminated Recyclables or Compostables Cart (Cost per Pick-Up)

	Container Size		
	32 to 35-gal	64-gal	96-gal
Pick-Up On Regularly Scheduled Day	$25.98	$54.83	$88.92
Pick-Up Other than Regularly Scheduled Day	$25.98	$54.83	$88.92

Contaminated Recyclables or Compostables Bin (Cost per Pick-Up)

	Loose Materials						Compacted Materials					
	Container Size						Container Size					
	1 cu yd	2 cu yd	3 cu yd	4 cu yd	5 cu yd	6 cu yd	1 cu yd	2 cu yd	3 cu yd	4 cu yd	5 cu yd	6 cu yd
Pick-Up On Regularly Scheduled Day	$66.81	$133.59	$200.43	$267.14	$400.73	$467.51	$133.62	$267.18	$400.87	$534.29	$801.46	$935.04
Pick-Up Other than Regularly Scheduled Day	$118.69	$182.41	$246.72	$310.33	$426.65	$502.02	$237.38	$364.82	$493.43	$620.67	$853.31	$1,004.04

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)
Rates for Miscellaneous Services for Commercial and Residential Bin and Commercial Cart Customers

Service	Description of Service	Rate per Occurrence
Handy Hauler Service (4 Cubic Yard Bin; Temporary Use)	Per placement and removal of 4 cubic yard bin provided for occasional use	$187.39
	Rate for rental of 4 cubic yard bin in excess of 7 days	$36.75
	Per pull and return of 4 cubic yard bin (pull and return involves the collection of solid waste at the premises and leaving the empty handy hauler on the premises)	$134.90
Cart Replacement	Charge if customer requires cart replacement in excess of one replacement per year at no cost for each instance of container replacement related to service level changes due to delinquent payment, damage or theft.	$97.95
Trip Charge (for Bin)	If driver must return due to Customer error, such as failure to make Bin accessible before Collection time, overfilled Bin, incorrect Bin placement, contaminated materials)	$16.97
Trip Charge (for Carts)	If driver must return due to customer error, such as failure to make Cart accessible before collection time, overfilled Cart, incorrect Cart placement, contaminated materials)	$16.97
Overage Charge	Per cubic yard rate	$25.47
Standby Charge	Charge for waiting for access to Cart/Bin or for Cart/Bin to be loaded	$96.66
Lost Lock	Fee for replacing lost lock	$33.87
Steam Cleaning Bin	Charge per visit	$171.88
Steam Cleaning Cart	Charge per visit	$97.95

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

RATES FOR GOVERNMENT CART CUSTOMERS

(Qualifying Government Customers include Federal and State facilities located with in the City of Livermore)

Solid Waste Collection Rates (Cost per month)*

Container Size	Pick-Ups per Week 1	2	3	4	5	6
32-gallon Cart	$22.30	$45.80	$69.73	$94.53	$120.20	$146.74
64-gallon Cart	$33.13	$68.32	$104.15	$141.28	$179.73	$219.48
96-gallon Cart	$51.74	$107.03	$163.33	$221.69	$282.10	$344.54

* Government Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Recyclables Collection Rates for More Frequent Service (Cost per Month)**

Container Size	Pick-Ups per Week 1	2	3	4	5	6
32-gallon Cart	$0.00	$36.64	$55.79	$75.62	$96.17	$117.39
64-gallon Cart	$0.00	$54.65	$83.32	$113.03	$143.79	$175.58
96-gallon Cart	$0.00	$85.62	$130.66	$177.35	$225.68	$275.64

** Government Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Compostables Collection Rates for More Frequent Service (Cost per Month)***

Container Size	Pick-Ups per Week 1	2	3	4	5	6
32-gallon Cart	$0.00	$36.64	$55.79	$75.62	$96.17	$117.39
64-gallon Cart	$0.00	$54.65	$83.32	$113.03	$143.79	$175.58
96-gallon Cart	$0.00	$85.62	$130.66	$177.35	$225.68	$275.64

*** Government Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

Recyclables Collection Rates for Additional Carts (Cost per Month)**

Container Size	Pick-Ups per Week 1	2	3	4	5	6
32-gallon Cart	$17.85	$36.64	$55.79	$75.62	$96.17	$117.39
64-gallon Cart	$26.51	$54.65	$83.32	$113.03	$143.79	$175.58
96-gallon Cart	$41.39	$85.62	$130.66	$177.35	$225.68	$275.64

** Government Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

Compostables Collection Rates for Additional Carts (Cost per Month)***

	Pick-Ups per Week					
Container Size	1	2	3	4	5	6
32-gallon Cart	$17.85	$36.64	$55.79	$75.62	$96.17	$117.39
64-gallon Cart	$26.51	$54.65	$83.32	$113.03	$143.79	$175.58
96-gallon Cart	$41.39	$85.62	$130.66	$177.35	$225.68	$275.64

*** Government Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

RATES GOVERNMENT BIN SERVICE CUSTOMERS (cont.)

Additional On-Call Pick-Up Service for Solid Waste, Recyclables or Compostables Cart (Cost per Pick-Up)

	Container Size		
	32 to 35-gal	64-gal	96-gal
Pick-Up On Regularly Scheduled Day	$6.50	$13.71	$22.23
Pick-Up Other than Regularly Scheduled Day	$6.50	$13.71	$22.23

Solid Waste Rates (Cost per Month per Bin)****

	Loose Materials						Compacted Materials					
	Pick-Ups per Week						Pick-Ups per Week					
Bin Size	1	2	3	4	5	6	1	2	3	4	5	6
1 cubic yard	$65.36	$133.32	$203.90	$277.10	$352.91	$440.46	$130.72	$266.65	$407.80	$554.19	$705.82	$880.91
2 cubic yard	$130.70	$266.64	$416.43	$565.92	$720.75	$899.30	$261.41	$533.28	$832.86	$1,131.85	$1,441.50	$1,798.59
3 cubic yard	$196.06	$408.42	$624.65	$866.59	$1,103.68	$1,348.94	$392.12	$816.86	$1,249.31	$1,733.18	$2,207.35	$2,697.87
4 cubic yard	$261.42	$544.57	$850.25	$1,155.45	$1,471.57	$1,835.34	$522.83	$1,089.13	$1,700.48	$2,310.91	$2,943.14	$3,670.66
5 cubic yard	$333.68	$694.91	$1,062.81	$1,473.82	$1,877.04	$2,340.10	$667.36	$1,389.81	$2,125.60	$2,947.65	$3,754.09	$4,680.20
6 cubic yard	$400.42	$833.89	$1,275.36	$1,768.59	$2,252.45	$2,808.12	$800.84	$1,667.78	$2,550.72	$3,537.19	$4,504.89	$5,616.23
7 cubic yard	$467.15	$972.88	$1,518.32	$2,063.36	$2,680.48	$3,340.04	$934.31	$1,945.74	$3,036.64	$4,126.72	$5,360.96	$6,680.08

**** Government Solid Waste collection rates include weekly service of 96-gallons of Organics and 96-gallons of Recyclables. Additional Organics and Recyclables carts, larger bins, and up to six days of collection are available at the established rates. A subscription to an adequate level of Solid Waste service is required. Customers may request less than 96-gallons of Organics or Recyclables collection but the monthly Solid Waste rate will not be discounted.

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

EXHIBIT A

Recyclables Rates (Cost per Month per Bin)

	Loose Materials						Compacted Materials					
	Pick-Ups per Week						Pick-Ups per Week					
Bin Size	1	2	3	4	5	6	1	2	3	4	5	6
1 cubic yard	$52.28	$106.66	$163.12	$221.68	$282.33	$352.37	$104.57	$213.32	$326.24	$443.35	$564.65	$704.73
2 cubic yard	$104.56	$213.31	$333.15	$452.74	$576.60	$719.44	$209.13	$426.62	$666.29	$905.48	$1,153.20	$1,438.87
3 cubic yard	$156.85	$326.74	$499.72	$693.27	$882.94	$1,079.15	$313.70	$653.49	$999.45	$1,386.55	$1,765.89	$2,158.30
4 cubic yard	$209.13	$435.66	$680.20	$924.36	$1,177.26	$1,468.27	$418.26	$871.31	$1,360.38	$1,848.73	$2,354.51	$2,936.53
5 cubic yard	$266.95	$555.92	$850.25	$1,179.06	$1,501.64	$1,872.08	$533.89	$1,111.85	$1,700.48	$2,358.12	$3,003.27	$3,744.16
6 cubic yard	$320.34	$667.11	$1,020.29	$1,414.88	$1,801.96	$2,246.49	$640.67	$1,334.22	$2,040.57	$2,829.75	$3,603.91	$4,492.99
7 cubic yard	$373.73	$778.30	$1,214.66	$1,650.69	$2,144.38	$2,672.03	$747.45	$1,556.60	$2,429.31	$3,301.38	$4,288.77	$5,344.07

Compostables (Cost per Month per Bin)

	Loose Materials						Compacted Materials					
	Pick-Ups per Week						Pick-Ups per Week					
Bin Size	1	2	3	4	5	6	1	2	3	4	5	6
1 cubic yard	$52.28	$106.66	$163.12	$221.68	$282.33	$352.37	$104.57	$213.32	$326.24	$443.35	$564.65	$704.73
2 cubic yard	$104.56	$213.31	$333.15	$452.74	$576.60	$719.44	$209.13	$426.62	$666.29	$905.48	$1,153.20	$1,438.87
3 cubic yard	$156.85	$326.74	$499.72	$693.27	$882.94	$1,079.15	$313.70	$653.49	$999.45	$1,386.55	$1,765.89	$2,158.30
4 cubic yard	$209.13	$435.66	$680.20	$924.36	$1,177.26	$1,468.27	$418.26	$871.31	$1,360.38	$1,848.73	$2,354.51	$2,936.53
5 cubic yard	$266.95	$555.92	$850.25	$1,179.06	$1,501.64	$1,872.08	$533.89	$1,111.85	$1,700.48	$2,358.12	$3,003.27	$3,744.16
6 cubic yard	$320.34	$667.11	$1,020.29	$1,414.88	$1,801.96	$2,246.49	$640.67	$1,334.22	$2,040.57	$2,829.75	$3,603.91	$4,492.99

RATES GOVERNMENT BIN SERVICE CUSTOMERS (cont.)

Additional On-Call Pick-Up for Solid Waste, Recyclables or Compostables Bin (Cost per Pick-Up)

	Loose Materials						Compacted Materials					
	Container Size						Container Size					
	1 cu yd	2 cu yd	3 cu yd	4 cu yd	5 cu yd	6 cu yd	1 cu yd	2 cu yd	3 cu yd	4 cu yd	5 cu yd	6 cu yd
Pick-Up On Regularly Scheduled Day	$16.71	$33.40	$50.11	$66.79	$100.19	$116.88	$33.41	$66.80	$100.22	$133.57	$200.37	$233.76
Pick-Up Other than Regularly Scheduled Day	$29.68	$45.61	$61.68	$77.59	$106.67	$125.51	$59.35	$91.21	$123.36	$155.17	$213.33	$251.01

Rates for Bulky Items and E-Waste On-Call Pick-Up Service

Rates for bulky items and e-waste on-call pick-up service for Government customers are provided on Page H-1 of this Exhibit.

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

Rates for Miscellaneous Services for Government Bin and Cart Customers

Service	Description of Service	Occurrence
Handy Hauler Service (4 Cubic Yard Bin; Temporary Use)	Per placement and removal of 4 cubic yard bin provided for occasional use	$93.70
	Rate for rental of 4 cubic yard bin in excess of 7 days	$18.38
	Per pull and return of 4 cubic yard bin (pull and return involves the collection of solid waste at the premises and leaving the empty handy hauler on the premises)	$67.45
Cart Replacement	Charge if customer requires cart replacement in excess of one replacement per year at no cost for each instance of container replacement related to service level changes due to delinquent payment, damage or theft.	$48.98
Trip Charge (for Bin)	If driver must return due to Customer error, such as failure to make Bin accessible before Collection time, overfilled Bin, incorrect Bin placement, contaminated materials)	$8.49
Trip Charge (for Carts)	If driver must return due to customer error, such as failure to make Cart accessible before collection time, overfilled Cart, incorrect Cart placement, contaminated materials)	$8.49
Overage Charge	Per cubic yard rate	$12.74
Standby Charge	Charge for waiting for access to Cart/Bin or for Cart/Bin to be loaded	$48.33
Lost Lock	Fee for replacing lost lock	$16.94
Steam Cleaning Bin	Charge per visit	$85.94
Steam Cleaning Cart	Charge per visit	$48.98

EXHIBIT H

EXHIBIT A

CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)
RATES FOR DROP BOX AND COMPACTOR CUSTOMERS

Per-Pull Rates*

Customer shall be charged a per-pull rate each time its drop box or compactor box is serviced. In addition, customer will be charged for each ton of material collected at rates listed below.

*Customers will be charged full Per-Pull Rate if the truck is unable to access container.

	Loose Solid Waste Materials	Compacted Solid Waste Materials	Loose Recycling, Organics and C&D Materials	Compacted Recycling and Organics Materials	
Container Size	Per-Pull Rate	Per-Pull Rate	Per-Pull Rate	Per-Pull Rate	Other Charges (See list below)
6 cubic yards	$244.77	Not Available	$244.77	Not Available	Disposal or processing costs for actual tonnage collected
12 cubic yards	Not Available	$979.08	Not Available	$587.45	Disposal or processing costs for actual tonnage collected
15 cubic yards	$407.89	$1,223.85	$244.77	$734.31	Disposal or processing costs for actual tonnage collected
16 cubic yards	Not Available	$1,305.45	Not Available	$783.26	Disposal or processing costs for actual tonnage collected
20 cubic yards	$543.94	$1,631.80	$326.36	$979.08	Disposal or processing costs for actual tonnage collected
24 cubic yards	Not Available	$1,958.15	Not Available	$1,174.89	Disposal or processing costs for actual tonnage collected
25 cubic yards	Not Available	$2,039.75	Not Available	$1,223.85	Disposal or processing costs for actual tonnage collected
30 cubic yards	$815.90	$2,447.70	$489.54	$1,468.62	Disposal or processing costs for actual tonnage collected
40 cubic yards	$1,087.87	$3,263.60	$652.72	$1,958.15	Disposal or processing costs for actual tonnage collected

Disposal and Processing Rates

In addition to the per-pull rate (listed above) charged each time the drop box or compactor box is serviced, the customer will be charged for each ton of material in the drop box or compactor box based on actual weight of materials. Per-ton rates are listed below. Per-ton charges will be made after materials are collected.

Material Type	Cost per Ton
Solid Waste	$41.08
Recyclables	$0.00
Compostables	$41.08
Brick	$35.50
Dirt*	$45.50
Wood*	$100.50
Treated Wood Waste (minimum charge of $400.00)*	$135.00
Metal	$118.00
Christmas Trees	$38.20
Concrete*	$35.50
Construction and demolition debris (mixed)	$114.61

* Per-ton rates for dirt, wood, concrete, and mixed construction and demolition debris are subject to change. Per-ton rates for these materials shall be equal to the gate rate posted at Vasco Road landfill for each material type. Loads characterized as contaminated (garbage in organics, or garbage in recyclables for example) by the processing facility shall be charged at loose garbage rates.

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

Rates for Miscellaneous Service for Drop Boxes and Compactor Boxes

Service	Description of Service	Rate per Occurrence
Cancellation Service	All box sizes	$133.83
Certificate of Destruction	All box sizes	$490.06
Demurrage Charge	Rate for rental of Drop Box or Compactor in excess of 7 days - per day	$5.34
Environmental Fee	Rate charged at landfill - per load for Dirt Boxes.	$18.66
Fuel Fee	Rate charged at landfill for Dirt Boxes.	Variable
Hard to Handle Loads	Per charges from landfill on weight ticket.	$505.96
Impound Fee	Per item	$185.31
Mattresses	Per item	$102.64
Placement Charge	All box sizes	$72.23
Relocation Fee	All box sizes	$107.82
Special Handling Fee	Per charges from landfill on weight ticket.	$505.96
Standby Fee (Driver Time)	Charge for waiting for access to Box or for Box to be loaded.	$96.66
Steam Cleaning - Compactor	All box sizes	$178.59
Tires	On the rim - rates are double. Charge is dependent on tire size.	Variable
Television - Small	Charged per item when found in Drop Box or Compactor loads at the landfill.	$54.43
Television - Large	Charged per item when found in Drop Box or Compactor loads at the landfill.	$72.58
White Goods (Appliances)	Charged per item when found in Drop Box or Compactor loads at the landfill.	$122.34

CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

RATES FOR GOVERNMENT DROP BOX AND COMPACTOR CUSTOMERS

(Qualifying Government Customers include Federal and State facilities located with in the City of Livermore)

Per-Pull Rates*

Customer shall be charged a per-pull rate each time its drop box or compactor box is serviced. In addition, customer will be charged for each ton of material collected at rates listed below.

*Customers will be charged full Per-Pull Rate if the truck is unable to access container.

	Loose Solid Waste Materials	Compacted Solid Waste Materials	Loose Recycling, Organics and C&D Materials	Compacted Recycling and Organics Materials	
Container Size	Per-Pull Rate	Per-Pull Rate	Per-Pull Rate	Per-Pull Rate	Other Charges (See list below)
6 cubic yards	$122.39	Not Available	$122.39	Not Available	Disposal or processing costs for actual tonnage collected
12 cubic yards	Not Available	$489.54	Not Available	$293.73	Disposal or processing costs for actual tonnage collected
15 cubic yards	$203.95	$611.93	$122.39	$367.16	Disposal or processing costs for actual tonnage collected
16 cubic yards	Not Available	$652.73	Not Available	$391.63	Disposal or processing costs for actual tonnage collected
20 cubic yards	$271.97	$815.90	$163.18	$489.54	Disposal or processing costs for actual tonnage collected
24 cubic yards	Not Available	$979.08	Not Available	$587.45	Disposal or processing costs for actual tonnage collected
25 cubic yards	Not Available	$1,019.88	Not Available	$611.93	Disposal or processing costs for actual tonnage collected
30 cubic yards	$407.95	$1,223.85	$244.77	$734.31	Disposal or processing costs for actual tonnage collected
40 cubic yards	$543.94	$1,631.80	$326.36	$979.08	Disposal or processing costs for actual tonnage collected

Disposal and Processing Rates

In addition to the per-pull rate (listed above) charged each time the drop box or compactor box is serviced, the customer will be charged for each ton of material in the drop box or compactor box based on actual weight of materials. Per-ton rates are listed below. Per-ton charges will be made after materials are collected.

Material Type	Cost per Ton
Solid Waste	$41.08
Recyclables	$0.00
Compostables	$41.08
Brick	$35.50
Dirt*	$45.50
Wood*	$100.50
Treated Wood Waste (minimum charge of $400.00)*	$135.00
Metal	$118.00
Christmas Trees	$38.20
Concrete*	$35.50
Construction and demolition debris (mixed)	$114.61

* Per-ton rates for dirt, wood, concrete, and mixed construction and demolition debris are subject to change. Per-ton rates for these materials shall be equal to the gate rate posted at Vasco Road landfill for each material type. Loads characterized as contaminated (garbage in organics, or garbage in recyclables for example) by the processing facility shall be charged at loose garbage rates.

EXHIBIT H **EXHIBIT A**

CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

Rates for Miscellaneous Service for Government Drop Boxes and Compactor Boxes

Service	Description of Service	Rate per Occurrence
Cancellation Service	All box sizes	$133.83
Certificate of Destruction	All box sizes	$490.06
Demurrage Charge	Rate for rental of Drop Box or Compactor in excess of 7 days - per day	$5.34
Environmental Fee	Rate charged at landfill - per load for Dirt Boxes.	$18.66
Fuel Fee	Rate charged at landfill for Dirt Boxes.	Variable
Hard to Handle Loads	Per charges from landfill on weight ticket.	$505.96
Impound Fee	Per item	$185.31
Mattresses	Per item	$102.64
Placement Charge	All box sizes	$72.23
Relocation Fee	All box sizes	$107.82
Special Handling Fee	Per charges from landfill on weight ticket.	$505.96
Standby Fee (Driver Time)	Charge for waiting for access to Box or for Box to be loaded.	$96.66
Steam Cleaning - Compactor	All box sizes	$178.59
Tires	On the rim - rates are double. Charge is dependent on tire size.	Variable
Television - Small	Charged per item when found in Drop Box or Compactor loads at the landfill.	$54.43
Television - Large	Charged per item when found in Drop Box or Compactor loads at the landfill.	$72.58
White Goods (Appliances)	Charged per item when found in Drop Box or Compactor loads at the landfill.	$122.34

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)
RATES FOR RCI CERTIFICATION/LEED PROJECTS

Per-Pull Rates*

Customer shall be charged a per-pull rate each time its drop box or compactor box is serviced. In addition, customer will be charged for each ton of material collected at rates listed below.
*Customers will be charged full Per-Pull Rate if the truck is unable to access container.

	Loose Solid Waste Materials	
Container Size	Per-Pull Rate	Other Charges (See list below)
6 cubic yards	$244.77	Disposal or processing costs for actual tonnage collected
15 cubic yards	$407.89	Disposal or processing costs for actual tonnage collected
20 cubic yards	$543.94	Disposal or processing costs for actual tonnage collected
30 cubic yards	$815.90	Disposal or processing costs for actual tonnage collected
40 cubic yards	$1,087.87	Disposal or processing costs for actual tonnage collected

Disposal and Processing Rates

In addition to the per-pull rate (listed above) charged each time the drop box or compactor box is serviced, the customer will be charged for each ton of material in the drop box or compactor box based on actual weight of materials. Per-ton rates are listed below. Per-ton charges will be made after materials are collected.

Material Type	Cost per Ton	Min
Wood Debris	$50.00	$110.00
Wood Debris Mixed	$88.00	$110.00
Demolition Debris	$88.00	$110.00
Demolition Debris Mixed	$88.00	$110.00
Construction Debris	$88.00	$110.00
Construction Debris Mixed	$88.00	$110.00
Concrete Mixed	$66.00	$110.00
Concrete Oversized	$136.00	$136.00
Cardboard Office Paper	$18.00	$18.00

* Per-ton rates for dirt, wood, concrete, and mixed construction and demolition debris are subject to change. Per-ton rates for these materials shall be equal to the gate rate posted at Vasco Road landfill for each material type. Loads characterized as contaminated (garbage in organics, or garbage in recyclables for example) by the processing facility shall be charged at loose garbage rates.

EXHIBIT H **EXHIBIT A**

CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

Rates for Miscellaneous Service for Government Drop Boxes and Compactor Boxes

Service	Description of Service	Rate per Occurrence
Cancellation Service	All box sizes	$133.83
Demurrage Charge	Rate for rental of Drop Box or Compactor in excess of 7 days - per day	$5.34
Placement Charge	All box sizes	$72.23
Relocation Fee	All box sizes	$107.82
Special Handling Fee	Per charges from landfill on weight ticket.	$505.96
Standby Fee (Driver Time)	Charge for waiting for access to Box or for Box to be loaded.	$96.66

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)
RATES FOR GOVERNMENT RCI CERTIFICATION/LEED PROJECTS

Per-Pull Rates*

Customer shall be charged a per-pull rate each time its drop box or compactor box is serviced. In addition, customer will be charged for each ton of material collected at rates listed below.
*Customers will be charged full Per-Pull Rate if the truck is unable to access container.

	Loose Solid Waste Materials	
Container Size	Per-Pull Rate	Other Charges (See list below)
6 cubic yards	$122.39	Disposal or processing costs for actual tonnage collected
15 cubic yards	$203.95	Disposal or processing costs for actual tonnage collected
20 cubic yards	$271.97	Disposal or processing costs for actual tonnage collected
30 cubic yards	$407.95	Disposal or processing costs for actual tonnage collected
40 cubic yards	$543.94	Disposal or processing costs for actual tonnage collected

Disposal and Processing Rates

In addition to the per-pull rate (listed above) charged each time the drop box or compactor box is serviced, the customer will be charged for each ton of material in the drop box or compactor box based on actual weight of materials. Per-ton rates are listed below. Per-ton charges will be made after materials are collected.

Material Type	Cost per Ton	Min
Wood Debris	$50.00	$110.00
Wood Debris Mixed	$88.00	$110.00
Demolition Debris	$88.00	$110.00
Demolition Debris Mixed	$88.00	$110.00
Construction Debris	$88.00	$110.00
Construction Debris Mixed	$88.00	$110.00
Concrete Mixed	$66.00	$110.00
Concrete Oversized	$136.00	$136.00
Cardboard Office Paper	$18.00	$18.00

* Per-ton rates for dirt, wood, concrete, and mixed construction and demolition debris are subject to change. Per-ton rates for these materials shall be equal to the gate rate posted at Vasco Road landfill for each material type. Loads characterized as contaminated (garbage in organics, or garbage in recyclables for example) by the processing facility shall be charged at loose garbage rates.

EXHIBIT H
CUSTOMER RATES FOR RATE PERIOD FIFTEEN
(Effective July 1, 2024 - June 30, 2025)

Rates for Miscellaneous Service for Government Drop Boxes and Compactor Boxes

Service	Description of Service	Rate per Occurrence
Cancellation Service	All box sizes	$133.83
Demurrage Charge	Rate for rental of Drop Box or Compactor in excess of 7 days - per day	$5.34
Placement Charge	All box sizes	$72.23
Relocation Fee	All box sizes	$107.82
Standby Fee (Driver Time)	Charge for waiting for access to Box or for Box to be loaded.	$96.66

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 10.1**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Marianna Marysheva, City Manager

SUBJECT: Supplemental materials received prior to the meeting.

RECOMMENDED ACTION

SUMMARY

These materials were posted online and made available to the public at the same time that they were distributed to the City Council.

5.1	Adoption of an ordinance amending Title 11, Chapter 11.08, Airport Rules and Regulations, Chapters 11.08.010 Definitions and 11.08.110 Aviation Fueling Operations in the Livermore Municipal Code to Require Fixed Base Operators to provide certain aviation fuels by December 12, 2025. Material: Memo, Revised Municipal Code, Revised Ordinance
6.1	Public Hearing to approve the Livermore Sanitation, Inc. requested 3.68% rate adjustment to be effective July 1, 2024. Material: PowerPoint Presentation
8.0	Council Committee Reports and Matters Initiated by City Manager, City Attorney, Staff, and Council Members Material: Council Reports

DISCUSSION

ATTACHMENTS

1. Supplemental Materials

Prepared by: Helena Graves
Deputy City Clerk

Approved by:



Marianna Marysheva
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

CITY OF LIVERMORE CALIFORNIA

INTEROFFICE MEMORANDUM

Date: May 13, 2024

To: Honorable Mayor and City Council

From: Judy Erlandson, Interim Public Works Director
Benny Stuth, Acting Airport Manager

Subject: Item 5.1: Adoption of an ordinance amending Title 11, Chapter 11.08, Airport Rules and Regulations

This memo is to notify that there has been a minor change made to the Ordinance introduced on April 8, 2024. The title of the item was:

Introduce an ordinance, and waive the first reading, amending Title 11, Chapter 11.08, Airport Rules and Regulations, Chapters 11.08.010 Definitions and 11.08.110 Aviation Fueling Operations in the Livermore Municipal Code to Require Fixed Base Operators to Provide certain aviation fuels by December 12, 2025.

During a recent meeting it was pointed out that under the definitions for "Fuel" a sentence read …"and any other alternative Fuel (e.g. Mogas and hydrogen) that are authorized for use by the FAA or use in an aircraft engine…" The sentence should read …" and any other alternative Fuel (e.g. Mogas and hydrogen) that are authorized for use by the FAA for use in an aircraft engine…"

Given this change is minor, it has been determined that the ordinance may be modified for the language change without re-introducing the ordinance again.

The ordinance has been updated to reflect this change and the modified version is before you for approval.

11.08.010 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“Abandoned or unclaimed aircraft” means an aircraft that has not been utilized, flown or worked on for a period of 13 consecutive months when stored inside a hangar or on a tie-down, and/or has not been maintained in flyable condition. Abandoned or unclaimed aircraft are aircraft which do not appear to cause or constitute an imminent or immediate danger to the health or safety of persons using the airport.

“Accident” means a collision or other contact between any part of an aircraft, vehicle, person, stationary object and/or other thing which results in property damage, personal injury, or death; or an entry into or emergence from a moving aircraft or vehicle by a person which results in personal injury or death to such person or some other person or which results in property damage.

“Aeronautical activity” means any activity that involves, makes possible, facilitates, is related to, assists in or is required for the operation of an aircraft or airport or which contributes to, or is required for, the safety of aircraft and/or airport operations.

“Affiliate” means any company that controls, or is controlled by, or is under common control with another company.

“Agreement,” “license” or “permit” means a written contract, executed by both parties and enforceable by law, between the City and an individual or entity granting a concession, transferring rights or interest in land and/or improvements, and/or otherwise authorizing and/or prohibiting the conduct of certain activities. Such agreement will recite the terms and conditions under which the activity will be conducted at the airport including, but not limited to, the term of the agreement, rents, fees, and charges to be paid by the individual or entity; and the rights and obligations of the respective parties. Examples include, but are not limited to, commercial aviation permits and hangar lease agreements.

“Air traffic control” means the service, control and authority established by FAA or contract tower personnel to promote the safe, orderly, and expeditious flow of air traffic.

“Aircraft” means any contrivance now known or hereafter invented which is used or designed for navigation of or flight in air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. This includes, but is not limited to, airplanes, airships, balloons, dirigibles, rockets,

helicopters, gliders, gyrocopters, ground-effect machines, sailplanes, amphibians, ultralights, light sport and seaplanes.

“Aircraft maintenance” means the repair, maintenance, alteration, preservation, or inspection of aircraft including the replacement of parts and shall be considered either major repairs or minor repairs. “Major repairs” include major alterations to the airframe, powerplant, and propeller as defined in 14 CFR Part 43. “Minor repairs” include normal, routine annual inspection with attendant maintenance, repair, calibration, or adjustment of aircraft and their accessories.

“Aircraft operator” means a person who uses, causes to be used, or authorizes to be used an aircraft, with or without the right of legal control (as owner, lessee, or otherwise), for the purpose of air navigation including the piloting of aircraft, or on any part of the surface of the airport.

“Airframe and powerplant mechanic” (or “A and P mechanic”) means a person who holds an aircraft mechanic certificate with both the airframe and powerplant ratings. This certification is issued by the Federal Aviation Administration (“FAA”) under the provisions of 14 CFR Part 65.

“Airplane” means, more specifically, an engine-driven, fixed-wing aircraft heavier than air that is supported in flight by the dynamic reaction of the air against its wings.

“Airport” means the Livermore municipal airport, located in the City of Livermore, state of California.

“Airport Commission” means those persons appointed to that position by the City Council.

“Airport manager” means the person appointed to this job classification by the City, or the City’s authorized representative.

“Airport operating area” or “AOA” means any area of the airport used or intended to be used for landing, taking off, or surface maneuvering of aircraft.

“Aviation-related activity” means any activity conducted on airport property that provides service and support to airport users. The following are examples of aviation-related activities; they include but are not limited to ground transportation, restaurants, auto parking lots, concessions, etc.

“Based aircraft” means any aircraft assigned a reserved tie-down, shelter or hangar space for the majority of the calendar year, whether or not such assignment is made under a written lease with the City.

"Commercial aviation permit" or "CAP" means the legal agreement between the airport and an individual or entity providing a commercial aeronautical activity which is consistent with the adopted minimum standards for commercial aeronautical activities and which grants permission to perform such activity on or from the airport property, whether directly or indirectly related to aviation activities or aeronautical activities, and with the intent to generate and/or secure earnings, income, compensation (including exchange or barter of goods and services), and/or profit, whether or not such objectives are accomplished.

"Derelict aircraft or vehicle" means any vehicle, aircraft or other property which causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the persons using the airport or a significant portion thereof.

"Essential services" means those services that owners and operators of non-turbojet powered aircraft less than 12,500 pounds maximum takeoff weight need to maintain airworthiness of such aircraft. At a minimum, these services shall include avionics, airframe and powerplant major repair and alteration performed by Federal Aviation Administration (FAA) certificated repair station(s).

"FAA" means the Federal Aviation Administration, which is the agency of the United States government that has the responsibility of promoting safety in the air.

"Fixed base operator" or "FBO" means a person, partnership, corporation, unincorporated association, their assignees or sub-lessees which perform a commercial aeronautical activity upon the airport pursuant to an agreement between the City and the individual or entity.

"Fuel" means any substance (solid, liquid, or gaseous) used to operate any engine in aircraft, e.g., avgas (leaded), avgas (unleaded), jet fuel, ethanol-free premium auto fuel, diesel, ~~and~~ biofuel, and any other alternative Fuel (e.g. Mogas and hydrogen) that are authorized for use by the FAA for use in an aircraft engine, an aircraft engine/airframe combination, and rotor wing aircraft either through an ASTM designation or a Supplemental Type Certificate. The fuel must have an industry standard detailing specific requirements for the quality and safe use of the fuel (i.e. ASTM), where the fuel is also accompanied by risk mitigation protection with established product liability insurance coverage provided by the manufacturer or distributor. These fuels may also be used in vehicles or equipment, as appropriate and permitted. "Fuel handling" means the transportation, delivering, fueling, or drainage of fuel or fuel waste products.

"Hangar" means a fully enclosed, lockable storage space for one or more aircraft, further defined by size and purpose as follows:

1. Commercial hangar: These hangar units encompass no less than 10,000 square feet of floor and office space and are generally intended to be occupied by one or more FBOs.

2. Corporate hangar: These square or rectangular hangars encompass more than 3,600 square feet and are generally intended to house larger corporate or business-type single- and twin-engine aircraft.

3. Executive hangar: These square or rectangular hangars encompass at least 2,500 square feet of floor space and are generally intended to house corporate or business-type single- and twin-engine airplanes.

4. Rectangular hangar: These hangar units encompass at least 1,800 square feet of floor space and are generally intended to accommodate large single- or twin-engine airplanes.

5. T-hangar: These hangar units are configured to accommodate an airplane's "T" shape, encompass at least 900 square feet of floor space, and are generally intended to accommodate smaller single- and twin-engine airplanes. The T-hangars located at the end of each hangar building contain an additional half of the square footage of a T-hangar unit, and are referred to as "T-combo" units.

"Hazardous materials" means any oil, petroleum products, flammable substances, explosives, radioactive materials, wastes, or substances or any other wastes, material or pollutants which pose a hazard to the health and safety of any person on or entering the airport property or which are classified as hazardous materials under applicable regulatory measures.

"Lessee" or "tenant" means an individual or entity that has entered into an agreement with the airport to occupy, use, and/or develop land and/or improvements and engage in aeronautical activities.

"Long-term lease" means a ground lease with any initial term longer than five years.

"Medium-term lease" means a facility lease with any initial term longer than 30 days but no more than five years.

"Minimum standards" means those guidelines, qualifications, standards, and criteria set forth as the minimum requirements to be met as a condition precedent to the right to engage in activities at the airport, adopted by the City Council by resolution and as may be amended from time to time. These are also referred to as the minimum standards for commercial aeronautical activities.

"Movement areas" are those portions of the AOA that are under the control and jurisdiction of FAA air traffic control, primarily taxiways and runways.

“Operator” means an individual or entity that has entered into an agreement with the airport to engage in commercial aeronautical activities.

“Person” means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity.

“Preventive maintenance” means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations.

“Regulatory measures” means federal, state, county, and city laws, codes, ordinances, policies, rules and regulations, all as may be in existence, hereafter enacted, and amended from time to time.

“Rules and regulations” means the provisions contained in this title and adopted by ordinance by the City Council and which pertain to the use and operations of the airport.

“Self-fueling” means the fueling of an aircraft by the owner of the aircraft with his or her own employees and using his or her own equipment.

“Special event” means a specific occasion so arranged or planned for a particular purpose that is in addition to or more than the permitted activities engaged in by an individual (including an operator, lessee or third parties) or entity at the airport pursuant to an agreement.

“Specialized aviation service operator” (or “SASO”) means a commercial operator engaged in providing a single aeronautical service, or a combination of aeronautical services, including but not limited to aircraft maintenance, avionics or instrument maintenance, aircraft rental and/or flight training, aircraft charter or aircraft management, aircraft sales, and/or aircraft storage, as permitted. A SASO is not permitted to engage in aeronautical activities involving the sale of aviation fuel.

“SWPPP” means the current stormwater pollution and prevention program in place at the airport, as may be amended from time to time.

“Tie-down” means the area, paved or unpaved, suitable for parking and mooring of aircraft wherein suitable tie-down points have been located.

“Transient aircraft” means any aircraft which utilizes the airport for occasional temporary purposes, generally no longer than seven days, and which is based at another airport and is not assigned a reserved tie-down or hangar at the airport.

"Unmet essential services" means a condition that exists whenever aircraft owners and operators are not able to obtain essential services at the Livermore Airport. (Ord. 2149 § 1 (Exh. A), 2023; Ord. 2085 § 1(A), 2019; Ord. 2065 § 1(A), 2018; Ord. 1916 § 1(5), 2010; Ord. 1905 § 1, 2010)

11.08.110 Aviation fueling operations.

A. Fueling, defueling, and fuel storage activities on the airport shall conform to the current applicable provisions of CFR Title 14, and guidelines; all appropriate National Fire Protection Act guidelines; FAA Advisory Circular 150/5230-4 (including updates or amendments); applicable provisions of the airport's SWPPP; and applicable provisions of the Environmental Protection Agency and the California Environmental Protection Agency relating to these activities.

B. Except for self-fueling, fuels shall only be dispensed on the airport by those FBOs and self-fueling entities that have a written agreement with the City granting such permission, and shall comply with all orders, procedures and minimum standards for commercial aeronautical activities set forth by the City and adopted by resolution of the City Council.

C. A properly trained operator shall be present and responsive, remaining in direct view of all operating controls and equipment at all times while fuel delivery vehicles transfer fuel into or out of any fuel storage facility. The operator shall not block open, disengage, and/or deactivate the "deadman" switch while fueling and/or transferring fuel.

D. No person shall fuel or defuel an aircraft until that person is properly trained. Records shall be kept by all fixed base operators documenting the training provided and qualifications of each person trained. Recurrent training shall be provided on a regularly scheduled basis, but not less than every year. All records shall be subject to review of and/or inspection by the airport manager or fire marshal.

E. No aircraft shall be fueled with an engine running (hot-fueling) unless prior authorization has been obtained from the airport manager and the fueling operator.

F. No aircraft shall be fueled or defueled unless the point of contact between the fuel transfer device (e.g., fuel nozzle) and the aircraft fuel tank is at least eight feet away from any hangar structure or enclosed space. Aircraft fuel handling shall be conducted outdoors and at least 50 feet from any combustion and ventilation air-intake to any boiler, heater, or incinerator room or as approved by the fire marshal.

G. Fueling hoses, funnels and apparatus shall be equipped with a bonding device to prevent ignition of volatile liquids. During any fueling process, the aircraft and the fueling apparatus shall both be bonded to equalize voltage potential.

H. Pouring or gravity transfer of fuel from containers is prohibited unless approved by airport manager.

I. No person shall smoke or use any material or equipment which is likely to cause a spark or ignition within 100 feet of any fueling or defueling operations or use any material or equipment which is likely to cause a spark or ignition.

J. All fuel handled on the airport shall be treated with due caution and circumspection with regard to the rights and safety of others so as not to endanger, or likely to endanger, persons or property.

K. Care shall be exercised to prevent spillage of fuel. The airport manager shall be notified any time spillage in excess of five gallons occurs. Any fuel spilled during transfer shall be removed immediately. No engine of any aircraft shall be started when fuel is on the ground under such aircraft, except sump drain checks.

L. Each refueling vehicle shall have a minimum 15-gallon spill kit. Each fuel storage facility shall have a minimum 55-gallon spill kit.

M. Fuels not meeting motor vehicle fuels specifications, such as aviation gasoline, jet fuel and transmix, are prohibited from being supplied, sold or transported for use in motor vehicles (Title 13 California Code of Regulations, Sections 2250 et seq.).

N. Any aircraft owner desiring to self-fuel shall apply for a self-fueling permit. Issuance of the permit to the aircraft owner (permittee) is based upon conformance with the following standards:

1. Self-fueling shall be limited to those aircraft that are owned by the permittee with full and exclusive custody and control of the aircraft.

2. Fuel cooperative organizations, whereby there is joint ownership of a fuel tank and fuel, are not authorized.

3. Fueling services may only be provided by the permittee or a direct employee of the permittee utilizing the vehicles and equipment owned or leased by the permittee. If not utilizing their own employees and/or equipment permittees are only authorized to have their aircraft fueled, washed, or repaired by those operators and lessees authorized to provide such service pursuant to an agreement with the City.

4. Fueling shall only be conducted on paved apron areas leased or subleased by permittee. The paved areas shall be of a sufficient size to permit proper aircraft storage, service, access to the taxiway/runway system, and be adequate to satisfy the number of aircraft owned by the permittee.

5. Self-fueling activities shall comply with all applicable federal, state, and local laws, regulations, and codes. Self-fueling activities shall be subject to inspection and approval by the airport manager, fire marshal and other local government inspectors having jurisdiction. Permittee must have a fuel spill containment and fire emergency plan and procedures and shall provide such plan and procedures to the airport manager for review and approval.

6. Permittee and all employees conducting fueling operations on permittee's premises shall attend safety and training programs, which are subject to approval by the airport manager and fire marshal. Records of training, fuel dispensing equipment, and fuel storage equipment installation and maintenance shall be maintained for five years and provided to the airport manager upon request.

7. Permittee may maintain fuel storage tanks for Avgas and Jet A fuels and each type of fuel shall be maintained in separate aboveground storage tanks, compliant with safety ratings in the fire code, NFPA, and California Department of Health and Environmental Oil Inspection Regulation System. Storage tanks shall have a minimum capacity of 10,000 gallons each. Fuel storage tanks shall have separate filter-equipped dispensing pumps and meters for each grade of fuel. The permittee shall provide at least one fuel truck for each grade of fuel maintained by permittee with a minimum truck tank capacity of 1,500 gallons for Jet A and 750 gallons for Avgas.

8. Permittee shall enter into a lease agreement with the City for the tank storage to be located at a dedicated location determined by the airport manager. All fuel equipment and facilities shall be properly maintained and kept in a safe and clean condition.

9. The self-fueling permittee shall maintain liability insurance with coverage for products and completed operations with limits of not less than $25,000,000 per occurrence. Self-fueling permit holders must follow the current insurance schedule as required by City of Livermore risk manager's office.

O. In the event of a declared disaster and the disruption of regular fuel deliveries to the airport, the City shall have the authority to appropriate any fuel stored on the airport for emergency operations. The owner of the fuel will be compensated at the market price on the day before the disaster declaration.

P. Any entity permitted to dispense fuel on the airport, including self-fueling permit holders, shall pay a fuel flowage fee established by the airport rates and charges fee schedule, as revised from time to time and approved by City Council resolution. Fueling activity reports shall be submitted to the airport manager monthly. (Ord. 2085 §§ 1(B), (C), (D), 2019; Ord. 2065 § 1(A), 2018; Ord. 1905 § 1, 2010)

Q. A full service Fixed Base Operator (FBO) must minimally provide the following aviation Fuel as required by this Code and by *Section 2:General Requirements and Standards* and *Part 3: Fixed Base Operator (FBO) / Full Service* as described in the Livermore Municipal Airport Minimum Standards for Commercial Aeronautical Activities.

1. Jet A
2. Avgas (Leaded)
3. Avgas (Unleaded)
4. Optionally, or as requested, any alternative fuel (e.g. Mogas and hydrogen) as described in this Code in section 11.080.010, Definitions and as described in Part 1, Definitions of the Minimum Standards for Commercial Aeronautical Activity for Livermore Airport.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE AMENDING TITLE 11, CHAPTER 11.08, *AIRPORT RULES AND REGULATIONS*, CHAPTERS 11.08.010 *DEFINITIONS* AND 11.08.110 *AVIATION FUELING OPERATIONS* IN THE LIVERMORE MUNICIPAL CODE TO REQUIRE FIXED BASE OPERATORS TO PROVIDE CERTAIN AVIATION FUELS BY DECEMBER 12, 2025

The Livermore Aviation fueling operations establishes procedures for proper fueling provisions, activities, and guidelines, as well as types of fuels available at the Livermore Municipal Airport (Airport).

Fuel sales are done onsite by a Fixed Base Operator (FBO) and the City of Livermore (City) does not directly sell fuel at the Airport.

On October 23, 2023, the City Council directed staff to update the Airport's Minimum Standards for Commercial Aeronautical Activities (Minimum Standards) in response to community requests.

On November 6, 2023, the Airport Commission reviewed and recommended the Minimum Standards for City Council approval.

On December 11, 2023, City Council adopted a resolution amending the Minimum Standards to require the provision of Unleaded Aviation Fuel by the FBO.

The amended Minimum Standards now requires the FBO to offer unleaded aviation fuel by December 12, 2025.

With the updates to the Minimum Standards, it is now necessary to update the Livermore Municipal Code to require an FBO to make certain aviation fuels available by December 12, 2025.

Amending the Livermore Municipal Code reflects the significant actions the City is taking to assist in the mitigation of lead exposure from the Livermore Municipal Airport.

This is not a project as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15378 and therefore, is not subject to environmental review.

The adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act under the common sense exemption set forth in CEQA Guidelines Section 15061(b)(3) 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 ordinance may have a significant effect on the environment, it is not subject to CEQA.

ORDINANCE NO. _____

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

Section 1. ***Purpose.*** This ordinance update expands the definition of fuel and adds the provision for unleaded aviation fuel by the FBO no later than December 12, 2025.

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

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

A. 11.08.010 *Definitions* "Fuel" is hereby amended so it reads as follows:

"Fuel" means any substance (solid, liquid, or gaseous) used to operate any engine in aircraft, e.g., avgas (leaded), avgas (unleaded), jet fuel, ethanol-free premium auto fuel, diesel, and biofuel, and any other alternative Fuel (e.g. Mogas and hydrogen) that are authorized for use by the FAA for use in an aircraft engine, an aircraft engine/airframe combination, and rotor wing aircraft either through an ASTM designation or a Supplemental Type Certificate. The fuel must have an industry standard detailing specific requirements for the quality and safe use of the fuel (i.e. ASTM), where the fuel is also accompanied by risk mitigation protection with established product liability insurance coverage provided by the manufacturer or distributor. These fuels may also be used in vehicles or equipment, as appropriate and permitted.

B. Section Q is added to 11.08.110 *Aviation Fueling Operations* to read as follows:
(Q) A full service Fixed Base Operator (FBO) must minimally provide the following aviation fuel as required by this Code and Section 2: General Requirements and Standards and Part 3: Fixed Base Operator (FBO)/Full Service as described in the Livermore Municipal Airport Minimum Standards for Commercial Aeronautical Activities.

1. Jet A
2. Avgas (Leaded)
3. Avgas (Unleaded)
4. Optionally, or as requested, any alternative fuel (e.g. Mogas and hydrogen) as described in this Code in section 11.080.010, Definitions and as described in Part 1, Definitions of the Minimum Standards for Commercial Aeronautical Activity for Livermore Airport

Section 4. ***Environmental.*** The adoption of this ordinance is not a project as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15378 and therefore, is not subject to environmental review. The adoption of the ordinance is also exempt from CEQA under the common sense exemption set forth in CEQA

Guidelines Section 15061(b)(3) 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 ordinance may have a significant effect on the environment, it is not subject to CEQA.

***Section 5. Severability*.** If any part of this ordinance is declared invalid by a court, such invalidity shall not affect any of the remaining parts.

Section 6. Publication. This ordinance shall be published once in a newspaper of general circulation of the City of Livermore within fifteen days after its adoption.

Section 7. Effective date. This Ordinance shall take effect 30 days after its adoption.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Livermore held on April 15, 2024, by the following vote:

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

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

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

_____
Mayor, City of Livermore

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

ORDINANCE NO. _____

Livermore Sanitation Rate Adjustment

May 13, 2024

Presented by Judy Erlandson, Interim Public Works Director

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LSI Franchise Agreement

- Livermore Sanitation, Inc. (LSI) began serving the City of Livermore in July 2010 after a competitive selection process.
- In April 2020, the City Council approved The Third Amended and Restated Agreement with LSI for Solid Waste, Recyclable Materials, and Compostable Materials Services (Franchise Agreement), extending the contract term by a minimum 10 years.
- The City's role in approving any rate adjustment is to determine that the rate adjustment is consistent with the methodology as identified in the Franchise Agreement.
- LSI is required to notify customers of any rate adjustment 30 days prior to the effective date of the increase.

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LSI Franchise Agreement

- In most cases, rate adjustments occur every year using an index-based methodology or a cost-based review.
- For this upcoming Rate Year 15 (FY 24-25) an index-based methodology was used.
- The index-based methodology utilizes various cost adjustment factors such as the percentage change in the consumer price index and percentage change in the disposal fees.

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LSI Franchise Agreement

- The indices used are:
  - CPI-U – the Consumer Price Index, All Urban Consumers for the San Francisco-Oakland-Hayward Metropolitan Area.
  - CPI-W - the Consumer Price Index, Urban Wage Earners for the San Francisco-Oakland-Hayward Metropolitan Area.
  - CNG Fuel Pricing Index – the per-term price for Natural Gas Service for Compression on Customer's Premises compiled by PG&E.
  - Motor Vehicle Maintenance and Repair Index – the Consumer Price Index, All Urban Consumers, Motor Vehicle Maintenance and Repair.
- These indices are applied to certain categories of costs, and in some cases are capped. For example, unionized labor is paid per the terms of their bargaining agreement. However, increases allowed by the Franchise Agreement are capped at 7%.

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LSI Historical Cost Adjustment*

Annual Adjustment	Overall Percent Increase	CPI-U	CPI-W	Motor Vehicle Index	CNG Fuel Pricing Index	Notes
Rate Year 9 (FY 18-19)	3.19%	3.32%	3.14%	2%	39.8%	
Rate Year 10 (FY 19-20)	4.01%	3%	3.74%	3.68%	17.7%	
Rate Year 11 (FY 20-21)	1%	3.49%	3.3%	3.24%	12.6%	Effective 1/1/21 two-year rates approved 4/27/20
Rate Year 12 (FY 21-22)	1%	n/a	n/a	n/a	n/a	No rate application
Rate Year 13 (FY 22-23)	0.58%	3%	3.74%	3.68%	17.7%	
Rate Year 14 (FY 23-24)	5.88%	5.49%	6.42%	7.09%	47.5%	
Rate Year 15 (FY 24-25)	**3.68%**	**3.74%**	**3.52%**	**12.35%**	**-2.4%**	**Proposed**

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*Cost adjustments may differ based on customer category (e.g. residential cart customers) as overall increases were applied differently in some years.

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LSI RY 15 Proposed Rate Adjustment

Proposed Increase				Residential Cart Subscriptions	
3.68% on all cart customers					
	Current Monthly Rate	Proposed Monthly Rate	Increase $	Number	Percent
20-gallon container	$32.76	$33.97	$1.21	9,842	36%
32-gallon container	$43.02	$44.60	$1.58	12,306	46%
64-gallon container	$63.91	$66.26	$2.35	4,404	16%
96-gallon container	$99.80	$103.47	$3.67	561	2%

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LSI RY 15 Proposed Rate Adjustment

Recommendation

- Staff recommends that the City Council approve an increase to rates for all customers by 3.68%.

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LSI Franchise Agreement

Questions?

LIVERMORE CALIFORNIA

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Council Member	Date of Meeting or Event	Committee or Organization	Meeting or Event Type (ex. board meeting or ribbon cutting)	Summary of Meeting or Event
Mayor Marchand	4/17/2024	Livermore Valley Chamber of Commerce	Mixer	Networking with local businesses with the Livermore Rodeo Foundation.
Mayor Marchand	4/18/2024	Uncle Credit Union	Annual Board meeting	Received a report on the credit union and their charitable activities.
Mayor Marchand	4/19/2024	Knights of Columbus	Awards	Attended the Red, Blue and Gold Banquet honoring our first responders.
Mayor Marchand	4/20/2024	Bay Area Taekwondo	Competition and demonstration	Attended and spoke at the Bay Area Taekwondo Competition.
Mayor Marchand	4/20/2024	Granada Little League	Ribbon-cutting	Attended and spoke at the ribbon-cutting for the new archway to the fields.
Mayor Marchand	4/20/2024	Livermore Art Association	Art Show	Presented the City Art Awards.
Mayor Marchand	4/21/2024	Young Men's Service League	Recognition ceremony	Presented a speech on public service and volunteerism.
Mayor Marchand	4/22/2024	City of Livermore	Ribbon-cutting	Attended the ribbon-cutting for a new business, Enact Solar.
Mayor Marchand	4/24/2024	Chamber of Commerce	Board meeting	Provided the Mayor's report.
Mayor Marchand	4/24/2024	Cal. LAFCO	Workshop	Attended the mobile staff workshop and Wente Vineyards.
Mayor Marchand	4/24/2024	Livermore Cultural Arts	Presentation	Presented a proclamation for Arts Month.
Mayor Marchand	4/25/2024	Livermore Valley Chamber of Commerce	State of the County Address	Update on the County by Supervisor Haubert.
Mayor Marchand	4/25/2024	Alameda County Transportation Commission (ACTC)	Commission meeting	Reviewed advocacy efforts and trip to D.C.
Mayor Marchand	4/26/2024	Livermore Valley Joint Unified School District (LVJUSD)	Rally	Attended and spoke at a rally to inspire students for State testing.
Mayor Marchand	4/27/2024	City of Livermore	99th Birthday Celebration for Allen Northop	Presented a certificate.
Mayor Marchand	4/29/2024	City of Livermore - City of Pleasanton City Council Liaison Meeting	Committee meeting	Received an update on airport activities and addition of unleaded fuel.
Mayor Marchand	4/29/2024	Tri-Valley Water Liaison Committee Meeting	Meeting	Received and update on water supply and Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS).
Mayor Marchand	4/29/2024	City of Livermore	Eagle Scout Court of Honor	Spoke and presented a certificate.
Mayor Marchand	4/30/2024	Livermore-Pleasanton Fire Department Joint Powers Authority (LPFD JPA) meeting	Annual meeting	Received equipment and budget reports.
Mayor Marchand	5/1/2024	City of Dublin	Dublin State of the City Luncheon	Heard the update on Dublin and supported one of the Tri-Valley Mayors.
Mayor Marchand	5/2/2024	Tri-Valley Nonprofit Alliance	Forum	Attended the "State of Housing in the Tri-Valley" forum.
Mayor Marchand	5/2/2024	City of Livermore Poet Laureate	Reading and award ceremony	Spoke and presented the awards to the Poetry in a Test Tube program.
Mayor Marchand	5/4/2024	Pacific Chamber Orchestra (PCO)	Fund raiser and anniversary	Presented a proclamation recognizing the 35th Anniversary of PCO.

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	5/6/2024	City of Livermore	Tri-Valley City Council Mayors/Managers meeting	Finalized agenda and program for the upcoming meeting.
Mayor Marchand	5/8/2024	Heritage Estates	Anniversary	Spoke and presented a proclamation recognizing the 20th Anniversary of Heritage Estates.
Mayor Marchand	5/8/2024	Alameda County Mayors Conference	Monthly business meeting.	Heard a report om Emergency Medical Response and was elected President of the Conference.
Mayor Marchand	5/9/2024	Open Heart Kitchen	Ribbon-cutting	Spoke and presented a Certificate at the opening of the Vineyard Resource Center.
Mayor Marchand	5/9/2024	Local Agency Formation Commission of Alameda County (LAFCO)	Commission Meeting	Heard a presentation on the South Livermore agriculture and reviewed budget.
Mayor Marchand	5/9/2024	Innovation Tri-Valley (ITV)	Award ceremony	Recognized emerging businesses at the ITV Gamechangers Awards event.
Mayor Marchand	5/10/2024	Ava Community Energy	Tour	Toured the Scott Haggerty Windfarm (Scott Haggerty Wind Energy Center)

Council Member	Date of Meeting or Event	Committee or Organization	Meeting or Event Type (ex. board meeting or ribbon cutting)
Vice Mayor Carling	4/20/2024	Granada Little League	Granada Little League ribbon cutting
Vice Mayor Carling	4/24/2024	City of Livermore	Arbor Day tree planting
Vice Mayor Carling	4/24/2024	StopWaste	Board Meeting
Vice Mayor Carling	4/25/2024	Livermore Valley Chamber of Commerce	Wine Country Luncheon-State of the County
Vice Mayor Carling	4/26/2024	Livermore Valley Education Foundation (LVEF)	Harlem Wizards basketball fund raiser for Livermore Valley Education Foundation (LVEF)
Vice Mayor Carling	4/29/2024	City of Livermore - City of Pleasanton City Council Liaison Meeting	Meeting
Vice Mayor Carling	4/29/2024	Tri-Valley Water Liaison Committee Meeting	Meeting
Vice Mayor Carling	5/2/2024	Tri-Valley NonProfit Alliance (TVNPA)	TVNPA Antipoverty Alliance panel
Vice Mayor Carling	5/4/2024	Asian Pacific Islander American Public Affairs (APAPA)	APAPA Asian Heritage Celebration
Vice Mayor Carling	5/9/2024	StopWaste	Programs & Administration Committee Meeting
Vice Mayor Carling	5/9/2024	Innovation Tri-Valley (ITV)	ITV 2024 GameChangers Awards

Council Member	Date of Meeting or Event	Committee or Organization	Meeting or Event Type (ex. board meeting or ribbon cutting)
Council Member Branning	5/9/2024	Innovation Tri-Valley	ITV 2024 GameChangers Awards
Council Member Branning	5/6/2024	Livermore-Amador Transit Authority (LAVTA)	Board of Directors Meeting
Council Member Branning	4/25/2024	League of California Cities (CalCities)	East Bay Division Meeting
Council Member Branning	5/4/2024	Asian Pacific Islander American Public Affairs (APAPA)	Asian Heritage Celebration

Council Member	Date of Meeting or Event	Committee or Organization	Meeting or Event Type (ex. board meeting or ribbon cutting)	Summary of Meeting or Event
Council Member Kiick	4/16/2024	Las Positas College	Ribbon-cutting	Ribbon-cutting and tour of the new Public Safety and Advanced Manufacturing Facility.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 10.2**

DATE: May 13, 2024

TO: Honorable Mayor and City Council

FROM: Marianna Marysheva, City Manager

SUBJECT: Supplemental materials received at the meeting.

RECOMMENDED ACTION

SUMMARY

DISCUSSION

ATTACHMENTS

1. Items Received at the Meeting

Prepared by: Helena Graves
Deputy City Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

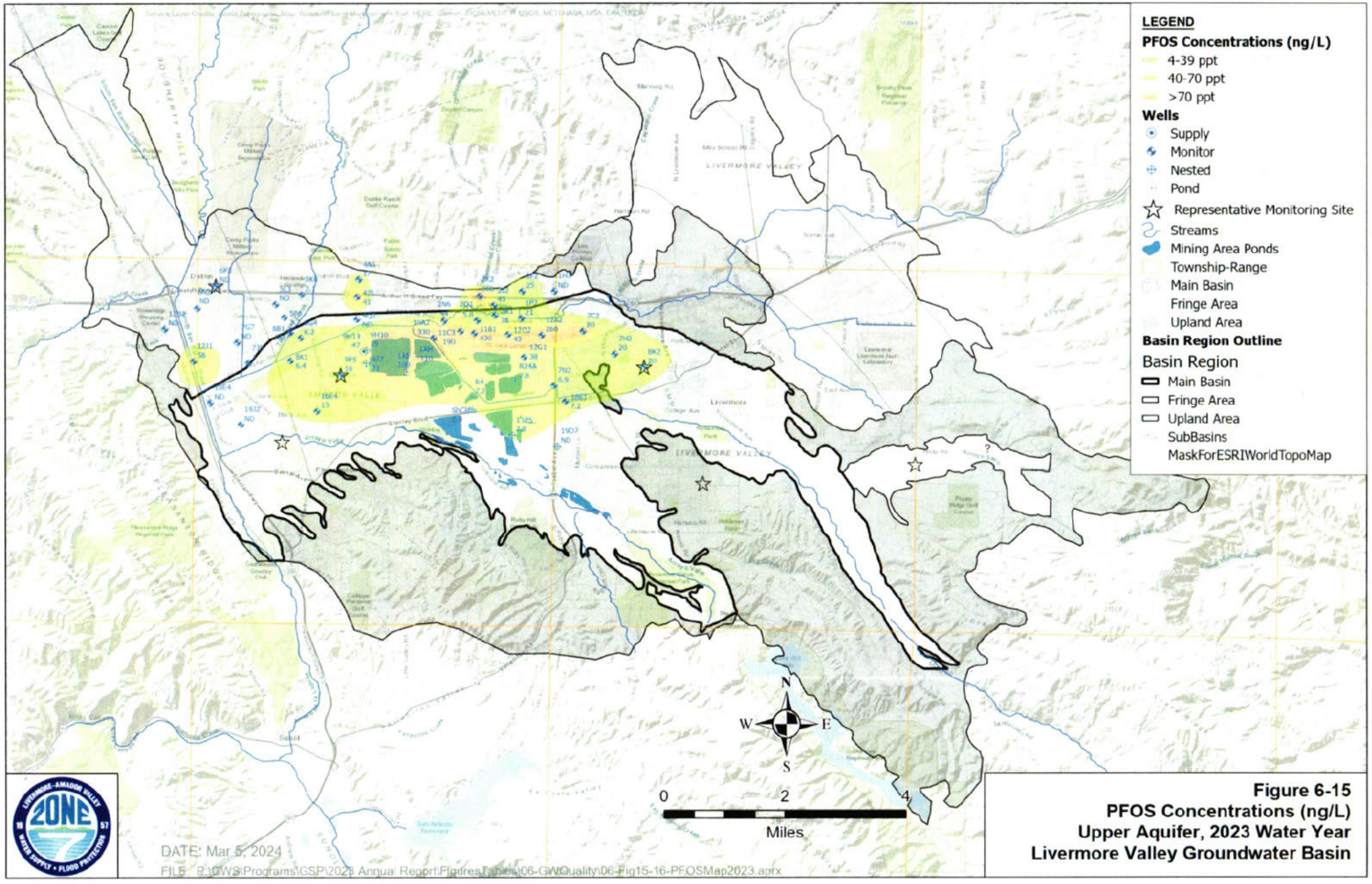


Figure 6-15
PFOS Concentrations (ng/L)
Upper Aquifer, 2023 Water Year
Livermore Valley Groundwater Basin

Received at the Livermore City Council meeting of:
May 13, 2024

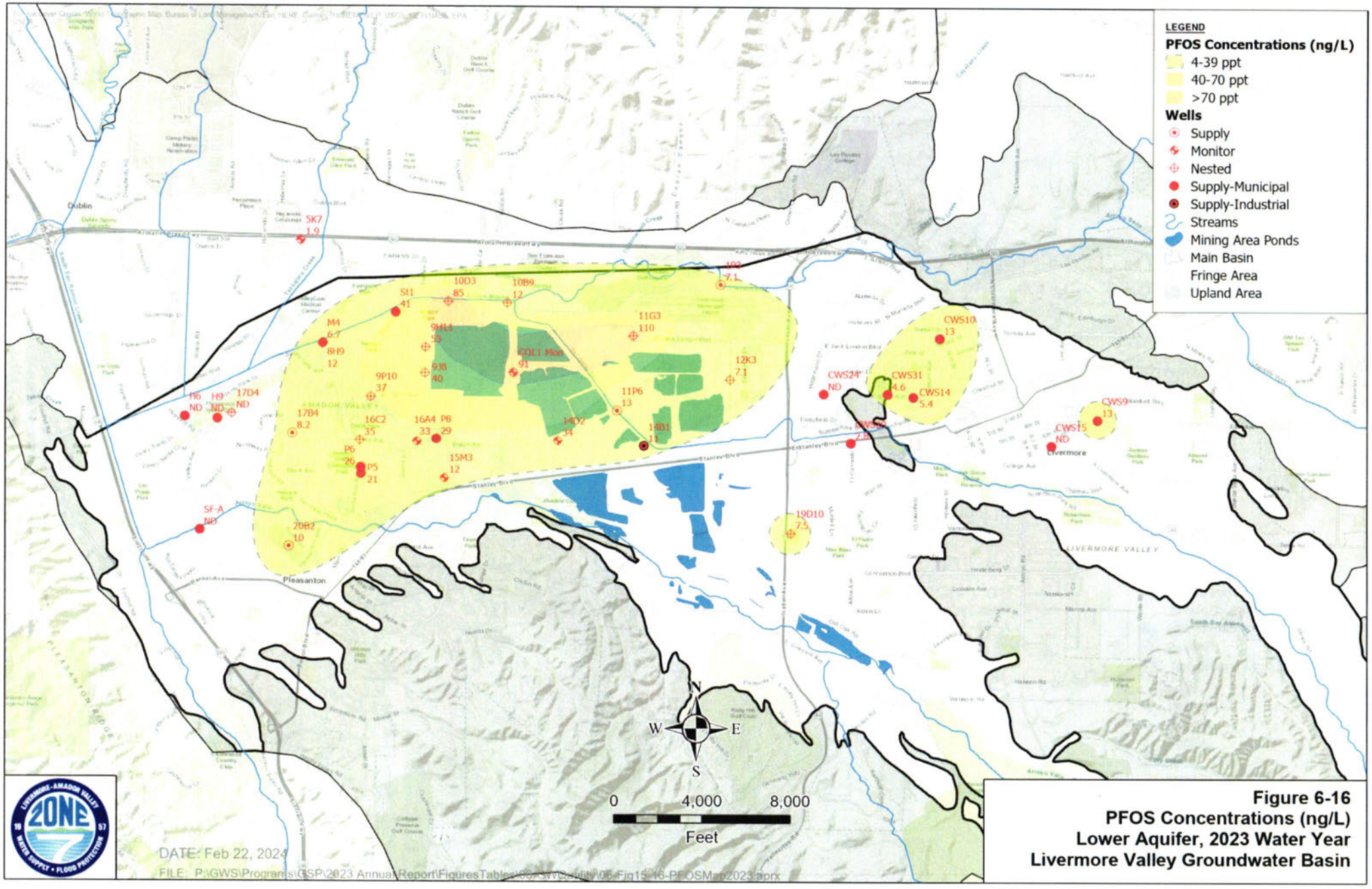


Figure 6-16
PFOS Concentrations (ng/L)
Lower Aquifer, 2023 Water Year
Livermore Valley Groundwater Basin

3.3.16 Carpet and Upholstery Manufacturing/Stain Resistant Treatment Facilities

Scotchguard was invented in 1953 and was introduced to consumers in 1967 (3M Company, 2002). Use of Scotchguard and other PFAS-containing stain protectants for preventing stains on upholstery and carpet has been common for many decades since that time. Carpet and upholstery cleaners often offer stain protection services in conjunction with steam cleaning services (Department of Ecology State of Washington, 2018). Seventy-six carpet and/or upholstery cleaning companies were identified within the study area; however, no carpet manufacturing facilities were identified. It is not anticipated that carpet and upholstery cleaning activities would be a significant source of PFAS to the environment.

3.3.17 Manufacturing of Food Packaging, Coated Paper, and Cookware

PFAS have been used in non-stick cookware, food packaging, and other coated papers where their chemical properties were used to repel oil and grease (Department of Ecology State of Washington, 2018). Two facilities related to food packaging, coated paper, and cookware were identified within the study area; however, the facilities were listed as nongenerators in the EDR Report and do not appear to manufacture goods. Therefore, releases from these types of activities are not considered likely sources of PFAS detected in the area.

4. Summary of Findings and Recommendations

This section presents a summary of the findings from the Potential PFAS Source Investigation performed on behalf of Zone 7. Recommendations for future work to delineate the extent of PFAS in groundwater and more in-depth study of the most probable potential sources are also presented below.

4.1 Summary of Findings

The purpose of the Project was to review existing PFAS results and other hydrogeologic data to evaluate the distribution of PFAS in groundwater and simultaneously identify potential PFAS sources. Based on recent sample analyses, PFAS compounds have been detected in 12 groundwater production wells in Zone 7's service area and have exceeded DDW NLs and RLs for PFOS in 12 and 5 wells, respectively. Currently, Zone 7 has blended groundwater and surface water sources to meet PFAS drinking water standards. The following summarizes the findings of the data review and identification of potential PFAS sources.

4.1.1 Review of Groundwater Conditions and Distribution of PFAS

- **Local Hydrogeology:** The two primary aquifers zones within the Main Basin are the Upper and Lower Aquifers. The two zones are separated by a silty clay aquitard that is presented on the geologic cross-sections included in Attachment A. Zone 7's municipal production wells produce from the Lower Aquifer and are located in the western portion of the Amador Subbasin and in the Bernal Subbasin.
- **Mining Area Activities:** Active gravel and sand mining takes place in the center of the Amador Subbasin. The pits are excavated down into the Upper Aquifer, and in some locations the Lower Aquifer, to recover materials. The active mine pits are dewatered and groundwater that is pumped during dewatering activities is conveyed to a series of nearby clay-lined lakes to settle out fines, and then is pumped to Cope Lake then conveyed to Lake I via a pipeline where it recharges groundwater.

Historically, the mining operations discharged to surface water under an NPDES permit to the Arroyo Mocho and Arroyo Valle.

- **Groundwater Flow Conditions:** Regionally, groundwater flow in the Main Basin is from east to west in both the Upper and Lower Aquifers. At nested well locations, groundwater elevations in the Upper Aquifer are typically higher than in the Lower Aquifer. In the Amador Subbasin near Lakes E and D, where dewatering is taking place, the difference in groundwater elevation between the two aquifers increases, lateral gradients steepen in each aquifer, and groundwater flow is toward the active mine pits. West of the mining area, horizontal and vertical gradients generally decrease in both aquifer units. Groundwater elevations in the Lower Aquifer show a slight mound surrounding Lake I where groundwater from dewatering is recharged, suggesting Lake I is hydraulically connected to the Lower Aquifer.
- **Distribution of PFAS Compounds:** PFAS compounds have been detected in 12 of the 14 municipal wells sampled. The PFOS concentration exceeded the NL in 12 wells, and the RL in 7 wells. A maximum PFOS concentration of 120 ng/L was detected in P8. The PFOA concentration exceeded the NL in five wells and has not exceeded the RL in a municipal well. A maximum PFOA concentration of 9.8 ng/L was detected in M1. There are four municipal wells in the Mocho wellfield with varying depths for the top of the perforated interval. PFOS concentrations are highest in M1 with the shallowest perforated interval, and lowest in M4 with the deepest perforated interval.

  Five additional PFAS compounds (PFBS, PFHpA, PFHxA, PFHxS, and PFNA) have been detected in municipal wells. Of these compounds, PFHxS is typically detected at the highest concentrations. These compounds are currently not regulated in drinking water. The maximum concentrations for these five compounds were observed in M1 or P8.

  The highest concentrations of PFOS and PFOA in the Upper Aquifer are generally observed in the areas surrounding and downgradient (west and south) of the Livermore Airport. PFOS, PFOA, and other PFAS compounds were typically detected together. Only unregulated PFAS were detected at two locations in the Camp Subbasin; both locations are in areas where treated effluent is applied for irrigation. Concentrations of PFOS and PFOA in the area upgradient (southeast) and downgradient (west) of the lakes are all below RLs.

  The highest concentrations of PFOS and most of the wells that exceeded the PFOS RL in the Lower Aquifer were observed downgradient of the Livermore Airport and surrounding Lakes H and I. Wells upgradient (east and south) of the depression of the potentiometric surface surrounding the mining area generally exhibited lower PFAS concentrations. West of the mining area in the Bernal Subbasin, PFAS are not detected in the Lower Aquifer.

  Five locations in the Deep Aquifer have been sampled for PFAS. The highest concentrations are observed south of the airport and north of the mining area, where PFOS and PFOA exceeded RLs. Concentrations generally decline downgradient to the west. PFAS were not detected at two locations upgradient (east) of the mining area.

  PFOS and PFOA were also detected in samples from Cope Lake, Lake H, and Lake I at concentrations ranging from 26 to 46 ng/L (PFOS) and 4.7 to 7.8 ng/L (PFOA). All of Zone 7's municipal wells with PFAS detections are located near or downgradient of these lakes. PFAS concentrations in many of the impacted municipal wells are comparable to the concentrations observed in Lake I.

- **Vertical Distribution of PFAS Compounds in Nested Wells:** The vertical distribution of PFAS in nested wells could be related to activities in the mining area. Dewatering activities, currently in the eastern portion of the mining area, create large depressions in the potentiometric surfaces near the active pits and have significant influence on groundwater flow direction in the Upper and Lower Aquifers. Lake E is just south of the area where the highest concentrations of PFAS are observed in the Upper Aquifer. Dewatering from this pit could cause vertical migration of PFAS to deeper portions of the aquifer. In addition, this water is clarified and routed to Lake I for recharge. The concentrations of PFOS in Lake I, which exceed response levels, could be receiving a contribution of PFAS due to discharges from mine dewatering. Review of the groundwater elevation contours for the Lower Aquifer show mounding conditions beneath Lake I, suggesting the lake may recharge both the Upper and Lower Aquifers. Historically, dewatering activities have presumably moved throughout the mining area as pits are retired and new pits are developed. These spatial and temporal changes in the lateral and vertical gradients would influence PFAS migration and potentially result in a complex redistribution of PFAS in groundwater.

4.1.2 Potential PFAS Sources

Possible PFAS use locations were identified based on web-based review of publicly available information, including an EDR Report for the 23-square-mile area shown on Figure 6. No formal interviews were conducted; however, telephone calls were placed to fire stations and fire training providers to gather information on potential uses of PFAS-containing materials and training procedures. Materials inventories were not requested or reviewed from any of the potential sources identified. Possible PFAS use areas were evaluated for 17 different types of sites. Figure 19 shows the facilities that were identified within a 0.5-mile radius of municipal wells where PFOS has been detected at concentrations that exceed the RL of 40 ng/L or monitoring wells where PFOS has been detected at concentrations that exceed 100 ng/L. Facilities in this area or upgradient of this area are considered to be more likely sources of PFAS detected in regional groundwater. Below is a summary of each type of site evaluated, the relative ranking as a potential source or contributor of PFAS to regional groundwater, and details on specific facilities that are likely sources or should be prioritized for additional evaluation.

1) **Fires and Emergency Response with Possible Use of Class B Firefighting Foams (Medium):** A search of the emergency response notification system, fire incident reports, the Alameda County office of emergency, and through the California SPILLS and HAZMAT databases was conducted to identify fires where Class B firefighting foam or AFFF agents may have been used during emergency incidents. Six incidents were identified in or near the search area. While PFAS-containing foams could have been used to extinguish fuel-related fires and could have been released to the environment, the descriptions for the incidents identified were not indicative of a large-scale release that could be the source of the regional PFAS plume.

2) **Use of Class B Firefighting Foams at Airports (High):** The highest concentrations of PFAS detected in the Upper Aquifer are in the area surrounding and downgradient of the Livermore Municipal Airport. The airport has operated in this location since 1965, and prior to that was located on the Former Navy Auxiliary Field 1 mile to the east. Due to the potential for historical releases related to these activities and the proximity to the high PFAS concentrations in shallow groundwater, the airport is considered a potential source.

Jacobs

3) **Fire Stations, Firefighter Training, and Fire Engine Maintenance Areas (High):** Staff from the LPFD and ACFD confirmed the use of Class A and Class B foams, and occasionally AFFF in firefighting activities. LPFD indicated the use of AFFF during training exercises was discontinued approximately 10 years ago; however, training is conducted at the LPFD Training Center for fuel-related and vehicle fires, where use of Class B foams is common. The Las Positas College Regional Firefighter Academy is located upgradient of the highest concentrations of PFAS in the Upper Aquifer. Staff indicated that no foams were currently used during training on campus; however, they were uncertain of historical training practices. The sites that represent potential sources and the highest priority sites for additional inquiry include LPFD Station 3, which is just north of the Mocho wellfield; LPFD Station 10, located on Livermore Municipal Airport; LPFD Training Center, just east of Pleasanton 8; and Las Positas College Regional Firefighter Academy.

4) **Landfills and Solid Waste Disposal Sites (High):** Three landfills or solid waste disposal sites were identified. The Pleasanton Garbage Service Transfer Station, located east of Pleasanton 8, does not dispose of waste onsite and is not considered a potential source. PFAS have been detected in downgradient monitoring wells at The Old Pleasanton Landfill. The PFAS compounds detected and their relative concentrations suggest the landfill is not the source of PFAS impacting municipal wells; however, there have been releases of PFAS to groundwater near the landfill. The downgradient extent of PFAS-impacted groundwater near the landfill is unknown and warrants additional investigation.

5) **Military Installations (High):** Three military installations were identified in or near the search area. The Former Livermore Navy Auxiliary Field is located east of the current airport and was the location of the original public airfield in the City of Livermore. The site was used by the military. Federal operations were discontinued after World War II and prior to commercialization of AFFF agents, and therefore military activities at the site are not considered to be a source of PFAS to the environment. The Camp Parks Military Reservation, which includes the Camp Parks Communication Annex, is located northwest (upgradient) of the search area. There are a number of environmental cleanup sites on Camp Parks, including sites related to waste disposal, burn sites, and fire training areas, which are consistent with activities that could have released PFAS to the environment. Based on review of documents for these cases, there has not been any past or planned groundwater characterization of PFAS at Camp Parks. However, additional sampling in the vicinity of Camp Parks could assist in determining if PFAS may have been released at the site.

6) **Chromium Plating Shops (Medium):** Five plating facilities were identified in the search area, including one west of the mining area in Livermore, one northeast of the airport and upgradient of the high concentrations of PFAS in the Upper Aquifer, and three south of the City of Pleasanton municipal wells. Two of these facilities have cleanup cases with the RWQCB; however, the facilities are greater than 0.5 mile from municipal wells where PFOS exceeds the RL or monitoring wells where PFOS is greater than 100 ng/L (Figure 19). Groth Brothers Chevrolet in Livermore has an open cleanup case for petroleum-related fuel, oil, and lubricating products. The 76 Station in Pleasanton has a closed cleanup case for release of gasoline and waste oil. No PFAS data were available for either facility. No information was identified for the other three facilities that indicated releases from these sites. Additional sampling downgradient of these facilities, discussed in Section 4.2, will provide additional information regarding potential releases.

7) **Biosolids Land Application Sites and Water Reclamation Facilities (Medium):** The PFAS concentrations observed in the Upper Aquifer do not correlate to typical PFAS concentrations in recycled water, which are typically in the singles to tens of ppt. However, there are large areas in the

Zone 7 service area that are irrigated with recycled water that has not been treated with advanced treatment processes known to remove PFAS, and thus recycled water may be a potential contributing source of PFAS to groundwater. PFAS concentrations have been detected in biosolids generated at WWTPs. Therefore, there is a potential for treated biosolids that are injected in the ground to percolate into the soil and potentially impact groundwater.

8) **Spills of Fluorinated Dielectric Fluids from Transformers (Low):** No spills of novel fluorinated dielectric fluids from transformers were identified during the desktop evaluation.

9) **Cement and Aggregate Manufacturing (Medium):** Three cement batch plants were identified in the southern portion of the search area, one of which is located within 0.5 mile of Pleasanton 8. There are no documented releases from these facilities; however, due to their location near the mining area where there are ongoing dewatering and recharge activities, additional characterization near these facilities is warranted.

10) **Fire Protection System Installation Companies (Medium):** Two facilities that advertised installation of foam fire suppression systems were identified within the study area. While companies that install foam suppression systems could periodically manage PFAS-containing materials, there is no evidence of releases to the environment based on review of GeoTracker and EnviroStor databases.

11) **Manufacturing Facilities (Medium):** Forty-four sites classified as electronics manufacturers, metal finishing, composites, and semiconductor manufacturing were identified within the study area. A web-based review was conducted for facilities within a 0.5-mile radius of PFOS RL exceedances in municipal wells and concentrations greater than 100 ng/L in monitoring wells (Figure 19). While some of the manufacturing processes used in these facilities could include use of PFAS-containing materials, there is no evidence of releases to the environment based on review of GeoTracker and EnviroStor databases.

12) **Graphic Imaging and Painting (Low):** Five graphic imaging companies and one paint manufacturing site were identified within the study area. Review of EnviroStor and GeoTracker databases did not reveal any cleanup cases related to these facilities and none were permitted with WDRs to discharge wastewater; therefore, these sites are not considered a likely source of PFAS to regional groundwater.

13) **Car Washes, Auto Body Shops, and Vehicle Detailing Shops (Low):** Car wash facilities were identified throughout the search area; however, there is no evidence to indicate they are a significant source of PFAS.

14) **Stone Countertop Manufacturing and Storage Facilities (Low):** No countertop manufacturing and storage and sales facilities were identified during the desktop evaluation.

15) **Tank Farms and Other Areas with Possible Foam Fire Suppression Systems (Low):** No tank farms were identified during the desktop evaluation.

16) **Carpet and Upholstery Manufacturing/Stain Resistant Treatment Facilities (Low):** No carpet or upholstery manufacturing facilities were identified during the desktop evaluation.

17) **Manufacturing of Food Packaging, Coated Paper, and Cookware (Low):** Two facilities related to food packaging, coated paper, and cookware were identified within the study area; however, the facilities were listed as nongenerators in the EDR Report and do not appear to manufacture goods.

4.2 Recommendations

The following recommendations are offered for additional data collection efforts focused on understanding the nature, extent, fate, and transport of PFAS, and investigating potential sources of PFAS in the Zone 7 study area.

- In the data provided by Zone 7 for this evaluation, PFOS has been detected in approximately 80 percent of the monitoring wells that have been sampled for PFAS. Continued sampling of monitoring wells to better define the spatial and temporal distribution of PFAS in groundwater is recommended. In addition to the wells that have been sampled for PFAS, sampling of additional wells around the perimeter of the highest detections in the Upper Aquifer, in particular the areas upgradient of the airport and mining area, is recommended. Figures 20 and 21 show areas where additional sampling is recommended in the Upper Aquifer and Lower Aquifer, respectively. Table 8 summarizes the objectives of the sampling recommended for each of the areas shown on Figures 20 and 21.
- Sampling of existing monitoring wells is the first step recommended for delineating the lateral and vertical extent of PFAS in groundwater. However, based on the results of this initial sampling, this approach may need to be supplemented by installation of additional monitoring wells. In particular, there are not many existing monitoring wells near the LPFD Training Center. Because of the proximity of this fire training area to Pleasanton 8, where some of the highest concentrations of PFAS compounds have been detected in a municipal well, a comprehensive investigation of groundwater near this facility is recommended.
- Future samples submitted for PFAS analyses should be analyzed using EPA Method 533. A longer list of PFAS compounds is reported for this method as compared to EPA Method 537.1, which has been used for previous samples. Reporting of additional compounds, including fluorotelomer sulfonates, would assist in differentiating potential PFAS sources or retardation and/or precursor conversion pathways.
- In addition to sampling additional monitoring wells, sampling of the water extracted for mine dewatering from individual pits will assist in understanding the distribution of PFAS in the basin and could also present an opportunity to identify interim remediation strategies for addressing PFAS in groundwater prior to recharging in the Chain of Lakes. While mining activities are not considered a potential source of PFAS, dewatering activities are in close proximity to high PFAS concentrations, and lakes that are recharged by mine dewatering contain PFAS.
- Historically, water extracted during dewatering of the mine pits was discharged to the arroyos under NPDES permits. Since the water historically extracted during dewatering could have contained PFAS compounds, it is recommended that additional groundwater sampling be conducted from monitoring wells in the Upper Aquifer along Arroyo Mocho and Arroyo Valle to assess potential impacts from historical mine discharges. Samples in Areas 4 and 5 on Figure 20 will assist in evaluating this potential pathway of PFAS migration.

- Wastewater effluent, which commonly contains PFAS, is used extensively for irrigation in portions of Zone 7's service area. The treated wastewater effluent is provided by DSRSD and LWRP, and their current wastewater treatment processes are not designed for PFAS removal. We recommend working collaboratively with neighboring agencies to determine if land application of treated effluent could be contributing PFAS to groundwater. Analyzing the treated effluent that is used for irrigation throughout the Zone 7 service area for the potential presence of PFAS compounds will assist in evaluating this potential mechanism for PFAS impacts to groundwater. If PFAS compounds are present in the treated effluent, the concentrations and the particular compounds detected should be compared to the compounds that have been typically detected in regional groundwater samples collected to date.
- PFAS compounds were detected in monitoring wells downgradient of the Old Pleasanton Landfill. The PFAS detected and their relative concentrations differ from those observed in municipal wells and in regional groundwater. Sampling additional Upper and Lower Aquifer wells downgradient of the Old Pleasanton Landfill will assist in evaluating the landfill's contribution of PFAS to regional groundwater. Groundwater samples collected from monitoring wells in Area 4 and Area 7 on Figures 20 and 21, respectively, will assist in evaluating potential migration of PFAS from the Old Pleasanton Landfill.
- Zone 7 should start a dialogue with the Army and the lead regulatory agencies for cleanup activities at Camp Parks and request immediate development of a sampling plan to evaluate the potential that the installation has impacted drinking water supply wells.
- Additional outreach to conduct formal interviews or surveys of staff at the Livermore Municipal Airport, local fire departments, and the Las Positas College Regional Firefighter Academy is recommended. Activities should be focused on gathering additional information on historical and current foams used during firefighting and training, equipment testing practices, locations of hangars with foam fire suppression systems, and potential knowledge of other facilities in the area with foam fire suppression systems.

Livermore 11.08.010 Suggested improvements:

"Fuel" means any substance or means (solid, liquid, ~~or~~ gaseous, or electric) used to operate any engine in aircraft, e.g., avgas (leaded), avgas (unleaded), jet fuel, ~~ethanol-free premium auto fuel~~mogas, diesel, ~~and~~ biofuel, and any other alternative Fuel (e.g. ~~mogas and~~ hydrogen or electric charging) that are authorized by the FAA or aircraft manufacturer for use in an aircraft engine or, an aircraft engine/airframe combination, ~~and~~ including rotor wing aircraft. ~~either through an ASTM designation or a~~ These fuel authorizations for use may appear in aircraft type certificate data sheets, in Supplemental Type Certificates, or other aircraft manufacturer documentation. The fuel must ~~have an industry~~be produced and certified to meet a specification ~~standard~~ (via certificate of analysis) ~~detailing~~ which includes specific quality requirements. ~~for the quality and~~ Fuel handlers must observe standards for safe use of the fuel, ~~(i.e. ASTM), where the fuel is also accompanied by~~ include risk mitigation measures, ~~protection with established~~ and provide evidence of product liability coverage ~~provided by the manufacturer or distributor.~~ These fuels may also be used in vehicles or equipment, as appropriate and permitted. "Fuel handling" means the transportation, delivering, fueling, or drainage of fuel or fuel waste products.

Section Q. A full service Fixed Base Operator (FBO) must minimally provide the following aviation Fuel as required by this Code and by Section 2:General Requirements and Standards and Part 3: Fixed Base Operator (FBO) / Full Service as described in the Livermore Municipal Airport Minimum Standards for Commercial Aeronautical Activities.

1. Jet A
2. Avgas (Leaded)
3. Avgas (Unleaded)
4. Alternatively to both 2 & 3 (leaded and unleaded avgas) any high-octane unleaded aviation gasoline that that has been approved by the FAA for use in substantially all piston-powered engine aircraft.
5. Optionally, or as requested, any alternative fuel (e.g. ~~M~~mogas, ~~and~~ hydrogen, or electric charging) as described in this Code in section 11.080.010, Definitions and as described in Part 1, Definitions of the Minimum Standards for Commercial Aeronautical Activity for Livermore Airport."

Received at the Livermore City Council meeting of:
May 13, 2024

Paul Millner

[redacted]

[redacted]

City Council Meeting Speech 5-13-2024
Felicia Ziomek, Livermore

Hello Mayor, City Council and City Staff. Thank you for initiating the ordinance amending the Airport rules & regulations to require the Fixed Base Operator to provide unleaded aviation fuel by Dec. 2025, over 1 ½ years from now. However, the provision of unleaded fuel needs to occur quicker. And it can.

Under the STC process, the FAA issued a Supplemental Type Certificate (STC) in September 2022 to GAMI for a 100 Octane unleaded fuel (G100UL) for general aviation aircraft. The FAA Supplemental Type Certificate (STC) does not require an ASTM designation. A link to the FAA website that includes this reference is in the comments I'm providing today. Please confirm that GAMI 100UL meets the requirement in the amendment you're addressing today. And if it is NOT included, please amend your ordinance wording to allow GAMI 100UL to be sold, since the FAA has approved its use in general aviation aircraft.

The current raw material cost for G100UL Avgas is about $1 more per gallon than for 100LL, and both depend on the cost of crude oil. As with 100LL, there's added cost from shipping, which depends on the distance. However, this increased cost is offset by lower maintenance costs of the engines (no lead build-up on the spark plugs and pistons), no requirements to change out the airport fuel storage tanks nor to make any modifications to the airplane engines in order to use G100UL Avgas. Eventual higher demand and larger production batches should further reduce the cost to the aircraft operators.

I support Mr. Millner's proposed ordinance language improvements. The Council should delay voting on approving the ordinance to give Staff time to meet with Mr. Milner to discuss more appropriate language for the ordinance so GAMI 100UL can be included in the unleaded fuel usage language.

During the last City Council meeting, it was mentioned that 2/3 of the fuel sold at Livermore Airport is unleaded. That's true, but the current unleaded fuel is only used in jets. The current unleaded fuel can't be used in the 457 non-jet-based aircraft at LVK; they must use leaded fuel. And in the 12 months ending Feb. 29th, there were just over 300,000 gallons of leaded fuel sold. Just imagine the decreased lead exposure to area residents and airport employees when aviation fuel sale transitions to unleaded fuel.
Thank you.

Link to the FAA issuance of a Supplemental Type Certificate (STC) to GAMI reference information above: https://www.faa.gov/unleaded

Received at the Livermore City Council meeting of:
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