CITY COUNCIL

AGENDA
MONDAY, SEPTEMBER 12, 2022

REGULAR HYBRID MEETING – 7:00 PM

SUMMER READING AWARDS - 6:30 PM
CLOSED SESSION WILL TAKE PLACE AT THE END OF THE REGULAR MEETING

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

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

TELECONFERENCE INFORMATION:
ZOOM WEBINAR:
ATTENTION: Zoom update requirements found at the bottom of the agenda
https://us02web.zoom.us/j/88614232986

Zoom dial in phone number:
1 669 900 6833
Meeting ID: 886 1423 2986

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

Bob Woerner, Mayor
Regina Bonanno, Vice Mayor
Robert W Carling, Council Member
Brittni Kiick, Council Member
Trish Munro, Council Member

LIBRARY SUMMER READING AWARDS - 6:30 pm

1. CALL TO ORDER

ROLL CALL

Council Member Robert W. Carling
Council Member Brittni Kiick
Council Member Trish Munro
Vice Mayor Regina Bonanno
Mayor Bob Woerner

PLEDGE OF ALLEGIANCE

2. PROCLAMATIONS AND PRESENTATIONS

2.1 Proclamation declaring September 18 - 24, 2022 as Pollution Prevention Week presented to Jennifer Peet, Acting Source Control Coordinator with the City of Livermore.

Recommendation:
Staff recommends City Council proclaim September 18 - 24, 2022 as Pollution Prevention Week.

Staff Report
Attachments:
1. Proclamation

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

Recommendation:
Staff recommends City Council accept the Livermore Housing Authority annual update.

Staff Report

3. CITIZENS FORUM

- In conformance with the Brown Act, no City Council action can occur on items presented during Citizens 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.
- To provide public comment virtually, please log into Zoom and use the 'raise hand' feature.
- 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.
- Citizens Forum will conclude after 30 minutes; however, if there are additional speakers, Citizens Forum will reconvene before the meeting adjourns.

4. 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 if in person or use the 'raise hand' feature if participating using Zoom.

4.1 Approval of draft minutes - July 11, 2022 Regular Meeting.

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

Staff Report
Attachments:
1. 2022-07-11 Draft Minutes

4.2 **Adoption of an Ordinance** revising Municipal Code Chapter 1.28 related to the Conflict of Interest Code - Biennial Notice to add/remove positions as appropriate.

Recommendation:
Staff recommends the City Council **adopt an ordinance** revising Municipal Code Chapter 1.28, Conflict of Interest Code, to add or remove positions to align with updates to the City's salary schedule.

Staff Report
Attachments:
1. Redlined 2022 Conflict of Interest Code
2. Ordinance
3. Exhibit A - 2022 Conflict of Interest Code Final

4.3 Resolution authorizing acceptance for permanent maintenance and release of the security bonds and execution of a Notice of Completion for the Water Reclamation Plant Emergency Generator Project 2015-22.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the acceptance for permanent maintenance and release of the security bonds for the Water Reclamation Plant Emergency Generator Project 2015-22.

The City Manager is authorized to sign the Notice of Completion, a copy of which is attached as Exhibit A and incorporated by this reference.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Notice of Completion

4.4 Resolution authorizing the City Manager to execute a Second Amendment to the agreement with JR Structural Engineering, Inc. for downtown core project management services increasing the not-to-exceed contract amount from $685,000 to $910,000 and extending the term of the agreement.

Recommendation:
Staff recommends City Council adopt a resolution authorizing the City Manager to execute the

Second Amendment to the agreement with JR Structural Engineering, Inc. increasing the not-to-exceed contract amount from $685,000 to $910,000 and extending the term of the agreement to December 31, 2024, for downtown core project management services.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Second Amendment to Professional Services Agreement with JR Structural, Inc.

4.5 Resolution authorizing execution of an agreement with Black & Veatch Corporation to provide engineering design and construction support services for the Water Reclamation Plant (WRP) Ultraviolet (UV) Treatment System Replacement, Project 2021-28, in an amount not-to-exceed $951,816.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute an engineering services agreement with Black & Veatch Corporation, to provide engineering design services and engineering support services during construction of the WRP UV Treatment System Replacement, Project 2021-28, in the not-to-exceed amount of $951,816.

Staff Report
Attachments:
1. Project Location
2. Resolution
3. Exhibit A - Agreement with Black & Veatch Corporation

4.6 Resolution authorizing execution of an agreement with 4 LEAF, Inc. to provide construction inspection services at the Water Reclamation Plant (WRP) in an amount not-to-exceed $546,000, as part of the Capital Improvement Project "WRP Primary and Secondary Treatment Improvements Project 2019-31".

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute an agreement with 4 LEAF, Inc., to provide inspection services during construction at the Water Reclamation Plant, in the not-to-exceed amount of $546,000, as part of the Capital Improvement Project "WRP Primary and Secondary Treatment Improvements Project 2019-31".

Staff Report
Attachments:
1. Site Plan with Scope Elements Highlighted
2. Resolution
3. Exhibit A - Agreement with 4 LEAF, Inc.

4.7 Resolution authorizing execution of an agreement with Raney Planning and Management, Inc., to provide professional environmental consulting services for the annexation and development of new light industrial/business park uses located at Surface Mining Permits 39 and 40 (located south of Jack London Boulevard and west of Isabel Avenue), in an amount

not-to-exceed $202,048.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the execution of an agreement with Raney Planning and Management, Inc. to provide professional environmental consulting services for the annexation and development of new light industrial/business park uses located at Surface Mining Permits 39 and 40 (located south of Jack London Boulevard and west of Isabel Avenue), in an amount not-to-exceed $202,048.

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

4.8 Resolution authorizing two Purchase and Sale Agreements with Trumark Homes, for the sale of conservation easements on City-owned properties in the Springtown area and Doolan Canyon, for approximately $4 million, and authorizing an agreement with WRA, Inc. for technical assistance and peer review of mitigation materials in an amount not-to-exceed $109,000.

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

1. Execute a Purchase and Sale Agreement with Trumark Homes for the sale of an approximately 200-acre conservation easement on City-owned property known as the Springtown Open Space Preserve and all related transaction documents, and non-substantive changes, including extensions.
2. Execute a Purchase and Sale Agreement with Trumark Homes for the sale of an approximately 133-acre conservation easement and authorizing riparian restoration activities on City-owned property known as Doolan Canyon North, and all related transaction documents and non-substantive changes, including extensions.
3. Execute an agreement with WRA, Inc., for technical assistance and peer review of mitigation materials including conservation easements, mitigation and management plans, and endowment agreements in an amount not-to-exceed $109,000.
4. Establish a special fund dedicated to the City's infrastructure, which is in line with one of the City's strategic priorities (asset management), to hold the approximately $4 million proceeds from the sale of Conservation Easements.
5. Establish an endowment fund pursuant to the terms of the Agreements for the long term management, monitoring, and maintenance of the Conservation Easements.

Staff Report
Attachments:
1. Springtown Property and Mitigation Boundary Map
2. Doolan Property and Mitigation Boundary Map
3. Trumark Homes Residential Project Site
4. Resolution
5. Exhibit A - Springtown Purchase and Sale Agreement

6. Exhibit B - Doolan Canyon Purchase and Sale Agreement
7. Exhibit C - Professional Services Agreement

4.9 Resolution authorizing execution of a license agreement with East Bay Community Energy Authority, a Joint Power Authority, for installing, operating, and maintaining Level 3 electric vehicle chargers in the downtown.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a license agreement with East Bay Community Energy Authority, a Joint Power Authority, for installing, operating, and maintaining Level 3 electric vehicle chargers that will serve thirty-two parking spaces on the City of Livermore's L Street Garage property at no cost to the City.

Staff Report
Attachments:
1. EBCE Location Map
2. Resolution
3. Exhibit A - Charging Station License Agreement

4.10 Resolution approving revised appropriations in FY 2022-23, to fourteen projects in the 2021-23 Capital Improvement Plan.

Recommendation:
Staff recommends the City Council adopt a resolution approving revised appropriations in FY 2022-23, to various projects in the 2021-23 Capital Improvement Plan.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - CIP Budget Appropriation Requests

4.11 Resolution authorizing the City Manager to execute, on behalf of Livermore-Pleasanton Fire Department Joint Powers Authority (LPFD JPA), a Purchase Order with Bauer Compressors, Inc. for 125 Self-Contained Breathing Apparatus (SCBA) and related equipment in an amount not-to-exceed $1,430,563.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute, on behalf of LPFD, and in her capacity as the Executive Director for LPFD, a Purchase Order with Bauer Compressors, Inc. for the replacement of 125 Self-Contained Breathing Apparatus (SCBA) in an amount not-to-exceed $1,430,563.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Bauer SCBA Pricing Quote
3. Exhibit B - MSA HGAC Cooperative Contract No. EE08-19

4. Exhibit C - Bauer Compressor- HGAC Contract Extension Contract No. EE08-19

4.12 Resolution authorizing execution of an agreement with CityServe of the Tri-Valley to provide crisis stabilization and intervention services to unsheltered Livermore residents in an amount not-to-exceed $134,000.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing execution of an agreement with CityServe of the Tri-Valley to provide crisis stabilization and intervention services to unsheltered Livermore residents in an amount not-to-exceed $134,000 for the period of July 1, 2022, to June 30, 2023.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Agreement with CityServe of the Tri-Valley

4.13 Resolution authorizing execution of a standard agreement with the State of California to receive $581,440 from the Family Homelessness Challenge Grant, appropriating the grant funds for award to the Livermore Housing Authority to support unhoused families, and authorizing the City Manager to negotiate a subrecipient agreement between the City and the Livermore Housing Authority for the grant funds.

Recommendation:
Staff recommends the City Council adopt a resolution:

1. Authorizing the City Manager to execute the Standard Agreement between the City of Livermore and the State of California to secure the Family Homelessness Challenge Grant;
2. Appropriating up to $581,440 in Family Homelessness Challenge Grant funds to the Livermore Housing Authority for a grant to implement the Project; and
3. Authorizing the City Manager, or her designee, to negotiate, develop, and execute all documents related to the issuance of Family Homelessness Challenge Grant funds, including a subrecipient agreement with the Livermore Housing Authority, and authorizing the City Manager to take the actions necessary to carry out the purpose and intent of this resolution.

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

4.14 Resolution authorizing execution of an agreement with Meeder Public Funds, Inc. for investment management services in an amount not-to-exceed $330,000.

Recommendation:
Staff recommends that the City Council authorize the City Manager to execute a five-year agreement with Meeder Public Funds, Inc. (Meeder) for investment management services in an amount not-to-exceed $330,000.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Meeder Public Funds, Inc Agreement

4.15 Resolution reauthorizing remote or hybrid teleconference meetings for City of Livermore's legislative bodies in accordance with Assembly Bill 361

Recommendation:
Staff recommends City Council adopt a resolution reauthorizing remote or hybrid teleconference meetings for City of Livermore's legislative bodies in accordance with Assembly Bill 361.

Staff Report
Attachments:
1. Resolution

5. PUBLIC HEARINGS - NONE.

6. MATTERS FOR CONSIDERATION

6.1 Discussion and direction regarding Comprehensive General Plan Update – Draft Land Use Alternatives

Recommendation:
Staff recommends the City Council review the Draft Land Use Alternatives for each of the specific focus areas, receive a presentation from staff, affirm that the draft land use alternatives represent an adequate range and mix of land use types, and direct staff to evaluate the alternatives for the General Plan Update.

Staff Report
Attachments:
1. Citywide Focus Area Map
2. General Plan Draft Land Use Alternative
3. Land Use Place Types Menu
4. Planning Commission and GPAC Feedback Summary

6.2 Resolution approving, authorizing, and directing a lease financing of the L Street parking garage (Livermore Village parking garage) and related improvements, the sale of Certificates of Participation, the distribution of a preliminary and final official statement, and granting to the Mayor, City Manager, Administrative Services Director, City Attorney, or designee the authority to approve the related documents and actions.

Recommendation:
Staff recommends the City Council adopt a resolution:

1. Approving the forms of and authorizing the execution and delivery of a Site Lease,

Lease Agreement, Trust Agreement, and a Continuing Disclosure Agreement in connection with the offering and sale of the City of Livermore 2022 Certificates of Participation for the L Street parking garage project (Livermore Village Development) and authorizing the distribution of a Preliminary Official Statement and a Notice of Sale in connection therewith, and authorizing execution of necessary documents, certificates, and certain other related actions; and

2. Granting to the Mayor, City Manager, Administrative Services Director, City Attorney, or designee the authority to amend and execute documents, determine appropriateness of bond terms and conditions, and to carry out, give effect to, and comply with the terms and intent of the resolution.

Staff Report

Attachments:

1. Sources and Uses Table
2. Resolution
3. Exhibit A - Government Code Section 5852 disclosure
4. Exhibit B - Property Lease
5. Exhibit C - Lease Agreement
6. Exhibit D - Trust Agreement
7. Exhibit E - Preliminary Official Statement
8. Exhibit F - Notice of Sale

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

8. CLOSED SESSION

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

8.1 Conference with Legal Counsel - Existing Litigation. To meet with legal counsel pursuant to Government Code section 54956.9(d)(1) to discuss litigation that has been formally initiated. (One case)

1. Save the Hill Group v. City of Livermore, et al., Alameda County Superior Court Case No. RG19020186, First Appellate District Case No. A161573; and

8.2 Conference with Legal Counsel - Existing Litigation. To meet with legal counsel pursuant to Government Code section 54956.9(d)(1) to discuss litigation that has been formally initiated. (One case)

1. Conner v. Livermore, et al., Alameda County Superior Court Case No. RG19014344

REPORT OF ACTION TAKEN IN CLOSED SESSION

9. ADJOURNMENT

To a Regular City Council meeting on Monday, September 26, 2022 at 7:00 pm, Civic Center

Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue and virtually using Zoom.

10. SUPPLEMENTAL MATERIALS

10.1 Supplemental materials received prior to the meeting.

Staff Report

Attachments:

1. Supplemental Materials.pdf

11. HOW TO PARTICIPATE IN YOUR CITY COUNCIL MEETING

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

Citizens 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. To submit a comment using Zoom, you may use the 'raise hand' feature when the item begins. 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. To submit a comment using Zoom, you may use the 'raise hand' feature as soon as the item begins.

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 in person, 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. To submit a comment using Zoom, you may use the 'raise hand' feature. 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

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

Zoom Webinar: https://us02web.zoom.us/j/88614232986
It is recommended residents use updated software to successfully join and participate in a meeting. Outdated versions may limit functionality and you may not be able to provide a public comment virtually. To download the most current version, visit zoom.us/download.

Zoom dial in phone number: 1 669 900 6833
Meeting ID: 886 1423 2986

If you would like to deliver written materials to the City Council as part of your public comments, and are commenting in person, please provide 10 copies to the City Clerk with your speaker card. If you are commenting using Zoom, the speaker must identify that intent in his or her comment and immediately email the materials to the City Clerk at cityclerk@LivermoreCA.gov.

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://cityoflivermore.net/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://cityoflivermore.net/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. 2.1**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Scott Lanphier, Public Works Director

SUBJECT: Proclamation declaring September 18 - 24, 2022 as Pollution Prevention Week presented to Jennifer Peet, Acting Source Control Coordinator with the City of Livermore.

RECOMMENDED ACTION

Staff recommends City Council proclaim September 18 - 24, 2022 as Pollution Prevention Week.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Proclamation

Prepared by: Natalie Croak
Water Resources Communications Representative

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Proclamation

of the
City of Livermore

Proclaiming

POLLUTION PREVENTION WEEK

September 18 – 24, 2022

WHEREAS, *the City of Livermore takes great pride in protecting and maintaining its landscapes, watersheds, and natural resources; and*

WHEREAS, *pollution in the form of trash and debris, chemicals from industry and everyday living, and sediment from construction and some land uses have the potential to degrade the quality of life and the quality of resources within Livermore's watersheds; and*

WHEREAS, *the City of Livermore Water Resources Division supports programs to reduce pollution, increase the environmental quality of our watersheds, and provide our community with the knowledge to be effective environmental stewards; and*

WHEREAS, *the City of Livermore recognizes the 32nd anniversary of the Pollution Prevention Act of 1990, where Congress declared it to be a national policy of the United States of America that pollution should be prevented or reduced at the source whenever feasible; and*

WHEREAS, *the third week of September is nationally recognized as Pollution Prevention Week, and is an opportunity for the City of Livermore to join forces with business, industry, environmental groups, community organizations, and the citizens of Livermore to ensure a prosperous and sustainable future;*

NOW, THEREFORE, *the City Council of the City of Livermore proclaims the week of September 18 – 24, 2022 as Pollution Prevention Week, and urges all community members and businesses to reduce, reuse, and recycle; only let rain flow down storm drains; conserve water; prevent sewer overflows by not putting fats, oils, or grease down drains or flushing disposable wipes; and pick up litter in our community.*

Mayor Bob Woerner

Vice Mayor Gina Bonanno

Council Member Robert W. Carling

Council Member Brittni Kiick

Council Member Patricia K. Munro

CORPORATE SEAL OF THE CITY OF LIVERMORE, CA.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 2.2**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Livermore Housing Authority annual update presented by Executive Director Sarah Ramler.

RECOMMENDED ACTION

Staff recommends City Council accept the Livermore Housing Authority annual update.

SUMMARY

DISCUSSION

ATTACHMENTS

Prepared by: Debbie Elam
Deputy City Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.1**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Approval of draft minutes - July 11, 2022 Regular Meeting.

RECOMMENDED ACTION

Staff recommends the City Council approve the draft minutes.

SUMMARY

DISCUSSION

ATTACHMENTS

1. 2022-07-11 Draft Minutes

Prepared by: Marie Weber
City Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

MEETING MINUTES

LIVERMORE
CALIFORNIA

CITY COUNCIL
JULY 11, 2022

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1. CLOSED SESSION - NONE

REGULAR MEETING

2. CALL TO ORDER – The meeting of the City Council was called to order by Mayor Bob Woerner at 7:00 pm, held via teleconference using Zoom and YouTube.

ROLL CALL – Present: Mayor Bob Woerner, Vice Mayor Regina Bonanno and Council Members Robert W. Carling, Brittni Kiick and Trish Munro.

PLEDGE OF ALLEGIANCE

3. PROCLAMATIONS AND PRESENTATIONS

3.1 Update on Drought, Water Conservation and New State Restrictions

Recommendation: Staff recommended the City Council receive an update on the current drought situation, the City's response and new State watering restrictions.

Water Resources Division Manager Anthony Smith presented the update.

The City Council received the update.

4. CITIZENS FORUM

Mayor Woerner opened the public comment period.

John Freeman, California Water Services provided comment.

Rob Seeley, California Water Services provided comment.

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

5. CONSENT CALENDAR

Mayor Woerner opened the public comment period.

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

ON THE MOTION OF VM BONANNO, SECONDED BY CM MUNRO, AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL APPROVED THE CONSENT CALENDAR.

5.1 Approval of draft minutes - June 13, 2022 Regular Meeting.

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

5.2 Resolution 2022-116 authorizing execution of an agreement with Bartel Associates, LLC for required actuarial consulting services in an amount not-to-exceed $107,000.

Recommendation: Staff recommended that City Council authorize the City Manager to execute a five-year agreement with Bartel Associates, LLC (Bartel) for required actuarial services in an amount not-to-exceed $107,000.

5.3 Resolution 2022-117 extending Downtown Design Review 18-006 to December 31, 2022 and awarding and authorizing execution of an agreement with WestCal Design and Build, Inc. for construction of the Livermore Village Parking Garage Construction, Phase 1: Trash Enclosure & Surface Lot Project No. 586003, in an amount not-to-exceed $1,520,000.

Recommendation: Staff recommended the City Council adopt a resolution:
1. Extending Downtown Design Review 18-006 for the Livermore Village Parking Garage Construction Project 586003 to December 31, 2022, due to the 2018 Referendum and COVID-19 pandemic in accordance with Livermore Development Code Section 9.12.070; and
2. Awarding a construction contract with WestCal Design and Build, Inc. and authorizing the City Manager to sign on behalf of the City of Livermore, an agreement for construction of the Livermore Village Parking Garage Construction, Phase 1: Trash Enclosure & Surface Lot Project No. 586003, in an amount not-to-exceed $1,520,000;

5.4 Resolution 2022-118 authorizing the budgeted expenditure of $179,190 for local cable programming services by Tri-Valley Community Television for Fiscal Year 2022-23.

Recommendation: Staff recommended the City Council adopt a resolution authorizing the budgeted General Fund expenditure of $179,190 for Tri-Valley Community Television operating funds for Fiscal Year 2022-23.

5.5 Resolution 2022-119 approving the City of Livermore's Title VI Program and Implementation Plan and authorizing staff to amend the Plan annually to comply with federal anti-discrimination regulations pursuant to Title VI of the Civil Rights Act of 1964.

Recommendation: Staff recommended the City Council adopt a resolution approving the City of Livermore's Title VI Program and Implementation Plan (Plan) and authorizing staff to amend the Plan annually to comply with federal regulations.

5.6 Resolution 2022-120 accepting the Single Audit Report of federal funding provided to the City for the Fiscal Year Ended June 30, 2021.

Recommendation: Staff recommended the City Council adopt a resolution accepting the Single Audit Report of federal funding provided to the City for Fiscal Year 2020-21.

5.7 Resolution 2022-121 of a continued local emergency and reauthorizing remote or hybrid teleconference meetings for City of Livermore's legislative bodies in accordance with Assembly Bill 361

Recommendation: Staff recommends City Council adopt a resolution of a continued local emergency and reauthorizing remote or hybrid teleconference meetings for City of Livermore's legislative bodies in accordance with Assembly Bill 361.

6. PUBLIC HEARINGS

6.1 Hearing to receive and consider protests related to delinquent service fees to Livermore Sanitation for solid waste, recycling, and organics handling services and adopting a resolution confirming assessments for collection on the County assessor tax roll.

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

services;
2. Adopt a resolution overruling protests and confirm the 2022 assessments if applicable; and
3. Direct staff to forward a finalized copy of the assessment report to the County Tax Assessor.

Recycling Specialist Marisa Gan presented the staff report.

Mayor Woerner opened the public hearing.

There were no speakers and the hearing was closed.

ON THE MOTION OF CM CARLING, SECONDED BY CM KIICK AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL ADOPTED THE FOLLOWING RESOLUTION:

Resolution 2022-122 considering and overruling objections and protests related to delinquent service fees to Livermore Sanitation and confirming assessments for collection on the County assessor tax roll.

6.2 Hearing to receive and consider protests related to the non-payment of sewer service provided by the City of Livermore as of June 30, 2022 and adopting a resolution confirming assessments for collection on the County assessor tax roll.

Recommendation: Staff recommended the City Council consider protests, adopt a resolution overruling protests, and direct staff to forward a finalized copy of the assessment list to the County Tax Assessor**.**

Accounting Supervisor Ann Furtado presented the staff report.

Mayor Woerner opened the public hearing.

There were no speakers and the hearing was closed.

ON THE MOTION OF VM BONANNO, SECONDED BY CM MUNRO AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL ADOPTED THE FOLLOWING RESOLUTION:

Resolution 2022-123 considering and overruling protests to place delinquent sewer accounts on the property tax roll.

6.3 Hearing to certify Draft Supplemental Environmental Impact Report for the South Livermore Valley Specific Plan and authorizing the South Livermore Urban Growth Boundary initiative to be placed on the November 8, 2022, ballot enabling the South Livermore Sewer Extension Project.

Recommendation: Staff recommended the City Council:
1. Adopt a resolution certifying the Supplemental Environmental Impact Report;
2. Adopt a resolution approving the ballot question and language for the South Livermore Urban Growth Boundary Initiative; and
3. Direct staff to conduct all necessary actions to prepare materials for the November 8, 2022, ballot.

Senior Planner Andy Ross presented the staff report.

Mayor Woerner opened the public hearing.

Mike Fredrich, Friends of Livermore provided comment.

Tracy Farhad, Visit Tri-Valley provided comment.

David Epstein, Tri-Valley Conservancy provided comment.

Dawn Argula, Livermore Valley Chamber of Commerce provided comment.

Lori Souza, Tri-Valley Conservancy provided comment.

Jean King provided comment.

Brandi Addington, Livermore Valley Winegrowers Association provided comment.

Tamara Reus, Friends of Open Space and Vineyards provided comment.

John Marchand provided comment.

Tim Johnston provided comment.

Dick Schneider provided comment.

There were no more speakers and the hearing was closed.

ON THE MOTION OF VM MUNRO, SECONDED BY MAYOR WOERNER AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL ADOPTED THE FOLLOWING RESOLUTIONS:

Resolution 2022-124 certifying the Final Supplemental Environmental Impact Report for the South Livermore Sewer Expansion Project and initiative to amend the South Livermore Urban Growth Boundary, adopting California Environmental Quality Act findings and a Mitigation Monitoring and Reporting Program.

Resolution 2022-125 approving the ballot question and language for the South Livermore Urban Growth Boundary Initiative and directing staff to place it on the ballot for the November 8, 2022, election to enable the South Livermore Sewer Extension Project.

7. MATTERS FOR CONSIDERATION

7.1 Approval of the City Council 2023 Meeting Calendar.

Recommendation: Staff recommended the City Council approve the 2023 Meeting Calendar.

City Clerk Marie Weber presented the staff report.

Mayor Woerner opened the public comment period.

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

ON THE MOTION OF CM CARLING, SECONDED BY MAYOR WOERNER AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL APPROVED STAFF RECOMMENDATION.

7.2 Designation of voting delegate and alternates for the 2022 League of California Cities Annual Business Meeting.

Recommendation: Staff recommended the City Council appoint one voting delegate and up to two alternates to represent the City of Livermore at the 2022 League of California Cities Annual Business Meeting.

City Clerk Marie Weber presented the staff report.

Mayor Woerner opened the public comment period.

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

ON THE MOTION OF MAYOR WOERNER, SECONDED BY CM CARLING AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL APPOINTED CM MUNRO AS THE VOTING DELEGATE AND CM CARLING AS THE ALTERNATE FOR THE 2022 LEAGUE OF CALIFORNIA CITIES ANNUAL BUSINESS MEETING.

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

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

I-Street Garage Ribbon Cutting CM Carling noted his attendance at the event on July 7, 2022.

Farmers Market CM Carling noted his attendance at the event on July 7, 2022.

Innovation Tri-Valley CM Carling noted his attendance at the meeting on July 8, 2022.

9. ADJOURNMENT – at 8:19 pm in memory of John Ambrosino to a Regular City Council meeting on Monday, July 25, 2022 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue and virtually using Zoom.

APPROVED: _____
BOB WOERNER, MAYOR

ATTEST: _____
MARIE WEBER, CITY CLERK

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.2**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: **Adoption of an Ordinance** revising Municipal Code Chapter 1.28 related to the Conflict of Interest Code - Biennial Notice to add/remove positions as appropriate.

RECOMMENDED ACTION

Staff recommends the City Council **adopt an ordinance** revising Municipal Code Chapter 1.28, Conflict of Interest Code, to add or remove positions to align with updates to the City's salary schedule.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Redlined 2022 Conflict of Interest Code
2. Ordinance
3. Exhibit A - 2022 Conflict of Interest Code Final

Prepared by: Marie Weber
City Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Chapter 1.28

CONFLICT OF INTEREST CODE

Sections:

1.28.010 Purpose.
1.28.015 Amendment and review.
1.28.020 Definitions incorporated.
1.28.030 Place of filing.
1.28.040 Filing officer.
1.28.050 Late filings and failure to file statements.
1.28.060 Designated positions.
1.28.070 Disclosure categories.

1.28.010 Purpose.

A. The Political Reform Act of 1974 (Cal. Gov. Code Section 81000 et seq.) (the "Act") requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Section 18730) which contains the terms of a standard conflict of interest code. This regulation, including any future amendments made by the Fair Political Practices Commission, may be incorporated by reference into a local agency's conflict of interest code. Therefore, the terms of California Code of Regulations, Title 2, Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This chapter, along with the attachments hereto, shall constitute the conflict of interest code of the city of Livermore.

B. Nothing in this chapter is intended to modify or abridge the provisions of the Act commencing with Government Code Section 87100, which is applicable to all public officials of the city of Livermore (the "city") and directs that no public official of the city shall make, participate in the making, or in any way attempt to use their official position to influence a city decision in which the official knows, or has reason to know, that he or she has a financial interest as defined by the Act.

C. This chapter intends to designate those public officials of the city who are involved in city decisions, and to require such designated officials to disclose those financial interests (using Form 700) which could foreseeably be affected, in a material manner, by a city decision made by the official in the performance of the official's responsibilities. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.015 Amendment and review.

The city clerk will review the city's conflict of interest code on an annual basis and if changes are required will submit a revised code for council approval or if no changes are necessary so notify the city council by the applicable deadline specified in the Act. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.020 Definitions incorporated.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Section 18110 et seq.), and any amendments to the Act or regulations are incorporated by reference into this conflict of interest code. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.030 Place of filing.

All officials and designated employees required to submit a statement of economic interests shall file their statements with the city's filing officer. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.040 Filing officer.

The filing officer shall make and retain a copy of all statements filed by all officials subject to the Act, and forward the originals of such statements to the Fair Political Practices Commission. The filing officer shall retain the originals of the statements filed by all other designated employees. The filing officer will make all retained statements available for public inspection and reproduction during regular business hours. (Cal. Gov. Code Section 81008.) (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.050 Late filings and failure to file statements.
Any violation of this code is subject to the administrative, criminal, and civil sanctions provided in the Act.

The filing officer shall impose penalties for statements of economic interests that are filed late. The fine is $10.00 per day beginning the day after the filing deadline, up to a maximum of $100.00. Late filing penalties can be reduced or waived under certain circumstances as provided in Section 91013 of the Act. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.060 Designated positions.
The persons listed in Appendix A of this chapter are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.070 Disclosure categories.
A. This code does not establish any disclosure obligations for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of the city is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Act, Government Code Section 87200 et seq. Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth herein specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned herein. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

B. The mayor, members of the city council and planning commission, the city manager, the city attorney, and all other city officials who manage public investments, as that term is defined by 2 California Code of Regulations Section 18701(b), are not subject to the city's code but are subject to the disclosure requirements of the Act. (Cal. Gov. Code Section 87200 et seq.). [2 Cal. Code of Regs. Section 18730(b)(3).]

C. Employees/Consultants.

Consultants that are registered professional engineers or licensed land surveyors who render professional engineering or surveying services independently of City control or direction and who do not exercise City decision making authority, may not be required to comply with disclosure obligations in accordance with California Government Code Section 87100.1.

1. **Disclosure Category 1.** All designated employees and consultants in this category shall disclose all sources of income including gifts, loans and travel payments; investments; interests in real property and any business entities in which the designated employee is a director, officer, partner, trustee, employee or holds any management position.

2. **Disclosure Category 2.** All designated employees and consultants in this category shall disclose all sources of income, including gifts, loans and travel payments; investments; interests in real property and any business entities in which the designated employee holds a management position if the business entity engages in land development, construction, the provision of architectural, engineering or other services in connection with construction; the manufacture or sale of electrical, plumbing or other products used in construction; the acquisition or sale of real property or financing of land acquisition, development or construction.

3. **Disclosure Category 3.** All designated employees and consultants in this category shall disclose all sources of income, including gifts, loans and travel payments; investments; and business entities in which the employee holds a management position if the business entity is of the type which contracts with the city of Livermore to provide services, supplies, materials, machinery or equipment.

4. **Disclosure Category 4.** All designated employees and consultants in this category shall disclose all sources of income, including gifts, loans and travel payments; investments and business entities in which the designated

employee holds a management position if the business entity is of the type which contracts with the designated employee's department.

5. **87200 Filers.** Local officials specified in Government Code Section 87200 include the mayor, city council members, city manager, city attorney, and planning commissioners.

D. Advisory Bodies.

1. **Airport Commission**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management if the source of the income or business entity:

a. Is of the type that contracts with the city of Livermore to provide services, supplies, materials, machinery or equipment to the Livermore Airport; and/or

b. Is an airline or manufactures, distributes, sells or markets aircraft or products used in aviation.

Members of this commission shall disclose interests in real property located within two miles of the Livermore Airport.

2. **Beautification Committee**. Members of the beautification committee shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management, if the source of income or entity:

a. Is of the type that contracts with the city of Livermore to provide services, supplies, plants, trees, materials, equipment, or other outdoor fixtures or amenities or services, for landscape maintenance, construction or reconstruction; and/or

b. Engages in land development, construction, landscape design or architecture in connection with the construction, reconstruction or maintenance of property.

Members of the beautification committee shall also disclose interests in real property inside the city.

3. **Climate Action Plan Advisory Commission**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management, if the source of income or entity:

a. Is of the type that contracts to provide data, services, supplies, technology, materials, equipment, or other services, related to energy efficiency, recycling, sustainability, or climate change services.

4. **Commission for the Arts**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:

a. Engages in land development; residential construction; the provision of architectural, engineering, or other services in connection with residential construction; the acquisition or sale of residential real property; or financing of land acquisition, development or residential construction.

Members of the commission for the arts shall disclose interests in real property located within, or not more than two miles outside, the boundaries of Livermore.

5. **Community Asset Management Program**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments, and business entities in which they have an investment or in which

they are a director, officer, partner, trustee or employee or hold any position of management, if the source of income or entity:

a. Is of the type that contracts with the city of Livermore to provide services, supplies, materials, equipment, or other services, related to City infrastructure, construction or reconstruction.

b. Engages in the development, construction, design or architecture in connection with the construction, reconstruction or maintenance of City assets.

c. Is of the type that contracts with the City of Livermore to provide any other goods or services for the operation and maintenance of City assets.

6. **Historic Preservation Commission**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:

a. Engages in land development or provides contracting, landscape architecture, financial, or other services in connection with construction or reconstruction of property.

Members of the historic preservation commission shall disclose interests in real property located within or not more than two miles outside the boundaries of Livermore.

7. **Housing Authority**. Members of the Livermore housing authority shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management, if the source of income or entity:

a. Is of the type that contracts with the city of Livermore to provide, or otherwise provides, housing services, subsidized housing, transitional housing, or affordable housing services;

b. Has applied for, plans to apply for, is receiving or within the previous two years has received funds under the Section 8 Voucher Program; and/or

c. Is of the type that contracts with the city of Livermore or the Livermore housing authority to provide any other goods or services for the operation and maintenance of the authority and its functions.

Members of the Livermore housing authority shall also disclose interests in real property inside the city.

8. **Human Services Commission**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:

a. Has applied for, plans to apply for, is receiving or within the previous two years has received funds through the city of Livermore to provide services for meeting human needs; and/or

b. Provides underwriting, legal, or financial services in connection with the issuance of mortgage revenue or other housing bonds.

Members of the human services commission shall disclose interests in real property located within, or not more than two miles outside, the boundaries of Livermore.

9. **Library Board of Trustees**. Members of this board shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:

a. Manufactures, repairs, distributes, sells, leases, or otherwise markets library materials and equipment including but not limited to books, periodicals, art slides or prints, records, or cataloguing equipment or systems; and/or

b. Is of the type that contracts with the city of Livermore to provide any other goods or services to the library.

Members of the library board of trustees shall disclose interests in real property within one-half mile of any public library in Livermore. (Ord. 2016 § 1(D), 2015; Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

Appendix A

City of Livermore Conflict of Interest Code List of Designated Positions

POSITION	DISCLOSURE CATEGORY
ADMINISTRATIVE SERVICES DEPARTMENT	
Administrative Services Director/Treasurer (Resolution 2009-205)	1
~~**City Clerk Division**~~	
~~City Clerk~~	~~1~~
~~Assistant City Clerk~~	~~1~~
Assistant Administrative Services Director	1
City Clerk Division	
City Clerk	1
Assistant City Clerk	1
Deputy City Clerk	1
Cyber Security Division	
Cyber Security Manager	3
Finance Division	
Purchasing Specialist	3
Financial Services Manager	3
Accounting Supervisor	3
Human Resources Division	
Human Resources Manager (Confidential)	1
Human Resources Analyst Senior (Confidential)	1
Human Resources Analyst I I (Confidential)	1
Human Resources Analyst I (Confidential)	1
Information Technology Division	
Information Technology Manager	3
Systems Administrator	3

POSITION	DISCLOSURE CATEGORY
Geographic Information Services Specialist	3
Senior Information Technology Technician	3
CITY ATTORNEY'S OFFICE	
Senior Assistant City Attorney~~, Senior~~ (Confidential)	1
Assistant City Attorney	1
Deputy City Attorney	1
Risk Manager	1
Management Analyst (Confidential)	1
CITY MANAGER'S OFFICE	
Assistant City Manager	1
Assistant to the City Manager (Confidential)	1
Deputy City Manager (Confidential)	1
~~Management Analyst~~	~~2~~
~~Senior Management Analyst~~	~~3~~
COMMUNITY DEVELOPMENT DEPARTMENT	
Administration Division	
Community Development Director	1
Assistant Community Development Director	1
Housing and Human Services Division	
Housing and Human Services Manager	4
Housing Programs Manager	4
~~Human Services Specialist~~	~~4~~
~~Human Services Management Analyst II~~	~~4~~
Human Services Program Manager	4
Building Division	
Building Official	1
Senior Building Inspector	2
Building Inspector I	2
Building Inspector II	2
Building Inspector III	2
Plan Check Engineer	2
Permit Center Manager	2
Inspection and Neighborhood Preservation Manager	2
Neighborhood Preservation Officer	2

POSITION	DISCLOSURE CATEGORY
Engineering Division	
City Engineer	1
Assistant City Engineer	2
Assistant Engineer	2
Junior Engineer	2
Engineering Specialist	2
~~Senior~~ Civil Engineer (Junior, Assistant, Associate, & Senior)	2
~~Associate Civil Engineer~~	~~2~~
~~Assistant Civil Engineer~~	~~2~~
~~Junior Civil Engineer~~	~~2~~
~~Senior Engineering Technician~~	~~2~~
~~Associate~~ Engineering Technician (Senior, Associate, & Assistant)	2
~~Assistant Engineering Technician~~	~~2~~
Construction Inspection Manager	2
~~Senior~~ Transportation Engineer (Senior & Associate)	2
~~Associate Transportation Engineer~~	~~2~~
~~Associate Planner~~	~~2~~
Planning Division	
Planning Manager	1
~~Principal~~ Planner (Assistant, Associate, Senior, & Principal)	2
~~Senior Planner~~	~~2~~
~~Associate Planner~~	~~2~~
~~Assistant Planner~~	~~2~~
INNOVATION AND ECONOMIC DEVELOPMENT DEPARTMENT	
Innovation and Economic Development Director	1
Economic Development Manager	2
Economic Development Specialist	4
LIBRARY SERVICES DEPARTMENT	
Director of Library Services~~/Public Information Officer~~	4
Assistant Library Director	4
Supervising Librarian	4
POLICE DEPARTMENT	

POSITION	DISCLOSURE CATEGORY
Police Chief	3
Police Captain	4
Police Lieutenant	4
Information Technology Coordinator	4
Police Facility and Equipment Manager	4
Police Business Services Manager	4
Police Support Services	4
Police Media & Community Relations Analyst	4
Horizons	
Youth and Family Services Manager – Clinical	4
Youth and Family Services Manager - Programs	4
PUBLIC WORKS DEPARTMENT	
Administration Division	
Public Works Director	1
Assistant Public Works Director	1
Public Works Manager	2, 4
~~Management Analyst~~	~~2~~
Public Works Supervisor	4
Airport Division	
Airport Manager	2, 4
~~Public Works Supervisor – Airport~~	~~4~~
Maintenance Division	
Maintenance and Golf Operations Manager	2, 4
~~Management Analyst~~	~~2~~
~~Public Works Supervisor~~	~~4~~
Water and Water Resources Division	
~~Public Works Supervisor~~	~~4~~
Water Distribution Operations Manager	4
Water Resources Communications Representative	4
Water Resources Coordinator	4
Water Resources Division Manager	2, 4
Water Resources Operations Manager	4
Water Resources Source Control Inspector	4

POSITION	DISCLOSURE CATEGORY
~~Water Resources Technical Programs Manager~~	~~4~~
GENERAL CATEGORIES	
These categories cross departmental lines and are designated depending upon the type of duties to which they are assigned.	
Special Projects Coordinator	Depending on assignment
Management Analyst	2
Management Analyst II	4
Senior Management Analyst	3
Management Analyst Confidential	1
Senior Management Analyst Confidential	1
Advisory Bodies	
Airport Commission	3
Beautification Committee	2, 3
Climate Action Plan Advisory Committee	3
Commission for the Arts	2
Community Asset Management Program	2
Historic Preservation Commission	2, 3
Housing Authority	2
Human Services Commission	2
Library Board of Trustees	3

Consultant – a person who contracts with the city to provide work that falls into one of the following categories. The disclosure category for consultant is dependent upon the type of work being performed.

1. Work of the type and/or nature that could or would be done by a designated employee identified in the city of Livermore conflict of interest code. The city manager, or his or her designee, may find that a person need not fully comply with the disclosure requirements upon a written determination that the work and duties contracted are limited in scope and full compliance is unnecessary. The written determination shall identify what level of disclosure, if any, is required.

2. Work that involves making or participating in making decisions, which may foreseeably have a material effect on a financial interest subject to the reporting requirements of the Political Reform Act.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE AMENDING APPENDIX A TO CHAPTER 1.28, *CONFLICT OF INTEREST CODE*, TO TITLE 1 OF THE LIVERMORE MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF LIVERMORE DOES FIND AND ORDAIN AS FOLLOWS:

Section 1. *Findings.* The Political Reform Act requires that every local government agency amend its Conflict of Interest Code as positions are added, deleted, or changed. It has been determined that amendments are required for the City of Livermore's list of designated positions.

Section 2. *Environmental.* The passage of this ordinance is not a project according to the definition in the California Environmental Quality Act and, therefore, is not subject to the provisions requiring environmental review.

Section 3. *Amendment*. Appendix A to Chapter 1.28 of the Livermore Municipal Code is amended as set forth in the attached Exhibit A.

Section 4. *Publication and Effective Date*. This ordinance, or a comprehensive summary thereof, shall be published once in a newspaper of general circulation of the City of Livermore within fifteen days after its adoption and shall take effect and be in force 30 days from and after its adoption.

Section 5. *Documents*. The documents that constitute the record of proceedings upon which this decision is based on can be found in the City Clerk's Office, 1052 S. Livermore Avenue, Livermore, California.

Section 6. *Severability*. If any part of this ordinance is declared unconstitutional or invalid by a court, such constitutionality or invalidity shall not affect any of the remaining parts.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Livermore held on July 25, 2022, by the following vote:

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

The ordinance was adopted at the regular meeting of the City Council held on September 12, 2022, by the following vote:

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

_____
MAYOR, CITY OF LIVERMORE

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Kimberly Cilley
Kimberly Cilley
Senior Assistant City Attorney

Exhibit A – Amended Appendix A to Chapter 1.28 of the Livermore Municipal Code

Chapter 1.28

CONFLICT OF INTEREST CODE

Sections:

1.28.010 Purpose.
1.28.015 Amendment and review.
1.28.020 Definitions incorporated.
1.28.030 Place of filing.
1.28.040 Filing officer.
1.28.050 Late filings and failure to file statements.
1.28.060 Designated positions.
1.28.070 Disclosure categories.

1.28.010 Purpose.
A. The Political Reform Act of 1974 (Cal. Gov. Code Section 81000 et seq.) (the "Act") requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Section 18730) which contains the terms of a standard conflict of interest code. This regulation, including any future amendments made by the Fair Political Practices Commission, may be incorporated by reference into a local agency's conflict of interest code. Therefore, the terms of California Code of Regulations, Title 2, Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This chapter, along with the attachments hereto, shall constitute the conflict of interest code of the city of Livermore.

B. Nothing in this chapter is intended to modify or abridge the provisions of the Act commencing with Government Code Section 87100, which is applicable to all public officials of the city of Livermore (the "city") and directs that no public official of the city shall make, participate in the making, or in any way attempt to use their official position to influence a city decision in which the official knows, or has reason to know, that he or she has a financial interest as defined by the Act.

C. This chapter intends to designate those public officials of the city who are involved in city decisions, and to require such designated officials to disclose those financial interests (using Form 700) which could foreseeably be affected, in a material manner, by a city decision made by the official in the performance of the official's responsibilities. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.015 Amendment and review.
The city clerk will review the city's conflict of interest code on an annual basis and if changes are required will submit a revised code for council approval or if no changes are necessary so notify the city council by the applicable deadline specified in the Act. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.020 Definitions incorporated.
The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Section 18110 et seq.), and any amendments to the Act or regulations are incorporated by reference into this conflict of interest code. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.030 Place of filing.
All officials and designated employees required to submit a statement of economic interests shall file their statements with the city's filing officer. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.040 Filing officer.
The filing officer shall make and retain a copy of all statements filed by all officials subject to the Act, and forward the originals of such statements to the Fair Political Practices Commission. The filing officer shall retain the originals of the statements filed by all other designated employees. The filing officer will make all retained statements available for public inspection and reproduction during regular business hours. (Cal. Gov. Code Section 81008.) (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.050 Late filings and failure to file statements.
Any violation of this code is subject to the administrative, criminal, and civil sanctions provided in the Act.

The filing officer shall impose penalties for statements of economic interests that are filed late. The fine is $10.00 per day beginning the day after the filing deadline, up to a maximum of $100.00. Late filing penalties can be reduced or waived under certain circumstances as provided in Section 91013 of the Act. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.060 Designated positions.
The persons listed in Appendix A of this chapter are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests. (Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

1.28.070 Disclosure categories.
A. This code does not establish any disclosure obligations for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of the city is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Act, Government Code Section 87200 et seq. Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth herein specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned herein. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

B. The mayor, members of the city council and planning commission, the city manager, the city attorney, and all other city officials who manage public investments, as that term is defined by 2 California Code of Regulations Section 18701(b), are not subject to the city's code but are subject to the disclosure requirements of the Act. (Cal. Gov. Code Section 87200 et seq.). [2 Cal. Code of Regs. Section 18730(b)(3).]

C. Employees/Consultants.

Consultants that are registered professional engineers or licensed land surveyors who render professional engineering or surveying services independently of City control or direction and who do not exercise City decision making authority, may not be required to comply with disclosure obligations in accordance with California Government Code Section 87100.1.

1. **Disclosure Category 1.** All designated employees and consultants in this category shall disclose all sources of income including gifts, loans and travel payments; investments; interests in real property and any business entities in which the designated employee is a director, officer, partner, trustee, employee or holds any management position.

2. **Disclosure Category 2.** All designated employees and consultants in this category shall disclose all sources of income, including gifts, loans and travel payments; investments; interests in real property and any business entities in which the designated employee holds a management position if the business entity engages in land development, construction, the provision of architectural, engineering or other services in connection with construction; the manufacture or sale of electrical, plumbing or other products used in construction; the acquisition or sale of real property or financing of land acquisition, development or construction.

3. **Disclosure Category 3.** All designated employees and consultants in this category shall disclose all sources of income, including gifts, loans and travel payments; investments; and business entities in which the employee holds a management position if the business entity is of the type which contracts with the city of Livermore to provide services, supplies, materials, machinery or equipment.

4. **Disclosure Category 4.** All designated employees and consultants in this category shall disclose all sources of income, including gifts, loans and travel payments; investments and business entities in which the designated

employee holds a management position if the business entity is of the type which contracts with the designated employee's department.

5. **87200 Filers.** Local officials specified in Government Code Section 87200 include the mayor, city council members, city manager, city attorney, and planning commissioners.

D. Advisory Bodies.

1. **Airport Commission**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management if the source of the income or business entity:

a. Is of the type that contracts with the city of Livermore to provide services, supplies, materials, machinery or equipment to the Livermore Airport; and/or

b. Is an airline or manufactures, distributes, sells or markets aircraft or products used in aviation.

Members of this commission shall disclose interests in real property located within two miles of the Livermore Airport.

2. **Beautification Committee**. Members of the beautification committee shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management, if the source of income or entity:

a. Is of the type that contracts with the city of Livermore to provide services, supplies, plants, trees, materials, equipment, or other outdoor fixtures or amenities or services, for landscape maintenance, construction or reconstruction; and/or

b. Engages in land development, construction, landscape design or architecture in connection with the construction, reconstruction or maintenance of property.

Members of the beautification committee shall also disclose interests in real property inside the city.

3. **Climate Action Plan Advisory Commission**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management, if the source of income or entity:

a. Is of the type that contracts to provide data, services, supplies, technology, materials, equipment, or other services, related to energy efficiency, recycling, sustainability, or climate change services.

4. **Commission for the Arts**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:

a. Engages in land development; residential construction; the provision of architectural, engineering, or other services in connection with residential construction; the acquisition or sale of residential real property; or financing of land acquisition, development or residential construction.

Members of the commission for the arts shall disclose interests in real property located within, or not more than two miles outside, the boundaries of Livermore.

5. **Community Asset Management Program**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments, and business entities in which they have an investment or in which

they are a director, officer, partner, trustee or employee or hold any position of management, if the source of income or entity:

a. Is of the type that contracts with the city of Livermore to provide services, supplies, materials, equipment, or other services, related to City infrastructure, construction or reconstruction.

b. Engages in the development, construction, design or architecture in connection with the construction, reconstruction or maintenance of City assets.

c. Is of the type that contracts with the City of Livermore to provide any other goods or services for the operation and maintenance of City assets.

6. **Historic Preservation Commission**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:

a. Engages in land development or provides contracting, landscape architecture, financial, or other services in connection with construction or reconstruction of property.

Members of the historic preservation commission shall disclose interests in real property located within or not more than two miles outside the boundaries of Livermore.

7. **Housing Authority**. Members of the Livermore housing authority shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management, if the source of income or entity:

a. Is of the type that contracts with the city of Livermore to provide, or otherwise provides, housing services, subsidized housing, transitional housing, or affordable housing services;

b. Has applied for, plans to apply for, is receiving or within the previous two years has received funds under the Section 8 Voucher Program; and/or

c. Is of the type that contracts with the city of Livermore or the Livermore housing authority to provide any other goods or services for the operation and maintenance of the authority and its functions.

Members of the Livermore housing authority shall also disclose interests in real property inside the city.

8. **Human Services Commission**. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:

a. Has applied for, plans to apply for, is receiving or within the previous two years has received funds through the city of Livermore to provide services for meeting human needs; and/or

b. Provides underwriting, legal, or financial services in connection with the issuance of mortgage revenue or other housing bonds.

Members of the human services commission shall disclose interests in real property located within, or not more than two miles outside, the boundaries of Livermore.

9. **Library Board of Trustees**. Members of this board shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:

a. Manufactures, repairs, distributes, sells, leases, or otherwise markets library materials and equipment including but not limited to books, periodicals, art slides or prints, records, or cataloguing equipment or systems; and/or

b. Is of the type that contracts with the city of Livermore to provide any other goods or services to the library.

Members of the library board of trustees shall disclose interests in real property within one-half mile of any public library in Livermore. (Ord. 2016 § 1(D), 2015; Ord. 2008 § 1 (Exh. A), 2014; Ord. 1970 § 2 (Exh. A), 2012)

Appendix A

City of Livermore Conflict of Interest Code List of Designated Positions

POSITION	DISCLOSURE CATEGORY
ADMINISTRATIVE SERVICES DEPARTMENT	
Administrative Services Director/Treasurer (Resolution 2009-205)	1
Assistant Administrative Services Director	1
City Clerk Division	
City Clerk	1
Assistant City Clerk	1
Deputy City Clerk	1
Cyber Security Division	
Cyber Security Manager	3
Finance Division	
Purchasing Specialist	3
Financial Services Manager	3
Accounting Supervisor	3
Human Resources Division	
Human Resources Manager (Confidential)	1
Human Resources Analyst Senior (Confidential)	1
Human Resources Analyst I I (Confidential)	1
Human Resources Analyst I (Confidential)	1
Information Technology Division	
Information Technology Manager	3
Systems Administrator	3
Geographic Information Services Specialist	3
Senior Information Technology Technician	3
CITY ATTORNEY'S OFFICE	

POSITION	DISCLOSURE CATEGORY
Senior Assistant City Attorney (Confidential)	1
Assistant City Attorney	1
Deputy City Attorney	1
Risk Manager	1
Management Analyst (Confidential)	1
CITY MANAGER'S OFFICE	
Assistant City Manager	1
Assistant to the City Manager (Confidential)	1
Deputy City Manager (Confidential)	1
COMMUNITY DEVELOPMENT DEPARTMENT	
Administration Division	
Community Development Director	1
Assistant Community Development Director	1
Housing and Human Services Division	
Housing and Human Services Manager	4
Housing Programs Manager	4
Human Services Program Manager	4
Building Division	
Building Official	1
Senior Building Inspector	2
Building Inspector I	2
Building Inspector II	2
Building Inspector III	2
Plan Check Engineer	2
Permit Center Manager	2
Inspection and Neighborhood Preservation Manager	2
Neighborhood Preservation Officer	2
Engineering Division	
City Engineer	1
Assistant City Engineer	2
Assistant Engineer	2
Junior Engineer	2
Engineering Specialist	2
Civil Engineer (Junior, Assistant, Associate, & Senior)	2

POSITION	DISCLOSURE CATEGORY
Engineering Technician (Senior, Associate, & Assistant)	2
Construction Inspection Manager	2
Transportation Engineer (Senior & Associate)	2
Planning Division	
Planning Manager	1
Planner (Assistant, Associate, Senior, & Principal)	2
INNOVATION AND ECONOMIC DEVELOPMENT DEPARTMENT	
Innovation and Economic Development Director	1
Economic Development Manager	2
Economic Development Specialist	4
LIBRARY SERVICES DEPARTMENT	
Director of Library Services	4
Assistant Library Director	4
Supervising Librarian	4
POLICE DEPARTMENT	
Police Chief	3
Police Captain	4
Police Lieutenant	4
Information Technology Coordinator	4
Police Facility and Equipment Manager	4
Police Business Services Manager	4
Police Support Services	4
Police Media & Community Relations Analyst	4
Horizons	
Youth and Family Services Manager – Clinical	4
Youth and Family Services Manager - Programs	4
PUBLIC WORKS DEPARTMENT	
Administration Division	
Public Works Director	1
Assistant Public Works Director	1
Public Works Manager	2, 4
Public Works Supervisor	4

POSITION	DISCLOSURE CATEGORY
Airport Division	
Airport Manager	2, 4
Maintenance Division	
Maintenance and Golf Operations Manager	2, 4
Water and Water Resources Division	
Water Distribution Operations Manager	4
Water Resources Communications Representative	4
Water Resources Coordinator	4
Water Resources Division Manager	2, 4
Water Resources Operations Manager	4
Water Resources Source Control Inspector	4
GENERAL CATEGORIES	
These categories cross departmental lines and are designated depending upon the type of duties to which they are assigned.	
Special Projects Coordinator	Depending on assignment
Management Analyst	2
Management Analyst II	4
Senior Management Analyst	3
Management Analyst Confidential	1
Senior Management Analyst Confidential	1
Advisory Bodies	
Airport Commission	3
Beautification Committee	2, 3
Climate Action Plan Advisory Committee	3
Commission for the Arts	2
Community Asset Management Program	2
Historic Preservation Commission	2, 3
Housing Authority	2
Human Services Commission	2
Library Board of Trustees	3

Consultant – a person who contracts with the city to provide work that falls into one of the following categories. The disclosure category for consultant is dependent upon the type of work being performed.
1. Work of the type and/or nature that could or would be done by a designated employee identified in the city of Livermore conflict of

POSITION	DISCLOSURE CATEGORY
interest code. The city manager, or his or her designee, may find that a person need not fully comply with the disclosure requirements upon a written determination that the work and duties contracted are limited in scope and full compliance is unnecessary. The written determination shall identify what level of disclosure, if any, is required. 2. Work that involves making or participating in making decisions, which may foreseeably have a material effect on a financial interest subject to the reporting requirements of the Political Reform Act.	

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.3**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing acceptance for permanent maintenance and release of the security bonds and execution of a Notice of Completion for the Water Reclamation Plant Emergency Generator Project 2015-22.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the acceptance for permanent maintenance and release of the security bonds for the Water Reclamation Plant Emergency Generator Project 2015-22.

The City Manager is authorized to sign the Notice of Completion, a copy of which is attached as Exhibit A and incorporated by this reference.

SUMMARY

On October 28, 2019, the City Council awarded the contract for construction of the Water Reclamation Plant (WRP) Emergency Generator Project 2015-22 to Myers & Sons Construction, LLC. The contract is now substantially complete and can be accepted for permanent maintenance. The process to release the contractor's bonds can begin.

DISCUSSION

The WRP Emergency Generator Project 2015-22 consisted of installing a new permanent emergency generator, automatic transfer switch, associated electrical modifications, and lighting and drainage site improvements. The permanent emergency generator will provide a backup source of power to allow operations of the Water Reclamation Plant (WRP) in the event of a utility power outage. The project was completed in accordance with the contract documents in a manner acceptable to the City Engineer.

At the time of award, the contractor provided a faithful performance bond guaranteeing completion of the project, and that bond must now be released. Six months after the date of the resolution accepting the project, the labor and materials bond guaranteeing the improvements should be reduced to an amount equal to any claims filed and of which notice has been given. The balance of the bond will be released

upon the settlement of all claims and obligations for which the security was given (there are no known claims at this time). The security for the guarantee and warranty of work shall remain in effect for one year from the date of the resolution.

FISCAL AND ADMINISTRATIVE IMPACTS

The original construction contract amount was $2,161,000 plus a 10 percent contingency. The final project amount was $2,247,027, which is approximately 4% percent above the original contract based on final bid item quantities and 5 change orders. The total value of change orders was $86,027 which consisted primarily of adjustments to wire sizes, conduit routes, and electrical enclosures due to unforeseen conditions. The final bid quantities were equal to anticipated amounts.

Ongoing costs for this project are estimated at $40,000 per year, including operation and maintenance costs associated with testing and repair. Wastewater customer user fees will cover these additional ongoing costs.

ATTACHMENTS

1. Resolution
2. Exhibit A - Notice of Completion

Prepared by: Mike Stamm
Construction Inspection 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 ACCEPTANCE FOR PERMANENT MAINTENANCE AND RELEASE OF SECURITY BONDS

(WRP Emergency Generator, Project 2015-22)

The City Engineer of the City of Livermore ("City") has filed with the City Clerk a report in writing that all work on the Water Reclamation Plant Emergency Generator, Project 2015-22 ("Project"), has been completed to City standards. The Project is ready for acceptance by the City of Livermore for routine maintenance.

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

1. The faithful performance bond guaranteeing the Project is hereby released;

2. The labor and materials bond guaranteeing the Project shall, six months after the date of this resolution, be reduced to an amount equal to the amount of all claims filed and of which notice has been given. The balance of the bond shall be released upon the settlement of all such claims and obligations for which the security was given;

3. The security for the guarantee and warranty of work shall remain in effect for one year from the date of this resolution. The contractor is required to reconstruct any deficiencies that occur and to repair or replace defective materials during the maintenance period;

4. The City hereby accepts the improvements; and

5. The City Manager is authorized to sign the Notice of Completion, a copy of which is attached as Exhibit A and incorporated by this reference.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – Notice of Completion

RESOLUTION NO. _____

EXHIBIT A

NOTICE OF COMPLETION

City's Project No. 2015-22 Date: September 13, 2022

Project: WRP Emergency Generator

Contractor: Myers & Sons Construction, LLC.

Contract For Construction of: WRP Emergency Generator

Project or Specified Part Shall Include: All that work as set forth in the Bid Schedule(s) of the Bid Forms, as awarded by the City of Livermore pursuant to the Contract Documents for Public Works Project No. 2015-22.

Document located at: 1052 S. Livermore Ave., Livermore, CA 94550 Contract Date: October 28, 2019

The work performed under this contract has been inspected by authorized representatives of the City, Contractor, and Engineer, and the Project (or specified part of the Project, as indicated above) is hereby accepted by the City and declared to be substantially completed on the above date.

> Completion of the Work shall be the date of such acceptance of the Work by the City, as provided under California Civil Code Section 3086. Completion shall mean substantial performance of the Contract as such is defined in Black's Law Dictionary, Revised Fourth Edition, West Publishing Company.

A list of all items remaining to be completed or corrected has been sent to the Contractor in the City's letter dated August 9, 2022. All such work shall be completed or corrected to the satisfaction of the City prior to the release of the Contractor's retention and within 30 calendar days following the date of the Notice of Completion, otherwise the Contractor does hereby waive any and all claims to all monies withheld by the City under the Contract to cover the value of such uncompleted or uncorrected items.

ENGINEERING DIVISION
Engineer

By _____
Mike Stamm, Const Insp Manager

The Contractor hereby accepts the above Notice of Completion and agrees to complete and correct all of the items as outlined in the City's letter to the Contractor dated 8-9-2022 or waives all rights to any monies withheld therefor.

Myers & Sons Construction, LLC.
Contractor

By _____
Scott Wolfenberger, Project Manager

The City accepts the project or specified area of the project as substantially completed and will assume full possession of the Project or specified area of the Project at 8:00 am (time), on 9-13-22 (date). The responsibility for heat, utilities, security, and insurance under the Contract Documents will be assumed by the City after that date.
Nature of interest of owner: Fee

I certify (declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Owner:
City of Livermore
1052 S. Livermore Ave.
Livermore, CA 94550

FOR THE CITY OF LIVERMORE

By _____
Marianna Marysheva, City Manager Date

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.4**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing the City Manager to execute a Second Amendment to the agreement with JR Structural Engineering, Inc. for downtown core project management services increasing the not-to-exceed contract amount from $685,000 to $910,000 and extending the term of the agreement.

RECOMMENDED ACTION

Staff recommends City Council adopt a resolution authorizing the City Manager to execute the Second Amendment to the agreement with JR Structural Engineering, Inc. increasing the not-to-exceed contract amount from $685,000 to $910,000 and extending the term of the agreement to December 31, 2024, for downtown core project management services.

SUMMARY

The Second Amendment authorizes JR Structural Engineering, Inc. to provide project management services for upcoming downtown core projects including Flag Pole Plaza and Downtown Streetscape Improvements, Project 2022-25, and Livermore Village L Street Garage, Project 586003. In addition, it includes project management close-out services for Livermorium Park-Plaza at Mills Square, Project 2014-36. The second amendment increases compensation by $225,000 to a total not-to-exceed amount of $910,000 and extends the term of the agreement to December 31, 2024.

DISCUSSION

On July 16, 2018, the City of Livermore entered into a Professional Services Agreement in the amount of $600,000 with JR Structural Engineering, Inc. to provide project management services for various downtown core development and capital improvement projects. As part of this agreement JR Structural was the primary project manager for Livermorium Park-Plaza at Mills Square, Project 2014-36. JR Structural has also provided project management support for other downtown core projects including Stockmen's Park, the Cultural Facilities, and the Hotel. Project Management services for Veterans Park were added to the agreement as part of an $85,000 First Amendment that was authorized on July 26, 2021.

This Second Amendment covers project management services for Flag Pole Plaza and Downtown Streetscape Improvement, Project 2022-25. The project involves streetscape improvements to the Flag Pole Plaza at the southwest corner of First Street and Livermore Avenue and six other downtown streetscape corners. Improvements include hardscape, accessibility, landscaping, and related improvements. These improvements will accommodate expanded outdoor dining, upgrade accessibility, and provide design consistency in the downtown core. Project management activities include attending design meetings, overseeing the preparation of plans and specifications, coordination with Planning, obtaining permits, bidding and awarding the project, and providing construction administration support. The Second Amendment also covers project management support for the L Street Garage and close-out project management activities for Livermorium Plaza.

The Second Amendment extends the term of the agreement by one-and-a-half years to December 31, 2024. Extra time is required to accommodate the new scope of services for the Flag Pole Plaza project.

FISCAL AND ADMINISTRATIVE IMPACTS

The Second Amendment increases compensation by $225,000 to a total not-to-exceed amount of $910,000. Funding for this amendment is covered in the approved budgets for the following projects in the FY 2021-23 Capital Improvement Program: Livermorium Park-Plaza at Mills Square Project 2014-36, Flag Pole Plaza and Downtown Streetscape Improvements Project 2022-25, and Livermore Village L Street Garage Project 586003.

ATTACHMENTS

1. Resolution
2. Exhibit A - Second Amendment to Professional Services Agreement with JR Structural, Inc.

Prepared by: Joel Waxdeck
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 THE CITY MANAGER TO EXECUTE A SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH JR STRUCTURAL ENGINEERING, INC. INCREASING THE NOT-TO-EXCEED CONTRACT AMOUNT FROM $685,000 TO $910,000 AND EXTENDING THE TERM OF THE AGREEMENT

(DOWNTOWN CORE PROJECT MANAGEMENT SERVICES)

On July 16, 2018, the City of Livermore entered into a Professional Services Agreement in the amount of $600,000 with JR Structural Engineering, Inc. to provide project management services for various downtown core development and capital improvement projects. As part of this agreement, JR Structural was the primary project manager for Livermorium Park-Plaza at Mills square, Project 2014-36. JR Structural has also provided project management support for other downtown core projects, including Stockmen's Park, the Cultural Facilities, and the Hotel.

Project Management services for Veterans Park were added to the agreement as part of the $85,000 First Amendment that was authorized on July 26, 2021.

City and Consultant now desire to amend the Original Agreement and the First Amendment, to provide additional project management services for downtown core projects including Flagpole Plaza, Livermorium Park-Plaza, and the L Street Garage. City and Consultant also desire to extend the term of the agreement to December 31, 2024. This is the Second Amendment to the Original Agreement.

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

1. Authorizes the City Manager to execute a Second Amendment to the Professional Services Agreement with JR Structural Engineering, Inc., attached hereto as Exhibit A, increasing the not-to-exceed contract amount from $685,00 to $910,000 and extending the term of the agreement to December 31, 2024, for downtown core project management services.

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution, including approving minor changes to the proposed agreement.

On motion of Council Member_____, seconded by Council Member_____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – Second Amendment to Professional Services Agreement with JR Structural, Inc.

SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS SECOND AMENDMENT is made and entered into this ____ day of _____, 2022, by and between the City of Livermore ("City"), a municipal corporation, and JR Structural Engineering, Inc. ("Consultant"), a California corporation.

RECITALS

On July 16, 2018, City and Consultant entered into an agreement for Consultant to provide professional Project Management Services for various Capital Improvement Projects primarily associated with the Downtown Core Development projects. services to City ("Original Agreement"). Section 21 of the Original Agreement requires that any modifications to it must be in writing and signed by the parties.

On July 26, 2021, City and Consultant amended the Original Agreement to add additional services for additional Capital Improvement Projects in the Downtown Core, and extend the term of the agreement to July 31, 2023 ("First Amendment").

City and Consultant desire to amend the Original Agreement and the First Amendment, to provide additional Project Management services for downtown core projects including Flagpole Plaza, Livermorium Park-Plaza, and the L Street Garage. City and Consultant also desire to extend the term of the agreement to December 31, 2024. This is the Second Amendment to the Original Agreement.

AGREEMENT

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

1. The Original Agreement is amended as follows:

   A. Section 3 of the Original Agreement is amended to read as follows:

   <u>Description of Services</u> Consultant shall provide professional design services as more particularly set forth in "Exhibit A" to the Original Agreement, "Exhibit A-1" to the First Amendment, and "Exhibit A-2" to this Second Amendment which shall be known collectively as "the Services".

   B. Section 5 of the Original Agreement is amended to read as follows:

   <u>Compensation of Payment</u>

(a) The total compensation payable by the City to Consultant for the Services SHALL NOT EXCEED the sum of $910,000 ("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 NOT EXCEED the sum of $600,000.

2. The compensation payable by the City to the Consultant for the Services required by Exhibit A-1 to the First Amendment Agreement SHALL NOT EXCEED the sum of $85,000.

3. The compensation payable by the City to the Consultant for the Services required by Exhibit A-2 to the Second Amendment Agreement SHALL NOT EXCEED the sum of $225,000.

City shall compensate Consultant for the Services rendered at the hourly rates or task amounts set forth in Exhibit "A" to the Original Agreement, Exhibit "A-1" to the First Amendment, and Exhibit "A-2" to the Second Agreement up to the not-to-exceed amount. Except as provided in the body of the Agreement, the hourly rates or task amounts are intended to be Consultant's only compensation for the Services and is inclusive of all costs of labor, licensing, permitting, overhead, and administrative costs, and any-and-all other costs, expenses, and charges incurred by Consultant, its agents, and employees to provide the Services.

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

Term The term of this Agreement commences on July 2, 2018 and terminates upon the completion of the services or December 31, 2024, 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.

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:

Rosy Ehlert

By: Rosy Ehlert, P.E.
Title: Principal

Dated:

July 21, 2022

CITY OF LIVERMORE:

Marianna Marysheva
City Manager

Dated:

APPROVED AS TO FORM:

Assistant/City Attorney

Attachment:
Exhibit A-2 Scope of Services

EXHIBIT A-2
SCOPE OF SERVICES

SECOND AMENDMENT: DESCRIPTION OF WORK TO BE PERFORMED

Project Management Services Flag Pole Plaza

Provide Project Management Services for CIP# 2022-25 Flagpole Plaza:

- Serve as the City's Project Manager
- Attend Downtown Coordination Meetings, design and public outreach meetings
- Interface between City and Gates on the preparation of design plans, specifications and estimates for Flagpole Plaza
- Coordinate with Planning in the development
- Work to review and incorporate all City comments and outside agency requirements such as Fire and Cal Water
- Prepare Front End Specifications
- Prepare Bid Documents
- Bid Project
- Award Project and Prepare Council Staff Report
- Provide Construction Administration Support

Estimated Fee: Time and Materials – Not to Exceed

- *$185,000*

Project Schedule

Based on City approved Gates & Associates design schedule.

Project Management Services Livermorium Plaza

Provide Project Management Services for CIP# 2014-36 Livermorium Plaza:

- Serve as the City's Project Manager
- Assist in providing final Change Orders and supporting documentation for Chevron's approval
- Assist the Construction Inspection team in completing Livermorium Plaza
- Work with Locanda on final construction issues prior to opening of Livermorium
- Obtain Lead Case Closure from Alameda County Health Department

Estimated Fee: Time and Materials – Not to Exceed

- *$15,000*

Project Schedule

Based on City construction schedule.

Project Management Services L Street Garage

Provide Project Management Assistant Services for Livermore's L Steet Garage Project #586003:

- Serve as the City's Project Assistant
- Review and assist coordinate in the design of L Steet Garage.

Estimated Fee: Time and Materials – Not to Exceed

- *$25,000*

Project Schedule

Estimated schedule is based on City schedule.

Attachment: Second Amendment Rate Schedule (billing rates)

JR Structural Engineering, Inc.

JR Structural Rate Schedule

Version 2022a

Amendment No. 2

1.0 JR Structural Engineering Inc. Professional Services Rate Schedule

The following rates apply to work, if any, contracted at an hourly rate. The fees for professional services are based on the time charged to the project by professional, technical and administrative personnel. The fees are computed by multiplying the below listed rates for each hour charged to the project by that individual:

Classification	Hourly Rate
Principal	$330.
Project Managers	$250.
Senior Engineers	$220.
Project Engineers	$200.
Senior CADD Operators	$160.
CAD Operators	$140.
Administrative	$ 95.

2.0 JR Structural Engineering Inc. Standard Service Center Rate Schedule

The following rates apply to project reimbursable expenses.

Description		Rate
Mileage		$0.65 per mile
Photocopies		$0.25 per copy
Print Expenses,	24x36 plans	$3.00 per sheet
	30x42 & larger	$4.00 per sheet
	Half size	$1.50 per sheet
Other expenses		Direct cost + 15%

3.0 Modification of Rates

JR Engineering reserves the right to modify the above rates on or after 12/31/2024.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.5**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing execution of an agreement with Black & Veatch Corporation to provide engineering design and construction support services for the Water Reclamation Plant (WRP) Ultraviolet (UV) Treatment System Replacement, Project 2021-28, in an amount not-to-exceed $951,816.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute an engineering services agreement with Black & Veatch Corporation, to provide engineering design services and engineering support services during construction of the WRP UV Treatment System Replacement, Project 2021-28, in the not-to-exceed amount of $951,816.

SUMMARY

The City of Livermore's (City) Water Reclamation Plant (WRP) ultraviolet (UV) disinfection system requires replacement to increase system reliability, reduce operation and maintenance costs, and meet regulatory compliance requirements. Black & Veatch Corporation was ranked as the most qualified consultant to provide the engineering design and construction support for the WRP UV Treatment System Replacement Project 2021-28 (Project). The total design and construction support cost is $951,816. Contract services include providing an alternative analysis, preliminary basis of design evaluation, construction drawings, specifications, cost estimates, schedules, bid assistance, permitting assistance, and engineering support during construction.

DISCUSSION

The Water Reclamation Plant produces an average of two million gallons per day of recycled water from wastewater for irrigation, fire suppression, toilet flushing, construction, and industrial operations. This water recycling allows the City to reduce annual potable water use by over 25 percent. The WRP has been using the current UV disinfection system for two decades as the primary means to disinfect recycled water. The location of the UV disinfection system within the WRP is shown on Attachment 1.

The 2012 WRP Master Plan and the 2016 WRP Recycled Water System Asset Management Plan

identify the existing UV disinfection system as aging infrastructure within the WRP. The current system has become outdated and does not fully function as originally intended. This includes a failure of the automated lamp cleaning system, a limited supply of spare parts, and an outdated control system. The Project will replace the existing UV lamp modules and associated electrical, instrumentation, and control components. Replacing aged equipment will increase the efficiency and reliability of WRP operations by utilizing the latest available technologies to lower both energy consumption and ongoing maintenance costs. Structural rehabilitation will extend the useful life of related structures. The new system is anticipated to be fully operational in early 2025 with minimal impacts on existing operations.

In August 2019, staff sent out a request for qualifications for consultants to perform professional engineering services for water, wastewater, and storm water projects associated with the City's Capital Improvement Plan. The purpose of this process was to receive statements of qualifications from multiple consultants, and based on review of these qualifications, establish a short list of consultants who would be eligible for award of engineering design agreements for future water, wastewater, and storm water projects. Based on review of the proposals a selection committee, comprised of staff from the Engineering and Water Resources divisions, established the following short list of consultants:

- Black and Veatch Corporation, Walnut Creek, CA
- Carollo Engineers, Inc., Walnut Creek, CA
- Cannon, San Luis Obispo, CA
- HDR Engineering, Inc., Walnut Creek, CA
- HydroScience Engineers, Inc., Berkeley, CA
- LEE & RO, Inc., Walnut Creek, CA
- MacKay & Somps, Pleasanton, CA
- Schaaf & Wheeler Consulting Civil Engineers, San Francisco, CA

In May 2022, two short-listed firms, Carollo Engineers, Inc. and Black & Veatch Corporation, submitted proposals to perform engineering services for the Project. Staff from the Water Resources and Engineering Divisions reviewed these two proposals and determined that Black & Veatch Corporation is the most qualified consultant. This agreement will provide design and construction phase engineering support services.

The agreement with Black & Veatch Corporation is in the amount of $951,816 and includes the following major tasks:

- Preliminary Design – This task entails performing a historical data review, evaluating technology alternatives, determining existing infrastructure modifications, preparing a basis of design report, identifying potential equipment vendors, and confirming a procurement strategy to expedite implementation.
- Detailed Design – This task entails performing the required design services to support the project including preparing construction contract documents, cost estimates, schedules, coordination with selected vendors, permitting and regulatory collaboration, and providing bid assistance.
- Title 22 Engineering Report – This task involves presenting a compliance strategy to the Regional Water Quality Control Board and the State Water Resources Control Board, preparation of the Engineering Report for submittal to these regulatory agencies and facilitating approval of the submittal.
- Support during Construction, Testing, Startup, & Commissioning – This task entails providing engineering services during construction, including processing construction documentation (e.g.,

submittals, requests for information, etc.), engaging operation and maintenance experts in testing, commissioning and optimization, and providing onsite support for startup and commissioning.

The $951,816 agreement is approximately 18% of the $5,422,000 estimated construction cost. This is within the typical 15% to 20% range for treatment plant projects.

FISCAL AND ADMINISTRATIVE IMPACTS

Funding for this agreement is included in the budget for the WRP UV Treatment System Replacement, Project 2021-28 in the FY 2021-23 Capital Improvement Plan. The Project is 75 percent funded with Fund 239 Sewer Replacement Fees and 25 percent funded with Fund 241 Sewer Connection Fees. Staff does not anticipate administrative impacts related to approval of this agreement.

ATTACHMENTS

1. Project Location
2. Resolution
3. Exhibit A - Agreement with Black & Veatch Corporation

Prepared by: Rick Teczon
Senior Civil Engineer

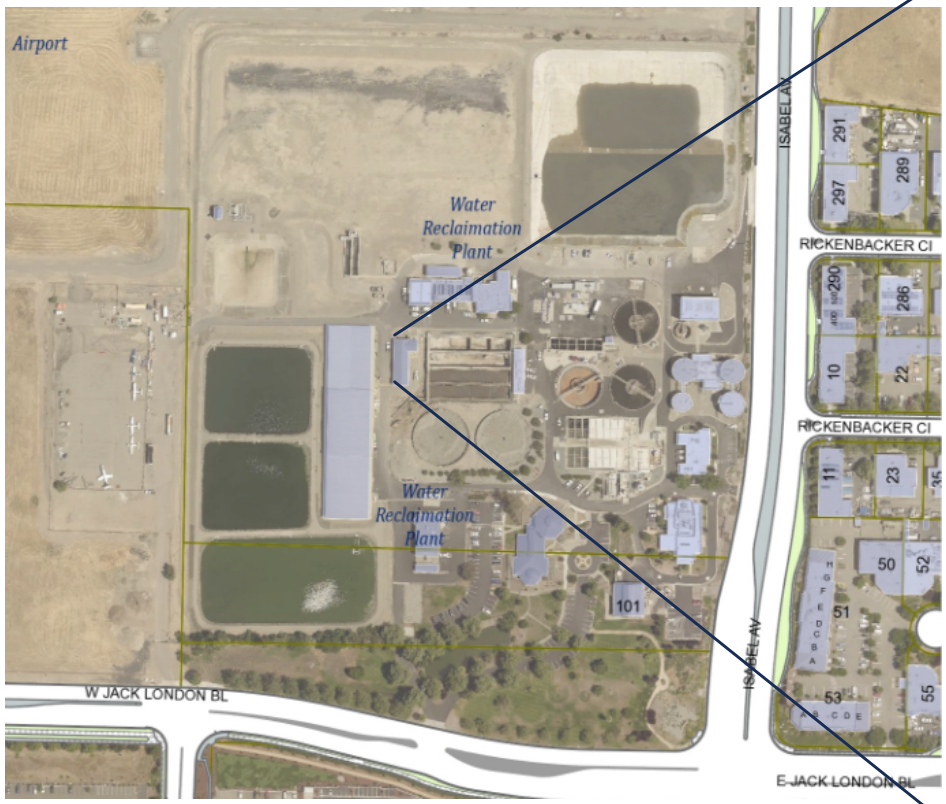
Approved by:

Marianna Marysheva
City Manager

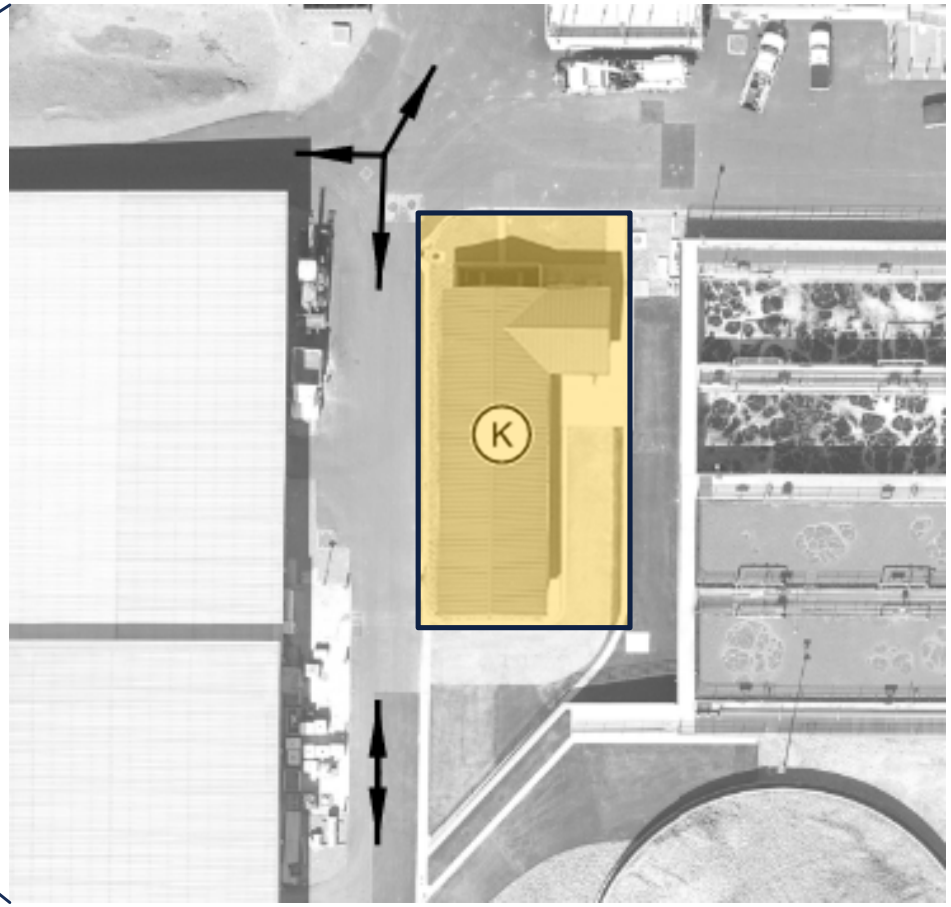
Fiscal Review by:

Tina Olson
Administrative Services Director

PROJECT LOCATION



VICINITY MAP



SITE PLAN

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF AN ENGINEERING SERVICES AGREEMENT WITH BLACK & VEATCH CORPORATION IN AN AMOUNT NOT-TO-EXCEED $951,816 TO PROVIDE ENGINEERING DESIGN AND SUPPORT SERVICES

(WRP UV Treatment System Replacement Project 2021-28)

The City of Livermore's Water Reclamation Plant (WRP) ultraviolet (UV) disinfection system requires replacement to increase system reliability, reduce operation and maintenance costs, and meet regulatory compliance requirements. The City of Livermore received proposals for engineering services for the Water Reclamation Plant Ultraviolet Treatment System Replacement Project 2021-28. Black & Veatch was identified as the most qualified consultant to provide engineering design services and engineering support services during construction.

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

1. Authorizes the City Manager to execute an engineering services agreement with Black & Veatch Corporation, attached hereto as Exhibit A, in an amount not-to-exceed $951,816 to provide engineering design services and engineering support services during construction of the WRP UV Treatment System Replacement Project 2021-28;

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution, including approving minor changes to the proposed agreement.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – Agreement with Black & Veatch Corporation

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2022, ("Effective Date") by and between the City of Livermore, a municipal corporation ("City"), and Black & Veatch Corporation, a Delaware corporation licensed and registered to do business in California ("Consultant").

RECITALS

City requires engineering services to provide engineering design and construction support for the Water Reclamation Plant Ultraviolet Disinfection System Replacement Project.

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

AGREEMENT

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

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

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

3. Description of Services. Consultant shall provide engineering services to provide engineering design and construction support in conjunction with the Water Reclamation Plant Ultraviolet Disinfection System Replacement Project No. 2021-28 ("Project"), as more particularly set forth in Exhibit "A" (collectively "the Services").

4. Consultant Responsibilities. Consultant shall:

(a) Consultant shall investigate and verify all existing site conditions for the Project and take them into account when preparing the Project's design even when "As Built" or "Record Drawings" are used by Consultant.

(b) Consultant shall review and respond to construction submittals and shop drawings within fourteen (14) calendar days following their receipt by Consultant;

requests for information with comments noted thereon shall be reviewed and responded to within seven (7) working days following their receipt by the Consultant.

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

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

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

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

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

(h) Coordinate the Services with Yanming Zhang, Water Resources Technical Programs Manager ("Project Manager"), or such other person designated as the Project Manager by City;

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

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

(k) Keep and maintain invoices and records related to the Services in an organized manner. At a minimum, the records must be kept for at least 3 years from the date of final payment to Consultant and must include time sheets, work progress reports, and other documentation to adequately explain all the Services invoiced for payment. Consultant shall make the invoices and records immediately available to City upon delivery of a written request to examine, audit, or copy them at City's place of business during normal business hours. Consultant shall give City 30 calendar-days' written notice prior to destroying the invoices and records, and allow City an opportunity to take possession. If City wants them, Consultant and City shall coordinate their delivery to City in the most efficient manner possible;

(l) Prepare and submit a written report to the Project Manager, with each invoice and when requested in writing by the Project Manager, that identifies the Services completed and in progress, the charges incurred to date, and the anticipated cost to complete the remaining Services; and,

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

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

5. Probable Construction Cost Estimate. The design developed, prepared, and delivered by Consultant in accordance with this Agreement is for the development and construction of the Project, the construction of which shall be awarded through competitive bidding. City shall be entitled to rely upon Contractor's work prepared, and delivered in accordance with this Agreement in order to solicit such bids. Consultant, therefore, shall prepare an engineer's opinion of probable construction cost estimate. If the lowest of three or more bids received by City for the Project varies from the engineer's opinion of probable construction cost estimate by more than 15% and is due to Consultant's failure to comply with this Agreement, including Exhibit "A", or its negligent failure to perform pursuant to industry standards for the design work involved, Consultant, if directed by City, shall redesign the project at no additional cost to City to meet the original engineer's cost estimate.

6. Compensation and Payment.

(a) The total compensation payable by City to Consultant for the Services **SHALL NOT EXCEED** the sum of $951,816 ("not-to-exceed amount"). City shall compensate Consultant for the Services rendered at the hourly rates or task amounts set forth in Exhibit "A" up to the not-to-exceed amount. Except as provided in the body of this Agreement, the hourly rates or task amounts are intended to be Consultant's only compensation for the Services and is inclusive of all costs of labor, licensing, permitting, travel expenses, overhead and administrative costs, and any-and-all other costs, expenses, and charges incurred by Consultant, its agents, and employees to provide the Services.

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

7. Term. The term of this Agreement commences on the Effective Date and terminates upon the depletion of funds or December 31, 2025, whichever occurs first.

8. Termination by City. City may terminate any portion or all of the Services by giving Consultant at least 30 calendar-days written notice. Upon receipt of a termination notice, Consultant shall immediately stop all work in progress on the Services except where necessary to preserve the benefit of the work, and assemble the work on the Services for delivery to City on the termination date. All compensation for Services performed prior to the termination date shall be payable to Consultant in accordance with Section 6.

9. <u>Ownership of Documents</u>. All drawings, designs, data, photographs, reports and any and every other types of items prepared or obtained by Consultant in the performance of the Services under this Agreement shall be the property of the City and Consultant shall deliver them to City upon demand. The Consultant shall assume no responsibility for the unintended use by others of any such documents, information, or materials on project(s) which are not related to the scope of the Services described under this Agreement.

10. <u>Copyright and Right of Use</u>. 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.

11. <u>Confidentiality</u>. 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.

12. <u>Indemnity and Defense</u>.

(a) Definitions. When used in this "Indemnity and Defense" section, these terms have the following meaning:

(1) "City," means the City, its elected officials, officers, directors, employees, agents, or designated volunteers.

(2) "Design Professional," means licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors and the business entities which offer such services in accordance with the provisions of the California Business and Professions Code listed at California Civil Code, section 2782.8, upon which Consultant relies to meet the obligations of, or perform work pursuant to, this Agreement.

(3) "Non-Design Professional," means any person or entity upon which Consultant relies to meet the obligations of, or perform work pursuant to, this Agreement who or which is not a Design Professional.

(4) "Loss," or "Losses," mean all claim for or actual loss, liability, damage, cost, and expense including but not limited to reasonable attorney, consultant and expert fees, and court costs arising out of or in connection with Consultant's obligation or work to perform this Agreement including the City's active or passive

negligence, except for such Loss arising from the sole negligence or willful misconduct of the City.

(b) Non-Design Professional Services. Consultant shall defend, indemnify, and hold harmless the City from and against any alleged Loss arising out of, pertaining to, or relating to, the services of any Non-Design Professional.

(c) Design Professional Services. For an alleged Loss that solely arises out of, pertains to, or relates to, the services of a Design Professional, Consultant shall defend and indemnify the City solely for such Losses due to the negligence, recklessness, or willful misconduct of the Design Professional(s) as allowed by application of California law, including California Civil Code, section 2782.8, as written on the effective date of this Agreement and according to applicable judicial interpretations.

(d) Mixed Services. If an alleged Loss arises out of, pertains to, or relates to both the services of a Design Professional and a Non-Design Professional, Consultant shall defend City against the claimed Loss and shall indemnify and hold harmless City from all Losses alleged against the Non-Design Professional combined with any Losses allegedly due to the negligence, recklessness, or willful misconduct of any Design Professional.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. Notice. Notices under this Agreement must be delivered to the addresses below by deposit in the United States mail or by overnight delivery service, with postage prepaid and delivery confirmation:

TO CITY: Attention: City Engineer
CC: Project Manager
City Administration Building
City of Livermore
1052 S. Livermore Avenue
Livermore, California 94550

TO CONSULTANT: Attention: Craig Lichty, P.E.
Black & Veatch Corporation
2999 Oak Road, Suite 490
Walnut Creek, CA 94597

24. 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.

25. 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.

26. Counterparts. This Agreement may be executed in counterpart by delivering a facsimile or secure electronic copy of the signed agreement to the other party, followed by delivery of the original documents bearing the original signatures. However, failure to deliver the original documents does not affect the enforceability of this Agreement.

27. Governing Law. This Agreement is governed by California law. Consultant consents to the exclusive jurisdiction and venue of the state and federal courts of Alameda County, California.

****

Signatures and Attachment List on the Next Page

In concurrence and witness whereof, and in recognition of the mutual consideration provided therefore, the parties have executed this Agreement, effective on the date first written above.

CONSULTANT:

By: Craig Lichty
Title: Vice President

Dated: 8/1/2022

CITY OF LIVERMORE:

Marianna Marysheva
City Manager

Dated:

APPROVED AS TO FORM:

Assistant/City Attorney

APPROVED AS TO FORM:

Risk Manager/Analyst

Attachments:
Exhibit A – Scope of Work
Exhibit B – Insurance Requirements

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City of Livermore WRP – Title 22 UV System Replacement Project

Scope of Services

This Scope of Work consists of preparing preliminary and detailed design, and providing bid phase and construction phase services for the project. It is assumed that the work will be performed under a single general contractor. The scope of work includes:

- The scope presented in Attachment A -Scope of Services
- RFP Attachment A, Exhibit A – Detailed Improvements Plan,
- RFP Attachment A, Exhibit B – Supplemental Drawings and Photos.
- Additional assumptions and detailed description of the tasks as presented below.

Project Description

1. The project design is based on the removal and replacement of the existing 6.5 mgd UV system with similar in-channel UV disinfection system to produce Title 22 compliant recycled water.
2. The new UV system will be located in the existing UV channels. It is assumed that existing channels would not need to be widened/expanded.
3. The new electrical and I&C upgrades associated with the new UV system will be housed in the existing control and electrical room.
4. The existing UV system will be replaced in a phased manner to allow at least one existing channel operational and in service to produce recycled water to meet the summer demand.
5. Existing electric actuators will be raised above the flood level inside the existing pipe pit. A support frame will be provided as required to support the valve actuators.
6. Existing magmeters will be replaced with new magmeters in kind. The magmeter flow tube will need to withstand submerged conditions. Flow transmitter for the magmeters will be located remotely outside the valve pit
7. Existing turbidimeters, UVT and sampler instrumentation will be replaced.
8. Existing HVAC associated with the electrical and control room will be evaluated and replaced as required to handle the new loads
9. Alternatives analysis will consider the three leading UV manufacturers, Trojan, Wedeco, and Suez.
10. It is assumed that pre-procurement of equipment is not required.
11. Surveying and geotechnical work is not anticipated.
12. As indicated by the City, no permits are required.
13. As indicated by the City, no CEQA is required.

Project Schedule.

A detailed project schedule is shown in the Appendix.

NTP – 7/27/2022

Preliminary Design – 3 months

Detailed Design – 6 months

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Bid Phase – 3 months

Construction – 18 months

ASSUMPTIONS

General:

- BV standard specifications and details will be used.
- BV graphics standards in existing CAD format will be used.
- Design will be done in 3D using Revit. Drawings will present 2D sections derived from the 3D model to provide clarity to the construction contractor.
- Project execution will follow ""Design-Bid-Build"" approach.
- City WRP standards will be followed as appropriate.
- City Front End Documents will be used and modified for the project.
- Submittal of structural calculations for review included at 2 milestones
- Value Engineering is not anticipated and therefore not included.

Structural:

- UV System: minor crack/spall repair
- UV System: Evaluate existing crane for new operational loads (no retrofit scoped at this stage)
- UV System: install sump pump in the pump pit
- Widening/expansion to existing structure is not required

Architectural Assumptions:

- Architect effort will cover replacement of two existing doors only.
- No building modifications expected for door replacement.
- No architectural drawings will be needed for door replacement.
- Architect will provide two specifications: steel doors/frames and finish hardware. The door spec will include a door schedule.

HVAC Assumptions:

- UV Area
  - This is an existing outdoor UV area. No HVAC scope planned.
- UV Control Building
  - This is an existing single level single room structure including Control Room.
  - The Control Room will be heated with unit heaters and air conditioned for equipment protection.
- Drainage Pit
  - This is an existing open top drainage pit. No HVAC scope planned.
- All space heating will be provided by electric resistance coils.

Plumbing Assumptions:

- UV Area
  - An existing emergency eyewash will be relocated. No changes to existing tempered water system.

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- UV Control Building
  - No plumbing scope planned.
- Piping Pit
  - A new sump and sump pumps will be added to handle rainwater and other drainage flows.
- The building water pressure available is expected to be in the range of 50-70 psig. No water booster system design is planned

Electrical:

- Project Scope will consist of Electrical design of the replacement of the existing UV system with new, replacement of outdoor/canopy lighting with LED type, replacement of HVAC equipment in the UV electrical room, moving valve actuator out of the pipe pit, and addition of a sump pump in the pipe pit.
- Fee includes an evaluation of the new UV load and the existing electrical distribution system to determine if it can be reused. Design fee assumes replacement of PP-1, MCC-G, PP-1 transformer, PP-1 disconnect switch, and conductors to accommodate load increase. All modifications to the electrical system beyond MCC-G should be considered Supplemental Services.
- The design fee assumes Black & Veatch standards and practices are used, with the exception that conduit and cable schedules will be provided as required by the WRP Design Standards. Conduit routing will be specified to be performed by the Contractor. Conduit routing will not be shown on the plan drawings.
- All modifications to the electrical system beyond distribution of power from an existing source should be considered Supplemental Services.

Instrumentation and Controls:

- Preliminary Design Memo will include P&ID's.
- The fee assumes that configuration work will be done by Contractor
- The fee assumes expansion of the existing SCADA system including addition of one new UV vendor provided PLC and replacement of an existing HMI thin client workstation. Communication network will be modified to support the new PLC. Upgrades to existing SCADA system computer hardware other than replacement of the UV area HMI workstation. No SCADA system software upgrades are included in the Scope. Major network upgrades or improvements are not included.

Tasks

Task 1 Project Management

This task will include project setup, administration, coordination with the City, and managing scope schedule and budget. Monthly invoices and progress report will be submitted as PDF via email. The following meetings and calls are included (Meetings are for Bid Phase, Construction Phase, and Startup, Commissioning and Testing are included in the respective tasks):

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- Design kickoff meeting (in-person) - BV PM, EM, and Process Lead will attend in person. The goal of the kickoff meeting is to confirm the scope, schedule, communication protocol, and project schedule.
- Workshops
    - Alternatives Analysis Evaluation Criteria Workshop
    - Alternatives Analysis Results Presentation Workshop
    - CFD Modeling Results Workshop
- Deliverable Review meetings
    - Preliminary Design(30% and Basis of Design Report (BDR)) Review Workshop
    - 60% Design Review Workshop
    - 90% Design Review Workshop
    - Title 22 ER Review Meetings (2)
- Informal check-in phone calls
    - Status update calls attended by two people through preliminary and detailed design. A total of 15, 1-hour calls included.
- Periodical site visits during design and construction
    - Design Site Visits to gather information and meet with City staff
        - Two site visits during preliminary design (avg 2 people, EM and Sr. Civil Engineer)
        - One site visit during detailed design (avg 2 people)
        - One Site Visit by Electrical Engineer
        - One Site Visit by Process Engineer

Deliverable - An agenda, and meeting minutes will be prepared for the kickoff and deliverables review meetings and distributed to all attendees in PDF format. Monthly invoices and progress report in PDF.

Task 2 – 30% Design

Task 2.1 Data Collection and Review

Consultant shall review the existing background data including reports, operational data, existing drawings showing updates to the facility after original construction and any pertinent information related to the project. A data request will be sent to the City via email. City will provide operational data in excel format. BV will use the existing facility AutoCAD drawings.

Deliverable – A data request list via email.

Task 2.2 – UV System Alternatives Analysis

Alternatives Analysis Evaluation Criteria Workshop

Upon review of the existing data, Consultant will meet with the City to discuss:

- Water quality, UV process technology, current market trends and features, leading UV vendors, and operational and maintenance features desired in the new UV system.
- Capacity discussion focusing on the need to increase the capacity of the UV system to meet the maximum three day demand during summer months using only one channel.

- A process design criteria will be established based on the evaluation of water quality data. This design criteria will be used to contact the UV vendors to solicit proposals on new UV system.
- An evaluation criteria and scoring method will be presented to the City for discussion, review and approval. This will consider as a minimum:
    - Capital Cost
    - Operational Cost
    - Schedule (lead time)
    - Existing facility modification requirements
    - Operational Flexibility
    - Maintenance Requirements
    - Spare parts and vendor support
    - DDW permitting experience

City will provide weightage to be assigned to the factors above.

Consultant will obtain proposals from three leading vendors and perform evaluation using the established evaluation criteria.

Alternatives Analysis Results Presentation Workshop

Results of the evaluation will be presented to the City in this workshop. Based on the evaluation, It is anticipated that the City will select the highest scoring vendor as the preferred UV system supplier. The detailed design will be prepared using the highest scoring vendor while making sure that the second highest vendor's design can be accommodated with some modifications. Such modifications will be generally identified for Contractor to incorporate. Separate designs for the two shortlisted vendors will not be prepared.

Deliverables:

- Workshop meeting agenda slides in PDF
- Meeting minutes in PDF

Task 2.3 Preliminary Design Report

Basis of Design Report

A basis of design report will be prepared documenting the following"

- Process Design Criteria
- UV Technology Alternatives Analysis Summary
- Discipline Design Criteria
- Project Implementation Plan
- Permitting Requirements
- Opinion of Probable Construction Cost (AACEI Level 4 Estimate)
- Preliminary Drawings and Specification list
- The following preliminary drawings will be included as an appendix to the BDR
    - General
        - Sheet List

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- Site Plan
- Hydraulic Profile
- Facility Demolition Plan
- Facility New Equipment and Piping Plan
- Electrical Power Distribution Functional Diagram
- P&IDs

Based on the equipment lead time, a procurement strategy will be discussed with the City to confirm that the UV system will be procured by the General Contractor. If pre-procurement is desired to meet schedule requirements, Consultant can provide a scope for review and approval associated with the development of RFP and support through pre-procurement process.

A draft BDR will be submitted to the City via PDF. Upon City review, a workshop will be held to discuss the City review and comments. Comments received from the City will be incorporated into the 60% design.

Deliverable – Draft BDR as PDF, Meeting Slides, Agenda, Minutes as PDF

Task 3 – 60% design

Construction Drawings, details and sections for the work will be prepared. Drawings will be developed using BV standards and AutoCAD (latest version used at BV) and prepared on 22 x 34-inch sheet. Project technical specifications (CSI Format Div. 50) will be prepared in MSWord using BV standard specifications. City's front end documents (Division 0 and 1) will be reviewed and supplemental sections will be added. BV will provide supplemental information needed for the City to develop the front-end documents. An opinion of probable construction cost will be prepared. A two week review period is allotted for the City review. Responses to client comments will be provided, but changes to design will be incorporated in the next level of design. A design review meeting will be held at the City office. This meeting will be attended by BV PM and Engineering Manager. Meeting agenda and minutes will be prepared and distributed.

Deliverable –

- Drawings and specifications PDF by email
- OPCC (AACEI Class 3 Estimate) in PDF
- Meeting agenda and minutes in PDF

Task 4 90% design

A draft design package will be submitted for review at the 90% complete level. The 50% design opinion of probable construction cost will be updated. A two-week review period is allotted for the City review. Responses to client comments will be provided, but changes to design will be incorporated in the next level of design. A design review meeting will be held at the City office. This meeting will be attended by BV PM and Engineering Manager. Meeting agenda and minutes will be prepared and distributed.

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Deliverable –

- Drawings and specifications PDF by email
- OPCC (AACEI Class 2 Estimate) in PDF
- Meeting agenda and minutes in PDF

Task 5 100% Design

The review comments from the City and the QA/QC team will be incorporated into the design documents as appropriate. Upon completion, final drawings will be submitted to the City in electronic format, together with one set of project specifications. The final construction drawings will be signed and sealed by registered professional engineers in the State of California. The 90% design level OPCC will be updated and presented as a PDF via email.

Deliverable –

- Drawings and specifications PDF
- list of submittals,
- list of long-lead items taking more than one month to deliver from approved submittal,
- list of special licenses or certificates required by Contractor,
- list of spare parts,
- list of warranties greater than one year,
- list of special inspections,
- list of items requiring O&M manuals, and training requirements.

Task 6 – Title 22 ER and Bioassay Test

Title 22 ER

Consultant will support the City in the development of an updated Title 22 Engineer's Report.

After Task 2.2, the Consultant and City will meet with Regional Board and present the project and schedule to the Board. Consultant will prepare presentation materials as required to support the description. The following will be discussed with the Board as a minimum:

- Approach to updating the existing Title 22 Engineer's Report
- Preferred UV technology and vendors
- Bioassay testing protocol development and testing requirements
- Title 22 ER Update schedule and submittals to Board

Consultant will update the existing Title 22 Engineer's Report (as approved by the Board) after 60% design is complete. After City's review, the Draft report will be submitted to the Regional Board for review and comments. A second meeting (virtual) with the Regional Board will be held at the Board office to review comments. Comments will be incorporated and a Final Draft will be submitted to the Regional Board.

After the vendor is selected during construction, the report will be updated and a Final Title 22 ER will be submitted to the Regional Board.

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Bioassay Testing

Consultant will prepare a testing protocol for the Bioassay testing the UV system per Regional Board Requirements and submit it to the Board for review and approval. Comments received from the Regional Board will be incorporated and included in the Project Bid Documents for Contractor to conduct the test.

Consultant will witness the test during construction and develop a test report documenting the results and submit to City and Regional Board for review and approval. Consultant will support the City in the Title 22 permit amendment.

Deliverables

- Meeting agenda, minutes
- Draft, Final Draft, and Final Title 22 Engineering Report in PDF
- Drat and Final Bioassay test protocol in PDF
- Draft and Final Bioassay Test Report in PDF

Task 7 – Bid Phase

The following services will be provided during bid phase:

- Pre-bid meeting (in-person) – Attended by BV PM and EM
- Interpret construction documents and issue addenda as required to clarify the intent of bid documents (2 addenda included).
- Conformed to Bid Drawings and Specifications. BV will prepare conformed to bid drawings and specifications to incorporate all addenda issued during the bid phase. An electronic PDF copy of half size and full-size drawings and pdf specifications will be provided to the City.

Deliverables

- Addenda in PDF
- Confirmed bid documents in PDF

Task 8 – ESDC

The following services will be provided during construction phase:

- Review a total of 100 submittals including 20 resubmittals. Assumed 4 hours per submittal on average.
- Review 50 RFIs at 3 hours per RFI on average.
- Develop 1 design clarification/change documents at 40 hours per design clarification.
- Review 2 change orders at 20 hours per change order review (including cost review). It is assumed that the City will handle all paperwork and processing of change order.
- Conduct final inspection and develop punch list.
- Prepare conformed to construction record drawings using Contractor's red-line set.
- Meetings and Site Visits
    - Pre-construction meeting (in-person) - Attended by BV PM and EM
    - Weekly construction progress phone calls – Attended by 1 BV Engineer
    - Final walkthrough inspection (in-person) – Attended by two BV Engineers.

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- Construction Site Visit
  - Site visit by 1 BV Engineer (16 visits total)

Deliverables

- RFI, Submittal, Design Clarifications, and Change Order responses in PDF
- Record Drawings in PDF

Task 9 – Startup, Commissioning, and Testing

Consultant will provide support during startup, commissioning, and testing. Consultant's operations specialist will be onsite to provide support to the City staff. This will include both virtual and in-person assistance. A budget of 10 hours is included to provide phone consultation to the City staff and to attend Contractor's startup planning calls. The following in person assistance is included:

- Testing and commissioning assistance (in-person) –
  - Onsite assistance – 2 trips (1 for each channel), 5 days each by BV Operations Specialist
  - Witness Bioassay testing – included in the trips above.

Deliverables – Bioassay test report in PDF

Optional Tasks

Bridge Crane Modifications

This task will include design of the modifications required to the existing bridge crane to accommodate the new UV system. Effort will include analysis of the existing support structure for the bridge crane and design of modifications.

CFD Modeling

Based on the preferred UV system vendor, Consultant shall perform computational fluid dynamics (CFD) modeling to support an optimal and consistent UV performance. In general, CFD modeling would allow to determine the uniformity of flow distribution in the channels as water travels through the new UV banks. The uniformity of flow distribution can be evaluated using the numerical equivalent of a tracer.

Analysis assumes up to three scenarios. The ANSYS CFX (version 2021 or later) CFD software will be used in this analysis. ANSYS CFX uses the finite volume method to perform three-dimensional fluid flow simulations.

Results of the CFD modeling will be summarized in a Technical Memorandum (TM) and presented to the City in a workshop.

CFD Modeling will be updated to reflect the 90% design. Analysis assumes two scenarios.

Deliverable:

- CFD TM in PDF, Workshop slides
  Updated CFD Modeling TM in PDF

City of Livermore
WRP UV Treatment System Replacement Project
Summary of Task Hours and Fee (June 28, 2022)

Task	Hours	Fee
Project Management	359	$ 79,413
30% Design	600	$ 110,091
60% Design	988	$ 178,778
90% Design	1186	$ 210,660
100% Design	397	$ 69,795
Title 22 Engineering Report and Regional Board Coordination	117	$ 24,406
Bid Phase Services	179	$ 30,990
Construction Phase Services	829	$ 155,561
Testing, Startup, and Commissioning	94	$ 30,692
Total Base Scope	**4749**	**$ 890,386**
Optional Task (Bridge Crane Modifications)	165	$ 31,530
Optional Task (CFD Modeling)	164	$ 29,900
Total - Base Scope + Optional Task	**5078**	**$ 951,816**

EXHIBIT A

Owner: City of Livermore

Project: WRP UV Treatment System Replacement

PHASE/Task		Sr. Project Manager	Sr. Engineering Manager	Civil Sr. Engineer	Civil Director/QC	Structural Director/QC	Structural Sr. Engineer	Structural Engineer	Architect	Bldg Mech Director/QC	Bldg Mech Engineer	Proc Mech Sr. Engineer	Proc Mech Engineer	Electrical Director/QC	Electrical Sr. Engineer	Electrical Engineer	Electrical Technician	I&C Director/QC	I&C Sr. Engineer	I&C Engineer	Process Sr. Engineer	Process Engineer	BIM Coordinator	BIM Sr Technician	BIM Technician
(Average Billing Rate, $$,Hr.)		$310.00	$238.00	$171.00	$328.00	$263.00	$227.00	$164.00	$171.00	$246.00	$161.00	$302.00	$161.00	$263.00	$236.00	$164.00	$125.00	$263.00	$197.00	$132.00	$279.00	$161.00	$154.00	$151.00	$112.00
WORK BREAKDOWN STRUCTURE	**PHASE**																								
Project Management	0100	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Project Management and Administration	0110	24	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Progress Reports and Invoices	0120	12	12	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Project Meetings	0130	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Design Kickoff		4	4	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	-	-	-	-
Workshops (2)		8	8	8	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	8	-	-	-	-
Deliverable Review Meetings (3)		12	12	15	-	-	-	-	-	-	6	-	3	-	-	6	-	-	-	6	6	-	-	-	-
Informal Phone Calls		15	15	15	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Site Visits (4)		-	12	12	-	-	-	-	-	-	-	-	-	-	-	16	-	-	-	-	16	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
30% Design	0200	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Data Collection and Review	0210	-	-	8	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	8	-	-	-
UV System Alternative Analysis	0220	4	8	24	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	8	40	-	-	-
CFD Modeling	0230	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Basis of Design Report	0240	4	8	20	6	5	14	13	-	4	10	3	10	1	1	16	22	6	24	16	4	20	-	-	-
Estimated Construction Cost	0250	-	1	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Discuss Procurement Strategy	0260	2	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
30% Design Drawings w/ BoDR	0270	2	16	32	6	-	-	-	-	-	-	-	-	-	-	16	-	7	72	51	2	4	8	24	24
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
60% Design	0300	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Drawings	0310	4	48	192	16	8	16	19	4	17	63	4	16	6	1	81	74	5	9	21	4	16	8	40	40
Specifications	0320	4	32	96	8	-	-	-	4	-	-	4	8	2	1	22	-	4	9	16	-	-	-	-	-
Construction Schedule	0330	4	1	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Estimated Construction Cost	0340	2	1	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
90% Design	0400	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Drawings	0410	4	60	120	16	2	6	7	10	14	43	2	8	11	17	128	122	6	3	10	4	16	19	85	80
Specifications	0420	4	12	85	16	-	-	-	7	4	20	16	66	4	6	40	-	4	8	12	-	-	-	-	-
Construction Schedule	0430	2	1	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Estimated Construction Cost	0440	1	1	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bioassay Testing Plan Protocol Development	0450	2	4	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	8	16	-	-	-
Support City in Third Party Bioassay Testing Firm Selection	0460	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
100% Design	0500	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Drawings	0510	2	20	48	8	2	3	4	1	3	28	-	2	1	-	28	22	1	1	2	4	-	8	50	48
Specifications	0520	4	8	45	4	-	-	-	1	3	5	-	2	1	-	6	-	1	1	2	4	-	-	-	-
Construction Schedule	0530	1	1	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Estimated Construction Cost	0540	1	1	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Title 22 Engineering Report and Regional Board Coordination	0600	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Review Existing Title 22 Engineering Report	0610	2	2	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Regional Board Project Approach Meeting	0620	2	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Draft Title 22 Engineering Report Update	0630	1	4	40	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	-	-	-	-
Final Draft Title 22 Engineering Report	0640	1	4	24	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	-	-	-	-
Final Title 22 Engineering Report	0650	1	4	8	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-
Regional Board Update Meetings (2)	0660	4	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bid Phase Services	0700	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Response to Bidder Questions	0710	-	16	40	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Addenda	0720	-	4	8	-	-	-	-	1	-	2	2	4	1	-	7	-	-	-	-	-	-	6	-	12
Pre-Bid Conference	0730	2	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Conformed Drawings and Specifications	0740	-	2	8	-	-	1	1	1	-	2	-	-	-	-	2	2	-	-	-	-	-	9	18	18
Pre-Construction Conference	0750	2	2	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Construction Phase Services	0800	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Review and Respond to RFI's (50)	0810	-	40	110	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Submittal Reviews (100)	0820	-	60	340	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Design Clarification Responses (1)	0830	-	20	20	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Contract Change Order Request Support (2)	0840	-	25	25	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Punchlists	0850	-	8	24	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Record Drawings	0860	-	17	68	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Construction Progress Phone Calls and Site Visits)	0870	-	36	36	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Testing, Startup, and Commissioning	0900	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Startup and Commissioning (onsite 2 trips 1 week each channel)	0910	-	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Support City in Bioassay Testing (included in onsite trip above)	0920	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Testing and Commissioning Phone Assistance (10 hours)	0930	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Optional Items		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bridge Crane Modifications		-	-	-	-	8	19	25	-	-	-	20	93	-	-	-	-	-	-	-	-	-	-	-	-
CFD Modeling and workshop		-	8	6	-	-	-	-	-	-	-	20	130	-	-	-	-	-	-	-	-	-	-	-	-
Total, Hours		**137**	**554**	**1,515**	**80**	**25**	**59**	**69**	**29**	**45**	**179**	**71**	**342**	**27**	**26**	**368**	**242**	**34**	**127**	**136**	**90**	**120**	**58**	**217**	**222**
Total, Billings		**$ 42,470**	**$ 131,852**	**$ 259,065**	**$ 26,240**	**$ 6,575**	**$ 13,393**	**$ 11,316**	**$ 4,959**	**$ 11,070**	**$ 28,819**	**$ 21,442**	**$ 55,062**	**$ 7,101**	**$ 6,136**	**$ 60,352**	**$ 30,250**	**$ 8,942**	**$ 25,019**	**$ 17,952**	**$ 25,110**	**$ 19,320**	**$ 8,932**	**$ 32,767**	**$ 24,864**

Owner: City of Livermore

Project: WRP UV Treatment System Replacement

PHASE/Task		O&M Sr Engineer	Sr. Estimator	Finance	Project Controls	SUBTOTAL, Hours	SUBTOTAL, Billings $	Travel/Per Diem Expenses	SUBTOTAL, EXPENSES	SUBTOTAL, SUBCONTRACTS	TOTAL Billings
(Average Billing Rate, $$,Hr.)		$272.00	$213.00	$115.00	$135.00						
WORK BREAKDOWN STRUCTURE	**PHASE**										
Project Management	0100	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Project Management and Administration	0110	-	-	48	48	120	$ 19,440	$ -	$ -	$ -	$ 19,440
Progress Reports and Invoices	0120	-	-	-	-	24	$ 6,576	$ -	$ -	$ -	$ 6,576
Project Meetings	0130	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Design Kickoff		-	-	-	-	16	$ 3,992	$ -	$ -	$ -	$ 3,992
Workshops (2)		-	-	-	-	32	$ 7,984	$ 1,500	$ 1,500	$ -	$ 9,484
Deliverable Review Meetings (3)		-	-	-	-	66	$ 14,040	$ 400	$ 400	$ -	$ 14,440
Informal Phone Calls		-	-	-	-	45	$ 10,785	$ -	$ -	$ -	$ 10,785
Site Visits (4)		-	-	-	-	56	$ 11,996	$ 2,700	$ 2,700	$ -	$ 14,696
		-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
30% Design	0200	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Data Collection and Review	0210	-	-	-	-	20	$ 3,772	$ -	$ -	$ -	$ 3,772
UV System Alternative Analysis	0220	-	-	-	-	84	$ 15,920	$ -	$ -	$ -	$ 15,920
CFD Modeling	0230	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Basis of Design Report	0240	-	-	-	-	207	$ 38,894	$ -	$ -	$ -	$ 38,894
Estimated Construction Cost	0250	-	18	-	-	21	$ 4,414	$ -	$ -	$ -	$ 4,414
Discuss Procurement Strategy	0260	-	-	-	-	4	$ 1,096	$ -	$ -	$ -	$ 1,096
30% Design Drawings w/ BoDR	0270	-	-	-	-	264	$ 45,995	$ -	$ -	$ -	$ 45,995
		-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
60% Design	0300	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Drawings	0310	-	-	-	-	712	$ 124,041	$ -	$ -	$ -	$ 124,041
Specifications	0320	-	-	-	-	210	$ 40,383	$ -	$ -	$ -	$ 40,383
Construction Schedule	0330	-	-	-	-	9	$ 2,162	$ -	$ -	$ -	$ 2,162
Estimated Construction Cost	0340	-	50	-	-	57	$ 12,192	$ -	$ -	$ -	$ 12,192
		-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
90% Design	0400	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Drawings	0410	-	-	-	-	793	$ 133,342	$ -	$ -	$ -	$ 133,342
Specifications	0420	-	-	-	-	304	$ 57,978	$ -	$ -	$ -	$ 57,978
Construction Schedule	0430	-	-	-	-	5	$ 1,200	$ -	$ -	$ -	$ 1,200
Estimated Construction Cost	0440	-	36	-	-	40	$ 8,558	$ -	$ -	$ -	$ 8,558
Bioassay Testing Plan Protocol Development	0450	8	-	-	-	44	$ 9,582	$ -	$ -	$ -	$ 9,582
Support City in Third Party Bioassay Testing Firm Selection	0460	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
		-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
100% Design	0500	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Drawings	0510	-	-	-	-	286	$ 47,417	$ -	$ -	$ -	$ 47,417
Specifications	0520	-	-	-	-	87	$ 17,274	$ -	$ -	$ -	$ 17,274
Construction Schedule	0530	-	-	-	-	6	$ 1,232	$ -	$ -	$ -	$ 1,232
Estimated Construction Cost	0540	-	14	-	-	18	$ 3,872	$ -	$ -	$ -	$ 3,872
		-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Title 22 Engineering Report and Regional Board Coordination	0600	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Review Existing Title 22 Engineering Report	0610	-	-	-	-	8	$ 1,780	$ -	$ -	$ -	$ 1,780
Regional Board Project Approach Meeting	0620	-	-	-	-	4	$ 1,096	$ 150	$ 150	$ -	$ 1,246
Draft Title 22 Engineering Report Update	0630	-	-	-	-	49	$ 9,218	$ -	$ -	$ -	$ 9,218
Final Draft Title 22 Engineering Report	0640	-	-	-	-	33	$ 6,482	$ -	$ -	$ -	$ 6,482
Final Title 22 Engineering Report	0650	-	-	-	-	15	$ 3,188	$ -	$ -	$ -	$ 3,188
Regional Board Update Meetings (2)	0660	-	-	-	-	8	$ 2,192	$ 300	$ 300	$ -	$ 2,492
		-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Bid Phase Services	0700	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Response to Bidder Questions	0710	-	-	-	-	56	$ 10,648	$ -	$ -	$ -	$ 10,648
Addenda	0720	-	-	-	-	47	$ 7,740	$ -	$ -	$ -	$ 7,740
Pre-Bid Conference	0730	-	-	-	-	4	$ 1,096	$ 150	$ 150	$ -	$ 1,246
Conformed Drawings and Specifications	0740	-	-	-	-	64	$ 9,426	$ -	$ -	$ -	$ 9,426
Pre-Construction Conference	0750	-	-	-	-	8	$ 1,780	$ 150	$ 150	$ -	$ 1,930
		-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Construction Phase Services	0800	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Review and Respond to RFI's (50)	0810	-	-	-	-	150	$ 28,330	$ -	$ -	$ -	$ 28,330
Submittal Reviews (100)	0820	-	-	-	-	400	$ 72,420	$ -	$ -	$ -	$ 72,420
Design Clarification Responses (1)	0830	-	-	-	-	40	$ 8,180	$ -	$ -	$ -	$ 8,180
Contract Change Order Request Support (2)	0840	-	-	-	-	50	$ 10,225	$ -	$ -	$ -	$ 10,225
Punchlists	0850	-	-	-	-	32	$ 6,008	$ -	$ -	$ -	$ 6,008
Record Drawings	0860	-	-	-	-	85	$ 15,674	$ -	$ -	$ -	$ 15,674
Construction Progress Phone Calls and Site Visits)	0870	-	-	-	-	72	$ 14,724	$ -	$ -	$ -	$ 14,724
		-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Testing, Startup, and Commissioning	0900	-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Startup and Commissioning (onsite 2 trips 1 week each channel)	0910	80	-	-	-	84	$ 22,712	$ 5,000	$ 5,000	$ -	$ 27,712
Support City in Bioassay Testing (included in onsite trip above)	0920	-	-	-	-	-	$ -	$ 300	$ 300	$ -	$ 300
Testing and Commissioning Phone Assistance (10 hours)	0930	4	-	-	-	10	$ 2,680	$ -	$ -	$ -	$ 2,680
		-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Optional Items		-	-	-	-	-	$ -	$ -	$ -	$ -	$ -
Bridge Crane Modifications		-	-	-	-	165	$ 31,530	$ -	$ -	$ -	$ 31,530
CFD Modeling and workshop		-	-	-	-	164	$ 29,900	$ -	$ -	$ -	$ 29,900
Total, Hours		**92**	**118**	**48**	**48**	**5,078**					
Total, Billings		**$ 25,024**	**$ 25,134**	**$ 5,520**	**$ 6,480**		**$ 941,166**	**$ 10,650**	**$ 10,650**	**$ -**	**$ 951,816**

EXHIBIT B

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

Consultant/Contractor shall maintain limits no less than:

1. Commercial General Liability, including operations, products, and completed operations, as applicable:
   $5,000,000 per occurrence/**$10,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $2,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability".
4. Professional Liability/Errors and Omissions:
   $5,000,000 per claim. Consultant/Contractor warrants that any retroactive date under this policy shall precede the effective date of this contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two years beginning at the time work under this contract is completed.

Deductibles and Self-Insured Retention

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

Acceptability of Insurers

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

Other Insurance Provisions

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

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

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

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

Verification of Coverage

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

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.6**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing execution of an agreement with 4 LEAF, Inc. to provide construction inspection services at the Water Reclamation Plant (WRP) in an amount not-to-exceed $546,000, as part of the Capital Improvement Project "WRP Primary and Secondary Treatment Improvements Project 2019-31".

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute an agreement with 4 LEAF, Inc., to provide inspection services during construction at the Water Reclamation Plant, in the not-to-exceed amount of $546,000, as part of the Capital Improvement Project "WRP Primary and Secondary Treatment Improvements Project 2019-31".

SUMMARY

This professional services agreement with 4 LEAF, Inc. will provide construction inspection services in connection with the WRP Primary and Secondary treatment Improvements, Project 2019-31 (Project). The Project involves rehabilitation and process improvements to the primary and secondary treatment processes at the City of Livermore (City) Water Reclamation Plant (WRP). Construction activities include demolition, concrete, structural, electrical, and mechanical work at the headworks, influent pump station, odor control treatment system, motor control centers, pre-aeration tanks, primary sedimentation tanks, primary effluent pump station, and a secondary clarifier.

DISCUSSION

Both the 2012 WRP Master Plan and the 2016 WRP Asset Management Plan identify aging infrastructure within the WRP primary and secondary treatment systems. Process improvements are also recommended in the 2012 WRP Master Plan. The Engineering Division and WRP staff have evaluated and prioritized these recommendations and the Project involves constructing the highest priority improvements. The location of proposed improvements to the primary and secondary treatment facilities are shown in Attachment 1.

The Project includes replacing the following equipment:

- Influent screw pumps
- Pre-aeration tank blowers and gates
- Primary sedimentation tank sludge collection mechanisms, skimmers, and gates
- Primary effluent pumps
- Odor control treatment system and equipment covers
- Secondary Clarifier No. 2 sludge collection mechanism, bridge, and gates
- Two motor control centers

Additional improvements include the following:

- Repairing the concrete and coating channels and tanks in the headworks and primary treatment systems and Secondary Clarifier No. 2
- Upsizing the odor control treatment system, adding additional odor covers, and increasing ventilation
- Partial replacement of various electrical boxes throughout the WRP
- Associated electrical conduit duct, paving, instrumentation, and controls work

On June 14, 2022, four bids were received and opened for this Project. The construction contract was awarded to the lowest responsible and responsive bidder, C. Overaa & Co., at the July 25, 2022, City Council Meeting.

Additional inspection services are required to support construction of this major project. In November 2021, staff issued a request for qualifications and proposals (RFQ/RFP) for construction support services for various capital improvement projects. Based on review of the statements of qualifications and proposals received, a selection committee comprised of engineering staff established the following short list of consultants eligible for award of construction inspection agreements for capital improvement projects:

- CPM Associates, Inc.
- Swinterton Management & Consulting
- Gannet Fleming, Inc.
- 4LEAF, Inc.

The firms were rated on overall responsiveness, relevant experience and qualifications of staff, ability to respond to the City's needs in a timely manner, and their understanding and approach to the listed sample projects in the RFQ/RFP.

4 LEAF, Inc. was ranked as the most qualified consultant to provide construction inspection services for the Project based on their experience providing construction inspection services and their assigned construction inspector's prior experience working on multiple WRP construction projects and other municipal projects. In June 2022, 4 LEAF, Inc. submitted a proposal to perform construction inspection services for the Project, which include the following:

- Pre-Construction Phase Support – These activities involve reviewing contract documents, attending pre-construction meetings, assisting with submittal and request for information reviews, and documenting pre-construction conditions.
- Construction Phase Support – These activities involve performing constructability reviews, quantity

takeoffs, and cost estimates, performing onsite monitoring and field inspections, preparing daily inspection reports, attending weekly meetings, collecting material tags and certificates, coordinating and scheduling as-needed third-party materials testing and special inspections, providing quantity measures and reviewing pay estimates to support payment processing, coordinating construction activities, identifying problems and assisting with change orders, tracking and documenting time and materials work activities, and assisting with commissioning.

- Post-Construction Phase Support – These activities involve preparing the punch list, performing final inspections, assisting with review of final operation and maintenance manuals, delivering final as-built documentation, red-lined drawings, and assisting with release of final payments and retention.

Staff negotiated the attached professional services agreement in the not-to-exceed amount of $546,000. This agreement covers full-time construction inspection services throughout the duration of the 28-month Project. The $546,000 contract amount is approximately 2.5% of the $21,999,000 construction contract for the Project. This is within the typical range for construction inspection services. In the event the 4 LEAF inspectors have additional unused capacity under the contract, their services may be utilized for other construction inspection support activities, with their time billed to those individual projects.

FISCAL AND ADMINISTRATIVE IMPACTS

Funding for this agreement is covered by both the budget for the WRP Primary and Secondary Treatment Improvements Project 2019-31 in the FY 2021-23 Capital Improvement Plan and additional appropriations for FY 2023-24 and FY 2024-25 that were approved by the City Council on July 25, 2022. The Project is 75 percent funded with Fund 239 Sewer Replacement Fees and 25 percent funded with Fund 241 Sewer Connection Fees. Staff does not anticipate administrative impacts associated with approving this agreement.

ATTACHMENTS

1. Site Plan with Scope Elements Highlighted
2. Resolution
3. Exhibit A - Agreement with 4 LEAF, Inc.

Prepared by: Rick Teczon
Senior Civil Engineer

Approved by:

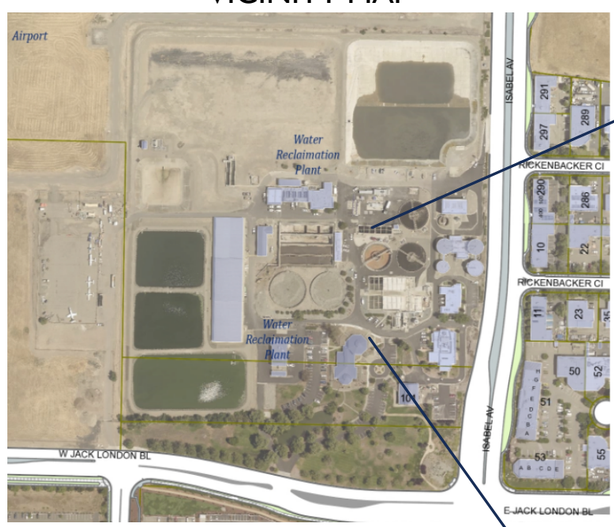
Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

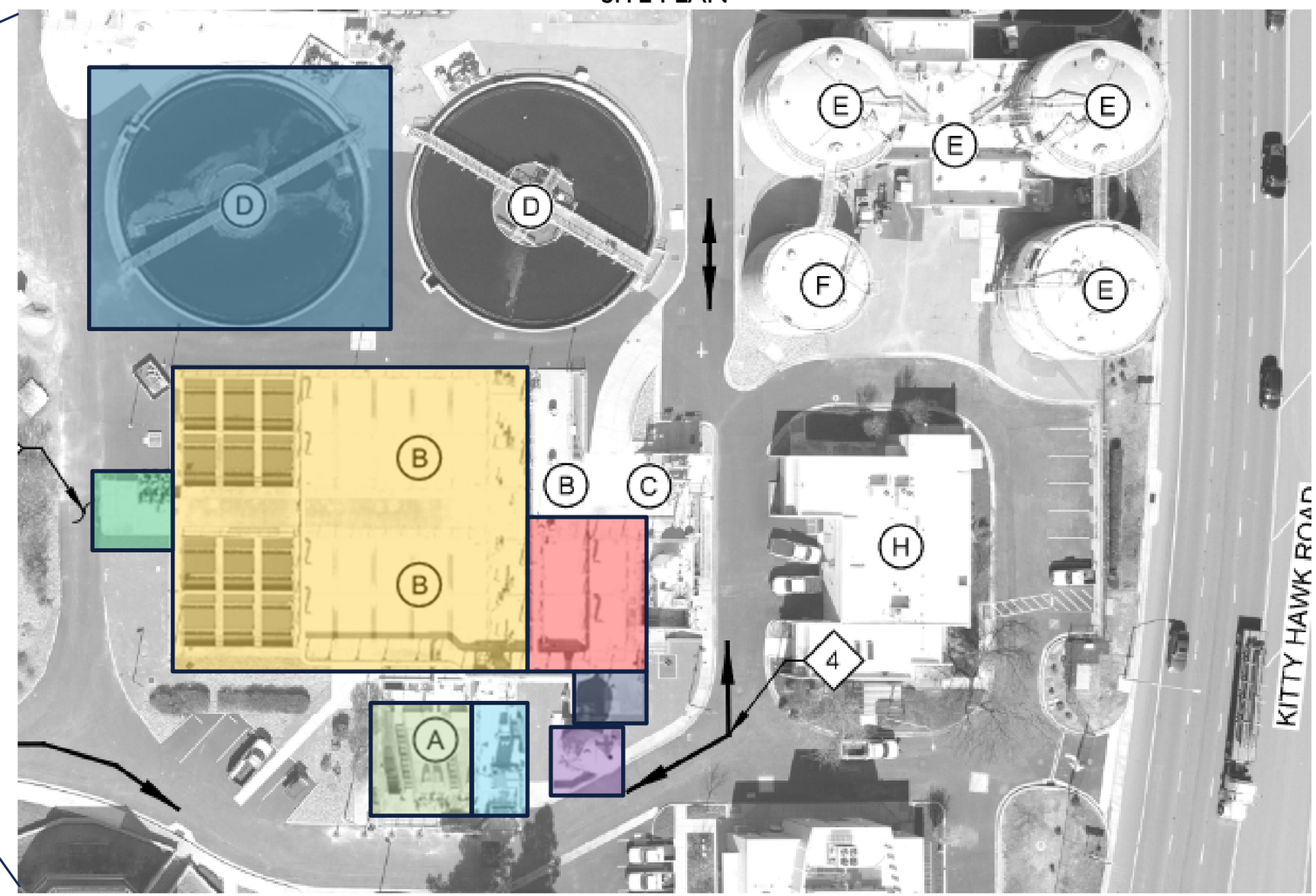
SITE PLAN WITH SCOPE ELEMENTS HIGHLIGHTED

VICINITY MAP



- Headworks - Influent Bypass Manhole
- Headworks - Screening Facility
- Headworks - Influent Pump Station
- Pre-Aeration Tanks (PATs)
- Primary Sedimentation Tanks (PSTs)
- Primary Effluent Pump Station (PEPS)
- Odor Control Tower
- Secondary Clarifier No. 2

SITE PLAN



IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH 4 LEAF, INC. TO PROVIDE CONSTRUCTION INSPECTION SERVICES AT THE WATER RECLAMATION PLANT (WRP) IN AN AMOUNT NOT-TO-EXCEED $546,000, AS PART OF THE CAPITAL IMPROVEMENT PROJECT "WRP PRIMARY AND SECONDARY TREATMENT IMPROVEMENTS PROJECT 2019-31"

(WRP Primary and Secondary Treatment Improvements Project 2019-31)

The Engineering Division requires a consultant to provide construction inspection services for the WRP Primary and Secondary Treatment Improvements Project 2019-31. The project involves rehabilitation and process improvements to the primary and secondary treatment processes at the City of Livermore's Water Reclamation Plant. Construction activities include demolition, concrete, structural, electrical, and mechanical work at the headworks, influent pump station, odor control treatment system, motor control centers, pre-aeration tanks, primary sedimentation tanks, primary effluent pump station, and a secondary clarifier. This Professional Services Agreement with 4 LEAF, Inc., in an amount not-to-exceed $546,000, covers construction inspection for this work.

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

1. Authorizes the City Manager to execute a professional services agreement with 4 LEAF, Inc., attached hereto as Exhibit A, in an amount not to exceed $546,000, to provide inspection services during construction of the WRP Primary and Secondary Treatment Improvements Project 2019-31;

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution, including approving minor changes to the proposed agreement.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – Agreement with 4 LEAF, Inc.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ___ day of _____, 2022, by and between the City of Livermore ("City"), a municipal corporation, and 4 LEAF, Inc. ("Consultant"), a California C corporation.

RECITALS

City requires professional services to provide construction inspection and administration services for the WRP Primary and Secondary Treatment Improvements, Project 2019-31, and as needed on-call inspection construction consulting services for various development and capital improvement project.

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"):

Construction inspection and administration services for the WRP Primary and Secondary Treatment Improvements, Project 2019-31, and as needed on-call inspection construction consulting services for various development and capital improvement projects.

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 Michael Stamm ("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

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 $546,000 ("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 September 13, 2022, 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 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.

10. <u>Confidentiality</u>. 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. <u>Defense, Indemnity, and Hold Harmless</u>. 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. <u>Insurance</u>. 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. <u>Acceptance of Final Payment</u>. Consultant's acceptance of final payment will release City from any and all claims and liabilities for compensation under this Agreement.

14. <u>Acceptance of Work</u>. 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.

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: Michael Stamm, Construction Inspection Manager
City of Livermore City Hall
1052 S Livermore Avenue
Livermore, California 94550

TO CONSULTANT: Attention: Gene Barry, Vice President
4 LEAF, 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

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:**

08/01/2022

By: Gene Barry
Title: Vice President

CITY OF LIVERMORE: **Dated:**

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

Assistant/City Attorney

APPROVED AS TO INSURANCE:

Risk Manager/Analyst

Attachments:
Exhibit A – Scope of Work
Exhibit B – Insurance Requirements

EXHIBIT A

SCOPE OF SERVICES

4LEAF's services will consist of performing Construction Inspection services for the Primary and Secondary Treatment Improvements Project and as-needed for various Capital Improvement Program (CIP) projects. To comply with California Department of Industrial Relations (DIR) prevailing wage requirements and provide accurate invoices to the City, the City will provide 4LEAF in advance with the necessary DIR PWC-100 Forms, DIR Project Numbers, and internal City of Livermore project numbers for all projects that 4LEAF's Construction Inspector will be assigned.

The following represents major tasks and typical responsibilities associated with providing inspection duties during the pre-construction, construction, and post-construction phases of a project.

Pre-Construction Phase

- Perform cursory review of the plans and specifications to become familiar with the project scope.
- Attend the pre-construction conference.
- Perform as-requested assistance in reviewing submittals, schedules, request for information (RFIs), etc.
- Document pre-construction conditions with digital photographs and videos (as necessary).

Construction Phase

The following represents the normal responsibilities anticipated for providing construction inspection services during the construction phase of the Project. Specific tasks will be determined by the City and the City's consultant Construction Manager.

- Perform constructability plan review and quantity takeoffs and cost estimates.
- Provide full-time inspection services necessary to monitor and inspect the methods, workmanship and materials used by the contractor to assure compliance with the City's contract documents and any environmental permits.
- Prepare daily inspection reports and collect photos documenting the contractor's daily activities.
- Provide stormwater pollution prevention plan (SWPPP) inspections.
- Provide general monitoring and documentation of the contractor's compliance with health and safety on the project. Note: the contractor is responsible for ensuring the safety of their crews, all subcontractors, general site safety, and the public.
- Prepare and maintain a punch list of items needing correction throughout the Project's duration.
- Maintain a set of red-line drawings throughout a project and verify that contractor updates their red lined set of plans prior to each monthly progress payment submittal.
- Attend weekly construction meetings.
- Routinely monitor all contractor traffic control is implemented per approved traffic control plans and inspect detour and construction signing to ensure public safety.
- Collect material tags to verify materials on site meet the project specifications and project submittals.
- Coordinate and schedule as-needed materials testing and special inspections performed by others.

- Collect certificates of compliance and weight/quantity certificates.
- Provide the City's consultant Construction Manager with accurate measured quantities and review pay estimates submitted by the contractor.
- Review the accuracy of quantities included with the contractor's monthly progress payments and provide comments to the City's designated Construction Manager.
- Provide a brief update the Construction Manager at the end of each working day.
- Identify work that is not in conformance with the contract documents and work that may result in a potential contract change order (PCCO) or claim.
- Assist with problem resolution involving treatment plant personnel for any bypass or shutdowns during construction.
- Assist the Construction Manager for functional testing and commissioning of various systems including electrical, mechanical, and plumbing. Assist the Construction Manager with coordinating training for City staff.
- Assist with review of the contractor's monthly construction schedule and look-ahead schedules.
- Perform as-needed public outreach with business owners, homeowners, and essential services impacted by construction performed in the public right of way.
- Track and document all approved time and materials work activities being performed by the contractor.

Post-Construction Phase

- Perform punch list and final inspections.
- Coordinate and confirm the contractor submits all Operations and Maintenance (O&M) manuals for all equipment (pumps, panels, electric equipment, etc.) to the City. Confer with City staff on completeness of and provide review comments of draft O&M or commissioning manuals.
- Provide recommendations to the City's consultant Construction Manager as to release of final payments and retention.
- Provide the City with a hard copy set of red-lined drawings of as-built conditions.

4LEAF Fee Schedule

2022 - 2025 Construction Inspection Services for the City of Livermore Primary and Secondary Treatment Plant Upgrades Project and Various CIP Projects

Program Management Services*

	Calendar Year			
Staff Designation	**2022**	**2023**	**2024**	**2025**
Principal-in-Charge / Project Manager	$191/hr	$197/hr	$203/hr	$209/hr

Construction Management / Inspection Services*

	Calendar Year			
Staff Designation	**2022**	**2023**	**2024**	**2025**
Construction Manager	$170.00/hr	$175.10/hr	$180.35/hr	$185.76/hr
Public Works Inspector (Regular Time)**	$152.00/hr	$156.56/hr	$161.26/hr	$166.10/hr
Public Works Inspector (Night Time)**	$171.00/hr	$176.13/hr	$181.41/hr	$186.86/hr
Public Works Inspector (Overtime)**	$205.20/hr	$211.36/hr	$217.70/hr	$224.23/hr
Public Works Inspector (Overtime)**	$281.20/hr	$289.64/hr	$298.33/hr	$307.28/hr
Public Works Inspector (Overtime)**	$357.20/hr	$367.92/hr	$378.95/hr	$390.32/hr
Public Works Inspector Apprentice	$92 - $138/hr	$94 - $140/hr	$94 - $140/hr	$97 - $146/hr

All Fees shown include Annual Escalation of 3% starting on January 1, 2023.

BASIS OF CHARGES

A. Rates shown assume projects under this on-call contract will require compliance with California Prevailing Wage rate requirements and assumes the Client may be filing a PWC-100 Form to the California Department of Industrial Relations (DIR) for some of the projects under the on-call contract.

B. Rates for prevailing wage categories are subject to annual escalations in accordance with the bi-annual wage determinations from the California DIR. Rates based on California DIR's wage determinations dated February 2022.

C. Per the requirements being enforced under SB 854 and because it is assumed that a PWC-100 Form will be filed by the Client to the CA DIR for each project, 4LEAF is required to notify an authorized Apprenticeship Committee through submittal of a DAS-140 form. We are then required to make an official request to an authorized Apprenticeship Committee for an apprentice by submitting a DAS-142 form. We are not assured the apprenticeship committee will be able to provide a suitable / qualified apprentice for the project. Per the apprenticeship requirements, the hours worked by the apprentice must be in a ratio of 1:5 for apprentice to journeyman hours. 4LEAF will not know the labor classification of the Public Works Apprentice until an Apprentice is dispatched to the site; therefore, the rates for the five Periods listed under the California DIR's Wage determination for Building Construction Inspector issued February 2022 were used to determine the range of Calendar Year 2022 hourly rates for Public Works Inspector Apprentice.

D. All invoicing will be submitted monthly.

E. Overtime and Premium time will be charged as follows:
- *Night Time (work begun after 4PM or before 5AM)* — *1.125 x hourly rate***
- *Overtime (over 8 hour M-F or Saturdays)* — *1.35 x hourly rate***
- *Overtime (over 8 hours Sat or 1st 8 hour Sun)* — *1.85 x hourly rate***
- *Overtime (over 8 hours Sun or Holidays)* — *2.35 x hourly rate***

F. All work with less than 8 hours rest between shifts will be charged the appropriate overtime rate.

G. Daily commute-related travel time will not be billed to the Client. Project-related mileage for inspections will be billed at the allowable IRS Rate plus 20%. Mileage reimbursements shall be recorded from the location designated by the Client to project sites. Requests for reimbursements for lodging, food and other miscellaneous per diem items shall be approved in writing by Client prior to beginning of work.

H. In accordance with California's Meal Break and Rest Break Law requirements, Client will be billed one (1) additional hour per day at the regular rate for each missed meal or rest break due to Client-directed tasks or requirements. Client should allow 4LEAF's non-exempt, hourly employees the opportunity to take their entitled rest and meal breaks during each work shift.

I. If 4LEAF is requested or otherwise required to conform to Client's alternative work week schedule ("AWW"), Client hereby agrees to compensate or reimburse 4LEAF for all overtime paid to its employees who work an AWW. - If 4LEAF's affected employment group approves an AWW election and the same is registered, the overtime compensation/reimbursement shall not be required.

J. Payment due on receipt. All payments over 30 days will be assessed a 1.5% interest charge.

K. Client shall pay attorneys' fees, or other costs incurred in collecting delinquent amounts.

L. Client agrees that 4LEAF's liability will be limited to the value of services provided.

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

Deductibles and Self-Insured Retention

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

Acceptability of Insurers

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

Other Insurance Provisions

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

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

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

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

Verification of Coverage

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

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.7**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing execution of an agreement with Raney Planning and Management, Inc., to provide professional environmental consulting services for the annexation and development of new light industrial/business park uses located at Surface Mining Permits 39 and 40 (located south of Jack London Boulevard and west of Isabel Avenue), in an amount not-to-exceed $202,048.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the execution of an agreement with Raney Planning and Management, Inc. to provide professional environmental consulting services for the annexation and development of new light industrial/business park uses located at Surface Mining Permits 39 and 40 (located south of Jack London Boulevard and west of Isabel Avenue), in an amount not-to-exceed $202,048.

SUMMARY

A project application submitted by Overton Moore Properties (Applicant) requests annexation and development of new light industrial/business park uses on two non-contiguous, undeveloped areas that are adjacent to Highway 84 and West Jack London Boulevard respectively, both south and west of the existing Oaks Business Park and that are in Alameda County's jurisdiction. The parcels are identified as Surface Mine Permits 39 and 40 (SMP 39 and 40) because of their current county zoning that allows aggregate mining.

The Professional Services Agreement (Agreement) will enable Raney Planning and Management, Inc. (Consultant), to provide environmental planning services for the annexation and development of the project. The contract with the Consultant has a total not-to-exceed amount of $202,048. The Applicant is paying 100% of the costs of this contract with Raney since it is specifically for the SMP 39 and 40 project. The environmental services the Consultant would provide are anticipated to be complete in 2023.

DISCUSSION

The Agreement will enable the Consultant to provide environmental planning services - primarily preparation of an Environmental Impact Report or "EIR" - for the annexation and development of the SMP 39 and 40 project. Preparation of an EIR is typically, and more efficiently, done by an environmental consultant with management and direction by City staff.

The EIR will cover the entire proposed project including annexation and development of SMP 39 and 40, the Sphere of Influence changes of several parcels to the west of SMP 39 from the City of Pleasanton to the City of Livermore and annexing additional parcels immediately east of SMP 40 owned by Zone 7, Caltrans, PG&E and the City as shown in Attachment 1. No annexation or development of SMP 38 or the parcels immediately west of SMP 38 is being considered at this time. Bringing all of these parcels either into the City's Sphere of Influence or into City boundaries will maintain logical city boundaries that would be best served by city infrastructure.

Staff provided a project update to Alameda County and City of Pleasanton staff in August 2022. Alameda County staff recommended clustering development on SMP 39 to the extent practical to avoid construction of buildings on the portion of SMP 39 located within Safety Zone 3 – Inner Turning Zone, as depicted in the Livermore Airport Land Use Compatibility Plan. Alameda County had no other comments related to the project at this time.

City of Pleasanton staff had concerns regarding future development on SMP 38, 39, and 40, including potential traffic impacts. City of Pleasanton staff requested continued coordination on the project including potential future agreements with the City of Livermore and other entities to address City of Pleasanton participation, traffic analysis and mitigation, and planning boundaries. In addition, City of Pleasanton staff would like to discuss potential trail connections as the project progresses. City of Livermore staff will continue to coordinate and refer future application submittals and public review notices regarding the project and EIR to Alameda County and City of Pleasanton staff.

FISCAL AND ADMINISTRATIVE IMPACTS

The Professional Services Agreement is for an amount not to exceed $202,048. The full cost of the agreement will be paid by the applicant. Utilization of City staff time will be necessary to administer the consultant agreement and review draft documents, which is covered by separate land use application fees paid by the applicant.

ATTACHMENTS

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

Prepared by: Ashley Vera
Associate Planner

Approved by:

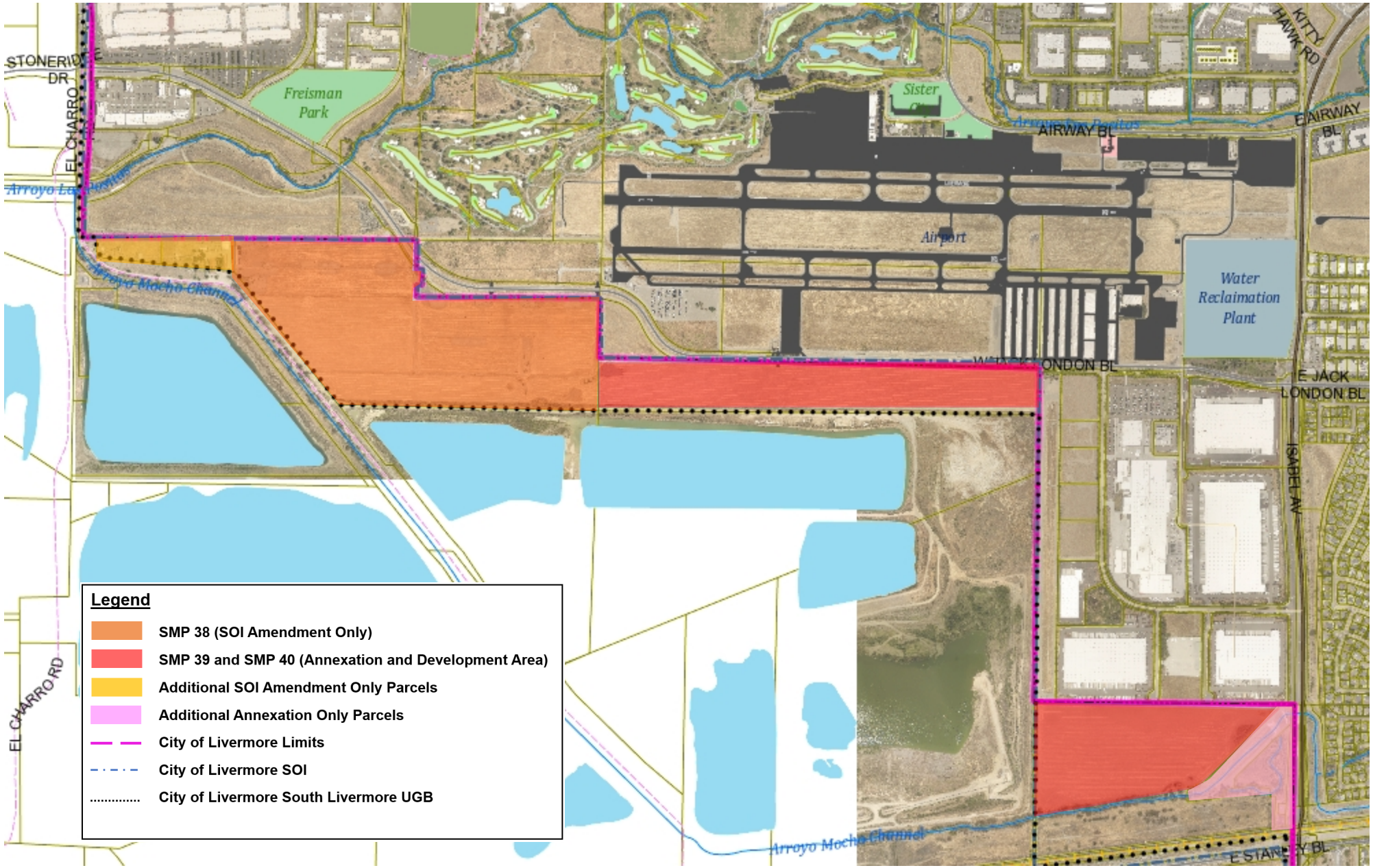
Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

ATTACHMENT 1

City of Livermore



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NAD_1983_2011_StatePlane_California_III_FIPS_0403_Ft_US
Livermore IT, GIS Services

1: 16,000

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 EXECUTION OF AN AGREEMENT WITH RANEY PLANNING AND MANAGEMENT, INC. IN AN AMOUNT NOT TO EXCEED $202,048 TO PROVIDE PROFESSIONAL ENVIRONMENTAL CONSULTING SERVICES

The Planning Division is currently managing several large-scale projects, including a project application submitted by Overton Moore Properties (Applicant) requesting annexation and development of new light industrial/business park uses on parcels currently within Alameda County's jurisdiction.

The Planning Division requires a consultant to provide environmental consulting services for the annexation and development of the project. The project also includes changing the Sphere of Influence of several parcels to the west of SMP 39 from the City of Pleasanton to the City of Livermore and annexing additional parcels immediately east of SMP 40 owned by Zone 7, Caltrans, PG&E, and the City. The entire project is called the SMP 39 and 40 project.

The Applicant is paying 100 percent of the costs of this contract with Raney Planning and Management, Inc. for the SMP 39 and 40 project.

The proposed agreement with Raney Planning and Management, Inc. allows for environmental consulting services to commence July 25, 2022, and terminate July 25, 2024.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore, that the City Manager is authorized to execute the professional services agreement with Raney Planning and Management, Inc., attached hereto as Exhibit A, in an amount not to exceed $202,048, to provide professional environmental consulting services for the annexation and development of new light industrial/business park uses located at Surface Mining Permits 39 and 40.

On motion of Council Member _____, seconded by Council Member ____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Kimberly D. Cilley
Kimberly D. Cilley
Senior Assistant City Attorney

Exhibit A – Agreement with Raney Planning and Management, Inc.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ___ day of _____, 20 , by and between the City of Livermore ("City"), a municipal corporation, and Raney Planning and Management, Inc. ("Consultant"),a California corporation.

RECITALS

City requires professional services to prepare the SMP38/SMP39/SMP40 project Environmental Impact Report, in accordance with the California Environmental Quality Act (CEQA) .

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"):

To prepare the SMP38/SMP39/SMP40 project Environmental Impact Report, in accordance with the California Environmental Quality Act (CEQA)

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 Steve Riley, Principal Planner ("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 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 $202,048.00 ("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 25, 2022, and terminates upon the completion of the Services or July 25, 2024, 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.

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

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.

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 Riley
City of Livermore, Community Development Department
1052 S Livermore Avenue
Livermore, California 94550

TO CONSULTANT: Attention: Nick Pappani
Raney Planning and Management, Inc.
1501 Sports Drive, Suite A
Sacramento, CA 95834

23. Waiver. Failure to insist upon the strict performance of any term or conditions in this Agreement, no matter how long the failure continues, is not a waiver of the term or condition and does not bar the right to subsequently demand strict performance. To be effective, a waiver must be in writing and signed by the non-breaching party.

24. Severability. If a court of competent jurisdiction determines a provision in this Agreement is invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired in any way.

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

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

27. Counterparts. This Agreement may be executed and delivered in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email, or other electronically delivered signatures of the Parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals and shall be valid and effective for all purposes.

****

Signatures and Attachment List on the Next Page

In concurrence and witness whereof, and in recognition of the mutual consideration provided therefore, the parties have executed this Agreement, effective on the date first written above.

CONSULTANT:

Cindy Gnos

By: Cindy Gnos
Title: Senior Vice President

Dated:

8-22-22

CITY OF LIVERMORE:

Marianna Marysheva
City Manager

Dated:

APPROVED AS TO FORM:

Assistant/City Attorney

APPROVED AS TO INSURANCE:

Risk Manager/Analyst

Attachments:

Exhibit A – Scope of Work
Exhibit B – Insurance Requirements

RANEY
PLANNING & MANAGEMENT, INC.

EXHIBIT A

WWW.RANEYMANAGEMENT.COM

NORTHERN CALIFORNIA
1501 SPORTS DRIVE, SUITE A
SACRAMENTO, CA 95834
TEL: 916.372.6100 · FAX: 916.419.6108

November 17, 2021
(revised April 1, 2022)

Jake Potter, Associate Planner
City of Livermore
1052 South Livermore Avenue
Livermore, CA 94550

Re: SMP 38/SMP 39/SMP 40 Project Environmental Impact Report

Dear Mr. Potter:

On behalf of Raney, a division of Raney Planning & Management, Inc., I am pleased to submit the following proposal for the preparation of an Environmental Impact Report (EIR) for the SMP 39 and SMP 40 Project (proposed project) in the City of Livermore. The following scope of work has been tailored based on the information provided to date and discussions with the City of Livermore staff. The scope of work may be further refined in coordination with you and City staff, as needed. We would like to sincerely thank you for requesting a proposal for the project and look forward to the continued opportunity to work with you and the professional staff at the City of Livermore.

PROJECT UNDERSTANDING

Project Location

The project site consists of three separate parcels (APNs 904-0003-001-04, 904-0010-002-02, and 904-0010-007-32) located adjacent to the existing Oaks Business Park, which consists of eight light industrial warehouse buildings, in the southwestern corner of the City of Livermore. The project site is generally located west of Isabel Avenue/State Route (SR) 84, north of Stanley Boulevard, and south of W. Jack London Boulevard. Each parcel is described in further detail below.

APN 904-003-001-04, also known as SMP 39 due to the site's Surface Mining Permit (SMP), is a rectangular-shaped parcel with a total of 54.5 acres. SMP 39 is currently undeveloped and surrounded by existing uses, including the Livermore Municipal Airport to the north; the Oaks Business Park to the east and single-family residences further east across Isabel Avenue/SR 84; gravel quarries and industrial ponds to the south associated with mining operations; and undeveloped land, Arroyo Mocho, and industrial ponds to the west. The City of Livermore General Plan designates the site as Open Space Sand and Gravel. The project site is within the City of Pleasanton Sphere of Influence (SOI) and is located outside of the City of Livermore limits, and therefore, does not have a City zoning designation. The site is zoned Agriculture (A) by Alameda County. SMP 39 will require a SOI Amendment from the City of Pleasanton to the City of Livermore.

APN 904-0010-002-02 is an approximately 70-acre parcel known as SMP 40. SMP 40 is currently undeveloped, with a portion of the project site located within a designated flood zone. Surrounding existing uses include the Oaks Business Park to the north; a flood control channel and single-family residences to the east across Isabel Avenue/SR 84; open fields, railroad tracks, Arroyo Mocho, and

gravel quarries associated with mining operations to the south across Stanley Boulevard; and gravel quarries and industrial ponds associated with mining operations to the west. The City of Livermore General Plan designates SMP 40 as Open Space Sand and Gravel. Although the project site is within the City of Livermore SOI, the project site is located outside the City limits, and therefore, does not have a City zoning designation. The site is zoned A by Alameda County.

APN 904-001-007-032 is an approximately 100-acre parcel known as SMP 38. SMP 38 is located immediately west of SMP 39 and is under the same ownership as SMP 39 and SMP 40. SMP 38 is located within unincorporated Alameda County, the City of Pleasanton SOI, and the City of Livermore Urban Growth Boundary (UGB). Aside from two non-residential structures in the northeast corner of the site, SMP 38 is undeveloped. Surrounding existing uses include undeveloped land to the north and the Las Positas Golf Course further north, beyond W. Jack London Boulevard; SMP 39 to the east; gravel quarries and industrial ponds associated with mining operations to the south; and undeveloped land, Arroyo Mocho, and industrial ponds to the west. The project site is within the East County Area Plan and is designated Industrial. The City of Livermore General Plan designates SMP 38 as Limited Agriculture, as well as Open Space Sand and Gravel. The site is zoned A by Alameda County.

The proposed project will also include an on-site trail along the western and southern boundaries of the SMP 40 site, as well as a potential off-site grade-separated crossing, connecting to the existing Arroyo Mocho Trail on the east side of Isabel Avenue/SR 84, consistent with the City's Active Transportation Plan.

Project Description

The applicant is proposing to develop the SMP 39 site with six light industrial buildings, totaling 517,450 sf. A total of 811 parking stalls would be provided at the SMP 39 site. Vehicle access to the SMP 39 site will be provided by three new driveways off of Jack London Boulevard. SMP 40 is proposed to be developed with two light industrial buildings, totaling 759,575 sf. A total of 633 vehicle parking stalls and 166 trailer parking stalls would be provided at the SMP 40 site. Vehicle access to the SMP 40 site will be provided by a new driveway connecting to Atlantis Court, which currently serves the adjacent Oaks Business Park. An SOI amendment for SMP 38 is proposed in order to remove SOI and UGB inconsistencies, provide the property with logical utility and transportation connections, and provide a contiguous division of land between the cities of Livermore and Pleasanton; however, development is not proposed for SMP 38 at this time.

The project will require approval of the following entitlement for SMP 38:

- SOI Amendment.

The project will require approval of the following entitlements for SMP 39 and SMP 40, unless noted otherwise:

- General Plan Amendment;
- Annexation (including a request for SOI Amendment from the City of Pleasanton to the City of Livermore for SMP 39);
- Prezone;

- Zoning Map Amendment/Planned Development Amendment to change zoning for SMP 39 and SMP 40 to Planned Development Low Intensity Industrial (PD LII) and expand the currently permitted uses identified in PD-I-01-003;
- Subdivision Map;
- Site Plan Design Review for site improvements and building design for SMP 40;
- Development Agreement; and
- Pre-Annexation Agreement (for SMP 40).

It should be noted that the Annexation and SOI Amendments are ultimately subject to approval by Alameda LAFCo. The City of Livermore will be responsible for approving a resolution authorizing the applicant to submit an application for Annexation and SOI Amendments to Alameda LAFCo.

APPROACH

Based on direction from City staff, Raney proposes to prepare one project-level EIR that will provide a comprehensive analysis of the anticipated environmental effects associated with the SMP 39 and SMP 40 Project. Analysis in the EIR will include assessment of the individual and cumulative environmental effects of the project. The Draft EIR, Final EIR, and related work products will be prepared in accordance with the criteria, standards, and provisions of CEQA, Section 21000 et seq. of the Public Resources Code and the State CEQA Guidelines (California Code of Regulations Section 15000 et seq.), and the regulations, requirements, and procedures of the City of Livermore. Raney proposes to conduct the following project-level analytical scenarios in the EIR (i.e., not including cumulative scenarios):

- SMP 40 only; and
- SMP 38, SMP 39, and SMP 40 combined.

This approach will provide City Council with sufficient information to understand the impacts and associated mitigation measures that must be implemented for SMP 40 separately, as well as combined with SMP 38 and SMP 39, which would allow the mitigation measures specific to SMP 40 to be easily isolated. This proposed built-in flexibility of the EIR is intended to be beneficial to the project applicant and the City, if, upon approval, SMP 40 moves forward ahead of SMP 38 and SMP 39 and will allow the City and applicant to understand the mitigation requirements specific to that project.

With respect to format, Raney will include a separate header in each section of the EIR for SMP 40 and SMP 38, SMP 39, and SMP 40 combined to clearly outline the difference between the scenarios. Underneath each header Raney will include a discussion of impacts unique to each scenario and the associated mitigation measures needed to mitigate the impact to the maximum extent feasible. If during the analysis of particular CEQA topics Raney finds there to be the same impacts and proposed mitigation under both scenarios, Raney will omit the headers to reduce redundancy within the EIR.

Raney proposes to prepare an Initial Study (IS) to identify the potentially significant impacts associated with the proposed project and to focus the content of the EIR. Environmental issues anticipated to be analyzed in the EIR would include: Agriculture Resources, Air Quality and Greenhouse Gas (GHG) Emissions, Biological Resources, Cultural and Tribal Cultural Resources, Hydrology and Water Quality, Noise, Transportation, and Public Services/Utilities and Service Systems. Raney anticipates that sufficient analysis of the remaining topics could be included within the IS. Raney will work closely with City staff throughout the preparation of the IS and determination of appropriate findings. Raney

proposes to include the IS as an attachment to the Notice to Preparation (NOP), as well as the Draft EIR, thereby ensuring that all CEQA topics are addressed at the appropriate level, and the information provided to the public.

Raney firmly believes that the level of coordination between the City, pertinent local and state agencies, and the local citizens is directly proportional to the success of the project. Raney intends to work closely with the project team and the City throughout the development and processing of the EIR. The expectation of Raney is that we will serve as environmental consultants to the City, and will make ourselves available to assist the City in any way necessary to facilitate the process. Raney assumes that any additional project information needed to facilitate the environmental review of the project will be supplied by the City. Raney will remain objective and rely on the City to make the ultimate determination on the conclusions and mitigation measures.

Applicant-Provided Technical Reports

Raney understands the following technical reports will be provided for use in the analysis:

- Biological Resources Report;
- Cultural Resources Study;
- Geotechnical Report;
- Phase I Environmental Site Assessment;
- Noise Study; and
- Traffic Study.

In addition, Raney also anticipates receiving drainage information for the project, including analysis related to flooding. Raney will conduct CEQA-level peer reviews of each technical report at the beginning of the EIR process to determine if any revisions are necessary for purposes of ensuring their sufficiency for the EIR. If a technical peer review by a subject matter expert is deemed necessary by the City or Raney, Raney would propose to sub-contract with a technical consultant to conduct the peer review. Raney anticipates City staff will review all drainage, water, and sewer information, as well as the traffic study analysis prior to Raney's use of the technical reports in the EIR.

Technical Reports Prepared by Raney and its Subconsultants

Senate Bill (SB) 610 requires a Water Supply Assessment (WSA) to be prepared for industrial projects employing more than 1,000 persons, occupying more than 40 acres of lands, or having more than 650,000 sf of floor area. The proposed project will occupy approximately 95 acres of land and will develop over one million sf of new industrial buildings. Therefore, Raney will subcontract with West Yost Associates to prepare a WSA to determine if adequate water supply exists to serve the proposed project and other existing and planned development. The Air Quality and GHG Emissions analysis for the project will be prepared in-house by Raney's Air Quality Division led by Vice President Rod Stinson. All air quality and GHG studies are prepared consistent with the regulations and requirements of CEQA, Assembly Bill (AB) 32, Senate Bill (SB) 32, the Bay Area Air Quality Management District (BAAQMD), and the City of Livermore.

TECHNICAL SCOPE OF SERVICES

Raney proposes to perform the following tasks for the provision of environmental consultation services for the proposed project:

Task 1 Project Initiation

The objective of this task is to participate in a kick-off meeting with City staff to confirm the appropriate CEQA document and key issues, and review the project schedule and existing documentation for the project. Vice President Nick Pappani will serve as the Project Director and Division Manager/Air Quality Specialist, Angela DaRosa, will serve as the Project Manager. Raney anticipates receiving all available technical reports from the applicant team prior to or at the kick-off meeting.

Raney will complete the following:

- Participate in a virtual kick-off meeting with City staff and the applicant team;
- Review existing documentation for the project and identify key issues;
- Establish communication protocols;
- Refine the scope, if necessary, with any revisions for the City to approve; and
- Conduct a site visit.

Task 2 Project Description

The objective of this task is to prepare a draft project description in consultation with City staff and the applicant team. Based on Raney's extensive CEQA experience, completing a draft of the project description during the project initiation phase greatly reduces the potential for project-related issues throughout the preparation of the environmental documents. The project description will include a detailed project location, background, and history of the project (including past ownership, prior approvals, and land uses); existing environmental setting; description of on and off-site infrastructure improvements necessary to serve the project; discretionary actions; project characteristics; important project features; project objectives; phasing; agreements; and permits and approvals that are required for the project based on available information. Raney will prepare regional and project location maps and provide a list of responsible agencies that are anticipated to rely on the EIR for decision making. It should be noted that the project description will identify LAFCo as a responsible agency and outline LAFCo's role in the annexation, and SOI Amendment.

Raney will complete the following deliverables:

- Submit one electronic copy of the draft project description to the City for review and comment; and
- Submit one electronic copy of the final project description to the City prior to incorporation into the EIR.

Task 3 Prepare Initial Study

The objective of this task is to prepare an IS for review by the City to address the environmental effects of the proposed project. The IS will be based on the checklist contained in Appendix G of the CEQA Guidelines and the standard City of Livermore format. For purposes of this scope, Raney has assumed that Agriculture Resources, Air Quality and GHG Emissions, Biological Resources, Cultural and Tribal Cultural Resources, Hydrology and Water Quality, Noise, Transportation, and Public Services/Utilities and Service Systems will be evaluated in the EIR. Raney anticipates that sufficient analysis of the remaining topics will be included within the IS. It should be noted that if the City believes one or more of the remaining environmental issues should be addressed in the EIR, or if during preparation of the IS it is determined that a significant impact could occur in one or more of the remaining environmental issues necessitating preparation of an EIR chapter, Raney would immediately contact the City to discuss amending the scope of work, schedule, and budget accordingly.

Raney will complete the following deliverables:

- Submit one electronic copy of the Administrative Draft IS for City review;
- Submit one electronic copy of the Screencheck IS, which will include all revisions based upon comments on the Administrative Draft IS;
- Submit one electronic file of the finalized IS to focus the content of the Draft EIR; and
- Provide the Final IS as an Appendix to the NOP.

Task 4 Prepare Notice of Preparation

The objective of this task is to prepare/distribute a Notice of Preparation (NOP) for public review that includes a description of the proposed project, location map, and general environmental effects anticipated to be caused by the proposed project, as well as attend a virtual public scoping workshop to solicit the public's input on the content of the EIR.

Raney will facilitate the public scoping meeting and assumes the meeting will be set up as a brief project overview presentation, in order for the community to gain an understanding of the project and make comments based upon accurate knowledge of the project, but will coordinate with the City to determine the appropriate format for the meeting. Raney will create an administrative record of all written and verbal comments regarding the NOP to bring together and resolve the concerns of affected federal, state, and local agencies, as well as the local community. Raney will revise the scope of services for the EIR, if needed, based upon NOP verbal and written comments received during the NOP comment period.

Raney will complete the following deliverables:

- Submit one electronic copy of the Administrative Draft NOP to City staff for review;
- Submit one electronic copy of the Final NOP (with IS as appendix) to the City;
- Coordinate with the City to publish, post, and distribute the NOP and electronically submit the NOP with a completed Notice of Completion (NOC) to the State Clearinghouse;
- Facilitate and attend one public scoping meeting to emphasize the review process, as well as the intent and requirements of CEQA, as outlined in *Task 12 Project Management, Meetings, and Hearings*;
- Create an administrative record of all written and verbal comments regarding the NOP; and
- Revise the scope of services for the EIR, if needed, based upon verbal and written comments received during the NOP comment period.

Task 5.1-5.4 Prepare Administrative Draft EIR

The objective of this task is to prepare an accurate and complete Administrative Draft EIR for the proposed project that will provide the public and decision-makers with a thorough, legally defensible project-level environmental analysis of the proposed project, which will be accurate, objective, and free of jargon. The Administrative Draft EIR will be prepared in the City of Livermore's preferred format and will include all statutory sections required by CEQA Sections 15120-15132.

The EIR will include the following chapters:

Task 5.1 Introduction, Executive Summary, and Project Description

The introduction will cite the provisions of CEQA to which the proposed project is subject. This chapter will identify the intended uses of the EIR, agencies that may rely upon the EIR, purpose of the EIR and

statutory authority, summary of the scoping procedures, and a list of the NOP comment letters and concerns raised in the letters.

The EIR will also include an Executive Summary chapter to briefly describe in text the impacts and mitigation measures. A summary table will be included, consisting of a matrix of impacts and mitigation measures, with levels of significance of impacts before and after mitigation. The summary table will include all mitigation measures applicable to the proposed project.

The project description chapter will be consistent with the one developed in *Task 2 Project Description.*

Task 5.2 Environmental Setting, Impacts, and Mitigation Measures

The environmental analysis for the proposed project will focus on potential environmental impacts resulting from the changes to the proposed project and changes in circumstances under which the project would be undertaken.

Raney anticipates that the following environmental topics will be addressed in the EIR: Agriculture Resources; Air Quality and GHG Emissions; Biological Resources; Cultural and Tribal Cultural Resources; Hydrology and Water Quality; Noise; Transportation; and Public Services/Utilities and Service Systems. Project alternatives and statutorily required sections, including growth inducing impacts, cumulative impacts, and significant and unavoidable impacts, will also be included. Some refinement to these issues may be required based on comments received during the NOP scoping process. It should be noted that the topics mentioned above are anticipated key issues; however, Raney will discuss with the City if additional topics should be addressed in the EIR. Raney will ensure the EIR adequately and accurately addresses all environmental issues associated with LAFCo proceedings.

a) Agriculture Resources

The Agriculture Resources chapter of the EIR will provide information regarding the existing setting relative to agricultural resources on the project site. This will include reviewing maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency to determine whether Prime Farmland, Unique Farmland, or Farmland of Statewide Importance occurs on-site. The setting section will also identify the types of on-site soils. Following the setting discussion, the chapter will identify thresholds of significance applicable to the proposed project. The impacts will be measured against the thresholds of significance and appropriate mitigation measures and monitoring strategies will be identified which are consistent with the policies of the City of Livermore. In addition, the chapter will address the project's consistency with LAFCo agricultural policies and standards.

b) Air Quality and GHG Emissions (including Energy)

The air quality analysis for the proposed project will be performed in-house by Raney's air quality team, utilizing the California Emissions Estimator Model (CalEEMod) software program and following the BAAQMD CEQA Guidelines.

Air Quality

The air quality impact analysis will include a quantitative assessment of short-tern (i.e., construction) and long-term (i.e., operational) increases of criteria air pollutant emissions of primary concern (i.e., ROG, NO_X, PM_{10}, and $PM_{2.5}$). Vehicle trip generation and Vehicle

Miles Traveled (VMT) data will be obtained from the provided Traffic Study. The significance of air quality impacts will be determined in comparison to BAAQMD-recommended thresholds of significance. Raney will additionally address toxic air contaminant (TAC) emissions, utilizing the California Air Resources Board (CARB) "Air Quality and Land Use Handbook: A Community Health Perspective," and in accordance with BAAQMD's CEQA Guidelines.

The project's cumulative contribution to regional air quality will be discussed, based in part on the modeling conducted at the project level. Mitigation measures will be incorporated to reduce any significant air quality impacts, and anticipated reductions in emissions associated with proposed mitigation measures will be quantified.

Health Risk Assessment (Optional)
For warehouse projects, such as the proposed project, TACs are often a concern due to the amount of heavy-duty diesel trucks accessing the project site. Given the direct relationship between heavy-duty diesel trucks and human health risk, Raney believes it is important to provide a reasonable estimate of the total daily trucks at the proposed facility. If the total number of trucks accessing the site per day exceeds 100, there will likely not be sufficient room on-site to shift the paths of travel and loading dock areas to be more than 1,000 feet from the nearest residential receptors. This does not necessarily mean that there will be a significant TAC impact, but rather it provides justification for preparing a Health Risk Assessment (HRA) to calculate the cancer risk associated with on-site truck diesel particulate matter (DPM) emissions to determine if the risk is below BAAQMD's threshold. Because the number of daily trucks is unknown at this time, Raney has included an optional task for the preparation of an HRA.

The analysis for the HRA would include both acute and chronic health hazards, carcinogenic and non-carcinogenic, due to exposure of TACs. The estimation of health risks impacts will be conducted using the guidelines identified in the California Office of Environmental Health Hazard Assessment (OEHHA) Guidance Manual for Preparation of Health Risk Assessments, as well as in accordance with BAAQMD guidance. The carcinogenic health risk impacts will be expressed in terms of increased cancer cases per one million individuals and compared to BAAQMD's recommended thresholds of significance for TACs. Non-carcinogenic health risks will be determined in comparison to BAAQMD's recommended Hazard Index (HI) threshold of significance. The results of the analysis will be summarized in the Air Quality and GHG Emissions chapter of the EIR.

GHG Emissions
Raney will work closely with the City and BAAQMD throughout preparation of the GHG analysis with respect to identifying the methodology and thresholds of significance to be used for the GHG analysis. Raney's GHG analysis for the proposed project will follow the agreed upon methodology and thresholds. Raney will use CalEEMod to produce an estimate of carbon dioxide equivalent emissions for the project, including indirect emissions of GHGs (e.g., electricity and natural gas). With respect to AB 32, Raney will discuss the project in comparison to policy measures outlined within the City of Livermore's Climate Action Plan to show consistency and compare emissions to BAAQMD thresholds. With respect to SB 32,

Raney will coordinate with the City of Livermore and BAAQMD to ensure comparison of the estimated emissions to appropriate thresholds. Mitigation measures will be identified, as appropriate, in coordination with the City and BAAQMD to identify feasible mitigations for GHG emissions. Raney understands that the City is currently updating their Climate Action Plan, which is anticipated to be completed in spring or summer 2022.

Energy
Raney will analyze whether the proposed project could result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. This discussion will also evaluate whether the project would conflict with or obstruct a state or local plan for renewable energy.

c) Biological Resources

The Biological Resources chapter will summarize potential effects to plant communities, wildlife, and wetlands including adverse effects on rare, endangered, candidate, sensitive, and special-status species from the development of the proposed project. Specifically, Raney will address the proposed project's environmental effects on the existing wetlands and the proximity of the project site to Arroyo Mocho. Raney will rely on the provided Biological Resources Report for use in the analysis. Raney will internally review the report to ensure it meets the requirements of CEQA and incorporate the analysis into the Biological Resources chapter of the EIR.

d) Cultural and Tribal Cultural Resources

The Cultural and Tribal Cultural Resources chapter will summarize the setting and briefly describe the potential effects to any on-site historical, and/or archaeological resources due to implementation of the proposed project. Raney will request a California Historical Resources Information System (CHRIS) search and a Sacred Lands File search through the Native American Heritage Commission (NAHC). Raney will incorporate the results of the searches into the Cultural Resources chapter of the EIR. If the CHRIS search and/or the Sacred Lands File search identify that the project site is sensitive for unknown resources, a site-specific cultural resources report may need to be prepared and Raney will amend the scope of work.

Given the passage of AB 52, and the associated amendments to Public Resources Code 21080.3.1, lead agencies are required to consult with Native American tribes early in the CEQA process. Raney understands the City of Livermore has received letters from tribes requesting notice pursuant to AB 52/PRC 21080.3.1, and the City will notify the tribes in writing of the proposed project within 14 days from the start of the CEQA process. Raney understands the City will handle all requirements and formal consultation pursuant to AB 52 and SB 18.

e) Hydrology and Water Quality

The Hydrology and Water Quality chapter will summarize setting information and identify potential impacts on irrigation drainage, storm water drainage, flooding, groundwater, and water quality. More specifically, the chapter will discuss the portion of the SMP 40 project site located within a Special Flood Hazard Area (Zone A). Raney assumes a drainage report will be provided by the applicant's engineering team, which will include a floodplain analysis.

Raney will coordinate with the City to ensure the adequacy of the report and to confirm all CEQA issues have been adequately and accurately addressed. Raney will incorporate the results of the analysis into the Hydrology and Water Quality chapter of the EIR.

f) Noise

The Noise chapter will be based on the Noise Study being prepared by the applicant team. Raney anticipates that the noise consultant will quantify the existing noise environment and project-generated traffic noise, estimate increases in ambient noise and vibration levels at the nearest residences due to project construction and operation related to on-site stationary noise sources, and include the results of the analysis in the Noise Study. Raney and the City will review the report to ensure all CEQA issues have been adequately and accurately addressed and will incorporate the analysis into the Noise chapter of the EIR.

g) Transportation

Since July 1, 2020, the metric of analysis to determine whether a project's transportation impact(s) would be significant under CEQA is Vehicle Miles Traveled (VMT). According to CEQA Guidelines Section 15064.3, VMT is the most appropriate measure of transportation impacts. VMT refers to the amount and distance of automobile travel attributable to a project. While lead agencies must evaluate a project's transportation impacts using VMT for CEQA review purposes, it is anticipated that most lead agencies will continue to evaluate Level of Service (LOS) given that these agencies have adopted LOS standards in their General Plan. Raney will rely on the provided Traffic Study for use in the analysis. Raney and the City Engineer will review the report to ensure all CEQA issues have been adequately and accurately addressed and will incorporate the analysis into the Transportation chapter of the EIR. The Transportation chapter will also address multimodal transportation (e.g., bicycle, pedestrian, transit) and safety, including truck access and circulation.

h) Public Services/Utilities and Service Systems

The Public Services portion of the chapter will summarize setting information and identify potential new demand for services, including fire and police. Raney will rely upon the information from the City of Livermore General Plan and General Plan EIR. In addition, Raney will utilize information obtained from direct consultation with the City and other agencies, as needed, to evaluate the project's potential impacts to the City of Livermore's public services and whether the project's increased demand for service would result in the need for new or physically altered governmental facilities in order to maintain the acceptable service ratios, response times, and other performance objectives of the City of Livermore's public services. This chapter will include an analysis of the existing setting, identification of the thresholds of significance, identification of impacts, and the development of mitigation measures and monitoring strategies in sufficient detail to provide adequate information for LAFCo.

The Utilities and Service Systems portion of the chapter will address potential new demand for water distribution and supply, wastewater conveyance and treatment, solid waste generation, and electric and natural gas utilities. As previously noted, SB 610 requires a WSA to be prepared for industrial projects employing more than 1,000 persons, occupying more than 40 acres of lands, or having more than 650,000 sf of floor area. The proposed

project will occupy approximately 95 acres of land and will develop over one million sf of new industrial buildings. Therefore, Raney proposes to sub-contract with West Yost Associates (West Yost) to prepare a WSA to determine if adequate water supply exists to serve the proposed project and other existing and planned development (please see *Attachment A* for a complete scope of work).

West Yost will prepare a WSA for the project in accordance with the requirements of SB 610 as adopted in the California Water Code as Sections 10910-10915. West Yost will calculate the estimated water demand for buildout of the project based on land use-based water demand factors provided in the California Water Service (Cal Water) 2020 Urban Water Management Plan (UWMP) for the Livermore District. Only the buildout water demand will be calculated; no water demands for phasing of the project will be calculated or evaluated by West Yost. West Yost will then conduct an evaluation of available water supplies to meet the project's water demands. West Yost will use Cal Water's 2020 UWMP for the Livermore District as a basis for determining the available water supplies to meet the demands under normal, single dry, and multiple dry year conditions. Based on the evaluation of supply availability, West Yost will identify whether the City has sufficient supplies and supply reliability to meet the water demand associated with the proposed project. Raney will internally review West Yost's WSA to ensure it meets the requirements of CEQA and incorporate the analysis into the Utilities and Service Systems portion of the chapter of the EIR.

With respect to wastewater, Raney will consult with the City of Livermore Water Resources Division to ensure the Livermore Water Reclamation Plant has adequate capacity to treat the wastewater generated by the project. For solid waste, Raney will consult with Livermore Sanitation who oversees the collection, transportation, and disposal of solid waste within the City of Livermore to determine whether the receiving landfill will be able to accommodate the solid waste generated by the project. With respect to natural gas and electricity, Raney will consult with Pacific Gas & Electric Company (PG&E) to determine whether PG&E has adequate capacity to provide continuous service for the project. It should be noted that prior to considering the proposed Annexation, LAFCo will require preparation of a Plan for Service (PFS) for the Annexation and SOI Amendment. Oftentimes, the PSF is prepared early in the LAFCo/City review processes, and are then use to inform the CEQA document. Raney's Public Services/Utilities and Service Systems chapter will be written in such a way that the analysis can be incorporated into the PFS document.

The method and criteria used for determining the adverse impacts for each technical issue will be clearly and explicitly described in the chapters of the EIR, including any assumptions, models, or modeling techniques used in the analysis. The determination of impacts will be based on the technical studies prepared for the proposed project, and will be refined based on City-adopted thresholds in consultation with City staff. For each significant impact, feasible mitigation measures, if available, will be identified and the level of significance after mitigation will be stated. Mitigation measures will identify the timing of the mitigation and the entities responsible for implementation. As noted above, the mitigation measures will be specific to SMP 40 or SMP 38, SMP 39, and SMP 40 combined. Cumulative impacts and mitigation measures will also be addressed within the technical chapters and include the impact, mitigation, and level of significance after mitigation. Each impact in the EIR will be numbered, as will

the corresponding mitigation measures. Cross-references will be provided where necessary. The effectiveness and feasibility of mitigation measures will be discussed.

Task 5.3 Statutorily Required Sections

The Statutorily Required Sections chapter of the EIR will summarize significant and unavoidable, significant irreversible, and growth-inducing impacts, to the extent that such impacts are identified in the EIR analysis. The chapter will also summarize the cumulative impact analyses, which will be provided in each technical chapter of the EIR.

Task 5.4 Alternatives to the Proposed Project

The EIR will include an Alternatives Analysis chapter. The chapter will evaluate, at a minimum, three alternatives, including the No Project Alternative required by CEQA. Alternatives shall be developed in consultation with the City of Livermore staff during preparation of the Administrative Draft EIR to respond to new identified significant impacts. The Alternatives Analysis chapter will describe the alternatives and identify the environmentally superior alternative. The alternatives will be analyzed at a level of detail less than that of the proposed project which is permissible under CEQA; however, the analyses will include sufficient detail to allow a meaningful comparison of the impacts. A matrix comparing the impacts of the proposed project to the alternatives will also be included.

Raney will complete the following deliverables:

- Submit one electronic copy of the Administrative Draft EIR to the City of Livermore staff to review for adequacy and accuracy.

Task 6 Prepare Screencheck Draft EIR

The objective of this task is to edit the Administrative Draft EIR, based on the comments received from the City's review, to prepare a Screencheck Draft EIR. Raney assumes City comments on the Administrative Draft EIR will be in a consolidated set.

Raney will complete the following deliverables:

- Attend conference calls, as needed, with City staff to discuss comments on the Administrative Draft EIR; and
- Submit one electronic copy of the Screencheck Draft EIR to the City.

Task 7 Prepare Public Review Draft EIR

The objective of this task is to edit the Screencheck Draft EIR, based on the comments received, to prepare and distribute the Draft EIR for public review in accordance with CEQA requirements. Raney assumes that the revisions from additional comments on the Screencheck Draft EIR will only require editorial or other non-substantive changes. Raney will prepare the Notice of Availability (NOA) of the Draft EIR and anticipates the City will handle distribution of the NOA. Raney will also prepare the Notice of Completion (NOC) and Summary Form F. Raney will assist with posting the NOC, Summary Form F, and Draft EIR with the State Clearinghouse. In addition to an electronic copy, Raney will provide five hard copies of the Public Review Draft EIR to the City.

Raney will complete the following deliverables:

- Submit five hard copies, with the appendices on flashdrives adhered to the back cover, and one electronic copy, in PDF format, of the Draft EIR to the City;

- Prepare the NOA and NOC, and Summary Form F;
- Coordinate with the City to perform the necessary posting, noticing, and distribution of the Draft EIR; and
- Electronically submit the NOC, Summary Form F, and Draft EIR to the State Clearinghouse.

Task 8 Prepare Administrative Final EIR

The objective of this task is to respond to all comments received during the 45-day public review period and compile the comments into an Administrative Final EIR for review by the City of Livermore. Raney will meet with City staff to review all comments received and determine the appropriate written responses to the comments. Raney assumes these comments will not raise new issues, or that new surveys or technical studies will be required to complete adequate responses. Further, Raney assumes that the amount and nature of responses can be addressed within the hours shown in the budget spreadsheet. For the purposes of this scope of work, Raney's budget for this task would allow Raney to prepare responses to up to 75 individual comments that are substantive in nature. Repetitive comments do not count toward this total. For example, it is not uncommon for the public to submit a large volume of comments on a particular issue/concern. In this case, Raney will prepare a master response to address the thematic concern; and this effort would only constitute one response. Raney's budget for this task is based upon our experience preparing Administrative Final EIR documents for other similar projects. Should more time or technical analyses be needed to respond to additional comment letters, Raney will initiate discussions immediately with City staff to conduct this extra work. The Final EIR will consist of responses to comments, changes to the Draft EIR as result of comments, and the Mitigation Monitoring and Reporting Program (see *Task 8*).

Raney will complete the following deliverables:

- Meet with City staff to review all comments received and determine the appropriate written responses to the comments, as outlined in *Task 12 Project Management, Meetings, and Hearings*;
- Include a list of persons, organizations, and agencies commenting on the EIR;
- Include all comments on the Draft EIR and any changes to the Draft EIR text necessitated by the comments;
- Respond to up to 75 individually bracketed comments; and
- Submit one electronic copy of the Administrative Final EIR.

Task 9 Prepare Mitigation Monitoring and Reporting Program (MMRP)

The objective of this task is to prepare a new Mitigation Monitoring and Reporting Program (MMRP) for the City of Livermore. The MMRP will incorporate standard monitoring mechanisms in order to assist the project team in meeting the intent of CEQA. The MMRP will be in table format, and will specify mitigation measures, standards of success, parties responsible for implementing and monitoring, funding source(s), and timing.

Raney will complete the following deliverables:

- Submit one electronic copy, in Word and PDF format, of the draft MMRP to the City with the Administrative Final EIR, thereby, allowing the City to provide comments; and
- Submit one electronic copy of the final MMRP to the City of Livermore with the Final EIR.

Task 10 Prepare Screencheck Final EIR

The objective of this task is to revise the Administrative Final EIR based on the comments received from the City, and prepare a Screencheck Final EIR.

Raney will complete the following deliverables:

- Conversations with City staff to discuss City comments and revisions to the Administrative Final EIR; and
- Submit one electronic copy of the Screencheck Final EIR to the City of Livermore.

Task 11 Prepare Final EIR

The objective of this task is to revise the Screencheck Final EIR, based on additional comments from the City, in order to provide a thorough, responsive Final EIR. Raney assumes all edits will only require editorial or other non-substantive changes in the revision of the Screencheck Final EIR. Raney can assist the City with distributing the Final EIR to the agencies and persons who commented on the Draft EIR at least ten days prior to the EIR certification hearing. In addition to an electronic copy, Raney will provide five hard copies of the Final EIR to the City.

Raney will complete the following deliverables:

- Submit five hard copies, with any appendices on a flashdrive adhered to the back cover, and one electronic copy, in PDF format, of the Final EIR to the City; and
- Work with the City to prepare all required noticing.

Task 12 Prepare Findings of Fact and Statement of Overriding Considerations

The objective of this task is to prepare the required Findings of Fact/Statement of Overriding Considerations (FOF/SOC), pursuant to CEQA, that incorporate information regarding the project's environmental impacts disclosed in the EIR, and prepare a Notice of Determination (NOD) for approval by the City of Livermore, as necessary. Raney will prepare FOF/SOC to provide the appropriate language to dismiss the project alternatives not selected, and language on the overriding considerations, if necessary, to describe the benefits of the project that may outweigh any adverse environmental effects.

Raney will complete the following deliverables:

- Submit one electronic copy of the administrative draft FOF/SOC to City staff with the Administration Final EIR for the City Attorney to review and provide feedback;
- Submit one electronic copy of the final FOF/SOC to City staff with the Final EIR with revisions made based upon comments from the City Attorney; and
- Prepare an NOD for County filing at the Alameda County Clerk Recorder's Office and posting at the State Clearinghouse, should the project be approved.

Task 13 Project Management, Meetings, and Hearings

The objective of this task is to ensure close, extensive coordination and interaction with City staff, the project team, technical sub-consultants, and the public. The Raney project management team, identified in *Task 1 Project Initiation,* will be responsible for coordination with City staff and technical consultants, handling the day-to-day activities of the EIR preparation, and responding to staff inquiries about the EIR and process. Raney will attend one working meeting with City staff to discuss internal comments on the Administrative Draft EIR, as well as one meeting with City staff to discuss comments received on the Draft EIR. Raney will also attend up to two public hearings.

Raney will complete the following deliverables:

- Project Management from Vice President Nick Pappani, serving as Project Director, and Division Manager/Air Quality Specialist, Angela DaRosa, serving as Project Manager;
- Project support from President Tim Raney, AICP, Senior Vice President Cindy Gnos, AICP, and Vice President Rod Stinson, as well as Associate and Administrative staff;
- Regular phone and e-mail communications with City staff, project stakeholders, and pertinent City, State, and local agencies, such as Alameda LAFCo, throughout the process;
- Prepare any necessary noticing, materials, and/or presentations prior to the meetings, and answer questions and respond to comments as needed;
- Attendance at up to three in-progress meetings;
- Facilitate and attend one NOP public scoping meeting to emphasize the review process, as well as the intent and requirements of CEQA and accept comments on the NOP;
- Attendance at one working meeting with City staff to discuss internal comments on the Administrative Draft EIR;
- Attendance at up to two Alameda County Airport Land Use Commission (ALUC) meetings;
- Attendance at up to two City of Livermore Airport Commission meetings;
- Attendance at one meeting with City staff to discuss comments received on the Drafts EIR; and
- Attendance at up to two public hearings, including one Planning Commission hearing and one City Council hearing.

Tentative Schedule
(REVISED August 4, 2022)
SMP 38/SMP 39/SMP 40 Project EIR

MILESTONES & CRITICAL PATH	TIMING	ESTIMATED DATE
Notice to Proceed	To Be Determined	COMPLETE
Project Initiation Meeting	Week of NTP	COMPLETE
Prepare Draft Project Description to City for Review	Two Weeks	COMPLETE (Submitted May 27, 2022)
Receipt of City edits on Project Description	To Be Determined	August 17, 2022
Prepare Final Project Description	One Week	August 24, 2022
Raney Peer Review Comments on All Applicant-Prepared Technical Studies	Two Weeks from Final Project Description	September 8, 2022*
Draft NOP and IS to City for Review	Three Weeks from Final Project Description	September 15, 2022
Receipt of City edits on NOP and IS	Two Weeks	September 29, 2022
Submit Final NOP and IS as an attachment to City	One Week	October 6, 2022
NOP Public Review Period (30 days)	Thirty Days	October 7, 2022 to November 7, 2022
NOP Public Scoping Meeting	To Be Determined *(during review period)*	October 2022
Receipt of All Final Technical Studies	Two Weeks from End of NOP Public Review Period	November 21, 2022
Submit Administrative Draft EIR to City for Review	Four Weeks from receipt of Technical Reports	December 21, 2022*
Alameda County ALUC and City Airport Commission Meetings	TBD	January 2023
Receipt of City Comments on Administrative Draft EIR	Three Weeks	January 16, 2023*
Submit Screencheck Draft EIR to City for Review	Two Weeks	January 30, 2023
Receipt of City Comments on Screencheck Draft EIR	One Week	February 6, 2023
Submit Draft EIR to City	One Week	February 13, 2023
Public Review Period of Draft EIR (45 Days)	45 Days	February 14, 2023 to March 30, 2023
Submit Administrative Final EIR and FOF/SOC to City for Review	Three Weeks from close of Draft EIR comment period	April 20, 2023
Receipt of City comments on Administrative Final EIR and FOF/SOC	Two Weeks	May 4, 2023
Submit Screencheck Final EIR to City for Review	One Week	May 11, 2023
Receipt of City comments on Screencheck Final EIR	One Week	May 18, 2023
Submit Final EIR and FOF/SOC to City	Three Days	May 23, 2023
Public Review Period of Final EIR (10 Days)	Ten Days	May 24, 2023 to June 5, 2023
Planning Commission Hearing	TBD	June 2023
City Council Hearing	TBD	July 2023
LAFCo Approval of Annexation	TBD	August 2023

*Extended due to Holiday(s)

BUDGET

The cost for completion of the SMP 38/SMP 39/SMP 40 Project EIR without the optional Health Risk Assessment is anticipated not to exceed $176,030. The optional task to prepare a Health Risk Assessment is anticipated not to exceed $7,650. The cost for completion of the EIR with the optional Health Risk Assessment task and a 10 percent contingency ($18,368) is anticipated not to exceed $202,048. The contingency will not be used without prior authorization by City staff.

The tasks are summarized in the Technical Scope of Services of this proposal and costs by task are shown in the attached spreadsheet. These costs are based on the estimates of time for each task provided in the charts on the following page. Costs for EIR preparation will be billed on a not-to-exceed basis, following Raney standard billing rates included in the attached spreadsheet. It should be noted, however, as indicated below, that the cost for the preparation of the Final EIR is based upon the receipt of a reasonable number of comments (anticipated not to exceed 75 comments) on the Draft EIR. Should the comments be excessive or require additional technical analysis, Raney would negotiate with the City immediately to determine a reasonable cost for completion of the Final EIR.

The following assumptions were used in the calculations:

- Raney will attend meetings with the City staff and the project team, as well as public hearings as described in the scope of work. Raney assumes that the number of meetings required will be achieved within the hours allocated in the attached spreadsheet.
- Additional meetings and hearings are easily accommodated and will be billed on a time-and-material basis following Raney's billing rates.
- Raney costs are based on the assumption that the existing data and information for the City of Livermore and the proposed project area is accurate and current and will be available for the preparation of the proposed environmental documents.
- Specific amounts of time for revisions to the Screencheck Draft EIRs, Screencheck Final EIRs, and Mitigation Monitoring and Reporting Program have been assumed. Raney expects that responding to comments will not exceed the budgeted time. If unanticipated comments result in additional time beyond that which has been budgeted, those items will need to be renegotiated.
- Raney will provide to the City of Livermore and the project team the number of copies of the documents as indicated in the technical scope of services. The printing budget included in the cost sheet is Raney's best estimate based upon printing other EIRs for similar projects and the electronic copies assumed herein. However, because the size of the EIR that is the subject of this scope is not yet known, it is impossible for Raney to reasonably include a fixed not-to-exceed cost for the printing of this EIR (which may be multiple volumes depending upon not only the size of the technical analysis in the body of the EIR but also the size of the proposed technical reports). Therefore, the City will be billed for the actual printing costs which shall be paid prior to release of the Final EIR.
- Raney assumes that the appendices to the EIR will be submitted on flashdrives in the back cover.
- Raney assumes that once a Notice to Proceed is issued, the preparation of the environmental documents would be a continuous process without excessive delays. Raney would propose to renegotiate the contract with respect to schedule and cost should substantial delays occur in the processing of the proposed project.

Factors that would increase the scope of work and estimated costs outlined in the proposal include: attendance at additional meetings or hearings; printing of additional copies of reports out of the scope of

work; analysis of additional issues above those discussed in this proposal or a more detailed level of analysis than described in this proposal; changes in the project requiring reanalysis or rewriting of report sections; collection of data required for the environmental documents beyond that described in this proposal; attendance at additional in-house meetings beyond those budgeted; and excessive comments on the environmental documents. Raney would propose to renegotiate these items, if required, or charge on a time-and-materials basis.

PROPOSED COST ESTIMATE									
SMP 38/SMP 39/SMP 40 Project EIR									
		Senior Vice President	Project Director	Project Manager	Senior Associate	Air Quality Specialist	Air Quality Technician	Associate	Cost Per Task
Task 1	Project Initiation		2	6					$ 1,340
Task 2	Project Description		2	5	4			14	$ 3,505
Task 3	Prepare Initial Study		5	8	10			48	$ 9,645
Task 4	Prepare NOP (includes NOP meeting attendance)	1	3	6	2			10	$ 3,250
Task 5	Prepare Administrative Draft EIR	8	6	8	12			24	$ 8,670
	Technical Sections								
Task 5.1	Introduction, Executive Summary, and PD		2	4	2			8	$ 2,300
Task 5.2	Environmental Setting, Impacts, Mitigation Measures								
a	Agriculture Resources		3	5	5			30	$ 5,825
b.1	Air Quality & GHG Emissions (including Energy)		3	5	5			34	$ 6,325
b.2	*AQ/GHG Technical Analysis*					10	20		$ 4,550
c	Biological Resources		3	6	6			35	$ 6,760
d	Cultural and Tribal Cultural Resources		3	5	5			30	$ 5,825
e	Hydrology and Water Quality (including Drainage)		4	5	7			35	$ 6,915
f	Noise		3	5	6			34	$ 6,470
g	Transportation		4	5	7			35	$ 6,915
h	Public Services/Utilities and Service Systems		3	6	7			38	$ 7,280
	Other Sections								
Task 5.3	Statutorily Required Sections		1	3	3			8	$ 2,105
Task 5.4	Alternatives		3	7	5			24	$ 5,405
Task 6	Prepare Screencheck Draft EIR		4	9	9			32	$ 7,490
Task 7	Prepare Public Review Draft EIR		2	6	6			12	$ 3,710
Task 8	Prepare Administrative Final EIR	3	4	6	8			34	$ 7,685
Task 9	Prepare MMRP		1	2				6	$ 1,255
Task 10	Prepare Screencheck Final EIR		2	4	5			14	$ 3,485
Task 11	Prepare Final EIR		1	4	2			6	$ 1,875
Task 12	Prepare FOF/SOC and NOD	2	3	5				20	$ 4,240
Task 13	Project Management, Meetings, and Hearings		48	120	12				$ 29,940
	Total Hours	14	115	245	128	10	20	531	
	Hourly Rate	$ 195	$ 175	$ 165	$ 145	$ 165	$ 145	$ 125	
	Total SEIR Labor	$ 2,730	$ 20,125	$ 40,425	$ 18,560	$ 1,650	$ 2,900	$ 66,375	$ 152,765
Sub-Consultant/Expenses									$ 23,265
	Copying/Printing*							$ 1,150	
	Sub-consultant: West Yost Associates							$ 20,000	
	10% administrative fee							$ 2,115	
Total Budget									**$ 176,030**
	Optional Task: Health Risk Assessment								$ 7,650
Contingency Budget (10% of Total Budget + Optional Task)									**$ 18,368**
TOTAL BUDGET + 10% CONTINGENCY									**$ 202,048**
** Estimate only, To Be Billed at Cost*									

Thank you for the opportunity to submit our proposal for your consideration. Additional information regarding Raney's experience, including resumes and project history, is available upon request. If you have any questions regarding our scope of work or qualifications, please feel free to contact me. We look forward to the opportunity to work with you and the City of Livermore.

Thank you,

Angela DaRosa, Division Manager/Air Quality Specialist, Raney Planning & Management, Inc.
adarosa@raneymanagement.com

Attachment A: West Yost Associates Scope of Work

Attachment A: West Yost Associates Scope of Work

2022-335 KDC/JLH

WEST YOST
Water. Engineered.

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Suite 150
Pleasanton CA 94566

925.426.2580 phone
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westyost.com

November 16, 2021

SENT VIA: EMAIL

Mr. Nick Pappani
Vice President
Raney Planning & Management, Inc.
1501 Sports Drive, Suite A
Sacramento, CA 95834

SUBJECT: Proposal for Engineering Services – Preparation of a Water Supply Assessment for the SMP-39 and SMP-40 Project in the City of Livermore

Dear Nick,

The purpose of this letter is to present our proposal for engineering services for the preparation of a Water Supply Assessment (WSA) report for the SMP-39 and SMP-40 development project (Project) in the City of Livermore (City). The Project parcel is located within the City's General Plan planning area but outside the existing City limits. The approximately 71.8-acre (31.3 acres in SMP-39 and 40.5 acres in SMP-40) Project is anticipated to include 517,450 square feet of industrial floor space in six buildings for SMP-39 and 759,575 square feet of industrial floor space in two buildings for SMP-40.

Raney Planning & Management, Inc. (Raney) is proposing to prepare the Environmental Impact Report (EIR) for the Project. The WSA will be included as an appendix to the EIR. The City, as water purveyor for the Project, would be required to adopt a WSA for the Project.

Our team has the necessary expertise, having provided water planning services for over 50 clients, including developing WSAs and water supply studies for similarly complex distribution systems.

The following sections detail our understanding of the Project, our Project Approach, Scope of Services, Compensation, and Schedule.

SB 610 REQUIREMENTS

Senate Bill 610 (SB 610) (Part 2.10 Division 6 of the California Water Code enacted in 2001) requires that cities and counties with proposed development projects which meet the Water Code definition of a "project" prepare a WSA for that project. The Project, with its proposed area of over 40 acres and industrial floor space greater than 650,000 square feet , does meet the definition of a "project" and does require a WSA. The purpose of this legislation is to ensure that an adequate water supply, for the next 20 years (including normal, single dry, and multiple dry years), is or will be available to reliably serve the proposed Project.

For purposes of this proposal, we are assuming the City's current 2020 Urban Water Management Plan (UWMP), which was prepared in accordance with Assembly Bill 797 (AB 797), will be used.

Preparation of the required WSA will incorporate historical data and water supply strategies from the City's 2020 UWMP.

SB 610 requires cities and counties to compare projected water demand and available water supplies for a projected 20 years into the future. The comparison for the Project would extend to 2045, assuming development will begin prior to 2025. City-wide water supply and demand estimates through 2045 are included in the 2020 UWMP. Therefore, this WSA will present the water supply and demand picture as of the 2020 UWMP.

SCOPE OF SERVICES

The following describes the task necessary to perform this proposed Scope of Services.

Task 1. Preparation of Water Supply Assessment

West Yost will calculate the estimated water demand for buildout of the Project based on land use-based water demand factors provided in the City's 2020 UWMP or other planning documents provided by the City. Only the buildout water demand will be calculated; no water demands for phasing of the Project will be calculated or evaluated by West Yost.

West Yost will then conduct an evaluation of available water supplies to meet the Project's water demands. West Yost will use the City's 2020 UWMP as a basis for determining the available water supplies to meet the demands under normal, single dry, and multiple dry year conditions.

Based on the evaluation of supply availability, West Yost will identify whether the City has sufficient supplies and supply reliability to meet the water demand associated with the proposed Project.

West Yost will then prepare a WSA for the Project in accordance with the requirements of SB 610 as adopted in the California Water Code as Sections 10910-10915.

The WSA will be based on the projected water demands for buildout of the Project; the assumed water supplies for the Project; Project information provided by the City and Project Applicant representatives; the City's existing and future water supply and demand as documented in the City's 2020 UWMP; other identified supplies, if required; and other existing data to the extent available. It will be assumed that all Project water demands will be met through the City's potable water system.

The work will include the following:

- A description of the Project, including location, overall area, number of parcels, type of proposed development, if applicable.
- A description of the total estimated water demand associated with buildout of the Project.
- A description of the City's current and future water supply and demand conditions, including supply entitlement and contractual amounts, supply reliability under varying hydrologic conditions, and existing and anticipated future water demands.
- A description of the potential water supply impacts of the Bay-Delta Plan Amendment.
- A description of determinations as required by SB 610, including:
  - If the Project is subject to the requirements of the California Environmental Quality Act (CEQA),
  - If the Project meets the SB 610 definition of a project,
  - Identification of the City as the responsible water system, and
  - If the City's 2020 UWMP includes the water demands for the proposed Project.
- Preparation of a WSA for the Project that will include the following:
  - Identification of existing water supplies for the Project and demonstration that said supplies exist,
  - If inadequate supplies exist, identification of potential options to meet the water supply deficit,
  - Evaluation of the sufficiency and reliability of the proposed supply for the Project,
  - Identification of any potential conflicts that may arise from the exercise of water supply entitlements required for the Project, and
  - Proposed use and sufficiency of groundwater supplies (based on existing available data and studies).
- A determination of sufficiency of existing and future supply for the Project.

Results of the analysis described above will be documented in an Administrative Draft WSA Report (Admin Draft Report) for the Project, which will include the following: 1) a description of the Project and the associated water demand; 2) a description of the City's existing and future water supply and demand conditions; 3) a description of determinations as required by SB 610; 4) documentation of the WSA for the Project; and 5) determination of sufficiency of existing and future supplies to meet the proposed demand of the Project. The Admin Draft Report will be provided to Raney for delivery to the City. Following receipt of consolidated, written comments from Raney and the City, West Yost will prepare a Draft WSA Report (Draft Report) for City Council review and comment or adoption, and a final copy after City Council adoption, if needed.

Task 1 Assumptions

- It is assumed that the City's 2020 UWMP will remain valid for use in this WSA.
- It is assumed that the Project's proposed land use would not change during the preparation of this WSA.
- It is assumed that West Yost will not be investigating the offsite or onsite utilities or whether there is sufficient infrastructure to deliver water to the Project or distribute water within the Project. This WSA is based on water supply and demand only.

Task 1 Deliverables

West Yost will provide the following:

- Will submit one electronic (PDF) copy of the Admin Draft Report to Raney for review and comment by the City and Project Applicant's representative.
- Following receipt of consolidated, written comments on the Admin Draft Report, West Yost will provide one electronic copy of the Draft Report for review and comment by the City Council.
- Following adoption by City Council, West Yost will prepare and submit an electronic file containing all final documents and all final information concerning the Final WSA Report (Final Report) to Raney.

PROJECT BUDGET

West Yost will perform the Scope of Services described above on a time-and-expenses basis, at the billing rates set forth in West Yost's attached 2022 Billing Rate Schedule (Attachment A), with a not-to-exceed budget of $20,000. Any additional services not included in this Scope of Services will be performed only after receiving written authorization and a corresponding budget augmentation.

SCHEDULE

Work will commence immediately upon receipt of Notice to Proceed (NTP). The Admin Draft Report will be submitted to Raney for forwarding to the City for review and comment approximately six weeks following receipt of NTP and our receipt of all the required data. The Final Draft Report will be provided two weeks after receiving a consolidated written set of review comments from the City on the Administrative Draft Report. The Final Report will be provided one week after receiving a consolidated written set of review comments from the City on the Final Draft Report (it is assumed that the City would be able to provide written comments within a two-week period).

Thank you for providing West Yost the opportunity to be of continued service to Raney. We are looking forward to working with you on this important project. Please call if you have any questions or require additional information.

Sincerely,
WEST YOST

James P Connell

James P. Connell, PE
Project Manager
RCE #63052

Attachment: A. West Yost 2022 Billing Rate Schedule

Attachment A

West Yost's 2022 Billing Rate Schedule

2022 Billing Rate Schedule

(Effective January 1, 2022 through December 31, 2022)*

WEST YOST
Water. Engineered.

POSITIONS	LABOR CHARGES (DOLLARS PER HOUR)
ENGINEERING	
Principal/Vice President	$318
Engineer/Scientist/Geologist Manager I / II	$301 / $315
Principal Engineer/Scientist/Geologist I / II	$272 / $289
Senior Engineer/Scientist/Geologist I / II	$244 / $256
Associate Engineer/Scientist/Geologist I / II	$209 / $224
Engineer/Scientist/Geologist I / II	$168 / $195
Engineering Aide	$98
Field Monitoring Services	$90
Administrative I / II / III / IV	$86 / $109 / $130 / $144
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$313 / $315
Principal Tech Specialist I / II	$287 / $297
Senior Tech Specialist I / II	$263 / $275
Senior GIS Analyst	$238
GIS Analyst	$225
Technical Specialist I / II / III / IV	$168 / $191 / $215 / $240
Technical Analyst I / II	$120 / $144
Technical Analyst Intern	$97
Cross-Connection Control Specialist I / II / III / IV	$125 / $136 / $152 / $170
CAD Manager	$189
CAD Designer I / II	$147 / $166
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$304
Construction Manager I / II / III / IV	$185 / $199 / $211 / $267
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$162 / $180 / $201 / $209
Apprentice Inspector	$147
CM Administrative I / II	$79 / $106
Field Services	$209

- Hourly rates include Technology and Communication charges such as general and CAD computer, software, telephone, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside Services such as vendor reproductions, prints, shipping, and major West Yost reproduction efforts, as well as Engineering Supplies, etc. will be billed at actual cost plus 15%.
- The Federal Mileage Rate will be used for mileage charges and will be based on the Federal Mileage Rate applicable to when the mileage costs were incurred. Travel other than mileage will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates. Expert witness testimony and depositions billed at 200% of standard hourly rates.
- A Finance Charge of 1.5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

* This schedule is updated annually

2022 Billing Rate Schedule

(Effective January 1, 2022 through December 31, 2022)*

WEST YOST
Water. Engineered.

Equipment Charges

EQUIPMENT	BILLING RATES
2" Purge Pump & Control Box	$270 / day
Aquacalc / Pygmy or AA Flow Meter	$28 / day
Gas Detector	$80 / day
Generator	$39 / day
Hydrant Pressure Gauge	$10 / day
Hydrant Pressure Recorder, Impulse (Transient)	$55 / day
Hydrant Pressure Recorder, Standard	$40 / day
Low Flow Pump Controller	$75 / day
Powers Water Level Meter	$32 / day
Precision Water Level Meter	$19 / day
Stainless Steel Wire per foot	$0.03 / day
Storage Tank	$15 / day
Sump Pump	$24 / day
Transducer Components (per installation)	$23 / day
Trimble GPS – Geo 7x	$220 / day
Tube Length Counter	$22 / day
Turbidity Meter	$22 / day
Vehicle	$10 / day
Water Flow Probe Meter	$20 / day
Water Quality Meter	$27 / day
Water Quality Multimeter	$185 / day
Well Sounder	$30 / day

* This schedule is updated annually

Tentative Schedule
(REVISED JUNE 15, 2022)
SMP 38/SMP 39/SMP 40 Project EIR

MILESTONES & CRITICAL PATH	TIMING	ESTIMATED DATE
Notice to Proceed	To Be Determined	COMPLETE
Project Initiation Meeting	Week of NTP	COMPLETE
Prepare Draft Project Description to City for Review	Two Weeks	COMPLETE (Submitted May 27, 2022)
Receipt of City edits on Project Description	To Be Determined	June 22, 2022
Prepare Final Project Description	Three Days	June 27, 2022
Raney Peer Review Comments on All Applicant-Prepared Technical Studies	Two Weeks from Final Project Description	July 11, 2022
Draft NOP and IS to City for Review	Three Weeks from Final Project Description	July 18, 2022
Receipt of City edits on NOP and IS	Two Weeks	August 1, 2022
Submit Final NOP and IS as an attachment to City	One Week	August 8, 2022
NOP Public Review Period (30 days)	Thirty Days	August 9, 2022 to September 8, 2022
NOP Public Scoping Meeting	To Be Determined *(during review period)*	August 2022
Receipt of All Final Technical Studies	Two Weeks from End of NOP Public Review Period	September 22, 2022
Submit Administrative Draft EIR to City for Review	Four Weeks from receipt of Technical Reports	October 20, 2022
Alameda County ALUC and City Airport Commission Meetings	TBD	November 2022
Receipt of City Comments on Administrative Draft EIR	Three Weeks	November 10, 2022
Submit Screencheck Draft EIR to City for Review	Two Weeks	November 28, 2022*
Receipt of City Comments on Screencheck Draft EIR	One Week	December 5, 2022
Submit Draft EIR to City	One Week	December 12, 2022
Public Review Period of Draft EIR (45 Days)	45 Days	December 13, 2022 to January 26, 2023
Submit Administrative Final EIR and FOF/SOC to City for Review	Three Weeks from close of Draft EIR comment period	February 16, 2023
Receipt of City comments on Administrative Final EIR and FOF/SOC	Two Weeks	March 2, 2023
Submit Screencheck Final EIR to City for Review	One Week	March 9, 2023
Receipt of City comments on Screencheck Final EIR	One Week	March 16, 2023
Submit Final EIR and FOF/SOC to City	Three Days	March 21, 2023
Public Review Period of Final EIR (10 Days)	Ten Days	March 22, 2023 to April 3, 2023
Planning Commission Hearing	TBD	April 2023
City Council Hearing	TBD	May 2023
LAFCo Approval of Annexation	TBD	June 2023

*Extended due to Holiday(s)

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

Deductibles and Self-Insured Retention

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

Acceptability of Insurers

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

Other Insurance Provisions

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

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

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

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

Verification of Coverage

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

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.8**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Andy Ross, Senior Planner

SUBJECT: Resolution authorizing two Purchase and Sale Agreements with Trumark Homes, for the sale of conservation easements on City-owned properties in the Springtown area and Doolan Canyon, for approximately $4 million, and authorizing an agreement with WRA, Inc. for technical assistance and peer review of mitigation materials in an amount not-to-exceed $109,000.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to:

1. Execute a Purchase and Sale Agreement with Trumark Homes for the sale of an approximately 200-acre conservation easement on City-owned property known as the Springtown Open Space Preserve and all related transaction documents, and non-substantive changes, including extensions.
2. Execute a Purchase and Sale Agreement with Trumark Homes for the sale of an approximately 133-acre conservation easement and authorizing riparian restoration activities on City-owned property known as Doolan Canyon North, and all related transaction documents and non-substantive changes, including extensions.
3. Execute an agreement with WRA, Inc., for technical assistance and peer review of mitigation materials including conservation easements, mitigation and management plans, and endowment agreements in an amount not-to-exceed $109,000.
4. Establish a special fund dedicated to the City's infrastructure, which is in line with one of the City's strategic priorities (asset management), to hold the approximately $4 million proceeds from the sale of Conservation Easements.
5. Establish an endowment fund pursuant to the terms of the Agreements for the long term management, monitoring, and maintenance of the Conservation Easements.

SUMMARY

Trumark Homes, LLC (Trumark) is requesting to purchase conservation easements on city-owned lands in the Springtown area and Doolan Canyon to compensate for impacts to species resulting from a

proposed residential development project in the City of Dublin. The two proposed Purchase and Sale Agreements establish timing and terms for preparation of conservation easements, management plans, and long-term management funding through an endowment. The City has successfully brokered similar transactions which resulted in permanent protections and management funding for the City's open space holdings.

Staff recommends the City Council authorize the Purchase and Sale Agreements to preserve open space and provide funding for its long-term management. Additionally, staff recommends Council authorize a Professional Services Agreement with WRA Inc., to assist in the environmental review work associated with these transactions. Fees for this work have been calculated as part of the purchase price of the easements. If authorized by the City Council, both conservation easement sales would occur in parallel and achieve the City's long held goals of protecting and restoring open space in Springtown area and Doolan Canyon.

DISCUSSION

Background

In 1950's, the City acquired approximately 300 acres in the northern part of the city commonly referred to as the Springtown Open Space Preserve (see Attachment 1). The properties are part of a larger area known as the Springtown Alkali Sink. The Springtown Alkali Sink is located on the northeast side of the Livermore Valley and lies generally between urban development within the City of Livermore to the south and Brushy Peak and ridgelines to the north. The Springtown Alkali Sink supports a unique and rare alkali wetland complex that is known habitat for several sensitive animal and plant species.

In 2009 and 2013, the City acquired approximately 200 acres in the lower portion of Doolan Canyon. More recently, in 2019, the City acquired an additional 137 acres in the upper portion of Doolan Canyon (Attachment 2) near the Doolan Preserve, which is owned and managed by the East Bay Regional Park District. Doolan Canyon is comprised of annual grasslands, cottonwood creek, and rare and unique special status species. The area also serves as a natural buffer that separates the communities of Dublin and Livermore.

The City holds these lands to protect the natural conditions and biodiversity, secure the Urban Growth Boundary, limit the expansion of urban development, and preserve scenic and recreational values. Both properties are city-owned and have General Plan Open Space and Resource Management land use designations. The presence of federal and state protected animal and plant species also effectively limits urban development. However, land conservation and restoration often lack funding sources for management planning and activities typically funded under a perpetual conservation easement.

In 2014, the City Council directed staff to assess the opportunity for establishing a conservation program on city-owned properties in Springtown and Doolan Canyon. The program allows the City to sell conservation "credits" to satisfy regulatory permit requirements from federal and state natural resource agencies associated with project impacts to special status species and/or habitat. Establishing a conservation program for city-owned properties ensures permanent protection of the natural and scenic resources and secures financial resources to manage and maintain the land for its biological and natural resource values. The City implements the conservation program on a project-by-project basis as potential buyers express needs and propose purchase terms.

In January 2018, the City successfully closed on the sale of a conservation easement on city-owned property in Doolan Canyon to Dublin Crossing Ventures, LLC, to satisfy mitigation requirements associated with their Dublin Crossing project on Camp Parks property within the City of Dublin. The City received $1.1 million in sale proceeds, permanently protected the 178-acres, and secured over $500,000 for an endowment to maintain and manage the property in perpetuity.

In 2021, City staff were approached by Trumark Homes, via the City's consulting partner WRA Inc, requesting sale of compensatory mitigation on the city-owned properties in the Springtown area and in Doolan Canyon. The buyer, Trumark Homes, is requesting two Purchase and Sale Agreements, one for City-owned property in Springtown area and one for City-owned property in Doolan Canyon, to compensate for impacts associated with a residential development project in Dublin. In addition, staff is seeking support through a Professional Services Agreement with WRA, Inc. to assist with the transaction and peer review of restoration, and ongoing and future management activities planned to occur on the properties.

Trumark Homes Croak Road Development Project

The Trumark project includes development of an approximately 165-acre site with a 573-unit residential project consisting of six neighborhoods and two neighborhood parks totaling approximately 11.5 acres. The area is currently undeveloped and located on the eastern side of the City of Dublin (Attachment 3). Due to the project site conditions, the project would result in potential impacts to species and requires 333 acres of compensatory mitigation subject to approval from the resource agencies such as California Department of Fish and Wildlife or the US Fish and Wildlife Service.

Purchase and Sales and Professional Services Agreements

Trumark is proposing two Purchase and Sales Agreements for City of Livermore property to satisfy their compensatory mitigation requirements. In addition, staff recommends a Professional Services Agreement with WRA Inc., to assist with the transaction process.

Springtown Mitigation- The presence of multiple sensitive species, rare habitat, and wetlands makes the mitigation value of the City's Springtown property relatively high. Under the proposed Springtown Purchase and Sale Agreement (Springtown Agreement), the City would sell a conservation easement encumbering approximately 200 acres of California Red Legged Frog and California Tiger Salamander habitat (Attachment 1). The remaining approximately 60 acres of the Springtown site retains conservation value for a future conservation easement sale to another buyer or mitigation needed for a city project.

Under the Springtown Agreement, the City would retain fee title to the property. The total purchase price is $2,310,000 and includes a City Mitigation Fee that is equal to 15% of the cost to implement the mitigation project, which includes estimated mitigation planning, design, entitlement, construction, and monitoring costs for the mitigation project. In addition, the purchase price includes an administrative fee of $10,000 to cover City staff time to administer the transaction process.

Doolan Canyon Mitigation- Under the proposed Doolan Canyon Purchase and Sale Agreement (Doolan Canyon Agreement), the City would sell a conservation easement encumbering approximately 133 acres of California Red Legged Frog and California Tiger Salamander habitat. In addition, the Doolan Canyon Agreement would authorize the construction of approximately 0.5-acres of riparian improvements on the

southern portion of the site.

The City would retain fee title to the property and also retain the approximately four-acre developed portion of the site that includes an old ranch home and accessory buildings. This four-acre area could be used for a future staging area and access to the Doolan Preserve to the north, which is owned and operated by the East Bay Regional Park District. Park District and City staff are in preliminary discussions regarding the District's interest in the property. The purchase price Trumark would pay for the conservation easement is $1,667,000, which includes the 15% mitigation fee. Further, the Doolan Canyon Agreement includes a $10,000 administrative fee, and a $10,000 carbon sequestration fee for the City to implement climate action strategies on the City's property including additional native plantings and compost application.

In addition to the purchase price and the City's administrative costs, pursuant to the terms of both Agreements, Trumark would be responsible for funding mitigation and management planning, easement and closing fees, regulatory permitting, and short- and long-term management activities.

Trumark would also be responsible for all costs associated with preparing mitigation and management plans to satisfy their regulatory permitting obligations, subject to review and approval by the City. The management plan will include a grazing regime, because cattle grazing plays an important role in sustaining grassland for sensitive habitat and is an integral part of resource management. Grazing activities would be conducted by a grazing professional through a separate grazing license with the City.

Because the City will retain fee title to the land, an independent and qualitied land trust would hold the conservation easement. Typically, the City partners with the Tri-Valley Conservancy in such transactions, and Conservancy and City staff have discussed the project. Ultimately the decision to hold the easement is up to the TVC Board of Directors. Generally, a land trust requires fees to cover staff cost of negotiating the terms of a conservation easement and any future legal defense that may be needed in the future to administer the conservation easements. Under the Agreements, Trumark would be responsible for paying these fees for each conservation easement.

Additionally, pursuant to the terms of both agreements, Trumark would pay the principle of the endowment, currently estimated at $1.6 million, which would be managed by a qualified entity and fund long-term maintenance and management as identified in the management plan, with City oversight. The amount of the endowment would reflect the industry standard for open space management activities, include an escalation factor, and be deemed sufficient by the resource agencies. The endowment would be invested by a qualified third party to ensure the interest earned covers all necessary management, monitoring, and maintenance activities. In addition, Trumark is responsible for paying for interim management, which would include short-to-midterm management activities until the endowment fund matures. The regulatory agencies determine the duration of the interim management period.

Professional Services Agreement- Open space conservation is a General Plan Goal. However, the complexity of these transactions and biological resources are beyond the City's core services. Staff recommends the Professional Services Agreement to support with the entitlement process including peer review of management and restoration plan documents. Under the proposed Professional Services Agreement, in lieu of hourly fees, WRA would receive a fee of 4% of the mitigation project value that is paid for by the applicant through the City. This 4% fee has been calculated into the purchase price and is in addition to the 15% fee the City would receive. Therefore, no City general fund money will be needed

to entitle or manage these conservation easements as explained in more detail in the Fiscal Impacts section below.

General Plan Consistency

The General Plan land use designation for the Springtown properties is Open Space. Similarly, the General Plan land use designation for the Doolan Canyon property is Resource Management. The intent of these designations is for long-term preservation of open space, low-intensity agriculture (grazing), habitat protection, watershed management, and limited, passive recreational uses. The sale of a conservation easement on the Springtown and Doolan Canyon properties to permanently preserve and maintain open space and habitat is consistent with the respective land use designations.
Further, the City's sale of a conservation easement and funding habitat enhancement activities, implements the following General Plan goals and objectives regarding open space and conservation:

Goal OSC-1 - Conserve the value and function of Livermore's open space as a biological resource.

Objective OSC-1.1 - Maintain biodiversity within the Planning Area with special emphasis on species that are sensitive, rare, declining, unique, or represent valuable biological resources.

Policy OSC-1.1-P6 - The City shall preserve and maintain Frick Lake and the Springtown Alkali Sink area as important wildlife and plant habitats through preservation of open space in and around these areas.

Consistency With Climate Action Goals

The Climate Change Element of the General Plan includes goals and objectives to reduce greenhouse gas emissions. The City's sale of a conservation easement and funding habitat enhancement activities, implements:

Objective CLI-1.6 Expand the number of trees in Livermore in order to provide a larger carbon sink or area containing natural sources that retain more carbon than what those sources emit.

The term carbon sink includes forests, oceans, and soils that help to remove carbon from the atmosphere by sequestering carbon. The preservation of native soils and vegetation in addition to sustained management contribute to in the City's sequestration objectives. In addition, the Doolan Canyon Agreement includes funding specifically for carbon sequestration activities, which could include re-introducing native vegetation and compost application consistent with the management of the property.

The Livermore Climate Action Plan implements the Climate Change Element by outlining strategies and actions the City and community can take to reduce GHG emission levels produced within Livermore. The Climate Action Plan is currently undergoing a comprehensive update, which will create a roadmap to continue carbon emission reductions and will also include adaptation strategies to prepare Livermore for climate change impacts, including heat, drought, wildfire, and flooding. The Springtown site is home to a complex of wetlands and seasonal ponds. The protection of the area and its wetlands contribute to the City's flood control and climate adaptation strategies.

Environmental Determination

The sale of a conservation easement is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15317, which exempts entering into open space contracts, including conservation easements, in order to maintain the open space character of the area. Upon Council direction, staff would file a CEQA Notice of Exemption with the Alameda County Recorder's Office.

As additional details emerge regarding the restoration activities, additional analysis may be required to comply with CEQA. Under the terms of both Agreements, Trumark, as the project proponent, would be responsible for funding all work necessary to comply with any and all regulatory permitting and environmental clearances, including CEQA compliance, subject to review and approval by the City.

FISCAL AND ADMINISTRATIVE IMPACTS

If Council authorizes the two Purchase and Sales agreements, evaluating the technical, financial, and environmental aspects of the easement sale would require staff time and consultant services of $109,000, which is included in the purchase price of the conservation easements (calculated as 4% of the mitigation project costs). Each Purchase and Sales Agreement includes a 10% administrative fee to cover staff costs. The Doolan Purchase and Sale Agreement includes an additional 10% fee to cover carbon sequestration activities on the property.

Deposits from the Purchase and Sale Agreements would occur at key milestones and will be available for immediate release to cover consultant costs. The purchaser, Trumark, would bear all costs associated with mitigation and restoration work performed. Pursuant to the terms of the Agreements, the City will not be responsible for any costs associated with mitigation actions, conservation easement administration, permitting requirements, or agency coordination. Further, the City's General Fund will not be subject to future financial obligations for maintenance and management of the conservation easement areas.

Staff recommends the City Council authorize placing the revenue from the sales, approximately $4 million, to a special fund dedicated to the City's infrastructure, which is in line with one of the City's strategic priorities (asset management). The City Council will have an opportunity to allocate this funding to specific infrastructure projects during the biennial capital budget review process. Similarly, Staff recommends the City Council commit endowment funds, currently estimated at $1.6 million, into a special fund for the purpose of managing and maintaining the easement area in conformance with the terms of the Agreements.

ATTACHMENTS

1. Springtown Property and Mitigation Boundary Map
2. Doolan Property and Mitigation Boundary Map
3. Trumark Homes Residential Project Site
4. Resolution
5. Exhibit A - Springtown Purchase and Sale Agreement
6. Exhibit B - Doolan Canyon Purchase and Sale Agreement
7. Exhibit C - Professional Services Agreement

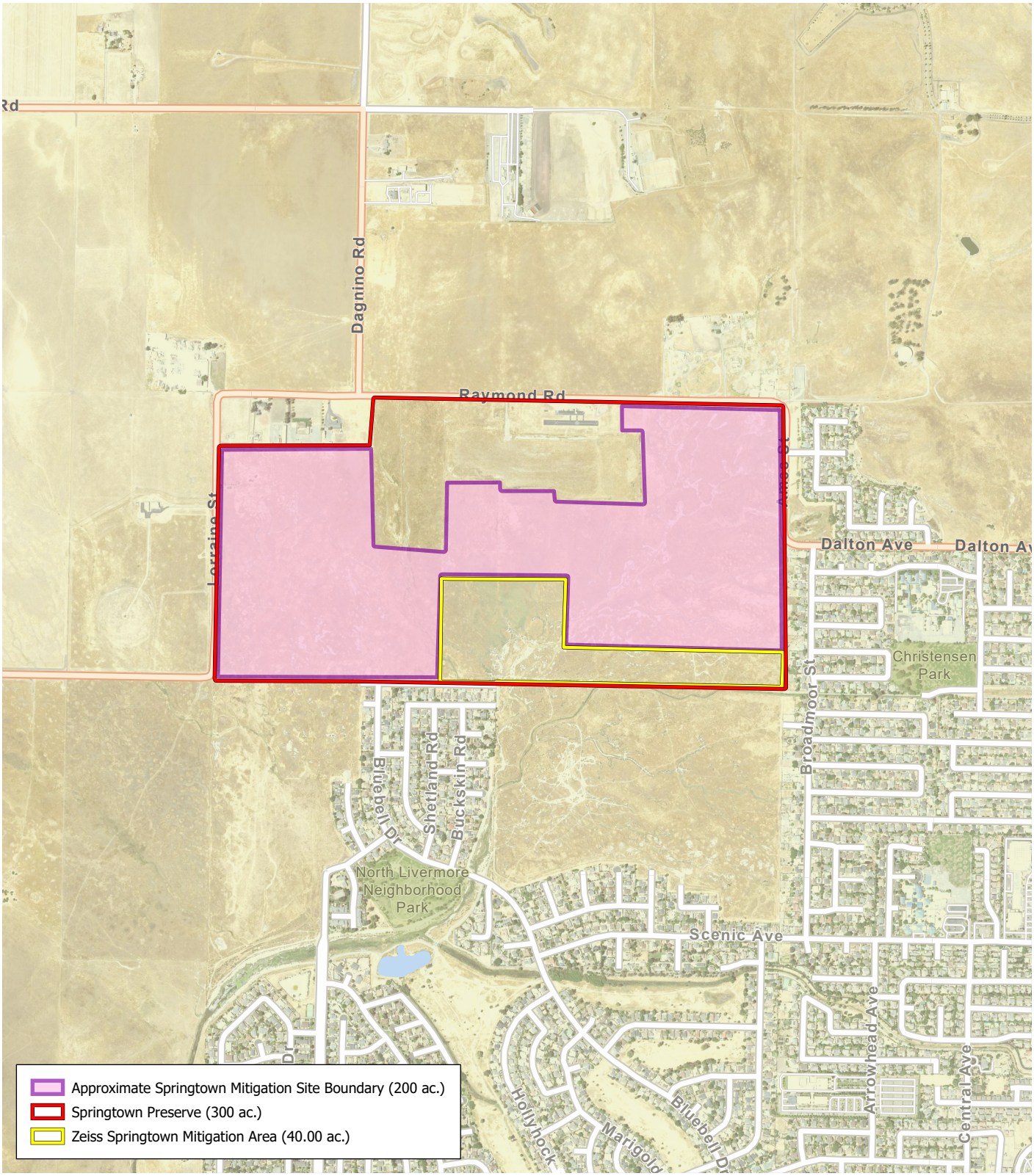
Prepared by: Andy Ross
Senior Planner

Approved by:

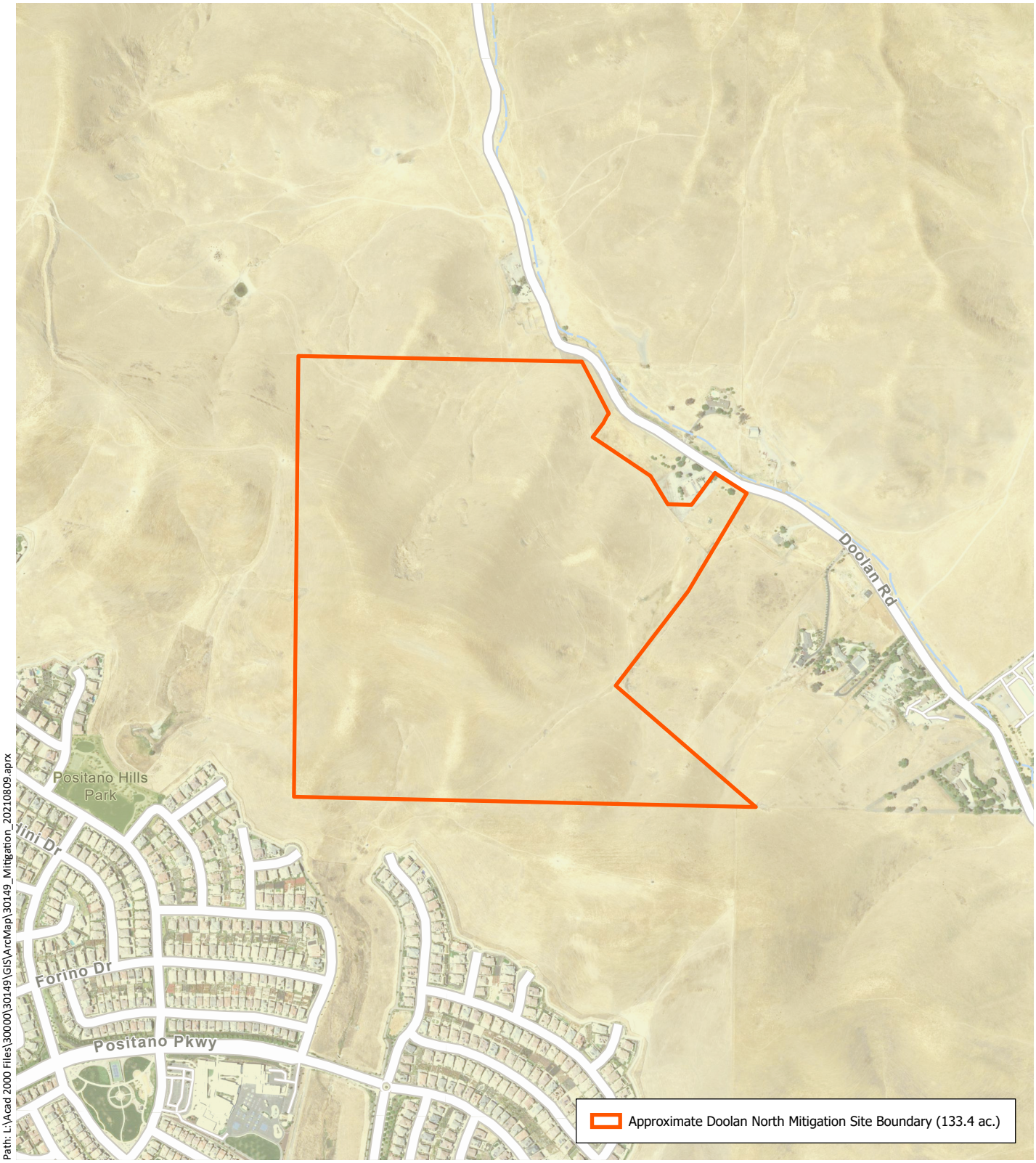
Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director



Springtown Property and Proposed Mitigation Area Boundary



Doolan Canyon Property and Mitigation Boundary

Trumark Homes Residential Project Site Map

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE TWO PURCHASE AND SALE AGREEMENTS WITH TRUMARK HOMES FOR THE SALE OF CONSERVATION EASEMENTS ON CITY-OWNED PROPERTY IN SPRINGTOWN AND DOOLAN CANYON AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH WRA INC., TO ASSIST WITH ADMINISTRATION OF THE TRANSACTION

The Livermore General Plan sets forth goals and policies to enhance quality of life, including a priority to protect open space and biological resources. Funding and long-term resource management is needed to achieve these goals.

The City of Livermore is the current property owner of approximately 300 acres in North Livermore and 137 acres in Doolan Canyon, which contain significant habitat value.

The sale of habitat values as mitigation on the City-owned open space lands provides necessary funding for protection, restoration, and enhancement of unique, sensitive habitats and for the long-term and permanent management of biological resources consistent with General Plan policies.

Trumark Homes is the developer of a residential project in the city of Dublin, which requires compensatory mitigation via purchase of a conservation easement to comply with resource agency regulatory obligations.

The City of Livermore is the current property owner and is a willing seller of habitat mitigation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Livermore authorizes the City Manager, on behalf of the City of Livermore, to execute a Purchase and Sale Agreement, attached hereto as Exhibit A, all necessary transaction and mitigation documents relating to the terms of the Agreement, and non-substantive amendments to the Agreement, including but not limited to, extensions, as necessary, with Trumark Homes, for the sale of a conservation easement to protect sensitive habitat on City-owned property in Springtown.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore authorizes the City Manager, on behalf of the City of Livermore, to execute a Purchase and Sale Agreement, attached hereto as Exhibit B; all necessary transaction and mitigation documents relating to the terms of the Agreement and non-substantive amendments to the Agreement, including but not limited to, extensions, as necessary, with Trumark Homes, for the sale of a conservation easement; and authorizing restoration activities to protect sensitive habitat on City-owned property in Doolan Canyon.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore authorizes the City Manager, on behalf of the City of Livermore, to execute a Professional Services Agreement, with WRA, Inc., attached hereto as Exhibit C, for support services related to the sale of a conservation easement, including peer review of management and restoration plan documents.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore authorizes placing the revenue from the sales, approximately $4 million, to a special fund dedicated to the City's infrastructure, consistent with one of the City's strategic priorities (asset management), which could be allocated to specific infrastructure projects during the biennial capital budget review process.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore authorizes establishing an endowment fund as stated in the terms of the Agreements.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore directs City staff to file a Notice of Exemption for the sale of a conservation easement in accordance with the California Environmental Quality Act.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Kimberly Cilley
Kimberly Cilley
Senior Assistant City Attorney

Exhibit A – Springtown Purchase and Sales Agreement
Exhibit B – Doolan Canyon Purchase and Sales Agreement
Exhibit C – Professional Services Agreement with WRA

AGREEMENT FOR PURCHASE AND SALE OF MITIGATION VALUES AND ESCROW INSTRUCTIONS FOR THE SPRINGTOWN MITIGATION SITE IN LIVERMORE, CALIFORNIA

(East Ranch Development Project – Dublin, California)

This Agreement for Purchase and Sale of Mitigation Values and Escrow Instructions ("Agreement"), dated as of _____, 2022, is entered into by and between City of Livermore, a municipal corporation ('City') and Trumark Properties LLC, a California limited liability company, ("Purchaser") with respect to mitigation for the East Ranch Development Project ("Project") located in the City of Dublin, California. The City and the Purchaser are sometimes individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

A. Project. An affiliated entity of the Purchaser, Trumark Homes LLC, is developing a residential community, consisting of 573 homes and associated infrastructure and utilities, roadway improvements, parks and community facilities, on an approximately 162-acre site ("Project Area") located in the City of Dublin, California, as shown on Exhibit A attached hereto and incorporated herein by this reference. Trumark Homes LLC will be referred to herein as the "Project Proponent."

B. Project Approvals. The Project will be required to obtain certain approvals and authorizations from federal and state governmental agencies. For purposes of this Agreement, the term "Project Approvals" shall collectively refer to the following: (1) permit approval by the U.S. Army Corps of Engineers ("Corps") pursuant to the Clean Water Act; (3) authorization by the U.S. Fish & Wildlife Service ("USFWS") pursuant to the federal Endangered Species Act; (3) approval by the California Department of Fish and Wildlife ("CDFW") pursuant to the California Fish & Game Code; and (4) approval of a water quality certification and/or waste discharge requirements by the San Francisco Regional Water Quality Control Board ('Regional Water Board"). For purposes of this Agreement, the term "Resource Agencies" shall collectively refer to the Corps, CDFW, USFWS, and Regional Water Board.

C. Project Impacts. The Project will impact potentially suitable upland and dispersal habitat for the federally-listed California red-legged frog ('CRLF') and federally designated critical habitat for this species. The Project also will impact potentially suitable upland estivation habitat for the federally-listed and state-listed California tiger salamander ("CTS"). The Project's impacts to federally-listed and state-listed species and/or to these species' habitat, including but not limited to CRLF and CTS, will be collectively referred to as the "Project Impacts."

D. Compensatory Mitigation for Project Impacts. In connection with the issuance of approvals and authorizations for the Project by the Resource Agencies, certain compensatory mitigation requirements apply to the Project Impacts ("Compensatory Mitigation Requirements'). The Project proposes to satisfy the Compensatory Mitigation Requirements through the preservation and management of approximately 333 acres of habitat ("Mitigation

Acreage") owned by the City and located within the City's boundaries. This preservation and management of the Mitigation Acreage will be accomplished through the acquisition by the Purchaser from the City, pursuant to this Agreement, of approximately 200 acres of mitigation values ("Mitigation Values") for listed species, including but not limited to CRLF and CTS, at the "Springtown Mitigation Site" (the "Springtown Mitigation Site"). The Springtown Mitigation Site is identified as Assessor's Parcel Numbers (APN) 902-003003001, 902-000300403, and 902-000300500, and is generally depicted in Exhibit B attached hereto and incorporated herein by this reference.

E. Doolan Canyon North Mitigation Site. Concurrently with this Agreement, Purchaser and City are entering into that certain Agreement for Purchase and Sale of Mitigation Values and Escrow Instructions Agreement (the "Doolan Canyon North Purchase Agreement"), pursuant to which Purchaser shall have the right to acquire from the City 133 acres of Mitigation Values at the "Doolan Canyon North Mitigation Site" (the "Doolan Canyon North Mitigation Site"). The Doolan Canyon North Mitigation Site is identified as Assessor's Parcel Number (APN), 905-3-12, and is generally depicted in Exhibit C attached hereto and incorporated herein by this reference. Purchaser and City intend that the closing for the Springtown Mitigation Site will be concurrent with the closing of the Doolan Canyon North Mitigation Site under the Doolan Canyon North Purchase Agreement. However, neither the Closing for the Springtown Mitigation Site nor the Closing of the Doolan Canyon North Mitigation Site shall be dependent on, or a condition precedent to, the closing of the other Mitigation Site. The Doolan Canyon North Mitigation Site and the Springtown Mitigation Site shall be referred to herein individually as a "Mitigation Site" and collectively as the "Mitigation Sites".

F. California Environmental Quality Act. The City's sale of Mitigation Values under this Agreement for the purpose of the preservation and management of the Mitigation Acreage is exempt from the California Environmental Quality Act, Pub. Res. Code §§ 21000 et seq. ("CEQA"), under the Class 13 Categorical Exemption under the CEQA Guidelines (Cal. Code Regs., Tit. 14, § 15313). In the event that any mitigation or environmental review is necessary at a later date, the costs of any mitigation or environmental review shall be the sole responsibility of Purchaser.

G. City Feasibility Activities. The City, as the land manager for the Springtown Mitigation Site, has with its environmental consultants undertaken, and will continue to undertake, substantial activities towards determining the feasibility of preserving and managing the habitat values on the Springtown Mitigation Site, including, without limitation, performing wildlife surveys and resource mapping, and real estate due diligence, at the Purchaser's expense (collectively, "Feasibility Activities").

H. Potentially Suitable Mitigation Values. Based upon the Feasibility Activities conducted to date by the City and its environmental consultants, it appears that the Springtown Mitigation Site may be suitable for the acquisition of the Mitigation Values from City to satisfy the Compensatory Mitigation Requirements applicable to the Project Impacts.

NOW, THEREFORE, in consideration of the foregoing recitals, and the mutual covenants contained herein, the Parties agree as follows:

TERMS OF AGREEMENT

1. Effective Date. For the purposes of this Agreement, the date inserted in the first paragraph of this Agreement, shall be referred to herein as the "Effective Date."

2. Purchase & Sale of Mitigation Values. Pursuant to the terms of conditions of this Agreement, the City agrees to sell to the Purchaser, and to set aside for the Purchaser's use, 200 acres of Mitigation Values at the Springtown Mitigation Site. The purchase price under this Agreement is $11,500 per acre (including mitigation fees), for a subtotal of $2,300,000, for the Mitigation Values at the Springtown Mitigation Site ('Mitigation Acreage Price'). If the Resource Agencies approve the use of one of the two Mitigation Sites (Doolan Canyon North Mitigation Site and Springtown Mitigation Site) towards the satisfaction of the Compensatory Mitigation Requirements, but do not approve the use of both of the Mitigation Sites toward the satisfaction of the Complimentary Mitigation Requirements, then the Purchaser may elect to proceed only with the purchase of the Mitigation Values at the Mitigation Site that is approved and may elect not to proceed with the purchase of the Mitigation Values at the Mitigation Site that is not approved.

3. Mitigation and Management Plans.

(a) In connection with the applications to the Resource Agencies for the Project Approvals, the Purchaser intends to fund, prepare and process the required plans (collectively, 'Mitigation and Management Plans') for submittal to the applicable Resource Agencies, subject to review and approval by City, which will include habitat enhancement such as the creation of new suitable amphibian breeding features and document the long-term preservation and management of the Mitigation Acreage in order to satisfy the Compensatory Mitigation Requirements.

(b) The Purchaser understands and expressly acknowledges it is acquiring Mitigation Values on the Mitigation Acreage subject to City's reservation of rights for existing uses of the Mitigation Acreage, so long as such uses are consistent with the Mitigation and Management Plans for the Mitigation Acreage as approved by the applicable Resource Agencies.

4. Purchase Price. The total purchase price for the Mitigation Values under this Agreement is calculated by adding together the following two components: (1) the Mitigation Acreage Price as set forth above in Section 2 above; and (2) Ten Thousand Dollars ($10,000) for the City's administrative costs ("Administrative Fee"). This results in a total purchase price for the Springtown Mitigation Site of Two Million, Three Hundred Ten Thousand Dollars ($2,310,000) ("Purchase Price").

5. Payment of Purchase Price. The payment of the Purchase Price by the Purchaser will involve four payments, which are described below and which are further set forth in the schedule of deposits in Exhibit D attached hereto and incorporated herein by this reference:

(a) Initial Deposit. No later than five (5) business days after the Effective Date of this Agreement, the Purchaser shall deposit with the Escrow Holder (as hereinafter defined) the amount of Three Hundred Forty-Six Thousand Dollars ($346,000) (the

'Initial Deposit'), in immediately available funds. This amount shall include Three Hundred Thirty-Six Thousand Dollars ($336,000), towards the Mitigation Acreage Price and Five Thousand Dollars ($10,000) towards the City's Administrative Fee. The Purchaser shall instruct the Escrow Holder to immediately release the Initial Deposit to the City. The Initial Deposit shall thereafter be nonrefundable.

(b) Second Deposit. No later than five (5) business days after the date the Mitigation and Management Plans are submitted to the Resource Agencies and the Easement Holder has been designated pursuant to Section 9(f)(i) below (the 'Second Deposit Trigger Events"), the Purchaser shall deposit with the Escrow Holder (as hereinafter defined) the amount of Four Hundred Fifty-Eight Thousand Dollars ($458,000) (the 'Second Deposit') in immediately available funds. This amount shall include Four Hundred Fifty-Three Thousand Dollars ($453,000), towards the Mitigation Acreage Price and Five Thousand Dollars ($5,000) to complete payment of the City's Administrative Fee. The Purchaser shall instruct the Escrow Holder to immediately release the Second Deposit to the City. The Second Deposit shall thereafter be nonrefundable.

(c) Third Deposit. No later than five (5) business days after approval of the Mitigation and Management Plans by the Resource Agencies (the "Third Deposit Trigger Events"), the Purchaser shall deposit with the Escrow Holder (as hereinafter defined) the amount of Nine Hundred Twelve Thousand Dollars ($912,000) (the "Third Deposit"), in immediately available funds.The Purchaser shall instruct the Escrow Holder to immediately release the Third Deposit to the City. The Third Deposit shall thereafter be nonrefundable.

(d) Final Deposit. Provided that the Second Deposit Trigger Events and the Third Deposit Trigger Events have occurred, no later than five (5) business days after the date the City executes the Conservation Easement, Purchaser shall deposit with the Escrow Holder (as hereinafter defined) the outstanding balance of the Purchase Price ('Final Deposit'), in addition to any and all endowments and securities required by the Resource Agencies under Section 9(g), and shall instruct the Escrow Holder to immediately release the Final Deposit to the City upon the Closing. The amount of the Final Deposit shall be calculated by subtracting from the Purchase Price any amounts that already have been paid by the Purchaser under this Agreement, including the Initial Deposit, Second Deposit, Third Deposit, and any amounts paid by the Purchaser under Section 6(c)(ii)(1) below. In addition to the Purchase Price, Purchaser shall be required to satisfy all funding for the Mitigation Site in accordance with Section 9(g) prior to the Close of Escrow.

(e) Application of Deposit. The Initial Deposit, Second Deposit, Third Deposit, Final Deposit, and any amounts paid by the Purchaser pursuant to Section 6(c)(ii)(1) below shall be applied to the Purchase Price to the extent such payments have not already been applied to the Purchase Price before the Closing.

6. Escrow and Closing.

(a) Opening of Escrow. Within five (5) business days after the Effective Date of this Agreement, the City shall open an escrow (the "Escrow") with First American Title Company located at 4637 Chabot Drive, Suite 105 Pleasanton, CA 94588 ("Escrow Holder") for the purpose of handling the Closing (as hereinafter defined) pursuant to Section 6(c) below. All amounts deposited into the Escrow by the Purchaser pursuant to this Agreement, to the extent such amounts are held in Escrow, shall be invested by the Escrow Holder with a financial institution acceptable to the Purchaser, in a federally-insured interest-bearing demand account. Any interest thereon shall accrue to the benefit of the Purchaser.

(b) Escrow Instructions. This Agreement shall constitute the escrow instructions to the Escrow Holder. Any supplemental escrow instructions given to the Escrow Holder shall be mutually agreed upon by the Parties.

(c) Closing.

(i) For purposes of this Agreement, the "Closing" shall occur on the date (the "Closing Date") that is within thirty (30) business days after the date the Escrow Holder records the Conservation Easement in the Official Records of Alameda County as fully executed and approved by all required parties, including but not limited to approval by CDFW of the Habitat Management Lands documentation ("HM Lands Documents") it may require for the Mitigation Acreage. Prior to Closing, Purchaser shall pay all deposits as set forth in Section 5. Furthermore, prior to or concurrently with the Closing and the recordation of the Conservation Easement, Purchaser shall pay any and all endowments and securities required by the Resource Agencies as set forth in Section 9(g).

(ii) For purposes of this Agreement, the "Outside Closing Date" shall be three (3) years after the Effective Date of this Agreement.

(1) If none of the Resource Agencies have issued a Project Approval by the Outside Closing Date, the Purchaser may either (i) extend the Outside Closing Date by a period of six (6) months by paying a non-refundable deposit of Five Thousand Dollars ($5,000) toward the Purchase Price, or (ii) terminate this Agreement, in which event the Parties shall thereafter have no further rights, duties, or obligations under this Agreement. If the Purchaser extends the Outside Closing Date pursuant to subsection (i) of the preceding sentence, and if none of the Resources Agencies have issued a Project Approval by such extended Outside Closing Date, the Purchaser may again either (x) extend the Outside Closing Date by another six (6) months by making another non-refundable deposit of Five Thousand Dollars ($5,000) toward the Purchase Price, or (y) terminate this Agreement, in which event the Parties shall thereafter have no further rights, duties, or obligations under this Agreement.

(2) If none of the Resource Agencies have issued a Project Approval by the Outside Closing Date, as such Outside Closing Date may be extended pursuant to Section 6(c)(ii)(1) above, the Parties may mutually agree in writing to extend this Agreement. Alternatively, the Purchaser shall have the right to either (i) proceed with the Closing by the Outside Closing Date (as it may be extended pursuant to Section 6(c)(ii)(1) above) in accordance with the terms and conditions of this Agreement, or (ii) terminate this Agreement, in which event the Parties shall thereafter have no further rights, duties, or obligations under this Agreement. If the Purchaser elects to proceed with the Closing pursuant to subsection (i) of the preceding sentence, then the City shall continue to use its good faith, commercially reasonable efforts after the Outside Closing Date (as it may be extended pursuant to Section 6(c)(ii)(1) above) to assist with obtaining the Project Approvals as provided in Section 9(e)(i) below.

(3) If one or more of the Resource Agencies has issued a Project Approval on or before the Outside Closing Date, as such Outside Closing Date may be extended pursuant to Section 6(c)(ii)(1) above, then this Agreement shall continue to remain in effect until such time as the Closing occurs in accordance with Section 6(c)(i) above.

7. Closing Documents.

(a) Deposits by City. Prior to the Closing, the City shall deposit with the Escrow Holder the following documents:

(i) Bill of Sale. The Bill of Sale in the form of Exhibit E, executed by City, evidencing the sale of the Mitigation Values to the Purchaser.

(ii) Conservation Easement. The Conservation Easement for the Mitigation Acreage, executed and acknowledged by the parties thereto. The Escrow Officer shall record the Conservation Easement with the Alameda County Recorder's Office.

(iii) Miscellaneous. Such other documents and instructions as may be reasonably required by the Escrow Holder or the Purchaser in order to close the Escrow in accordance with the terms of this Agreement.

(b) Deposits by Purchaser. Prior to the Closing, the Purchaser shall deposit with the Escrow Holder the following documents and funds:

(i) Balance of Purchase Price. Any outstanding balance of the Purchase Price, in immediately available funds, and all Closing costs and expenses that are required to be paid by the Purchaser under Section 8 of this Agreement.

(ii) Insurance. Proof of insurance for any actions to be done at the Mitigation Acreage in accordance with the Insurance provisions outlined in Exhibit F attached hereto and incorporated herein by this reference.

(iii) Miscellaneous. Such other documents and instructions as may be reasonably required by the Escrow Holder or the City in order to close the Escrow in accordance with the terms of this Agreement.

8. Costs and Expenses. All fees and costs associated with the Escrow shall be borne by the Purchaser. Notwithstanding the foregoing, the Purchaser and the City shall each pay their respective legal and professional fees and consultant fees.

9. The Parties' Pre-Closing Obligations.

(a) Analysis and Verification. The Purchaser shall retain a qualified biologist approved by the City, which approval shall not be unreasonably withheld, to perform the tasks needed, to the extent such tasks have not already been done, to review, analyze and verify the biological attributes and conditions to a reasonably commercial degree necessary to submit the Mitigation Acreage to the applicable Resource Agencies as a suitable location and the amount for the Mitigation Values.

(b) Site Documentation. The Purchaser shall be responsible for causing the preparation of legal descriptions, environmental site assessments, title reports and other relevant documentation for the Mitigation Acreage as may be required for the assessment of the Mitigation Acreage by the Purchaser or by the applicable Resource Agencies. The City, as land manager for the Springtown Mitigation Site, shall cooperate with the Purchaser with respect to the preparation of the appropriate documentation, by providing the Purchaser with reasonable access to the Springtown Mitigation Site, by providing the Purchaser relevant documents regarding the Springtown Mitigation Site within the possession of the City or its environmental consultants, by assisting the Purchaser in causing to be prepared any additional relevant documentation at the Purchaser's expense, and by taking other commercially reasonable steps to assist the Purchaser in developing the relevant documentation for the Mitigation Acreage.

(c) Resource Agency Coordination. The Purchaser shall be responsible for ensuring coordination between the Project Proponent and the Resource Agencies for purposes of obtaining the Project Approvals.

(d) Maintain Mitigation Acreage in Same Condition. The City shall be responsible for ensuring that no material changes are made to the conditions of the Mitigation Acreage from the conditions that exist as of the Effective Date of this Agreement.

(e) Mitigation and Management Plans and Project Approvals.

(i) The Purchaser shall be responsible for causing the preparation of the Mitigation and Management Plans for the Mitigation Acreage. No later than forty-five (45) business days prior to submitting the Mitigation and Management

Plans to the applicable Resource Agencies, the Purchaser shall provide the draft Mitigation and Management Plans to the City and Easement Holder for review and approval. The Easement Holder shall provide its comments and/or modifications to Purchaser and the City within thirty (30) business days of receipt of the draft Mitigation and Management Plans. Comments provided by the Easement Holder shall be reviewed and approved by the City.. The City shall have forty-five (45) business days to provide Purchaser with any comments and/or modifications to the draft Mitigation and Management Plans. The Purchaser shall incorporate the City's comments and/or modifications into the Mitigation and Management Plans submitted to the applicable Resource Agencies.

(ii) The City shall reasonably cooperate with the Purchaser's designee and reasonably support the efforts of the Purchaser's designee to obtain the Project Approvals from the Resource Agencies (including approval of the Mitigation and Management Plans), by providing information reasonably required by the Resource Agencies and executing documents reasonably required by the Resource Agencies. The City shall not be obligated to bear any cost greater than a nominal expense or incur any additional liability in connection with such cooperation.

(iii) The Purchaser shall be responsible for ensuring that the Project Approvals are obtained from the Resource Agencies (including approval of the Mitigation and Management Plans). However, neither Party makes any representation, warranty, or guaranty that the Resource Agencies will issue the Project Approvals, approve the Springtown Mitigation Site as suitable mitigation for the Project, or determine that the Mitigation Values on the Mitigation Acreage will be sufficient to fully mitigate the Project Impacts.

(iv) In no event shall the Resource Agencies' refusal to issue the Project Approvals or to approve the Mitigation and Management Plans constitute a default by either Party under this Agreement.

(f) Conservation Easement.

(i) The Mitigation and Management Plans shall be incorporated by reference into a conservation easement for the Mitigation Acreage ("Conservation Easement"). The Conservation Easement shall be substantially in the form of CDFW's standard template for a conservation easement. The Conservation Easement shall be granted to the Tri-Valley Conservancy or to another qualified third-party conservation easement holder mutually agreeable to Parties ("Easement Holder"). The City shall select the Easement Holder no later than the Second Deposit Date.

(ii) The Purchaser shall provide a draft Conservation Easement to the City and the Easement Holder prior to execution. The City and the Easement Holder shall provide any comments and/or modifications on the proposed Conservation Easement within forty-five (45) business days of receipt. The Purchaser shall incorporate the City's and the Easement Holder's comments and/or

modifications into the Conservation Easement prior to the City's execution of the Conservation Easement. The City shall execute the Conservation Easement within forty-five (45) business days after all required Project Approvals have been obtained from the Resource Agencies to develop the Project.

(iii) The City shall reasonably support the efforts of the Purchaser's designee to obtain the Resource Agencies' approval of the Conservation Easement.

(iv) The Purchaser shall be responsible for ensuring that all requisite approvals of the Conservation Easement are obtained from the Resource Agencies. However, neither Party makes any representation, warranty, or guaranty that such approval(s) will be granted.

(v) In no event shall the Resource Agencies' refusal to approve the Conservation Easement constitute a default by either Party under this Agreement.

(g) Funding for Mitigation Site. In addition to the Purchase Price under this Agreement as set forth above, the Purchaser shall fund the initial Mitigation Acreage preservation, management, endowment, and any Resource Agency requirements including but not limited to those as calculated in accordance with the Property Analysis Record ("PAR") and as further described below.

(i) Interim Management Period. The Interim Management Period is the period of time from the date of recordation of the Conservation Easement until the date the Resource Agencies authorize the use of the endowment. The Purchaser shall fund all costs associated with the restoration, management, and monitoring of the Mitigation Acreage for the duration of the Interim Management Period until such time as any and all performance standards have been met and the Mitigation Acreage is approved by the Resource Agencies to enter into the long-term management period. The duration of the Interim Management Period is determined by the Resource Agencies.

(ii) Administrative and Legal Fees. The Purchaser shall fund the Easement Holder Costs which include any and all administrative fees and legal costs associated with the preparation for the purchase of the Mitigation Acreage.

(iii) Endowment. The Purchaser shall fully fund any and all endowments or other security as may be required for the Mitigation Acreage by the Resource Agencies after completion of the Interim Management Period, for the purpose of monitoring and maintenance of the Mitigation Acreage in perpetuity in accordance with the requirements of the Mitigation and Management Plans, as approved by the Resource Agencies held and managed by the City or its designee.

10. Limitation of Rights and Obligations.

(a) Limitation of Obligations. The Parties' obligations shall be limited to the obligations expressly described in this Agreement.

(b) Limitation of Rights to Mitigation Site. Nothing in this Agreement shall result in the Purchaser having any right, title, or interest in the Mitigation Acreage greater than that specifically granted by this Agreement. The Purchaser's sole right shall be to have the Mitigation Acreage serve as mitigation for the Project to satisfy the Compensatory Mitigation Requirements, if and when approved by Resource Agencies, and provided that the Purchaser satisfies all of its obligations under this Agreement.

11. **Default by Purchaser; Liquidated Damages.** **THE PURCHASER RECOGNIZES THAT THE MITIGATION VALUES WILL BE REMOVED BY THE CITY FROM THE MARKET DURING THE EXISTENCE OF THIS AGREEMENT, AND THAT IF THE CLOSING DOES NOT OCCUR BECAUSE OF THE PURCHASERS DEFAULT, IT WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN THE EXTENT OF THE DETRIMENT TO THE CITY. THE PARTIES HAVE DETERMINED AND AGREED THAT THE ACTUAL AMOUNT OF DAMAGES THAT WOULD BE SUFFERED BY THE CITY AS A RESULT OF ANY SUCH DEFAULT IS DIFFICULT OR IMPRACTICABLE TO DETERMINE AS OF THE DATE OF THIS AGREEMENT AND THAT THE AMOUNT OF THE INITIAL DEPOSIT ($346,000) IS A REASONABLE ESTIMATE OF THE AMOUNT OF SUCH DAMAGES. FOR THESE REASONS, THE PARTIES AGREE THAT IF THE CLOSING DOES NOT OCCUR BECAUSE OF THE PURCHASER'S DEFAULT, THAT AN AMOUNT EQUAL TO THE INITIAL DEPOSIT SHALL BE FORFEITED TO THE CITY AS LIQUIDATED DAMAGES. UPON ANY SUCH BREACH OR DEFAULT BY THE PURCHASER HEREUNDER, THIS AGREEMENT SHALL BE TERMINATED, AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO THE OTHER, EXCEPT FOR THE RIGHT OF THE CITY TO SUCH LIQUIDATED DAMAGES, WHICH SHALL BE THE CITY' SOLE AND EXCLUSIVE REMEDY AGAINST THE PURCHASER IN THE EVENT OF A MATERIAL DEFAULT OR BREACH BY THE PURCHASER RESULTING IN THE FAILURE OF CLOSING. THE CITY WAIVES ANY AND ALL RIGHT TO SEEK OTHER RIGHTS OR REMEDIES AGAINST THE PURCHASER, INCLUDING WITHOUT LIMITATION, SPECIFIC PERFORMANCE. THE PAYMENT AND RETENTION OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO THE CITY PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. THE CITY HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389.**

City of Livermore _____ **Purchaser** TB

12. Default by City. In the event of a material default by the City prior to the Closing, and provided that the City fails to cure such default within fifteen (15) days after the Purchaser's delivery of written notice to city stating the nature of the default, the Purchaser shall have the right, as its sole and exclusive remedy, to terminate this agreement.

13. Waiver of Damages. Each Party waives all claims against each other Party hereto, and all of their respective affiliates, contractors and agents, together with all those persons acting

through or on behalf of any and all such parties, for special or punitive damages of any kind allegedly suffered by such Party or any related parties.

14. Limitation of Liability. No officer, director, shareholder, manager, member, or partner of either Party shall have any personal liability with respect to this Agreement whatsoever.

15. Limitations on Applicability of Mitigation Values. The Mitigation Values under this Agreement may not be used as compensatory mitigation for any purpose other than for the Project or for another project site that is owned by the Purchaser or an Affiliate (as hereinafter defined) of the Purchaser. Notwithstanding the foregoing provision, without the necessity of the City's consent, the Purchaser may assign this Agreement to (a) an Affiliate of the Purchaser, (b) an entity which acquires all or substantially all of the assets of the Purchaser, or (c) an entity which is the resulting entity of a merger or consolidation of the Purchaser with another entity. The term "Affiliate" shall include the Project Proponent and shall also include any parent or subsidiary of the Purchaser, any entity the Purchaser has an interest of 10% or greater in, or any entity under the control of the Purchaser or common control with the Purchaser. The Purchaser acknowledges that, except as stated herein, the City is not willing to sell the Mitigation Values under this Agreement if those values could be resold in competition with the City's remaining mitigation values at its properties.

16. Miscellaneous Provisions.

(a) Ownership of Documents. All work papers, drawings, internal memoranda of any kind, photographs, and any written or graphic material, however produced, prepared by the City in connection with its performance of services hereunder shall be, and shall remain after termination of this Agreement, the property of the City, and may be used by the City for any purpose whatsoever.

(b) Notices. All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section, shall be addressed to the parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (i) upon receipt when hand delivered during normal business hours (provided that notices which are hand delivered shall not be effective unless the sending party obtains a signature of a person at such address that the notice has been received); (ii)upon receipt when sent by facsimile prior to 5:00 p.m. of a given business day (otherwise such receipt is deemed as of the following business day) to the number set forth below (provided, however, that notices given by facsimile shall not be effective unless the sending party's machine provides written confirmation of successful delivery thereof); (iii) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that the sender has in its possession the return receipt to prove actual delivery); or (iv) one (1) Business Day after the notice has been deposited with either FedEx or United Parcel Service to be delivered by overnight delivery (provided that the sending party receives a confirmation of actual delivery from the courier). The addresses of the parties to receive notices are as follows:

To CITY:	City of Livermore Planning Division Attention: Andy Ross, Senior Planner Telephone: (925)960-4475 Email: aaross@cityoflivermore.net
To PURCHASER:	Trumark Properties LLC 3001 Bishop Drive, Suite 100 San Ramon, California 94583 Attention: John Willsie Telephone: (925) 999-3983 Email: jwillsie@trumarkco.com
with a copy to:	Trumark Homes LLC 3001 Bishop Drive, Suite 100 San Ramon, California 94583 Attention: Tony Bosowski Telephone: (925) 999-3966 Email: tbosowski@trumarkco.com
To Escrow Holder:	First American Title Company 4637 Chabot Drive, Suite 105 Pleasanton, CA 94588 Telephone: (925) 750-6866 Email: sschindler@firstam.com

Any party may change its address for purposes of this section by giving the other party written notice of the new address in the manner set forth above.

(c) Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid, and shall be enforced to the fullest extent permitted by law.

(d) Waivers. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal to the period of the delay.

(e) Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto.

(f) Attorneys' Fees. In the event any of the parties commence legal proceedings for the purpose of enforcing any provision or condition hereof, or by reason of any breach arising under the provisions hereof, each Party shall be responsible for its own attorneys' fees and litigation costs.

(g) Entire Agreement. This Agreement (including all Exhibits attached hereto) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented, superseded, canceled, or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto and lawful assignees.

(h) Time of Essence. The City and the Purchaser hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision under this Agreement and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either party shall constitute a material breach of and a non-curable (but waivable) default under this Agreement by the party so failing to perform.

(i) Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed by the parties to create the relationship of principal and agent, a partnership, joint venture, or any other association between the Purchaser and the City, except as provided in this Agreement.

(j) Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared the same. Unless otherwise indicated, all references to paragraphs, sections, subparagraphs and subsections are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference.

(k) Recitals/Exhibits. The Recitals set forth in this Agreement and the Exhibits referenced herein are incorporated herein by this reference.

(l) Choice of Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any suit, action or proceeding brought under the scope of this Agreement shall be brought and maintained to the extent allowed by law in the County of Alameda, California.

(m) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

(n) Representation by Counsel. Notwithstanding any rule or maxim of construction to the contrary, any ambiguity or uncertainty shall not be construed against either the Purchaser or the City based upon authorship of any of the provisions hereof. The Purchaser and the City each hereby warrant, represent and certify to the other as follows: (i) that the contents of this Agreement have been completely and carefully read by the representing party and counsel for the representing party; (ii) that the representing party has been separately represented by counsel and the representing party is satisfied with such representation; (iii)that the representing party's counsel has advised the representing party of, and the representing party fully understands, the legal consequences of this Agreement; and (iv) that no other person (whether a party to this Agreement or not) has made any threats, promises or representations of any kind whatsoever to induce the execution hereof, other than the performance of the terms and provisions hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

CITY OF LIVERMORE,
a California municipal corporation

By: _____

Its: _____

Date: _____

TRUMARK PROPERTIES LLC,
a California Limited Liability Company

By: _____

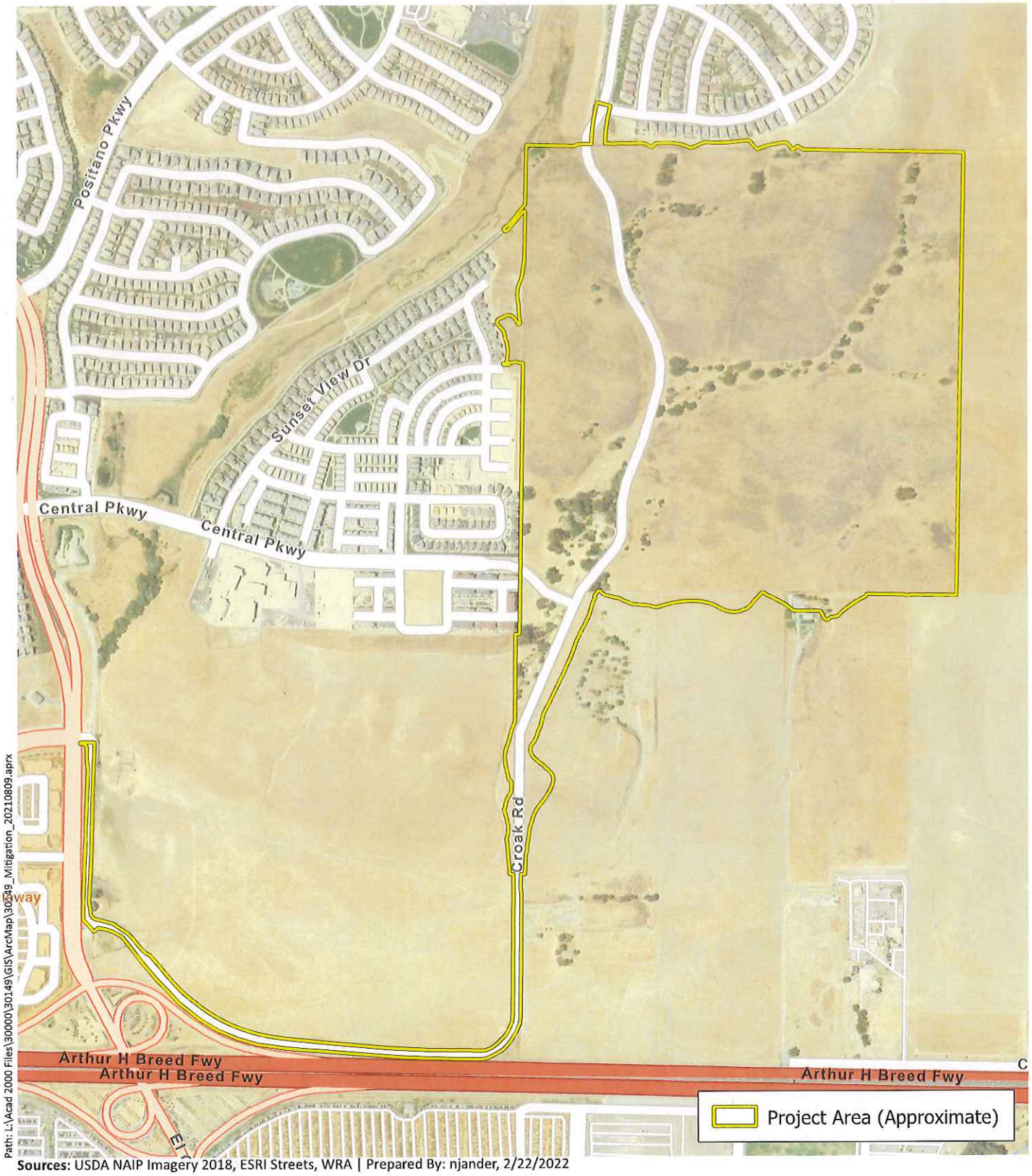
Its: _____

Date: _____

APPROVED AS TO FORM

_____

Exhibit A



Path: L:\Acad 2000 Files\30000\30149\GIS\ArcMap\30149_Mitigation_20210809.aprx

Sources: USDA NAIP Imagery 2018, ESRI Streets, WRA | Prepared By: njander, 2/22/2022

Exhibit A: East Ranch Project Site

East Ranch (Croak) Development Project
4038 Croak Road, Dublin, California

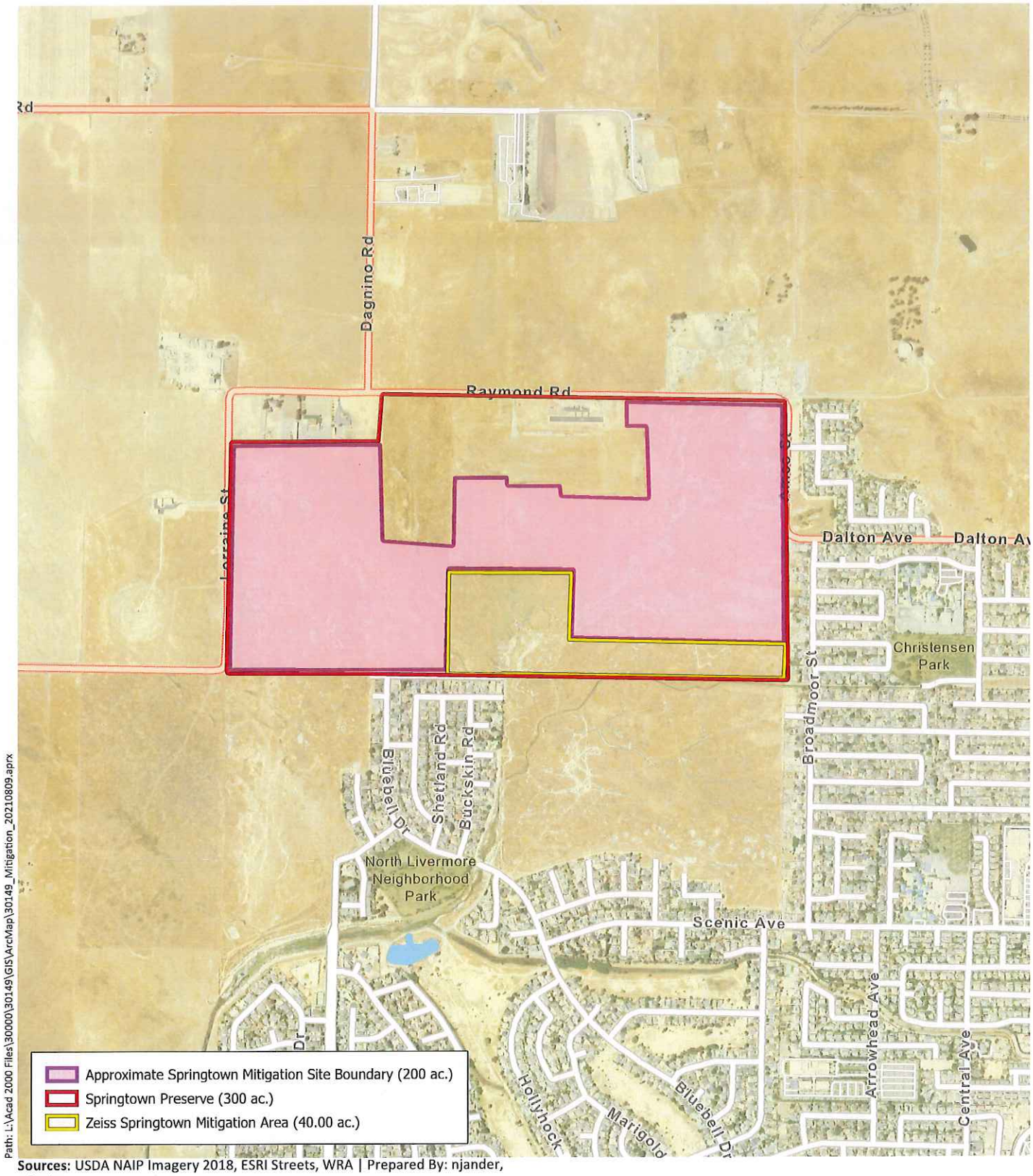
0 500 1,000 Feet

N

wra
ENVIRONMENTAL CONSULTANTS

EXHIBIT A

Exhibit B



Path: L:\Acad 2000 Files\30000\30149\GIS\ArcMap\30149_Mitigation_20210809.aprx

Sources: USDA NAIP Imagery 2018, ESRI Streets, WRA | Prepared By: njander, 8/10/2021

Exhibit B - Springtown Mitigation Property Boundary

East Ranch (Croak) Development Project
4038 Croak Road, Dublin, California

0 500 1,000 Feet

N

wra
ENVIRONMENTAL CONSULTANTS

Exhibit C

Path: L:\Acad 2000 Files\30000\30149\GIS\ArcMap\30149_Mitigation_20210809.aprx

Sources: USDA NAIP Imagery 2018, ESRI Streets, WRA | Prepared By: njander, 9/9/2021

Exhibit C - Doolan North Mitigation Property Boundary

East Ranch (Croak) Development Project
4038 Croak Road, Dublin, California

0 500 1,000 Feet

N

wra
ENVIRONMENTAL CONSULTANTS

Exhibit D

Schedule of Deposits

The following is the schedule of deposits for the payment of the Purchase Price

Deposit	Mitigation Acreage Price	Administrative Fee	Purchase Price
Initial	$336,000	$5,000	$346,500
Second	$453,000	$5,000	$458,000
Third (Final)	$912,000	n/a	$912,000
Fourth* (Final)	$593,000	n/a	$593,500
Total	$2,300,000	$10,000	$2,310,000

*Final Deposit shall also include any and all funding obligations as set forth in section 9(g) of this Agreement

Exhibit E

Bill of Sale

In consideration of _____, receipt of which is hereby acknowledged, **CITY OF LIVERMORE,** a California municipal agency ("**CITY**"), does hereby bargain, sell and transfer to Trumark Properties LLC , a California Limited Liability Company (**"PURCHASER"**) the following mitigation values (**"Mitigation Values"**):

Habitat Type	**Mitigation Acreage**	**Price Per Acre**	**Total Price**
CRLF & CTS	200 acres at Springtown Mitigation Site	$11,500	$2,300,000
		TOTAL	$2,310,000

CITY represents and warrants that it has good title to the Mitigation Values, has good right to sell the same, and they are free and clear of all claims, liens, or encumbrances.

CITY covenants and agrees with the Purchaser to warrant and defend the sale of the Mitigation Values against all and every person and persons whomsoever lawfully claiming or to claim the same.

CITY OF LIVERMORE,
a California municipal corporation

By: _____

Its: _____

Date: _____

Exhibit E

Insurance Requirements

The following are the City of Livermore 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. In the event the professional liability insurance required by this contract is written on a claims-made basis, Consultant/Contractor warrants that any retroactive date under this policy shall precede the effective date of this contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two years beginning at the time work under this contract is completed.

Deductibles and Self-Insured Retention

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

Acceptability of Insurers

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

Other Insurance Provisions

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

1. The City of Livermore, its officers, officials, employees, and designated volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant/Contractor; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.
2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

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

AGREEMENT FOR PURCHASE AND SALE OF MITIGATION VALUES AND ESCROW INSTRUCTIONS FOR THE DOOLAN CANYON NORTH MITIGATION SITE IN ALAMEDA COUNTY, CALIFORNIA

(East Ranch Development Project - Dublin, California)

This Agreement for Purchase and Sale of Mitigation Values and Escrow Instructions ("Agreement"), dated as of _____, 2022, is entered into by and between City of Livermore, a municipal corporation ('City') and Trumark Properties LLC, a California limited liability company, ("Purchaser") with respect to mitigation for the East Ranch Development Project ("Project") located in the City of Dublin, California. The City and the Purchaser are sometimes individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

A. Project. An affiliated entity of the Purchaser, Trumark Homes LLC, is developing a residential community, consisting of 573 homes and associated infrastructure and utilities, roadway improvements, parks and community facilities, on an approximately 162-acre site ("Project Area") located in the City of Dublin, California, as shown on Exhibit A attached hereto and incorporated herein by this reference. Trumark Homes LLC will be referred to herein as the "Project Proponent."

B. Project Approvals. The Project will be required to obtain certain approvals and authorizations from federal and state governmental agencies. For purposes of this Agreement, the term "Project Approvals" shall collectively refer to the following: (1) permit approval by the U.S. Army Corps of Engineers ('Corps') pursuant to the Clean Water Act; (3) authorization by the U.S. Fish & Wildlife Service ('USFWS') pursuant to the federal Endangered Species Act; (3) approval by the California Department of Fish and Wildlife ("CDFW") pursuant to the California Fish & Game Code; and (4) approval of a water quality certification and/or waste discharge requirements by the San Francisco Regional Water Quality Control Board ('Regional Water Board"). For purposes of this Agreement, the term "Resource Agencies" shall collectively refer to the Corps, CDFW, USFWS, and Regional Water Board.

C. Project Impacts. The Project will impact potentially suitable upland and dispersal habitat for the federally-listed California red-legged frog ('CRLF') and federally designated critical habitat for this species. The Project also will impact potentially suitable upland estivation habitat for the federally-listed and state-listed California tiger salamander ("CTS"). The Project's impacts to federally-listed and state-listed species and/or to these species' habitat, including but not limited to CRLF and CTS, will be collectively referred to as the "Project Impacts."

D. Compensatory Mitigation for Project Impacts. In connection with the issuance of approvals and authorizations for the Project by the Resource Agencies, certain compensatory mitigation requirements apply to the Project Impacts ("Compensatory Mitigation Requirements"). The Project proposes to satisfy the Compensatory Mitigation Requirements

through the preservation and management of approximately 333 acres of habitat ("Mitigation Acreage") owned by the City and located within unincorporated Alameda County. This preservation and management of the Mitigation Acreage will be accomplished through the acquisition by the Purchaser from the City, pursuant to this Agreement, of approximately 133 acres of mitigation values ("Mitigation Values") for listed species, including but not limited to CRLF and CTS, at the "Doolan Canyon North Mitigation Site" (the "Doolan Canyon North Mitigation Site"). The Doolan Canyon North Mitigation Site is identified as Assessor's Parcel Number (APN) 905-3-12 and is generally depicted in Exhibit B attached hereto and incorporated herein by this reference.

E. Springtown Mitigation Site. Concurrently with this Agreement, Purchaser and City are entering into that certain Agreement for Purchase and Sale of Mitigation Values and Escrow Instructions Agreement (the "Springtown Purchase Agreement"), pursuant to which Purchaser shall have the right to acquire from the City 200 acres of Mitigation Values at the "Springtown Mitigation Site" (the "Springtown Mitigation Site"). The Springtown Mitigation Site is identified as Assessor's Parcel Numbers (APN) 902-003003001, 902-000300403, and 902-000300500, and is generally depicted in Exhibit C attached hereto and incorporated herein by this reference. Purchaser and City intend that the closing for the Doolan Canyon North Mitigation Site will be concurrent with the closing of the Springtown Mitigation Site. However, neither the Closing for the Springtown Mitigation Site or the Closing of the Doolan Canyon North Mitigation Site shall be dependent on, or a condition precedent to, the closing of the other Mitigation Site. The Doolan Canyon North Mitigation Site and the Springtown Mitigation Site shall be referred to herein individually as a "Mitigation Site" and collectively as the "Mitigation Sites".

F. California Environmental Quality Act. The City's sale of Mitigation Values under this Agreement for the purpose of the preservation and management of the Mitigation Acreage is exempt from the California Environmental Quality Act, Pub. Res. Code §§ 21000 et seq. ("CEQA"), under the Class 13 Categorical Exemption under the CEQA Guidelines (Cal. Code Regs., Tit. 14, § 15313). In the event that any mitigation or environmental review is necessary at a later date, the costs of any mitigation or environmental review shall be the sole responsibility of Purchaser.

G. City Feasibility Activities. The City, as the land manager for the Doolan Canyon North Mitigation Site, has with its environmental consultants undertaken, and will continue to undertake, substantial activities towards determining the feasibility of preserving and managing the habitat values on the Doolan Canyon North Mitigation Site, including, without limitation, performing wildlife surveys and resource mapping, and real estate due diligence, at the Purchaser's expense (collectively, "Feasibility Activities").

H. Potentially Suitable Mitigation Values. Based upon the Feasibility Activities conducted to date by the City and its environmental consultants, it appears that the Doolan Canyon North Mitigation Site may be suitable for the acquisition of the Mitigation Values from City to satisfy the Compensatory Mitigation Requirements applicable to the Project Impacts.

NOW, THEREFORE, in consideration of the foregoing recitals, and the mutual covenants contained herein, the Parties agree as follows:

TERMS OF AGREEMENT

1. Effective Date. For the purposes of this Agreement, the date inserted in the first paragraph of this Agreement shall be referred to herein as the "Effective Date."

2. Purchase & Sale of Mitigation Values. Pursuant to the terms of conditions of this Agreement, the City agrees to sell to the Purchaser, and to set aside for the Purchaser's use, 133 acres of Mitigation Values at the Doolan Canyon North Mitigation Site. The purchase price under this Agreement is $12,385 per acre (including mitigation fees), for a subtotal of $1,647,205, for the Mitigation Values at the Doolan Canyon North Mitigation Site ("Mitigation Acreage Price"). If the Resource Agencies approve the use of one of the two Mitigation Sites (Doolan Canyon North Mitigation Site and Springtown Mitigation Site) towards the satisfaction of the Compensatory Mitigation Requirements, but do not approve the use of both of the Mitigation Sites toward the satisfaction of the Complimentary Mitigation Requirements, then the Purchaser may elect to proceed only with the purchase of the Mitigation Values at the Mitigation Site that is approved and may elect not to proceed with the purchase of the Mitigation Values at the Mitigation Site that is not approved.

3. Mitigation and Management Plans.

(a) In connection with the applications to the Resource Agencies for the Project Approvals, the Purchaser intends to fund, prepare and process the required plans (collectively, "Mitigation and Management Plans") for submittal to the applicable Resource Agencies, subject to review and approval by City, which will include habitat enhancement such as the creation of new suitable amphibian breeding features and document the long-term preservation and management of the Mitigation Acreage in order to satisfy the Compensatory Mitigation Requirements.

(b) The Purchaser understands and expressly acknowledges it is acquiring Mitigation Values on the Mitigation Acreage subject to City's reservation of rights for existing uses of the Mitigation Acreage, so long as such uses are consistent with the Mitigation and Management Plans for the Mitigation Acreage as approved by the applicable Resource Agencies.

4. Purchase Price. The total purchase price for the Mitigation Values under this Agreement is calculated by adding together the following two components: (1) the Mitigation Acreage Price as set forth above in Section 2 above; and (2) Ten Thousand Dollars ($10,000) for the City's administrative costs ("Administrative Fee") , and (3) Ten Thousand Dollars ($10,000) for the City's Carbon Sequestration project. This results in a total purchase price for the Doolan Canyon North Mitigation Site of One Million, Six Hundred Sixty-Seven Thousand, Two Hundred Five Dollars ($1,667,205) ("Purchase Price").

5. Payment of Purchase Price. The payment of the Purchase Price by the Purchaser will involve four payments, which are described below and which are further set forth in the schedule of deposits in Exhibit D attached hereto and incorporated herein by this reference:

(a) Initial Deposit. No later than five (5) business days after the Effective Date of this Agreement, the Purchaser shall deposit with the Escrow Holder (as hereinafter defined) the amount of Two Hundred Fifty Thousand Dollars ($250,000) (the "Initial Deposit"), in immediately available funds. This amount shall include Five Thousand Dollars ($5,000) toward

the City's Administrative Fee, and Five Thousand Dollars ($5,000) toward the City's Carbon Sequestration project. The Purchaser shall instruct the Escrow Holder to immediately release the Initial Deposit to the City. The Initial Deposit shall thereafter be nonrefundable.

(b) Second Deposit. No later than five (5) business days after the date the Mitigation and Management Plans are submitted to the Resource Agencies and the Easement Holder has been designated pursuant to Section 9(f)(i) below (the 'Second Deposit Trigger Events'), the Purchaser shall deposit with the Escrow Holder (as hereinafter defined) the amount of Three Hundred Thirty Thousand, Four Hundred Dollars ($330,400) (the "Second Deposit") in immediately available funds. This amount shall include Three Hundred Twenty Thousand, Four Hundred Dollars ($320,400) toward the Mitigation Acreage Price, Five Thousand Dollars ($5,000) to complete payment of the City's Administrative Fee and Five Thousand Dollars ($5,000) to complete payment of the City's Carbon Sequestration project. The Purchaser shall instruct the Escrow Holder to immediately release the Second Deposit to the City. The Second Deposit shall thereafter be nonrefundable.

(c) Third Deposit. No later than five (5) business days after approval of the Mitigation and Management Plans by the Resource Agencies, (the 'Third Deposit Trigger Events'), the Purchaser shall deposit with the Escrow Holder (as hereinafter defined) the amount of Six Hundred Twenty Six Thousand, Eight Hundred Dollars ($626,800) (the 'Third Deposit'), in immediately available funds. The Purchaser shall instruct the Escrow Holder to immediately release the Third Deposit to the City. The Third Deposit shall thereafter be nonrefundable.

(d) Final Deposit. Provided that the Second Deposit Trigger Events and the Third Deposit Trigger Events have occurred, no later than five (5) business days after the date the City executes the Conservation Easement, Purchaser shall deposit with the Escrow Holder (as hereinafter defined) the outstanding balance of the Purchase Price ("Final Deposit"), in addition to any and all endowments and securities required by the Resource Agencies under Section 9(g), and shall instruct the Escrow Holder to immediately release the Final Deposit to the City upon the Closing. The amount of the Final Deposit shall be calculated by subtracting from the Purchase Price any amounts that already have been paid by the Purchaser under this Agreement, including the Initial Deposit, Second Deposit, Third Deposit, and any amounts paid by the Purchaser under Section 6(c)(ii)(1) below. In addition to the Purchase Price, Purchaser shall be required to satisfy all funding for the Mitigation Site in accordance with Section 9(g) prior to the Close of Escrow.

(e) Application of Deposit. The Initial Deposit, Second Deposit, Third Deposit, Final Deposit, and any amounts paid by the Purchaser pursuant to Section 6(c)(ii)(1) below shall be applied to the Purchase Price to the extent such payments have not already been applied to the Purchase Price before the Closing.

6. Escrow and Closing.

(a) Opening of Escrow. Within five (5) business days after the Effective Date of this Agreement, the City shall open an escrow (the "Escrow") with First American Title Company located at 4637 Chabot Drive, Suite 105, Pleasanton, CA 'Escrow Holder") for the purpose of handling the Closing (as hereinafter defined) pursuant to Section6(c) below. All amounts deposited into the Escrow by the Purchaser pursuant to this Agreement, to the extent such amounts are held in Escrow, shall be invested by the Escrow Holder with a financial institution

acceptable to the Purchaser, in a federally-insured interest-bearing demand account. Any interest thereon shall accrue to the benefit of the Purchaser.

(b) Escrow Instructions. This Agreement shall constitute the escrow instructions to the Escrow Holder. Any supplemental escrow instructions given to the Escrow Holder shall be mutually agreed upon by the Parties.

(c) Closing.

(i) For purposes of this Agreement, the "Closing" shall occur on the date (the "Closing Date") that is within thirty (30) days after the date on which the Escrow Holder has recorded the Conservation Easement in the Official Records of Alameda County as fully executed and approved by all required parties, including but not limited to approval by CDFW of the Habitat Management Lands documentation ("HM Lands Documents") it may require for the Mitigation Acreage. Prior to Closing, Purchaser shall pay all deposits as set forth in Section 5. Furthermore, prior to or concurrently with the Closing and the recordation of the Conservation Easement, Purchaser shall pay any and all endowments and securities required by the Resource Agencies as set forth in Section 9(g).

(ii) For purposes of this Agreement, the "Outside Closing Date" shall be three (3) years following the Effective Date of this Agreement.

(1) If none of the Resource Agencies have issued a Project Approval by the Outside Closing Date, the Purchaser may either (i) extend the Outside Closing Date by a period of six (6) months by paying a non-refundable deposit of Five Thousand Dollars ($5,000) toward the Purchase Price, or (ii) terminate this Agreement, in which event the Parties shall thereafter have no further rights, duties, or obligations under this Agreement. If the Purchaser extends the Outside Closing Date pursuant to subsection (i) of the preceding sentence, and if none of the Resources Agencies have issued a Project Approval by such extended Outside Closing Date, the Purchaser may again either (x) extend the Outside Closing Date by another six (6) months by making another non-refundable deposit of Five Thousand Dollars ($5,000) toward the Purchase Price, or (y) terminate this Agreement, in which event the Parties shall thereafter have no further rights, duties, or obligations under this Agreement.

(2) If none of the Resource Agencies have issued a Project Approval by the Outside Closing Date, as such Outside Closing Date may be extended pursuant to Section 6(c)(ii)(1) above, the Parties may mutually agree in writing to extend this Agreement. Alternatively, the Purchaser shall have the right to either (i) proceed with the Closing by the Outside Closing Date (as it may be extended pursuant to Section 6(c)(ii)(1) above) in accordance with the terms and conditions of this Agreement, or (ii) terminate this Agreement, in which event the Parties shall thereafter have no further rights, duties, or obligations under this Agreement. If the Purchaser elects to proceed with the Closing pursuant to subsection (i) of the preceding sentence, then the City shall continue to use its good faith, commercially reasonable efforts after the Outside Closing Date (as it may

be extended pursuant to Section 6(c)(ii)(1) above) to assist with obtaining the Project Approvals as provided in Section 9(e)(ii) below.

(3) If one or more of the Resource Agencies has issued a Project Approval on or before the Outside Closing Date, as such Outside Closing Date may be extended pursuant to Section 6(c)(ii)(1) above, then this Agreement shall continue to remain in effect until such time as the Closing occurs in accordance with Section 6(c)(i) above.

7. Closing Documents.

(a) Deposits by City. Prior to the Closing, the City shall deposit with the Escrow Holder the following documents:

(i) Bill of Sale. The Bill of Sale in the form of Exhibit E, executed by City, evidencing the sale of the Mitigation Values to the Purchaser.

(ii) Conservation Easement. The Conservation Easement for the Mitigation Acreage, executed and acknowledged by the parties thereto. The Escrow Officer shall record the Conservation Easement with the Alameda County Recorder's Office.

(iii) Miscellaneous. Such other documents and instructions as may be reasonably required by the Escrow Holder or the Purchaser in order to close the Escrow in accordance with the terms of this Agreement.

(b) Deposits by Purchaser. Prior to the Closing, the Purchaser shall deposit with the Escrow Holder the following documents and funds:

(i) Balance of Purchase Price. Any outstanding balance of the Purchase Price, in immediately available funds, and all Closing costs and expenses that are required to be paid by the Purchaser under Section 8 of this Agreement.

(ii) Insurance. Proof of insurance for any actions to be done at the Mitigation Acreage in accordance with the Insurance provisions outlined in Exhibit F attached hereto and incorporated herein by this reference.

(iii) Miscellaneous. Such other documents and instructions as may be reasonably required by the Escrow Holder or the City in order to close the Escrow in accordance with the terms of this Agreement.

8. Costs and Expenses. All fees and costs associated with the Escrow shall be borne by the Purchaser. Notwithstanding the foregoing, the Purchaser and the City shall each pay their respective legal and professional fees and consultant fees..

9. The Parties' Pre-Closing Obligations.

(a) Analysis and Verification. The Purchaser shall retain a qualified biologist approved by the City, which approval shall not be unreasonably withheld, to perform the tasks

needed, to the extent such tasks have not already been done, to review, analyze and verify the biological attributes and conditions to a reasonably commercial degree necessary to submit the Mitigation Acreage to the applicable Resource Agencies as a suitable location and the amount for the Mitigation Values.

(b) Site Documentation. The Purchaser shall be responsible for causing the preparation of legal descriptions, environmental site assessments, title reports and other relevant documentation for the Mitigation Acreage as may be required for the assessment of the Mitigation Acreage by the Purchaser or by the applicable Resource Agencies. The City, as land manager for the Doolan Canyon North Mitigation Site, shall cooperate with the Purchaser with respect to the preparation of the appropriate documentation, by providing the Purchaser with reasonable access to the Doolan Canyon North Mitigation Site, by providing the Purchaser relevant documents regarding the Doolan Canyon North Mitigation Site within the possession of the City or its environmental consultants, by assisting the Purchaser in causing to be prepared any additional relevant documentation at the Purchaser's expense, and by taking other commercially reasonable steps to assist the Purchaser in developing the relevant documentation for the Mitigation Acreage.

(c) Resource Agency Coordination. The Purchaser shall be responsible for ensuring coordination between the Project Proponent and the Resource Agencies for purposes of obtaining the Project Approvals.

(d) Maintain Mitigation Acreage in Same Condition. The City shall be responsible for ensuring that no material changes are made to the conditions of the Mitigation Acreage from the conditions that exist as of the Effective Date of this Agreement.

(e) Mitigation and Management Plans and Project Approvals.

(i) The Purchaser shall be responsible for causing the preparation of the Mitigation and Management Plans for the Mitigation Acreage. No later than forty-five (45) business days prior to submitting the Mitigation and Management Plans to the applicable Resource Agencies, the Purchaser shall provide the draft Mitigation and Management Plans to the City and the Easement Holder for review and approval. The Easement Holder shall provide its comments and/or modifications to the Purchaser and the City within thirty (30) business days of receipt of the draft Mitigation and Management Plans. Comments provided by the Easement Holder shall be reviewed and approved by the City. The City shall provide its comments and/or modifications to the Purchaser within forty-five (45) business days of receipt of the draft Mitigation and Management Plans. The Purchaser shall incorporate the City's comments and/or modifications into the Mitigation and Management Plans submitted to the applicable Resource Agencies.

(ii) The City shall reasonably cooperate with the Purchaser's designee and reasonably support the efforts of the Purchaser's designee to obtain the Project Approvals from the Resource Agencies (including approval of the Mitigation and Management Plans), by providing information reasonably required by the Resource Agencies and executing documents reasonably required by the Resource Agencies. The City shall not be obligated to bear any cost greater than a nominal expense or incur any additional liability in connection with such cooperation.

(iii) The Purchaser shall be responsible for ensuring that the Project Approvals are obtained from the Resource Agencies (including approval of the Mitigation and Management Plans). However, neither Party makes any representation, warranty, or guaranty that the Resource Agencies will issue the Project Approvals, approve the Doolan Canyon North Mitigation Site as suitable mitigation for the Project, or determine that the Mitigation Values on the Mitigation Acreage will be sufficient to fully mitigate the Project Impacts.

(iv) In no event shall the Resource Agencies' refusal to issue the Project Approvals or to approve the Mitigation and Management Plans constitute a default by either Party under this Agreement.

(f) Conservation Easement.

(i) The Mitigation and Management Plans shall be incorporated by reference into a conservation easement for the Mitigation Acreage ("Conservation Easement"). The Conservation Easement shall be substantially in the form of CDFW's standard template for a conservation easement. The Conservation Easement shall be granted to the Tri-Valley Conservancy or to another qualified third-party conservation easement holder mutually agreeable to Parties ("Easement Holder"). The City shall select the Easement Holder no later than the Second Deposit Date.

(ii) The Purchaser shall provide a draft Conservation Easement to the City and the Easement Holder prior to execution. The City and the Easement Holder shall provide any comments and/or modifications on the proposed Conservation Easement within forty-five (45) business days of receipt. The Purchaser shall incorporate the City's and the Easement Holder's comments and/or modifications into the Conservation Easement prior to the City's execution of the Conservation Easement. The City shall execute the Conservation Easement within forty-five (45) business days after all required Project Approvals have been obtained that are needed from the Resource Agencies to develop the Project.

(iii) The City shall reasonably support the efforts of the Purchaser's designee to obtain the Resource Agencies' approval of the Conservation Easement.

(iv) The Purchaser shall be responsible for ensuring that all requisite approvals of the Conservation Easement are obtained from the Resource Agencies. However, neither Party makes any representation, warranty, or guaranty that such approval(s) will be granted.

(v) In no event shall the Resource Agencies' refusal to approve the Conservation Easement constitute a default by either Party under this Agreement.

(g) Funding for Mitigation Site. In addition to the Purchase Price under this Agreement as set forth above, the Purchaser shall fund the initial Mitigation Acreage preservation, management, endowment, and Resource Agency requirements as calculated in accordance with the Property Analysis Record ("PAR") and as further described below.

(i) Interim Management Period. The Interim Management Period is the period of time from the date of recordation of the Conservation Easement until the date the Resource Agencies authorize use of the endowment. The Purchaser shall fund all costs associated with the restoration, management and monitoring of the Mitigation Acreage for the duration of the Interim Management Period until such time as any and all performance standards have been met and the Mitigation Acreage is approved by the Resource Agencies to enter into the long-term management period. The duration of the Interim Management Period is determined by the Resource Agencieii)

(ii) Administrative and Legal Fees. The Purchaser shall fund the Land Trust Costs which include the any and all administrative fees and legal costs associated with the preparation for the purchase of the Mitigation Acreage.

(iii) Endowment. The Purchaser shall fully fund any and all endowments or other security as may be required for the Mitigation Acreage by the Resource Agencies after completion of the interim management period, for the purpose of monitoring and maintenance of the Mitigation Acreage in perpetuity in accordance with the requirements of the Mitigation and Management Plans, as approved by the Resource Agencies held and managed by the City or its designee.

10. Limitation of Rights and Obligations.

(a) Limitation of Obligations. The Parties' obligations shall be limited to the obligations expressly described in this Agreement.

(b) Limitation of Rights to Mitigation Site. Nothing in this Agreement shall result in the Purchaser having any right, title, or interest in the Mitigation Acreage greater than that specifically granted by this Agreement. The Purchaser's sole right shall be to have the Mitigation Acreage serve as mitigation for the Project to satisfy the Compensatory Mitigation Requirements, if and when approved by Resource Agencies, and provided that the Purchaser satisfies all of its obligations under this Agreement.

11. **Default by Purchaser; Liquidated Damages. THE PURCHASER RECOGNIZES THAT THE MITIGATION VALUES WILL BE REMOVED BY THE CITY FROM THE MARKET DURING THE EXISTENCE OF THIS AGREEMENT, AND THAT IF THE CLOSING DOES NOT OCCUR BECAUSE OF THE PURCHASERS DEFAULT, IT WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN THE EXTENT OF THE DETRIMENT TO THE CITY. THE PARTIES HAVE DETERMINED AND AGREED THAT THE ACTUAL AMOUNT OF DAMAGES THAT WOULD BE SUFFERED BY THE CITY AS A RESULT OF ANY SUCH DEFAULT IS DIFFICULT OR IMPRACTICABLE TO DETERMINE AS OF THE DATE OF THIS AGREEMENT AND THAT THE AMOUNT OF THE INITIAL DEPOSIT ($250,000) IS A REASONABLE ESTIMATE OF THE AMOUNT OF SUCH DAMAGES. FOR THESE REASONS, THE PARTIES AGREE THAT IF THE CLOSING DOES NOT OCCUR BECAUSE OF THE PURCHASER'S DEFAULT, THAT AN AMOUNT EQUAL TO THE INITIAL DEPOSIT SHALL BE FORFEITED TO THE CITY AS LIQUIDATED**

DAMAGES. UPON ANY SUCH BREACH OR DEFAULT BY THE PURCHASER HEREUNDER, THIS AGREEMENT SHALL BE TERMINATED, AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO THE OTHER, EXCEPT FOR THE RIGHT OF THE CITY TO SUCH LIQUIDATED DAMAGES, WHICH SHALL BE THE CITY' SOLE AND EXCLUSIVE REMEDY AGAINST THE PURCHASER IN THE EVENT OF A MATERIAL DEFAULT OR BREACH BY THE PURCHASER RESULTING IN THE FAILURE OF CLOSING. THE CITY WAIVES ANY AND ALL RIGHT TO SEEK OTHER RIGHTS OR REMEDIES AGAINST THE PURCHASER, INCLUDING WITHOUT LIMITATION, SPECIFIC PERFORMANCE. THE PAYMENT AND RETENTION OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO THE CITY PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. THE CITY HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389.

City of Livermore _____ **Purchaser** _____

12. Default by City. In the event of a material default by the City prior to the Closing, and provided that the City fails to cure such default within fifteen (15) days after the Purchaser's delivery of written notice to city stating the nature of the default, the Purchaser shall have the right, as its sole and exclusive remedy, to terminate this agreement.

13. Waiver of Damages. Each Party waives all claims against each other Party hereto, and all of their respective affiliates, contractors and agents, together with all those persons acting through or on behalf of any and all such parties, for special or punitive damages of any kind allegedly suffered by such Party or any related parties.

14. Limitation of Liability. No officer, director, shareholder, manager, member, or partner of either Party shall have any personal liability with respect to this Agreement whatsoever.

15. Limitations on Applicability of Mitigation Values. The Mitigation Values under this Agreement may not be used as compensatory mitigation for any purpose other than for the Project or for another project site that is owned by the Purchaser or an Affiliate (as hereinafter defined) of the Purchaser. Notwithstanding the foregoing provision, without the necessity of the City's consent, the Purchaser may assign this Agreement to (a) an Affiliate of the Purchaser, (b) an entity which acquires all or substantially all of the assets of the Purchaser, or (c) an entity which is the resulting entity of a merger or consolidation of the Purchaser with another entity. The term "Affiliate" shall include the Project Proponent and shall also include any parent or subsidiary of the Purchaser, any entity the Purchaser has an interest of 10% or greater in, or any entity under the control of the Purchaser or common control with the Purchaser. The Purchaser acknowledges that, except as stated herein, the City is not willing to sell the Mitigation Values under this Agreement if those values could be resold in competition with the City's remaining mitigation values at its properties.

16. Miscellaneous Provisions.

(a) Ownership of Documents. All work papers, drawings, internal memoranda of any kind, photographs, and any written or graphic material, however produced, prepared by the City in connection with its performance of services hereunder shall be, and shall remain after termination of this Agreement, the property of the City, and may be used by the City for any purpose whatsoever.

(b) Notices. All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section, shall be addressed to the parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (i) upon receipt when hand delivered during normal business hours (provided that notices which are hand delivered shall not be effective unless the sending party obtains a signature of a person at such address that the notice has been received); (ii) upon receipt when sent by facsimile prior to 5:00 p.m. of a given business day (otherwise such receipt is deemed as of the following business day) to the number set forth below (provided, however, that notices given by facsimile shall not be effective unless the sending party's machine provides written confirmation of successful delivery thereof); (iii) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that the sender has in its possession the return receipt to prove actual delivery); or (iv) one (1) Business Day after the notice has been deposited with either FedEx or United Parcel Service to be delivered by overnight delivery (provided that the sending party receives a confirmation of actual delivery from the courier). The addresses of the parties to receive notices are as follows:

To CITY:	City of Livermore Planning Division Attention: Andy Ross, Associate Planner Telephone: (925)960-4475 Email: aaross@cityoflivermore.net
To PURCHASER:	Trumark Properties LLC 3001 Bishop Drive, Suite 100 San Ramon, California 94583 Attention: John Willsie Telephone: (925) 999-3983 Email: jwillsie@trumarkco.com
with a copy to:	Trumark Homes LLC 3001 Bishop Drive, Suite 100 San Ramon, California 94583 Attention: Tony Bosowski Telephone: (925) 999-3966 Email: tbosowski@trumarkco.com

To Escrow Holder: First American Title Company
4637 Chabot Drive, Suite 105
Pleasanton, CA 94588
Telephone: (925) 750-6866
Email: sschindler@firstam.com

Any party may change its address for purposes of this section by giving the other party written notice of the new address in the manner set forth above.

(c) Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid, and shall be enforced to the fullest extent permitted by law.

(d) Waivers. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal to the period of the delay.

(e) Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto.

(f) Attorneys' Fees. In the event any of the parties commence legal proceedings for the purpose of enforcing any provision or condition hereof, or by reason of any breach arising under the provisions hereof, each Party shall be responsible for its own attorneys' fees and litigation costs.

(g) Entire Agreement. This Agreement (including all Exhibits attached hereto) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented, superseded, canceled, or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto and lawful assignees.

(h) Time of Essence. The City and the Purchaser hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision under this Agreement and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either party shall constitute a material breach of and a non-curable (but waivable) default under this Agreement by the party so failing to perform.

(i) Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed by the parties to create the relationship of principal and agent, a partnership, joint venture, or any other association between the Purchaser and the City, except as provided in this Agreement.

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(j) Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared the same. Unless otherwise indicated, all references to paragraphs, sections, subparagraphs and subsections are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference.

(k) Recitals/Exhibits. The Recitals set forth in this Agreement and the Exhibits referenced herein are incorporated herein by this reference.

(l) Choice of Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any suit, action or proceeding brought under the scope of this Agreement shall be brought and maintained to the extent allowed by law in the County of Alameda, California.

(m) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

(n) Representation by Counsel. Notwithstanding any rule or maxim of construction to the contrary, any ambiguity or uncertainty shall not be construed against either the Purchaser or the City based upon authorship of any of the provisions hereof. The Purchaser and the City each hereby warrant, represent and certify to the other as follows: (i)that the contents of this Agreement have been completely and carefully read by the representing party and counsel for the representing party; (ii) that the representing party has been separately represented by counsel and the representing party is satisfied with such representation; (iii)that the representing party's counsel has advised the representing party of, and the representing party fully understands, the legal consequences of this Agreement; and (iv) that no other person (whether a party to this Agreement or not) has made any threats, promises or representations of any kind whatsoever to induce the execution hereof, other than the performance of the terms and provisions hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

CITY OF LIVERMORE,
a California municipal corporation

By: _____

Its: _____

Date: _____

TRUMARK PROPERTIES LLC,
a California Limited Liability Company

By: _____

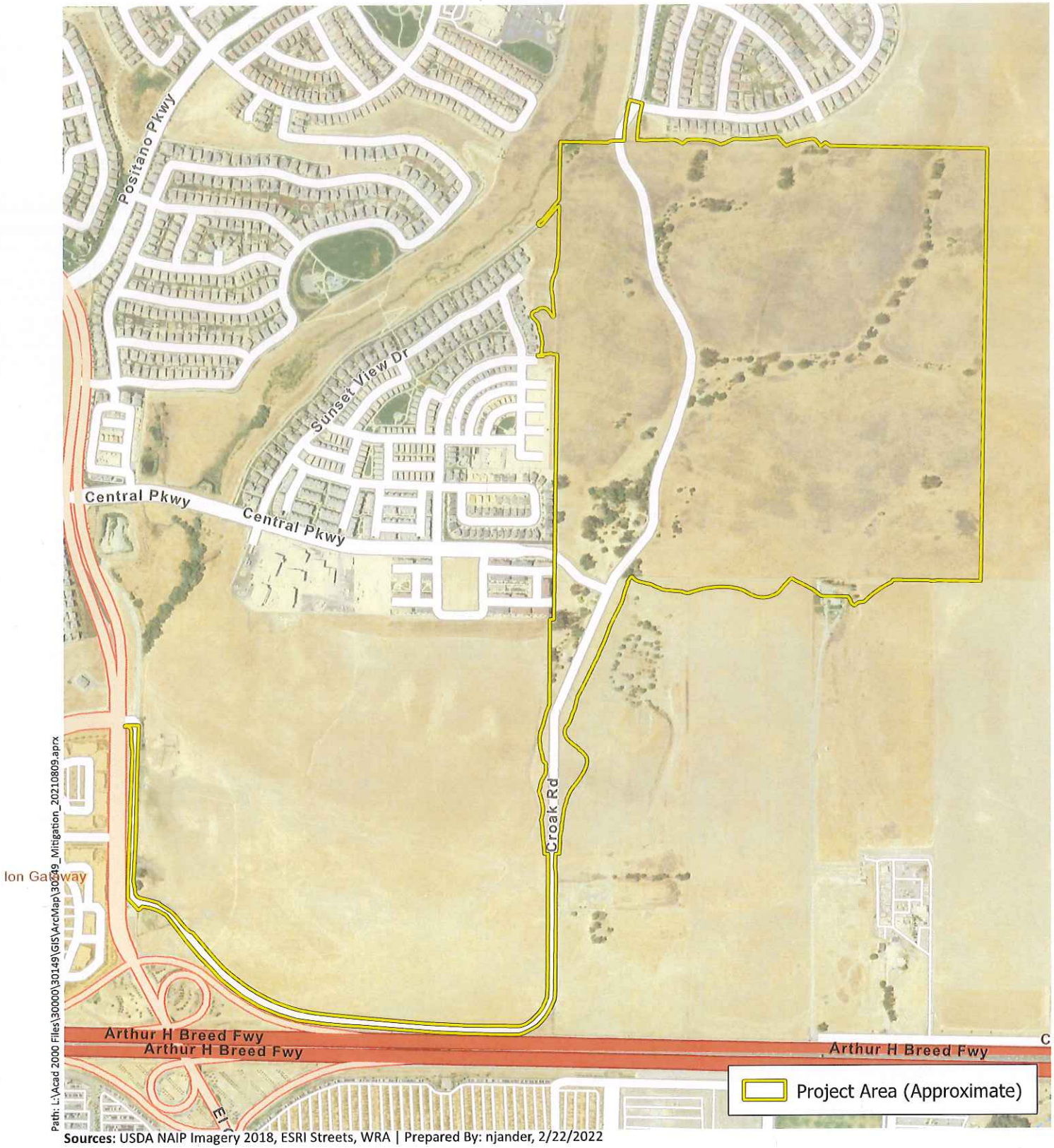
Its: _____

Date: _____

APPROVED AS TO FORM

_____

Exhibit A



Sources: USDA NAIP Imagery 2018, ESRI Streets, WRA | Prepared By: njander, 2/22/2022

Exhibit A: East Ranch Project Site

East Ranch (Croak) Development Project
4038 Croak Road, Dublin, California

0 500 1,000 Feet

N

wra
ENVIRONMENTAL CONSULTANTS

Exhibit B

Path: L:\Acad 2000 Files\30000\30149\GIS\ArcMap\30149_Mitigation_20210809.aprx

Sources: USDA NAIP Imagery 2018, ESRI Streets, WRA | Prepared By: njander, 9/9/2021

Exhibit B - Doolan North Mitigation Property Boundary

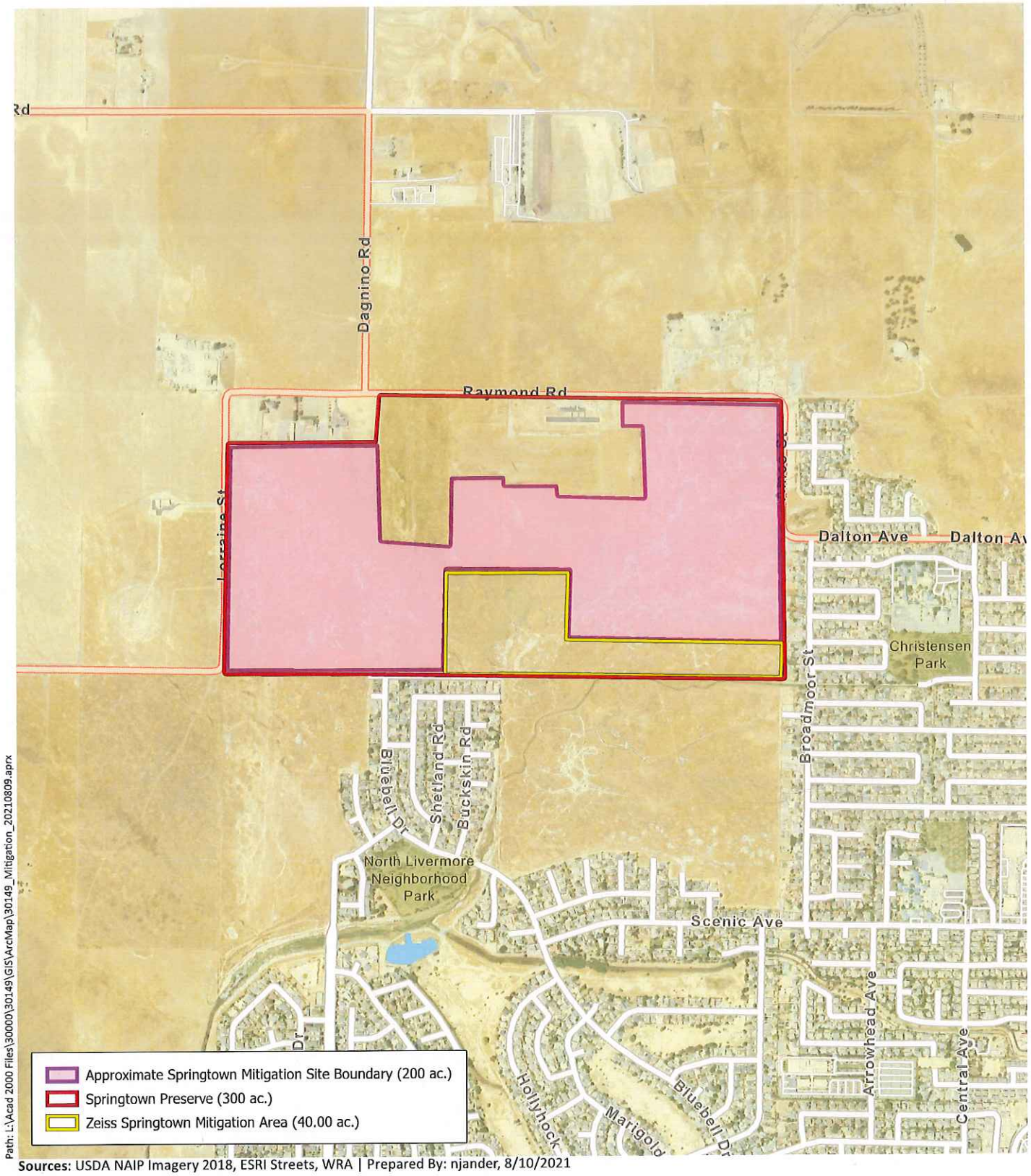
East Ranch (Croak) Development Project
4038 Croak Road, Dublin, California

0 500 1,000 Feet

N

wra
ENVIRONMENTAL CONSULTANTS

Exhibit C



Sources: USDA NAIP Imagery 2018, ESRI Streets, WRA | Prepared By: njander, 8/10/2021

Exhibit C - Springtown Mitigation Property Boundary

East Ranch (Croak) Development Project
4038 Croak Road, Dublin, California

0 500 1,000 Feet

N

wra
ENVIRONMENTAL CONSULTANTS

Exhibit D

Schedule of Deposits

The following is the schedule of deposits for the payment of the Purchase Price

Deposit	Mitigation Acreage Price	Administrative Fee	City's Carbon Sequestration Fee	Purchase Price
Initial	$240,000	$5,000	$5,000	**$250,000**
Second	$320,400	$5,000	$5,000	**$330,400**
Third	$626,800	n/a	n/a	**$626,800**
Fourth* (Final)	$660,005	n/a	n/a	**$660,005**
Total	$1,647,205	$10,000	$10,000	**$1,667,205**

*Final Deposit shall include Purchaser obligations as set forth in the 9(g) as determined by the Regulatory Agencies.

Exhibit E

Bill of Sale

In consideration of _____, receipt of which is hereby acknowledged, **CITY OF LIVERMORE,** a California municipal agency ("**CITY**"), does hereby bargain, sell and transfer to Trumark Properties LLC , a California Limited Liability Company ("**PURCHASER**") the following mitigation values ("**Mitigation Values**"):

Habitat Type	**Mitigation Acreage**	**Price Per Acre**	**Total Price**
CRLF & CTS	133 acres at Doolan Canyon North Mitigation Site	$12,385	$1,647,205
		TOTAL	$1,647,205

CITY represents and warrants that it has good title to the Mitigation Values, has good right to sell the same, and they are free and clear of all claims, liens, or encumbrances.

CITY covenants and agrees with the Purchaser to warrant and defend the sale of the Mitigation Values against all and every person and persons whomsoever lawfully claiming or to claim the same.

CITY OF LIVERMORE,
a California municipal corporation

By: _____

Its: _____

Date: _____

Exhibit F

Insurance Requirements

The following are the City of Livermore 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. In the event the professional liability insurance required by this contract is written on a claims-made basis, Consultant/Contractor warrants that any retroactive date under this policy shall precede the effective date of this contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two years beginning at the time work under this contract is completed.

Deductibles and Self-Insured Retention

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

Acceptability of Insurers

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

Other Insurance Provisions

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

following provisions:

1. The City of Livermore, its officers, officials, employees, and designated volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant/Contractor; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.
2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

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

EXHIBIT E

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

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.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ___ day of _____, 20 , by and between the City of Livermore ("City"), a municipal corporation, and WRA Inc ("Consultant"), a California corporation.

RECITALS

City requires professional services to support the sale of mitigation values on City owned property.

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"):

Review and inspection of City-owned land to assess mitigation values, matching the City with applicants needing mitigation, and authoring and reviewing various documents to support in the entitlement of the land as mitigation resulting in the City's land being preserved under a conservation easement, managed under a long term adaptive management plan, and funded by a non-wasting endowment that is funded by the applicant.

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 Andy Ross, Senior Planner ("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

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 $109,000 ("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 , 2022, and terminates upon the completion of the Services or December 31, 2025, 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.

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

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.

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: Andy Ross
Senior Planner
1052 S Livermore Avenue
Livermore, California 94550

TO CONSULTANT: Attention: Geoff Smick
Chief Executive Officer
2169 G East Francisco Blvd.
San Rafael, CA 94901

23. Waiver. Failure to insist upon the strict performance of any term or conditions in this Agreement, no matter how long the failure continues, is not a waiver of the term or condition and does not bar the right to subsequently demand strict performance. To be effective, a waiver must be in writing and signed by the non-breaching party.

24. Severability. If a court of competent jurisdiction determines a provision in this Agreement is invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired in any way.

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

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

27. Counterparts. This Agreement may be executed and delivered in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email, or other electronically delivered signatures of the Parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals and shall be valid and effective for all purposes.

****

Signatures and Attachment List on the Next Page

In concurrence and witness whereof, and in recognition of the mutual consideration provided therefore, the parties have executed this Agreement, effective on the date first written above.

CONSULTANT: **Dated:**

8/11/22

By: ~~Geoff Smick~~ Kirk Uhlaub
Title: ~~Chief Executive Officer~~ Secretary

CITY OF LIVERMORE: **Dated:**

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

Assistant/City Attorney

APPROVED AS TO INSURANCE:

Risk Manager/Analyst

Attachments:
Exhibit A – Scope of Work
Exhibit B – Insurance Requirements

ENVIRONMENTAL CONSULTANTS

EXHIBIT A

SCOPE OF WORK AND ESTIMATED COST
CITY OF LIVERMORE MITIGATION SERVICES

CROAK DEVELOPMENT

Prepared for:

Andy Ross
Senior Planner
City of Livermore

February 24, 2022

WRA Project No. 30149

PURPOSE

The purpose of this Scope of Work is support the City of Livermore in developing City-owned lands for their mitigation values. WRA's services include initial review and inspection of the land to assess mitigation values, matching the City with applicants needing mitigation, and authoring and reviewing various documents to support in the entitlement of City-owned land as mitigation. The outcome of the project will result in the City's land being preserved under a conservation easement, managed under a long term adaptive management plan, and funded by a non-wasting endowment that is funded by the applicant.

WORK PRODUCTS

- Turn key mitigation deal for the City

SCOPE OF WORK

The exact work products vary for these projects and are based on the specific deal structure and needs of the City and applicant. The following scope is a common process that is followed but is not meant to be exhaustive of every specific task that WRA will perform for the City on this specific project.

The process typically starts with a desktop review of the biological resources of a specific land holding owned by the City. This typically involves accessing the CNDDB records for the region to understand what sensitive biological communities and species are known from the vicinity. Looking for appropriate habitat features on the property using satellite photography allows us to determine the potential for those to occur on-site. The next step is typically a site visit to see the land and confirm any assumptions made in the desktop review.

Once we have an understanding of the biological values present, we develop a financial model to determine the potential value of the property for mitigation. This could entail using the land for endangered wildlife species credits and/or stream/wetland/riparian credits for example. While a highest and best use mitigation scenario can be developed, a given project applicant typically has a specific set of mitigation requirements they need to fulfill which may be different than the exact type and number of credits available on a given property.

Once the mitigation opportunities have been assessed, WRA will act as a matchmaker and pair a project applicant who needs mitigation credits with the City as a mitigation provider. WRA will act as the City's agent, but at times may be hired as the environmental consultant of the applicant. In these cases this will be clearly disclosed to both parties.

WRA will support the City through negotiating a Letter of Intent with the applicant to align both parties on the intent to use the property for mitigation. WRA will then support the City in developing a cost estimate for the mitigation deal. This includes the raw land costs in addition to a sum of the tasks necessary to entitle the property for mitigation. This also includes estimating what the non-wasting endowment for the mitigation property will be. Once the estimated costs are determined, WRA will support the City with developing a Purchase and Sale Agreement for the mitigation values. This will lay out the specific lands being purchased for mitigation values, what the costs for those mitigation values are, any additional fees the City may impose, and what the payment schedule (deposit schedule and milestones) for the project will be.

WRA will also support the City through the mitigation entitlement process. This may include preparing or reviewing/editing some combination of the following documents:

- Restoration Plan
- Interim Management Plan
- Long Term Management Plan
- Grazing Plan
- Property Analysis Record (PAR; endowment calculator)
- Conservation Easement

WRA will support the City with negotiations with the Applicant, Agencies, or Third Party Land Trust as needed through the mitigation entitlement process. This may include responding to questions or information requests from the City, attending phone calls or meetings, conducting site visits, etc.

SCHEDULE

Work can begin upon execution of this Scope of Work.

STAFFING

Geoff Smick will be the principal in charge of the project. Molly Matson will be the project manager. Nate Bello will be the mitigation expert for the project. Other staff will be assigned to the project as necessary.

ASSUMPTIONS

The following assumptions have been made in the preparation of this Scope of Work:

- The City can provide the project design or property boundaries in digital format (such as AutoCAD or GIS), properly referenced to a geographic coordinate system.

- Any previous environmental reports supplied to the City for the project will be provided to WRA.
- Any previous correspondence between the City and government agencies that relate to biological issues for the project will be provided to WRA.
- WRA cannot guarantee schedules or costs for actions taken by regulatory and other third-party entities with authority to approve project activities, as these actions are outside of WRA's control.

ESTIMATED COST

WRA's fees for this work is equal to four percent (4%) of the Mitigation Implementation Costs for each Property. The Mitigation Implementation Costs for Springtown are $1,113,665.70 and for Doolan North are $1,604,050. Four percent (4%) of each of those is $44,546.63 for Springtown and $64,162 for Doolan North for a total of **$108,708.63**. Payment to WRA by the City will occur within sixty (60) days of any transaction, including any installment or milestone payments. WRA's payment for milestone payments will be prorated such that if the applicant pays a certain percentage of the total mitigation cost based on a milestone in the Purchase and Sale Agreement, then WRA will be paid that same percentage of their fee.

EXHIBIT B

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

Consultant/Contractor shall maintain limits no less than:

1. Commercial General Liability, including operations, products, and completed operations, as applicable:
   $5,000,000 per occurrence/**$10,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $2,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability".
4. Professional Liability/Errors and Omissions:
   $5,000,000 per claim. Consultant/Contractor warrants that any retroactive date under this policy shall precede the effective date of this contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two years beginning at the time work under this contract is completed.

Deductibles and Self-Insured Retention

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

Acceptability of Insurers

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

Other Insurance Provisions

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

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

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

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

Verification of Coverage

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

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.9**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing execution of a license agreement with East Bay Community Energy Authority, a Joint Power Authority, for installing, operating, and maintaining Level 3 electric vehicle chargers in the downtown.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a license agreement with East Bay Community Energy Authority, a Joint Power Authority, for installing, operating, and maintaining Level 3 electric vehicle chargers that will serve thirty-two parking spaces on the City of Livermore's L Street Garage property at no cost to the City.

SUMMARY

This license agreement will allow East Bay Community Energy Authority (EBCE), a Joint Power Authority, to install, operate, and maintain Level 3 electric vehicle (EV) charging stations that will serve thirty-two parking spaces in the downtown. As shown in Attachment 1, sixteen of these spaces will be inside the new L Street Garage and the remaining sixteen spaces will be in the parking lot east of the L Street Garage. The EV charging stations will be available to the public. EBCE will pay for the installation, operation, maintenance, and electricity costs. This agreement allows EBCE to operate these electric vehicle chargers and associated electrical equipment on City of Livermore (City) property for 15 years.

DISCUSSION

The City of Livermore is a member of EBCE, a Joint Powers Authority formed in 2016 pursuant to California Government Code Section 6500 et. seq, to become the default Load Serving Entity (or public power provider) in Alameda County. In 2017, the California Public Utilities Commission certified EBCE's Community Choice Aggregator Implementation Plan. EBCE then began serving commercial, industrial, residential, and municipal electricity customers in 2018. EBCE currently serves the County of Alameda, and each of the following cities incorporated therein: Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Oakland, Piedmont, San Leandro, and Union City. In 2021, the cities of Newark, Pleasanton, and Tracy (in San Joaquin County) also joined the JPA and became part of EBCE's service

territory.

In addition to serving as the public power provider, EBCE is tasked with development and management of energy-related climate change programs that help local government JPA members, like the City of Livermore, achieve state greenhouse gas reduction goals faster. Through its Local Development Business Plan, EBCE is strategically developing distributed energy resource solutions, including deploying a network of electric vehicle fast charging infrastructure, that will provide net benefits to EBCE's customers and member agencies. EBCE is partnering with the City to install, maintain, and operate EV vehicle charging stations on city property that are available to the public.

There are more than 1.1 million light-duty passenger cars and trucks registered to drivers in Alameda County. Plug-in EVs account for just 5 percent of this total vehicle registration portfolio (approximately 57,000 EVs on the road). To achieve the state's zero emission vehicle adoption goals, this figure will need to increase to approximately 108,000 light-duty EVs by 2025, and over 360,000 light-duty EVs by 2030. To ensure sustained growth in the EV market, the California Energy Commission has estimated that 645 to 740 publicly available EV fast chargers are needed throughout Alameda County to ensure driver confidence in convenient charging infrastructure. According to the California Energy Commission, there are currently only 332 EV fast chargers in Alameda County.

This gap in charging infrastructure is not experienced equally. EBCE has conducted a detailed analysis to understand home charging access and identified critical disparities that will hinder widespread EV adoption and, therefore, the ability to achieve California's zero-emission vehicle goals. Using Department of Motor Vehicle registration data, County Assessor data and Costar data, EBCE's analysis found:

- 47% of all residents in Alameda County are renters
- 90% of all multi-family housing properties (5+ units) are over 50 years old
- To date there has been essentially no EV adoption among multi-family housing residents

Due to the vintage of multi-family housing properties, electrical capacity upgrades will be needed across this building portfolio to support EV charging. These upgrades are the property owner's responsibility to fund and coordinate, not the tenants', representing a key barrier to deploying lower-level charging to enable at-home charging for these residents. These upgrades will not occur quickly at the scale needed to meet the state's goals.

A not-for-profit public agency like EBCE has a critical role to play in addressing the installation of EV charging to meet the needs of residents. EBCE can deliver clean electricity as a transportation fuel at a lower cost to customers and is well positioned to invest in a network of public EV fast chargers that is informed by local data and input from its JPA members like the City. Siting EBCE's EV fast chargers at the City's municipal parking facilities will result in infrastructure that is convenient, accessible, reliable, highly utilized, and equitable for all users, including commuters traveling through the Tri-Valley, and particularly renters in Livermore's multi-family housing developments. This public-public partnership approach will ensure all of Livermore's residents can join and benefit from the transition to EVs and will enable the City to achieve its climate action goals by reducing greenhouse gas emissions from the transportation sector.

This agreement covers the installation of EV Chargers that will serve thirty-two parking spaces. Sixteen of these spaces will be in the surface lot east of the L Street Garage. The EV Chargers in the surface lot will range between 100 Kilovolt-Amps (KVA) and 150 KVA. These Level 3 fast chargers will provide

much more capacity than standard Level 2 chargers which are around 7 KVA. One hour of charging at a 150 KVA fast charging station provides up to 450 miles of range compared to around 20 miles for one hour at a Level 2 charging station. Additional 100 KVA fast chargers will serve sixteen spaces inside the L Street Garage.

As a public agency, EBCE will issue a competitive solicitation for the development of the charging stations. EBCE shall ensure that its designated contractors, subcontractors and service providers pay prevailing wage and comply with all other applicable provisions of the Labor Code and the implementing regulations of the Department of Industrial Relations.

Electrical equipment for the electrical vehicle chargers will be located in the surface parking lot. This equipment includes a new PG&E transformer and electrical switchgear and panels. EBCE will coordinate the installation of the transformer with PG&E. EBCE will have their own meter that serves the electric vehicles and will be billed directly for all electricity costs. The transformer and electrical equipment will be located next to the trash enclosure. Masonry walls, gates, and landscaping will shield the view of this equipment.

The agreement authorizes EBCE to operate the electric vehicle chargers on City property for a period of 15 years. EBCE and the City can mutually agree in writing to extend the term of the agreement or the equipment can be removed by EBCE at the end of the 15 year term. EBCE is responsible for all costs associated with the installation, operation, and maintenance of the electric vehicle chargers including the cost of the electricity. In exchange, the City is allowing EBCE to occupy City property at no cost.

FISCAL AND ADMINISTRATIVE IMPACTS

This license agreement with EBCE will allow a valuable service to be provided to the public at no cost to the City. Staff time needed to coordinate the agreement with EBCE and review and approve the construction work required to install the charging stations is within existing available staff capacity.

ATTACHMENTS

1. EBCE Location Map
2. Resolution
3. Exhibit A - Charging Station License Agreement

Prepared by: Joel Waxdeck
Assistant City Engineer

Approved by:

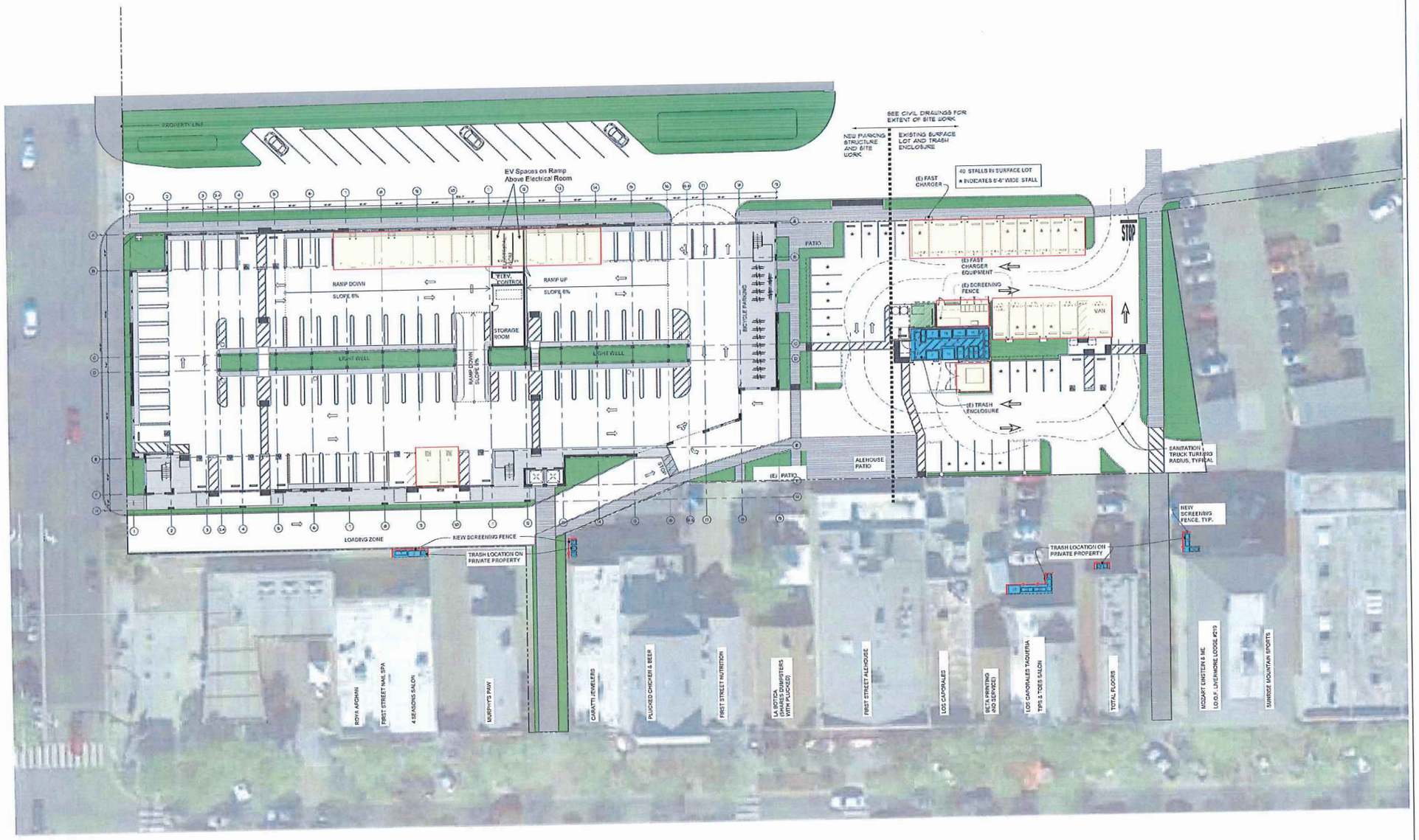
Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

DocuSign Envelope ID: 651F7BFA-D373-47BE-A59A-CF5B1ECD7C7D

EBCE ELECTRIC VEHICLE CHARGERS AND EQUIPMENT



LIVERMORE CALIFORNIA

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CITY OF LIVERMORE
LIVERMORE VILLAGE
PARKING GARAGE PROJECT
PHASE 2: 'L' STREET PARKING STRUCTURE
L STREET, LIVERMORE, CA

#	STATUS	DESCRIPTION	DATE
		50% CONSTRUCTION DOCUMENTS	03/10/2022

SHEET TITLE
ARCHITECTURAL SITE PLAN WITH LEVEL 1 PLAN

PROJECT NUMBER: 58F
DATE: 03/
DRAWN BY: EK
SHEET NUMBER

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF A LICENSE AGREEMENT WITH EAST BAY COMMUNITY ENERGY AUTHORITY, A JOINT POWER AUTHORITY, FOR INSTALLING, OPERATING, AND MAINTAINING LEVEL 3 ELECTRIC VEHICLE CHARGERS IN THE DOWNTOWN

East Bay Community Energy Authority (EBCE) is partnering with the City of Livermore to install, maintain, and operate electric vehicle charging stations on City property that are available to the public. In addition to serving as the public power provider, EBCE is tasked with development and management of energy-related climate change programs that help local government member agencies, like the City of Livermore, achieve state greenhouse gas reduction goals faster. Through its Local Development Business Plan, EBCE is strategically developing distributed energy resource solutions, including deploying a network of electric vehicle fast charging infrastructure, that will provide net benefits to EBCE's customers and member agencies.

This license agreement will allow EBCE to install, operate, and maintain Level 3 electric vehicle charging stations that will serve thirty-two parking spaces in the downtown. Sixteen of these spaces will be inside the new L Street Garage and the remaining sixteen spaces will be in the parking lot east of the L Street Garage. The electric vehicle charging stations will be available to the public. EBCE will pay for the installation, operation, maintenance, and electricity costs. This agreement allows EBCE to operate these electric vehicle chargers and associated electrical equipment on City of Livermore property for 15 years.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore hereby adopts a resolution authorizing the City Manager to execute a license agreement with East Bay Community Energy Authority, a Joint Power Authority, attached hereto as Exhibit A, for installing, operating, and maintaining Level 3 electric vehicle chargers that will serve thirty-two parking spaces on the City of Livermore's L Street Garage property.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – Charging Station License Agreement

CHARGING STATION LICENSE AGREEMENT

This Charging Station License Agreement ("Agreement") is entered into as of the _____ day of _____, 2022 ("Effective Date") by and between the City of Livermore, a municipal corporation ("Host") and the East Bay Community Energy Authority, a Joint Power Authority ("EBCE"). Host and EBCE are individually referred to as "Party" and collectively as "Parties".

1. Grant of License. Host is the fee simple owner of certain real property located in Livermore between Veterans Way and First Street East of L Street (APN 98-289-28)] ("Property"). Host grants to EBCE for the Term of this Agreement: (i) an exclusive and irrevocable, except as specifically set forth herein, license to use and occupy a portion of the Property, including the designation of a total of 32 parking spaces for charging electric vehicles ("Charging Stalls"), as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "Premises") for the Purpose, as defined below; and (ii) any necessary easements or rights for Installation, maintenance, operation, access and utilities for the Purpose, as designated in Exhibit A. This Agreement covers 16 Charging Stalls in the L Street Garage and 16 Charging Stalls in the surface lot east of the Garage and associated equipment as shown in Exhibit A.

2. Purpose. The Premises may be used by EBCE for any lawful activity in connection with the design, development, construction, installation, maintenance, repair, replacement, removal, security, and operation of direct current fast chargers and ancillary items to fuel electric vehicles, including, without limitation, electrical equipment, hardware, software, signage and all supporting equipment and structures (which may include concrete pads and protective bollards) (collectively, the "Charging Station"), together with any other uses permitted herein ("Purpose"), on the terms and conditions set forth in this Agreement.

3. Term. The term of this Agreement (as extended or renewed from time to time, the "Term") shall commence on the Effective Date and terminate fifteen (15)-years from the date that the Charging Station is first operational ("Commencement Date"). Following the expiration of the initial Term, the Parties may mutually agree in writing to extend the Term of the Agreement

4. Termination. This Agreement may be terminated:

a. by EBCE, upon thirty (30) days' written notice to Host, at any time prior to the submission of the permit application for construction of the Charging Station at the Property or in the event that EBCE determines that the construction or continued operation of the Charging Station is impracticable or uneconomical; or

b. by EBCE, if any portion of the Property is condemned or taken in any manner for a public or quasi-public use that could adversely affect EBCE's use of the Premises, as of the date title to the condemned portion of the Property is transferred to the condemning authority.

c. by Host, upon thirty (30) days' written notice to EBCE, in the event the Commencement Date has not occurred within fifteen (15) months following the Effective Date; provided that the foregoing right shall terminate upon the Commencement Date; or

d by either Party if the other Party breaches or fails to perform any of its obligations in any material respect, and such breach or failure continues uncured for ten (10) business days after receipt of written notice; provided that if such breach or failure reasonably requires more than ten (10) business days to cure, this provision shall not be triggered if such breaching Party commences to cure within such period and diligently proceeds to complete such cure; or

e. by either Party, if the other Party becomes insolvent or proceedings are instituted by or against it under any provision of any federal or state bankruptcy or insolvency laws.

f. by either Party, if any portion of the Property is damaged by fire or other casualty in a manner that adversely affects EBCE's use of the Premises, within thirty (30) days of the date of such fire or other casualty.

5. Electricity and Communications. Unless otherwise agreed by the Parties, EBCE shall be responsible for all electricity and communications costs of the Charging Station by obtaining separately metered electricity service. Host shall reasonably cooperate with EBCE's efforts regarding the provision of electricity to the Charging Station. Neither Host nor EBCE has any responsibility or liability for interruption, curtailment, failure, or defect in the supply or character of distribution utilities furnished to the Charging Station. Host grants to EBCE the right to establish and/or receive utility services including but not limited to electric, and the right for the distribution utility service supplier to construct, reconstruct, install, inspect, maintain, replace, remove, and use said utility services to serve the Charging Station together with the right for the utility service supplier to ingress to and egress from said utility service facilities across the Host Property. Host grants the right for the distribution utility and the service utility to trim, cut down, and clear away or otherwise control any trees or brush within five (5) feet of said route. In addition, Host shall not erect or construct any building or other structure or drill or operate any well under or within five (5) feet of said route.

6. Maintenance and Operation of Premises. Host shall cause the Premises, including EBCE Charging Stalls, to be maintained in a clean, safe, and orderly condition, to at least the same standard as other areas at the Property that are under Host control are maintained. For purposes of clarification, Host shall have no responsibility to maintain EBCE's Charging Stations or related EBCE equipment, hardware, software, or signage. Host shall not retain any ownership rights in the Charging Station and related EBCE equipment. EBCE and its employees, contractors, and vendors may, at any time during the Term, access the Premises and Property to maintain, inspect, repair, upgrade, remove or replace any portion of the Charging Station. EBCE shall operate and maintain, and/or retain a third party contractor to operate and maintain, the Charging Stations in accordance with Exhibit B, attached hereto and incorporated herein by this reference ("Maintenance and Operations Plan"). The Maintenance and Operations Plan shall be updated from time to time and state the third-party retained by EBCE to operate and maintain the Charging Stations. The Construction Coordination Schedule shall be attached hereto and incorporated herein as Exhibit C. The Host's Assistant City Engineer and EBCE's Senior Manager, Transportation Electrification are delegated authority to make mutually agreeable revisions to the Maintenance and Operations Plan without requiring Host's Council or EBCE's Board approval.

7. EBCE Customers: Access. EBCE will provide Charging Station access to customers ("EBCE Customers"), which may include members of the public, as well as commercial fleet and rideshare vehicles, who shall be charged in amounts reasonably determined by EBCE, which may change from time to time in EBCE's sole discretion. EBCE Customers shall have access to the Premises twenty-four (24) hours per day, seven (7) days per week, and 365/366 days per year. Host shall notify EBCE at least forty-eight (48) hours in advance of any need to limit access to the Premises due to maintenance, safety, or other unforeseen reasons, or, if possible, as soon as reasonably practical in the event of an emergency.

8. Signage. EBCE may stripe and place appropriate signage at the Premises and mark the Charging Station and Charging Stalls and related EBCE equipment in EBCE's sole discretion. In addition, subject to Host's prior approval, not to be unreasonably withheld, EBCE may place signage, marks, or advertising devices in, on, or about and around the Premises within the Host Property, as described in the Maintenance and Operations Plan, at EBCE' s sole cost and subject to applicable laws and regulations. At no time may Host place any signage on EBCE Charging Stalls, Charging Stations or related EBCE equipment or in a manner that interferes with EBCE operations on the Premises.

9. Promotional Activities. During the Term of the Agreement, EBCE may promote the availability of the Charging Stations through traditional and/or electronic media, including providing the address to the Property and a description thereof. No Party shall use the other Party's trade or service marks, logos, or other proprietary materials without the prior written consent of the other Party. Parties agree to coordinate promotional activities to the greatest extent possible and will establish a promotional plan, using the resources of both the Host and EBCE.

10. Construction. EBCE shall, at its sole cost and expense, be responsible for installation of the Charging Stations, including the hiring and coordination of vendors and contractors. Host shall, at its sole cost and expense, be responsible for all design, repaving, striping, landscaping and American with Disabilities Act compliance work including installation of paths, including the hiring and coordination of vendors and contractors. Host shall also be responsible for installation of some of the EBCE infrastructure such as utility joint trench to the site, underground conduits, walls and gates surrounding transformer, bollards, including the hiring and coordination of vendors and contractors, and EBCE shall reimburse Host for the costs of such work. EBCE items that will be installed by the City are shown in Exhibit C. The Parties shall develop a schedule, which shall set forth the details, timing and coordination of the work described above ("Construction Work") and reimbursement from EBCE to Host for certain Construction Work ("Construction Coordination Schedule"). The Construction Coordination Schedule shall be attached hereto and incorporated herein as Exhibit C. The Host Assistant City Engineer and EBCE's Senior Manager, Transportation Electrification are delegated authority to make mutually agreeable revisions to the Construction Coordination Schedule without requiring Host's Council or EBCE's Board approval. Before beginning any Construction Work, each Party shall provide a copy of the construction schedule and installation plans to the other Party for its approval, including pricing and bid procedure, which approval shall not be unreasonably delayed or withheld. EBCE shall ensure that it or its designated contractor(s) and/or service providers obtain from governmental authorities all licenses, permits (including encroachment and building permits), or other approvals (collectively, "Approvals") required to conduct such installation activities. Host will reasonably cooperate with EBCE's designated contractors and service providers as required to obtain such Approvals. EBCE shall not permit or suffer any mechanic's or materialmen's liens to attach to the Premises. If such a lien attaches to the Premises, EBCE shall remove or bond over such lien at EBCE' s sole cost and expense, within twenty (20) days of EBCE receiving written notice thereof from Host. Both Parties shall ensure that it or its designated contractors, subcontractors and/or service providers pay prevailing wages for any construction, installation work or maintenance contracts related to the Charging Station and related equipment, as those wages are determined pursuant to Labor Code Section 1720 *et seq.*, and Sections 1774 and 1775, to employ apprentices as required by Labor Code Section 1777.5 *et seq.*, and both Parties shall cause the contractors and subcontractors to comply with all other applicable provisions of the Labor Code and the implementing regulations of the Department of Industrial Relations (the "DIR").

11. Modification. EBCE may, at any time during the Term and in its discretion modify, including, without limitation, upgrade, replace, and/or remove all or a portion of the Charging Stations (collectively, "Modifications"), whether or not said items are considered fixtures and attachments to the Premises under applicable laws; provided, however, before any such Modifications, EBCE shall provide at least sixty (60) days prior notice to Host and obtain all necessary permits prior to commencing any Modification.

11. Removal. Within ninety (90) days following the termination of this Agreement, EBCE shall remove the Charging Stations and all of EBCE's other equipment and personal property from the Premises, but not electric infrastructure, which shall remain with the Property. This provision shall survive the termination of this Agreement. EBCE shall coordinate with PG&E and have the electric service and switchgear removed. Electrical conduits can be capped and abandoned in place. Wires must be disconnected and removed.

12. Representations. Warranties & Covenants. Host and EBCE each hereby represent and warrant

to the other that, as of the Effective Date: (a) it has all necessary power and authority to execute, deliver, and perform its obligations hereunder; (b) the execution, delivery, and performance of the Agreement have been duly authorized by all necessary action and do not violate any of the terms or conditions of its governing documents, any contract to which it is a party, or any law, regulation, order, or other legal determination applicable to it; (c) there is no pending or, to its knowledge, threatened litigation or proceeding that may adversely affect its ability to perform the Agreement; (d) it is duly organized and validly existing under the laws of the jurisdiction of its organization; (e) the Agreement constitutes a legal, valid and binding obligation of such Party, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights and by general principles of equity. Both Parties shall comply with all federal, state, and local laws, rules, regulations (including, without limitation, all zoning ordinances and building codes, nondiscrimination laws) and as amended from time-to-time in performing its obligations under the Agreement.

13. Indemnity. Each Party shall indemnify and hold harmless the other Party, and their respective affiliates, representatives, agents, officers, directors, managers, members, partners, contractors, or employees, from and against all third-party claims, demands, causes of action, liabilities, costs, damages, losses, penalties, fines, judgments or expenses, including reasonable attorneys' fees and costs of collection (collectively, "Losses") that arise out of or result from (i) any willful misconduct or negligence of the indemnifying Party in connection with this Agreement, (ii) any breach by the indemnifying Party of its obligations, representations or warranties under this Agreement, or (iii) the indemnifying Party's operation of the Premises or Property, except to the extent arising out of or resulting from any willful misconduct or negligence of the indemnified Party. The obligations of the Parties under this Section shall survive the expiration, cancellation, or termination of this Agreement and the Term.

14. Insurance. EBCE shall procure and maintain insurance during the term of this Agreement in the amounts and under the terms set forth in Exhibit D against claims that may arise from or in connection with this Agreement. The insurance limits required of EBCE may be satisfied through self-insurance or a JPA, as designated in Exhibit D.

15. Limitation of Liability. In no event shall either Party be liable (in contract or in tort, including negligence and strict liability) to such other Party for any special, indirect or consequential damages relating to this Agreement. The provisions of this Section shall apply to the full extent permitted by law and shall survive termination of this Agreement.

16. Miscellaneous.

a. Notice. Any notice provided or permitted to be given under the Agreement must be in writing and be served either by (i) deposit in the mail, addressed to the Party to be notified, postage prepaid, and registered or certified, with a return receipt requested, or (ii) deposit with an internationally-recognized overnight delivery carrier, with notice of delivery to the recipient Party. Notice given by registered or certified mail or overnight carrier shall be deemed delivered and effective on the date of delivery shown on the return receipt or proof of receipt. Each Party may change its address for notice by giving notice thereof to the other Party. For purposes of notice the addresses of the Parties shall be as follows:

To Host:

Attention: City Engineer
CC: Representative
City Administration Building
City of Livermore
1052 S. Livermore Avenue
Livermore, California 84550

To EBCE:

Attention: Jessie Denver, Senior Manager – Transportation Electrification
East Bay Community Energy
1999 Harrison Street, Suite 800
Oakland, CA 94612

b. Property Rights; Assignment. The rights granted to EBCE in this Agreement shall constitute covenants running with the land as to the interests in real property which are made subject hereto and shall bind Host's successors and assigns. EBCE may record this Agreement or memorandum thereof in the public records of any public office. This Agreement is binding on and inures to the benefit of the Parties and their respective heirs, successors, assigns, and personal representatives. In the event the Premises is transferred or Host ceases to have the requisite level of control over the Premises necessary to fulfill its obligations under the Agreement (each, a "Transfer Event"), Host shall assign its rights and obligations under the Agreement to the person or entity which would be able to comply with Host's obligations following such Transfer Event. Further, Host agrees that any such Transfer Event shall not affect, terminate or disturb EBCE's right to quiet enjoyment and possession of the Premises under the terms of the Agreement or any of EBCE's other rights under the Agreement, so long as EBCE is not then in default under any of the terms, covenants or conditions of the Agreement.

c. No Agency Relationship. Nothing in the Agreement shall be deemed or construed to create a joint venture, partnership, fiduciary, or agency relationship between the Parties for any purpose set forth in this Agreement, and the employees of one party shall not be deemed to be the employees of the other Party. Except as otherwise stated in the Agreement, neither Party has any right to act on behalf of the other, nor represent that it has such right or authority.

d. Severability. If any term of the Agreement is held by any court of competent jurisdiction to be invalid, such invalidity shall not invalidate the remainder of the Agreement and the Agreement shall be construed and deemed reformed to the extent necessary to render valid such term and the rights and obligations of the parties shall be enforced accordingly.

e. Governing Law. This Agreement hall be governed by the laws of California with venue in Alameda County.

f. No Waiver. The failure of a Party to insist on strict performance of any provision of the Agreement does not constitute a waiver of or estoppel against asserting the right to require performance in the future and a waiver or estoppel given in any one instance does not constitute the same with respect to a later obligation or breach.

g. Remedies. The rights and remedies provided by the Agreement are cumulative, and the use of any right or remedy by any Party does not preclude or waive its right to use any or all other remedies. These rights and remedies are given in addition to any other rights a Party may have under any applicable law, in equity or otherwise.

h. Force Majeure. Neither Party is responsible for any delay or failure in performance of any part of the Agreement to the extent that delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, pandemic, act or omission of carriers or other similar causes beyond the Party's control.

i. Attorneys' Fees. If either Party institutes a suit against the other for violation of or to enforce any covenant, term or condition of the Agreement, the prevailing party shall be entitled to reimbursement of all of its costs and expenses, including, without limitation, reasonable attorneys' fees.

j. No Third Party Beneficiaries. The Agreement does not confer any rights or remedies on any person other than the Parties and their respective successors and permitted assigns.

k. Integration; Amendments. The Agreement contains all agreements, promises and understandings between the Parties as to the subject matter of this Agreement. Any amendment, modification or other change to the Agreement shall be ineffective unless made in a writing signed by the Parties hereto.

l. Counterparts. The Agreement may be executed in any number of counterparts with the same effect as if all the Parties had signed the same document.

m. Construction. All documents or items attached to, or referred to in, the Agreement are incorporated into the Agreement as fully as if stated within the body of the Agreement. Each Party has cooperated in the drafting, negotiation and preparation of the Agreement and nothing herein shall be construed against either Party on the basis of that Party being the drafter of such language.

In witness thereof, the Parties have entered into this Agreement as of the Effective Date set forth above.

EAST BAY CLEAN ENERGY

DocuSigned by:

9DE6BA3222CE44F...

By: Nick Chaset
Title: CEO
Dated: 8/1/2022

APPROVED AS TO FORM

Linda Khalsa

EBCE General Counsel

CITY OF LIVERMORE (HOST)

By: Marianna Marysheva
Title: City Manager
Dated:

APPROVED AS TO FORM:

City Attorney

APPROVED AS TO INSURANCE:

_____

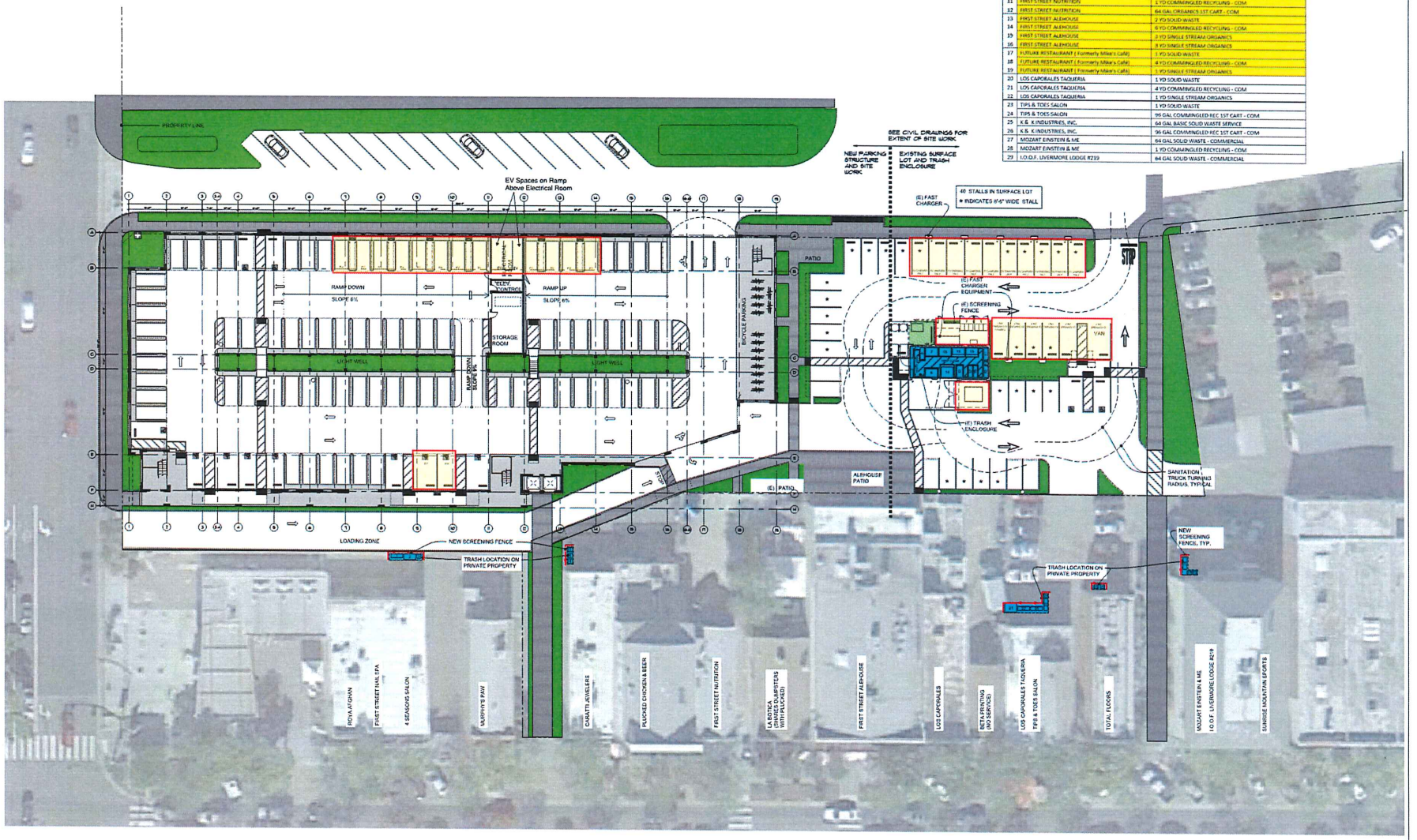
Risk Manager/Analyst

EXHIBIT A
PROPERTY AND PREMISES

EBCE ELECTRIC VEHICLE CHARGERS AND EQUIPMENT

WASTE SERVICE LIST

1	FIRST STREET NAIL SPA/ROYA AFGHAN/4 SEASONS	1 YD SOLID WASTE
2	FIRST STREET NAIL SPA/ROYA AFGHAN/4 SEASONS	2 YD COMMINGLED RECYCLING - COM
3	FIRST STREET NAIL SPA/ROYA AFGHAN/4 SEASONS	96 GAL ORGANICS 1ST CART - COM
4	CARATTI JEWELERS, INC.	96 GAL SOLID WASTE - COMMERCIAL
5	CARATTI JEWELERS, INC.	96 GAL COMMINGLED REC 1ST CART - COM
6	CARATTI JEWELERS, INC.	96 GAL ORGANICS 1ST CART - COM
7	PLUCKED CHICKEN/ LA BOTICA	4 YD SOLID WASTE
8	PLUCKED CHICKEN/ LA BOTICA	4 YD COMMINGLED RECYCLING - COM
9	PLUCKED CHICKEN/ LA BOTICA	1 YD SINGLE STREAM ORGANICS
10	FIRST STREET NUTRITION	1 YD SOLID WASTE
11	FIRST STREET NUTRITION	1 YD COMMINGLED RECYCLING - COM
12	FIRST STREET NUTRITION	64 GAL ORGANICS 1ST CART - COM
13	FIRST STREET ALEHOUSE	2 YD SOLID WASTE
14	FIRST STREET ALEHOUSE	6 YD COMMINGLED RECYCLING - COM
15	FIRST STREET ALEHOUSE	2 YD SINGLE STREAM ORGANICS
16	FIRST STREET ALEHOUSE	3 YD SINGLE STREAM ORGANICS
17	FUTURE RESTAURANT (Formerly Mike's Café)	1 YD SOLID WASTE
18	FUTURE RESTAURANT (Formerly Mike's Café)	4 YD COMMINGLED RECYCLING - COM
19	FUTURE RESTAURANT (Formerly Mike's Café)	1 YD SINGLE STREAM ORGANICS
20	LOS CAPORALES TAQUERIA	1 YD SOLID WASTE
21	LOS CAPORALES TAQUERIA	4 YD COMMINGLED RECYCLING - COM
22	LOS CAPORALES TAQUERIA	1 YD SINGLE STREAM ORGANICS
23	TIPS & TOES SALON	1 YD SOLID WASTE
24	TIPS & TOES SALON	96 GAL COMMINGLED REC 1ST CART - COM
25	K & K INDUSTRIES, INC.	64 GAL BASIC SOLID WASTE SERVICE
26	K & K INDUSTRIES, INC.	96 GAL COMMINGLED REC 1ST CART - COM
27	MOZART EINSTEIN & ME	64 GAL SOLID WASTE - COMMERCIAL
28	MOZART EINSTEIN & ME	1 YD COMMINGLED RECYCLING - COM
29	I.O.O.F. LIVERMORE LODGE #219	64 GAL SOLID WASTE - COMMERCIAL



1 ARCHITECTURAL SITE PLAN WITH LEVEL 1 FLOOR PLAN
1" = 20'-0"

LIVERMORE CALIFORNIA

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CITY OF LIVERMORE
LIVERMORE VILLAGE
PARKING GARAGE PROJECT
PHASE 2: 'L' STREET PARKING STRUCTURE
L STREET, LIVERMORE, CA

#	STATUS	DESCRIPTION	DATE
		50% CONSTRUCTION DOCUMENTS	03/10/2022

SHEET TITLE
ARCHITECTURAL SITE PLAN WITH LEVEL 1 PLAN

EXHIBIT A

EXHIBIT A

EXHIBIT B
MAINTENANCE AND OPERATIONS PLAN

EXHIBIT B

MAINTENANCE AND OPERATIONS PLAN

As a public agency, EBCE will need to issue a competitive solicitation for the development of the proposed Charging Stations. This solicitation will call not only for final design engineering, permitting, and construction services, but also for Maintenance and Operations ("O&M") and Back Office Services provided by a to-be-determined Contractor.

EBCE has incorporated industry best practices into Exhibit B, Draft O&M Plan, and will update this Draft Plan once a Contractor is selected and provides a final O&M Plan. Modification of Exhibit B can be completed at the staff level and does not require City Council review or approval.

OPERATIONS & MAINTENANCE

Term and Warranty:

- Equipment Maintenance Services for five years commencing on the systems' Commercial Operation Date, with sub-sequential one-year extensions at EBCE's options; and,
- All equipment, hardware, and software shall include a minimum five (5) year manufacturer's warranty for parts and labor.

Operating Costs:

- As the project owner, EBCE will be responsible for the payment of operating costs, including any royalties, licenses, fees, and/or taxes. This responsibility spans from contract execution through expiration.
- As the load-serving entity for the Charging Stations, EBCE will manage power supply for the Charging Station equipment. This responsibility spans from contract execution through expiration.

Installation, Material and Electrical Equipment:

- Project design and hardware shall be tamper-proof and vandalism-proof, such as tamper-resistant screws, anti-vandalism hardware, and locked enclosures.
- Cable management system is required to keep the charging cables off the ground.
- All equipment shall be installed in protected areas to prevent it from being damaged by vehicles. Physical barriers such as bollards, parking stops, and fences shall be installed to any equipment exposed to physical damage or unsafe conditions. All conduits and wiring shall be installed following Building Codes, industry and safety standards and best practices.
- If the Charging Stations do not have built in credit card readers, a credit card payment solution (i.e., kiosk) must be installed that complies with SB454 requirements.

Hardware and EV Service Equipment:

- EV service equipment ("EVSE") shall comply with NEMA 3R for indoor or outdoor use
- EVSE must be approved by a Nationally Recognized Testing Laboratory program for EVSE testing and certification
- EVSE system must include a turnkey communications network installation that includes but is not limited to all hardware, software, carrier services and coordination, professional services, 3rd party coordination, technical assistance, maintenance, as well as any other product or service required for a secure and industrial/government regulation compliant solution necessary to ensure reliable network connectivity to/from the required system components and applications for users of the system.
- EVSE must include necessary equipment, sensors, controls, and communications as necessary to support EVSE System Functionality.
- EVSE must be capable of responding to signals to initiate, terminate, and curtail sessions as necessary to enable Back Office Services.
- EVSE must be able to recognize EVSE users and initiate charging sessions by smart phone application (via Back Office Services), EVSE Hardware-specific RFID or "tap" card, and activation and payment through credit card reader.
- Fail safe design so if there are communications issues, it defaults to a free session.
- Hardware must be operable with other OCPP 2.0 compliant Back Office Services.

Maintenance Services and Reliability:

EBCE's to be determined Contractor will operate the Charging Stations for the benefit of public customers and shall use commercially reasonable efforts to maintain the Charging Stations in good working order and repair. Contractor will be responsible for all O&M Services, which includes the following requirements:

- Contractor must ensure all equipment is properly checked, tested, and activated for proper operation.
- Contractor must ensure Charging Station pedestals, ancillary electrical equipment (i.e., power cabinets, transformer, etc.), and signage is kept safe, clean, presentable, and usable. As the site host, the City of Livermore will be responsible for general parking facility surface cleanliness.
- Contractor must employ a network communication system with a service provider capable of monitoring the Charging Stations for any error or malfunction 24 hours a day, seven (7) days a week.
- EBCE will require that at least 25% of the selected Contractor's team of electricians, at any given time of the project, hold EVITP certification.
- Maintenance of the EVCS shall be performed by Contractor and/or its subcontractors who have the capabilities and capacity to notify and respond in the following manner and timeframe:
    - Upon notification of an issue or malfunction, Contractor shall immediately notify EBCE of such malfunction or operating error.
    - In the event of an equipment or hardware malfunction or failure, a maintenance crew shall respond to the site within 24

hours from the time the issue is reported and shall return station(s) to full operation and perform any necessary equipment or area cleaning within 48 hours from the time the issue is reported. Maintenance crew shall return station(s) to full operation in no more than 5 days for significant or complex issues.

- Contractor and/or its subcontractors must stock key parts to ensure expedient response and repair times.
- Fail-safe Charging Sessions: The charging system should be able to offer a customer charging session (without human intervention), even if communication or system issues would normally prevent the system from authorizing a session.
- Guaranteed Availability: The Contractor shall propose a detailed plan that demonstrates a minimum of 97% guaranteed operational availability (as a percent of the time) for the Charging Stations. If complimentary energy is dispensed from the "fail-safe Charging Session", Contractor will compensate EBCE for the complementary energy (excluding the down time allowed by this guaranteed availability provision).

Automatic Load Management System and Energy System Functionality:

- Equipment must have a "fail safe" design in that if the local computer fails, the chargers still work but will not overload the available power. The Automatic Load Management System ("ALMS") must be able to function independently to ensure that circuits and the electrical service are not overloaded when there is no WAN or internet connectivity and without the requirement for Back Office Services from any particular provider.
- EBCE requires a system that allows EBCE to measure and manage energy usage easily, remotely, and in real-time, including the following functionality:
  - Remotely monitor, manage and configure EVSE;
  - Monitor and report real-time status of EVSE, including readiness, errors, or maintenance needs.

DATA AND BACK OFFICE

Term and Warranty:

- Back Office Services for five years commencing on the system's Commercial Operation Date, with sub-sequential one-year extensions at EBCE's option.

Back Office Services:

- Back Office Services must be provided and shall include data collection, storage, analysis, reporting, and software interfaces as necessary to enable required and desired EVSE System Functionality, such as:
  - Initiating/validating/terminating user charging sessions;
  - User account management and customer service;
  - Configuring EVSE and/or Back Office Services software to charge complex and varying fee structures;
  - Be able to bill based on kWh sales (time of day dependent) and time-based charging (by the minute and time of day). Ability to bill different groups at

different rates. Systems must include the option of accessing services using an RFID or any vendor proposed option.
    - Open Standards back office (OCCP 2.0 compliant). The charging system should support third party, open standard back-office company for billing and customer service if Contractor is no longer under contract with EBCE to provide that service. This functionality shall not require additional funding by EBCE to reconfigure or replace infrastructure for a different third-party provider should this occur.
- Back Office Services shall be provided from contract execution and for five years commencing on the system's Commercial Operation Date, with an option for EBCE to extend the Back Office Services in sub-sequential one-year terms.
- Contractor must complete the Monthly Back-Office and Billing Cost Summary for EVCS.

<u>Payment Systems and Financial System Integration</u>:

- Back Office or Network Services shall process all transactions and revenue derived from payment systems established at the site, including process and methods for transferring funds to EBCE.
- Terms and Conditions shall include a detailed pricing of all transaction fees including set up, monthly/annual network, transaction, and credit card processing.
- The Contractor shall have a system with the ability to integrate with EBCE's financial applications and Charging Station credit card reader. Support for additional packages should include, but not be limited to:
    - Timeline for the receipt of funds from revenue generated by Charging Stations
    - Consolidate and verify same terms for app and credit card reader
    - Energy delivered, duration of charging, and amount paid by customer for each charging session
    - Summary monthly report showing total sales, total fees, and net revenue
    - Ability to analyze EVCS revenues and usage by location
    - Third Party Integrations - ability to access data with EBCE's hardware and software providers. EBCE requires that Contractor shall have the ability to integrate with other partners through one of several methods:
        - Feed Access: Provide access to an RSS feed with the necessary information
        - API Access to provide secure data access: The API would offer the ability to export relevant data and insert relevant data as well
    - Terms and Conditions should not require a liquidated damages clause as part of the termination penalty, and EBCE is entitled to all collected money for charging including credit cards.

Data Integrity and Access:

- The Contractor shall maintain Payment Card Industry (PCI) Data Security Standard Compliance and be EMV (Europay, Mastercard, Visa) chip card enabled. EBCE requires any vendor with access to payment information to be PCI-compliant. Encryption of credit card data must be performed. All passwords and credit cards must be hashed and salted. No financial or identifying data shall travel unencrypted over public networks. Contractors must maintain the following:
    - PCI DSS Service Level 1 Compliance: Contractor shall prove their ability to not only process credit cards in large volume, but also maintain the highest level of security.
    - SSAE 16 Compliance: Contractor shall have the necessary processes in place to remain compliant in day-to-day activities.
    - Cybersecurity Insurance Policy: This policy will protect EBCE if there is a security breach of a mobile payment platform.
    - Data Ownership: EBCE maintains ownership of the data that is stored by the Contractor. This covers the ability to retain data after the contract period; usage of the data is allowed by EBCE during and after the contract period; ability of EBCE to export or transfer the data during and after the contract period; and 3 years of retention of the data.
    - Data Access and Reporting: The ability to directly access data using API or database connections is required and must enable users to export data and the data format templates.
- The Contractor will provide secure direct database access to export data and populate relevant data from external sources. The Contractor will provide secure Automated File Transfer and importing through various methods such as scripting and ftp transfer. The process should be two-way with both importing and exporting to other systems. Any additional data sharing methods accepted by other partners will be allowed. This must be a two-way agreement to use said method when communicating with other partners. Each data access solution will occur at a regular interval which will allow near real-time equivalency of operations across platforms. This data transfer should share relevant transactional data about the customer interaction and be able to use said data in reporting and operations with partners. The data transfer must be through secure methods.

CUSTOMER SERVICE

EBCE currently manages a successful call center to respond to questions and concerns and will provide the same level of customer service to EV drivers using EBCE DC fast charging hubs. This support will be provided through EBCE's to-be-determined professional service contractor(s). EBCE will ensure customer support is accessible in at least English and Spanish via a toll-free telephone number and email address. Both communication pathways will be clearly posted near the Charging Stations, and customer

support service will be trained and equipped to provide or dispatch services to address any concerns at the DC fast chargers that EBCE customers may experience. As applicable, access to these communication pathways will also be available through the contractor's online portal and/or smart phone app. As the Charging Stations will be accessible 24/7, EBCE will require that customer support service is equally accessible 24/7.

As applicable, EBCE's Contractor will also provide site host training to the relevant City staff members/contracted property managers for each site so that they can serve as an on-the-ground extension of the EBCE customer support ecosystem. Site host training will include review of key hardware and software terminology and operations, as well as emergency procedures. While these City staff members will not be on call for support and will not respond or fix issues directly, it is imperative that if a customer approaches them with a question, they can assist in directing the customer to the 24/7 customer support options available and supported by the Back Office System.

EXHIBIT C
CONSTRUCTION COORDINATION SCHEDULE

[to be updated as the Parties finalize specific construction task timing and reimbursement timing]

General

EBCE and City (Host) shall work together to develop the site and construct the Charging Stations. EBCE shall, at its sole cost and expense, be responsible for installation of the Charging Stations. City shall, at its sole cost and expense, be responsible for all design, repaving, garage construction, striping, installing paths, landscaping and American with Disabilities Act compliance work including the hiring and coordination of vendors and contractors. City shall construct some of the EBCE Charging Station infrastructure and be reimbursed for these construction expenses by EBCE. EBCE infrastructure constructed by the City shall include utility joint trench to the site, underground conduits, walls and gates surrounding transformer, bollards, including the hiring and coordination of vendors and contractors, and EBCE shall reimburse City for the costs of such work. EBCE items that will be installed by the City are shown in Exhibit C-1 but in general include any infrastructure solely required for the EBCE Charging Station.

The City shall obtain bids for this work. The bid table will identify the EBCE items. The City shall award the construction contract for this work. The City's contractor installing the EBCE items will invoice the City monthly for this work. The City shall make the payments to the Contractor and request reimbursement from EBCE. EBCE shall reimburse the City within 60 days of receiving the reimbursement requests. If additional work needs to be completed for the EBCE Charging Stations that is not listed in the bid documents, the City will negotiate a change order to complete the required work. EBCE shall reimburse the City for any such change order work solely related to the EBCE Charging Stations.

The EBCE items will be installed as part of three projects by the City. The general timing and scope of these projects is described in greater detail below. Exhibit C-1 highlights the EBCE Charging Station items that will be constructed with each of these projects.

Livermore Village Parking Garage Project 586003, Phase 1 Trash Enclosure & Surface Lot

This project involves modifying the surface parking lot that will be east of the L Street Parking Garage. The parking lot will be reconfigured and repaved to accommodate seven (7) dual-port and two (2) single-port, EBCE owned, direct current fast Charging Stations (16 total charging ports), equipment for the Charging Stations, and a trash enclosure. The City is scheduled to open bids for this project in May 2022 and award the contract at Council in June 2022. Construction is scheduled to begin in July 2022 and be completed by early Spring 2023.

EBCE equipment that will be installed by the City as part of the Phase 1 project is listed below and shown in Exhibit C-1. EBCE shall reimburse the City associated with the cost of constructing these items.

- Underground conduits from EBCE equipment area to future Charging Station locations.
- Underground conduit from EBCE equipment area to future transformer
- Underground conduits for EBCE equipment area to west side of construction zone. These will be extended to parking structure in Phase 2
- Walls and gates around transformer area and EBCE equipment area

Livermore Village Parking Garage Project 586003, Phase 2 L Street Parking Structure

This project involves constructing an approximately 455 space 4 level parking garage and associated site improvements. Eight (8) dual-port, EBCE owned, direct current fast Charging Stations (16 total charging ports) will be installed in the garage. The City is scheduled to open bids for this project in September 2022 and award the contract at Council in October 2022. Construction is scheduled to begin in November 2022 and be completed by early Spring 2024.

EBCE equipment that will be installed by the City as part of the Phase 1 project is listed below and shown in Exhibit C-1. EBCE shall reimburse the City associated with the cost of constructing these items.

- Underground conduits from stubbed out conduits during Phase 1 from EBCE Equipment Area to Electrical Room in Garage.
- Underground conduits from future EV Charging Station Switchboard in Garage Electrical Room to EV Charging Stations in Garage

Livermore Village Joint Trench Project 2021-19

This project involves installing joint trench facilities for the infrastructure on Livermore Village. The joint trench includes PG&E electric and gas, Comcast, and AT&T. Infrastructure on Livermore Village includes the garage, Veteran's Way, Veteran's Park, Stockmen's Park, lights for the surface parking, the trash enclosure, and the EBCE Charging Stations.

The City submitted a joint trench intent application to PG&E for this work at the end of 2021. PG&E and the utility companies are scheduled to approve the application by the middle of 2022. The City will finalize the design after PG&E approves the application and bid the project by the end of 2022. Construction is anticipated in the middle of 2023. EBCE may consider pre-purchasing the transformer after the application is approved by PG&E. There are currently very long lead times for transformers.

EBCE equipment that will be installed by the City as part of the Joint Trench Project is listed below and shown in Exhibit C-1. EBCE shall reimburse the City for the costs associated with constructing these items.

- Joint trench extension from City's transformer at K Street pathway and Veteran's Way to EBCE Charging Station Equipment and future transformer.
- Pad mounted transformer installation. EBCE may elect to purchase and install the transformer separately from the City Contract.

EBCE Charging Station Installation

EBCE will be able to install and operate the Charging Stations once the PG&E power is available. This currently looks like it will be around the end of summer in 2023. At this point the nine (9) EBCE Charging Stations (seven dual-port and two single-port) in the surface lot should be ready for activation. The eight (8) dual-port EBCE Charging Stations in the garage should be ready for activation in spring of 2024 when the garage is completed. EBCE work includes installing equipment in the Equipment Area in the surface lot and in the Electrical Room in the garage. Installing the Charging Stations in the surface lot and the garage. Running electrical and communications from the equipment to the Charging Stations. Running electrical from the transformer to the equipment. Activation of equipment.

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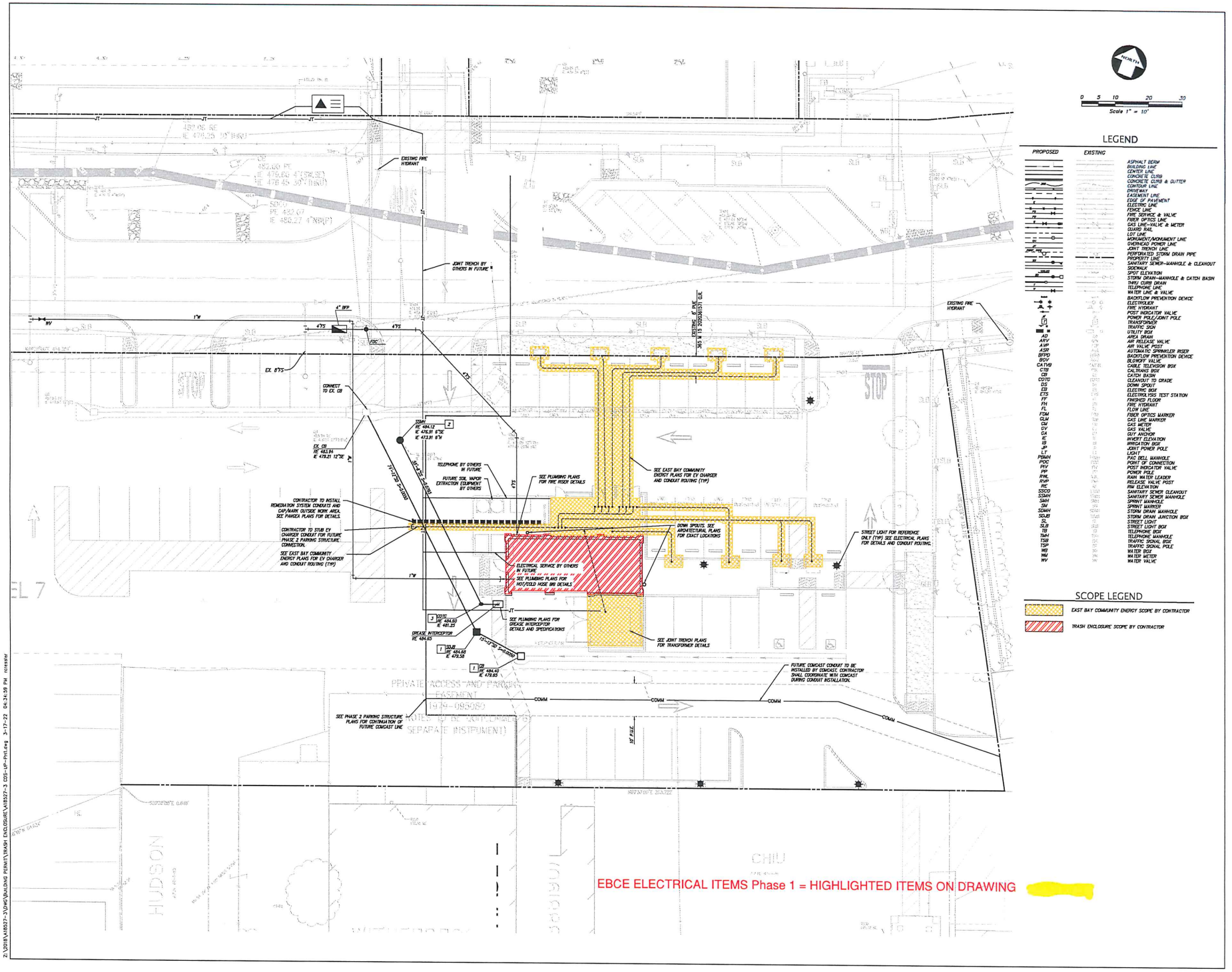

EBCE ELECTRICAL ITEMS Phase 1 = HIGHLIGHTED ITEMS ON DRAWING

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CITY OF LIVERMORE
LIVERMORE VILLAGE
PARKING GARAGE PROJECT
PHASE 1: TRASH ENCLOSURE & SURFACE LOT

#	DESCRIPTION	DATE
	ISSUED FOR BID	FEB 2022

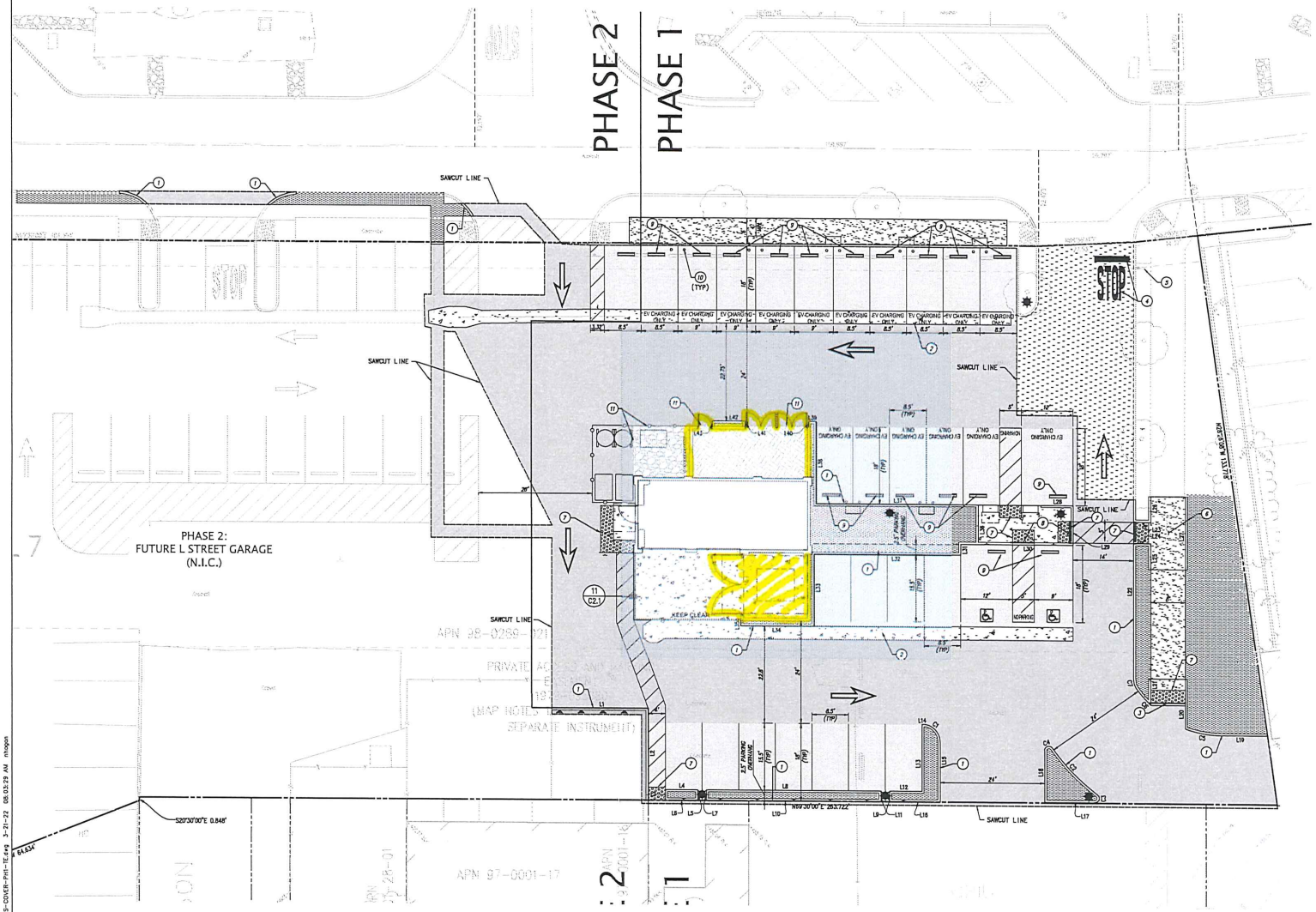
STATUS

STAMPS

EXHIBIT A

SHEET TITLE
BID SET DELINEATION

PROJECT NUMBER | SHEET NUMBER
EXHIBIT C-1.1



LEGEND

- CONCRETE SIDEWALK: PER CITY OF LIVERMORE STANDARD DETAIL ST-31
- CONCRETE TRASH ENCLOSURE PAVEMENT: 6" PCC OVER 8" CLASS II AB, #4 BAR 18" OC CONTRACTION JOINT 10' OC ON WOVEN W.C. SUBGRADE
- AUTO DRIVE: 4" AC OVER 7" CLASS II AB ON 95% R.C. SUBGRADE (TI=7)
- AUTO PARKING: 2.5" AC OVER 8" CLASS II AB ON 95% R.C. SUBGRADE (TI=5)
- GRIND DOWN MIN 1" AND OVERLAY MIN 1"
- 12" AC DEEP LIFT
- AGGREGATE BASE ROCK
- LANDSCAPED AREA
- DIRT AREA
- GRIND AND OVERLAY CONFORM LINE

KEYNOTES

1. INSTALL 6" CONCRETE CURB PER CITY STANDARD DETAIL ST-98 MODIFIED.
2. INSTALL 3' VALLEY GUTTER PER DETAIL 1/C2.1
3. INSTALL ACCESSIBLE ACCESS RAMP (CASE F) PER CALTRANS STANDARD PLAN SHEET A88A
4. REFRESH STOP LIMIT LINE AND "STOP" PAVEMENT MARKING
5. EXISTING STOP SIGN TO REMAIN
6. INSTALL ACCESSIBLE RAMP PER DETAIL 4/C2.1
7. INSTALL 3' WIDE TRUNCATED DOMES EMBEDDED IN CONCRETE PER DETAIL 6/C2.1
8. INSTALL FLUSH CURB PER DETAIL 9/C2.1
9. SALVAGED WHEEL STOPS TO BE REINSTALLED BY CONTRACTOR
10. INSTALL BOLLARDS PER CITY STANDARD DETAIL ST-23
11. REDWOOD HEADER PER DETAIL 12/C2.1

NOTE: ALL SIGNING AND STRIPING DETAILS PER ARCHITECTURAL PLANS.

LINE TABLE

LINE #	DIRECTION	LENGTH
L1	N69°30'00"E	22.34'
L2	S20°30'00"E	21.30'
L3	S20°30'00"E	2.50'
L4	N69°30'00"E	7.50'
L5	S20°30'00"E	2.50'
L6	N69°30'00"E	7.50'
L7	S20°30'00"E	2.50'
L8	N69°30'00"E	40.50'
L9	S20°30'00"E	2.50'
L10	N69°30'00"E	40.50'
L11	S20°30'00"E	2.50'
L12	N69°30'00"E	7.50'
L13	S20°30'00"E	15.50'
L14	N69°30'00"E	0.20'
L15	N20°30'00"W	14.00'
L16	N69°30'00"E	11.70'
L17	S69°30'00"W	11.65'
L18	N20°30'00"W	11.95'
L19	N69°30'00"E	10.52'
L20	S20°30'00"E	11.43'
L21	N20°30'00"W	6.00'
L22	S20°30'00"E	41.76'

LINE TABLE

LINE #	DIRECTION	LENGTH
L23	N69°30'00"E	3.99'
L24	N69°30'00"E	3.99'
L25	S20°30'00"E	6.00'
L26	S20°30'00"E	6.00'
L27	S20°30'00"E	17.00'
L28	N69°30'00"E	7.50'
L29	N20°30'00"W	9.24'
L30	N69°30'00"E	26.00'
L31	N20°30'00"W	2.50'
L32	N69°30'00"E	34.00'
L33	N20°30'00"W	16.75'
L34	N69°30'00"E	17.00'
L35	N20°30'00"W	1.25'
L36	N20°30'00"W	8.74'
L37	N69°30'00"E	37.50'
L38	N20°30'00"W	19.25'
L39	N69°30'00"E	1.75'
L40	N20°30'00"W	1.25'
L41	S20°30'00"E	1.25'
L42	N69°30'00"E	7.67'
L43	N20°30'00"W	1.25'

CURVE TABLE

CURVE #	RADIUS	DELTA	LENGTH
C1	4.00'	90°00'00"	6.28'
C2	49.00'	17°34'28"	15.03'
C3	1.00'	142°58'19"	2.50'
C4	1.00'	144°35'07"	2.52'
C5	25.00'	19°53'24"	8.68'
C6	25.00'	11°26'31"	4.99'
C7	4.00'	35°11'02"	2.46'

EBCE STRUCTURAL ITEMS Phase 1 = HIGHLIGHTED ITEMS ON DRAWING

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CITY OF LIVERMORE
LIVERMORE VILLAGE
PARKING GARAGE PROJECT
PHASE 1: TRASH ENCLOSURE & SURFACE LOT

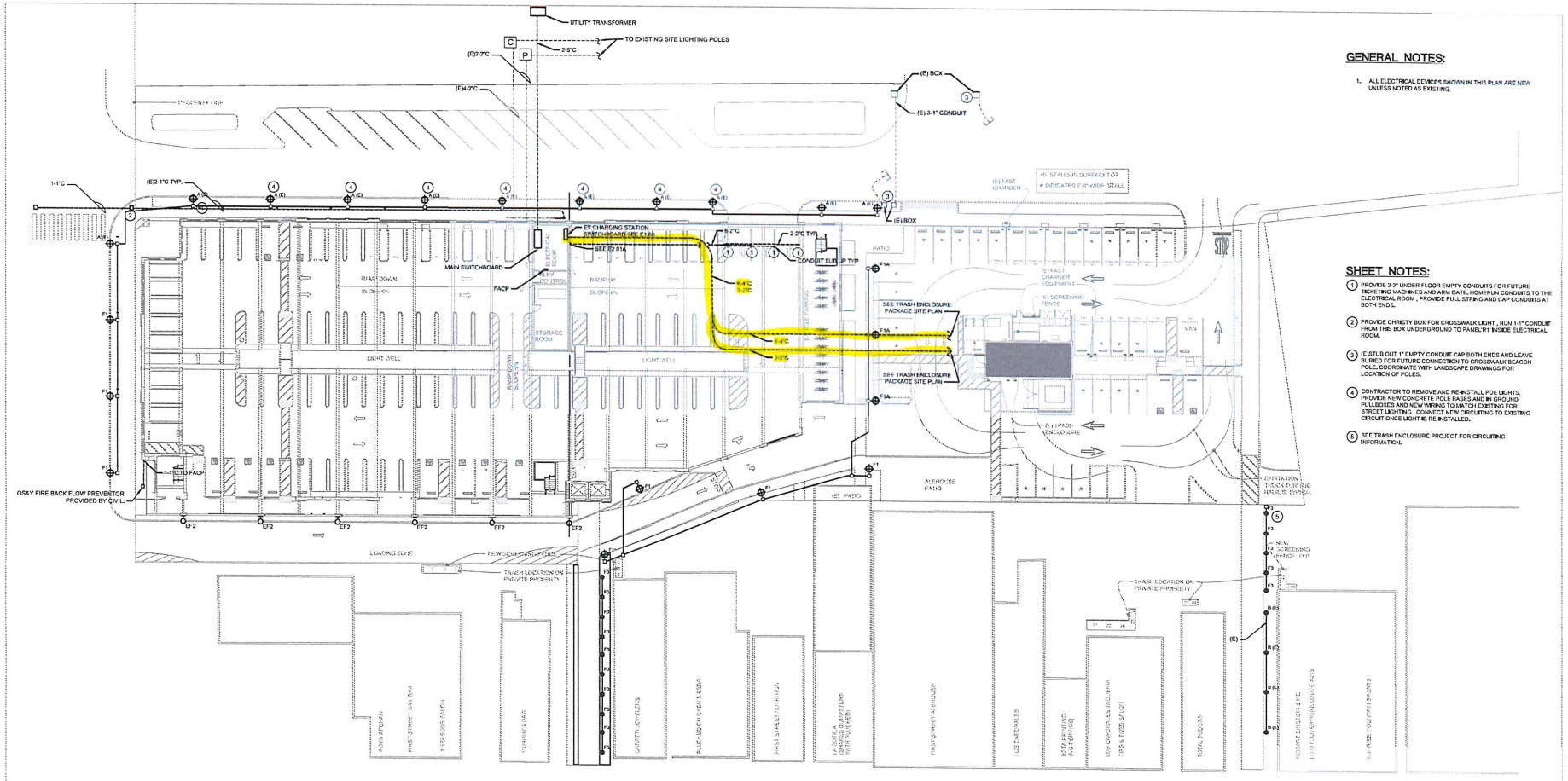
#	STATUS	DESCRIPTION	DATE
		ISSUED FOR BID	FEB 2022

STAMP:

EXHIBIT A

SHEET TITLE:
HORIZONTAL CONTROL PLAN

PROJECT NUMBER | SHEET NUMBER
EXHIBIT C-1.2



1 SITE PLAN - ELECTRICAL
SCALE: 1" = 20'-0"

EBCE CONDUITS INSTALLED WITH PHASE 2 = HIGHLIGHTED ITEMS

GENERAL NOTES:

1. ALL ELECTRICAL DEVICES SHOWN IN THIS PLAN ARE NEW UNLESS NOTED AS EXISTING.

SHEET NOTES:

1. PROVIDE 2-2" UNDER FLOOR EMPTY CONDUITS FOR FUTURE TICKETING MACHINES AND ARM GATE. HOMERUN CONDUITS TO THE ELECTRICAL ROOM , PROVIDE PULL STRING AND CAP CONDUITS AT BOTH ENDS.
2. PROVIDE CHRISTY BOX FOR CROSSWALK LIGHT , RUN 1-1" CONDUIT FROM THIS BOX UNDERGROUND TO PANEL'R1' INSIDE ELECTRICAL ROOM.
3. (E)STUB OUT 1" EMPTY CONDUIT CAP BOTH ENDS AND LEAVE BURIED FOR FUTURE CONNECTION TO CROSSWALK BEACON POLE. COORDINATE WITH LANDSCAPE DRAWINGS FOR LOCATION OF POLES.
4. CONTRACTOR TO REMOVE AND RE-INSTALL POE LIGHTS. PROVIDE NEW CONCRETE POLE BASES AND IN GROUND PULLBOXES AND NEW WIRING TO MATCH EXISTING FOR STREET LIGHTING , CONNECT NEW CIRCUITING TO EXISTING CIRCUIT ONCE LIGHT IS RE-INSTALLED.
5. SEE TRASH ENCLOSURE PROJECT FOR CIRCUITING INFORMATION.

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CITY OF LIVERMORE
LIVERMORE VILLAGE
PARKING GARAGE PROJECT
PHASE 2: 'L' STREET PARKING STRUCTURE

#	STATUS	DESCRIPTION	DATE
		50% CONSTRUCTION DOCUMENTS	03/10/2022

EXHIBIT A

SHEET TITLE
SITE PLAN - ELECTRICAL

PROJECT NUMBER / SHEET NUMBER
EXHIBIT C-1.3

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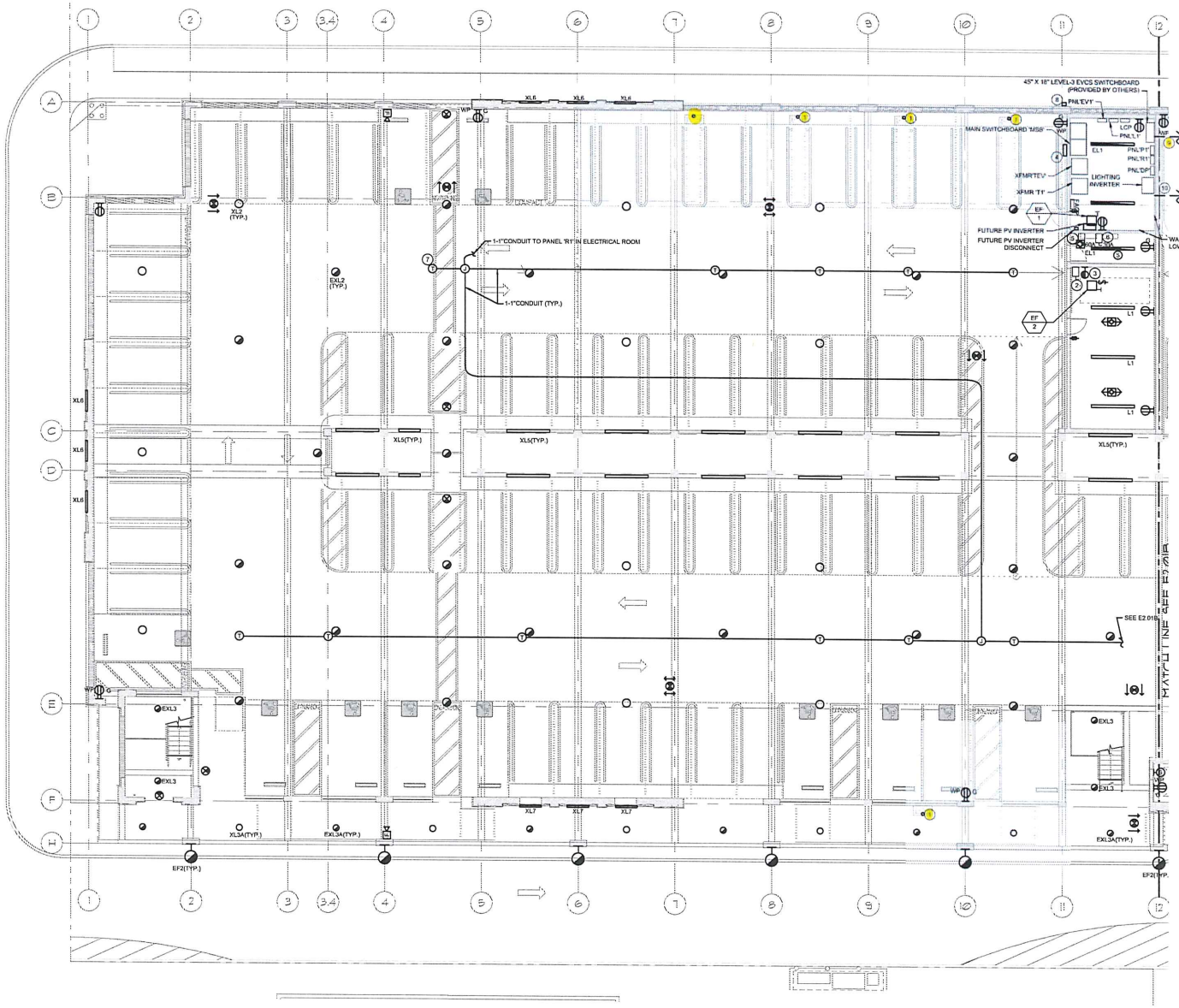

1 FLOOR PLAN LEVEL 1 WEST - ELEC., LTG & FIRE ALARM
SCALE: 1/8" = 1'-0"

SHEET NOTES:

1. PROVIDE (1) 1-1/2" CONDUIT FROM THE LEVEL-3 EV CHARGING STATION EQUIPMENT LOCATED IN ELECTRICAL ROOM TO THIS CHARGING STATION. STUB UP CONDUIT AT THIS LOCATION. PROVIDE PULL STRING AND CAP CONDUIT
2. PROVIDE 30A, 20W, SINGLE PHASE DISCONNECT SWITCH FOR DOOR POWER.
3. PROVIDE NEMA 14-50 OUTLET FOR LEVEL-2 EV CHARGER.
4. PROVIDE J-BOX FOR SUMP PUMP CONTROLLER. COORDINATE CONNECTION DETAILS WITH MANUFACTURER'S CUT SHEET.
5. 277/480V, 60A, 3 PH DISCONNECT SWITCH FOR ELEVATOR CONTROLLER. SEE SING LINE DIAGRAM.
6. 120V, 30A, 1 PH DISCONNECT SWITCH FOR ELEVATOR CAR LIGHTING AND POWER.
7. PROVIDE 1-1" CONDUIT FOR POWER AND 1-1"CONDUIT FOR LOW VOLTAGE FOR FROG SYSTEM. LOW VOLTAGE AND POWER RACEWAYS TO BE SEPARATE.COORDINATE EXACT LOCATIONS OF J-BOXES WITH FROG PARKING SHOP DRAWING.PROVIDE OTHER CODE REQUIRED J-BOXES AS NEEDED TO RUN THE CONDUIT. ALL CONDUITS FOR POWER "120V" AND FOR LOW VOLTAGE "48V" SHALL RUN CONCEALED IN CONCRETE AND ALL J-BOXES DESIGNATED BY "T" WILL BE FLASH MOUNTED.
8. PROVIDE 6"H X 6"W X 6" D WEATHERPROOF JUNCTION BOX, ATTACHED TO BUILDING WALL, FOR PG & E WIRELESS DATA DEVICE. PG & E WIRELESS DATA DEVICE TO BE INSTALLED BY PG & E. APPROXIMATE LOCATION SHOWN. COORDINATE WITH PG &E FOR FINAL LOCATION AND MOUNTING HEIGHT. PROVIDE WATERTIGHT WEATHERPROOF CONDUIT PENETRATION OF BUILDING EXTERIOR. SEE SINGLE LINE FOR CONDUIT SIZE.
9. STUB UP CONDUITS INSIDE THE ELECTRICAL ROOM FOR FUTURE EV CHARGING STATION SWITCHBOARD. PROVIDE PULL STRING AND CAP CONDUITS. SWITCHBOARD FOR EV CHARGING STATION TO BE PROVIDED BY OTHERS
10. STUB UP CONDUITS INSIDE ELECTRICAL ROOM ON A FREE WALL SPACE FOR FUTURE PAY STATIONS. PROVIDE PULL STRING AND CAP CONDUITS.

EBCE CONDUITS INSTALLED WITH PHASE 2 = HIGHLIGHTED ITEMS

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CITY OF LIVERMORE
LIVERMORE VILLAGE
PARKING GARAGE PROJECT
PHASE 2: 'L' STREET PARKING STRUCTURE

#	STATUS	DESCRIPTION	DATE
		50% CONSTRUCTION DOCUMENTS	03/10/2022

STAMPS

EXHIBIT A

SHEET TITLE
FLOOR PLAN LEVEL 1 WEST - ELEC., LTG & FIRE ALARM

EXHIBIT C-1.4

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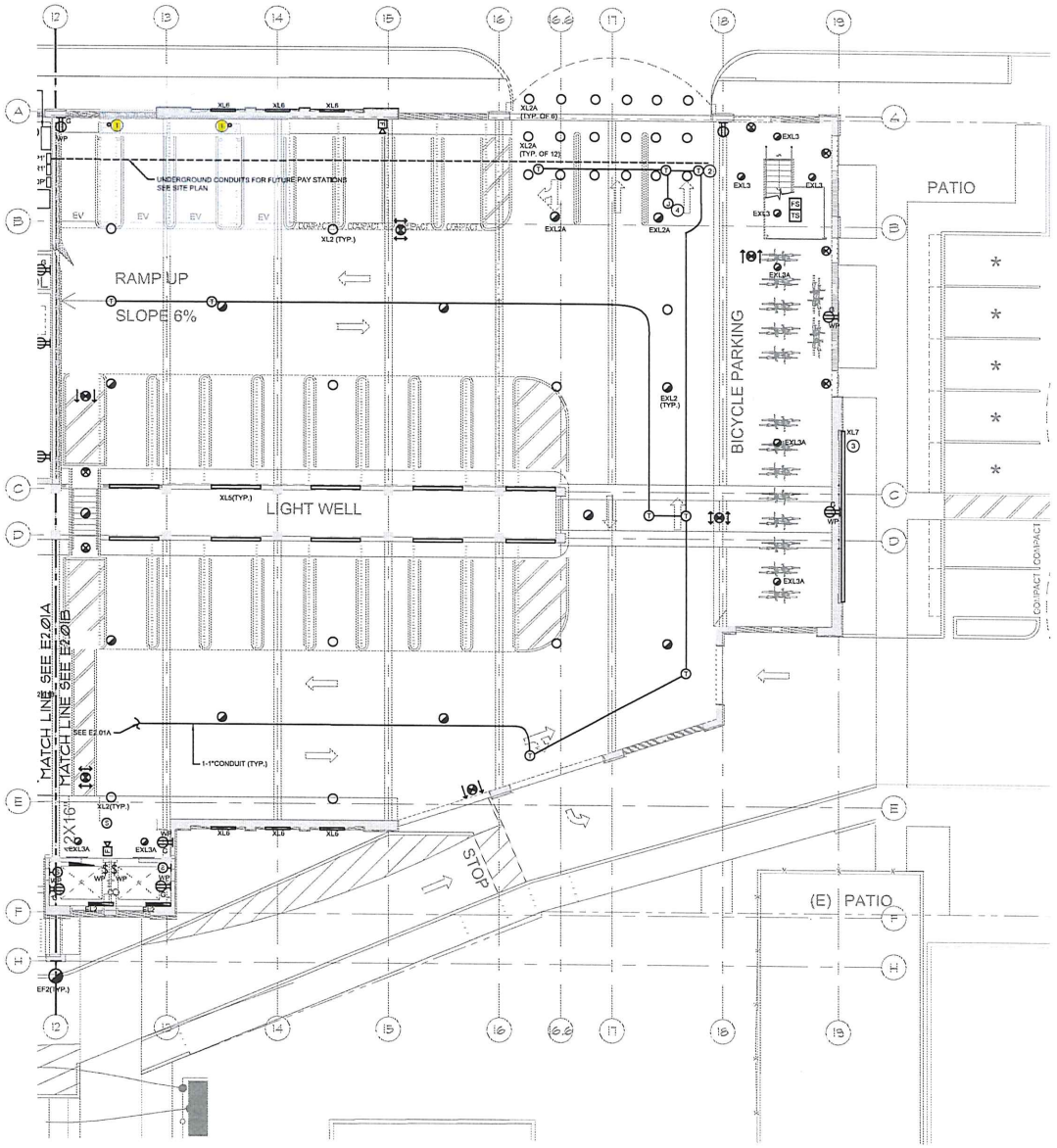

1 FLOOR PLAN LEVEL 1 EAST - ELEC., LTG & FIRE ALARM
SCALE: 1/8" = 1'-0"

SHEET NOTES:

1. PROVIDE (1) 1-1/2" CONDUIT FROM THE LEVEL-3 EV CHARGING STATION EQUIPMENT LOCATED IN ELECTRICAL ROOM TO THE CHARGING STATION. STUB UP CONDUIT AT THE LOCATION. PROVIDE PULL STRING AND CAP CONDUIT.
2. PROVIDE 1-1" CONDUIT FOR POWER AND 1-1"CONDUIT FOR LOW VOLTAGE FOR PROG SYSTEM. LOW VOLTAGE AND POWER RACEWAYS TO BE SEPARATE.COORDINATE EXACT LOCATIONS OF J-BOXES WITH FROG PARKING SHOP DRAWING.PROVIDE OTHER CODE REQUIRED J-BOXES AS NEEDED TO RUN THE CONDUIT. ALL CONDUITS FOR POWER "120V" AND FOR LOW VOLTAGE "48V" SHALL RUN CONCEALED IN CONCRETE AND ALL J-BOXES DESIGNATED BY "T" WILL BE MOUNTED.
3. MURAL LIGHTING TO BE COORDINATED FOR 100% CD SET.
4. PROVIDE EQUIVALENT TO HOFFMAN 12"X12"x4" SURFACE MOUNTED JUNCTION BOX WITH ISOLATOR SWITCH. TERMINATE CONDUCTORS TO THE LINE TERMINALS OF THE TRANSFORMER PROVIDED BY OTHERS. CONNECT THE CIRCUIT TO PANEL 'R1' LOCATED IN ELECTRICAL ROOM.

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CITY OF LIVERMORE
LIVERMORE VILLAGE
PARKING GARAGE PROJECT
PHASE 2: 'L' STREET PARKING STRUCTURE

#	STATUS	DESCRIPTION	DATE
		50% CONSTRUCTION DOCUMENTS	03/10/2022

STAMPS

EXHIBIT A

SHEET TITLE
FLOOR PLAN LEVEL 1 EAST - ELEC., LTG & FIRE ALARM

EXHIBIT C-1.5

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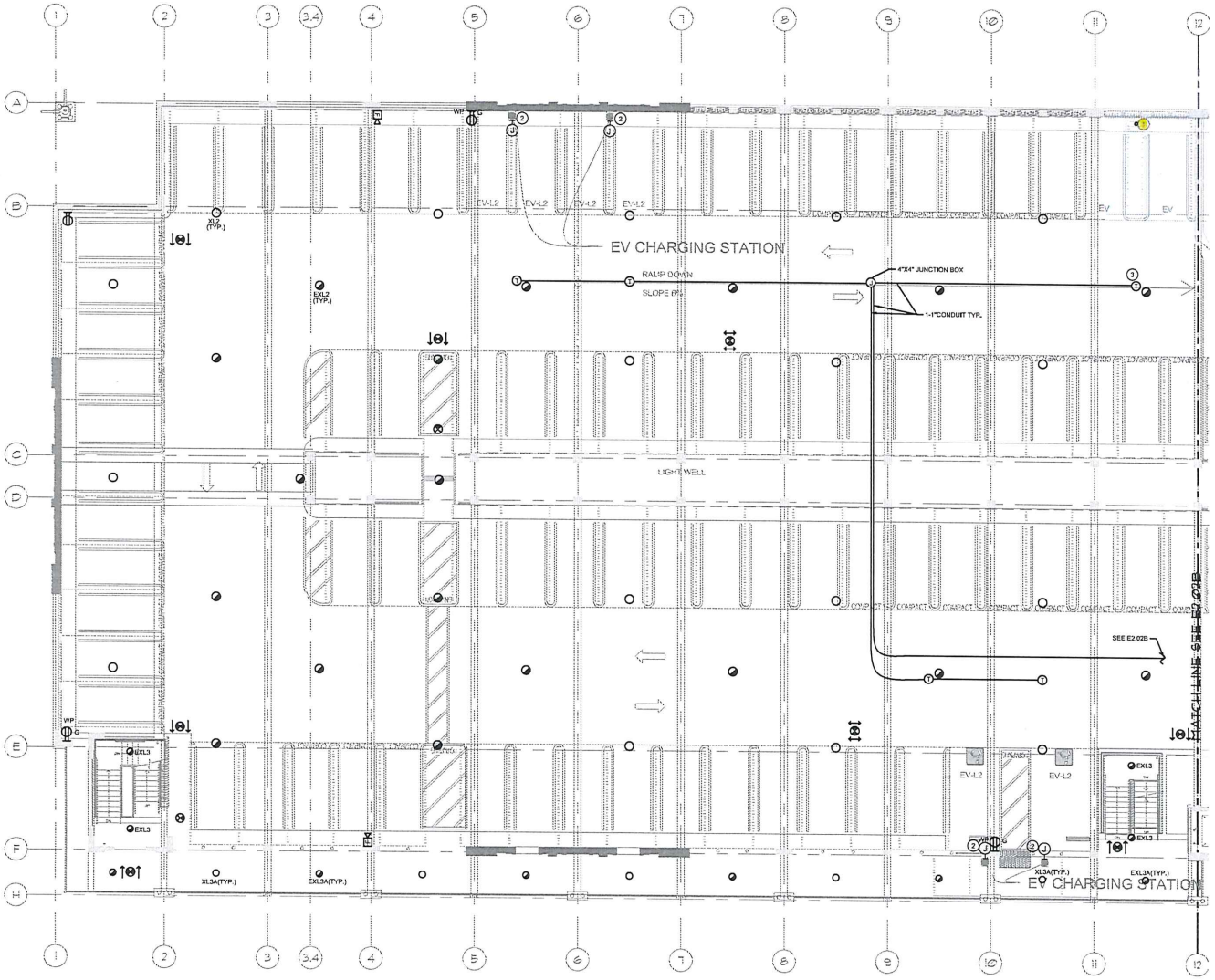

SHEET NOTES:

1. PROVIDE (1) 1-1/2" CONDUIT FROM THE LEVEL-3 EV CHARGING STATION EQUIPMENT LOCATED IN ELECTRICAL ROOM TO THIS CHARGING STATION. STUB UP CONDUIT AT THIS LOCATION. PROVIDE PULL STRING AND CAP CONDUIT.
2. PROVIDE J BOX AND (2) 1" CONDUIT FROM PANEL'EV' LOCATED IN ELECTRICAL ROOM TO THIS CHARGING STATION. STUB UP CONDUIT AT THIS LOCATION. PROVIDE PULL STRING AND CAP CONDUIT.
3. PROVIDE 1-1" CONDUIT FOR POWER AND 1-1"CONDUIT FOR LOW VOLTAGE FOR FROG SYSTEM. LOW VOLTAGE AND POWER RACEWAYS TO BE SEPARATE. COORDINATE EXACT LOCATIONS OF J-BOXES WITH FROG PARKING SHOP DRAWING.PROVIDE OTHER CODE REQUIRED J-BOXES AS NEEDED TO RUN THE CONDUIT. ALL CONDUITS FOR POWER 120/V AND FOR LOW VOLTAGE 48V SHALL RUN CONCEALED IN CONCRETE AND ALL J-BOXES DESIGNATED BY 'T' WILL BE FLASH MOUNTED.

EBCE CONDUITS INSTALLED WITH PHASE 2 = HIGHLIGHTED ITEMS

1 FLOOR PLAN LEVEL 2 WEST - ELEC., LTG & FIRE ALARM
SCALE: 1/8" = 1'-0"

LIVERMORE CALIFORNIA

WATRY • BUEHLER COLLABORATIVE
PLANNING • ENGINEERING • PARKING

WATRY • BUEHLER COLLABORATIVE
PLANNING • ENGINEERING • PARKING
5 Third Street, Suite 1125, San Francisco, CA 94103 tel 415.495.2100 fax 415.495.1630

GUTTMANN & BLAEVOET
CONSULTING ENGINEERS
Paul Montgomery James Jung
San Francisco, CA 94111
P 415.655.4000 F 415.655.4001
E pjm@gb-eng.com

CITY OF LIVERMORE
LIVERMORE VILLAGE
PARKING GARAGE PROJECT
PHASE 2: 'L' STREET PARKING STRUCTURE

#	STATUS	DESCRIPTION	DATE
		50% CONSTRUCTION DOCUMENTS	03/10/2022

STAMPS

EXHIBIT A

SHEET TITLE
FLOOR PLAN LEVEL 2 WEST - ELEC., LTG & FIRE ALARM

PROJECT NUMBER | SHEET NUMBER
EXHIBIT C-1.6

Login: AHMAD AHMADZAI Drawing File: BBS-001-09-LE2020-B.dwg
Plotting Date: 3/10/2022, 4:16 PM Last saved by: BBAMERASE Thursday, March 10, 2022 4:00:32 PM

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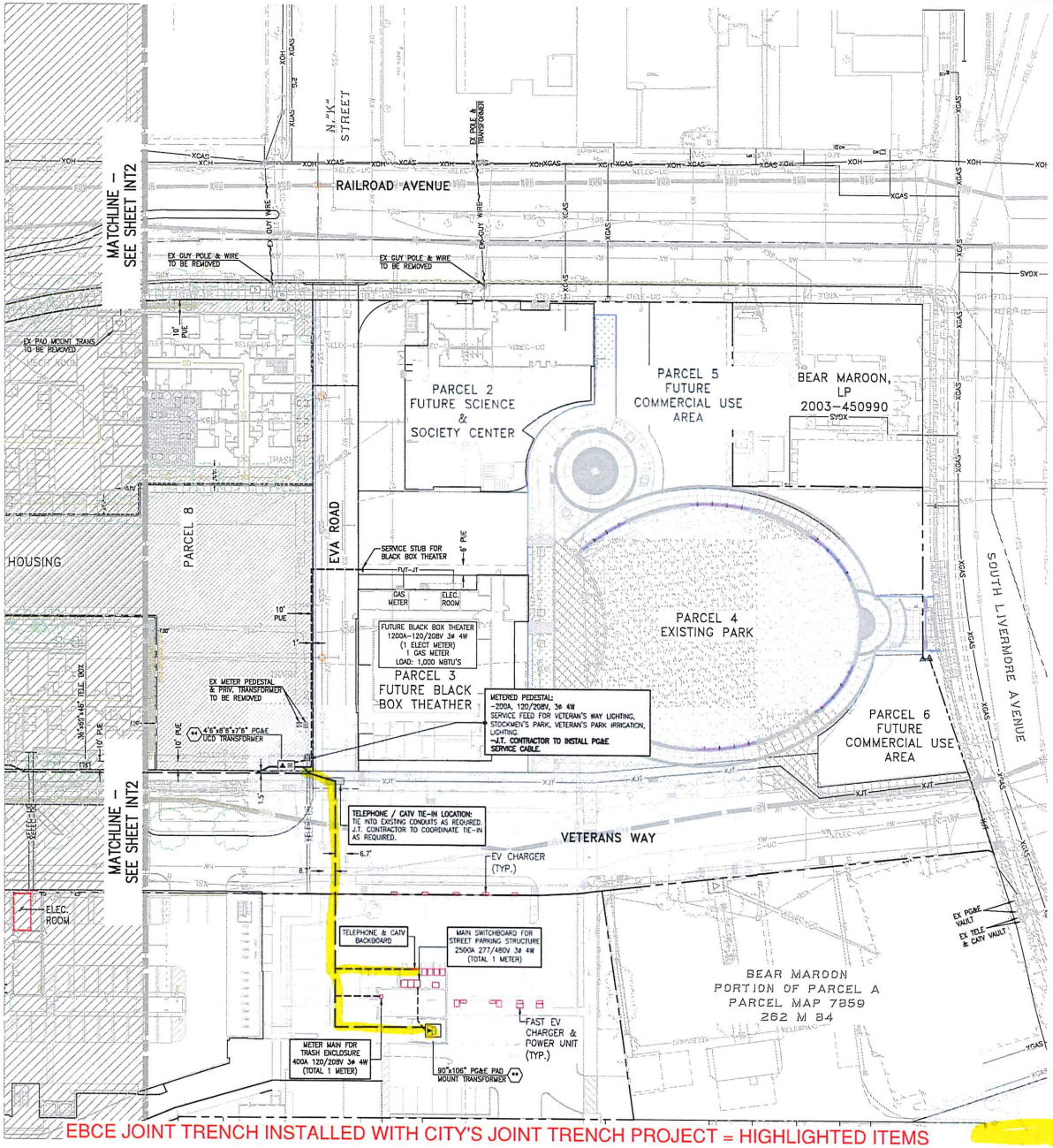


EBCE JOINT TRENCH INSTALLED WITH CITY'S JOINT TRENCH PROJECT = HIGHLIGHTED ITEMS

LEGEND

- EXISTING TRENCH OR UTILITIES
- PROPOSED TRENCH (DISTRIBUTION)
- PROPOSED TRENCH (SERVICE)
- PROPOSED PRIVATE TRENCH
- EXISTING UTILITY SPLICE BOX
- 4'6"x8'6"x7'6" UCD TRANSFORMER
- METERED SERVICE PEDESTAL
- 90"x106" PG&E PAD MOUNT TRANSFORMER

(IN FEET) 1 INCH = 30 FT.

NOTE

PLEASE VERIFY THAT THE SERVICE POINTS IN THIS DRAWING MATCH YOUR DESIGN. IF THERE ARE ANY DISCREPANCIES, PLEASE CONTACT THE PROJECT MANAGER IN OUR OFFICE.

NOTE TO UTILITIES:

PLEASE INDICATE TIE-IN POINTS ON INTENT RESPONSE

PRELIMINARY PLANS NOT FOR CONSTRUCTION

TWO DAYS BEFORE YOU DIG CALL USA TOLL FREE 811

CALL BEFORE YOU DIG

REVISIONS			
SYMBOL	DATE	DESCRIPTION	APPROVED

GIACALONE DESIGN SERVICES, INC.
5520 STONERIDGE MALL RD., #245 | PLEASANTON, CA 94588
925.485.1740 | WWW.GIACALONEDESIGN.COM

JOINT TRENCH INTENT
CITY OF LIVERMORE
DOWNTOWN LIVERMORE RE-DEVELOPMENT
LIVERMORE CALIFORNIA

PROJECT MANAGER: B. FULLINGTON
DRAWN BY: M. MATULIS/AT
CHECKED BY: D. CROWFOOT
SCALE: 1"=30'
JOB NUMBER: 20-205

EXHIBIT A

EXHIBIT C-1.7

EXHIBIT D
INSURANCE

EXHIBIT D

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

ECBE shall maintain limits no less than:

1. Commercial General Liability, including operations, products, and completed operations, as applicable:
   $5,000,000 per occurrence/**$5,000,000** 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 ECBE 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 ECBE; or automobiles owned, leased, hired or borrowed by ECBE. 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 ECBE'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. ECBE'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

ECBE 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. 4.10**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution approving revised appropriations in FY 2022-23, to fourteen projects in the 2021-23 Capital Improvement Plan.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution approving revised appropriations in FY 2022-23, to various projects in the 2021-23 Capital Improvement Plan.

SUMMARY

Revised appropriations are needed in FY 2022-23 to complete 14 projects in the Capital Improvement Plan. Unspent budget from FY 2021-22 needs to be appropriated to FY 2022-23 for these projects. The proposed budget adjustments total $2,536,279 and do not increase the amount of funds originally budgeted for these projects. Additionally, new appropriations totaling $1,301,006 need to be made to five of these 14 projects in FY 2022-23. These appropriations increase the budgets for these projects. Revised appropriations in FY 2022-23 are summarized in Exhibit A to the resolution and discussed in the staff report.

DISCUSSION

On June 1, 2021, the Planning Commission reviewed the 2021-23 Capital Improvement Plan and found that it conforms to the City's General Plan.

On June 14, 2021, the City Council agreed with the recommendations regarding General Plan consistency and found the Capital Improvement Plan to be consistent with the City's General Plan (Resolution No. 2021-088). At the same time, the City Council approved the 2021-23 Capital Improvement Plan.

On June 13, 2022, the City Council approved the Two-Year Financial Plan Update for FY 2021-22 and 2022-23. The update included budget adjustments for the 2021-23 Capital Improvement Plan.

Fiscal Year 2021-22 has now been closed and additional budget adjustments are needed for fourteen

projects in the 2021-2023 Capital Improvement Plan. To coincide with actual progress and current design and construction schedules, unspent FY 2021-22 budget for these projects needs to be appropriated to the FY 2022-23 budget. These appropriations, totaling $2,536,279, will not increase the project budgets; they simply shift the expired appropriations from FY 2021-22 to the current fiscal year to accommodate actual project timelines.

Additionally, $1,301,006 in new appropriations need to be made to five of the 14 projects in order to complete the projects in FY 2022-23.

Proposed appropriations for the projects are listed in Exhibit A to the resolution and discussed below:

- Isabel Ave/I-580 Interchange Project 1992-38 - Unspent budget from FY 2021-22 needs to be appropriated to FY 2022-23 to cover consultant contracts and staff time for right of way closeout and establishment of conservation easements.
- New Civic Center Meeting Hall Project 2004-39 - There was approximately $289,000 in unspent budget for this project in FY 2021-22. $85,000 of this amount needs to be appropriated to FY 2022-23 in order to complete the project. Remaining items include final modifications to the building such as installing an equipment screen on the roof, preparation of as-builts, and close-out project management activities.
- El Charro Specific Plan Infrastructure-Phase 3 Project 2007-2044 - Unspent budget from FY 2021-22 and an additional $35,000 in General Funds (Fund 001) needs to be appropriated to FY 2022-23 in order to complete parcel and flood boundary mapping for the El Charro Area.
- Downtown Streetscape Phase II Project 2008-27 - A total of $865,974 in unspent budget from FY 2021-22 along with an additional $195,000 in Measure B Streets and Roads Fund 678, needs to be appropriated to FY 2022-23 in order to complete this project. Construction costs were impacted by the discovery an underground storage tank, discovery of a concrete layer in the street, and having to develop new concrete mix formulas for flex zone and bluestone paving to match existing. Additional funds are required to cover the cost of change orders that were necessary to address these unanticipated field conditions and ongoing project management costs.
- Carpet Replacement for City Buildings Project 2015-18 - Unspent budget from FY 2021-22 along with an additional $800,000 in Facilities Rehab Program Fund 740 needs to be appropriated to complete carpet replacement in City Hall in FY 2022-23. This additional appropriation will also cover carpet replacement in the Civic Center Library in FY 2022-23.
- I Street Garage Project 2017-15 - There was approximately $453,000 in unspent budget for this project in FY 2021-22. $300,000 of this amount needs to be appropriated to FY 2022-23 in order to complete the project. Remaining items include completing landscaping, minor modifications to the garage, final project management for close-out and commissioning activities.
- Arroyo Road Path 2017-23 - Unspent budget from FY 2021-22 and $16,006 in Measure B-Bike/Pedestrian Fund 677 needs to be appropriated to FY 2022-23 to cover consultant contracts and staff time for right of way closeout.
- Automated License Plate Readers Project 2017-22 - Unspent budget from FY 2021-22 needs to be appropriated FY 2022-23 to cover installation of license plate readers along Veterans Way.
- Collier Canyon Creek Silt Basin Project 2017-27 - Unspent budget from FY 2021-22 needs to be appropriated to FY 2022-23 to cover consultant contracts and staff time for design.
- Fixed Base Operator Building Flood Proofing Project 2018-49 - There was approximately $76,000 in unspent budget for this project in FY 2021-22. $60,000 of this amount needs to be appropriated to complete construction in FY 2022-23. Construction was delayed due to supply chain issues associated with manufacturing the flood proof door.

- Real Time Awareness Center Project 2019-58 - Unspent budget from FY 2021-22 needs to be appropriated to cover the purchase of equipment in FY 2022-23.
- Granada Channel Pipe Replacement at UPRR Project 2020-35 - A new appropriation of $255,000 in Surplus AD Closeout Fund 698 is required to complete this project in FY 2022-23. This project involves a storm drain repair in the vicinity of the Union Pacific Railroad train tracks. Costs associated with complying with Union Pacific Railroad requirements have been more than anticipated. Union Pacific Railroad required two railroad monitors during underground activities and daily surveys of the railroad tracks.
- Citywide Sculptures Project 2021-22 - Unspent budget from FY 2021-22 needs to be appropriated to FY 2022-23 to cover installation of the sculpture next to the Springtown Library. The sculpture was originally scheduled to be installed in June; however, the installation date has been moved back to September 2022.
- Stanley Blvd at Isabel Ave Connector Ramp Project 2021-33 - Unspent budget from FY 2021-22 needs to be appropriated to FY 2022-23 to cover consultant contracts and staff time for design.

FISCAL AND ADMINISTRATIVE IMPACTS

If approved, $2,536,279 of unspent appropriations from FY 2021-22 will be appropriated to FY 2022-23. These appropriations will not increase individual project budgets. New appropriations totaling $1,301,006 are also being requested. These appropriations will increase funding for five projects. These appropriations total $800,000 in Facilities Rehab Program Fund 740, $255,000 in Surplus AD Closeout Fund 698, $195,000 in Measure B Streets and Roads Fund 678, $35,000 from General Fund 001, and $16,006 in Measure B-Bike/Pedestrian Fund 677.

ATTACHMENTS

1. Resolution
2. Exhibit A - CIP Budget Appropriation Requests

Prepared by: Joel Waxdeck
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

RESOLUTION APPROVING REVISED APPROPRIATIONS IN FISCAL YEAR 2022-23 FOR THE 2021-23 CAPITAL IMPROVEMENT PLAN

On June 1, 2021, the Planning Commission reviewed the 2021-23 Capital Improvement Plan and found that it conforms to the City's General Plan.

On June 14, 2021, the City Council agreed with the recommendations regarding General Plan consistency as contained in the Planning Commission staff report and resolution, adopted by the same reference, and found the Capital Improvement Plan to be consistent with the City's General Plan (Resolution No. 2021-088). At the same time, the City Council approved the 2021-23 Capital Improvement Plan.

On June 13, 2022, the City Council approved the Two-Year Financial Plan Update for FY 2021-22 and 2022-23. The update included budget adjustments for the 2021-23 Capital Improvement Plan.

Fiscal Year 2021-2022 has now been closed and adjustments are needed for fourteen projects in the 2021-23 Capital Improvement Plan. To coincide with actual project progress and design and construction schedules, unspent FY 2021-22 budget for thirteen projects in the 2021-23 Capital Improvement Plan needs to be appropriated to FY 2022-23. These appropriations, totaling $2,536,279, will not increase project budgets; they simply shift the expired appropriations from FY 2021-22 to the current fiscal year to accommodate actual project timelines.

Additionally, $1,301,006 in new appropriations need to be made to five projects in order to complete the projects in FY 2022-23.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby approves the revised appropriations in FY 2022-23, as shown in Exhibit A, attached hereto, for various projects in the 2021-23 Capital Improvement Plan.

On motion of Council Member _____, seconded by Council Member _____, the foregoing Resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Jason Alcala
Jason Alcala
City Attorney

Exhibit A – CIP Budget Appropriation Requests

RESOLUTION NO. _____

EXHIBIT A

CIP Budget Appropriation Requests: September 12, 2022

	Fund	CIP#	CIP Project Name	Existing FY 2021-22 Budget	Actual FY 2021-22 Expenditures	Existing FY 2022-23 Budget	Reductions In FY 2022-23 From Overexpenditures in FY 2021-22	Unspent FY 2021-22 Appropriated to FY 2022-23	FY 2022-23 Supplemental Appropriations	Proposed FY 2022-23 Adjusted Budget
1	321	199238	Isabel Ave/I-580 Interchange	$876,000	$365,741	$200,000		$510,259		**$710,259**
2	001	200439	New Civic Center Meeting Hall	$887,000	$597,096	$0		$85,000		**$85,000**
3	001	20072044	El Charro Specific Plan Infrastructure-Phase 3	$75,000	$66,635	$102,000		$8,365	$35,000	**$145,365**
4a	651	200827	Downtown Streetscape Phase II	$1,089,425	$645,640			$443,785		**$443,785**
4b	678	200827	Downtown Streetscape Phase II	$810,575	$877,019		($66,444)		$195,000	**$128,556**
4c	688	200827	Downtown Streetscape Phase II	$450,000	$27,811			$422,189		**$422,189**
5	740	201518	Carpet Replacement for City Buildings	$300,000	$81,357	$210,000		$218,643	$800,000	**$1,228,643**
6	677	201723	Arroyo Road Path	$60,000	$46,006	$10,000		$13,994	$16,006	**$40,000**
7	001	201715	I Street Garage	$12,575,000	$12,122,000	$25,000		$300,000		**$325,000**
8	619	201722	Automated License Plate Readers	$55,000	$0	$0		$55,000		**$55,000**
9	678	201727	Collier Canyon Creek Silt Basin	$150,000	$71,601	$0		$78,399		**$78,399**
10	210	201849	FBO Building Flood Proofing	$375,000	$298,810	$0		$60,000		**$60,000**
11	619	201958	Real Time Awareness Center	$300,000	$148,790	$100,000		$151,487		**$251,487**
12	698	202035	Granada Channel Pipe Replacement at UPRR	$115,000	$168,405	$340,000	($53,405)		$255,000	**$541,595**
13	608	202122	Citywide Sculptures	$125,000	$34,690	$125,000		$90,310		**$215,310**
14	651	202133	Stanley Blvd at Isabel Ave Connector	$150,000	$51,151	$250,000		$98,849		**$348,849**
			Total				($119,849)	$2,536,279	$1,301,006	

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.11**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Joe Testa, Fire Chief

SUBJECT: Resolution authorizing the City Manager to execute, on behalf of Livermore-Pleasanton Fire Department Joint Powers Authority (LPFD JPA), a Purchase Order with Bauer Compressors, Inc. for 125 Self-Contained Breathing Apparatus (SCBA) and related equipment in an amount not-to-exceed $1,430,563.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute, on behalf of LPFD, and in her capacity as the Executive Director for LPFD, a Purchase Order with Bauer Compressors, Inc. for the replacement of 125 Self-Contained Breathing Apparatus (SCBA) in an amount not-to-exceed $1,430,563.

SUMMARY

Staff recommends the City Council adopt a resolution authorizing execution of a Purchase Order with Bauer Compressors, Inc. for the replacement of Self-Contained Breathing Apparatus (SCBA) in an amount not-to-exceed $1,430,563. The Livermore-Pleasanton Fire Department (LPFD) must replace its 15-year-old Self-Contained Breathing Apparatus (SCBA) before the end of its service life this year. Both state and federal respiratory protection laws require the use of these units to ensure the safety of employees when exposed to hazardous atmospheres.

DISCUSSION

SCBA's are a critical piece of safety equipment that provides clean, breathable air for LPFD personnel in environments with superheated smoke, hazardous gases, oxygen deficiencies, and other airborne contaminates. Both state and federal respiratory protection laws require the use of these units to ensure the safety of employees when exposed to hazardous atmospheres. The equipment is used daily in emergency responses and training.

Under requirements set forth by the US Department of Transportation (DOT) and the National Institute for Occupational Safety and Health (NIOSH), compressed air cylinders, including those used as part of the SCBA, have a service life of 15 years, after which, they must be removed from service and

destroyed. The LPFD's current cylinders are in their fourteenth year of service life. The proposed SCBA replacement includes 125 SCBA units, 250 bottles, 120 face masks and all auxiliary equipment needed to place the SCBA units into service.

Staff recommends Bauer Compressors, Inc as the designated vendor for the SCBA units. Bauer Compressors, Inc is a Livermore company that currently services the LPFD's SCBA fill stations and would provide local warranty service and testing. Bauer Compressors, Inc. is a member of the Houston-Galveston Area Council's Cooperative Purchase Program (HGACBuy).

Under LMC Section 2.68.390 of the City's Contract and Purchase Ordinance, the Administrative Services Director may purchase supplies and equipment without utilizing the quotation or bidding requirements of the Ordinance, if such purchases are based on an agreement or cooperative purchasing program entered into by any public agency or agencies situated within the state, regardless of whether the City is a named party to such an agreement or an actual participant in such a program. In such cases, the supplies and equipment purchased must be the same and be offered at the same price as the supplies, subject to the agreement or program and the underlying purchase must have been made using a quotation or bid procedure at least as restrictive as the City's.

Staff recommends purchasing these replacement SCBA utilizing HGACBuy contract #EE08-19 with Bauer Compressors, Inc. The HGACBuy bid procedure for Fire Service Equipment, meets the City's municipal code requirement, and therefore, the purchase can be awarded to Bauer Compressor, Inc.

The HGACBuy program assists local governments in reducing costs through this government-to-government procurement service available nationwide. This program is available to local government entities and qualifying non-profit corporations. Eligible membership and participation include states, cities, counties, all government agencies, both public and non-public educational agencies, colleges, universities, and non-profit organizations. The City of Livermore is currently a registered member. The purchase through HGACBuy contract #EE08-19 will expedite the delivery of the SCBA units.

FISCAL AND ADMINISTRATIVE IMPACTS

This purchase has a not to exceed amount of $1,430,563 and is budgeted in the LPFD Equipment Replacement Reserve (912-80070-4315002) for the Fiscal Year 2022-23 with a budget amount of $1,586,604, therefore, no additional appropriation is needed. The LPFD Equipment Replacement Reserve is funded 50% by the City of Livermore, and 50% by the City of Pleasanton. Therefore, the total cost of SCBA replacement to the City of Livermore is not to exceed $715,282.

ATTACHMENTS

1. Resolution
2. Exhibit A - Bauer SCBA Pricing Quote
3. Exhibit B - MSA HGAC Cooperative Contract No. EE08-19
4. Exhibit C - Bauer Compressor- HGAC Contract Extension Contract No. EE08-19

Prepared by: Joe Testa
Fire Chief

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF AND FOR THE LIVERMORE-PLEASANTON FIRE DEPARTMENT JOINT POWERS AUTHORITY, A PURCHASE ORDER IN AN AMOUNT NOT-TO-EXCEED $1,430,563 FOR 125 SELF-CONTAINED BREATHING APPARATUS (SCBA) AND RELATED EQUIPMENT

The Livermore-Pleasanton Fire Department Joint Powers Authority (LPFD) is an entity separate from the City of Livermore that was formed in 1996 with the City of Pleasanton to provide fire protection services.

The LPFD does not have its own purchasing policies and instead relies upon the policies adopted and implemented by the Cities of Livermore and Pleasanton, depending upon which City is providing the finance and budget administrative support for the LPFD. Livermore is currently providing the finance and budget administrative support for the LPFD.

Section 2.68.370 of the Livermore Municipal Code ("LMC"), states that the City Council of the City of Livermore shall award a contract for the purchase of supplies, equipment, or general services of a value greater than $100,000 to the bid representing the best value as defined in LMC 2.68.040, with the exception being where supplies and equipment are purchased through competitive or noncompetitive negotiations pursuant to LMC 2.68.390.

Bauer Compressor, Inc. (Supplier) holds the Houston-Galveston Area Council Contract (HGACBuy) for MSA SCBA. The HGACBuy bid procedure for replacement SCBA meets the City of Livermore's Municipal Code requirement.

LPFD has requested the City Council for the City of Livermore approve, on behalf of the LPFD, the attached agreement consistent with the City of Livermore's purchasing ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby authorizes the City Manager to execute, on behalf of LPFD and in her capacity as the Executive Director for LPFD, a Purchase Order with Bauer Compressors, Inc. in an amount not-to-exceed $1,430,563 for the purchase of replacement SCBA in accordance with the terms, specifications, and general provisions specified in HGACBuy contract #EE08-19 and attached hereto as Exhibits A through C, and sections 2.68.370 and 2.68.040 of the Livermore Municipal Code.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on, September 12, 2022, by the following vote:

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

ATTEST:

APPROVED AS TO FORM:

_____

Marie Weber
City Clerk

/s/ Jason Alcala

Jason Alcala
City Attorney

Exhibit A – Bauer SCBA Pricing Quote
Exhibit B – MSA HGAC Cooperative Contract No. EE08-19
Exhibit C – Bauer Compressor – HGAC Contract Extension No. EE08-19

EXHIBIT A

HGACBuy	CONTRACT PRICING WORKSHEET For Catalog & Price Sheet Type Purchases	Contract No.:	EE08-19	Date Prepared:	1/25/2022

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.

Buying Agency:	LIVERMORE-PLEASANTON FIRE DEPARTMENT	Contractor:	BAUER COMPRESSORS Inc.
Contact Person:	Jason Solak	Prepared By:	Tim McGuire
Phone:	925-784-6961	Phone:	925-449-7210
Fax:	N/A	Fax:	925-449-7201
Email:	JJamison@lpfire.org	Email:	Tim.McGuire@bauersf.com

Catalog / Price Sheet Name:	MSA 2021 US Suggested List Price Book
General Description of Product/ Product Code	EE19ACA

A. Catalog / Price Sheet Items being purchased - Itemize Below - Attach Additional Sheet If Necessary

Quan	Description	Unit Pr	Total
125	A-G1FS444MA2C0LCR - G1 SCBA Configured	$7,667.85	$958,481.25
125	10156466-SP, Pouch, ExtendAire II, G1, Left	$385.34	$48,167.38
125	485331, HOSE ASSY,QUICK-FILL,3',NO POUCH,FQD/FQD	$972.43	$121,553.19
250	10191803, CYL ASSY,RC,4500PSIG,30MIN,LK,QC,PKGD	$1,252.71	$313,178.25
27	10191809, CYL ASSY,RC,4500PSIG,60MIN,LK,QC,PKGD	$1,858.57	$50,181.32
20	10162403, Adapter Assy, QC to 1/4 NPT F, 5000 psig	$507.06	$10,141.18
20	10172885, ADAPTER, QC COUPLING TO 1/4" NPT MALE	$30.25	$605.03
20	D4060043, Washer 13,5 X 8,2 X 1	$1.95	$38.93
120	10156459, Facepiece, G1, FS, MD, MD NC, 4PT C-HARN	$418.68	$50,241.60
15	10156458, Facepiece, G1, FS, SM,SM NC, 4PT C-HARN	$418.68	$6,280.20
15	10156460, Facepiece, G1, FS, LRG, LRG NC, 4PT C-HARN	$418.68	$6,280.20
11	10158385, KIT, CHARGING STATION, G1	$787.34	$8,660.74
66	10148741-SP, Battery Pack, G1, Rechargeable	$406.50	$26,829.00
7	10206313, RIT,G1,QC,QF,GAUGE,QA BYPASS,UEBSS,4500	$5,120.27	$35,841.89
6	10197700, MSA HUB Fireservice - US	$3,991.01	$23,946.06
20	10144230, SPECTACLE KIT, G1 FACEPIECE	$133.59	$2,671.80
250	10083875, TAG ASSY	$45.13	$11,281.63
1	10158407, Kit, RFID Reader/Writer, G1	$738.89	$738.89
1	10186214, RFID Contactless Reader Writer, 13.56 MH	$606.26	$606.26
1	10110435, CD-ROM,SCBA TEST SOFTWARE,POSI 3 USB	$1,207.20	$1,207.20
1	10164940, KIT, REPAIR TOOLS, G1, CUSTOM	$1,818.56	$1,818.56
1	10163472, Hose Assy, MP, Flow Test, G1	$392.72	$392.72
24	10148740-SP,Battery Pack, G1, Alkaline	$323.96	$7,775.04
12	10144231-SP, Kit, Filter Adapter Assy, G1 Facepiece	$120.76	$1,449.12
10	10204811, KIT,30" BT,LISO2 BATTERY,ADAPTER,G1 PAPR	$1,665.90	$16,659.00
10	B-10079-001, CASE, CARRYING,PAPR, C420, MLDED, PLSTIC	$162.36	$1,623.60
20	10046570, CANISTER, CBRN, PKG, THREADED	$86.57	$1,731.40
		Total From Other Sheets, If Any:	
		Subtotal A:	$1,708,381.43

B. Unpublished Options, Accessory or Service items - Itemize Below - Attach Additional Sheet If Necessary
(Note: Unpublished Items are any which were not submitted and priced in contractor's bid.)

Quan	Description	Unit Pr	Total
			$0.00
		Total From Other Sheets, If Any:	
		Subtotal B:	$0.00
	Check: Total cost of Unpublished Options (B) cannot exceed 25% of the total of the Base List Price plus Published Options	For this transaction the percentage is:	0%

C. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges

SUBTOTAL A+B	$1,708,381.43
DISCOUNT	-$410,818.43
POST DISCOUT SUBTOTAL	$1,297,563.00
SALES TAX 10.25%	$133,000.21
FREIGHT/ INSTALLATION	$0.00
Subtotal C:	$1,430,563.21
Delivery Date:	D. Total Purchase Price (A+B+C): $1,430,563.21

EXHIBIT B

H-GAC

Houston-Galveston Area Council
P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

GENERAL PROVISIONS

This Agreement is made and entered into, by and between the Houston-Galveston Area Council hereinafter referred to as H-GAC having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027 and MSA Safety Sales, LLC, hereinafter referred to as the Contractor, having its principal place of business at 1000 Cranberry Woods Drive, Cranberry Township, PA 16066.

WITNESSETH:

WHEREAS, H-GAC hereby engages the Contractor to perform certain services in accordance with the specifications of the Agreement; and

WHEREAS, the Contractor has agreed to perform such services in accordance with the specifications of the Agreement;

NOW, THEREFORE, H-GAC and the Contractor do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

~~The Contractor warrants and assures~~ H-GAC that it possesses adequate legal authority to enter into this Agreement. The Contractor's governing body, where applicable, has authorized the signatory official(s) to enter into this Agreement and bind the Contractor to the terms of this Agreement and any subsequent amendments hereto.

ARTICLE 2: APPLICABLE LAWS

The Contractor agrees to conduct all activities under this Agreement in accordance with all applicable rules, regulations, directives, standards, ordinances, and laws, in effect or promulgated during the term of this Agreement, including without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish H-GAC with satisfactory proof of its compliance therewith.

ARTICLE 3: INDEPENDENT CONTRACTOR

The execution of this Agreement and the rendering of services prescribed by this Agreement do not change the independent status of H-GAC or the Contractor. No provision of this Agreement or act of H-GAC in performance of the Agreement shall be construed as making the Contractor the agent, servant or employee of H-GAC, the State of Texas or the United States Government. Employees of the Contractor are subject to the exclusive control and supervision of the Contractor. The Contractor is solely responsible for employee related disputes and discrepancies, including employee payrolls and any claims arising therefrom.

ARTICLE 4: WHOLE AGREEMENT

The General Provisions, Special Provisions, and Attachments, as provided herein, constitute the complete Agreement ("Agreement") between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

ARTICLE 5: SCOPE OF SERVICES

The services to be performed by the Contractor are outlined in an Attachment to this Agreement.

ARTICLE 6: PERFORMANCE PERIOD

This Agreement shall be performed during the period which begins Aug 01 2019 and ends Jul 31 2021. All services under this Agreement must be rendered within this performance period, unless directly specified under a written change or extension provisioned under Article 15, which shall be fully executed by both parties to this Agreement.

ARTICLE 7: PAYMENT OR FUNDING

Payment provisions under this Agreement are outlined in the Special Provisions.

ARTICLE 8: REPORTING REQUIREMENTS

If the Contractor fails to submit to H-GAC in a timely and satisfactory manner any report required by this Agreement, or otherwise fails to satisfactorily render performances hereunder, H-GAC may terminate this agreement with notice as identified in Article 16 of these General Provisions. H-GAC has final determination of the adequacy of performance and reporting by Contractor. Termination of this agreement for failure to perform may affect Contractor's ability to participate in future opportunities with H-GAC. The Contractor's failure to timely submit any report may also be considered cause for termination of this Agreement.

Any additional reporting requirements shall be set forth in the Special Provisions of this Agreement.

ARTICLE 9: INSURANCE

Contractor shall maintain insurance coverage for work performed or services rendered under this Agreement as outlined and defined in the attached Special Provisions.

ARTICLE 10: SUBCONTRACTS and ASSIGNMENTS

Except as may be set forth in the Special Provisions, the Contractor agrees not to subcontract, assign, transfer, convey, sublet or otherwise dispose of this Agreement or any right, title, obligation or interest it may have therein to any third party without prior written approval of H-GAC. The Contractor acknowledges that H-GAC is not liable to any subcontractor or assignee of the Contractor. The Contractor shall ensure that the performance rendered under all subcontracts shall result in compliance with all the terms and provisions of this Agreement as if the performance rendered was rendered by the Contractor. Contractor shall give all required notices, and comply with all laws and regulations applicable to furnishing and performance of the work. Except where otherwise expressly required by applicable law or regulation, H-GAC shall not be responsible for monitoring Contractor's compliance, or that of Contractor's subcontractors, with any laws or regulations.

ARTICLE 11: AUDIT

Notwithstanding any other audit requirement, H-GAC reserves the right to conduct or cause to be conducted an independent audit of any transaction under this Agreement, such audit may be performed by the H-GAC local government audit staff, a certified public accountant firm, or other auditors designated by H-GAC and will be conducted in accordance with applicable professional standards and practices. The Contractor understands and agrees that the Contractor shall be liable to the H-GAC for any findings that result in monetary obligations to H-GAC.

ARTICLE 12: EXAMINATION OF RECORDS

The Contractor shall maintain during the course of the work complete and accurate records of all of the Contractor's costs and documentation of items which are chargeable to H-GAC under this Agreement. H-GAC, through its staff or designated public accounting firm, the State of Texas, and United States Government, shall have the right at any reasonable time to inspect, copy and audit those records on or

off the premises by authorized representatives of its own or any public accounting firm selected by H-GAC. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. Failure to provide access to records may be cause for termination of the Agreement. The records to be thus maintained and retained by the Contractor shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of the Contractor's employees working full or part time on the work, as well as cancelled payroll checks, signed receipts for payroll payments in cash, or other evidence of disbursement of payroll payments; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for the Contractor's stocks or capital items; and (3) paid invoices and cancelled checks for materials purchased and for subcontractors' and any other third parties' charges.

The Contractor further agrees that the examination of records outlined in this article shall be included in all subcontractor or third-party agreements.

ARTICLE 13: RETENTION OF RECORDS

~~The Contractor and its subcontractors shall~~ maintain all records pertinent to this Agreement, and all other financial, statistical, property, participant records, and supporting documentation for a period of no less than seven (7) years from the later of the date of acceptance of the final payment or until all audit findings have been resolved. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the retention period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the seven (7) years, whichever is later, and until any outstanding litigation, audit, or claim has been fully resolved.

ARTICLE 14: CHANGES AND AMENDMENTS

A. Any alterations, additions, or deletions to the terms of this Agreement, which are required by changes in federal or state law or by regulations, are automatically incorporated without written amendment hereto, and shall become effective on the date designated by such law or by regulation.

B. To ensure the legal and effective performance of this Agreement, both parties agree that any amendment that affects the performance under this Agreement must be mutually agreed upon and that all such amendments must be in writing. After a period of no less than 30 days subsequent to written notice, unless sooner implementation is required by law, such amendments shall have the effect of qualifying the terms of this Agreement and shall be binding upon the parties as if written herein.

ARTICLE 15: TERMINATION PROCEDURES

~~The Contractor acknowledges that this Agreement~~ may be terminated for Convenience or Default.

A. *Convenience*

H-GAC may terminate this Agreement at any time, in whole or in part, with or without cause, whenever H-GAC determines that for any reason such termination is in the best interest of H-GAC, by providing written notice by certified mail to the Contractor. Upon receipt of notice of termination, all services hereunder of the Contractor and its employees and subcontractors shall cease to the extent specified in the notice of termination.

The Contractor may cancel or terminate this Agreement upon submission of thirty (30) days written notice, presented to H-GAC via certified mail. The Contractor may not give notice of cancellation after it has received notice of default from H-GAC.

B. *Default*

H-GAC may, by written notice of default to the Contractor, terminate the whole or any part of the Agreement, in any one of the following circumstances:

(1) If the Contractor fails to perform the services herein specified within the time specified herein or any extension thereof; or

(2) If the Contractor fails to perform any of the other provisions of this Agreement for any reason whatsoever, or so fails to make progress or otherwise violates the Agreements that completion of services herein specified within the Agreement term is significantly endangered, and in either of these two instances does not cure such failure within a period often (10) days (or such longer period of time as may be authorized by H-GAC in writing) after receiving written notice by certified mail of default from H-GAC.

ARTICLE 16: SEVERABILITY

H-GAC and Contractor agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

ARTICLE 17: FORCE MAJEURE

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with H-GAC.

ARTICLE 18: CONFLICT OF INTEREST

No officer, member or employee of the Contractor or subcontractor, no member of the governing body of the Contractor, and no other public officials of the Contractor who exercise any functions or responsibilities in the review or Contractor approval of this Agreement, shall participate in any decision relating to this Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Agreement.

ARTICLE 19: FEDERAL COMPLIANCE

Contractor agrees to comply with all federal statutes relating to nondiscrimination, labor standards, and environmental compliance. Additionally, for work to be performed under the Agreement or subcontract thereof, including procurement of materials or leases of equipment, Contractor shall notify each potential subcontractor or supplier of the Contractor's federal compliance obligations. These may include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) the Fair Labor Standards Act of 1938 (29 USC 676 et. seq.), (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; (e) the Age Discrimination in Employment Act of 1967 (29 USC 621 et. seq.) and the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (f) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in any specific statute(s)

applicable to any Federal funding for this Agreement; (k) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement; (l) applicable provisions of the Clean Air Act (42 U.S.C. §7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251 et seq.), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and the Environmental Protection Agency regulations at 40 CPR Part 15; (m) applicable provisions of the Davis- Bacon Act (40 U.S.C. 276a - 276a-7), the Copeland Act (40 U.S.C. 276c), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332), as set forth in Department of Labor Regulations at 20 CPR 5.5a; (n) 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 (P.L. 94-163).

ARTICLE 20: CRIMINAL PROVISIONS AND SANCTIONS

The Contractor agrees to perform the Agreement in conformance with safeguards against fraud and abuse as set forth by the H-GAC, the State of Texas, and the acts and regulations of any related state or federal agency. The Contractor agrees to promptly notify H-GAC of any actual or suspected fraud, abuse, or other criminal activity through the filing of a written report within twenty-four (24) hours of knowledge thereof. Contractor shall notify H-GAC of any accident or incident requiring medical attention arising from its activities under this Agreement within twenty-four (24) hours of such occurrence. Theft or willful damage to property on loan to the Contractor from H-GAC, if any, shall be reported to local law enforcement agencies and H-GAC within two (2) hours of discovery of any such act.

The Contractor further agrees to cooperate fully with H-GAC, local law enforcement agencies, the State of Texas, the Federal Bureau of Investigation and any other duly authorized investigative unit, in carrying out a full investigation of all such incidents.

The Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against the Contractor pertaining to this Agreement or which would adversely affect the Contractor's ability to perform services under this Agreement.

ARTICLE 21: INDEMNIFICATION AND RECOVERY

H-GAC's liability under this Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to its order processing charge. In no event will H-GAC be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor agrees, to the extent permitted by law, to defend and hold harmless H-GAC, its board members, officers, agents, officials, employees and indemnities from any and all claims, costs, expenses (including reasonable attorney fees), actions, causes of action, judgements, and liens arising as a result of Contractor's negligent act or omission under this Agreement. Contractor shall notifiy H-GAC of the threat of lawsuit or of any actual suit filed against Contractor relating to this Agreement.

ARTICLE 22: LIMITATION OF CONTRACTOR'S LIABILITY

Except as specified in any separate writing between the Contractor and an END USER, Contractor's total liability under this Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, but excluding its obligation to indemnify H-GAC, is limited to the price of the particular products/services sold hereunder, and Contractor agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. In no event will Contractor be liable for any loss of use, loss of time, inconvenience, commercial loss, loss of profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor understands and agrees that it shall be liable to repay and shall repay upon demand to

END USER any amounts determined by H-GAC, its independent auditors, or any agency of State or Federal government to have been paid in violation of the terms of this Agreement.

ARTICLE 23: TITLES NOT RESTRICTIVE

The titles assigned to the various Articles of this Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any Article, or part of this Agreement.

ARTICLE 24: JOINT WORK PRODUCT

This Agreement is the joint work product of H-GAC and the Contractor. This Agreement has been negotiated by H-GAC and the Contractor and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against any party.

ARTICLE 25: DISPUTES

All disputes concerning questions of fact or of law arising under this Agreement, which are not addressed within the Whole Agreement as defined pursuant to Article 4 hereof, shall be decided by the Executive Director of H-GAC or his designee, who shall reduce his decision to writing and provide notice thereof to the Contractor. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such notice, the Contractor requests a rehearing from the Executive Director of H-GAC. In connection with any rehearing under this Article, the Contractor shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. The Contractor may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Agreement and in accordance with H- GAC's final decision.

ARTICLE 26: CHOICE OF LAW; VENUE

This Agreement shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with the Agreement shall lie exclusively in Harris County, Texas. Disputes between END USER and Contractor are to be resolved in accordance with the law and venue rules of the state of purchase. Contractor shall immediately notify H-GAC of such disputes.

ARTICLE 27: ORDER OF PRIORITY

In the case of any conflict between or within this Agreement, the following order of priority shall be utilized: 1) General Provisions, 2) Special Provisions, 3) Scope of Work, and, 4) Other Attachments.

SIGNATURES:
H-GAC and the Contractor have read, agreed, and executed the whole Agreement as of the date first written above, as accepted by:

MSA Safety Sales LLC

Signature Eleni Lucido
69B84E3AC38546C

Name Eleni Lucido

Title President

Date 7/12/2019

H-GAC

Signature DocuSigned by:
82EC27005D61423

Name Chuck Wemple

Title Executive Director

Date 7/11/2019

EXHIBIT B

H-GAC

Houston-Galveston Area Council
P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

Cooperative Agreement - MSA Safety Sales, LLC - Public Services -

SPECIAL PROVISIONS

Incorporated by attachment, as part of the whole agreement, H-GAC and the Contractor do, hereby agree to the Special Provisions as follows:

ARTICLE 1: BIDS/PROPOSALS INCORPORATED

In addition to the whole Agreement, the following documents listed in order of priority are incorporated into the Agreement by reference: Bid/Proposal Specifications and Contractor's Response to the Bid/Proposal.

ARTICLE 2: END USER AGREEMENTS ("EUA")

H-GAC acknowledges that the **END USER** may choose to enter into an End User Agreement ("EUA) with the **Contractor** through this Agreement, and that the term of the EUA may exceed the term of the current **H-GAC** Agreement. **H-GAC's** acknowledgement is not an endorsement or approval of the End User Agreement's terms and conditions. **Contractor** agrees not to offer, agree to or accept from the **END USER**, any terms or conditions that conflict with those in **Contractor's** Agreement with **H-GAC.** Contractor affirms that termination of its Agreement with H-GAC for any reason shall not result in the termination of any underlying EUA, which shall in each instance, continue pursuant to the EUA's stated terms and duration. Pursuant to the terms of this Agreement, termination of this Agreement will disallow the **Contractor** from entering into any new EUA with **END USERS.** Applicable **H-GAC** order processing charges will be due and payable to **H-GAC** on any EUAs, surviving termination of this Agreement between **H-GAC** and **Contractor.**

ARTICLE 3: MOST FAVORED CUSTOMER CLAUSE

Contractor shall provide its most favorable pricing and terms to H-GAC. If at any time during this Agreement, Contractor develops a regularly followed standard procedure of entering into agreements with other governmental customers within the State of Texas, and offers the same or substantially the same products/services offered to **H-GAC** on a basis that provides prices, warranties, benefits, and or terms more favorable than those provided to **H-GAC**, **Contractor** shall notify **H-GAC** within ten (10) business days thereafter, and this Agreement shall be deemed to be automatically retroactively amended, to the effective date of Contractor's most favorable past agreement with another entity. **Contractor** shall provide the same prices, warranties, benefits, or terms to **H-GAC** and its END USER as provided in its most favorable past agreement. H-GAC shall have the right and option at any time to decline to accept any such change, in which case the amendment shall be deemed null and void. If **Contractor** claims that a more favorable price, warranty, benefit, or term that was charged or offered to another entity during the term of this Agreement, does not constitute more favorable treatment, than **Contractor** shall, within ten (10) business days, notify **H-GAC** in writing, setting forth the detailed reasons **Contractor** believes the aforesaid offer is not in fact most favored treatment. **H-GAC**, after due consideration of Contractor's written explanation, may decline to accept such explanation and thereupon this Agreement between **H-GAC** and **Contractor** shall be automatically amended, effective retroactively, to the effective date of the most favored agreement, to provide the same prices, warranties,

benefits, or terms to H-GAC and the END USER.
EXCEPTION: *This clause shall not be applicable to prices and price adjustments offered by a bidder, Proposer or contractor, which are not within bidder's/proposer's control [example; a manufacturer's bid concession], or to any prices offered to the Federal Government and its agencies.*

ARTICLE 4: PARTY LIABILITY

Contractor's total liability under this Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to the price of the particular products/services sold hereunder. Contractor agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. Contractor accepts liability to repay, and shall repay upon demand to END USER, any amounts determined by H-GAC, its independent auditors, or any state or federal agency, to have been paid in violation of the terms of this Agreement.

ARTICLE 5: GOVERNING LAW & VENUE

Contractor and H-GAC agree that Contractor will make every reasonable effort to resolve disputes with the **END USER** in accord with the law and venue rules of the state of purchase. **Contractor** shall immediately notify **H-GAC** of such disputes.

ARTICLE 6: SALES AND ORDER PROCESSING CHARGE

Contractor shall sell its products to **END USERS** based on the pricing and terms of this Agreement. **H-GAC** will invoice **Contractor** for the applicable order processing charge when H-GAC receives notification of an END USER order. **Contractor shall remit to H-GAC** the full amount of the applicable order processing charge, after delivery of any product or service and subsequent END USER acceptance. Payment of the Order Processing Charge shall be remitted from Contractor to H-GAC, within thirty (30) calendar days or ten (10) business days after receipt of an END USER's payment, whichever comes first, notwithstanding Contractor's receipt of invoice. For sales made by **Contractor** based on this Agreement, including sales to entities without Interlocal Agreements, **Contractor** shall pay the applicable order processing charges to **H-GAC.** Further, **Contractor** agrees to encourage entities who are not members of H-GAC's Cooperative Purchasing Program to execute an **H-GAC** Interlocal Agreement. **H-GAC** reserves the right to take appropriate actions including, but not limited to, Agreement termination if **Contractor** fails to promptly remit the appropriate order processing charge to H-GAC. In no event shall **H-GAC** have any liability to **Contractor** for any goods or services an **END USER** procures from **Contractor.** At all times, **Contractor** shall remain liable to pay to **H-GAC** any order processing charges on any portion of the Agreement actually performed, and for which compensation was received by **Contractor.**

ARTICLE 7: LIQUIDATED DAMAGES

Contractor and H-GAC agree that Contractor shall cooperate with the END USER at the time an END USER purchase order is placed, to determine terms for any liquidated damages.

ARTICLE 8: INSURANCE

Unless otherwise stipulated in Section B of the Bid/Proposal Specifications, **Contractor** must have the following insurance and coverage minimums:

a. **General liability** insurance with a Single Occurrence limit of at least $1,000,000.00, and a General

Aggregate limit of at least two times the Single Occurrence limit.

Product liability insurance with a Single Occurrence limit of at least $1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit for all Products except Automotive Fire Apparatus. For Automotive Fire Apparatus, see Section B of the Bid/Proposal Specifications.

Property Damage or Destruction insurance is required for coverage of **End User** owned equipment while in **Contractor's** possession, custody or control. The minimum Single Occurrence limit is $500,000.00 and the General Aggregate limit must be at least two times the Single Occurrence limit. This insurance may be carried in several ways, e.g. under an Inland Marine policy, as art of Automobile coverage, or under a Garage Keepers policy. In any event, this coverage must be specifically and clearly listed on insurance certificate(s) submitted to **H-GAC**.

b. Insurance coverage shall be in effect for the length of any contract made pursuant to the Bid/Proposal, and for any extensions thereof, plus the number of days/months required to *deliver* any outstanding order after the close of the contract period.
c. Original Insurance Certificates must be furnished to **H-GAC** on request, showing **Contractor** as the insured and showing coverage and limits for the insurances listed above.
d. If any Product(s) or Service(s) will be provided by parties other than **Contractor**, all such parties are required to carry the minimum insurance coverages specified herein, and if requested by **H-GAC**, a separate insurance certificate must be submitted for each such party.
e. **H-GAC** reserves the right to contact insurance underwriters to confirm policy and certificate issuance and document accuracy.

ARTICLE 9: PERFORMANCE AND PAYMENT BONDS FOR INDIVIDUAL ORDERS

H-GAC's contractual requirements DO NOT include a Performance & Payment Bond (PPB); therefore, Contractor shall offer pricing that reflects this cost savings. **Contractor** shall remain prepared to offer a PPB to cover any order if so requested by the **END USER**. **Contractor** shall quote a price to **END USER** for provision of any requested PPB, and agrees to furnish the PPB within ten business (10) days of receipt of **END USER's** purchase order.

ARTICLE 10: CHANGE OF STATUS

Contractor shall immediately notify **H-GAC,** in writing, of **ANY** change in ownership, control, dealership/franchisee status, Motor Vehicle license status, or name. Contractor shall offer written guidance to advise H-GAC if this Agreement shall be affected in any way by such change. **H-GAC** shall have the right to determine whether or not such change is acceptable, and to determine what action shall be warranted, up to and including cancellation of Agreement.

ARTICLE 11: TEXAS MOTOR VEHICLE BOARD LICENSING

All that deal in motor vehicles shall maintain current licenses that are required by the Texas Motor Vehicle Commission Code. If at any time during this Agreement term, any required **Contractor** license is denied, revoked, or not renewed, **Contractor** shall be in default of this Agreement, unless the Texas Motor Vehicle

Board issues a stay or waiver. Contractor shall promptly provide copies of all current applicable Texas Motor Vehicle Board documentation to **H-GAC** upon request.

Attachment A			
MSA Safety Sales, LLC			
Emergency Medical & Rescue Equipment			
Contract No.: EE08-19			
Product Code	**Mfg.**	**Model & Description**	**Base Offered Price**
EE19ACA	MSA	MSA 2019 US Suggested List Price Book (Effective Jan 1, 2019)	15%
EE19HDA	MSA	MSA 2019 US Suggested List Price Book (Effective Jan 1, 2019)	5%
EE19LVA	MSA	Fire and Rescue Helmets-Effective 01/15/2019	15%

EXHIBIT B

CONTRACT ASSIGNMENT AND ASSUMPTION AGREEMENT

This Contract Assignment and Assumption Agreement is made by and between the **Houston-Galveston Area Council of Governments (H-GAC), MSA Safety Sales, LLC (Contractor) and Bauer Compressors, Inc (Assignee).**

WHEREAS, **Contractor** entered into a cooperative purchasing Contract, identified as **EE08-19**, with **H-GAC** for the sale of **Emergency Medical and Rescue Equipment** to various End User governmental agencies participating in **H-GAC's** Cooperative Purchasing Program; and

WHEREAS, **Contractor** assigns the performance of its obligations under the Contract to **Assignee** for cooperative purchasing business in specific areas (per attached Information Sheet); and

WHEREAS, **Assignee** shall perform as stipulated in the original Contract (a copy of which is attached hereto) and comply with all the terms and conditions set forth therein; and

WHEREAS, **Contractor** will continue as originally contracted with **H-GAC**; and

NOW THEREFORE, **Assignee** agrees to accept this assignment, and **H-GAC** concurs.

Unless otherwise noted, this Agreement goes into effect on the date signed by **H-GAC**. All other terms and conditions of the Contract shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Contract Assignment and Assumption Agreement to be executed by their respective duly authorized representatives.

Signed for **Houston-Galveston Area Council:** DocuSigned by: _____

Chuck Wemple, Executive Director

9/19/2019

Date

Signed for **MSA Safety Sales, LLC** Cranberry Township, Pennsylvania: Michael J. Taillon _____ Date: August 27, 2019

(Signature of Contractor)

Michael J. Taillon, Manager, NA Sales Channels

Printed Name & Title

Signed for **Bauer Compressors, Inc** Norfolk, Virginia: _____ Date: AUGUST 27, 2019

(Signature of Assignee)

TIM MCGUIRE, BRANCH MANAGER

Printed Name & Title

EXHIBIT B

AMENDMENT No. 1 to CONTRACT No. EE08-19
For
Emergency Medical & Rescue Equipment
Between
HOUSTON-GALVESTON AREA COUNCIL
And
Bauer Compressors, Inc

THIS AMENDMENT modifies the above referenced Contract as follows:

This contract is extended through July 31, 2022 Midnight CT.

Unless otherwise noted, this amendment goes into effect on the date signed by **H-GAC.** All other terms and conditions of this Contract shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives.

Signed for **Houston-Galveston Area Council,**
Houston, Texas

DocuSigned by:
826C270D5D61423...
Chuck Wemple, Executive Director

Date: 6/24/2021

Signed for: **Bauer Compressors, Inc**

DocuSigned by:
Tim McGuire
EF24352C92104A3...

Printed Name & Title: Tim McGuire BRANCH MANAGER

Date: 6/23/2021

EXHIBIT B

MSA HGAC **List Price Discounting Reference Sheet**

2021

MSA
The Safety Company

Product	% off List Price
SELF-CONTAINED BREATHING APPARATUS (SCBA)	
G1 SCBA Facepieces	15%
G1 SCBA Cylinders	15%
G1 SCBA Rescue Belt II System	15%
G1 SCBA Accessories	15%
MSA HUB	15%
Emergency Breathing Systems	15%
G1 PremAire Cadet Escape Respirator	15%
SCBA Accessories	15%
SCBA Key Components	15%
Rescue Aire II Portable Air-Supply System	15%
G1 RIT System	15%
Technical Rescue Cart	15%
Cleaning Accessories	15%
Other SCBA Accessories	15%
CBRN FACEPIECE	
CBRN Facepiece and Replacement Components	15%
MSA CAIRNS FIRE AND RESCUE HELMETS	
Helmets	15%
Replacement Parts	15%
EYE PROTECTION	
Safety Glasses	15%
EVOLUTION THERMAL IMAGING CAMERAS	
Thermal Imaging Camera	5%
Charging Kits	5%
Accessories	5%
Video Transmission Receiving Systems	5%
GAS DETECTION	
Gas Detector	15%
Kits	15%
Accessories	15%
FALL ARREST, RESCUE AND CONFINED SPACE EQUIPMENT	
Gravity Suspension Harness	15%
Rescue Equipment	15%

Note: This Bulletin contains only a general description of the products shown. While product uses and performance capabilities are generally described, the products shall not, under any circumstances, be used by untrained or unqualified individuals. The products shall not be used until the product instructions/user manual, which contains detailed information concerning the proper use and care of the products, including any warnings or cautions, have been thoroughly read and understood. Specifications are subject to change without prior notice.

MSA operates in over 40 countries worldwide. To find an MSA office near you, please visit ***MSAsafety.com/offices***.

Information Sheet

Assignee:

Bauer Compressors, Inc

Contact Person:

Name: Tim McGuire
Title: Branch Manager
TEL: (925) 449-7210
Fax: (925) 449-7201
EMAIL: tim.mcguire@bauersf.com

Address:
1328 Azalea Garden Road
Norfolk, VA 23502

Territory:
States of California and Nevada

Tim McGuire

From: Freeman, Yolanda <Yolanda.Freeman@h-gac.com>
Sent: Wednesday, September 25, 2019 12:30 PM
To: Tim McGuire
Cc: Scott McGuire; Metty, Tammy
Subject: Executed assignment to Bauer by MSA-EE08-19
Attachments: A1907160959253514064.pdf; A1909250918034692646.pdf

Tim

Enclosed is one completely executed contract assignment agreement for the Assignment of Bauer Compressors, Inc. by MSA Safety Sales, LLC. Please visit our website at: www.hgacbuy.org to schedule your vendor orientation. Should you require further information concerning this contract, please call me at 832-681-2581.

Regards

Yolanda Freeman
Program Specialist
H-GAC Cooperative Purchasing Program
TEL: 832-681-2581
FAX: 713-993-2424
cpcontractorfax@h-gac.com
Yolanda.freeman@h-gac.com

EXHIBIT C

AMENDMENT No. 2 to CONTRACT No. EE08-19
For
Emergency Medical & Rescue Equipment
Between
HOUSTON-GALVESTON AREA COUNCIL
And
Bauer Compressors, Inc

THIS AMENDMENT modifies the above referenced Contract as follows:

This contract is extended through July 31, 2023 Midnight CT.

Unless otherwise noted, this amendment goes into effect on the date signed by **H-GAC.** All other terms and conditions of this Contract shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives.

Signed for **Houston-Galveston Area Council,**
Houston, Texas

DocuSigned by:
82C9270B5B01423...
Chuck Wemple, Executive Director

Date: 6/27/2022

Signed for: **Bauer Compressors, Inc**

DocuSigned by:
Tim McGuire
EF24352C92104A3...
Tim McGuire BRANCH MANAGER

Printed Name & Title:

Date: 6/27/2022

Revised 6.1.18

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.12**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing execution of an agreement with CityServe of the Tri-Valley to provide crisis stabilization and intervention services to unsheltered Livermore residents in an amount not-to-exceed $134,000.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing execution of an agreement with CityServe of the Tri-Valley to provide crisis stabilization and intervention services to unsheltered Livermore residents in an amount not-to-exceed $134,000 for the period of July 1, 2022, to June 30, 2023.

SUMMARY

This general fund agreement with CityServe of the Tri-Valley will provide operational security to support additional crisis stabilization and intervention services for Livermore residents experiencing homelessness or on the verge of becoming homeless. In order to meet the needs of some of the most vulnerable residents, CityServe will provide street outreach, weekly pop-up events, crisis management, comprehensive care coordination, and action planning for clients.

DISCUSSION

In 2018, the Council appointed Councilmembers Carling and Munro to the City Council Subcommittee on Homelessness to develop a Strategic Framework to address short-, medium-, and long-term strategies. The Subcommittee work plan included a series of community meetings with presentations from experts and service providers to expand community dialogue around homelessness issues and to discuss potential program strengths, challenges, and resources.

The Council’s Subcommittee on Homelessness recommended several pilot programs which included CityServe of the Tri-Valley's (CityServe) to provide intervention services to Livermore unsheltered residents. Some of the services that CityServe of the Tri-Valley provides include, but are not limited to,

critical comprehensive care coordination, crisis intervention, case management, street outreach, assistance with acquiring vital documents to enroll in or retain public benefits and maintain housing, and access to medical and mental health services.

The initial funding was provided by the state's Homeless Emergency Aid Program (HEAP) administered by Alameda County. On November 4, 2019, the City entered into an agreement with CityServe of the Tri-Valley utilizing a one-time allocation of HEAP funds in the amount of $494,870. This funding provided crisis stabilization and case management services for 169 individuals, which included 144 unduplicated households, of whom 106 were unsheltered, and 38 were sheltered. CityServe also provided emergency hotel assistance to 43 individuals and rental assistance to 34 individuals.

On July 31, 2020, the City entered into a First Amendment to its initial general fund agreement with CityServe in the amount of $92,850 to provide additional and continued resources, including case management and emergency hotel vouchers for medically fragile individuals.

On February 11, 2021, the City entered into two agreements with CityServe of the Tri-Valley utilizing federal Community Development Block Grant Programs (CDBG)-Covid funds in the amount totaling $300,000 to provide crisis stabilization, intervention services, and emergency subsidies for 140 unsheltered Livermore residents.

In addition to crisis stabilization and intervention services, CityServe plays a critical role in the coordination of services among Tri-Valley service providers. Currently, they conduct weekly outreach efforts with Livermore Police Department's Homeless Liaison officers to offer services to the unsheltered. They are also partnering with Open Heart Kitchen to provide an outreach specialist with unsheltered food delivery services. These non-traditional outreach efforts allow CityServe to make additional contact with their clients in the community. Their coordination efforts also played a vital role in the recruitment of volunteers for the 2022 Alameda County homeless Point in Time Count.

The proposed agreement will fund CityServe's ongoing efforts through June 30, 2023, and provide the resources needed to support outreach, crisis intervention, connection, care and/or resourcing to stabilize additional Livermore residents who are experiencing homelessness or at risk of becoming homeless. As the need continues to increase in the community, we anticipate the demand for these funds to continue, and staff will look at adding the line item when developing the next budget.

FISCAL AND ADMINISTRATIVE IMPACTS

Funding for this agreement is included in the Housing and Human Services General Fund program budget for FY 2022-23.

ATTACHMENTS

1. Resolution
2. Exhibit A - Agreement with CityServe of the Tri-Valley

Prepared by: Josh Thurman
Human Services Program 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 EXECUTION OF AN AGREEMENT WITH CITYSERVE OF THE TRI-VALLEY TO PROVIDE CRISIS STABILIZATION AND INTERVENTION SERVICES TO UNSHELTERED LIVERMORE RESIDENTS IN THE AMOUNT NOT TO EXCEED $134,000

CityServe of the Tri-Valley provides essential crisis stabilization and intervention services to Livermore's unsheltered population and CityServe plays a critical role in the coordination of services amongst Tri-Valley service providers.

On November 4, 2019, the City entered into an agreement with CityServe of the Tri-Valley utilizing a one-time allocation of Homeless Emergency Aid Program (HEAP) funds. This funding provided crisis stabilization and case management services for 169 individuals, which included 144 unduplicated households of whom 106 were unsheltered and 38 were sheltered. CityServe also provided emergency hotel assistance to 43 individuals and rental assistance to 34 individuals.

On June 26, 2020, due to the COVID-19 pandemic, the City entered into an agreement with CityServe of the Tri-Valley to provide case management and emergency hotel vouchers to 20 medically fragile individuals.

On July 31, 2020, the City entered into a First Amendment agreement to provide additional resources to continue providing case management and emergency hotel vouchers for medically fragile individuals.

On February 11, 2021, the City entered into two agreements with CityServe of the Tri-Valley, utilizing federal CDBG-COVID funds to provide crisis stabilization and intervention services for 140 unsheltered Livermore residents.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore hereby authorizes the City Manager, or her designee, to sign on behalf of the City of Livermore the agreement with CityServe of the Tri-Valley, attached hereto as Exhibit A, in an amount not to exceed $134,000.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Jason Alcala
Jason Alcala
City Attorney

Exhibit A - CityServe of the Tri-Valley Agreement

AGREEMENT BETWEEN CITY OF LIVERMORE AND CITYSERVE OF THE TRI-VALLEY FOR FISCAL YEAR 2022-2023 GENERAL FUND

THIS AGREEMENT, entered into this ____ day of _____, 2022, between the City of Livermore, a municipal corporation ("City"), and CityServe of the Tri-Valley, a California Non-Profit Organization ("Recipient").

RECITALS

On October 24, 2016, the City Council recognized homelessness as a priority and committed local funds and dedicated staff to develop and implement strategies that address the growing number of homeless families and individuals.

On December 2, 2019, the city entered into an agreement with CityServe of the Tri-Valley utilizing a one-time Livermore only Homeless Emergency Aid Program (HEAP) funds to provide crisis stabilization services to the homeless.

CityServe supports homeless Livermore residents by providing case management, critical document preparation, health, and housing navigation services.

City wishes to engage the Recipient to provide homeless services in the City of Livermore.

Recipient has applied to City for funding for a project or program to provide leadership for outreach, crisis intervention, connection, care and/or resources to stabilize Livermore residents ("Project").

On June 13, 2022, the Livermore City Council approved resolution number 2022-098 to award the Recipient the amount of $134,000 from its FY 2022-2023 General Funds ("Program") for the Project.

AGREEMENT

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

1. **Relationship of Parties (Independent Contractors).** The relationship of the parties shall be that of independent contractors. Recipient and its employees are not City officers or employees. Recipient 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 performance of the Activities contemplated by this Agreement.

2. **Scope of Service.**

A. Activities. Recipient is responsible for administering the Funds awarded in a manner satisfactory to City as outlined in this Scope of Service. Recipient shall also be responsible for the supplemental terms and conditions contained in Exhibit "A" Scope of Work and Budget.

i) *Project Overview*: Provide leadership for outreach, crisis intervention, connection, care and/or resources to stabilize Livermore residents .

ii) *Service Objective*. Provide leadership for outreach, crisis intervention, connection, care and/or resources to stabilize Livermore residents as more particularly set forth in Exhibit "A". ("Activities").

iii) *General Administration*. The Funds for the Activities are to be administered under the direction of the Recipient's Executive Director.

B. Budget. City will grant, and Recipient will use, the Funds awarded pursuant to resolution number 2022-098 approved on June 13, 2022 and under the budget terms set forth in Exhibit "A" to perform the Activities consistent with the terms and conditions of this Agreement, the Project, and any conditions imposed upon the Project.

C. Performance Monitoring. City will monitor Recipient's performance against the objective outlined in Section 2A(ii). Substandard performance as determined by the city will constitute non-compliance with this agreement.

3. **Time for Performance.** Recipient shall commence the Activities on July 1, 2022, and continue the Activities through June 30, 2023.

4. **Payment.** It is expressly agreed and understood that the total amount available from City to Recipient for the Activities under this Agreement shall not exceed the amount of $134,000 under the budget terms set forth in Exhibit "A". Even though the Funds are available, Recipient shall only be entitled to draw that portion of the Funds commensurate with the Activities provided. City shall only make payments for those Activities that comply with the terms and conditions of this Agreement.

5. **Hold Harmless and Indemnity.** Recipient shall defend, indemnify and hold City, its elected officials, officers, directors, employees, agents, and designated volunteers harmless from and against any and all loss, liability, damage, including but not limited to, reasonable attorney, consultant and expert fees, and court costs arising out of or in connection with this Agreement, except for the gross negligence and willful misconduct of City, its elected officials, officers, directors, employees, agents, and designated volunteers.

6. **Insurance.** Recipient 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 Activities. Upon reasonable written notice, Recipient shall comply with any changes in the amounts and terms of insurance as may be required from time-to-time by the City's Risk Manager.

7. **Copyright and Right of Use.** All items created by Recipient under this Agreement are works made for hire, and Recipient shall give City the copyright and all intellectual property rights to all items developed, prepared, and delivered as part of the Activities. Recipient agrees that all aspects of the Activities 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 Recipient to City and Recipient 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 Activities.

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

City: City of Livermore
Attn: Josh Thurman, Human Services Program Manager
1052 Livermore Avenue
Livermore, California 94550

Recipient: CityServe of the Tri-Valley
Attn: Christine Beitsch-Bahmani
PO Box 1613
Pleasanton, CA 94566

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

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

11. **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 or document incorporated by reference, the language in the body of the Agreement controls.

12. **Entire Agreement; Modification.** This Agreement supersedes all other agreements, whether oral or written, between the parties with respect to the Activities. Any modification to this Agreement must be in writing and signed by both parties. No amendment may invalidate this Agreement or relieve or release City or Recipient from its obligations under this Agreement. City may, in its discretion, amend this Agreement in writing to conform with Federal, State, or local laws, regulations, guidelines, or policies related to the use of the Funds for the Activities.

However, if such amendments result in a change in the funding, the scope of services, or the Activities, such modifications shall be incorporated only by written amendment signed by both City and Recipient. In the event the original of this Agreement is lost or destroyed, an archival copy maintained by City may be used in place of the original for all purposes with the same effect as if it was the original.

****

Signatures and Attachment List on the Next Page

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

CITYSERVE OF THE TRI-VALLEY
"Subrecipient"

BY: _____ **DATED:** 8/24/22
Christine Beitsch-Bahmani
Executive Director

Federal I.D. or Social Security No.

37-1735822

CITY OF LIVERMORE
a Municipal Corporation
"City"

BY: _____ **DATED:** _____
Marianna Marysheva
City Manager

APPROVED AS TO FORM:

_____
ASSISTANT/CITY ATTORNEY

Attachments:

Exhibit A Scope of Work and Budget
Exhibit B Insurance Requirements

EXHIBIT A

Scope and Budget

Fiscal Year: 2022-2023
Agency Name: CityServe of the Tri-Valley
Program Name: Capacity Stabilization

Scope of Work

The project will include the following activities eligible under the Program:

- Operational security to support both Intervention, Prevention and Senior Support Programs and Services for Livermore residents: strategic planning, subsidy distribution management, data collection, record keeping, compliance, promotions, budgeting and invoicing.
- Street Outreach and/or Intake Screening at weekly pop-up events in Livermore
- Crisis Management and Action Planning
- Comprehensive Care Coordination
- Connecting participants to a Community Care Advocate or reconnecting with a family member
- Helping program participants acquire vital documents, enroll in, or retain public benefits, access, or maintain housing, access employment opportunities, and access medical and mental health services

Provide leadership for outreach, crisis intervention, connection, care and/or resourcing to stabilize **1800** Livermore community members.

Budget

Amount of Grant: $134,000 (General Fund)

Funding Uses/Expenses	City Allocation
Personnel Salaries	$120,600
Personnel Benefits	$13,400
TOTAL	**$134,000**

Description of Funding for Salaries:

Care & Resource Supervisor- 97% of salary and benefits
Administrative Personnel- 50% of salary and benefits

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

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. 4.13**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing execution of a standard agreement with the State of California to receive $581,440 from the Family Homelessness Challenge Grant, appropriating the grant funds for award to the Livermore Housing Authority to support unhoused families, and authorizing the City Manager to negotiate a subrecipient agreement between the City and the Livermore Housing Authority for the grant funds.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. Authorizing the City Manager to execute the Standard Agreement between the City of Livermore and the State of California to secure the Family Homelessness Challenge Grant;
2. Appropriating up to $581,440 in Family Homelessness Challenge Grant funds to the Livermore Housing Authority for a grant to implement the Project; and
3. Authorizing the City Manager, or her designee, to negotiate, develop, and execute all documents related to the issuance of Family Homelessness Challenge Grant funds, including a subrecipient agreement with the Livermore Housing Authority, and authorizing the City Manager to take the actions necessary to carry out the purpose and intent of this resolution.

SUMMARY

On June 27, 2022, the State of California awarded the City of Livermore (City) $581,440 in Family Homelessness Challenge Grant Funds for a collaborative program to set aside twelve (12) vacant units at Leahy Square Apartments with supportive services for unhoused students in the Livermore Valley Unified School District and their families. The proposed program will provide unhoused families with the robust support needed to stabilize and navigate the multi-year process of accessing permanent housing, including case management, service coordination, behavioral health services and permanent housing navigation.

The City and Livermore Housing Authority (LHA) are working with local providers and the Livermore Valley Joint Unified School District to design the program and identify tenants for the twelve vacant units. As the property owner, the Livermore Housing Authority will assume the primary responsibility for

selecting tenants, engaging a provider of intensive case management services and managing the property. The City would act as the grant recipient and pass through the funds to LHA. Staff recommends City Council authorize the City Manager to execute the standard agreement with the State of California as well as develop and approve a subrecipient agreement with the Livermore Housing Authority, in a form approved by the City Attorney, to implement the grant.

DISCUSSION

On August 11, 2021, the City of Livermore (City) released a Request for Information (RFI) seeking potential partners for the submittal of future funding applications for projects that create housing for people experiencing homelessness. One of the responses received was from the Livermore Housing Authority (LHA) to dedicate vacant units at Leahy Square Apartments for people experiencing homelessness.

Leahy Square Apartments (Leahy Square) is a 125-unit affordable housing site owned and operated by the Livermore Housing Authority. Units in Leahy Square vary in size from one to five bedrooms, providing the ability to house larger families with children as well as multigenerational families. The City and Livermore Housing Authority have designed a supportive bridge housing program that would address City Council's affordable housing and homelessness goals and priorities by dedicating vacant units at Leahy Square for households experiencing homelessness.

In 2021, the State of California created the Family Homelessness Challenge Grant Program which provides funding to local agencies and jurisdictions across the state to develop new, coordinated efforts to house and support families with the goal of making families' experiences of homelessness rare, brief and one-time. The program is administered by the California Interagency Council on Homelessness (Cal ICH) which is part of the State of California's Business, Consumer Services and Housing Agency. Program requirements for grantees include expending all grant funds by June 30, 2024, applying the core components of a Housing First approach to addressing homelessness and incorporating the perspective of people with lived experience in the program design.

On June 27, 2022, Cal ICH awarded the City of Livermore $581,440 to fund a program that would set aside twelve (12) vacant units at Leahy Square and provide supportive services for unhoused students in the Livermore Valley Unified School District and their families. Livermore is one of ten other communities across California to receive this competitive award.

The City and Livermore Housing Authority are working with local providers and the Livermore Valley Joint Unified School District to design the program and identify tenants for the twelve vacant units. The proposed program will help re-house students attending Livermore schools and provide their families with the interim housing and robust support needed to stabilize and navigate the multi-year process of accessing permanent housing. Examples of the tenant-centered, trauma-informed and culturally relevant services that will be offered include case management, service coordination, behavioral health services and permanent housing navigation. Once families find and move into permanent housing, the assisted units will become available for new families experiencing homelessness.

The rents that unhoused families can afford to pay is projected to be 15% of the area median income, which is significantly less than the rental revenue the Livermore Housing Authority will be collecting for other units at Leahy Square funded through other sources. Therefore, grant funds would be used to establish a capitalized operating reserve to support and maintain the desired affordability for participating

units for a period of ten years. The Cal ICH grant will also fund four years of intensive case management services for households participating in the program. The Livermore Housing Authority is developing a plan to contribute other funding towards the program's capitalized operating reserve to ensure the services and affordability of rents are maintained for an operating period of ten years. The City is not required to contribute local matching funds to the project, but staff is working with the Livermore Housing Authority to identify other federal and state funding sources that could enhance or extend operation of the program.

As the property owner, the Livermore Housing Authority will assume the primary responsibility for selecting tenants, engaging a provider of intensive case management services and managing the property. As the grantee, the City will disburse awarded funds to the LHA to fund the capitalized operating reserve and reimburse LHA for intensive case management costs. In addition to accepting the funds from the State and entering into the Standard Agreement, staff recommends that City Council authorize the City Manager to develop and execute, subject to form approval by the City Attorney, a subrecipient agreement outlining the State program requirements and funding conditions with which the LHA will comply.

FISCAL AND ADMINISTRATIVE IMPACTS

Upon entering into a Standard Agreement with the State, the City would be eligible to draw $581,440 in Family Homelessness Challenge Grant Funds for the purposes described in the City's application and would subsequently enter into a subrecipient agreement to disburse the awarded funds to the Livermore Housing Authority. The City would administer the grant reporting and ensure that the funds are directed towards the costs of providing supportive services and deeply affordable rents for low-income households experiencing homelessness. No local City matching funds are required for the grant. The City is working with the LHA to develop a program budget and identify other state and federal funding sources that could enhance or extend the program.

ATTACHMENTS

1. Resolution
2. Exhibit A - Agreement

Prepared by: Grace Streltzov
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 THE EXECUTION OF A STANDARD AGREEMENT WITH THE STATE OF CALIFORNIA FOR THE CITY OF LIVERMORE TO RECEIVE $581,440 FROM THE FAMILY HOMELESSNESS CHALLENGE GRANT, APPROPRIATING THOSE FUNDS FOR AWARD TO THE LIVERMORE HOUSING AUTHORITY TO SUPPORT UNHOUSED FAMILIES, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE A SUBRECIPIENT AGREEMENT BETWEEN THE CITY AND THE LIVERMORE HOUSING AUTHORITY FOR THOSE GRANT FUNDS

The State of California has established the Family Homelessness Challenge Grant Program (the "Program") pursuant to Chapter 8 (commencing with Section 50255) of Part 1 of Division 31 of the Health and Safety Code (HSC). (Amended by Stats. 2021, Ch. 111, Sec. 14. (AB 140) Effective July 19, 2021.)

The Program is administered by the California Interagency Council on Homelessness ("Cal ICH") in the Business, Consumer Services and Housing Agency ("Agency"). The Program provides one-time grants and technical assistance to support local jurisdictions and Continuums of Care in their response to address and end homelessness.

In response to a Request for Information issued by the City of Livermore on August 11, 2021, the Livermore Housing Authority submitted a proposal to dedicate units at Leahy Square Apartments (the "Property") for people experiencing homelessness.

The Agency issued a Request for Funding Applications, dated March 1, 2022 ("RFA"), for the Program. The City of Livermore applied for Program funds to provide unhoused students and their families with bridge housing at the Property, supportive services, and housing navigation (the "Project").

On June 27, 2022, Cal ICH awarded the City of Livermore $581,440 in Program funds. The Agency requires the City of Livermore to enter into the Standard Agreement ("Standard Agreement") attached as Exhibit A to this Resolution to execute the funding award.

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

1. The City Manager, or her designee, is authorized to execute the Standard Agreement attached as Exhibit A to this Resolution between the City of Livermore and the State of California to receive $581,440 from the Family

Homelessness Challenge Grant, all other related documents authorized and described in that agreement, and all amendments thereto.

2. The appropriation of the Family Homelessness Challenge Grant funds received from the State to be awarded to the Livermore Housing Authority for a grant to implement the Project.

3. The City Manager, or her designee, is authorized to negotiate, develop and execute all documents related to the issuance of Family Homelessness Challenge Grant funds to the Livermore Housing Authority, including a subrecipient agreement subject to the City Attorney's approval as to form, and authorizing the City Manager to take the actions necessary to carry out the purpose and intent of this resolution.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Jason Alcala
Jason Alcala
City Attorney

Exhibit A – Standard Agreement

SCO ID:

EXHIBIT A

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER	PURCHASING AUTHORITY NUMBER (If Applicable)
22-FHC-10004	010725

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Business, Consumer Services and Housing Agency

CONTRACTOR NAME

City of Livermore

2. The term of this Agreement is:

START DATE

Upon BCSH Approval

THROUGH END DATE

3/31/2027

3. The maximum amount of this Agreement is:

$581,440.00 (Five Hundred Eighty One Thousand Four Hundred Forty Dollars and No Cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

	Exhibits	Title	Pages
	Exhibit A	Authority, Purpose and Scope of Work	5
	Exhibit B	Budget Detail and Disbursement Provisions	4
	Exhibit C	State of California General Terms and Conditions	1
+ -	Exhibit D	General Terms and Conditions	10
+ -	Exhibit E	Special Terms and Conditions	2

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at https://www.dgs.ca.gov/OLS/Resources

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

City of Livermore

CONTRACTOR BUSINESS ADDRESS	CITY	STATE	ZIP
1052 S Livermore Avenue	Livermore	CA	94550

PRINTED NAME OF PERSON SIGNING	TITLE

CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED

SCO ID:

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

EXHIBIT A

AGREEMENT NUMBER	PURCHASING AUTHORITY NUMBER (If Applicable)
22-FHC-10004	010725

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME			
Business, Consumer Services and Housing Agency			
CONTRACTING AGENCY ADDRESS	CITY	STATE	ZIP
915 Capitol Mall, Suite 350-A	Sacramento	CA	95814
PRINTED NAME OF PERSON SIGNING	TITLE		
Lourdes Castro Ramírez	Secretary		
CONTRACTING AGENCY AUTHORIZED SIGNATURE	DATE SIGNED		
CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL	EXEMPTION (If Applicable)		

Family Homelessness Challenge Grant and Technical Assistance Program Standard Agreement

EXHIBIT A

AUTHORITY, PURPOSE, AND SCOPE OF WORK

1) **Authority**

The State of California has established the Family Homelessness Challenge Grant Program ("FHC" or "Program") pursuant to Chapter 8 (commencing with Section 50255) of Part 1 of Division 31 of the Health and Safety Code (HSC). (Amended by Stats. 2021, Ch. 111, Sec. 14. (AB 140) Effective July 19, 2021.)

The Program is administered by the California Interagency Council on Homelessness ("Cal ICH") in the Business, Consumer Services and Housing Agency ("Agency"). FHC provides one-time grants and technical assistance to support local jurisdictions and Continuums of Care in their response to address and end homelessness. In all, $30 million will be distributed across a minimum of two rounds of funding. This Standard Agreement is for Round 1 of the FHC funds totaling $15 million (FHC-1).

This Standard Agreement along with all its exhibits ("Agreement") is entered into by the Agency and a Continuum of Care, a city, or a county ("Grantee") under the authority of, and in furtherance of the purpose of, the Program. In signing this Agreement and thereby accepting this award of funds, the Grantee agrees to comply with the terms and conditions of this Agreement, the Request for Applications ("RFA") under which the Grantee applied, the representations contained in the Grantee's application, Agency guidance or directives, and the requirements appearing in the statutory authority for the Program cited above.

2) **Purpose**

The general purpose of the Program is to provide one-time grants and technical assistance to local jurisdictions to address and end family homelessness. This funding shall give preference to proposals that:

1. Promote rapid innovation, accelerate nascent programs, expand promising practices, and meet new demands and conditions for solutions targeted towards ending family homelessness.
2. Can demonstrate cross-systems collaboration, multi-funder initiatives, and innovative efforts that coordinate across funding streams and systems.

3) **Definitions**

The following Family Homelessness Challenge Grants Program terms are defined in accordance with HSC Section 50255, subdivisions (a) – (h);

(a) "Applicant" means a continuum of care, city, or county.

(b) "Continuum of care" has the meaning provided in Section 578.3 of Title 24 of the Code of Federal Regulations as that section read on May 1, 2021.

(c) "Council" means the California Interagency Council on Homelessness, previously known as the Homeless Coordinating and Financing Council, created pursuant to Section 8257 of the Welfare and Institutions Code.

(d) "County" includes, but is not limited to, a city and county.

(e) "Homeless" has the same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on May 1, 2018.

(f) "Local jurisdiction" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.

(g) "Program" means the Family Homelessness Challenge Grants and Technical Assistance Program established pursuant to this chapter.

(h) "Recipient" means a jurisdiction that receives funds from the council for the purposes of the program.

Additional definitions for the purposes of the FHC-1 program:

"Grantee" is synonymous with "Recipient"

"Subrecipients" or "subgrantees" are entities that receive subawards from "recipients" or "grantees" to carry out part of the Program.

"Expended" means all FHC-1 funds obligated under contract or subcontract that have been fully paid and receipted, and no invoices remain outstanding.

4) **Scope of Work**

a) This Scope of Work identifies the terms and conditions necessary to accomplish the Program's intended objectives.

The Program has two, interdependent objectives. First, grantees will implement FHC-1 funded local demonstration projects. Second, in close partnership with Grantees, Agency will evaluate the manner and outcomes of this implementation. Those learnings will be shared across the state. The technical assistance portion of this program is a fundamental component of

achieving these objectives. To this end, Agency intends to pursue two contracts in support of these objectives; one will support grantees in achieving the first objective and the second will support the state in achieving the second objective.

b) Grantees will implement their FHC-1 funded local demonstration projects as described in their application. Any material deviation from the proposal described in the application must be approved by Agency through the Budget Change process described in Exbibit B.3. Furthermore, Grantees will implement their FHC-1 funded program in compliance with the terms and conditions of this Agreement, the Request for Applications ("RFA") under which the Grantee applied, the representations contained in the Grantee's application, Agency guidance or directives, and the requirements per the authorizing statute.

   Permissible eligible uses and activities are detailed below in Exhibit B, Budget Details and Expenditure of Funds.

c) Because of the legislative intent to share scalable and replicable family homelessness models:
   - Information about the program submitted through reporting and provided through TA reports will be public information that Agency will use to disseminate learnings and successful models to be replicated and scaled across the state.
   - Grantees are expected to be close partners with Agency. This means timely and accurate reporting, candid communication of successes and challenges, and availability of persons, information, and materials.

d) Quarterly reporting requirements are detailed below in Exhibit D.4. Reporting, Evaluation, and Audits.

   Fiscal deadlines are detailed below in Exhibit A.6. Effective Date, Term of Agreement, and Deadlines.

   Grantees shall complete a Final Work Product (as detailed below in Exhibit A.6.d.) and participate in a program evaluation regarding their implementation of FHC-1 awards. To support this effort, the Agency will make technical assistance support available.

e) Agency maintains sole authority to determine if a grantee is acting in compliance with the program objectives and may direct grantees to take specified actions or risk breach of this Agreement. Grantees will be provided reasonable notice and Agency's discretion in making these determinations are absolute and final.

5) **Agency Contract Coordinator**

The Agency's Contract Coordinator for this Agreement is the Council's Grant Development Section Chief or the Grant Development Section Chief's designee. Unless otherwise instructed, any communication shall be conducted through email to the Agency Contract Coordinator or their designee. If documents require an original signature, the strongly preferred form is an e-Signature in accordance with the Uniform Electronic Transactions Act (UETA). If an Awardee is unwilling or unable to sign a document electronically, BCSH shall accept wet or original signed documents. These documents containing wet signatures should be both mailed to Agency and scanned and emailed as instructed. State law or policy may require the use of wet signatures for specific documents.

The Representatives during the term of this Agreement will be:

	PROGRAM	**GRANTEE**
ENTITY:	Business Consumer Services and Housing Agency	City of Livermore
SECTION/UNIT:	California Interagency Council on Homelessness (Cal ICH)	
ADDRESS:	801 Capital Mall, 6th floor Sacramento, CA, 95814	1052 S Livermore Avenue Livermore, CA 94577
CONTRACT COORDINATOR:	Jeannie McKendry	Fran Reisner
PHONE NUMBER:	(916) 510-9446	(925) 960-4583
EMAIL ADDRESS:	Jeannie.McKendry@bcsh.ca.gov **and** calichgrants@bcsh.ca.gov	fdreisner@livermoreca.gov

The Council reserves the right to change their Agency Contract Coordinator, designee, and / or contact information at any time with reasonable notice to the Grantee.

All requests to update the Grantee information listed within this Agreement shall be emailed to the Cal ICH grant's general email box at calichgrants@bcsh.ca.gov.

6) **Effective Date, Term of Agreement, and Deadlines**

a) This Agreement is effective upon execution by Agency. This is indicated by the Agency provided signature and date on the second page of the accompanying STD. 213, Standard Agreement. Note, Agency signs the Agreement *after* a Grantee signs.

b) Grantees will continue to perform until the Agreement is terminated, including data reporting and participation in program evaluation activities, as needed.

c) This Agreement will terminate on March 31, 2027.

Grantees shall submit a Final Work Product by September 30, 2026. The Final Work Product will include programmatic and fiscal data and a narrative on the outputs and outcomes of the program on a reporting template to be provided by Cal ICH.

Cal ICH will review submitted Final Work Products and collaborate with Grantees to cure any deficiencies by March 31, 2027.

Grantees are expected to continue performing until March 31, 2027. This means timely and accurate reporting, candid communication of success and challenges, and availability of persons, information, or materials.

d) Expenditure Deadlines:

i. Pursuant to HSC § 50258 (b), Grantees shall expend no less than 50 percent of FHC-1 funds by June 30, 2024. If less than 50 percent of the award is expended on June 30, 2024, grantees shall return to the council no less than 25 percent of their total allocation amount for reallocation by the council during subsequent rounds of funding. The repayment amount shall be determined by the council based on its evaluation of the circumstances behind the failure to expend the allocated funds in compliance with this section.

ii. All Program funds (100 percent) shall be expended June 30, 2026. Any funds not expended by June 30, 2026, shall be returned to the General Fund pursuant to HSC § 50258 (e).

7) **Special Conditions**

Agency maintains sole authority to determine if a grantee is acting in compliance with the program objectives and may direct grantees to take specified actions or risk breach of this Agreement. Grantees will be provided reasonable notice and Agency's discretion in making these determinations are absolute and final.

Family Homelessness Challenge Grant and Technical Assistance Program Standard Agreement

EXHIBIT B

BUDGET DETAIL and DISBURSEMENT PROVISIONS

1. **General Conditions Prior to Disbursement**

All Grantees must submit the following completed forms prior to round 1 of the Family Homelessness Challenge (FHC-1) funds being released:

- Request for Funds Form ("RFF")
- STD 213 Standard Agreement form and initialed Exhibits A through E
- STD 204 Payee Data Record or Government Agency Taxpayer ID Form

2. **Disbursement of Funds**

FHC-1 funds will be disbursed to the Grantee upon receipt, review and approval of the completed Standard Agreement and RFF by Agency, the Department of General Services (DGS) and the State Controller's Office (SCO).

The RFF must include the proposed eligible uses and the amount of funds proposed to be expended. The FHC-1 funds will be disbursed in one allocation via mailed check once the RFF has been received by the SCO. Checks will be mailed to the address and contact name listed on the RFF.

3. **Budget Details and Expenditure of Funds**

The Grantee shall expend Program funds on eligible uses and activities as detailed in the submitted standardized budget. Agency reserves the right to direct specific line-item changes in submitted standardized budgets.

To ensure efficient and reliable processing, grantees shall submit budget change requests through a designated submission portal (i.e., currently Cognito, though subject to change). These requests will be reviewed in the first week of each month. Failure to submit by 5 pm on the 1st day of the month subjects a Grantee to having their budget change request being reviewed the following month. Agency may consider budget change requests outside of this timeline and through email as needed due to documented, exigent circumstances. Grantees carry the burden to anticipate foreseeable budget change requests and should plan accordingly.

Agency reserves the right to amend or adjust this process as necessary.

a) **Budget Changes**
Any decrease or increase to the total expenditures for any eligible use category must be approved by the Council's Grant Development Section Chief or their designee, in writing, before the Grantee may expend Program funds according to an alternative standardized budget. The Grant Development Section Chief will respond to Grantee with approval or denial of request. Failure to obtain written approval from the Grant Manager or their designee as required by this section may be considered a breach of this Agreement. A breach of this agreement may result in remedies listed below in Exhibit D.6. Breach and Remedies.

Regardless of an increase or decrease of an expenditure amount, any significant or material programmatic or fiscal changes that alter the scope of the project proposal should be submitted to Agency for approval.

These eligible uses and activities must be consistent with HSC Sections 50255 – 50259, other applicable laws, the terms and conditions of this Agreement, Agency guidance or directives, the Request for Applications ("RFA") under which the Grantee applied, representations contained in the Grantee's application, and the Purpose of the Program as detailed in Exhibit A.2. Purpose.

b) **Eligible Uses and Activities** include, but are not limited to, the following:

Rapid rehousing, including housing identification, rental subsidies, and incentives to landlords, such as security deposits and holding fees for eligible families, housing search assistance, rapid re-housing case management and services.

Operating subsidies in new and existing affordable or supportive housing units, emergency shelters, and navigation centers. Operating subsidies may include operating reserves.

Street outreach to assist eligible families to access crisis services, interim housing options, and permanent housing and services.

Services coordination which may include access to workforce, education, and training programs, or other services needed to promote housing stability for eligible families, as well as direct case management services being provided to families.

Systems support for activities that improve, strengthen, augment, complement, and/or are necessary to create regional partnerships and a homeless services and housing delivery system that makes families' experiences of homelessness rare, brief, and/or one-time.

Delivery of permanent housing and innovative housing solutions, such as unit conversions that are well suited for eligible families.

Prevention and shelter diversion to permanent housing, including flexible forms of financial assistance, problem solving assistance, and other services to prevent people from losing their housing and/or from needing to enter emergency shelter/interim housing or becoming unsheltered.

Interim sheltering, limited to newly developed clinically enhanced congregate shelters, new or existing non-congregate shelters, and operations of existing navigation centers and shelters based on demonstrated need that are well suited for eligible families.

Improvements to existing emergency shelters to lower barriers and increase privacy, better address the needs of eligible families, and improve outcomes and exits to permanent housing.

Residual, any eligible use or activity that does not otherwise fit into one of the categories detailed above but that the proposal can clearly identify as beneficial to the objective of this program for the eligible population.

In addition to the funding use requirements described above, the Grantee's expenditure of its entire FHC-1 allocation must also comply with the following:

Not more than 5 percent of funds may be used for **administrative costs** incurred by the city, county, or continuum of care to administer its program allocation. For purposes of this Agreement, "administrative costs" does not include staff or other costs directly related to implementing activities funded by the program allocation.

c) Program funds shall not be expended on Ineligible Costs as detailed immediately below.

4. **Ineligible Costs**

FHC-1 funds shall not be used for costs associated with activities in violation, conflict, or inconsistent with HSC Sections 50255 – 50259, other applicable laws, the terms and conditions of this Agreement, Agency guidance or directives, the Request for Applications ("RFA") under which the Grantee applied, representations contained in the Grantee's application, and the Purpose of the Program as detailed in Exhibit A.2. Purpose.

a) Cal ICH, at its sole and absolute discretion, shall make the final determination regarding the allowability of FHC-1 fund expenditures.

b) Cal ICH reserves the right to request additional clarifying information to determine the reasonableness and eligibility of all uses of the funds made available by this Agreement. If the Grantee or its funded subrecipients use FHC-1 funds to pay for ineligible activities, the Grantee shall be required to reimburse these funds to Agency at an amount and timeframe determined by Agency.

c) An expenditure which is not authorized by this Agreement, or by written approval of the Grant Manager or his/her designee, or which cannot be adequately documented, shall be disallowed, and must be reimbursed to Agency by the Grantee at an amount and timeframe determined by Agency.

d) Program funds shall not be used to supplant existing local funds for homelessness housing, assistance, or prevention.

e) Unless expressly approved by Agency in writing reimbursements are not permitted for any Program expenditures prior to this Agreement's date of execution.

Family Homelessness Challenge Grant and Technical Assistance Program Standard Agreement

EXHIBIT C

STATE OF CALIFORNIA GENERAL TERMS AND CONDITIONS

This exhibit is incorporated by reference and made part of this agreement. The General Terms and Conditions (GTC 04/2017) can be viewed at the following link:

https://www.dgs.ca.gov/-/media/Divisions/OLS/Resources/GTC-April-2017-FINALapril2017.pdf?la=en&hash=3A64979F777D5B9D35309433EE81969FD69052D2

In the interpretation of this Agreement, any inconsistencies between the State of California General Terms and Conditions (GTC - 04/2017) and the terms of this Agreement and its exhibits/attachments shall be resolved in favor of this Agreement and its exhibits/attachments.

Family Homelessness Challenge Grant and Technical Assistance Program Standard Agreement

EXHIBIT D

GENERAL TERMS AND CONDITIONS

1) **Termination and Sufficiency of Funds**

a) **Termination of Agreement**
Agency may terminate this Agreement at any time for cause by giving a minimum of 14 days' notice of termination, in writing, to the Grantee. Cause shall consist of violations of any conditions of this Agreement, any breach of contract as described in paragraph 6 of this Exhibit D; violation of any federal or state laws; or withdrawal of Agency's expenditure authority. Upon termination of this Agreement, unless otherwise approved in writing by Agency, any unexpended funds received by the Grantee shall be returned to Agency within 30 days of Agency's specified date of termination.

b) **Sufficiency of Funds**
This Agreement is valid and enforceable only if sufficient funds are made available to Agency by legislative appropriation. In addition, this Agreement is subject to any additional restrictions, limitations or conditions, or statutes, regulations, or any other laws, whether federal or those of the State of California, or of any agency, department, or any political subdivision of the federal or State of California governments, which may affect the provisions, terms or funding of this Agreement in any manner.

2) **Transfers**

Grantee may not transfer or assign by subcontract or novation, or by any other means, the rights, duties, or performance of this Agreement or any part thereof, except as allowed within Exhibit D.12. (Special Conditions – Grantees/Sub Grantee) or with the prior written approval of Cal ICH and a formal amendment to this Agreement to affect such subcontract or novation.

3) **Grantee's Application for Funds**

Grantee submitted a budget to Cal ICH as part of their application for the Program. Grantee warrants that all information, facts, assertions, and representations contained in the application and budget and additions thereto are true, correct, and complete to the best of Grantee's knowledge. In the event that any part of the application and any approved modification and addition thereto is

untrue, incorrect, incomplete, or misleading in such a manner that would substantially affect Cal ICH approval, disbursement, or monitoring of the funding and the grants or activities governed by this Agreement, then Agency may declare a breach of this Agreement and take such action or pursue such remedies as are legally available.

4) **Reporting, Evaluation, and Audits**

a) **Reporting Requirements**

i. Grantee is required to provide Cal ICH or its agents with all data and outcomes that may inform an assessment of the funded project. Grantees shall report quarterly and have one Final Work Product submitted prior to this Agreement's termination. Grantees will be required to provide:

- Client service data and housing status of persons served;
- Status of funding as presented in the Cal ICH approved, standardized budget; and
- Continued confirmation that projects receiving FHC-1 funds are populated timely into HMIS and use Cal ICH supplied funding codes.

Agency's discretion in identifying which information shall be included in these reports is absolute and final.

Pursuant to HSC Section 50259, grantees shall provide data elements, including, but not limited to, health information, in a manner consistent with state and federal law, to their local Homeless Management Information System for tracking in the statewide Homeless Data Integration System.

ii. The quarterly reports shall be submitted on a template to be provided by Cal ICH at least 60 days prior to the first reporting deadline. Cal ICH may request interim reports as needed and will provide no less than 30 days' notice to Grantees.

iii. If the Grantee fails to provide any such report, Cal ICH may recapture any portion of the amount authorized by this Agreement with a 14-day written notification.

b) **Evaluation**

i. Grantees shall participate in a program evaluation regarding their implementation of FHC-1 awards. To support this effort, the Agency

will contract a third party to complete the evaluation. Grantee agrees to accept evaluation assistance as directed by Cal ICH or by a contracted provider acting on behalf of Cal ICH.

ii. Grantees are expected to be close partners with Agency for this program evaluation and for all evaluative aspects of this Program. This means timely and accurate reporting, candid communication of success or challenges, and availability of persons, information, or materials. More specifically, Grantees must cooperate with Agency or its designee as reasonably required to implement an evaluation plan. This includes providing or facilitating the collection of data and materials as reasonably requested by Agency or its designee.

iii. For the purpose of evaluation, Agency or its designee may visit sites related to the project and film, tape, photograph, interview, and otherwise document Grantee's operations during normal business hours and with reasonable advance notice. Agency will comply with Grantee's site visit terms during any site visits.

iv. Grantees should maintain active data, documents, and filings in anticipation of this evaluation. Special care should be taken to organize and preserve internal work products that guided implementation by the Grantee or subgrantee.

v. Grantees shall notify Cal ICH and provide copies of any reports or findings if Grantee conducts or commissions any third-party research or evaluation regarding their funded project.

vi. All terms and conditions that apply to reporting similarly apply to evaluation.

c) **Auditing**

Agency reserves the right to perform or cause to be performed a financial audit. At Agency request, the Grantee shall provide, at its own expense, a financial audit prepared by a certified public accountant. Should an audit be required, the Grantee shall adhere to the following conditions:

i. The audit shall be performed by an independent certified public accountant.

ii. The Grantee shall notify Agency of the auditor's name and address immediately after the selection has been made. The contract for the

audit shall allow access by Agency to the independent auditor's working papers.

iii. The Grantee is responsible for the completion of audits and all costs of preparing audits.

iv. If there are audit findings, the Grantee must submit a detailed response acceptable to Agency for each audit finding within 90 days from the date of the audit finding report.

5) **Inspection and Retention of Records**

a) **Record Inspection**
Cal ICH or its designee shall have the right to review, obtain, and copy all records and supporting documentation pertaining to performance under this Agreement. The Grantee agrees to provide Cal ICH, or its designee, with any relevant information requested. The Grantee agrees to give Cal ICH or its designee access to its premises, upon reasonable notice and during normal business hours, for the purpose of interviewing employees who might reasonably have information related to such records, and of inspecting and copying such books, records, accounts, and other materials that may be relevant to an investigation of compliance with the Family Homelessness Challenge Grant and Technical Assistance Program laws, Agency guidance or directives, and this Agreement.

b) **Record Retention**
The Grantee further agrees to retain all records described in subparagraph a for a minimum period of five (5) years after the termination of this Agreement. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been commenced before the expiration of the required record retention period, all records must be retained until completion of the action and resolution of all issues which arise from it.

6) **Breach and Remedies**

a) **Breach of Agreement**
Breach of this Agreement includes, but is not limited to, the following events:

i. Grantee's failure to comply with the terms or conditions of this Agreement.

ii. Use of, or permitting the use of, FHC-1 funds provided under this Agreement for any ineligible activities.

iii. Any failure to comply with the deadlines set forth in this Agreement.

b) **Remedies for Breach of Agreement**
In addition to any other remedies that may be available to Agency in law or equity for breach of this Agreement, Agency may:

i. Conduct a program monitoring which will include a corrective action plan (CAP) with findings, remedies, and timelines for resolving the findings.

ii. Bar the Grantee from applying for future FHC funds;

iii. Revoke any other existing FHC award(s) to the Grantee;

iv. Require the return of any unexpended FHC Grant funds disbursed under this Agreement;

v. Require repayment of FHC Grant funds disbursed and expended under this Agreement;

vi. Require the immediate return to Agency of all funds derived from the use of FHC Grant funds

vii. Seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or participation in the technical assistance in accordance with FHC Grant requirements.

c) All remedies available to Agency are cumulative and not exclusive.

d) Agency may give written notice to the Grantee to cure the breach or violation within a period of not less than 14 days.

7) **Waivers**

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of Agency to enforce at any time the provisions of this Agreement, or to require at any time, performance by the Grantee of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of Agency to enforce these provisions.

8) **Nondiscrimination**

During the performance of this Agreement, Grantee and its subrecipients shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, gender identity, gender expression, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), genetic information, marital status, military and veteran status, denial of medical and family care leave or pregnancy disability leave, or any other characteristic protected by state or federal law. Grantees and Sub grantees shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and its subrecipients shall comply with the provisions of California's laws against discriminatory practices relating to specific groups: the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.); the regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 et seq.); and the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code, §§ 11135 - 11139.5). Grantee and its subrecipients shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

9) **Conflict of Interest**

All Grantees are subject to state and federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Additional applicable statutes include, but are not limited to, Government Code Section 1090 and Public Contract Code Sections 10410 and 10411.

a) Current State Employees: No State officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest, and which is sponsored or funded by any State agency, unless the employment, activity, or enterprise is required as a condition of regular State employment. No State officer or employee shall contract on his or her own behalf as an independent Grantee with any State agency to provide goods or services.

b) Former State Employees: For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions,

planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency. For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.

c) Employees of the Grantee: Employees of the Grantee shall comply with all applicable provisions of law pertaining to conflicts of interest, including but not limited to any applicable conflict of interest provisions of the Political Reform Act of 1974 (Gov. Code, § 81000 et seq.).

d) Representatives of a County: A representative of a county serving on a board, committee, or body with the primary purpose of administering funds or making funding recommendations for applications pursuant to this chapter shall have no financial interest in any contract, program, or project voted on by the board, committee, or body on the basis of the receipt of compensation for holding public office or public employment as a representative of the county.

10) **Drug-Free Workplace Certification**

Certification of Compliance: By signing this Agreement, Grantee hereby certifies, under penalty of perjury under the laws of State of California, that it and its subrecipients will comply with the requirements of the Drug-Free Workplace Act of 1990 (Gov. Code, § 8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:

Publish a statement notifying employees and subrecipients that unlawful manufacture distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, Grantees, or subrecipients for violations, as required by Government Code Section 8355, subdivision (a)(1).

a) Establish a Drug-Free Awareness Program, as required by Government Code Section 8355, subdivision (a)(2) to inform employees, Grantees, or subrecipients about all of the following:

    i. The dangers of drug abuse in the workplace;

    ii. Grantee's policy of maintaining a drug-free workplace;

iii. Any available counseling, rehabilitation, and employee assistance program; and

iv. Penalties that may be imposed upon employees, Grantees, and subrecipients for drug abuse violations.

b) Provide, as required by Government Code Section 8355, subdivision (a)(3), that every employee and/or subrecipient that works under this Agreement:

i. Will receive a copy of Grantee's drug-free policy statement, and

ii. Will agree to abide by terms of Grantee's condition of employment or subcontract.

11) **Child Support Compliance Act**

For any Contract Agreement in excess of $100,000, the Grantee acknowledges in accordance with Public Contract Code 7110, that:

a) The Grantee recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and

b) The Grantee, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

12) **Special Conditions – Grantees/Subgrantee**

The Grantee agrees to comply with all conditions of this Agreement including the Special Conditions set forth in Exhibit E. These conditions shall be met to the satisfaction of Agency prior to disbursement of funds. The Grantee shall ensure that all Subgrantees are made aware of and agree to comply with all the conditions of this Agreement and the applicable State requirements governing the use of FHC-1 funds. Failure to comply with these conditions may result in termination of this Agreement.

The Agreement between the Grantee and any Subgrantee shall require the Grantee and its Subgrantees, if any, to:

i. Perform the work in accordance with Federal, State and Local housing and building codes, as applicable.

ii. Maintain at least the minimum State-required worker's compensation for those employees who will perform the work or any part of it.

iii. Maintain, as required by law, unemployment insurance, disability insurance, and liability insurance in an amount that is reasonable to compensate any person, firm or corporation who may be injured or damaged by the Grantee or any Subgrantee in performing the Work or any part of it.

iv. Agree to include and enforce all the terms of this Agreement in each subcontract.

13) **Compliance with State and Federal Laws, Rules, Guidelines, and Regulations**

The Grantee agrees to comply with all state and federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, environmental protection, equal opportunity, fair housing, and all other matters applicable and/or related to the FHC program, the Grantee, its subrecipients, and all eligible activities.

Grantee shall also be responsible for obtaining any and all permits, licenses, and approvals required for performing any activities under this Agreement, including those necessary to perform design, construction, or operation and maintenance of the activities. Grantee shall be responsible for observing and complying with any applicable federal, state, and local laws, rules or regulations affecting any such work, specifically those including, but not limited to, environmental protection, procurement, and safety laws, rules, regulations, and ordinances. Grantee shall provide copies of permits and approvals to Cal ICH upon request.

14) **Inspections**

a) Grantee shall inspect any work performed hereunder to ensure that the work is being and has been performed in accordance with the applicable federal, state and/or local requirements, and this Agreement.

b) Cal ICH reserves the right to inspect any work performed hereunder to ensure that the work is being and has been performed in accordance with the applicable federal, state and/or local requirements, and this Agreement.

c) Grantee agrees to require that all work that is determined based on such inspections not to conform to the applicable requirements be corrected and to withhold payments to the subrecipient until it is corrected.

15) **Litigation**

a) If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of Agency, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are and shall be deemed severable.

b) The Grantee shall notify Cal ICH immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement or Agency, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of Agency.

Family Homelessness Challenge Grant and Technical Assistance Program Standard Agreement

EXHIBIT E

SPECIAL TERMS AND CONDITIONS

1) All proceeds from any interest-bearing account established by the Grantee for the deposit of funds, along with any interest-bearing accounts opened by subrecipients to the Grantee for the deposit of funds, must be used for eligible activities and reported on as required by Agency.

2) Grantee shall utilize its local Homeless Management Information System (HMIS) to track FHC funded projects, services, and clients served. Grantee will ensure that HMIS data are collected in accordance with applicable laws and in such a way as to identify individual projects, services, and clients that are supported by funding (e.g., by creating appropriate FHC specific funding sources and project codes in HMIS).

3) Grantee shall participate in and provide data elements, including, but not limited to, health information, in a manner consistent with federal law, to their local Homeless Management Information System, for tracking in the statewide Homeless Data Integration System, in accordance with their existing Data Use Agreement entered into with the Council, if any, and as required by HSC Section 50259. Any health information provided to, or maintained within, the statewide Homeless Management Information System shall not be subject to public inspection or disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). For purposes of this paragraph, “health information” means “protected health information,” as defined in Part 160.103 of Title 45 of the Code of Federal Regulations, and “medical information,” as defined in subdivision (j) of Section 56.05 of the Civil Code. The Council may, as required by operational necessity, amend, or modify required data elements, disclosure formats, or disclosure frequency. Additionally, the Council, at its discretion, may provide Grantee with aggregate reports and analytics of the data Grantee submits to their local HMIS and which gets reported to HDIS in support of the Purpose of this Agreement and the existing Data Use Agreement.

4) Grantee agrees to accept technical assistance as directed by Cal ICH or by a contracted technical assistance provider acting on behalf of Cal ICH and report to Cal ICH on programmatic changes the grantee will make as a result of the technical assistance and in support of their grant objective.

5) Grantee should establish a mechanism for people with lived experience of homelessness to have meaningful and purposeful opportunities to inform and shape all levels of planning and implementation, including through opportunities to hire people with lived experience.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.14**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Resolution authorizing execution of an agreement with Meeder Public Funds, Inc. for investment management services in an amount not-to-exceed $330,000.

RECOMMENDED ACTION

Staff recommends that the City Council authorize the City Manager to execute a five-year agreement with Meeder Public Funds, Inc. (Meeder) for investment management services in an amount not-to-exceed $330,000.

SUMMARY

The City of Livermore (City) staff currently manages the investment of its pooled portfolio, which as of June 30, 2022, totaled approximately $352 million. Of this amount, approximately $70 million was invested with the State's Local Agency Investment Fund (LAIF). The City currently has two approved brokers that make the City's investments based on City staff recommendations. Staff uses Sympro software to perform Portfolio evaluation and reporting.

In June 2022, City staff issued RFP #4244 for Investment Management Services and received a total of seven responses. City staff reviewed and evaluated the seven proposals focusing on cost, investment strategy, and experience with California government agencies. Based on those criteria, City staff selected Meeder as the most qualified vendor. Under the proposed five-year contract with Meeder, the City will be able to better diversify the City's investments held within the portfolio, increase the overall performance of the portfolio, and save staff time related to the investment function.

DISCUSSION

Historically, staff have directly managed the City's investment function and have worked with two brokers and the bank to purchase investments. These purchases were made when there was excess cash in the City's operating account and generally after the City's LAIF account was at or near the maximum to ensure liquidity. Most purchases are in the Federal Agencies, Corporates, Medium Term Notes, and CDs, which represent a few of the available investments allowed under California Government Code. Adding other investment types would be able to generate similar or greater returns while diversifying the

portfolio from the risk of being potentially overinvested in any single category.

The City maintains a high balance in LAIF at the beginning of each fiscal year to have sufficient cash to draw from to meet operating expenses until property tax revenues are received in November and December. By maximizing the amount of money held in LAIF, the City received lower returns than the overall investment portfolio. If the City had a more strategic approach to cash flow needs, investments could have been timed to mature to meet the operational needs of the City. For example, over the past five years, if the City lowered the amount invested in LAIF to $40 million, with the excess being invested in and earning the average portfolio return, the City could have earned nearly $600,000 in additional interest income. An investment advisor will help the City develop a better cash flow strategy.

City staff are also not subject matter experts when it comes to making investment decisions. Additionally, it is a job that needs to be done as a daily task. Currently, a significant amount of staff time is spent on reviewing investment options, coordinating the purchase with the broker and the bank, receiving and recording transactions in Sympro, and reconciling and reporting on the performance of the portfolio on a monthly basis. Meeder would greatly reduce the amount of staff time spent on the investment function for the City, as the City's role would switch to oversight of Meeder instead of performing day to day investment activities.

Meeder will work as a fiduciary on every aspect of the investment program including but not limited to:

- investment policy development and review,
- cash flow analysis and forecasting, and
- portfolio optimization through the careful control of risk.

Meeder will implement investment strategies that meet the City's risk and return requirements as outlined in the Council approved investment policy, ensure sufficient cash liquidity, conduct education and training for staff, and provide comprehensive investment reporting. The City will maintain its relationship with the Bank of the West (BOTW) as the City's cash custodian, ensuring that Meeder will never have direct access to any money in the City's investment account. All deposits and withdrawals from the investment account with BOTW will still be initiated by City staff. Meeder will only have access to initiate trades to purchase and sell securities that will remain in the investment account with BOTW.

While there are many factors that go into consideration when selecting an investment advisor, cost is always very important, but not necessarily the only determining factor. In this case, Meeder was the lowest cost bidder, but they also had a strategic approach to cash flow, investment selection and all their current clients are in the government sector, so they are very familiar with compliance with government code and municipal investment policies. As of 12/31/21, they had 472 accounts and $18.9 billion assets under management. The table below shows the costs for all responses from the RFP on an annual basis and over the five-year contract term with an assumption of assets under management being $275 million:

	Meeder	FHN	Public Trust	PFM	Chandler	GH&A	Principal
Annual Fees	66,000	137,500	140,000	145,000	160,000	268,000	487,500
Contract Total	330,000	687,500	700,000	725,000	800,000	1,340,000	2,437,500

Staff recommends the City Council approve Meeder Public Funds as the most qualified vendor. Once Council approves staff's recommendation, staff will transition the investment services to Meeder as soon as administratively feasible.

FISCAL AND ADMINISTRATIVE IMPACTS

Meeder's fees are based on an annual fee for the services that will be provided to the City with a total, not-to-exceed proposed fee of $330,000 for the five-year contract. There is sufficient funding in the General Fund for fiscal year 2022-23 to cover the first year of services, and future years will be appropriated as part of the budget process.

ATTACHMENTS

1. Resolution
2. Exhibit A - Meeder Public Funds, Inc Agreement

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 AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH MEEDER PUBLIC FUNDS, INC. FOR INVESTMENT MANAGEMENT SERVICES IN AN AMOUNT NOT-TO-EXCEED $330,000

The City of Livermore ("City") requires investment management services to better diversify the City's investments held within the portfolio, increase the overall performance of the portfolio, and save staff time related to the investment function.

City staff invited proposals for investment management services. Of the seven responses received and evaluated, Meeder Public Funds, Inc. was selected by the evaluation panel based on cost, investment strategy, and experience with California government agencies.

The cost of the investment services will be a fixed annual fee of $66,000 for the term of five years, with a not-to-exceed amount of $330,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it authorizes the City Manager to execute a five-year professional services agreement with Meeder Public Funds, Inc., attached hereto as Exhibit A, in an amount not-to-exceed $330,000.

On motion of Council Member_____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Jason Alcala
Jason Alcala
City Attorney

Exhibit A – Meeder Public Funds, Inc. Agreement

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ___ day of _____, 2022, by and between the City of Livermore ("City"), a municipal corporation, and Meeder Public Funds, Inc. ("Consultant"), an Ohio corporation.

RECITALS

City requires professional services to provide investment advisory services.

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"):

Provide investment advisory services.

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 David Doyle, Accounting Supervisor ("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 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 $330,000, which will be paid $66,000 annually for the term of 5 years ("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 September 12, 2022, and terminates upon the completion of the Services or September 11, 2027, 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.

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 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.

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: David Doyle, Finance
City of Livermore
1052 S Livermore Avenue
Livermore, California 94550

TO CONSULTANT: Attention: Jim McCourt
Meeder Public Funds, Inc.
6125 Memorial Drive
Dublin, OH 43017

23. Waiver. Failure to insist upon the strict performance of any term or conditions in this Agreement, no matter how long the failure continues, is not a waiver of the term or condition and does not bar the right to subsequently demand strict performance. To be effective, a waiver must be in writing and signed by the non-breaching party.

24. Severability. If a court of competent jurisdiction determines a provision in this Agreement is invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired in any way.

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

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

27. Counterparts. This Agreement may be executed and delivered in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email, or other electronically delivered signatures of the Parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals and shall be valid and effective for all purposes.

****

Signatures and Attachment List on the Next Page

In concurrence and witness whereof, and in recognition of the mutual consideration provided therefore, the parties have executed this Agreement, effective on the date first written above.

CONSULTANT:

By: Jason Click
Title: President

Dated: 08/02/2022

CITY OF LIVERMORE:

Marianna Marysheva
City Manager

Dated:

APPROVED AS TO FORM:

Assistant/City Attorney

APPROVED AS TO INSURANCE:

Risk Manager/Analyst

Attachments:
Exhibit A – Scope of Work
Exhibit B – Insurance Requirements

EXHIBIT A

MEEDER
PUBLIC FUNDS

PUBLIC FUNDS

Investment Program Services

Investment Policy Review	The Investment Policy is reviewed and recommendations are made to ensure it is in compliance with state law and any changes that may have occurred.
Cash Flow Review	Throughout the year we will help you determine the proper amount to have invested compared to liquid in cash and equivalents.
Investment Strategy	You will have access to our professional investment team that will strategically formulate an investment plan. The investment team monitors the interest rate environment and the spread between permissible asset classes.
Execution of Trades	We will expand your current broker network ensuring best price execution.
Monthly Reporting and Review	We will provide you with consolidated reporting on a monthly, quarterly, and annual basis. Customized reporting can be created to meet your specific needs.
Credit Research	We will monitor corporate issuers in the marketplace and recommend specific issuers that meet permissible requirements under law.
Banking and Custody	In the event you would look to establish a new banking or custody relationship, we will provide assistance through the process.

ABOUT MEEDER

- Serving public entities since 1990
- Customized investment solutions for states, counties, cities, schools, townships, libraries, higher education, and special districts
- Managing more than 300 public entity accounts
- As of 12/31/2021, over $42 billion under management and advisement
- Office locations in:
  - Dublin, Ohio
  - Long Beach, California
  - Lansing, Michigan
  - Austin, Texas

MEEDER INVESTMENT MANAGEMENT

6125 Memorial Drive
Dublin, OH 43017
1.866.633.3371
meederpublicfunds.com

Investment advisory services provided by Meeder Public Funds, Inc.

0150-MPF-4/11/22-16182
2022-356 JKS/JRA

MEEDER
PUBLIC FUNDS

Fees

a) Provide the complete fee schedule that would apply to this account. Are fees charged in arrears?

Meeder proposes a fixed annual fee of $66,000, billed monthly in arrears ($5,500 per month).

b) What additional expenses not covered through the fee structure will be expected in order to implement your investment advisory services?

Meeder strongly recommends the use of a qualified third-party custodian. We have negotiated custody fees at 0.01% for our clients with several eligible institutions and can assist the City through this process during the implementation of the relationship, if needed.

Terms of Services – Discretionary Accounts

Meeder Public Funds

The following Terms of Service are applicable to services offered by Meeder Public Funds, Inc. ("Meeder") and shall be incorporated into any agreement for investment advisory services ("Agreement").

1. **Appointment**. Client appoints Meeder as discretionary investment manager to invest, reinvest and manage the securities, cash and other assets of the Account subject to the investment guidelines ("Investment Guidelines") provided by Client.

2. **Trading Authorization**. Client grants Meeder discretionary trading authority and appoints Meeder as agent and attorney-in-fact with respect to investments in the Account. Meeder may direct the purchase, sale, exchange, conversion, delivery or other acquisition or disposition of securities and other investments in the Account and act on behalf of Client in all other matters incidental to the handling of Account investments, all without prior consultation with Client.

3. **Custody**. Meeder shall not act as custodian for the Account or any portion of it. Custody and possession of Account assets shall be the sole obligation of the Account's separately appointed "qualified custodian." ("Custodian"). Client acknowledges that it receives, or will receive from the Custodian, at least quarterly, an account statement that identifies the assets in the Account with the Custodian at the end of the period and that lists all transactions in the Account for the period.

4. **Investment Objectives and Restrictions**. Client may provide Meeder with written Investment Guidelines, setting forth the investment objectives and any specific investment restrictions or limitations which govern the Account. Meeder shall be entitled to rely on such guidelines, objectives and restrictions relating to the Account as it may receive from Client. It is Client's responsibility to inform Meeder in writing of any changes or modifications to the Investment Guidelines, which shall be given ten days in advance of any such change.

5. **Brokerage**. Meeder will generally use the execution services of such broker-dealers as it may select to effect transactions for the purchase and sale of securities and other investments in the Account. When selecting brokers through which transactions for Client accounts will be executed, Meeder's primary consideration will be the broker's ability to provide best execution of trades and Meeder may consider the quality and reliability of the brokerage services, trade price and commission, as well as research and other services provided by the broker-dealers. The responsibility to obtain best execution shall not be deemed to obligate Meeder to solicit competitive bids for each transaction. Client may direct that Meeder execute transactions through specific broker-dealers in connection with a discount brokerage or directed brokerage program established by Client. Client acknowledges that by directing brokerage to a particular broker-dealer it may forgo any benefits from savings on execution costs that Meeder may obtain for its other clients through volume discounts on aggregated orders and may pay higher commission rates than other clients of Meeder.

6. **Fees.** For the services provided in accordance with this Agreement, Client shall pay Meeder an annual fee ("Fee") as follows:

Fees are billed either ☐ monthly or ☒ quarterly in arrears as selected by Client. The Fee will be ☐ deducted directly from Client's Account or ☒ invoiced directly to Client, as selected by Client. Where Client has elected to have fees deducted Client authorizes the Custodian to deduct fees from the Account and pay them to Meeder. The account statements will reflect the fee amount withdrawn in any period. Client is responsible for notifying Meeder of any exceptions or objections to the amount billed within thirty days from the billing date.

7. **Third-Party Payments.** Meeder or its affiliates receive compensation from unaffiliated third parties for opening, administering or advising certain financial products offered to advisory clients, including STAR Ohio and the Government Insured Deposit Program (GIDP). Asset based advisory fees are not charged for assets invested in products that pay indirect compensation to Meeder.

8. **Proxy Voting.** Meeder does not accept or assume authority to vote proxies for its public fund clients. Clients will receive their proxies or other solicitations directly from their Custodian.

9. **Statements and Reports**. Client consents to electronic delivery of all documents from Meeder, including but not limited to a copy of the executed Agreement, statements, confirmations, Meeder's Form ADV Part 2, and other general communications.

10. **Confidentiality**. All information and advice furnished by either party to the other, including their respective agents and employees, shall be treated as confidential and shall not be disclosed to third parties except as otherwise required by law or as agreed to in writing by Client. Notwithstanding the foregoing, Client consents to the use of Client's name in sales and marketing material used by Meeder or its affiliates solely for the purpose of identifying the Client as an investment advisory client.

11. **Services to Other Clients**. Client understands that Meeder serves as investment adviser for other Clients and will continue to do so. Client also understands that Meeder, its personnel and affiliates ("Affiliated Persons") may give advice or take action in performing their duties to other clients, or for their own accounts, that differ from advice given to or action taken for Client. Meeder is not obligated to buy, sell or recommend for Client any security or other investment that Meeder or its Affiliated Persons may buy, sell or recommend for any other client or their own accounts.

12. **Meeder's Representations**. Meeder represents that it is a registered investment adviser under the Investment Advisers Act of 1940.

13. **Client's Representations**. Client represents and acknowledges that: (i) Client is the sole owner of the Account assets and has full power and authority to enter into this Agreement and to commit the assets to Meeder's management and supervision; (ii) that the person signing this Agreement on behalf of Client is authorized and empowered to establish accounts and commit the assets to Meeder's management and supervision on the entity's behalf; (iii) Client has received Meeder's current Form ADV, Part 2A and B; and (iv) Client has received a copy of Meeder's Privacy Policy.

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

Consultant/Contractor shall maintain limits no less than:

1. Commercial General Liability, including operations, products, and completed operations, as applicable:
   $5,000,000 per occurrence/**$10,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $2,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability".
4. Professional Liability/Errors and Omissions:
   $10,000,000 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.
5. Cyber Liability: **$3,000,000** per occurrence or claim. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
6. Crime: **$5,000,000** per occurrence/**$10,000,000** aggregate covering all officials, employees, and agents.

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the

right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

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

Other Insurance Provisions

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

1. The City of Livermore, its officers, officials, employees, and designated volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant/Contractor; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.
2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.

7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

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

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 4.15**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Christine Martin, Assistant City Manager

SUBJECT: Resolution reauthorizing remote or hybrid teleconference meetings for City of Livermore's legislative bodies in accordance with Assembly Bill 361

RECOMMENDED ACTION

Staff recommends City Council adopt a resolution reauthorizing remote or hybrid teleconference meetings for City of Livermore's legislative bodies in accordance with Assembly Bill 361.

SUMMARY

On September 16, 2021, the Governor signed Assembly Bill 361 ("AB 361") into law, allowing the City's legislative bodies to continue to meet via teleconference during proclaimed states of emergency under modified Brown Act requirements when a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558. AB 361 further requires that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees. AB 361 requires reauthorization every 30 days.

DISCUSSION

An outbreak of coronavirus disease 2019 (COVID-19) caused by the 2019 novel coronavirus (SARS-CoV-2) began in Wuhan, Hubei Province, China in December 2019, and has now spread throughout the world.

On March 1, 2020, the Health Officer of Alameda County declared a public health emergency throughout the County of Alameda.

On March 4, 2020, the Governor of California proclaimed a state of emergency exists in California after making determinations that:

1. The conditions caused by COVID-19 are likely to require the combined forces of a mutual aid

region or regions to appropriately respond; and,

2. Local authority is inadequate to cope with the threat posed by COVID-19.

On March 12, 2020, the Alameda County Department of Public Health confirmed evidence of community-acquired transmission.

On March 13, 2020, the President of the United States of America declared a National state of emergency in response to the spread of COVID-19 within the United States of America.

On March 13, 2020, the City Manager declared a Local Emergency. The local emergency was ratified by City Council and continued every 30 days into 2022, where the emergency was terminated by Council in April 2022, then reinstated in May 2022 (Reso. No. 2022-077) and continued in June 2022 (Reso. No. 2022-099). The local emergency terminated thirty days thereafter, as it was not renewed.

However, the state continues its COVID-19 emergency response and the Governor has signed Executive Order N-11-22, which retains a limited set of provisions that remain necessary to continue responding to the threat posed by, and mitigating the effects of, the COVID-19 pandemic; and precautions toward reducing the spread of COVID-19, including strongly encouraging masking indoors and social distancing.

Based on the above, staff recommends the City Council adopt a resolution reauthorizing teleconference or hybrid meetings of the City's legislative bodies in accordance with AB 361.

FISCAL AND ADMINISTRATIVE IMPACTS

There are no fiscal or administrative impacts associated with the resolution.

ATTACHMENTS

1. Resolution

Prepared by: Christine Martin
Assistant 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 REAUTHORIZING REMOTE TELECONFERENCE MEETINGS FOR THE CITY OF LIVERMORE'S LEGISLATIVE BODIES IN ACCORDANCE WITH ASSEMBLY BILL 361, INCLUDING HYBRID

An outbreak of coronavirus disease in 2019 (COVID-19) caused by the novel coronavirus (SARS-CoV-2) began in Wuhan, Hubei Province, China, in December 2019, and spread throughout China and to numerous other countries and territories, including the United States.

COVID-19 is an infectious disease that causes respiratory illness. Experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or have underlying chronic health conditions.

It is imperative to prepare for and respond to suspected or confirmed COVID-19 cases, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization.

The United States Centers for Disease Control and Prevention (CDC), the United States Health and Humans Services Agency, the California Department of Public Health, and the Alameda County Department of Public Health are each working to monitor and plan for the potential spread of COVID-19 to support and guide local actions to preserve public health.

On January 23, 2020, the CDC activated its emergency response system to provide ongoing support for the response to COVID-19 in the United States.

On January 31, 2020, the Secretary of the United States Department of Health and Human Services declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to COVID-19.

On February 25, 2020, the Centers for Disease Control and Prevention announced that community spread of COVID-19 is likely to occur in the United States.

On March 1, 2020, Health Officer of Alameda County declared a public health emergency throughout the County of Alameda.

On March 4, 2020, the Governor of California proclaimed a state of emergency exists in California after making determinations that:

1. The conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and,
2. Local authority is inadequate to cope with the threat posed by COVID-19.

On March 12, 2020, the Alameda County Department of Public Health confirmed evidence of community-acquired transmission.

On March 13, 2020, the President of the United States of America declared a national state of emergency in response to the spread of COVID-19 within the United States of America.

On March 16, 2020, the City Council adopted a resolution ratifying the declaration of local emergency (Resolution No. 2020-033).

On June 8, July 27, September 14, November 9, December 14, 2020, February 8, March 22, May 10, June 28, July 26, September 13, October 25, November 22, December 13, 2021, January 10, February 14, and February 28, 2022, the City Council adopted resolutions of continued local emergency (Resolution Nos. 2020-78, 2020-133, 2020-166, 2020-207, 2020-235, 2021-018, 2021-037, 2021-063, 2021-112, 2021-140, 2021-155, 2021-179, 2021-195, 2021-217, 2022-006, 2022-016, and 2022-022, respectively).

On April 11, 2022, the City Council adopted a resolution terminating the proclamation of local emergency and the temporary suspension and revision of the City Council Meeting Rules of Procedure, and all unexpired emergency orders declared in response to the spread of COVID-19.

On May 13, 2022, the Alameda County Department of Health, along with twelve Bay Area health officers urged the public to take precautions as COVID-19 levels rise, including but not limited to continued masking indoors as the region experiences a new swell of COVID-19 cases and hospitalizations.

On May 20, 2022, the Director of Emergency Services declared a local emergency. The declaration was based on the Alameda County Department of Health guidance issued on May 13, 2022, and the increase of positive cases among Livermore residents and City of Livermore staff.

On May 23, June 13, and July 11, 2022, the City Council adopted resolutions ratifying the declaration of local emergency and to reauthorize remote teleconference meetings in accordance with Assembly Bill 361 (Reso. Nos. 2022-077, 2022-099, and 2022-121).

The State continues its COVID-19 emergency response and the Governor has signed Executive Order N-11-22, which retains a limited set of provisions that remain necessary to continue responding to the threat posed by, and mitigating the effects of,

the COVID-19 pandemic; and precautions toward reducing the spread of COVID-19, including strongly encouraging masking indoors and social distancing.

Alameda County continues to align its response to the State and strongly encourages COVID-19 safety precautions, including masking indoors.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby finds that conditions warrant reauthorization of remote or hybrid teleconference meetings for City of Livermore's legislative bodies in accordance with Assembly Bill 361 due to the COVID-19 pandemic.

BE IT FURTHER RESOLVED by the City Council of the City of Livermore that:

1. The Recitals set forth above are true and correct and are incorporated into this Resolution by reference.

2. The City Council has determined that COVID-19 continues to impact the ability of the City of Livermore's legislative bodies to meet safely in person with no teleconference option. In-person meetings of the City of Livermore's legislative bodies with no teleconference option might present imminent risks to the health or safety of some or all attendees.

3. The staff and legislative bodies of the City of Livermore are hereby reauthorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act for fully teleconferenced meetings, or hybrid meetings that accommodate both in person and teleconference participation by the legislative body members, staff, and the public.

4. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of October 12, 2022, or such time the City Council makes subsequent findings in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the City of Livermore may continue to teleconference without compliance with Government Code section 54953(b)(3).

5. If any section, subsection, clause, or phrase in this Resolution is for any reason held invalid, the validity of the remainder of this Resolution shall not be affected thereby. The City Council would have passed this Resolution and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases thereof be held invalid.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Jason Alcala
Jason R. Alcala
City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 6.1**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Discussion and direction regarding Comprehensive General Plan Update – Draft Land Use Alternatives

RECOMMENDED ACTION

Staff recommends the City Council review the Draft Land Use Alternatives for each of the specific focus areas, receive a presentation from staff, affirm that the draft land use alternatives represent an adequate range and mix of land use types, and direct staff to evaluate the alternatives for the General Plan Update.

SUMMARY

On March 1, 2021, the City Council selected updating the General Plan as a priority and directed staff to seek consultant assistance and develop a 3-year work program. The work program includes a variety of components including visioning, existing conditions assessment, land use planning, policy development, and environmental impact review. In January 2022, the project team began the General Plan land use alternatives process, which will inform the 2045 General Plan Land Use Map. This land use alternatives process includes receiving input from the community and General Plan Advisory Committee in identifying geographical areas that are likely to experience change (focus areas) and preparing a mix of land use alternatives for each focus area.

Following City Council direction, the project team will conduct further in-depth analysis and evaluation of the draft land use alternatives. The evaluation process will take approximately six months after which the project team will conduct extensive community engagement to share the results and discuss tradeoffs. The project team and General Plan Advisory Committee will continue to refine land use alternatives and ultimately develop a preferred scenario, which will return to the City Council for further direction and be integrated into the overall General Plan Land Use Map.

DISCUSSION

BACKGROUND

The General Plan is the City's long-range policy document for growth, land use, sustainability, and resource and open space conservation. The planning period for the City's current General Plan is 2003-2025. Adopted in 2004, the City's General Plan is almost 18 years old. The traditional planning period for updating the General Plan is 10-20 years. A comprehensive General Plan update is required due to the age of the current document and data that supports it (e.g. traffic and environmental impact studies).

Since the last comprehensive General Plan update, many state and regional policies have changed, which can have an influence on local policy. In addition, the comprehensive General Plan update process offers the community and City an opportunity to re-evaluate existing General Plan policies and develop new ones that address shifts in community priorities, technologies, and current land use and real estate market trends.

On March 1, 2021, the City Council set goals and priorities for Fiscal Years 2021-2023 and identified the Comprehensive General Plan Update as a priority. On June 28, 2021, City Council authorized a contract with PlaceWorks as the consultant team for the General Plan Update Project. On October 7, 2021, following a three-month recruitment, selection, and interview process, the City Council appointed a 19-member General Plan Advisory Committee (Committee).

On March 14, 2022, the City Council approved the General Plan Vision Statement which will be the basis for the General Plan update and describes the future of Livermore as the community would like it to be in 2045. On April 1, 2022, the project team completed the Existing Conditions Reports. The Reports analyze and summarize various conditions in Livermore, assist the community and project team in understanding the issues and opportunities facing the City as we collectively plan for the horizon year 2045, and inform future policy and land use discussions and decisions.

On May 23, 2022, the project team presented the draft General Plan 2023-2031 Housing Element (the General Plan is currently comprised of 10 separate elements) to the City Council. City Council directed staff to revise the draft document to incorporate the input received. On July 19, 2022, the project team submitted the Draft Housing Element to the California Department of Housing and Community Development for their 90-day review period.

The Vision Statement, Existing Conditions Reports, and Draft Housing Element are published on the project website (Imaginelivermore2045.org). In addition, the project website provides background information, project updates as major milestones are achieved, links to relevant documents, and information about how to become involved in the General Plan Update process. The website includes information about community events and General Plan Advisory Committee meetings and also provides access to online surveys and interactive exercises.

The comprehensive General Plan Update (including Housing Element Update and Environmental Impact Report) is anticipated to be an approximately three-year project, consisting of preparation of an assortment of technical studies, collection of local and regional data, and analysis of a broad range of policy issues and land use alternatives. Further, the update involves a variety of community engagement events and activities to ensure broad participation and community input. The project team anticipates formal adoption and project completion in early 2024. (However, the Housing Element requires a shorter approval schedule to comply with the state's January 2023 deadline, and separate environmental review).

PROJECT DESCRIPTION

A major component of the General Plan Update process is modifying the General Plan Land Use Map to align with the vision and plan for future growth. The new General Plan Land Use Map will be developed iteratively through creation and evaluation of draft land use alternatives to ultimately select a preferred land use scenario. The process will be shaped by community, Committee, and Planning Commission input. The City Council will ultimately provide direction on the preferred scenario in Spring of 2023.

To arrive at a preferred scenario, the project team is following five steps, described below. Currently, the project team is in step two and is seeking feedback and authorization to evaluate the draft land use alternatives.

1. Focus Area Identification

For many parts of Livermore, the General Plan land use designations remain valid and appropriate and are not expected to change. This task identifies areas where transformation is expected or desired, known as Focus Areas. Focus Areas are typically a combination of many parcels and are many acres in size. The draft Focus Areas are shown in Attachment 1.

2. Create Land Use Alternatives

Using Committee, property owner, and community feedback, the project team prepared three draft land use alternatives for each draft Focus Area that considers a range of different intensities and types of development that could occur over the next 25 years. The current version reflects feedback from the Committee and Planning Commission.

3. Evaluate and Compare Alternatives

Following Committee and Planning Commission review and City Council direction, the project team will begin to compare the differing outcomes of these alternatives against a set of metrics. The evaluation will take approximately six months and consider topics such as those noted below:

- Climate change and resilience
- Public safety
- Equity
- Parks
- Housing supply
- Student generation and school capacity
- Capacity of water, sewer, and storm drainage infrastructure
- Open space preservation and biological resources
- Historic resources
- Aesthetics and urban design
- Fiscal impacts
- Traffic and transportation impacts
- Commercial land use supply (adequate sites and geographic distribution)
- Commercial diversity (product, service, recreation)
- Jobs/housing balance and jobs/housing match

4. Create the Preferred Scenario

Beginning in spring 2023, the project team will present the results of the alternatives evaluation to the community, Committee, Planning Commission, and City Council to choose a preferred scenario for each

Focus Area after considering the relative benefits, trade-offs, and potential impacts of each alternative. The preferred scenario will likely be the result of mixing different combinations of land use types identified in the draft alternatives for each Focus Area.

5. Analyze the Preferred Scenario as part of the Draft General Plan

Once a preferred scenario is finalized, the project team will integrate the preferred scenarios with the citywide General Plan land use map. The Draft General Plan will cover the entire city and analyze proposed growth to understand required infrastructure improvements, the fiscal impacts, and the financing tools and policies available to finance any public costs associated with the preferred scenario. The Draft General Plan, including policies and actions in all elements, will undergo additional analysis in the Draft Environmental Impact Report.

COMMUNITY OUTREACH AND ENGAGEMENT

The project team launched an online activity and hosted eight pop-up events at the Downtown Farmers Market, a local coffee shop, winery, and Civic Center Library to hear the community's ideas about land use changes through 2045 in Livermore. From February to March 2022, Livermore community members were asked to provide input at the pop-ups, meetings with property owners, and an online activity to help identify areas of the city to study for potential change over the next 20 years. In general, the community identified focus areas that included vacant infill parcels, aging shopping centers, and industrial areas in transition.

In addition, the project team sent letters to property owners within the potential focus areas informing them of the General Plan Update process and specifically that land use changes may be considered for their property and within their area. On March 8, 2022, the project team hosted a virtual open house to provide additional information about the General Plan Update and the land use alternatives process and received input from attendees. The project team received approximately a dozen calls and emails from property owners. Most property owners asked questions about the process, others stated their openness to exploring land use changes and wanted to stay involved in the process, and others desired no land use change on their property. In addition, the project team has had dozens of one-on-one discussions with various property owners regarding land use. Staff has also had a number of conversations with local property brokers and developers to gather their feedback about viable development alternatives.

Following City Council direction and the project team's evaluation of the draft land use alternatives, the project team will employ a community engagement strategy including a series of workshops and engagement activities to gain input on the draft land use alternatives. The engagement process is anticipated to occur in the early part of 2023. Input received will help inform the Council's decision making regarding the selection of the preferred scenario.

PLANNING FOR FUTURE GROWTH

Based on regional and state forecasts, the project team anticipates that both population and job growth will continue over the next twenty-plus years and within the time horizon of the 2045 General Plan.

The project team reviewed projections from Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), the California's Department of Finance, and the US Census Bureau. The project team adjusted projection totals to capture updated existing conditions data (i.e., recent population and employment counts). Currently, Livermore has a population of approximately

91,000 residents and approximately 53,340 jobs. Applying ABAG/MTC forecasted growth rates to updated population and employment counts suggests Livermore could potentially expand to 120,000 residents and 57,000 jobs by 2040.

State law requires jurisdictions to plan for their “fair share” of the regional housing need for households of all income levels. Livermore’s ABAG Regional Housing Needs Allocation (RHNA) for the 2023-2031 planning period, known as the “6th cycle”, is 4,570 housing units, distributed among four income categories that range from Very Low Income to Above Moderate Income. The City must ensure it can accommodate the new RHNA housing unit allocation for the period from 2023 to 2031. Although the RHNA allocation is not a requirement to build housing, the General Plan and Housing Element policies and programs must ensure the City is accommodating housing development and removing common barriers to housing construction.

The City does not need to re-designate or rezone sites to comply with the 6th Cycle RHNA (2023-2031). However, the General Plan extends beyond the end of the 6th Cycle. Assuming continued 8-year RHNA cycles, and that the General Plan’s expected life cycle is until 2045, the updated General Plan should designate sufficient residential land to accommodate the future 7th and 8th cycles. The scale of future RHNA housing allocations is unknown and difficult to predict. However, it is reasonable to assume if the 7th and 8th RHNA is in the same proportion to the existing number of homes as the 6th Cycle RHNA; ABAG could allocate Livermore a combined total of approximately 11,000 new units over the 7th and 8th cycles, covering the years 2031 to 2047.

The draft land use alternatives also provide an opportunity to plan for population and job growth and respond to emerging market conditions. Beyond meeting state obligations and projected growth, planning for a mix of land uses is important to realize a well-rounded community and contribute to overall quality of life.

A healthy mix of land uses helps accomplish a range of broad civic goals such as job creation, cultural experiences, access to amenities and services, and the city's financial stability. In addition to the type and mix of land uses, an important consideration is understanding their relationships and connections to each other, to public services, and to transportation systems (among other market factors). Some land uses benefit from clustering and proximity to each other, whereas other land uses may benefit from wider distribution across the community.

DRAFT LAND USE ALTERNATIVES

The draft land use alternatives explore a range of commercial, industrial, and residential growth within four focus areas. The intent of the draft land use alternatives is to sustain and improve quality of life, accommodate future community and market needs, support local job growth, and to respond to future State mandated RHNA cycles through 2045. This section describes the land use alternatives for each focus area:

- East Avenue - Vasco Focus Area
- Las Positas Court Focus Area
- Laughlin Road Focus Area
- Southfront - Vasco Focus Area

Three different alternatives have been developed for each focus area. Attachment 2 includes maps of

the Draft Land Use alternatives for each of the focus areas and development projections. The draft land use alternatives are based on land use categories described and illustrated in the Place Types Menu in Attachment 3. The Place Types are representative examples. The land use categories within the Focus Areas are not existing General Plan land use designations. At a future phase when a preferred scenario is selected, the land use categories will be refined to either use existing designations, modified designations, or new designations in the General Plan.

The draft land use alternatives provide broad ideas on the types and intensity of development that could occur in the future. Once the City Council selects the preferred land use scenario, the Draft General Plan will include additional policy guidance for these areas to improve circulation, community character, safety, and protect natural resources among other topics.

In addition to the focus areas, current regulations allow for future growth in the Isabel Neighborhood Specific Plan area, Downtown, and other infill sites distributed throughout the City. Further, the project team may also propose to the City Council other small scale land use designation changes to the General Plan Land Use Map. These may be initiated by community input, property owners and/or needed to improve compatibility with existing land uses or neighborhoods. These recommendations will be developed and presented to Council next year, around the time the preferred alternatives are being selected for each focus area.

Development Projections

Each of the draft alternatives prepared for the focus areas is accompanied by a table that summarizes the range of potential net new jobs, housing units, and population each alternative could create. The project team generated the development estimates calculating the minimum and maximum density range allowed by each Place Type. These calculations assume that every parcel would redevelop through the 2045 horizon, a scenario that is unlikely given historic development trends and potential parcel-level site constraints that cannot be projected at this large-scale analysis. In addition, the project team applied an industry standard factor that assumed a portion of each parcel would not be developed to account for roads, landscape setbacks, parking areas, and utilities.

These estimates are meant to provide an array of possibilities that could occur under these draft land use alternatives to help determine whether there is a sufficient range of land use alternatives. The impacts of future growth in jobs and housing will be evaluated once the City Council provides final direction on the range of draft alternatives. The results of this evaluation will be presented to the community, Committee, Planning Commission, and City Council to illustrate tradeoffs and inform the selection of the preferred land use scenario. The project team anticipates presenting the results in Spring 2023.

Below is a summary of each proposed Focus Area identified above and shown in Attachments 1 and 2.

East Avenue - Vasco Focus Area

The East Avenue and South Vasco Road focus area is approximately 40 acres and currently includes a mix of existing predominately light industrial uses and a few rural residential uses. The emergence of commercial uses from winery and brewery businesses have created a new vibrancy to this area that was not originally anticipated by the existing General Plan. The proposed vision for this focus area is a visitor

destination that supports production maker spaces and wine country commercial uses and serves as a gateway to South Livermore Wine region. All three draft alternatives explore variations of a commercial and production maker village that accommodates the sale and cultivation of local products such as coffee, cheese, wine, and beer, along with related dining and entertainment uses. The maker village is activated by differing mixes of new residential uses and parks and open spaces.

Las Positas Court Focus Area

The Las Positas Court focus area is approximately 75 acres and currently includes low-lying industrial/office buildings and undeveloped land that fronts I-580 along with highway-oriented retail commercial uses. Considerations for the northern portion of this focus area include Arroyo Las Positas, flood plain limitations, limited access across the creek and biological resources. All of the alternatives propose adding residential south of Las Positas Court along with a new open space corridor, while preserving or expanding the existing commercial and industrial/office space north of Las Positas Court.

Laughlin Road Focus Area

The Laughlin Road focus area is approximately 270 acres and currently consists of primarily vacant, undeveloped land with minimal light industrial and open space/recreational uses. Much of this focus area is outside of the city limits, but within the Urban Growth Boundary. On the current General Plan map, this focus area is identified as a transit-oriented development in anticipation of a future BART station and maintenance facilities. BART formally decided not to extend service to Livermore. However, the new Valley Link rail system has identified transit stations in Livermore at Isabel Ave and Southfront Road. Therefore, the current urban land use designations may not be appropriate at this location. Considering biological resources and earthquake fault lines in the undeveloped part of this focus area outside the city limits, all three draft alternatives anticipate preserving the majority of the focus area's open space and explore different variations of residential, industrial, and commercial uses along I-580 at the southern and western edges of the focus area.

Southfront-Vasco Focus Area

The Southfront-Vasco focus area is approximately 630 acres and currently includes a mix of existing commercial, office, industrial, and residential land uses. The predominant existing land use is low intensity, light industrial. The existing Altamont Corridor Express (ACE) Vasco train station is located in the southeastern portion of the focus area near the existing Brisa residential neighborhood. In addition, a planned Valley Link train station is proposed within this focus area located within the I-580 median approximately midway between the First Street Interchange and Vasco Road Interchange. The vision for this focus area is a transit oriented, complete neighborhood, with a mix of housing, jobs, and services. Each alternative includes a mix of residential and job supporting land uses in varying proportions. Alternative A is focused on job growth, Alternative B is focused on housing growth, and Alternative C includes a balanced mix of both jobs and housing.

GENERAL PLAN ADVISORY COMMITTEE and PLANNING COMMISSION FEEDBACK

On June 8th and 9th, 2022, the General Plan Advisory Committee met to review and provide feedback on the draft land use alternatives. The Committee is comprised of 19 members that represent the Livermore community in the development of the Livermore 2045 General Plan. The Committee's role is to ensure continuous and balanced public representation and provide feedback that conveys the

community's perspectives and local knowledge. The Committee provides feedback on work products, serves as liaison to the broader community, and advises the project team on effective outreach and engagement.

On June 21, 2022, the Planning Commission met to review and provide feedback on the draft land use alternatives. The role of the Planning Commission is to advise the City Council on the adoption and on-going review of the General Plan and serve as an advisory body to the Council on matters related to city growth and development. In addition, the Commission promotes public interest in planning and encourages citizen participation in the formation of the General Plan.

The Committee and Planning Commission both found the draft land use alternatives to be an appropriate range to pursue further study. In addition, the Committee and Planning Commission provided feedback on the draft land use alternatives that is summarized in Attachment 4. The Committee and Commission recommended modest changes and additions to the mix of land use alternatives within each of the focus areas. The draft land use alternatives have been updated to reflect both Committee and Commission feedback.

FISCAL AND ADMINISTRATIVE IMPACTS

On June 28, 2021, Council authorized a professional services agreement in an amount not to exceed $2,800,000 for a contract term beginning July 1, 2021 and ending July 1, 2024. The City's 2021-2023 Operating Budget includes the General Fund appropriations necessary to cover consultant contract costs through the end of Fiscal Year 2022-23. The development and evaluation of a range of land use alternatives is a task identified in the contract. City staff time and resources has been programmed to participate in the document review, research and analysis, and community outreach related to the evaluation and review of the different possible outcomes resulting for the range of land use alternatives.

ATTACHMENTS

1. Citywide Focus Area Map
2. General Plan Draft Land Use Alternative
3. Land Use Place Types Menu
4. Planning Commission and GPAC Feedback Summary

Prepared by: Andy Ross
Senior Planner

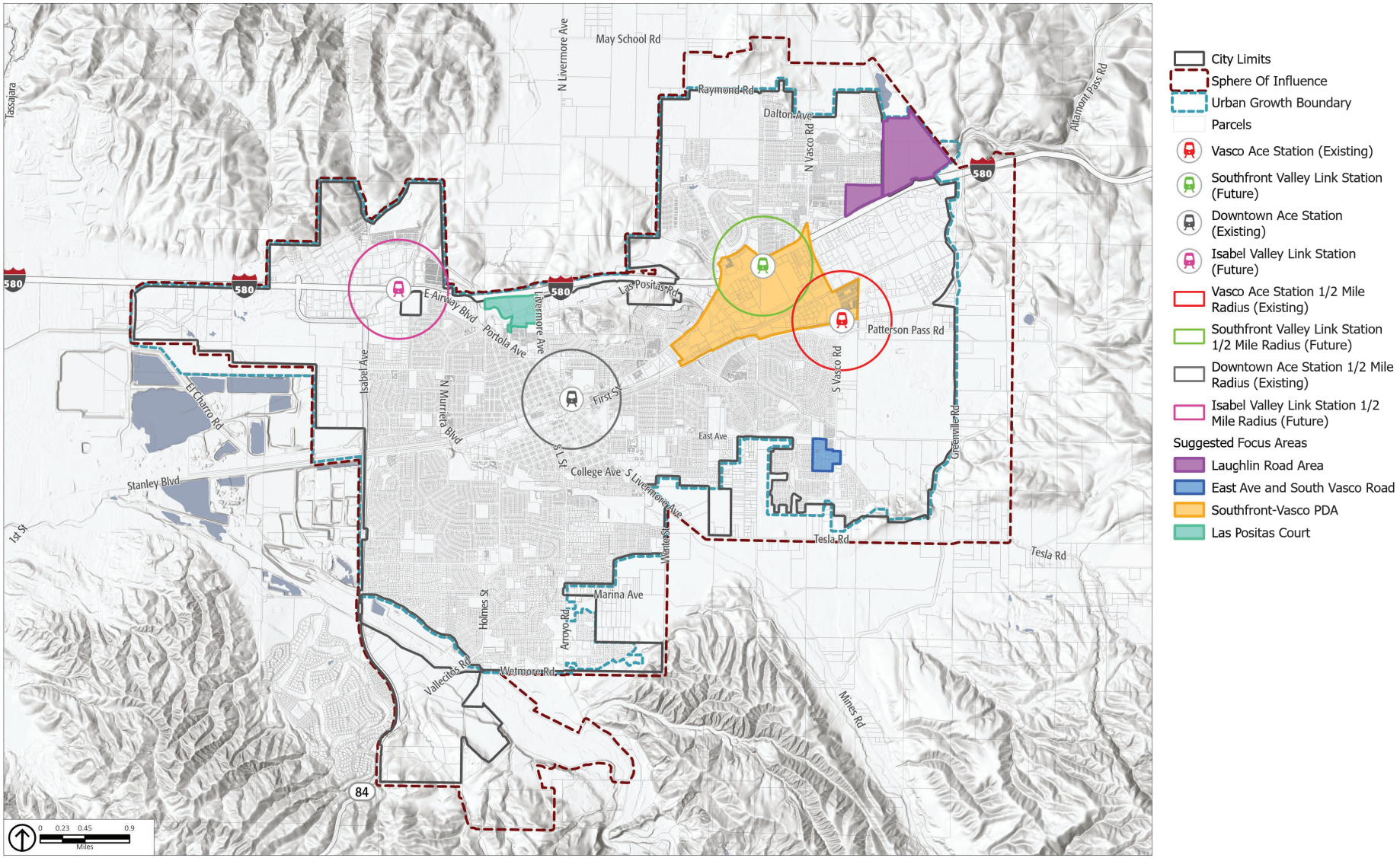
Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

ATTACHMENT 1



Source: City of Livermore, PlaceWorks, 2021.

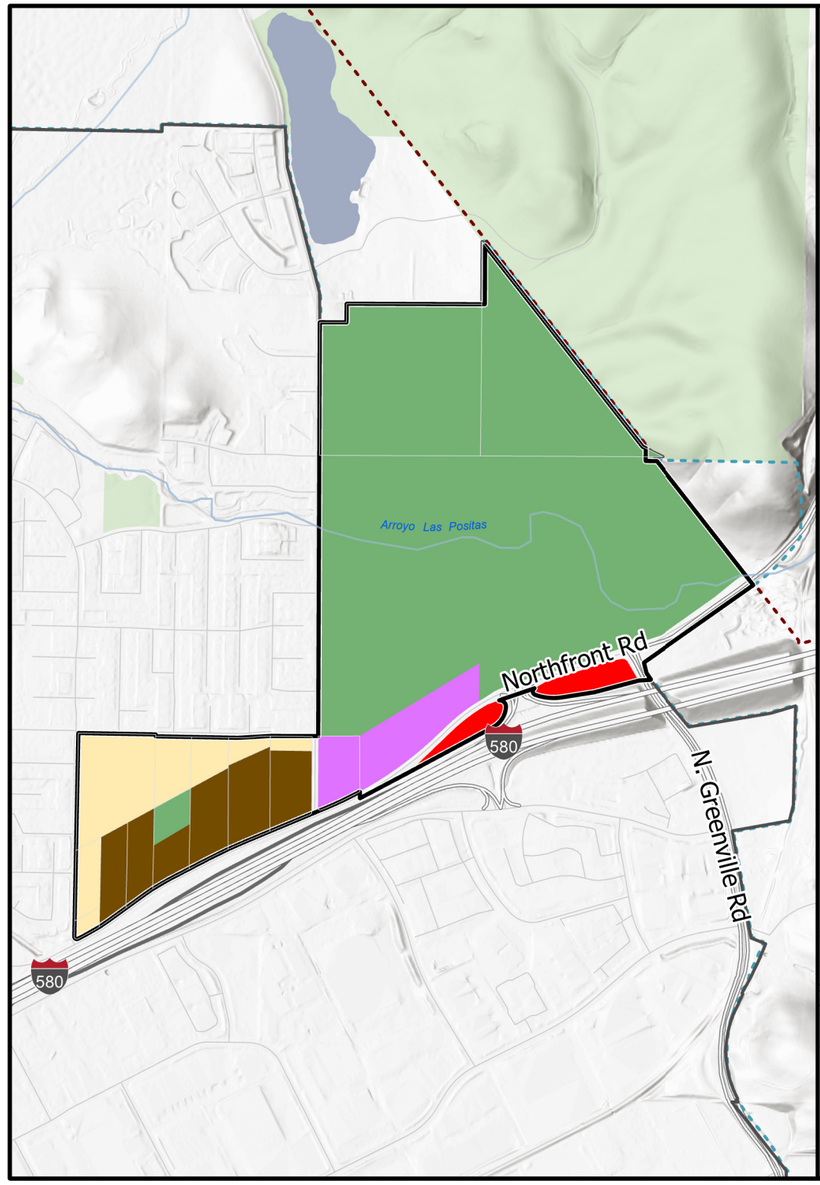
Potential Focus Areas

Draft General Plan

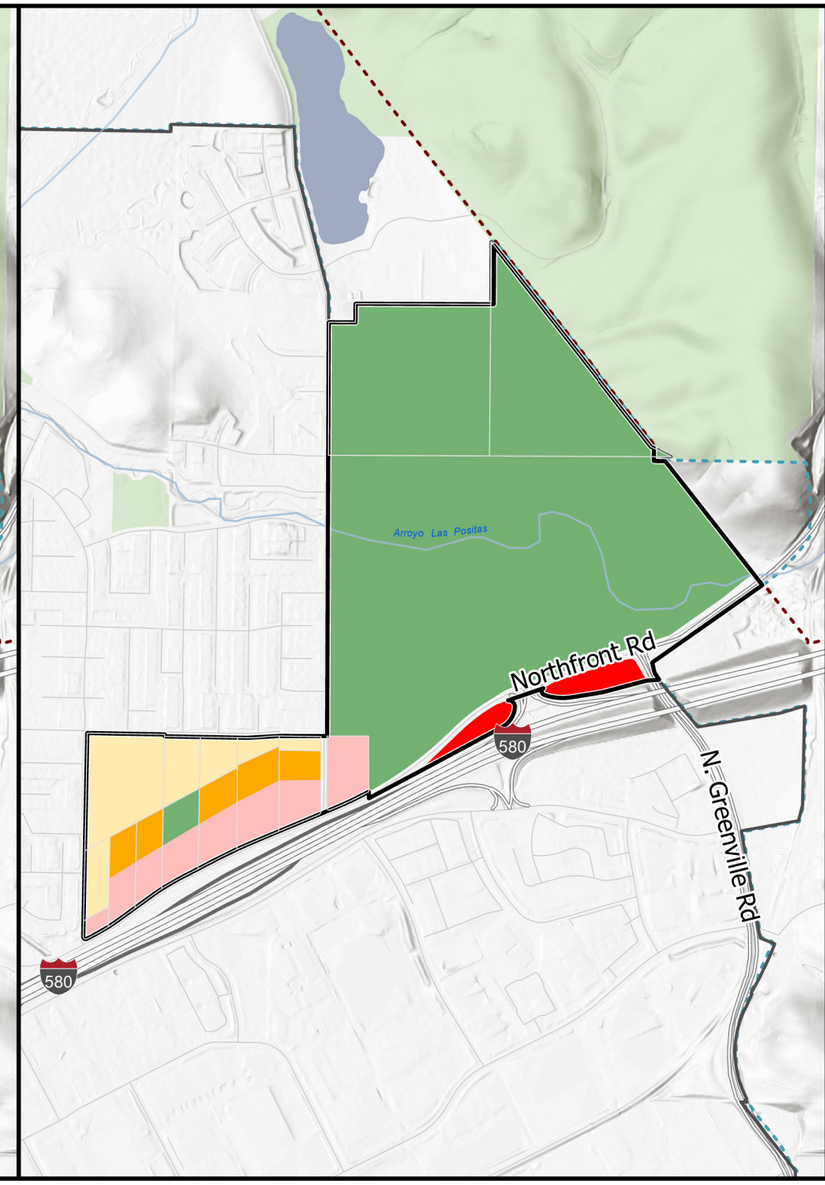
Land Use Alternatives

September 2022

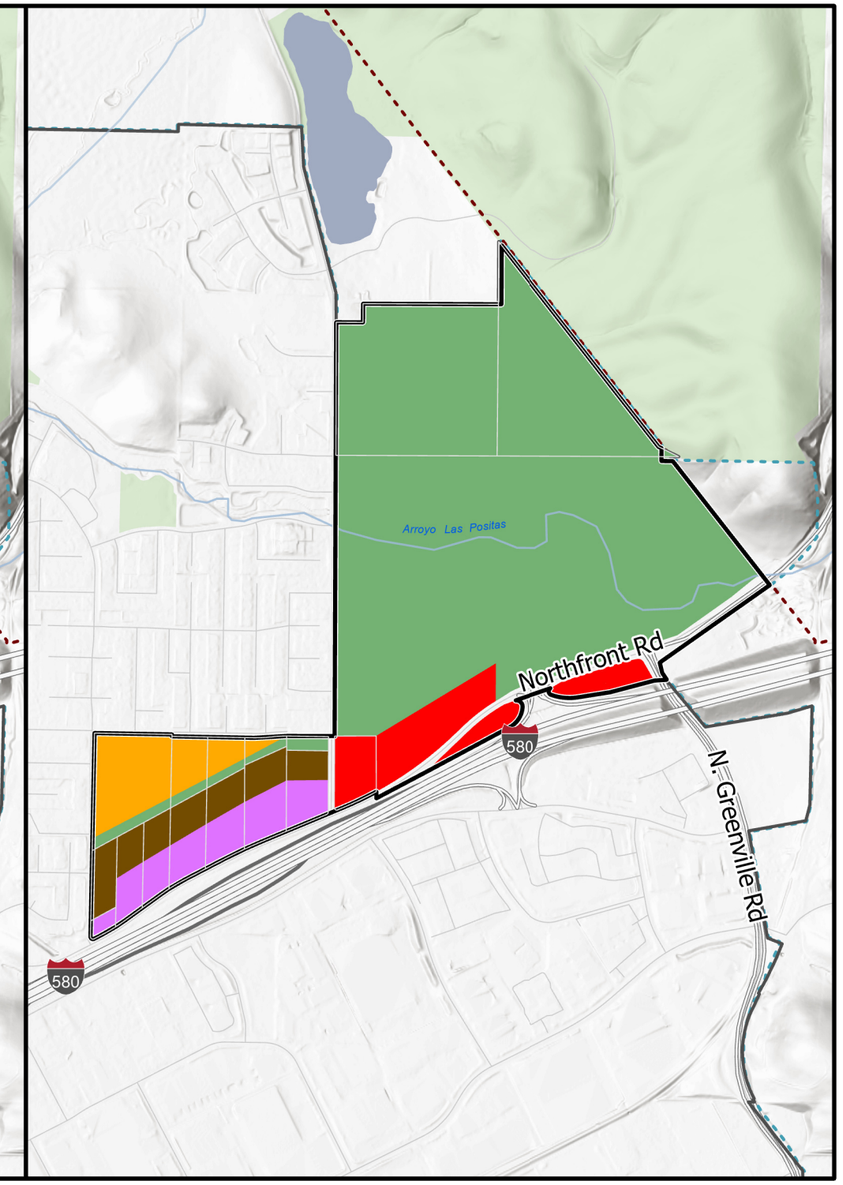
OPEN SPACE ALTERNATIVE



MIXED USE ALTERNATIVE



INDUSTRIAL ALTERNATIVE



Land Use Descriptions

- Residential Low Density (1 to 2 stories, 2 to 14 DU/A)
- Residential Medium Density (2 to 3 stories, 15 to 29 DU/A)
- Residential Medium-High Density (30 to 59 DUA)
- Residential High Density (4+ stories, 60 to 100 DU/A)
- Mixed-Use High Density (4+ stories, 60 to 100 DU/A, 0.5 FAR)
- Commercial - Neighborhood (0.3 to 1.0 FAR)
- Commercial - Service (0.3 to 1.0 FAR)
- Commercial - Highway (0.3 to 1.0 FAR)
- Commercial - Wine-Country (0.3 to 1.0 FAR)
- Mixed Industrial - Commercial and Industrial (0.3 to 1.0 FAR)
- General Industrial (0.3 to 0.5 FAR)
- Mixed Industrial - Industrial-Office (0.5 to 2.0 FAR)
- Agricultural
- Open Space
- Public
- Southfront Valley Link Station (Future)
- Southfront Valley Link Station 1/2 Mile Radius (Future)
- Vasco Ace Station (Existing)
- Vasco Ace Station 1/2 Mile Radius (Existing)

0 0.17 0.35 Miles

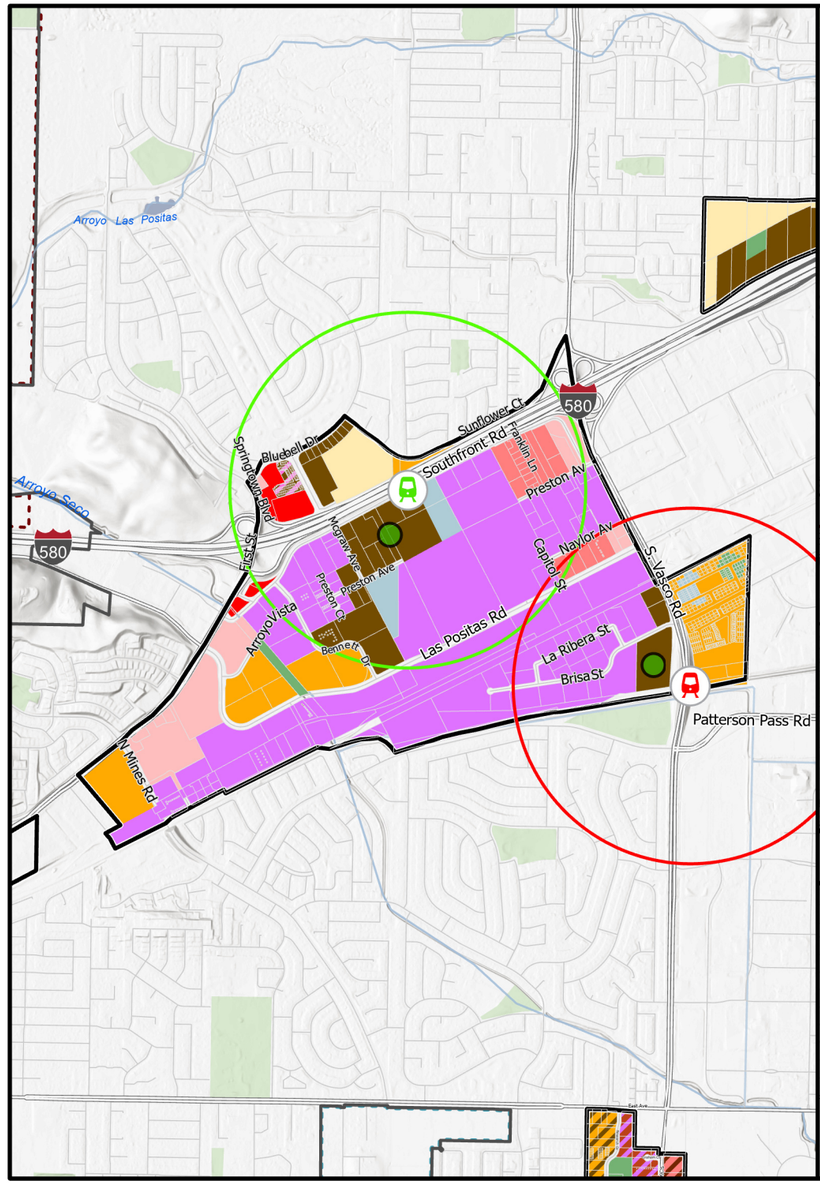
Laughlin Road Area

LAUGHLIN ROAD AREA DRAFT ALTERNATIVES 2045 BUILDOUT

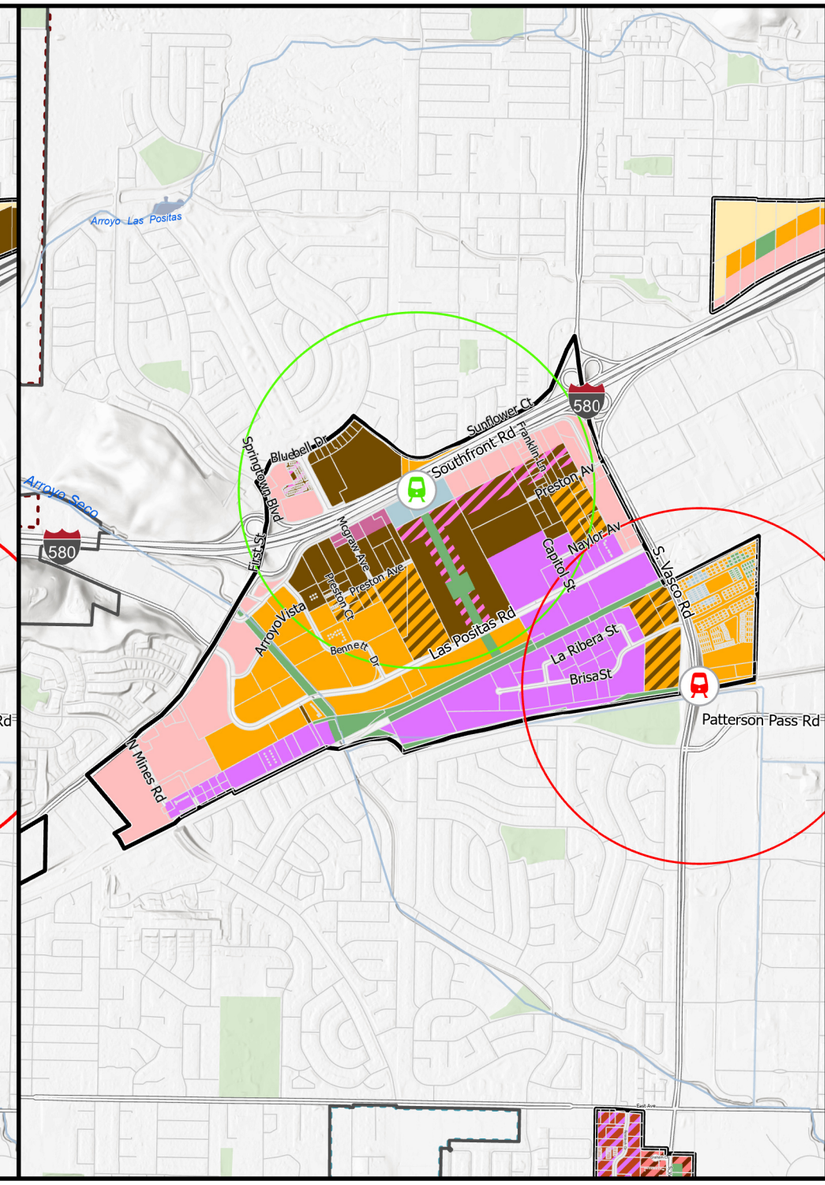
	Existing (2020)*	Open Space Alternative (Net New)			Mixed Use Alternative (Net New)			Industrial Alternative (Net New)		
		Min	*Mid*	*Max*	*Min*	*Mid*	*Max*	*Min*	*Mid*	*Max*
Homes	0	1,137	1,608	2,079	141	291	441	820	1,116	1,413
Population	0	3,024	4,277	5,530	375	774	1,174	2,181	2,970	3,759
Jobs	0	136	257	378	711	1,540	2,370	464	781	1,009

*Source: Existing housing units are based on the 2020 Alameda County Assessor's Office data. The estimated number of 2020 jobs are based Traffic Analysis Zone (TAZ) data used for the City's Traffic Model.

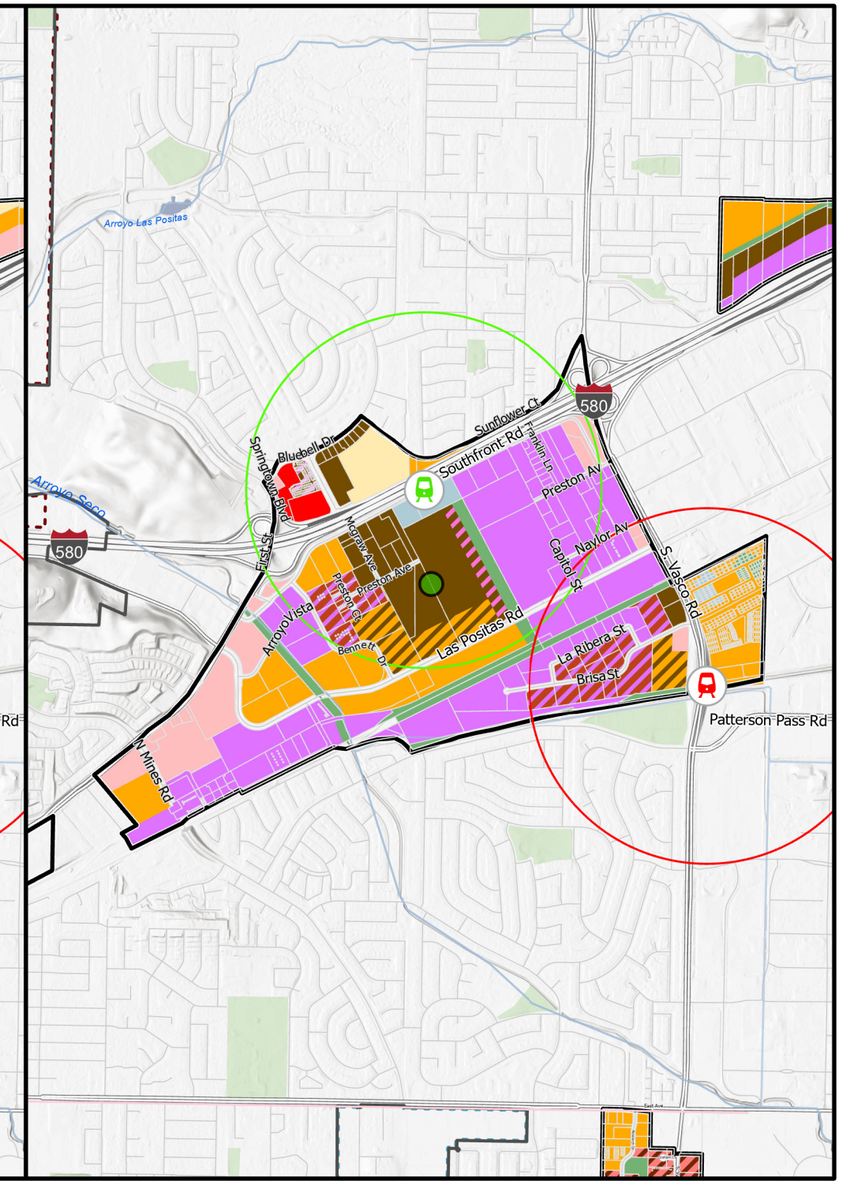
BUSINESS CENTER ALTERNATIVE



RESIDENTIAL NEIGHBORHOOD ALTERNATIVE



BLENDED ALTERNATIVE



Land Use Descriptions

- Residential Low Density (1 to 2 stories, 2 to 14 DU/A)
- Residential Medium Density (2 to 3 stories, 15 to 29 DU/A)
- Residential Medium-High Density (30 to 59 DUA)
- Residential High Density (4+ stories, 60 to 100 DU/A)
- Mixed-Use High Density (4+ stories, 60 to 100 DU/A, 0.5 FAR)
- Commercial - Neighborhood (0.3 to 1.0 FAR)
- Commercial - Service (0.3 to 1.0 FAR)
- Commercial - Highway (0.3 to 1.0 FAR)
- Commercial - Wine-Country (0.3 to 1.0 FAR)
- Mixed Industrial - Commercial and Industrial (0.3 to 1.0 FAR)
- General Industrial (0.3 to 0.5 FAR)
- Mixed Industrial - Industrial-Office (0.5 to 2.0 FAR)
- Agricultural
- Open Space
- Public
- Southfront Valley Link Station (Future)
- Southfront Valley Link Station 1/2 Mile Radius (Future)
- Vasco Ace Station (Existing)
- Vasco Ace Station 1/2 Mile Radius (Existing)

0 0.33 0.65
Miles

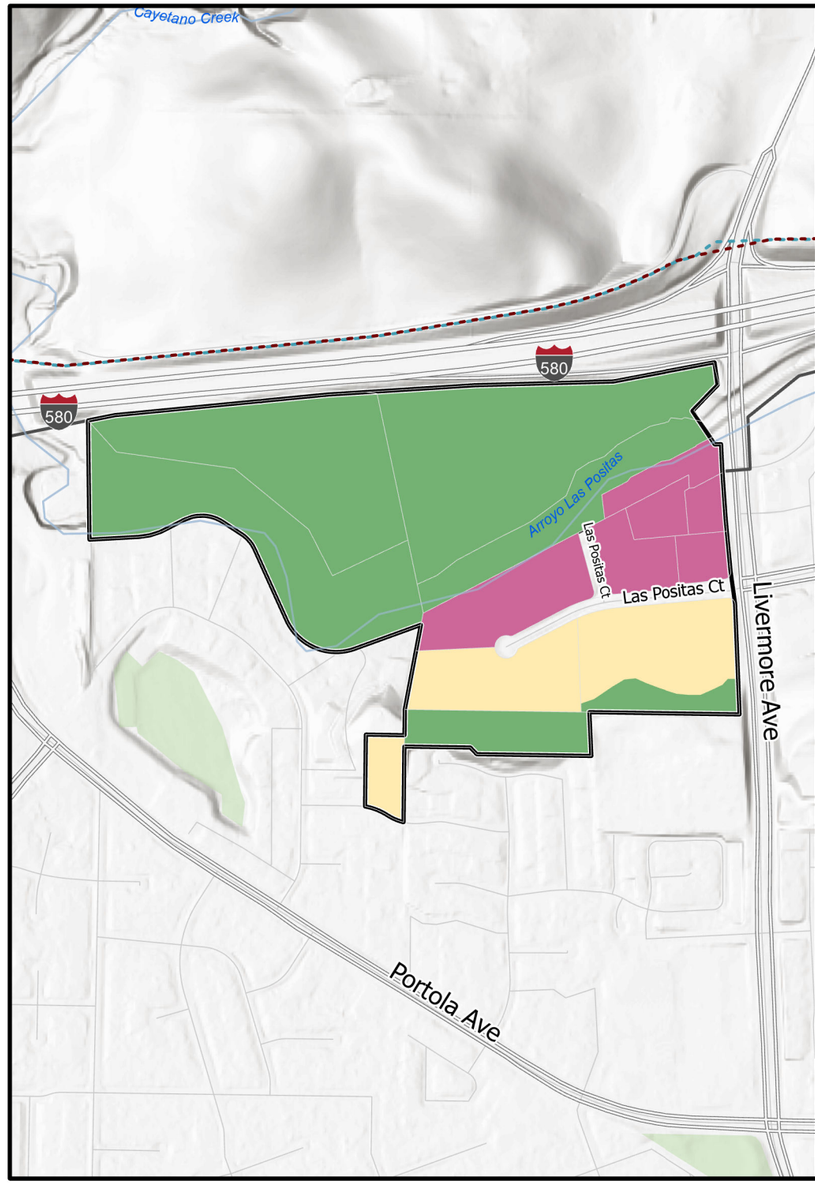
Southfront-Vasco PDA

SOUTHFRONT-VASCO PDA DRAFT ALTERNATIVES 2045 BUILDOUT

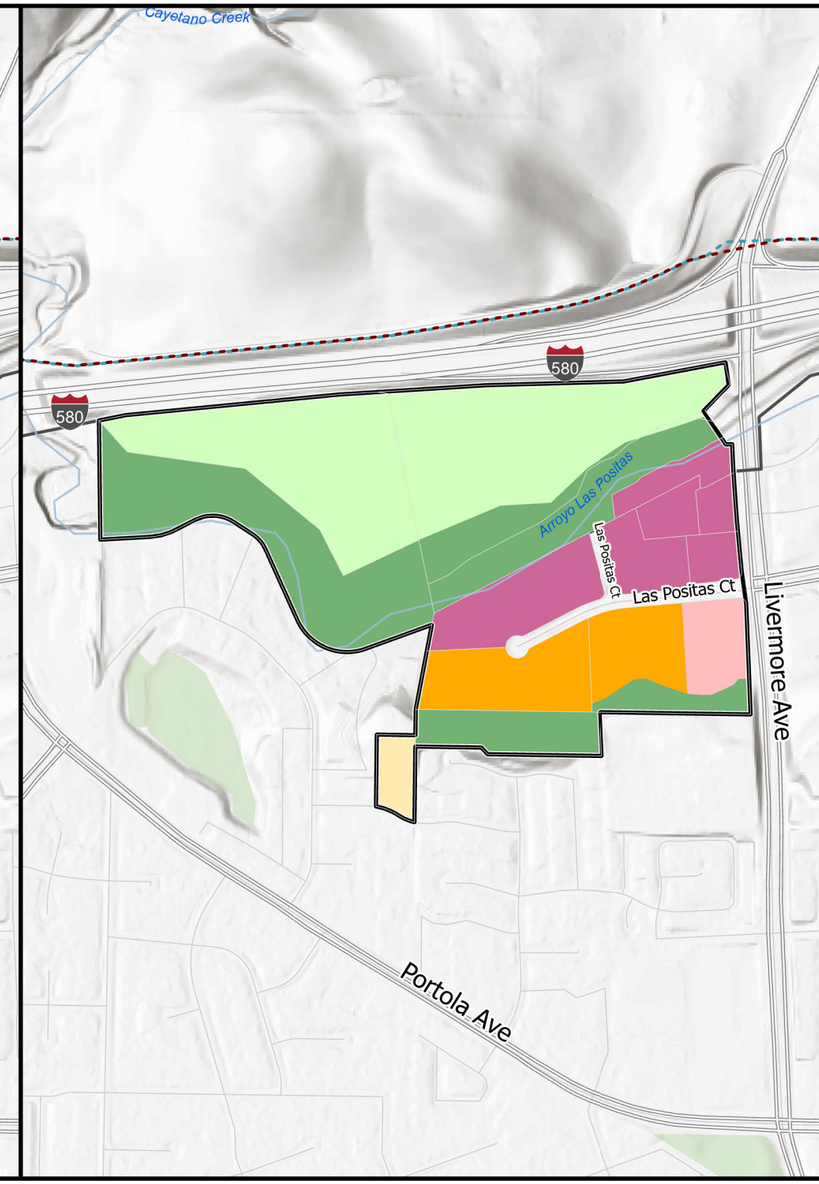
	Existing (2020)*	Business Center Alternative (Net New)			Residential Neighborhood Alternative (Net New)			Blended Alternative (Net New)		
		Min	*Mid*	*Max*	*Min*	*Mid*	*Max*	*Min*	*Mid*	*Max*
Homes	773	3,521	4,734	5,948	7,741	10,564	13,387	4,763	6,542	8,322
Population	2,053	9,365	12,593	15,821	20,592	28,101	35,610	12,669	17,403	22,136
Jobs	2,956	2,726	5,807	8,889	1,469	4,871	8,274	1,489	4,248	7,007

*Source: Existing housing units are based on the 2020 Alameda County Assessor's Office data. The estimated number of 2020 jobs are based Traffic Analysis Zone (TAZ) data used for the City's Traffic Model.

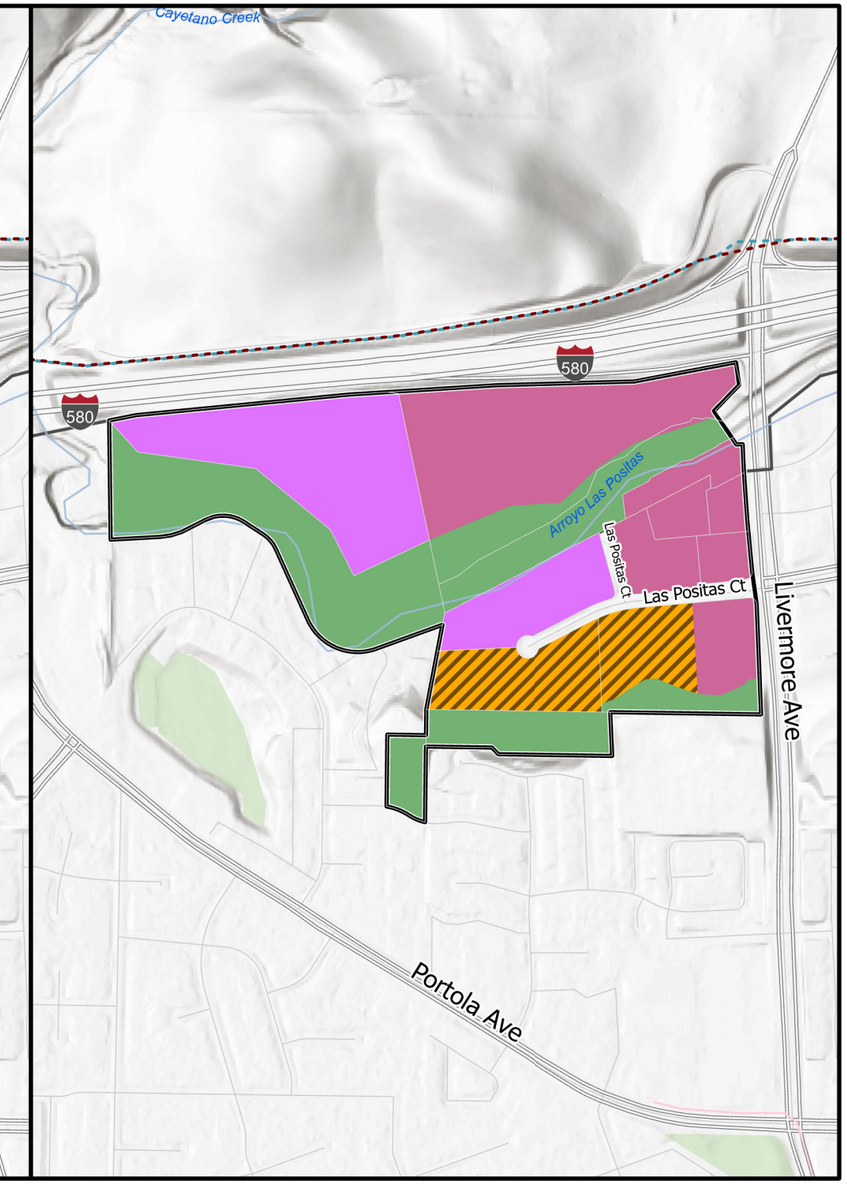
RESIDENTIAL ALTERNATIVE



NEIGHBORHOOD CENTER ALTERNATIVE



HIGHWAY ORIENTED ALTERNATIVE



Land Use Descriptions

- Residential Low Density (1 to 2 stories, 2 to 14 DU/A)
- Residential Medium Density (2 to 3 stories, 15 to 29 DU/A)
- Residential Medium-High Density (30 to 59 DUA)
- Residential High Density (4+ stories, 60 to 100 DU/A)
- Mixed-Use High Density (4+ stories, 60 to 100 DU/A, 0.5 FAR)
- Commercial - Neighborhood (0.3 to 1.0 FAR)
- Commercial - Service (0.3 to 1.0 FAR)
- Commercial - Highway (0.3 to 1.0 FAR)
- Commercial - Wine-Country (0.3 to 1.0 FAR)
- Mixed Industrial - Commercial and Industrial (0.3 to 1.0 FAR)
- General Industrial (0.3 to 0.5 FAR)
- Mixed Industrial - Industrial-Office (0.5 to 2.0 FAR)
- Agricultural
- Open Space
- Public
- Southfront Valley Link Station (Future)
- Southfront Valley Link Station 1/2 Mile Radius (Future)
- Vasco Ace Station (Existing)
- Vasco Ace Station 1/2 Mile Radius (Existing)

0 0.1 0.2 Miles

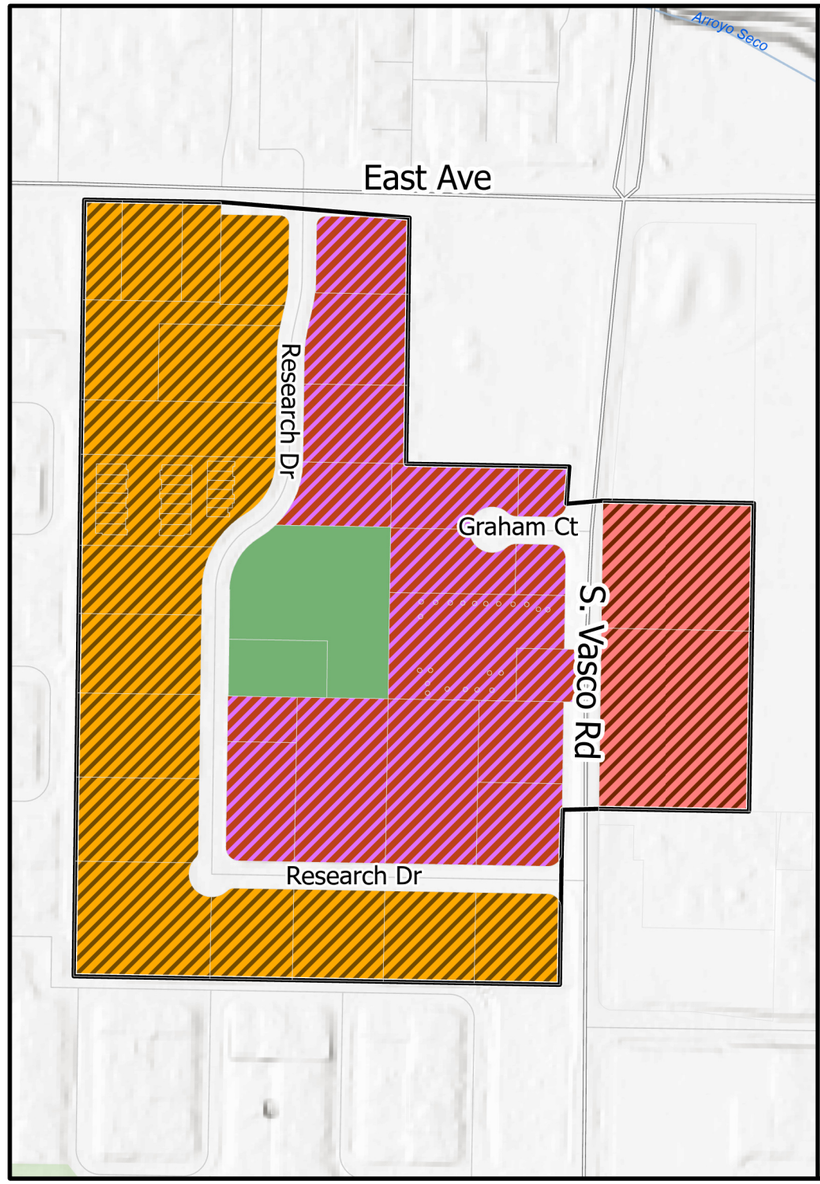
Las Positas Court

LAS POSITAS COURT DRAFT ALTERNATIVES 2045 BUILDOUT

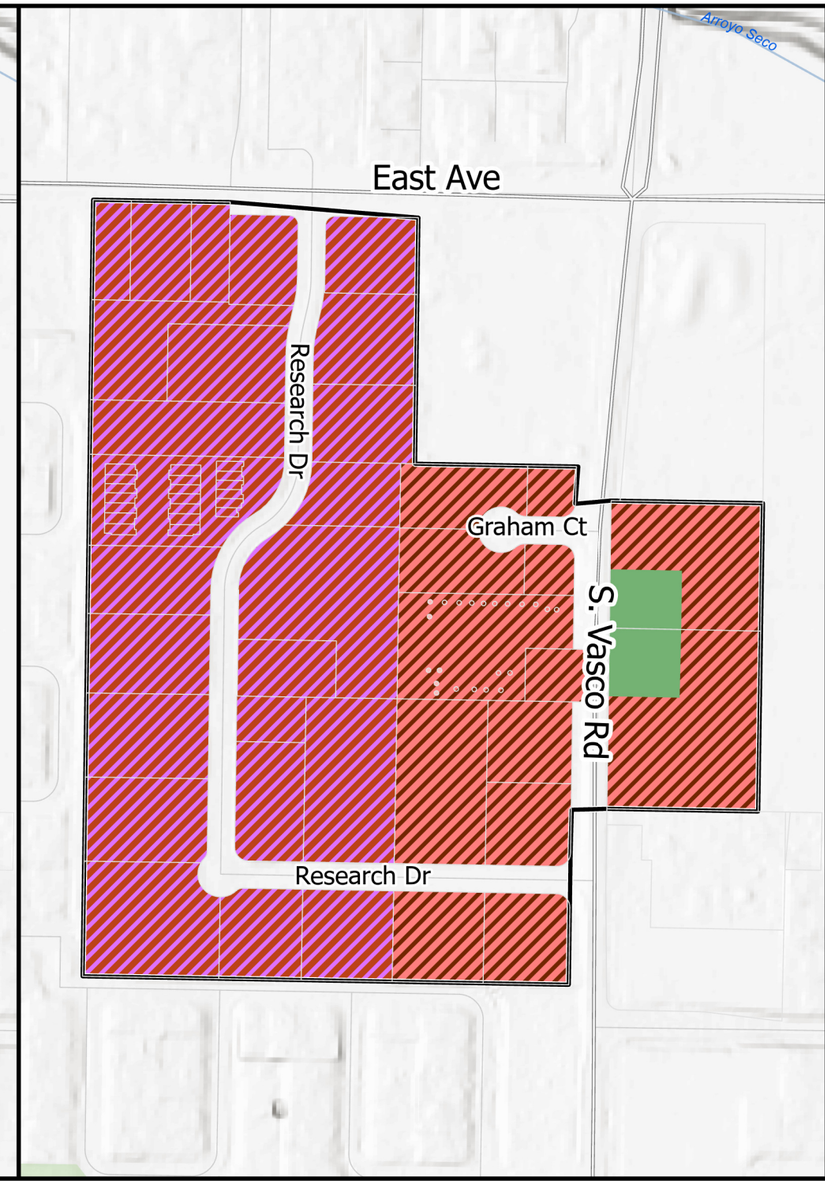
	Existing (2020)*	Residential Alternative (Net New)			Neighborhood Center Alternative (Net New)			Highway Oriented Alternative (Net New)		
		Min	*Mid*	*Max*	*Min*	*Mid*	*Max*	*Min*	*Mid*	*Max*
Homes	0	18	74	129	392	580	768	189	281	373
Population	0	49	196	343	1,043	1,543	2,043	503	747	992
Jobs	253	247	996	1,745	296	1,102	1,909	992	2,665	4,338

*Source: Existing housing units are based on the 2020 Alameda County Assessor's Office data. The estimated number of 2020 jobs are based Traffic Analysis Zone (TAZ) data used for the City's Traffic Model.

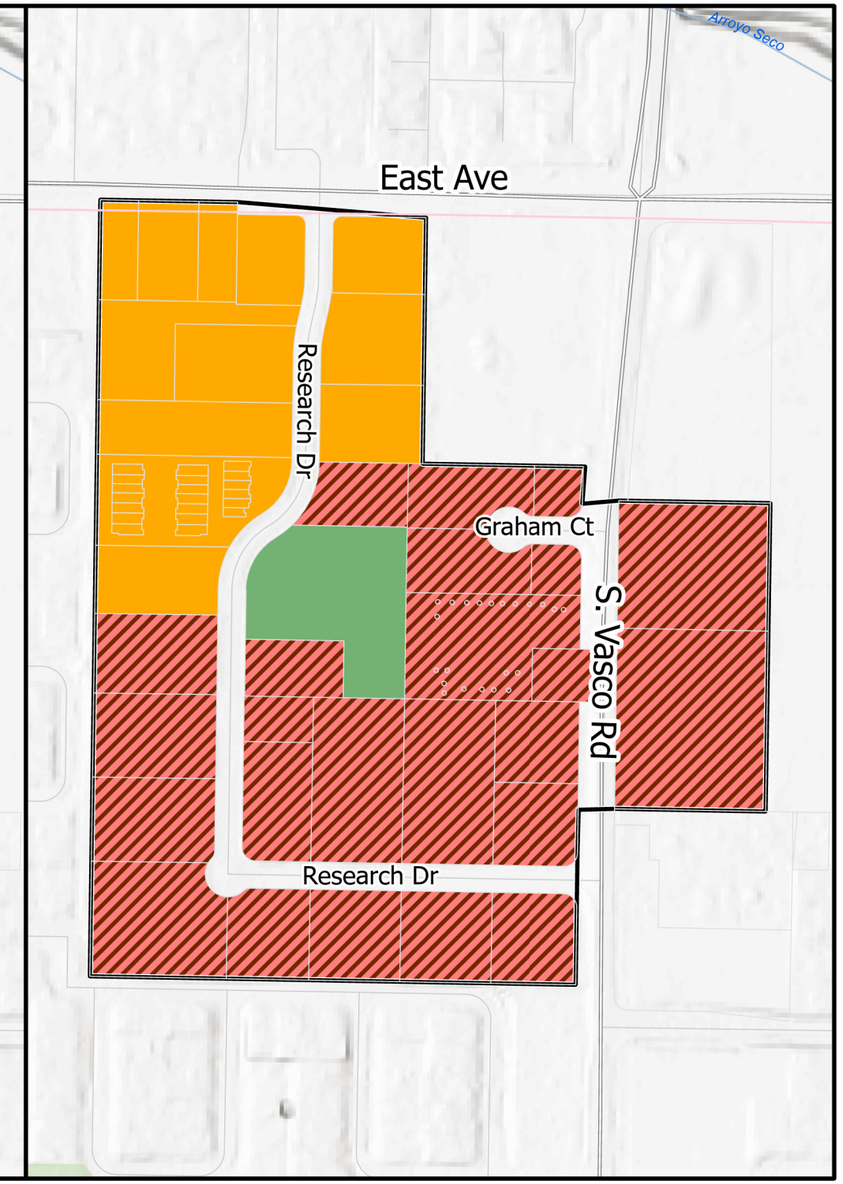
MAKER VILLAGE ALTERNATIVE



PRODUCTION ALTERNATIVE



WINE COUNTRY CENTER ALTERNATIVE



Land Use Descriptions

- Residential Low Density (1 to 2 stories, 2 to 14 DU/A)
- Residential Medium Density (2 to 3 stories, 15 to 29 DU/A)
- Residential Medium-High Density (30 to 59 DUA)
- Residential High Density (4+ stories, 60 to 100 DU/A)
- Mixed-Use High Density (4+ stories, 60 to 100 DU/A, 0.5 FAR)
- Commercial - Neighborhood (0.3 to 1.0 FAR)
- Commercial - Service (0.3 to 1.0 FAR)
- Commercial - Highway (0.3 to 1.0 FAR)
- Commercial - Wine-Country (0.3 to 1.0 FAR)
- Mixed Industrial - Commercial and Industrial (0.3 to 1.0 FAR)
- General Industrial (0.3 to 0.5 FAR)
- Mixed Industrial - Industrial-Office (0.5 to 2.0 FAR)
- Agricultural
- Open Space
- Public
- Southfront Valley Link Station (Future)
- Southfront Valley Link Station 1/2 Mile Radius (Future)
- Vasco Ace Station (Existing)
- Vasco Ace Station 1/2 Mile Radius (Existing)

0 0.05 0.1 Miles

East Ave and South Vasco Road

EAST AVENUE AND SOUTH OF VASCO ROAD DRAFT ALTERNATIVES 2045 BUILDOUT

	Existing (2020)*	Maker Village Alternative (Net New)			Production Alternative (Net New)			Wine Country Center Alternative (Net New)		
		Min	*Mid*	*Max*	*Min*	*Mid*	*Max*	*Min*	*Mid*	*Max*
Homes	5	373	556	738	-5	-5	-5	118	175	233
Population	13	992	1,478	1,963	-13	-13	-13	314	466	619
Jobs	442	-205	72	349	0	412	825	-141	210	561

*Source: Existing housing units are based on the 2020 Alameda County Assessor's Office data. The estimated number of 2020 jobs are based Traffic Analysis Zone (TAZ) data used for the City's Traffic Model.

Place Types Menu

RESIDENTIAL

Low Density Residential

» Single-family homes, duplexes
» 1 to 2 stories
» 2 to 14 DU/A

Image credit: Zillow

Image credit: Google

Medium Density Residential

» Townhomes, low-rise garden apartments, and condominiums
» 2 to 3 stories
» 15 to 29 DU/A

Medium High Density Residential

» Multi-story condominiums and apartment buildings with structured or below-ground parking
» 3 stories or higher
» 30 to 59 DU/A

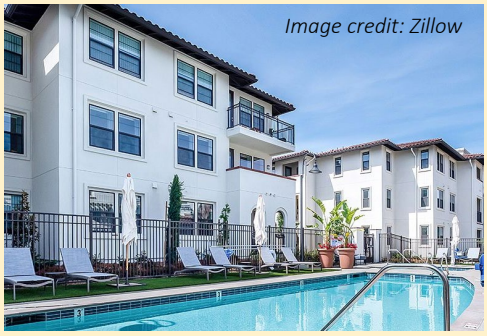


Image credit: Zillow

High Density Residential

» Multi-story condominiums and apartment buildings with structured or below-ground parking
» 4 stories or higher
» 60 to 100 DU/A

Image credit: Apartmetns.com

Image credit: Niles Bolton Associates

Place Types Menu

MIXED USE

Medium High Density Mixed Use

- Residential: Multi-story condominiums and apartment buildings
- Non-residential: Neighborhood commercial or office
- 3 stories or higher
- 30 to 59 DU/A
- 1.5 FAR (non-residential)

High Density Mixed Use

- Residential: Multi-story condominiums and apartment buildings
- Non-residential: Neighborhood commercial or office
- 4 stories or higher
- 60 to 100 DU/A
- 2.0 FAR (non-residential)

Place Types Menu

COMMERCIAL

Highway Commercial

» Includes uses such as hotels and motels, restaurants, and motor vehicle and gasoline service stations

» 1 to 4 stories

» 0.30 to 1.0 FAR

Image credit: GHMG Hotel

Neighborhood Commercial

» Includes uses such as dry cleaners, nail salons, grocery stores, in-line retail, and neighborhood commercial

» 1 to 2 stories

» 0.30 to 1.0 FAR

Service Commercial

» Includes uses such as auto sales and service, nurseries, home maintenance centers, and kennels

» 1 to 2 stories

» 0.30 to 1.0 FAR

Image credit: Google

Wine-Country Commercial

» Includes uses such as wineries, production facilities, tasting rooms, small groceries, restaurants, bike rental facilities, lodging, and other visitor serving uses

» 1 to 2 stories

» 0.30 to 1.0 FAR

Image credit: Guzzardo Partnership

Image credit: NorCal Wine

Place Types Menu

MIXED INDUSTRIAL

Mixed Commercial and Industrial

» Includes food or beverage production areas that come with a commercial component that include sales of products made on site, tasting rooms and event spaces, which could occur in the same building, such as a winery with production uses and a tasting room, cheese production, or coffee roasting; or could occur next to each other.

» 1 to 2 stories

» 0.30 to 1.0 FAR

Image credit: Tin City

Industrial-Office

» Includes office, Research & Development (R&D), and high-tech processing uses, such as life science; but not heavy industrial uses such as traditional manufacturing

» 1 to 2 stories

» 0.5 to 2.0 FAR

Image credit: Lam Research

INDUSTRIAL

Industrial-General

» Includes manufacturing, warehousing, R&D, recycling facilities, and heavy industry that uses, stores, or processes raw materials

» 1 to 2 stories

» 0.60 FAR

Place Types Menu

OPEN SPACE AND PARKS

Community Park

» Includes active recreation areas, playgrounds, landscaped trails, and paths

Open Space

» Includes passive recreation areas, trails, scenic buffers from I-580, and open space for floodplain and environmental conservation

Agriculture

» Includes agricultural uses such as vineyards and orchards in areas suitable for cultivated agriculture

PUBLIC

Public

» Includes public and quasi-public uses, such as schools, transit facilities, public and private meeting facilities, park and recreation areas, administrative and professional offices

PLACEWORKS

MEMORANDUM

DATE June 22, 2022

TO Livermore City Council

FROM Joanna Jansen and Carey Stone, PlaceWorks

SUBJECT Planning Commission Feedback on Draft Alternatives

This memorandum summarizes the Livermore Planning Commission feedback on the range of draft land use alternatives received at the June 21, 2022 Planning Commission meeting. At this meeting, the Planning Commission were asked to focus on these questions:

» Is this the right range of alternatives and do they capture the GPAC's initial input?

» Does this represent a range of alternatives that would help achieve the General Plan Vision?

The June 21, 2022 Planning Commission meeting is one step in a series of meetings to confirm the General Plan Team considering a sufficient range of alternatives before the team conducts an in-depth evaluation to compare the tradeoffs, impacts, and outcomes of each alternative on a range of topics.

This synopsis focuses on Planning Commission comments that responded to the above questions. It does not summarize general expressions of support for or dislike of a given alternative, since the goal of collecting feedback from this meeting was to refine the range of alternatives for evaluation rather than to choose among them. Discussion regarding preferred alternatives or elements will occur later in the process following the alternatives evaluation.

The Planning Commission had the following recommendations and feedback:

Laughlin Road Area

- The Planning Commission suggested the following changes:
    - In Alternative A, add industrial uses in the same configuration as the Highway Commercial uses north of Northfront Road in Alternative C.
    - In Alternative B, move the strip of Neighborhood Commercial between the Residential Low Density and Residential Medium Density to front I-580 to provide a buffer for the residential uses.

- Planning Commission discussion included:
    - Support for the open space designation in the northeast of the focus area due to the presence of sensitive habitats and species and earthquake fault in this area.

PLACEWORKS

Southfront-Vasco PDA

- The Planning Commission suggested the following changes:
    - In one alternative, change the Highway Commercial to Neighborhood Commercial north of I-580.
    - Explore a higher residential density for the mobile home park north of I-580 under one alternative.
    - Explore an alternative that includes a commercial buffer between residential uses and I-580.

- Planning Commission discussion included:
    - The ACE train station is an existing asset and we should consider additional residential uses near this station and extend additional commercial uses along Vasco Road to support the Brisa neighborhood.
    - Concern that it may be premature to plan for this area given uncertainty of future Valley Link service.
    - Need to consider circulation connections for all modes.
    - Consider adding a gateway to wine country in this area by adding additional Wine Country Commercial uses.

Las Positas Court

- The Planning Commission suggested the following changes:
    - Consider a residential use in the southwest corner of the focus area that is currently shown as Open Space in the alternatives, but surrounded by residential uses and currently designated for residential uses.

- Planning Commission discussion included:
    - Concern about the viability of non-residential uses in the northern portion of the focus areas.

East Avenue and South Vasco Road

- The Planning Commission suggested the following changes:
    - In Alternative A, move the Residential Medium-High Density place type from the east side of Research Drive to the southern end of the focus area.

- Planning Commission discussion included:
    - Improving circulation, planning for sufficient parking, and design guidelines will be important for this area.
    - Adding residential uses will be key to the success of this area.
    - Engaging with the surrounding neighborhoods to understand what uses they would like in this focus area will be important.

General Discussion on the Land Use Alternatives

In addition, the Planning Commission discussed a variety of broader topics related to the land use alternatives:

- Need to consider the alternatives at a citywide scale see them within the context of the entire city.
- The process will include evaluating how the alternatives will affect community design, public services, circulation, parking supply, and retail viability.
- The importance of good design in higher density housing products.
- High density residential outside of the Downtown could work if there is sufficient green space and nearby schools and amenities.
- Scenic views and corridors along I-580.
- Ensure adequate supply of non-residential uses to maintain the jobs/housing balance and City's fiscal stability.
- Ensure there is sufficient density surrounding Neighborhood Commercial uses to make this land use viable. Neighborhood Commercial is what makes Livermore unique.
- Create walkable communities within proximity to amenities and services.
- Concern about locating residential uses adjacent to I-580 due to potential health risks and noise issues.

PLACEWORKS

MEMORANDUM

DATE June 10, 2022

TO Livermore City Council and Planning Commission

FROM Joanna Jansen and Carey Stone, PlaceWorks

SUBJECT Summary of General Plan Advisory Committee on Changes to the Draft Alternatives

This memorandum summarizes the General Plan Advisory Committee (GPAC) feedback received on the range of draft land use alternatives from the Wednesday, June 8, 2022, and Thursday, June 9, 2022, GPAC meetings. At these meetings, the GPAC were asked to focus on these questions:

» Is this the right range of alternatives and do they capture the GPAC's initial input?

» Does this represent a range of alternatives that would help achieve the General Plan Vision?

» Are there ideas missing that you would like to see evaluated?

The June GPAC meetings are one step in a series of meetings to confirm the project team considering a sufficient range of alternatives before the General Plan team conducts an in-depth evaluation to compare the tradeoffs, impacts, and outcomes of each alternative on a range of topics.

This synopsis focuses on GPAC comments that responded to the above questions and suggested new ideas not captured in any of the draft alternatives. It does not summarize general expressions of support for or dislike of a given alternative, since the goal of collecting feedback from this meeting was to refine the range of alternatives for evaluation rather than to choose among them. Discussion regarding preferred alternatives or elements will occur later in the process following evaluation.

The GPAC had the following recommendation and feedback:

Laughlin Road Area

- GPAC suggested the following the changes:
    - At least one of the alternatives should not include residential uses adjacent to I-580. Consider light industrial or commercial instead.
    - Each alternative should have park space that is more centrally located in the residential areas.
    - considering an alternative that expands the commercial or light industrial uses to the east along the Northfront corridor

- Committee discussion included:
    - The appropriate amount of High Density Residential in this focus area and in proximity to I-580. Consider locating some residential just east of Laughlin across from existing residential.

PLACEWORKS

Southfront-Vasco PDA

- GPAC suggested the following changes:
    - Incorporated other land uses as a buffer between residential uses and I-580 and the Vasco Corridor. (The original draft alternatives place residential closest to the future Valley Link station.)
    - Include more variability in the application of the residential place types to increase the range of residential options; replace some of the High Density Residential with Medium High and Medium Density Residential, etc.
- Committee Discussion included:
    - Similar land use place types should be contiguous; do not create islands or patchworks of single place type designations.
    - Consider an alternative that plans for a scenario without Valley Link service in case Valley Link does not happen.
    - There were questions and concerns about the displacement of existing commercial and industrial uses if converted to residential uses (e.g., If existing non-residential land transitions to housing, where will these businesses go?)

Las Positas Court

- GPAC suggested the following the changes:
    - Residential uses should not be included north of Las Positas Court.
    - Two alternatives should consider an open space place type north of Las Positas Court including an Agriculture place type, which would allow for a vineyard, in the area between the arroyo and I-580, which should have "managed" open space.
    - Consider an alternative that replaces the Low Density Residential in Alternative A or B with Medium Density Residential or Medium High Density Residential.
- Committee Discussion included:
    - Extending the Industrial Office place type to increase space for businesses to relocate from other Focus Areas,
    - Reduce fire risk for the open space area north of creek.
    - Including gateway features including vineyards and agricultural uses.
    - Considering Wine Country Commercial, however, many did not think this was an appropriate place for wine country commercial uses.
    - Transitioning from one use to another and questions and concerns about displacing existing businesses. (Staff provided additional discussion about how land use designations are one among many influences on property owner decisions and usually encourage gradual rather than immediate change).

PLACEWORKS

- All alternatives will need to address connectivity, wildfire risk, consider potential flood hazards and protected biological species, and take into consideration the adjacent Isabel Neighborhood Specific Plan.

East Avenue and South Vasco Road

- GPAC suggested the following the changes:
    - Including park space in every alternative, even Alternative B that does not include housing; the maker businesses (e.g. wineries, craft brewers, etc.) would also need park space for occasional events.
    - Modify the residential in one of the alternatives to vary the amount being evaluated. Some GPAC members wanted to limit the residential uses to the northwest corner of the focus area.

- Committee Discussion included:
    - Exploring a range of residential density types in the focus area, including medium high- and high-density place types.
    - Ensuring Neighborhood Commercial uses would be allowed in the Wine Country Commercial place type to serve and appeal to the surrounding residential neighborhoods.

The draft land use alternatives reflect GPAC's recommended changes. In addition, the GPAC discussed a variety of broader topics related to land use.

General Discussion on the Land Use Alternatives

- Limiting High Density Residential, immediately adjacent to I-580, to reduce exposure to air pollution, noise, and protect scenic corridors. Instead of residential, consider industrial or commercial uses along I-580. Alternatively, High Density Residential, and other housing close regardless of location, would increase housing supply, provide variety of housing, and address the housing crisis, particularly for service workers who are essential to staffing the businesses that support a high quality of life for Livermore residents, visitors, and business owners.

- Consider a "no project alternative", an alternative that shows what would happen under the existing General Plan build out, to compare the draft land use alternatives against.
- Transitioning from existing land uses and structures to other land uses and new development. There was a question about the displacement of existing commercial and industrial uses if converted to residential uses. (If existing non-residential land transitions to housing, where will these businesses go?)
- The importance of improving circulation connections, providing sufficient parking, and resolving existing circulation issues.
- State mandates to provide for housing is in conflict with State water supply distribution or energy infrastructure.

- Maintaining Livermore's quality of life is paramount and recognizing that what creates a high quality of life for Livermore residents may vary based on age, income, and personal interests, but some shared aspects include access to parks and green spaces, opportunities to get around without driving, and housing that is affordable.
- The potential citywide implications of each alternative and not only the outcomes within each individual focus area.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 6.2**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

SUBJECT: Resolution approving, authorizing, and directing a lease financing of the L Street parking garage (Livermore Village parking garage) and related improvements, the sale of Certificates of Participation, the distribution of a preliminary and final official statement, and granting to the Mayor, City Manager, Administrative Services Director, City Attorney, or designee the authority to approve the related documents and actions.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. Approving the forms of and authorizing the execution and delivery of a Site Lease, Lease Agreement, Trust Agreement, and a Continuing Disclosure Agreement in connection with the offering and sale of the City of Livermore 2022 Certificates of Participation for the L Street parking garage project (Livermore Village Development) and authorizing the distribution of a Preliminary Official Statement and a Notice of Sale in connection therewith, and authorizing execution of necessary documents, certificates, and certain other related actions; and
2. Granting to the Mayor, City Manager, Administrative Services Director, City Attorney, or designee the authority to amend and execute documents, determine appropriateness of bond terms and conditions, and to carry out, give effect to, and comply with the terms and intent of the resolution.

SUMMARY

The L Street parking garage project involves constructing a 4-level public parking garage with approximately 460 spaces east of L Street, between Veterans Way and First Street. Additional site improvements include reconfiguring the surface parking lot east of the parking garage, constructing a trash enclosure facility, installing a pedestrian walkway between the new garage and First Street, completing landscaping along Veterans Way north of the garage, and pedestrian crosswalk improvements at Veterans Way and L Street, and Veterans Way and K Street. The L Street parking garage project and the additional site improvements are referred to herein as the “Project".

The Council previously approved the Project, including the use of Certificates of Participation to finance

the Project.

The proposed resolution will approve the execution and delivery of the 2022 Certificates of Participation (Livermore Village Development) (the "2022 Certificates") to finance the Project and all related documents and actions.

DISCUSSION

The Council previously approved the Project, including the use of Certificates of Participation to finance the Project. The proposed resolution will approve the execution and delivery of the 2022 Certificates and all related documents and actions. The resolution authorizes City staff to complete the transaction, based upon the parameters specified therein, notably, a not-to-exceed par amount of $47.5 million and a not-to-exceed true interest cost of 6.0%. Such not-to-exceed figures incorporate additional cushion to the Project cost estimates and financing estimates discussed below to account for the period of time between the drafting of this staff report to City Council, the City's receipt of formal construction bids on the Project, and the anticipated sale of the 2022 Certificates in late-September 2022.

Plan of Finance: The 2022 Certificates would finance (i) the design and construction of a parking garage to provide adequate parking for all existing and new development and other improvements in the City and (ii) certain costs of executing and delivering the 2022 Certificates.

The City will pay principal on this fixed-lease obligation annually, commencing April 1, 2023, and interest semi-annually (on April 1 and October 1, commencing April 1, 2023) for a term of 30 years. The City's lease payments are payable from the City's general fund, and the City will covenant to budget and appropriate for the scheduled lease payments on an annual basis, subject to abatement if the leased assets are not available for City use and occupancy.

The 2022 Certificates are expected to be sold through a competitive method of sale. The City has historically used the competitive method of sale for prior lease financings and other City debt offerings. However, in 2020 amid the market volatility associated with the onset of the COVID-19 pandemic, the City sold refunding Certificates of Participation in 2020 (as described in "Security Structure" below) on a negotiated basis, where an underwriter was pre-selected through a competitive procurement process. In consultation with KNN Public Finance, LLC, the City's municipal advisor ("Municipal Advisor"), staff expects to proceed with a competitive sale of the 2022 Certificates given current, less volatile market conditions.

Estimated Sources and Uses: The table shown as Attachment 1 is an estimate of the sources and uses of the 2022 Certificates, based upon market conditions as of August 22, 2022 plus an additional interest rate cushion of 0.50%. Please note that these figures remain preliminary and subject to change with market conditions until the pricing of the 2022 Certificates, which is expected to occur during the week of September 26, 2022. Additionally, should the actual cost of the Project be materially different from the current estimated cost of the Project of $40.4 million, then the estimated par amount and financing results would change.

Security Structure: It is common for general law cities in California to use lease/leaseback structures to finance capital projects. The City most recently utilized lease Certificates of Participation in 2020 (the "2020 Certificates") when the City refinanced its outstanding 2011 Certificates of Participation, 2014A Certificates of Participation, and 2014B Certificates of Participation to achieve interest cost savings and

convert variable interest rate payment obligations to fixed interest rate payment obligations.

Consistent with the structure of the 2020 Certificates, the 2022 Certificates structure is based upon a lease arrangement between the City and the Public Property Financing Corporation of California (the "Corporation"), which is a nonprofit corporation established to provide assistance to public agencies with lease financings (see "Financing Documents" below for more information about the required documentation).

The City currently intends to utilize the City Hall, Civic Center Meeting Hall, Rincon Library, and Springtown Library as the leased assets for the 2022 Certificates. However, depending on the final par amount of the 2022 Certificates, the City may not need to pledge one or both of the Rincon and Springtown libraries.

Financing Documents. The proposed financing requires the following documents (attached as exhibits to the resolution):

- Site Lease: Under the Site Lease, the City leases certain City assets to the Corporation, to facilitate the lease financing.

- Lease Agreement: Pursuant to the Lease Agreement, the Corporation will sub-lease the assets leased to it under the Site Lease back to the City. The City will covenant in the Lease Agreement to budget and appropriate for the scheduled lease payments on an annual basis, subject to abatement if the leased assets are not available for City use and occupancy. If the City fails to make the scheduled lease payments, the trustee for the 2022 Certificates (the "Trustee") could sue the City to make the scheduled lease payments or the Trustee could take possession of and re-let the leased assets.

- Trust Agreement; Assignment Agreement: Under the Assignment Agreement, the Corporation will assign to the Trustee its right to receive the lease payments that are payable by the City under the Lease Agreement. Under the Trust Agreement, the Trustee will execute and deliver the 2022 Certificates, which represent interests in the City's lease payments.

- Preliminary Official Statement. The Official Statement is the primary disclosure document for investors in the 2022 Certificates. A Preliminary Official Statement will be circulated to potential investors prior to the pricing of the 2022 Certificates. After the 2022 Certificates have been priced, a Final Official Statement will be circulated to investors; the Final Official Statement should be identical to the Preliminary Official Statement except for the addition of pricing information (principal amount, interest rates, redemption terms).

- The Preliminary Official Statement is prepared by Jones Hall, serving the City as Bond Counsel and Disclosure Counsel for this transaction, with the assistance of the remainder of the financing team, including City staff; and the Municipal Advisor.

- The Preliminary Official Statement has been reviewed and approved for transmittal to the City Council by the City's financing team. The distribution of the Preliminary Official Statement by the City is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the 2022 Certificates. Material information is information

that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the bonds. If the City Council concludes that the Preliminary Official Statement includes all facts that would be material to an investor in the 2022 Certificates, it must adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been "deemed final."

- The Securities and Exchange Commission (the "SEC"), the agency with regulatory authority over the City's compliance with the federal securities laws, has issued guidance as to the duties of the City Council with respect to its approval of the Preliminary Official Statement. In its "Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors" (Release No. 36761 / January 24, 1996) (the "Release"), the SEC stated that, if a member of the City Council has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the 2022 Certificates, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC stated that the steps that a member of the City Council could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

- The key sections of the Preliminary Official Statement are summarized below:

    - "THE CERTIFICATES": This section summarizes the key terms of the 2022 Certificates, including payment dates and prepayment provisions.

    - "SECURITY FOR THE CERTIFICATES": This section summarizes key security terms, including the lease payments made by the City under the Lease Agreement. Staff expects to pay the lease payments from the City's general fund.

    - "APPENDIX A - CITY OF LIVERMORE GENERAL FINANCIAL AND DEMOGRAPHIC INFORMATION": This section summarizes financial and operating data that is material to the City's ability to pay the lease payments.

    - "RISK FACTORS": This section highlights the primary risks associated with the 2022 Certificates, most of which relate to the financial health of the City's general fund.

    - "TAX MATTERS": This section describes the tax-exempt nature of interest with respect to the 2022 Certificates.

Continuing Disclosure Certificate. Under SEC Rule 15c2-12, the underwriter of the 2022 Certificates may only purchase the 2022 Certificates if it has determined that the City is obligated to provide continuing disclosure, including annual updates of the financial and operating data included in the Official Statement and notices of certain specified events.

Notice of Sale. The 2022 Certificates are expected to be sold pursuant to a competitive sale, which is similar to an auction, and the Notice of Sale establishes the terms of the sale. The Notice of Sale will be distributed to potential investors along with the Preliminary Official Statement. In addition, because of the volatile behavior of the financial markets over the past year, the resolution authorizes the Administrative Services Director, following consultation with the City Attorney, the Municipal Advisor and

Bond Counsel, to determine that it is in the best interests of the City to sell the 2022 Certificates to an underwriter on a negotiated basis, and authorizes the execution and delivery of a purchase agreement with such underwriter on behalf of the City.

FISCAL AND ADMINISTRATIVE IMPACTS

Funding for the Project (Livermore Village Parking Garage Construction, Project No. 586003) is included in the FY 2021-23 Capital Improvement Plan and relies on anticipated proceeds from the sale of the 2022 Certificates (2022 COP Construction Funds (Fund 320)). Project cost estimates included in the FY 2021-23 Capital Improvement Plan included $820,000 budgeted for design in Fiscal Year 2021-22 and $34,500,000 budgeted for construction in Fiscal Year 2022-23. Based on current estimates, staff's planning estimate for the total Project costs is approximately $40.4 million, which includes a contingency of $3,000,000 for market rate adjustment, a $500,000 design contingency, and $2,000,000 for change orders. The final sizing of the 2022 Certificates will be based on the bid received from the highest-ranking proposal submitted for the construction of the Project.

Based on estimated 2022 Certificates proceeds of $40.989 million (which includes an estimated principal amount of $37.965 million plus $3.024 million of issuance premium), an interest rate of 4.38% (reflecting market interest rates as of August 22, 2022, plus a cushion of 0.50%) and a final maturity date of April 1, 2052, the Municipal Advisor estimates that the annual lease payments payable by the City from its general fund would be approximately $1,750,850 in FY 2022-23 and average $2,450,198 annually thereafter through FY 2051-52. The financial markets have been volatile over the past year, so staff cautions that the interest cost and other terms of the 2022 Certificates will not be finalized until late-September, when the sale is scheduled to occur. These estimates vary from the not-to-exceed figures in the City's resolution, which allow for further cushion in estimated Project costs and tax-exempt interest rates, which are subject to change between Council approval and final pricing of the 2022 Certificates expected in late September. The City's FY 2022-23 budget includes $1.325 million for debt service on the 2022 Certificates. If the actual debt service exceeds budget, staff will request a budget amendment during the FY 2022-23 mid-year budget review.

ATTACHMENTS

1. Sources and Uses Table
2. Resolution
3. Exhibit A - Government Code Section 5852 disclosure
4. Exhibit B - Property Lease
5. Exhibit C - Lease Agreement
6. Exhibit D - Trust Agreement
7. Exhibit E - Preliminary Official Statement
8. Exhibit F - Notice of Sale

Prepared by: Erik Peterson
Accounting Supervisor

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Sources and Uses Table to Staff Report

Sources:	
2022 Certificates Total Proceeds:	$40,989,046
Uses:	
Project Cost	40,400,000
Cost of Issuance	320,000
Underwriter's Discount	269,046
Total Uses:	$40,989,046
Estimated Results:	
True Interest Cost[1]	4.38%
FY 2023 Lease Payment	$1,750,850
Average Annual Lease Payments (FY 2024 – FY 2052)	$2,450,198
Total Lease Payments through FY 2052	$72,806,600

[1] Based on market conditions as of August 22, 2022 plus a 50bps interest rate cushion

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION APPROVING, AUTHORIZING AND DIRECTING A LEASE FINANCING OF THE LIVERMORE VILLAGE PARKING GARAGE, THE EXECUTION OF CERTAIN LEASE FINANCING DOCUMENTS, THE SALE OF CERTIFICATES, THE DISTRIBUTION OF A PRELIMINARY AND FINAL OFFICIAL STATEMENT, AND OTHER DOCUMENTS AND ACTIONS RELATED THERETO

The City of Livermore (the "City") is a general law city organized under the Constitution and the laws of the State of California.

The City wishes to finance the capital improvements described in Section 2 below (the "Project"), together with related costs, using a lease financing structure and certificates of participation, and leasing the real property and improvements identified in Section 3 (the "Leased Property").

The City has determined that it is in the interests of the City at this time to provide for the financing of the costs of the Project, the funding of a reserve for the lease payments to be paid by the City, if needed, and the costs of issuance incurred in connection with the proposed financing, by leasing the Leased Property to the Public Property Financing Corporation of California (the "Corporation"), pursuant to that certain Property Lease, by and between the City, as lessor, and the Corporation, as lessee (the "Property Lease"), and subleasing the Leased Property pursuant to a Lease Agreement, by and between the Corporation, as lessor, and the City, as lessee (the "Lease Agreement").

For the purpose of obtaining the moneys required to finance the Project, the Corporation proposes to assign and transfer certain of its rights under the Lease Agreement to the Trustee, and in consideration of such assignment and the execution of a Trust Agreement, among U.S. Bank Trust Company, National Association (the "Trustee"), the City and the Corporation (the "Trust Agreement"), the Trustee has agreed to execute and deliver City of Livermore 2022 Certificates of Participation (Livermore Village Development) (the "Certificates"), each evidencing an undivided fractional interest in the Lease Payments to be made by the City under the Lease Agreement.

In connection therewith, it is in the public interest and for the public benefit that the City authorize and direct execution of the Lease Agreement and certain other financing documents in connection therewith.

City staff has presented to the City Council the forms of the Property Lease, the Lease Agreement, the Trust Agreement, a continuing disclosure certificate under which the City will agree to provide ongoing disclosure about the Certificates (the "Continuing Disclosure Certificate"), a Notice of Sale that would be used by the City with a competitive sale of the Certificates, and a preliminary official statement containing information material to the offering and sale of the Certificates (the "Preliminary Official Statement").

The members of the City Council, with the aid of the City's staff, have reviewed such documents and wish to approve the proposed financing and related documents.

In accordance with Government Code Section 5852.1 and in connection with the sale of the Certificates, the City Council received from the Municipal Advisor certain required good-faith estimates, and such estimates are disclosed and set forth in Exhibit A, attached hereto.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore as follows:

Section 1. The City Council hereby finds and determines that the recitals herein are true and correct.

Section 2. The Project to be financed with the proceeds of the Certificates consists of (a) the costs of design and construction of a four-level public parking garage with approximately 460 spaces east of L Street, between Veterans Way and First Street, and (b) the costs of additional site improvements, which are intended to provide adequate parking for all existing and new development in the City's downtown.

Section 3. The Leased Property consists of City Hall, the Civic Center Meeting Hall (Council Chambers), Rincon Library and Springtown Library, all of which are located in the City.

Section 4. The City Council hereby authorizes the execution and delivery of the Certificates pursuant to the provisions of the Trust Agreement.

Section 5. The below-enumerated documents are hereby approved, and the Mayor, the City Manager, the Administrative Services Director, the City Attorney, or a designee appointed by any such officer (in each case, an "Authorized Officer"), each acting alone, are hereby separately authorized and directed to execute said documents, with such changes, insertions and omissions as may be approved by an Authorized Officer, and the City Clerk is hereby authorized and directed to attest to such Authorized Officer's signature, if applicable:

(a) the Property Lease, in the form attached hereto as Exhibit B;

(b) the Lease Agreement, in the form attached hereto as Exhibit C, so long as the stated term of the Lease Agreement does not extend beyond April 1, 2052 (except in the case of default), so long as the principal amount of the Lease Agreement does not exceed $47,500,000, and so long as the principal component of the lease payments payable by the City under the Lease Agreement bears a true interest cost of not-to-exceed 6.0%;

(c) the Trust Agreement, in the form attached hereto as Exhibit D; and

(d) the Continuing Disclosure Certificate, in the form attached hereto as Exhibit E (as an appendix to the Preliminary Official Statement);

The City Council's approval of such documents shall be conclusively evidenced by the execution and delivery of such documents by an Authorized Officer. The City Council hereby authorizes the performance of its obligations under such documents.

Section 6. The City Council hereby approves a competitive sale of the Certificates pursuant to a Notice of Sale in substantially the form attached hereto as Exhibit F.

The Bond Counsel approved herein is hereby authorized and directed to cause a Notice of Intention to Sell Certificates to be published once in *The Bond Buyer* in accordance with Section 53692 of the California Government Code, if applicable.

In addition, the City Council hereby authorizes and directs the Administrative Services Director, following consultation with the City Attorney, the Municipal Advisor and Bond Counsel, to determine that it is in the best interests of the City to sell the Certificates to an underwriter on a negotiated basis, and an Authorized Officer, acting alone, is hereby authorized and directed to execute and deliver a purchase agreement with such underwriter on behalf of the City, and the City Council's approval of such purchase agreement shall to be conclusively evidenced by the execution and delivery of such agreement. The City Council hereby authorizes the performance of its obligations under such purchase agreement.

Section 7. The City Council hereby approves the Preliminary Official Statement describing the financing, in the form attached hereto as Exhibit E, together with any changes therein or additions thereto deemed advisable by an Authorized Officer. The City Council authorizes and directs an Authorized Officer, on behalf of the City, to deem "final", pursuant to Rule 15c2-12, under the Securities Exchange Act of 1934 (the "Rule"), the Preliminary Official Statement, prior to its distribution to prospective purchasers of the Certificates.

An Authorized Officer is hereby authorized and directed to cause the Preliminary Official Statement to be brought into the form of a final official statement (the "Final Official Statement") and an Authorized Officer, acting alone, is hereby authorized and directed to execute the Final Official Statement, dated as of the date of the sale of the Certificates, and an Authorized Officer is directed to execute a statement that the facts contained in the Final Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of such statement) were, at the time of sale of the Certificates, true and correct in all material respects and that the Final Official Statement did not, on the date of sale of the Certificates, and does not, as of the date of delivery of the Certificates, contain any untrue statement of a material fact with respect to the City, or omit to state material facts with respect to the City that are required to be stated where necessary to make any statement therein not misleading, in light of the circumstances under which it was made. An Authorized Officer shall take such further actions prior to the signing of the Final Official Statement as are deemed necessary or appropriate to verify the accuracy thereof. The execution of the Final Official Statement, which shall include such changes and additions thereto deemed advisable by an Authorized Officer, and such information permitted to be excluded from the Preliminary Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Final Official Statement by the City.

The Final Official Statement, when prepared, is approved for distribution in connection with the offering and sale of the Certificates.

Section 8. The City Council approves the selection of Jones Hall, A Professional Law Corporation ("Bond Counsel"), as Bond Counsel and disclosure counsel to the City, and KNN Public Finance as municipal advisor to the City ("Municipal Advisor"). An Authorized Officer is hereby authorized to execute a professional services agreement with such firms in connection with the proposed financing, and the execution of such agreements by an Authorized Officer shall be conclusive evidence of such approval.

Section 9. An Authorized Officer is hereby authorized and directed to take all actions necessary to authorize the purchase of one more municipal bond insurance policy, or reserve account insurance policies for the Certificates if it is determined, upon consultation with the Municipal Advisor and Bond Counsel, that such insurance policies will reduce the true interest cost of the Certificates, and to execute all related documents.

Section 10. The Mayor, the City Manager, the Administrative Services Director, the City Clerk, the City Attorney, and all other appropriate officials of the City are hereby authorized and directed to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution, and to execute such other agreements, documents, certificates, requisitions, notices, consents, instruments of conveyance, warrants and other documents as may be necessary to effect the purposes of this Resolution and the financing herein authorized. The Mayor, the City Manager, the Administrative Services Director, the City Clerk, the City Attorney and all other appropriate officials of the City are hereby authorized, after consulting with the City's financing team, to identify additional or alternative assets to serve as Leased Property under the Property Lease and the Lease Agreement.

Whenever in this resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning, or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer shall be absent or unavailable.

Section 11. This Resolution shall take effect upon its adoption by this Council.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 12, 2022, by the following vote:

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

ATTEST:

_____
Marie Weber
City Clerk

APPROVED AS TO FORM:

/s/ Jason Alcala
Jason Alcala
City Attorney

Attachments:

Exhibit A - Government Code Section 5852.1 Disclosure
Exhibit B - Property Lease
Exhibit C - Lease Agreement
Exhibit D - Trust Agreement
Exhibit E - Preliminary Official Statement
Exhibit F - Notice of Sale

EXHIBIT A

GOVERNMENT CODE SECTION 5852.1 DISCLOSURE

The following information consists of estimates that have been provided by the City's Municipal Advisor, which has been represented by such party to have been provided in good faith:

(A) True Interest Cost with respect to the Certificates: 4.38%.

(B) Finance Charge with respect to the Certificates (Sum of all fees paid to third parties): $589,046.15.

(C) Net Proceeds to be Received (net of finance charges, reserves and capitalized interest, if any): $40,400,000.

(D) Total Payment Amount Through Maturity: $72,806,600.

The foregoing estimates constitute good faith estimates only. The principal amount of the Certificates, the true interest cost of the Certificates, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the Certificates being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Certificates sold being different from the estimated amount used for purposes of such estimates, (c) the actual amortization of the Certificates being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of sale of the Certificates being different than those estimated for purposes of such estimates, (e) other market conditions, (f) alterations in the City's financing plan, or a combination of such factors and (g) the treatment of the interest with respect to the Certificates under federal tax law. The actual date of sale of the Certificates and the actual principal amount of Certificates sold will be determined by the City based on the timing of the need for proceeds of the Certificates and other factors. The actual interest rates borne by the Certificates will depend on market interest rates at the time of sale thereof. The actual amortization of the Certificates will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic and other factors beyond the control of the City.

PROPERTY LEASE

Dated as of October 1, 2022

by and between the

CITY OF LIVERMORE,
as Lessor

and the

PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA,
as Lessee

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EXHIBIT A DESCRIPTION OF LEASED PROPERTY

PROPERTY LEASE

THIS PROPERTY LEASE, dated for convenience as of October 1, 2022, by and between the CITY OF LIVERMORE, a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California, as lessor (the "City"), and the PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, a California nonprofit public benefit corporation organized and existing under the laws of the State of California (the "Corporation"), as lessee; and

W I T N E S S E T H:

WHEREAS, the City wishes to finance the capital improvements described in the Lease Agreement described below (the "Project"), using a lease financing structure and certificates of participation, and leasing the real property more particularly described in Exhibit A and the improvements thereon (the "Leased Property"); and

WHEREAS, the City has determined that it is in the interests of the City at this time to provide for the financing of the costs of the acquisition and construction of the Project and the costs of issuance incurred in connection with the proposed financing, by leasing the Leased Property to the Corporation pursuant to this Property Lease, and subleasing the Leased Property pursuant to that certain Lease Agreement, dated as of October 1, 2022, by and between the City, as lessee, and the Corporation, as lessor (the "Lease Agreement"), which is recorded concurrently herewith; and

WHEREAS, the Corporation will cause to be deposited with the Trustee (as hereinafter defined) funds for the financing of the Project;

WHEREAS, the Corporation will assign its right to receive such the lease payments made by the City under the Lease Agreement (the "Lease Payments") to the Trustee under an Assignment Agreement, dated as of October 1, 2022 (the "Assignment Agreement"), recorded concurrently herewith, by and between the Corporation and the Trustee; and

WHEREAS, the Corporation and the City will establish a trust pursuant to an unrecorded Trust Agreement dated as of October 1, 2022, among U.S. Bank Trust Company, National Association, as trustee (the "Trustee"), the City and the Corporation (the "Trust Agreement") and direct the Trustee to execute and deliver the certificates of participation (the "Certificates") representing undivided fractional interests in the Lease Payments to and including the earlier of the maturity or redemption of the Certificates; and

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. Definitions. All terms specifically defined in the Trust Agreement hall have the same respective meanings when used herein. In addition, the following terms defined in this Section 1.01 shall have the respective meanings herein set forth when used herein.

"Lease Agreement" means the Lease Agreement, dated as of October 1, 2022, by and between the Corporation as lessor and the City as lessee, together with any duly authorized and executed amendments thereto.

"Leased Property" means the real property more particularly described in Exhibit A hereto, together with all improvements located thereon as of the Closing Date.

"Permitted Encumbrances" means, as of any particular time: (i) the exceptions listed in a title insurance policy issued by Stewart Title Company on or around the date of execution and delivery of the Certificates, (ii) the liens for general ad valorem taxes and assessments, if any, not then delinquent; (iii) the Assignment Agreement; (iv) this Property Lease and the Lease Agreement; (v) the Trust Agreement; (vi) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (vii) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the date on which the Certificates are delivered to the purchasers thereof and which the City certifies in writing will not materially impair the use of the Leased Property; and (viii) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the date of recordation of this Property Lease and to which the Corporation and the City consent in writing.

"Property Lease" means this Property Lease, together with any duly authorized and executed amendments hereto.

"Property Lease Payments" means the payments required to be paid by the Corporation on the Closing Date pursuant to Section 3.03.

Section 1.02. Article and Section Headings. Unless otherwise specified, references to Articles, Sections, and other subdivisions of this Property Lease are to be designated Articles, Sections, and other subdivisions of this Property Lease as originally executed. The headings or titles of the several articles and sections, and the table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of the provisions hereof.

Section 1.03. References to Agreement. The words "hereof", "herein", "hereunder", and words of similar import refer to this Property Lease as a whole.

Section 1.04. Number and Gender. The singular form of any word used herein, including terms defined as provided in Section 1.01, shall include the plural, and vice versa. The use of a word of any gender shall include all genders.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.01. Representations, Covenants and Warranties of the City. The City represents, covenants and warrants to the Corporation as follows:

(a) Due Organization and Existence. The City is a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State.

(b) Authorization. The laws of the State authorize the City to enter into this Property Lease and to enter into the transactions contemplated by and to carry out its obligations under this Property Lease, and the City has duly authorized and executed this Property Lease.

(c) No Violations. Neither the execution and delivery of this Property Lease nor the fulfillment of or compliance with the terms and conditions hereof nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the City, or upon the Leased Property, except Permitted Encumbrances.

Section 2.02. Representations, Covenants and Warranties of Corporation . The Corporation represents, covenants and warrants to the City as follows:

(a) Due Organization and Existence. The Corporation is a California nonprofit public benefit corporation organized and existing under the laws of the State of California; has power to enter into the Property Lease; is possessed of full power to sublease real and personal property; and has duly authorized the execution and delivery of this Property Lease.

(b) Authorization. The laws of the State authorize the Corporation to enter into this Property Lease and to enter into the transactions contemplated by and to carry out its obligations under this Property Lease, and the Corporation has duly authorized and executed this Property Lease.

(c) No Violations. Neither the execution and delivery of this Property Lease nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a

breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation, or upon the Leased Property, except Permitted Encumbrances.

ARTICLE III

AGREEMENT TO LEASE; TERM OF PROPERTY LEASE; PROPERTY LEASE PAYMENTS

Section 3.01. Lease. The City hereby leases the Leased Property to the Corporation, and the Corporation hereby leases the Leased Property from the City, upon the terms and conditions set forth in this Property Lease.

Section 3.02. Term. The term of this Property Lease shall commence on the Closing Date and shall end on April 1, 20__, unless such term is extended as hereinafter provided. If on April 1, 20__, the Trust Agreement shall not be discharged by its terms, then the Term of this Property Lease shall be extended until the Trust Agreement shall be discharged by its terms (but in no event beyond April 1, 20__). If prior to October 1, 20__, the Trust Agreement shall be discharged by its terms, the Term of this Property Lease shall thereupon end.

Section 3.03. Property Lease Payments. The Corporation hereby agrees to pay to the City, as rental for the use and occupancy of the Leased Property during the term of this Property Lease, the aggregate amount of $_____ payable on the Closing Date, and shall be deemed to have been paid when the proceeds of the Certificates are deposited with the Trustee. No further amounts shall be due and payable by the Corporation to the City under this Property Lease.

Section 3.04. Title. Title to the Leased Property shall reside in the City, and during the term of this Property Lease, the City shall hold title to the Leased Property and any and all additions which comprise fixtures, repairs, replacements or modifications to the Leased Property, including those fixtures, repairs, replacements or modifications which are added to the Leased Property by the City at its own expense and which may be removed without damaging the Leased Property and including any items added to the Leased Property by the City pursuant to Section 5.8 of the Lease Agreement.

Section 3.05. No Merger. It is the express intention of the parties hereto that this Property Lease and the obligations of the parties hereunder shall be and remain separate and distinct from the Lease and the obligations of the parties thereunder, and that during the term of the Lease no merger of title or interest occur or be deemed to occur as a result of the position of the City as lessee under the Lease and as lessor under this Property Lease, or the position of the Corporation as lessee under this Property Lease.

ARTICLE IV

EMINENT DOMAIN; NET PROCEEDS

Section 4.01. Eminent Domain. If all of the Leased Property shall be taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the term of this Property Lease shall cease as of the day possession shall be so taken. If less than all of the Leased Property shall be taken permanently, or if all of the Leased Property or any part thereof shall be taken temporarily, under the power of eminent domain, this Property Lease shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary.

Section 4.02. Application of Net Proceeds. The Net Proceeds of any insurance award resulting from any damage to or destruction of the Leased Property or any improvements thereon by fire or other casualty, and the Net Proceeds of any eminent domain award resulting from any event described in Section 4.01 hereof, shall be applied as set forth in Section 6.2(a) of the Lease Agreement. All such Net Proceeds shall be paid to the City or the Trustee as their interests may appear under the Lease Agreement, and the Corporation hereby waives any and all right, title and interest which it may have in and to any such Net Proceeds by virtue of its estate in the Leased Property under this Property Lease.

ARTICLE V

MISCELLANEOUS

Section 5.01. Liens. The Corporation shall not, directly or indirectly, create, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, other than the respective rights of the Corporation and the City as herein provided and Permitted Encumbrances.

Section 5.02. Assignment and Subleasing by the Corporation. For the purpose of providing funds to enable the Corporation to pay the Property Lease Payments on the Closing Date, the Corporation has leased the Leased Property to the City pursuant to the Lease Agreement. The Corporation shall not have the right to further sublease or to assign any of its interests under this Property Lease in and to the Leased Property or any portion thereof.

Section 5.03. Amendment. Without the prior written consent of the Trustee, the Corporation and the City will not alter, modify or cancel, or agree or consent to alter, modify or cancel this Property Lease, excepting only such alteration or modification as may be permitted by Article X of the Trust Agreement.

Section 5.04. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received 48 hours after deposit in the United States mail in registered or certified form with postage fully prepaid:

If to the City:	City Clerk City of Livermore 1052 South Livermore Avenue Livermore, CA 94550
If to the Corporation:	Public Property Financing Corporation of California 2945 Townsgate Road, Suite 200 Westlake Village, California 91361 Attention: President
If to the Trustee:	U.S. Bank Trust Company, National Association One California Street, Suite 1000 San Francisco, California 94111 Attention: Corporate Trust Services *Fax (415) 677-3768*

The Corporation, the Trustee and the City, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 5.05. Binding Effect. This Property Lease shall inure to the benefit of and shall be binding upon the Corporation and the City and their respective successors and assigns.

Section 5.06. Severability. In the event any provision of this Property Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 5.07. Further Assurances and Corrective Instruments. The Corporation and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be or for carrying out the expressed intention of this Property Lease.

Section 5.08. Execution in Counterparts. This Property Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 5.09. Applicable Law. This Property Lease shall be governed by and construed in accordance with the laws of the State.

Section 5.10. Corporation and City Representatives. Whenever under the provisions of this Property Lease the approval of the Corporation or the City is required, or the Corporation or the City is required to take some action at the request of the other, such approval or such request shall be given for the Corporation by a Corporation Representative and for the City by City Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 5.11. Captions. The captions or headings in this Property Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Property Lease.

* * * * *

IN WITNESS WHEREOF, the Corporation has caused this Property Lease to be executed in its name by its duly authorized officer; and the City has caused this Property Lease to be executed in its name by its duly authorized officers and sealed with its corporate seal, as of the date first above written.

CITY OF LIVERMORE, as Lessor

By: _____
City Manager

Attest:

By: _____
City Clerk

PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, as Lessee

By _____
Treasurer

[Signature page to Property Lease dated as of October 1, 2022]

[notary page]

EXHIBIT A

DESCRIPTION OF LEASED PROPERTY

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

[____]

(End of Legal Description)

LEASE AGREEMENT

Dated as of October 1, 2022

by and between the

PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA,
as Lessor

and the

CITY OF LIVERMORE,
as Lessee

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LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease Agreement"), dated for convenience as of October 1, 2022, is by and between the PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, a California nonprofit public benefit corporation organized and existing under the laws of the State of California (the "Corporation"), as lessor, and the CITY OF LIVERMORE, a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California, as lessee (the "City").

RECITALS

WHEREAS, the City wishes to finance the capital improvements described herein (the "Project"), using a lease financing structure and certificates of participation, and leasing the real property more particularly described in Exhibit B and the improvements thereon (the "Leased Property"); and

WHEREAS, the City has determined that it is in the interests of the City at this time to provide for the financing of the costs of the acquisition and construction of the Project, and the costs of issuance incurred in connection with the proposed financing, by leasing the Leased Property to the Corporation pursuant to a Property Lease, dated as of October 1, 2022, by and between the City, as lessor, and the Corporation, as lessee, and recorded concurrently herewith (the "Property Lease"), and subleasing the Leased Property pursuant to this Lease Agreement; and

WHEREAS, the Corporation will assign its right to receive such the lease payments made by the City hereunder (the "Lease Payments") to the Trustee under an Assignment Agreement, dated as of October 1, 2022 (the "Assignment Agreement"), recorded concurrently herewith, by and between the Corporation and the Trustee; and

WHEREAS, the Corporation and the City will establish a trust pursuant to an unrecorded Trust Agreement dated as of October 1, 2022, among U.S. Bank Trust Company, National Association, as trustee (the "Trustee"), the City and the Corporation (the "Trust Agreement") and direct the Trustee to execute and deliver the certificates of participation (the "Certificates") representing undivided fractional interests in the Lease Payments to and including the earlier of the maturity or redemption of the Certificates; and

WHEREAS, the Corporation will cause to be deposited with the Trustee (as hereinafter defined) funds for the financing of the Project;

WHEREAS, the City is authorized under the Constitution and the laws of the State of California to enter into this Lease Agreement for the purposes and subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. All terms specifically defined in the Trust Agreement shall have the same respective meanings when used herein. In addition, the following terms defined in this Section 1.1 shall have the respective meanings herein set forth when used herein.

"Code" means the Internal Revenue Code of 1986, as amended.

"Lease Agreement" means this Lease Agreement, together with any duly authorized and executed amendments hereto.

"Lease Payment Date" means March 15 and September 15 of each year during the Term of this Lease Agreement, commencing March 15, 2023.

"Leased Property" means [_____], all located in the City, and which are more particularly described in Exhibit B.

"Lease Payments" means the Lease Payments shown on Exhibit A.

"Permitted Encumbrances" means, as of any particular time: (i) the exceptions listed in a title insurance policy issued by Stewart Title Company on or around the date of execution and delivery of the Certificates, (ii) the liens for general ad valorem taxes and assessments, if any, not then delinquent; (iii) the Assignment Agreement; (iv) this Property Lease and the Lease Agreement; (v) the Trust Agreement; (vi) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (vii) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the date on which the Certificates are delivered to the purchasers thereof and which the City certifies in writing will not materially impair the use of the Leased Property; and (viii) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the date of recordation of this Property Lease and to which the Corporation and the City consent in writing.

"Project" means: (a) the acquisition and construction of a four-level public parking garage with approximately 460 spaces east of L Street, between Veterans Way and First Street, (b) the acquisition and construction of additional site improvements and (c) the acquisition and construction of such other public improvements identified by the City from time to time.

"Property Lease" means the Property Lease, dated as of October 1, 2022, recorded concurrently herewith, by and between the City, as lessor, and the Corporation, as lessee, together with any duly authorized and executed amendments thereto.

"Property Lease Payment" means the payment required to be paid by the Corporation on the Closing Date pursuant to Section 3.03 of the Property Lease.

"Regulations" means temporary and permanent regulations promulgated under the Code.

"Rental Period" means each twelve-month period during the Term of this Lease Agreement commencing on April 2 in any year and ending on the next succeeding April 1, except that the first rental period shall commence on the Closing Date.

"Trust Agreement" means the Trust Agreement dated as of October 1, 2022 by and among Trustee, the Corporation and the City, relating to the Certificates.

"Trustee" means U.S. Bank Trust Company, National Association, and its successors and assigns.

Section 1.2. Article and Section Headings. Unless otherwise specified, references to Articles, Sections, and other subdivisions of this Lease Agreement are to be designated Articles, Sections, and other subdivisions of this Lease Agreement as originally executed. The headings or titles of the several articles and sections, and the table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of the provisions hereof.

Section 1.3. References to Agreement. The words "hereof", "herein", "hereunder", and words of similar import refer to this Lease Agreement as a whole.

Section 1.4. Number and Gender. The singular form of any word used herein, including terms defined as provided in Section 1.1, shall include the plural, and vice versa. The use of a word of any gender shall include all genders.

Section 1.5. Exhibits. The following Exhibits are attached to, and by reference made a part of, this Lease Agreement:

Exhibit A: The schedule of Lease Payments to be paid by the City hereunder with respect to the Leased Property, showing the date and amount of each such Lease Payment.

Exhibit B: The description of the Leased Property.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of the City. The City represents, covenants and warrants to the Corporation as follows:

(a) Due Organization and Existence. The City is a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State.

(b) Authorization. The laws of the State authorize the City to enter into the Property Lease, this Lease Agreement and the Trust Agreement and to enter into the transactions contemplated by and to carry out its obligations under all of the aforesaid Agreements, and the City has duly authorized and executed all of the aforesaid Agreements.

(c) No Violations. Neither the execution and delivery of the Property Lease, this Lease Agreement or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the City, or upon the Leased Property, except Permitted Encumbrances.

(d) Possession of Leased Property. The City is in possession of the Leased Property.

(e) Fair Market Rental Value. The Lease Payments represent the fair market rental value of the Leased Property.

(f) Leased Property Essential. The Leased Property is essential for the operation of the City and the services it provides to the residents and businesses in Livermore.

Section 2.2. Representations, Covenants and Warranties of Corporation. The Corporation represents, covenants and warrants to the City as follows:

(a) Due Organization and Existence. The Corporation is a nonprofit public benefit corporation organized and existing under the laws of the State of California; has power to enter into the Property Lease, this Lease Agreement, the Assignment Agreement and the Trust Agreement; is possessed of full power to lease real and personal property; and has duly authorized the execution and delivery of all of the aforesaid Agreements.

(b) No Encumbrances. The Corporation will not pledge the Lease Payments or any other amounts derived from the Leased Property and from its other rights under this Lease Agreement, and will not mortgage or encumber the Leased Property, except as provided under the terms of the Property Lease, this Lease Agreement, the Assignment Agreement or the Trust Agreement.

(c) No Violations. Neither the execution and delivery of the Property Lease, this Lease Agreement, the Assignment Agreement or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation, or upon the Leased Property, except Permitted Encumbrances.

(d) No Assignments. Except as provided herein, the Corporation will not assign this Lease Agreement, its right to receive Lease Payments from the City, or its duties and obligations hereunder to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in this Section 2.2.

ARTICLE III

DEPOSIT OF MONEYS; ACQUISITION AND CONSTRUCTION OF THE PROJECT; SUBSTITUTION AND REMOVAL OF LEASED PROPERTY

Section 3.1. Deposit of Moneys. On the Closing Date, the Corporation shall cause to be deposited with the Trustee the proceeds of the sale of the Certificates, which shall be applied as set forth in Section 3.01 of the Trust Agreement.

Section 3.2. Acquisition and Construction of the Project. The Corporation hereby appoints the City as its agent for the purposes of acquiring and constructing the Project. The City, as agent of the Corporation, shall be diligent in acquiring and constructing the Project. In addition, in the event that the costs of acquiring and constructing the Project or any portion thereof are greater than the amount of money deposited in or transferred to the Project Fund, together with investment earnings thereon, the City agrees if, under such circumstances, it nonetheless desires to acquire the Land, to deposit into the Project Fund an amount of money necessary to pay such increased Project Costs, but only from legally available funds.

Section 3.3. Payment of Project Costs. Payment for the acquisition and construction of the Project shall be made from the moneys deposited in the Project Fund, which moneys shall be disbursed for such purpose in accordance and upon compliance with Section 3.04 of the Trust Agreement.

Section 3.4. Payment of Costs of Issuance. Payment of Costs of Issuance shall be made from the moneys deposited in the Costs of Issuance Fund, which moneys shall be disbursed for such purpose in accordance and upon compliance with Section 3.03 of the Trust Agreement.

Section 3.5. Substitution of Leased Property. The City shall have, and is hereby granted, the option at any time and from time to time during the Term of this Lease, to substitute other land, facilities, improvements or other property (a "Substitute Property") for the Leased Property or any portion thereof (a "Former Property"), provided that the City shall satisfy all of the following requirements which are hereby declared to be conditions precedent to such substitution:

(a) The City shall take all actions and shall execute all documents required to subject such Substitute Property to the terms and provisions of this Lease and the Property Lease, including the filing with the Corporation and the Trustee an amended Exhibit B to this Lease and Exhibit A to the Property Lease which adds thereto a description of such Substitute Property and deletes therefrom the description of such Former Property, and including the recordation of the amended Exhibit B to this Lease and Exhibit A to the Property Lease, or a memorandum hereof with respect to such Substitute Property in the office of the Alameda County Recorder;

(b) The City shall certify in writing to the Corporation and the Trustee that the estimated fair market value of such Substitute Property is at least equal to estimated fair market value of such Former Property, except that the estimated fair market value of such Substitute Property, together with the portion of the Leased Property remaining after the removal of the Former Property, shall not be required to exceed the aggregate principal components of the unpaid Lease Payments;

(c) The City shall certify in writing to the Corporation and the Trustee that such Substitute Property serves essential public purposes of the City and constitutes property which the City is permitted to lease under the laws of the State of California;

(d) The City shall certify in writing to the Corporation and the Trustee that the estimated useful life of such Substitute Property at least extends to the date on which the final Lease Payment becomes due and payable hereunder;

(e) The City shall obtain a CLTA policy of title insurance meeting the requirements of Section 5.4 with respect to such Substitute Property;

(f) The Substitute Property shall not cause the City to violate any of its covenants, representations and warranties made herein or in the Trust Agreement; and

(g) Prior notice of such substitution shall be given by the City to any rating agency then rating the Certificates.

From and after the date on which all of the foregoing conditions precedent to such substitution are satisfied, the Term of this Lease shall cease with respect to the Former Property and shall be continued with respect to the Substitute Property, and all references herein to the Former Property shall apply with full force and effect to the Substitute Property. The City shall not be entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such substitution.

Section 3.6. Removal of Property from Leased Property. The City shall have, and is hereby granted, the option at any time and from time to time during the Term of this Lease, to remove any property from the description of the Leased Property, provided that the City shall satisfy all of the following requirements which are hereby declared to be conditions precedent to such removal:

(a) The City shall file with the Corporation and the Trustee and cause to be recorded with the Alameda County Recorder an amended Exhibit B to this Lease and Exhibit A to the Property Lease, which deletes therefrom the description of the property to be removed;

(b) The City shall certify in writing to the Corporation and the Trustee that the Leased Property, as revised by such removal, is of equal or greater value than the then unpaid principal component of Certificates;

(c) Prior notice of such release shall be given by the City to any rating agency then rating the Certificates.

From and after the date on which all of the foregoing conditions precedent to such removal are satisfied, the Term of this Lease shall cease with respect to the property that is so removed. The City shall not be entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such removal.

ARTICLE IV

AGREEMENT TO LEASE; TERM OF LEASE AGREEMENT;LEASE PAYMENTS

Section 4.1. Agreement to Lease. The Corporation hereby subleases the Leased Property to the City, and the City hereby subleases the Leased Property from the Corporation, upon the terms and conditions set forth in this Lease Agreement.

Section 4.2. Term of Lease Agreement. The Term of this Lease Agreement shall commence on the Closing Date and shall end on April 1, 20__ unless such term is extended as hereinafter provided. If on April 1, 20__, the Trust Agreement shall not be discharged by its terms, then the Term of this Lease Agreement shall be extended until the Trust Agreement shall be discharged by its terms (but in no event beyond April 1, 20__). If prior to April 1, 20__, the Trust Agreement shall be discharged by its terms, the Term of this Lease Agreement shall thereupon end.

Section 4.3. Lease Payments.

(a) Obligation to Pay. Subject to the provisions of Articles VI and X, the City agrees to pay to the Corporation, its successors and assigns, as rental for the use and occupancy of the Leased Property hereunder during each Rental Period, the Lease Payments (denominated into components of principal and interest) for the Leased Property in the respective amounts specified in Exhibit A, to be due and payable on the respective Lease Payment Dates specified in Exhibit A.

Any amount held in the Lease Payment Fund on any Lease Payment Date (other than amounts resulting from the prepayment of the Lease Payments in part but not in whole pursuant to Article X and other than amounts required for payment of past due principal or interest represented by any Certificates not presented for payment) shall be credited towards the Lease Payment then due and payable; and no Lease Payment need be made on any Lease Payment Date if the amounts then held in the Lease Payment Fund and available for such purpose are at least equal to the Lease Payment then required to be paid. The Lease Payments for the Leased Property payable in any Rental Period shall be for the use of the Leased Property during such Rental Period.

(b) Effect of Prepayment. In the event that the City prepays all remaining Lease Payments, including any premium, if any, in full pursuant to Article X, the City's obligations under this Lease Agreement shall thereupon cease and terminate, including but not limited to the City's obligation to pay Lease Payments under this Section 4.3; subject however, to the provisions of Section 10.1 in the case of prepayment by application of a security deposit. In the event that the City purchases the Leased Property pursuant to Section 10.2, the amount paid pursuant to Section 10.2 shall be credited entirely towards the prepayment in full or in part of

the Lease Payments. In the event that the City prepays the Lease Payments in part but not in whole pursuant to Section 10.3 as a result of any insurance award or condemnation award with respect to the Leased Property, such prepayment shall be credited entirely towards the prepayment of the Lease Payments as follows: (i) the principal components of the remaining Lease Payments shall be reduced on a pro rata basis in integral multiples of $5,000; and (ii) the interest component of the remaining Lease Payments shall be reduced by the aggregate corresponding amount of interest which would otherwise be payable with respect to the Certificates thereby prepaid pursuant to Section 4.01(B) of the Trust Agreement.

(c) Fair Rental Value. The Lease Payments for the Leased Property for each Rental Period shall constitute the total rental for the Leased Property during each Rental Period, and shall be paid by the City in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Leased Property during each Rental Period. The parties hereto have agreed and determined that the total Lease Payments for the Leased Property do not exceed the fair rental value of the Leased Property. In making such determination, consideration has been given to the estimated value of the Leased Property, the obligations of the parties under the Property Lease and this Lease Agreement, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the City and the general public.

(d) Budget and Appropriation. The City covenants to take such action as may be necessary to include all Lease Payments due hereunder in each of its budgets during the Term of this Lease Agreement and to make the necessary annual appropriations for all such Lease Payments, except to the extent such Lease Payments are payable from amounts on deposit in the Lease Payment Fund. During the Term of this Lease Agreement, the City will furnish to the Trustee a certificate that the Lease Payments due in the applicable Fiscal Year have been included in the City's budget for such Fiscal Year within thirty (30) days after the adoption of each budget. The covenants on the part of the City herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease Agreement agreed to be carried out and performed by the City.

(e) Assignment. The City understands and agrees that all Lease Payments have been assigned by the Corporation to the Trustee in trust, pursuant to the Assignment Agreement, for the benefit of the Owners of the Certificates, and the City hereby assents to such assignment. The Corporation hereby directs the City, and the City hereby agrees to pay to the Trustee at its Principal Corporate Trust Office, all payments payable by the City pursuant to this Section 4.3 and all amounts payable by the City pursuant to Article X.

Section 4.4. Quiet Enjoyment. The Corporation shall provide the City with quiet use and enjoyment of the Leased Property, and the City shall, for the remainder of the Term of this Lease Agreement, peaceably and quietly have and hold and enjoy the Leased Property, without suit,

trouble or hindrance from the Corporation, except as expressly set forth in this Lease Agreement. The Corporation will, at the request of the City and at the City's cost, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent the Corporation may lawfully do so. Notwithstanding the foregoing, the Corporation shall have the right to inspect the Leased Property as provided in Section 7.2.

Section 4.5. Title. During the term of this Lease Agreement, the City shall hold title to the Leased Property and any and all additions which comprise fixtures, repairs, replacements or modifications to the Leased Property, including those fixtures, repairs, replacements or modifications which are added to the Leased Property by the City at its own expense and which may be removed without damaging the Leased Property and including any items added to the Leased Property by the City pursuant to Section 5.8 hereof. Such title shall be governed by the provisions of Section 3.04 of the Property Lease during the term of the Property Lease.

If the City prepays the Lease Payments in full pursuant to Article X, or makes the security deposit permitted by Section 10.1, or pays all Lease Payments during the Term of this Lease Agreement as the same become due and payable, all right, title and interest of the Corporation in and to the Leased Property under the Property Lease and this Lease Agreement shall be terminated. The Corporation agrees to take any and all steps and execute and record any and all documents reasonably required by the City to consummate any such termination of such leasehold estates.

Section 4.6. Additional Payments. In addition to the Lease Payments, the City shall pay when due, during the term of the Lease Agreement, all costs and expenses incurred by the Corporation to comply with the provisions of the Trust Agreement, including without limitation all Costs of Issuance (to the extent not paid from amounts on deposit in the Costs of Issuance Fund), compensation or indemnification due to the Trustee and all reasonable costs and expenses of auditors, engineers and accountants.

Section 4.7. No Merger. It is the express intention of the parties hereto that this Lease Agreement and the obligations of the parties hereunder shall be and remain separate and distinct from the Property Lease and the obligations of the parties thereunder, and that during the term of the Property Lease no merger of title or interest shall occur or be deemed to occur as a result of the position of the City as lessor under the Property Lease and as lessee hereunder, or as a result of the position of the Corporation as lessee under the Property Lease and as lessor under this Lease Agreement.

ARTICLE V

MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

Section 5.1. Maintenance, Utilities, Taxes and Assessments. Throughout the Term of this Lease Agreement, as part of the consideration for the rental of the Leased Property, all improvement, repair and maintenance of the Leased Property shall be the responsibility of the City, and the City shall pay for or otherwise arrange for the payment of all utility services supplied to the Leased Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Leased Property resulting from ordinary wear and tear or want of care on the part of the City or any assignee or lessee thereof. In exchange for the Lease Payments herein provided, the Corporation agrees to provide only the Leased Property, as hereinbefore more specifically set forth. The City waives the benefits of subsections 1 and 2 of Section 1942 of the California Civil Code, and waives the right to make repairs at the expense of the Corporation or in lieu thereof, vacate under Section 1942 of the California Civil Code, and all similar rights under the statues of similar effect, but such waiver shall not limit any of the rights of the City under the terms of this Lease Agreement.

The City shall also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Corporation or the City affecting the Leased Property or the interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are required to be paid during the Term of this Lease Agreement as and when the same become due.

The City may, at the City's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Corporation shall notify the City that, in the opinion of Independent Counsel, by nonpayment of any such items, the interest of the Corporation in the Leased Property will be materially endangered or any part thereof will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes, assessments or charges or provide the Corporation with full security against any loss which may result from nonpayment, in form satisfactory to the Corporation and the Trustee.

Section 5.2. Modification of Leased Property. The City shall, at its own expense, have the right to remodel the Leased Property or to make additions, modifications and improvements to the Leased Property. All additions, modifications and improvements shall thereafter comprise part of the Leased Property and be subject to the provisions of this Lease Agreement. Such additions, modifications and improvements shall not in any way damage the Leased Property or cause it to be used for purposes other than those authorized under the provisions of state and

federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto pursuant to this Section, shall be of a value which is not substantially less than the value of the Leased Property immediately prior to the making of such additions, modifications and improvements. The City will not permit any mechanic's or other lien to be established or remain against the Leased Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City pursuant to this Section; provided that if any such lien is established and the City shall first notify or cause to be notified the Corporation of the City's intention to do so, the City may in good faith contest any lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Corporation with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Corporation. The Corporation will cooperate fully in any such contest, upon the request and at the expense of the City.

Section 5.3. Public Liability and Property Damage Insurance.

The City shall, maintain or cause to be maintained, throughout the Term of this Lease Agreement, insurance policies, including a standard comprehensive general liability insurance policy or policies in protection of the City, the Corporation and the Trustee, including their respective members, officers, agents and employees. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property. Said policy or policies shall provide coverage in the minimum liability limits of $1,000,000 for personal injury or death of each person and $3,000,000 for personal injury or deaths of two or more persons in each accident or event, and in a minimum amount of $100,000 (subject to a deductible clause of not to exceed $5,000) for damage to property resulting from each accident or event. Such public liability and property damage insurance may, however, be in the form of a single limit policy in the amount of $3,000,000 covering all such risks. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried by the City and may be maintained in the form of insurance maintained through a joint exercise of powers authority created for such purpose or in the form of self-insurance by the City. The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the insurance proceeds shall have been paid.

Section 5.4. Fire and Extended Coverage Insurance; Title Insurance. (i)

(a) The City shall maintain, or cause to be maintained throughout the Term of this Lease Agreement, insurance against loss or damage to any part of the Leased Property by fire and lightning, with extended coverage and vandalism and malicious mischief insurance. Said extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, and shall include coverage for damage from earthquakes if such earthquake coverage is available from reputable insurance companies at a reasonable cost. Such insurance

shall be in an amount equal to the lesser of (a) one hundred percent (100%) of the replacement cost of the Leased Property, or (b) the aggregate principal amount of the Outstanding Certificates. Such policy may be subject to such deductibles as the City shall deem prudent, provided that such policy must expressly waive any co-insurance penalty. Such insurance may be maintained as part of or in conjunction with any other fire and extended coverage insurance carried by the City and may be maintained in whole or in part in the form of insurance maintained through a joint exercise of powers authority created for such purpose. The Net Proceeds of such insurance shall be applied as provided in Section 6.2(a).

(b) The City shall provide, from moneys in the Costs of Issuance Fund or at its own expense, on the Closing Date, a CLTA title insurance policy covering, and in the amount of not less than the principal amount of the Certificates, insuring the City's leasehold estate in the Leased Property, subject only to Permitted Encumbrances. The Net Proceeds of such title insurance shall be applied as provided in Section 6.2(c).

Section 5.5. Rental Interruption Insurance. The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the buildings, facilities and other improvements constituting any part of the Leased Property, as a result of any of the hazards covered in the insurance required by Section 5.4, in an amount at least equal to the maximum Lease Payments coming due and payable during any two consecutive Fiscal Years during the remaining Term of this Lease. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance, if any, shall be paid to the Trustee and deposited in the Lease Payment Account, and shall be credited towards the payment of the Lease Payments as the same become due and payable.

Section 5.6. Insurance Net Proceeds; Form of Policies. Each policy of insurance required by Sections 5.4 and 5.5 hereof shall provide that all proceeds thereunder shall be payable to the Trustee as loss payee. The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease Agreement. The Trustee shall not be responsible for the sufficiency of any insurance herein required and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Trustee. The City shall cause to be delivered to the Trustee annually, on or before July 1 of each year, commencing July 1, 2023, a Certificate of the City that the insurance policies required by this Lease Agreement are in full force and effect. The Trustee may conclusively rely upon such Certificate.

Section 5.7. Advances. If the City shall fail to perform any of its obligations under this Article the Corporation may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the City shall be obligated to

repay all such advances as soon as possible, with interest at the rate of ten percent (10%) per annum from the date of the advance to the date of repayment.

Section 5.8. Installation of City's Equipment. The City may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Leased Property. All such items shall remain the sole property of the City, in which neither the Corporation nor the Trustee shall have any interest, and may be modified or removed by the City at any time provided that the City shall repair and restore any and all damage to the Leased Property resulting from the installation, modification or removal of any such items. Nothing in this Lease Agreement shall prevent the City from purchasing or leasing items to be installed pursuant to this Section under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Leased Property.

Section 5.9. Liens. The City shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, other than the respective rights of the Corporation and the City as herein provided and Permitted Encumbrances. Except as expressly provided in this Article, the City shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time. The City shall reimburse the Corporation for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 5.10. Compliance With Property Lease. During the term of the Property Lease, the City will observe and perform all agreements and obligations on its behalf required to be observed and performed thereunder. The City will not take any action or permit any action within its control to be taken which constitutes or which, if not corrected, with the passage of time or with notice, or both, would constitute or cause to occur any default under the Property Lease.

ARTICLE VI

DAMAGE, DESTRUCTION AND EMINENT DOMAIN USE OF NET PROCEEDS

Section 6.1. Eminent Domain. If the Leased Property shall be taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of this Lease Agreement shall cease as of the day possession shall be so taken. If less than all of the Leased Property shall be taken permanently, or if the Leased Property or any part thereof shall be taken temporarily, under the power of eminent domain, (1) this Lease Agreement shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (2) there shall be a partial abatement of Lease Payments as a result of the application of the Net Proceeds of any eminent domain award to the prepayment of the Lease Payments hereunder, in an amount to be agreed upon by the City and the Corporation such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portion of the Leased Property. The City covenants to contest any eminent domain award which is insufficient to either: (i) prepay the Certificates in whole, if all of the Leased Property is condemned; or (ii) prepay a pro rata share of Certificates, in the event that less than all of the Leased Property is condemned.

Section 6.2. Application of Net Proceeds.

(a) From Insurance Award. The Net Proceeds of any insurance award resulting from any damage to or destruction of the Leased Property by fire or other casualty shall be paid to the Trustee, as assignee of the Corporation under the Assignment Agreement, and deposited in the Insurance and Condemnation Fund for application as set forth in Section 6.01 of the Trust Agreement.

(b) From Eminent Domain Award. The Net Proceeds of any eminent domain award resulting from any event described in Section 6.1 hereof shall be paid to the Trustee, as assignee of the Corporation under the Assignment Agreement, and deposited in the Insurance and Condemnation Fund for application as set forth in Section 6.02 of the Trust Agreement.

Section 6.3. Abatement of Rental in the Event of Damage or Destruction. The amount of Lease Payments shall be abated, during any period in which by reason of damage or destruction (other than by eminent domain which is hereinbefore provided for) there is substantial interference with the use and occupancy by the City of the Leased Property (other than any portions of the Leased Property described in Section 5.2) or the Leased Property or any portion thereof. The amount of such abatement shall be agreed upon by the City and the Corporation such that the resulting Lease Payments represent fair consideration for the use and occupancy of the portions of the Leased Property not damaged or destroyed. Such abatement shall

continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this Lease Agreement shall continue in full force and effect and the City waives any right to terminate this Lease Agreement by virtue of any such damage and destruction. However, notwithstanding any other provisions of this Section 6.3, there shall be no abatement of Lease Payments under this Section 6.3 to the extent that the proceeds of an eminent domain or insurance award are available to pay Lease Payments, or to the extent that moneys are available in the Lease Payment Fund, it being hereby declared that such proceeds and amounts constitute special funds for the payment of the Lease Payments.

ARTICLE VII

DISCLAIMER OF WARRANTIES; ACCESS

Section 7.1. Disclaimer of Warranties. The Corporation makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the City of the Leased Property, or any other representation or warranty with respect to the Leased Property. In no event shall the Corporation be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease Agreement, the Property Lease or the Trust Agreement for the existence, furnishing, functioning or City's use of the Leased Property.

Section 7.2. Access to the Leased Property. The City agrees that the Corporation and any Corporation Representative, and the Corporation's successors or assigns, shall have the right at all reasonable times to enter upon and to examine and inspect the Leased Property. The City further agrees that the Corporation, any Corporation Representative, and the Corporation's successors or assigns shall have such rights of access to the Leased Property as may be reasonably necessary to cause the proper maintenance of the Leased Property in the event of failure by the City to perform its obligations hereunder.

Section 7.3. Release and Indemnification Covenants. The City shall and hereby agrees to indemnify and save the Corporation and its officers, agents, successors and assigns harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on the Leased Property by the City, (ii) any breach or default on the part of the City in the performance of any of its obligations under this Lease Agreement, (iii) any act or negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Leased Property, or (iv) any act or negligence of any lessee of the City with respect to the Leased Property. No indemnification is made under this Section or elsewhere in this Lease Agreement for willful misconduct, negligence, or breach of duty under this Lease Agreement by the Corporation, its officers, agents, employees, successors or assigns.

ARTICLE VIII

ASSIGNMENT, LEASING AND AMENDMENT

Section 8.1. Assignment by the Corporation. The Corporation's rights under this Lease Agreement, including the right to receive and enforce payment of the Lease Payments to be made by the City under this Lease Agreement have been assigned to the Trustee pursuant to the Assignment Agreement, to which assignment the City hereby consents.

Section 8.2. Assignment and leasing by the City. This Lease Agreement may not be assigned by the City. The City may further lease any of the Leased Property or any portion thereof, but only with the written consent of the Corporation and subject to all of the following conditions:

(i) This Lease Agreement and the obligation of the City to make Lease Payments hereunder shall remain obligations of the City; and

(ii) The City shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Corporation and the Trustee a true and complete copy of such lease; and

(iii) No such lease by the City shall cause the Leased Property to be used for a purpose other than as may be authorized under the provisions of the Constitution and laws of the State; and

(iv) The City shall furnish the Corporation and the Trustee with a written opinion of Bond Counsel, stating that such lease does not cause the interest components of the Lease Payments to become subject to federal or State personal income taxes.

Section 8.3. Amendment of Lease Agreement.

(1) Except as provided in paragraph (2) below and as provided herein, without the prior written consent of the Trustee the City will not alter, modify or cancel, or agree or consent to alter, modify or cancel this Lease Agreement, excepting only such alteration or modification as may be permitted by Article IX of the Trust Agreement.

(2) In addition, this Lease may be amended to obligate the City to pay additional amounts of rental hereunder for the use and occupancy of the Leased Property or any portion thereof, but only if (a) such additional amounts of rental do not cause the total rental payments made by the City under the Lease Agreement to exceed the fair rental value of the Leased Property (b) the City shall have obtained and filed with the Trustee and the Corporation an appraisal of the Leased Property showing that the estimated fair market value thereof is not less

than the aggregate unpaid principal components of such additional amount of rental plus the existing aggregate unpaid principal components of the Lease Payments, (c) such additional amounts of rental shall be pledged or assigned for the payment of any bonds, notes, leases or other obligations the proceeds of which shall be applied to finance or refinance the acquisition or improvement of real property or improvements and (d) the City shall send notification of the additional financing to the rating agency then rating the Certificates.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

Section 9.1. Events of Default Defined. The following shall be "events of default" under this Lease Agreement and the terms "events of default" and "default" shall mean, whenever they are used in this Lease Agreement, with respect to the Leased Property, any one or more of the following events:

(i) Failure by the City to pay any Lease Payment when due and payable hereunder, or failure to pay any other payment when due and payable hereunder.

(ii) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in clause (i) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Corporation, the Trustee or the Owners of not less than twenty-five percent (25%) in aggregate principal amount of Certificates then outstanding; provided, however, if the failure stated in the notice can be corrected, but not within the applicable period, the Corporation, the Trustee and such Owners shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the City within the applicable period and diligently pursued until the default is corrected.

(iii) The filing by the City of a voluntary petition in bankruptcy under Title 11 of the United States Code or any substitute or successor statute.

Section 9.2. Remedies on Default. Whenever any event of default referred to in Section 9.1 hereof shall have happened and be continuing, it shall be lawful for the Corporation to exercise any and all remedies available pursuant to law or granted pursuant to this Lease Agreement; provided, however, that notwithstanding anything herein or in the Trust Agreement to the contrary, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each and every covenant hereof to be kept and performed by the City is expressly made a condition and upon the breach thereof the Corporation may exercise any and all rights of entry and re-entry upon the Leased Property, and also, at its option, with or without such entry, may terminate this Lease Agreement; provided, that no such termination shall be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. In the event of such default and notwithstanding any re-entry by the Corporation, the City shall, as herein expressly provided, continue to remain liable for the payment of the Lease Payments and/or damages for breach of this Lease Agreement and the performance of all conditions herein contained and, in any event such rent and/or damages shall be payable to the Corporation at the time and in the manner as herein provided, to wit:

(a) In the event the Corporation does not elect to terminate this Lease Agreement in the manner hereinafter provided for in subparagraph (b) hereof, the City agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Corporation for any deficiency arising out of the re-leasing of the Leased Property, or, in the event the Corporation does not re-lease the Leased Property, then for the full amount of all Lease Payments to the end of the Term of this Lease Agreement, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re-entry by the Corporation or any suit in unlawful detainer, or otherwise, brought by the Corporation for the purpose of effecting such re-entry or obtaining possession of the Leased Property or the exercise of any other remedy by the Corporation. The City hereby irrevocably appoints the Corporation as the agent and attorney-in-fact of the City to enter upon and re-lease the Leased Property in the event of default by the City in the performance of any covenants herein contained to be performed by the City and to remove all personal property whatsoever situated upon the Leased Property to place such property in storage or other suitable place in the City of Livermore, for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Corporation from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Leased Property and the removal and storage of such property by the Corporation or its duly authorized agents in accordance with the provisions herein contained. The City hereby waives any and all claims for damages caused or which may be caused by the Corporation in re-entering and taking possession of the Leased Property as herein provided and all claims for damages that may result from the destruction of or injury to the Leased Property and all claims for damages to or loss of any property belonging to the City that may be in or upon the Leased Property. The City agrees that the terms of this Lease Agreement constitute full and sufficient notice of the right of the Corporation to re-lease the Leased Property in the event of such re-entry without effecting a surrender of this Lease Agreement, and further agrees that no acts of the Corporation in effecting such re-leasing shall constitute a surrender or termination of this Lease Agreement irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the City the right to terminate this Lease Agreement shall vest in the Corporation to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b) hereof. The City further waives the right to any rental obtained by the Corporation in excess of the Lease Payments and hereby conveys and releases such excess to the Corporation as compensation to the Corporation for its services in re-leasing the Leased Property.

(b) In an event of default hereunder, the Corporation may terminate this Lease Agreement and re-lease all or any portion of the Leased Property. In the event of the termination of this Lease Agreement by the Corporation in the manner hereinafter

provided on account of default by the City (and notwithstanding any re-entry upon the Leased Property by the Corporation in any manner whatsoever or the re-leasing of the Leased Property), the City nevertheless agrees to pay to the Corporation all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments. Any surplus received by the Corporation from such re-leasing shall be the absolute property of the Corporation and the City shall have no right thereto, nor shall the City be entitled to any credit in the event of a deficiency in the rentals received by the Corporation from the Leased Property. Neither notice to pay rent or to deliver up possession of the premises given pursuant to law nor any proceeding in unlawful detainer taken by the Corporation shall of itself operate to terminate this Lease Agreement, and no termination of this Lease Agreement on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the Corporation shall have given written notice to the City of the election on the part of the Corporation to terminate this Lease Agreement. The City covenants and agrees that no surrender of the Leased Property or of the remainder of the Term hereof or any termination of this Lease Agreement shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Corporation by such written notice.

Section 9.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Corporation is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Corporation to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article or by law.

Section 9.4. Agreement to Pay Attorneys' Fees and Expenses. In the event either party to this Lease Agreement should default under any of the provisions hereof and the nondefaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party; provided, however, that the Trustee shall not be required to expend its own funds for any payment described in this Section.

Section 9.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 9.6. Application of Proceeds. All net proceeds received from the re-lease or other disposition of the Leased Property under this Article IX, and all other amounts derived by the Corporation or the Trustee as a result of an event of default hereunder, shall be transferred to the Trustee promptly upon receipt thereof, after payment of the fees and expenses of the Trustee, including those of its attorneys, agents and advisors and shall be deposited by the Trustee in the Lease Payment account, to be applied to the Lease Payments in order of payment date.

Section 9.7. Trustee and Certificate Owners to Exercise Rights. Such rights and remedies as are given to the Corporation under this Article IX have been assigned by the Corporation to the Trustee under the Trust Agreement, to which assignment the City hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owners of the Certificates as provided in the Trust Agreement.

ARTICLE X

PREPAYMENT OF LEASE PAYMENTS

Section 10.1. Security Deposit. Notwithstanding any other provision of this Lease Agreement, the City may on any date secure the payment of Lease Payments by a deposit with the Trustee of: (i) an amount of cash which, together with amounts on deposit in the Lease Payment Fund and the Insurance and Condemnation Fund, is sufficient to pay all unpaid Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment Schedule set forth in Exhibit A, or (ii) Federal Securities together with cash, if required, in such amount as will, in the opinion of an independent certified public accountant, together with interest to accrue thereon and, if required, all or a portion of moneys or Federal Securities then on deposit in the Lease Payment Fund and the Insurance and Condemnation Fund, be fully sufficient to pay all unpaid Lease Payments on their respective Lease Payment dates or on any purchase option date as set forth in Section 10.2, as the City shall instruct at the time of said deposit. In the event of a security deposit pursuant to this Section, all obligations of the City under this Lease Agreement, and all security provided by this Lease Agreement for said obligations, shall cease and terminate, excepting only the obligation of the City to make, or cause to be made, Lease Payments from such security deposit, and title to the Leased Property shall be affected thereby as described in Section 4.5. Said security deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with the provisions of this Lease Agreement.

Section 10.2. Prepayment; Purchase Option. The City may exercise its option to prepay the principal component of the Lease Payments, in whole or in part, in the amount and on the dates permitted for the prepayment of the Certificates under the Trust Agreement.

Such prepayment price shall be deposited by the Trustee in the Lease Payment Account to be applied to the prepayment of Certificates pursuant to Section 4.01(a) of the Trust Agreement. The City shall give the Trustee notice of its intention to exercise its option not less than forty-five (45) days in advance of the date of exercise. In the event the Lease Payments have been fully paid, and the City prepays the entire unpaid principal component of the Lease Payments, the leasehold estates created by the Property Lease and this Lease Agreement shall be automatically terminated upon such prepayment, and the Corporation Representatives and City Representatives shall execute and record a termination agreement with respect to the Property Lease, this Lease Agreement and the Assignment Agreement.

Section 10.3. Mandatory Prepayment. The City shall be obligated to prepay the Lease Payments for the Leased Property, in whole or in part on any date, from and to the extent of any Net Proceeds of insurance award or condemnation award with respect to the Leased Property have theretofore been deposited with the Trustee in the Lease Payment Fund for such purpose pursuant to Article VI hereof. Such proceeds shall be applied to the prepayment of the principal

component of the Lease Payments and the Prepayment of the Certificates in accordance with Article VI of the Trust Agreement.

Section 10.4. Credit for Amounts on Deposit. In the event of prepayment of the principal components of the Lease Payments in full under this Article X, such that the Trust Agreement shall be discharged by its terms as a result of such prepayment, all amounts then on deposit in the Lease Payment Fund shall be credited towards the amounts then required to be so prepaid.

ARTICLE XI

MISCELLANEOUS

Section 11.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received 48 hours after deposit in the United States mail in registered or certified form with postage fully prepaid:

If to the City:	City Clerk City of Livermore 1052 South Livermore Avenue Livermore, CA 94550
If to the Corporation:	Public Property Financing Corporation of California 2945 Townsgate Road, Suite 200 Westlake Village, California 91361 Attention: President
If to the Trustee:	U.S. Bank Trust Company, National Association One California Street, Suite 1000 San Francisco, California 94111 Attention: Corporate Trust Services *Fax (415) 677-3768*

The Corporation and the City, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 11.2. Binding Effect. This Lease Agreement shall inure to the benefit of and shall be binding upon the Corporation and the City and their respective successors and assigns.

Section 11.3. Severability. In the event any provision of this Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.4. Net-net-net Lease. This Lease Agreement shall be deemed and construed to be a "net-net-net lease" and the City hereby agrees that the Lease Payments shall be an absolute net return to the Corporation, free and clear of any expenses, charges or set-offs whatsoever.

Section 11.5. Further Assurances and Corrective Instruments. The Corporation and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be

executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease Agreement.

Section 11.6. Execution in Counterparts. This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7. Applicable Law. This Lease Agreement shall be governed by and construed in accordance with the laws of the State.

Section 11.8. Corporation and City Representatives. Whenever under the provisions of this Lease Agreement the approval of the Corporation or the City is required, or the Corporation or the City is required to take some action at the request of the other, such approval or such request shall be given for the Corporation by a Corporate Representative and for the City by a City Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 11.9. Captions. The captions or headings in this Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Lease Agreement.

IN WITNESS WHEREOF, the Corporation has caused this Lease Agreement to be executed in its corporate name by its duly authorized officer; and the City has caused this Lease Agreement to be executed in its name by its duly authorized officers and sealed with its corporate seal, as of the date first above written.

PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, as Lessor

By: _____
Treasurer

CITY OF LIVERMORE, as Lessee

By: _____
City Manager

Attest:

By: _____
City Clerk

EXHIBIT A

SCHEDULE OF LEASE PAYMENTS

Payment Date*	Principal Component	Interest Component	Total Lease Payment
		$	$
	$		

* Lease Payments are due on the fifteenth day of the month preceding each Payment Date shown.

Payment Date*	Principal Component	Interest Component	Total Lease Payment
	$	$	$

* Lease Payments are due on the fifteenth day of the month preceding each Payment Date shown.

EXHIBIT B

DESCRIPTION OF LEASED PROPERTY

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

[___]

(End of Legal Description)

TRUST AGREEMENT

Dated as of October 1, 2022

by and among

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Trustee,

PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA

and the

CITY OF LIVERMORE

Relating to

City of Livermore
$_____
2022 Certificates of Participation
(Livermore Village Development)

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TRUST AGREEMENT

THIS TRUST AGREEMENT is dated as of October 1, 2022, by and among U.S. Bank Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America (the "Trustee"), the PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, a nonprofit public benefit corporation duly formed, organized operating and acting pursuant to the laws of the State of California (the "Corporation"), and the CITY OF LIVERMORE, a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California (the "City").

RECITALS

WHEREAS, the City wishes to finance the acquisition and construction of the capital improvements defined herein as the Project, using a lease financing structure and certificates of participation, and leasing the real property and improvements that are defined herein as the "Leased Property"; and

WHEREAS, the City has determined that it is in the interests of the City at this time to provide for the financing of the costs of the acquisition of the Project and the costs of issuance incurred in connection with the proposed financing, by leasing the Leased Property to the Corporation pursuant to that certain Property Lease, dated as of October 1, 2022, by and between the City, as lessor, and the Corporation, as lessee (the "Property Lease"), and subleasing the Leased Property pursuant to a Lease Agreement, dated as of October 1, 2022, between the Corporation, as lessor, and the City, as lessee (the "Lease Agreement"); and

WHEREAS, the Corporation will cause to be deposited with the Trustee funds for the financing of the Project; and

WHEREAS, for the purpose of obtaining the moneys required to be deposited into the funds and accounts established hereunder, the Corporation proposes to assign and transfer certain of its rights under said Lease Agreement to the Trustee, and in consideration of such assignment and the execution of this Trust Agreement, the Trustee has agreed to execute and deliver City of Livermore 2022 Certificates of Participation (Livermore Village Development), each evidencing an undivided fractional interest in the Lease Payments made by the City under the Lease Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.01 shall, for all purposes of this Trust Agreement, have the meanings herein specified. In addition, any terms defined in the Lease Agreement and not otherwise defined herein shall have the respective meanings given such terms in the Lease Agreement.

"Assignment Agreement" means the Assignment Agreement, dated as of October 1, 2022, by and between the Corporation and the Trustee, together with any duly authorized and executed amendments thereto.

"Bond Counsel" means any attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations the interest on which is exempt from federal income taxation pursuant to Section 103 of the Code.

"Business Day" means a day of the week on which the Trustee is not required or authorized to remain closed and on which the New York Stock Exchange is open.

"Certificates" means the Certificates to be executed and delivered pursuant hereto.

"City" means the City of Livermore, a general law city and municipal corporation duly organized and existing under the Constitution and the laws of the State.

"City Representative" means the City Manager or the Administrative Services Director of the City, or any other person authorized by resolution of the City Council to act on behalf of the City under or with respect to this Trust Agreement and the Lease Agreement.

"Closing Date" means the date upon which there is an exchange of the Certificates for the proceeds representing the purchase of the Certificates by the Original Purchaser.

"**Code**" means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced in the Lease Agreement or the Trust Agreement) as it may be amended to apply to obligations issued on the Closing Date, together with applicable temporary and final regulations promulgated under the Code.

"Corporate Trust Office" means the corporate trust office of the Trustee at One California Street, Suite 2550, San Francisco, California 94111, Attention: Corporate Trust, or at such other address designated by the Trustee in written notice filed with the City, the Corporation and the Owners or such other place as designated by the Trustee, except that with respect to presentation of Certificates for payment or for registration of transfer and exchange, such term

shall mean the office or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted.

"Corporation" means the Public Property Financing Corporation of California, a nonprofit public benefit corporation duly formed, organized, operating and existing under the laws of the State, and its successors and assigns.

"Corporation Representative" means the President, Treasurer or Secretary of the Corporation, or the designee of any such official, or any other person authorized to act on behalf of the Corporation under or with respect to the Trust Agreement, the Lease Agreement and the Site Lease, and identified as such to the Trustee in writing.

"Costs of Issuance" means all items of expense directly or indirectly payable by or reimbursable to the City or the Corporation relating to the execution, sale and delivery of the Certificates, including but not limited to printing costs, reproduction and binding costs, initial fees and charges of the Trustee, legal fees and charges, bond insurance or title insurance fees and charges, financial and other professional consultant fees, costs of rating agencies for credit ratings, fees for execution, transportation and safekeeping of the Certificates and charges and fees in connection with the foregoing.

"Costs of Issuance Fund" means the fund by that name established and held by the Trustee pursuant to Section 3.03 hereof.

"Counsel" means any attorney at law or law firm (who or which may be counsel for the City, the Trustee or the Corporation).

"Event of Default" means an event of default under the Lease Agreement, as defined in Section 9.1 thereof.

"Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

"Federal Securities" means any of the following which at the time of investment are legal investments under the laws of the State for the moneys proposed to be invested therein:

(a) direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America); and

(b) obligations of any department, agency or instrumentality of the United States of America the timely payment of principal of and interest on which are unconditionally and fully guaranteed by the United States of America.

"Fiscal Year" means each twelve-month period beginning on July 1 of any year and ending on June 30 of the succeeding year, or any other twelve-month period hereafter adopted by the City as its official fiscal year period.

"Independent Counsel" means an attorney duly admitted to the practice of law before the highest court of the state in which such attorney maintains an office and who is not an employee of the Corporation, the Trustee or the City.

"Insurance and Condemnation Fund" means the fund by that name established and held by the Trustee pursuant to Section 6.01.

"Investment Securities" means any of the following investments which are authorized under the laws of the State of California for investment of the funds proposed to be invested therein:

(a) Federal Securities;

(b) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself): (i) certificates of beneficial ownership of the Farmers Home Administration; (ii) Federal Housing Administration debentures; (iii) participation certificates of the General Services Administration; (iv) guaranteed mortgage-backed bonds or guaranteed pass-through obligations of the Government National Mortgage Association; (v) guaranteed Title XI financings of the U.S. Maritime Administration; and (vi) project notes, local authority bonds, new communities debentures and U.S. public housing notes and bonds of the U.S. Department of Housing and Urban Development;

(c) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities only as stripped by the agency itself): (i) senior debt

obligations of the Federal Home Loan Bank System; (ii) participation certificates and senior debt obligations of the Federal Home Loan Mortgage Corporation; (iii) mortgaged-backed securities and senior debt obligations of the Federal National Mortgage Association; (iv) senior debt obligations of the Student Loan Marketing Association; (v) obligations of the Resolution Funding Corporation; and (vi) consolidated system-wide bonds and notes of the Farm Credit System.

(d) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of at least AAAm-G, AAAm or AAm, or a rating by Moody's of Aaa, Aa1 or Aa2 (such funds may include funds for which the Trustee, its affiliates, parent or subsidiaries provide investment advisory or other management services);

(e) Certificates of deposit (including those of the Trustee, its parent and its affiliates) secured at all times by collateral described in (a) or (b) above, which have a maturity not greater than one year from the date of investment and which are issued by commercial banks, savings and loan associations or mutual savings banks, which collateral must be held by a third party and provided that the Trustee must have a perfected first security interest in such collateral;

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee and its affiliates) which are fully insured by FDIC;

(g) Commercial paper rated, at the time of purchase, "Prime-1" by Moody's or "A-1" and better by S&P;

(h) Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies;

(i) Federal funds or bankers acceptances with a maximum term of one year of any bank which an unsecured, uninsured and unguaranteed obligation rating of "Prime-1" or "A3" or better by Moody's and A-1+ by S&P; and

(k) Local Agency Investment Fund.

"Lease Agreement" means the Lease Agreement dated as of October 1, 2022, by and between the Corporation as lessor and the City as lessee, together with any further duly authorized and executed amendments thereto.

"Leased Property" means the real property described in Exhibit A of the Property Lease and Exhibit B of the Lease Agreement and the improvements thereon.

"Lease Default Event" means any of the events specified in Section 9.1 of the Lease Agreement.

"Lease Payments" means all payments required to be paid by the City pursuant to Section 4.3 of the Lease Agreement, including any prepayment thereof pursuant to Article X of the Lease Agreement.

"Lease Payment Fund" means the fund by that name established and held by the Trustee pursuant to Section 5.02.

"Moody's" means Moody's Investors Service, of New York, New York, or its successors.

"Net Proceeds" when used with respect to insurance or condemnation proceeds, means any insurance proceeds or condemnation award paid with respect to the Leased Property, to the extent remaining after payment therefrom of all expenses incurred in the collection thereof.

"Original Purchaser" means the first purchaser of the Certificates.

"Outstanding", when used as of any particular time with reference to Certificates, means (subject to the provisions of Section 9.03) all Certificates theretofore, or thereupon being, executed and delivered by the Trustee under this Trust Agreement except (1) Certificates theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation; (2) Certificates with respect to which all liability of the City shall have been discharged in accordance with Section 13.02, including Certificates (or portions of Certificates) referred to in Section 13.04; and (3) Certificates for the transfer or exchange of or in lieu of or in substitution for which other Certificates shall have been executed and delivered by the Trustee pursuant to this Trust Agreement.

"Owner" or **"Certificate Owner"**, when used with respect to a Certificate means the person in whose name the ownership of such Certificate shall be registered.

"Payment Date" means (i) with respect to the interest component of the Lease Payments payable to the Owners of the Certificates, April 1, 2023, and the first day of each April and October thereafter so long as any Certificates are Outstanding hereunder, and (ii) with respect to the principal of the Certificates, April 1, 2023 and each April 1 thereafter so long as the Certificates are Outstanding.

"Principal Amount" means the total unpaid principal component of the Lease Payments due under Section 4.3 of the Lease Agreement.

"Project" has the meaning given that term in the Lease Agreement.

"**Project Costs**" means, with respect to the Project, all costs of the acquisition, construction and installation thereof which are paid from moneys on deposit in the Project Fund, including but not limited to:

(a) all costs required to be paid to any person under the terms of any agreement for or relating to the acquisition, construction and installation of the Project;

(b) obligations incurred for labor and materials in connection with the acquisition, construction and installation of the Project;

(c) the cost of performance or other bonds and any and all types of insurance that may be necessary or appropriate to have in effect in connection with the acquisition, construction and installation of the Project;

(d) all costs of engineering and architectural services, including the actual out-of-pocket costs for test borings, surveys, estimates, plans and specifications and preliminary investigations therefor, development fees, sales commissions, and for supervising construction, as well as for the performance of all other duties required by or consequent to the proper acquisition, construction and installation of the Project;

(e) any sums required to reimburse the City for advances made for any of the above items or for any other costs incurred and for work done which are properly chargeable to the acquisition, construction and installation of the Project;

(f) all Costs of Issuance and other financing costs incurred in connection with the acquisition, construction and installation of the Project; and

(g) the interest components of the Lease Payments allocable to the Project or any component thereof, which come due during the period of acquisition, construction and installation of the improvements or such component.

"Record Date" means the close of business on the fifteenth day of the month preceding each Payment Date, whether or not such fifteenth day is a Business Day.

"Registration Books" means the records maintained by the Trustee pursuant to Section 2.11 for registration and transfer of ownership of the Certificates.

"S&P" means Standard & Poor's Corporation, of New York, New York, or its successors.

"State" means the State of California.

"Term of the Lease Agreement" means the time during which the Lease Agreement is in effect, as provided in Section 4.2 of the Lease Agreement.

"Trust Agreement" or **"Agreement"** means this Trust Agreement, together with any amendments or supplements hereto permitted to be made hereunder.

"Trustee" means U.S. Bank Trust Company, National Association, a national banking association organized under the laws of the United States of America or any successor thereto acting as Trustee pursuant to this Trust Agreement.

"Written Request of the Corporation" means an instrument in writing signed by the Corporation Representative.

"Written Request of the City" means an instrument in writing signed by the City Representative.

Section 1.02. Authorization. Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Agreement, and has taken all actions necessary to authorize the execution of this Agreement by the officers and persons signing it.

ARTICLE II

THE CERTIFICATES OF PARTICIPATION

Section 2.01. Authorization. The Trustee is hereby authorized and directed to register, execute and deliver to the Original Purchaser: City of Livermore 2022 Certificates of Participation (Livermore Village Development), in an aggregate principal amount of _____ Dollars ($_____). The Certificates evidence undivided fractional interests in the Lease Payments.

Section 2.02. Date. Each Certificate shall be dated as of the date of its execution, and interest with respect thereto shall be payable from the Payment Date next preceding the date of execution thereof, unless: (i) it is executed as of a Payment Date, in which event interest represented thereby shall be payable from such Payment Date; or (ii) it is executed after a Record Date and before the following Payment Date, in which event interest represented thereby shall be payable from such Payment Date; or (iii) it is executed on or before March 15, 2023, in which event interest represented thereby shall be payable from the Closing Date; provided, however, that if, as of the date of any Certificate, interest represented by such Certificate is in default, interest represented by such Certificate shall be payable from the Payment Date to which interest represented thereby has previously been paid or made available for payment.

Section 2.03. **Maturities; Interest Rates.** (i) The Certificates shall mature on April 1 in each of the years set forth below, and shall represent the right to receive interest at the rates set forth below, as follows:

Year	Amount	Interest Rate
	$	%

Section 2.04. **Form of Certificates; Interest.** The Certificates shall be delivered in the form of fully registered Certificates without coupons in the denomination of $5,000 or any integral multiple thereof, except that no Certificate may have principal maturing in more than one year. The Certificates shall be assigned such alphabetical and numerical designation as shall be designated by the Trustee.

Interest represented by the Certificates shall be payable on each Payment Date to and including the date of maturity or prepayment, whichever is earlier, as provided in Section 2.09. Said interest shall represent the portion of Lease Payments designated as interest and coming due during the Rental Period preceding each Payment Date. The proportionate share of the portion of Lease Payments designated as interest represented by any Certificate shall be computed by multiplying the portion of Lease Payments designated as principal represented by

such Certificate by the rate of interest applicable to such Certificate (on the basis of a 360-day year of twelve 30-day months).

Section 2.05. Form. The Certificates shall be substantially in the form set forth in Exhibit A attached hereto and by this reference incorporated herein.

Section 2.06. Execution. The Certificates shall be executed by and in the name of the Trustee by the manual signature of an authorized officer of the Trustee. If any officer whose signature appears on any Certificate ceases to be such officer before the date of delivery of such Certificate, such signature shall nevertheless be as effective as if the officer had remained in office until such date. Any Certificate may be executed on behalf of the Trustee by such person as at the actual date of the execution of such Certificate shall be the proper officer of the Trustee.

Section 2.07. Transfer and Exchange. (a) Transfer of Certificates. The registration of any Certificate may, in accordance with its terms, be transferred upon the Registration Books by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Certificate for cancellation at the Corporate Trust Office of the Trustee, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever any Certificate or Certificates shall be surrendered for registration of transfer, the Trustee shall execute and deliver a new Certificate or Certificates of the same maturity and aggregate principal amount of the same series, in any authorized denominations. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer and exchange shall be paid by the City, except that the Trustee may require the payment by the Certificate Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

(b) Exchange of Certificates. Certificates may be exchanged at the Corporate Trust Office of the Trustee, for a like aggregate principal amount of Certificates of other authorized denominations of the same maturity and the same Series. The City shall pay any costs of the Trustee incurred in connection with such exchange, except that the Trustee may require the payment by the Certificate Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

(c) Limitations on Transfer or Exchange. The Trustee may refuse to transfer or exchange either (i) any Certificate during the period established by the Trustee for the selection of Certificates for prepayment, or (ii) the portion of any Certificate which the Trustee has selected for prepayment pursuant to the provisions of Section 4.02.

Section 2.08. Certificates Mutilated, Lost, Destroyed or Stolen. If any Certificate shall become mutilated, the Trustee, at the expense of the Owner of said Certificate, shall execute and deliver a new Certificate of like tenor and maturity in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Trustee of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Trustee shall be cancelled by it and redelivered

to, or upon the order of, the City. If any Certificate shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee, and, if such evidence is satisfactory to the Trustee and, if an indemnity satisfactory to the Trustee shall be given, the Trustee, at the expense of the Certificate Owner, shall execute and deliver a new Certificate of like tenor and maturity and numbered as the Trustee shall determine in lieu of and in substitution for the Certificate so lost, destroyed or stolen. The Trustee may require payment of an appropriate fee for each new Certificate delivered under this Section 2.08 and of the expenses which may be incurred by the Trustee in carrying out the duties under this Section 2.08. Any Certificate executed and delivered under the provisions of this Section 2.08 in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Agreement with all other Certificates secured by this Agreement. The Trustee shall not be required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the principal amount of Certificates which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate shall be treated as one and the same. Notwithstanding any other provision of this Section 2.08, in lieu of delivering a new Certificate in exchange for a Certificate which has been mutilated, lost, destroyed or stolen, and which has matured, the Trustee may make payment with respect to such Certificate upon receipt of indemnity satisfactory to the Trustee.

Section 2.09. Payment. Payment of interest due with respect to any Certificate on any Payment Date shall be made to the person appearing on the Registration Books as the Owner thereof as of the Record Date immediately preceding such Payment Date, such interest to be paid by check mailed to such Owner at his address as it appears on the Registration Books or at such other address as he may have filed with the Trustee for that purpose. The principal, interest and prepayment price represented by the Certificates at maturity or upon prior prepayment shall be payable in lawful money of the United States of America upon surrender at the Corporate Trust Office of the Trustee.

Section 2.10. Execution of Documents and Proof of Ownership. Any request, direction, consent, revocation of consent, or other instrument in writing required or permitted by this Agreement to be signed or executed by Certificate Owners may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Owners in person or by their attorneys or agents appointed by an instrument in writing for that purpose. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of Certificates shall be sufficient for any purpose of this Agreement (except as otherwise herein provided), if made in the following manner:

(a) The fact and date of the execution by any Owner or his attorney or agent of any such instrument and of any instrument appointing any such attorney or agent, may be proved by a certificate, which shall be acknowledged or verified, of an officer of any bank or trust company located within the United States of America, or of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in such jurisdictions, that the persons signing such instruments acknowledged before him

the execution thereof. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such certificate shall also constitute sufficient proof of his authority.

(b) The fact of the ownership of Certificates by any person and the amount, the maturity and the numbers of such Certificates and the date of his holding the same shall be proved by the Registration Books.

Nothing contained in this Article II shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which the Trustee may deem sufficient. Any request or consent of the Owner of any Certificate shall bind every future Owner of the same Certificate in respect of anything done or suffered to be done by the Trustee in pursuance of such request or consent.

Section 2.11. Registration Books. The Trustee shall keep or cause to be kept, at its Corporate Trust Office, sufficient records for the registration and registration of transfer of the Certificates, which shall at all times be open to inspection by the City and the Corporation during regular business hours and upon reasonable prior notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Registration Books, Certificates as hereinbefore provided.

Section 2.12. Use of Depository. Notwithstanding any provision of this Trust Agreement to the contrary:

(a) At the request of the Original Purchaser, each maturity of the Certificates shall be initially executed and delivered registered in the name of "Cede & Co.," as nominee of The Depository Trust Company, the depository designated by the Original Purchaser, and shall be evidenced by one Certificate maturing on each of the maturity dates set forth in Section 2.03 hereof to be in a denomination corresponding to the total principal therein designated to mature on such date. Registered ownership of such Certificates, or any portions thereof, may not thereafter be transferred except:

(i) to any successor of The Depository Trust Company or its nominee, or of any substitute depository designated pursuant to paragraph (ii) of this subsection (a) ("substitute depository"); provided that any successor of The Depository Trust Company or substitute depository shall be qualified under any applicable laws to provide the service proposed to be provided by it;

(ii) to any substitute depository designated in a written request of the City, upon (i) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository or (ii) a determination by the City that The Depository Trust Company or its successor is no

longer able to carry out its functions as depository; provided that any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) to any person as provided below, upon (A) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository or (B) a determination by the City that The Depository Trust Company or its successor is no longer able to carry out its functions as depository; provided that no substitute depository which is not objected to by the City and the Trustee can be obtained.

(b) In the case of any transfer pursuant to paragraph (i) or paragraph (ii) of subsection (a) of this Section 2.14, upon receipt of all Outstanding Certificates by the Trustee, together with a written request of a City Representative to the Trustee, a single new Certificate shall be executed and delivered for each maturity of such Certificate then outstanding, registered in the name of such successor or such substitute depository or their nominees, as the case may be, all as specified in such written request of a City Representative. In the case of any transfer pursuant to paragraph (iii) of subsection (a) of this Section 2.14, upon receipt of all Outstanding Certificates by the Trustee together with a written request of a City Representative, new Certificates shall be executed and delivered in such denominations and registered in the names of such persons as are requested in a written request of the City provided the Trustee shall not be required to deliver such new Certificates within a period less than sixty (60) days from the date of receipt of such a written request of a City Representative.

(c) In the case of partial redemption or an advance refunding of any Certificates evidencing all of the principal maturing in a particular year, The Depository Trust Company shall, at the City's expense, deliver the Certificates to the Trustee for cancellation and re-registration to reflect the amounts of such reduction in principal.

(d) The City and the Trustee shall be entitled to treat the person in whose name any Certificate is registered as the absolute Owner thereof for all purposes of this Trust Agreement and any applicable laws, notwithstanding any notice to the contrary received by the Trustee or the City; and the City and the Trustee shall have no responsibility for transmitting payments to, communication with, notifying or otherwise dealing with any beneficial owners of the Certificates. Neither the City nor the Trustee will have any responsibility or obligations, legal or otherwise, to the beneficial owners or to any other party including The Depository Trust Company or its successor (or substitute depository or its successor), except for the registered owner of any Certificate.

(e) So long as all outstanding Certificates are registered in the name of Cede & Co. or its registered assign, the City and the Trustee shall reasonably cooperate with Cede & Co., as sole registered Owner, or its registered assign in effecting payment of the principal and redemption premium, if any, and interest due with respect to the Certificates by arranging for

payment in such manner that funds for such payments are properly identified and are made immediately available on the date they are due.

(f) So long as all Outstanding Certificates are registered in the name of Cede & Co. or its registered assigns (hereinafter, for purposes of this paragraph (f), the "Owner"):

(i) All notices and payments addressed to the Owners shall contain the Certificates' CUSIP number.

(ii) Notices to the Owner shall be forwarded in the manner set forth in the form of Blanket Issuer Letter of Representations executed by the City and received and accepted by The Depository Trust Company.

ARTICLE III

DISPOSITION OF PROCEEDS
COSTS OF ISSUANCE FUND AND PROJECT FUND

Section 3.01. Application of Proceeds. The proceeds received by the Trustee from the sale of the Certificates shall forthwith be set aside by the Trustee in the following respective funds and in the following order of priority:

(a) the Trustee shall deposit an amount equal to $_____ in the Costs of Issuance Fund; and

(c) the Trustee shall deposit the balance ($_____) to the Project Fund.

Section 3.03. Costs of Issuance Fund. The Trustee shall establish a special fund designated as the "Costs of Issuance Fund"; shall keep such fund separate and apart from all other funds and moneys held by it; and shall administer such fund as provided herein. There shall be deposited in the Costs of Issuance Fund the proceeds of the Certificates deposited therein pursuant to Sections 3.01(b), and any other funds from time to time deposited by the Trustee for such purpose. The moneys in the Costs of Issuance Fund shall be disbursed to pay the Costs of Issuance from time to time upon the receipt of Written Requests of the City setting forth the amounts to be disbursed for payment or reimbursement of Costs of Issuance and the name and address of the person or persons to whom said amounts are to be disbursed, stating that the amounts to be disbursed are for Costs of Issuance properly chargeable to the Costs of Issuance Fund. Each such Written Request requisition of the City shall be sufficient evidence to the Trustee of the facts stated therein, and the Trustee shall have no duty to confirm the accuracy of such facts. Any amounts remaining in the Costs of Issuance Fund on the date sixty (60) days after the Closing Date shall be withdrawn therefrom by the Trustee and transferred to the Lease Payment Fund.

Section 3.04. Project Fund. The Trustee shall establish and maintain a separate fund to be known as the "Project Fund". There shall be deposited in the Project Fund the proceeds of the Certificates deposited therein pursuant to Section 3.01(c).

The Trustee shall disburse moneys in the Project Fund for the purpose of paying the Project Costs, upon receipt of a Requisition in substantially the form attached hereto as Exhibit B. Upon completion of acquisition and construction of the Project, which shall be determined by receipt by the Trustee of a Certificate of Completion signed by the City, and following payment of all Project Costs, the Project Fund shall be closed, and any balance remaining therein shall be transferred to the Lease Payment Fund.

In making such payments, the Trustee may conclusively rely upon the representations made in the Requisition. If for any reason the City should decide prior to the payment of any item in said Requisition not to pay such item, then it shall give written notice of such decision to the Trustee and thereupon the Trustee shall not make such payment, and the Trustee shall have no liability to the City or the designated payee as a result of such nonpayment. In no event shall the Trustee be responsible for the adequacy or due performance of any contracts relating to the Project or for the use or application of money properly disbursed pursuant to requests made under this Section 3.04.

ARTICLE IV
PREPAYMENT OF CERTIFICATES

Section 4.01. Prepayment.

(A) Optional Prepayment. The Certificates maturing on or before _____ 1, 20__ are not subject to optional prepayment prior to their respective stated maturities. The Certificates maturing on or after _____ 1, 20__, are subject to optional prepayment on any date on or after _____ 1, 20__, in whole or in part, from prepayments of the Lease Payments made at the option of the City pursuant to Section 10.2 of the Lease Agreement, at a prepayment price equal to the principal amount thereof to be prepaid, together with accrued interest to the prepayment date, without premium.

(B) Mandatory Sinking Fund Prepayments. The Certificates maturing on April 1, 20__ are subject to mandatory sinking fund prepayment prior to their stated maturity, in the amounts and years set forth below, at the prepayment price equal to the principal amount thereof to be prepaid, together with accrued interest to the date fixed for prepayment, without premium.

Sinking Fund Prepayment Date (April 1)	Sinking Payments
20__	$
20__	
20__	
20__	
20__	

(C) Prepayment From Net Proceeds of Insurance and Condemnation. The Certificates are also subject to prepayment on any Payment Date, in whole or in part, from the Net Proceeds of insurance or condemnation with respect to the Leased Property, which Net Proceeds are deposited in the Lease Payment Fund and credited towards the prepayment of the Lease Payments made by the City pursuant to Section 10.3 of the Lease Agreement, at a prepayment price equal to the principal amount of the Certificates to be prepaid, together with accrued interest to the date fixed for prepayment, without premium.

Section 4.02. Selection of Certificates for Prepayment. Whenever provision is made in this Agreement for the prepayment of Certificates pursuant to Section 4.01(A) and less than all Outstanding Certificates are called for prepayment, the Trustee shall select Certificates for prepayment from the Outstanding Certificates not previously called for prepayment, among maturities selected by the City, in integral multiples of $5,000, and by lot within a maturity, in any manner deemed appropriate by the Trustee. Whenever provision is made in this Agreement

for the prepayment of Certificates pursuant to Section 4.01(C), and less than all Outstanding Certificates are called for prepayment, the Trustee shall select Certificates for prepayment from the Outstanding Certificates not previously called for prepayment, proportionately among maturities, in integral multiples of $5,000, and by lot within a maturity, in any manner deemed appropriate by the Trustee. For the purposes of such selection, Certificates shall be deemed to be composed of $5,000 portions, and any such portion may be separately prepaid. The Trustee shall promptly notify the City and the Corporation in writing of the Certificates so selected for prepayment.

Section 4.03. Notice of Prepayment. When prepayment is authorized or required pursuant to Section 4.01, the Trustee shall give notice of the prepayment of the Certificates. Such notice shall specify: (a) that the Certificates or a designated portion thereof are to be prepaid, (b) the date of prepayment, and (c) the place or places where the prepayment will be made. Such notice shall further state that on the specified date there shall become due and payable upon each Certificate, the principal and premium, if any, together with interest accrued to said date, and that from and after such date interest represented thereby shall cease to accrue and be payable.

Notice of such prepayment shall be mailed by first class mail to the respective Owners of Certificates designated for prepayment at their addresses appearing on the Registration Books, at least twenty (20) days but not more than forty-five (45) days prior to the prepayment date, which notice shall, in addition to setting forth the above information, set forth, in the case of each Certificate called only in part, the portion of the principal thereof which is to be prepaid; provided that neither failure to receive such notice so mailed nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the prepayment of such Certificates.

The notice of an optional prepayment may provide that the prepayment is conditioned upon receipt by the City of sufficient funds to pay the prepayment price on the proposed prepayment date, and the City may rescind any such optional prepayment notice by providing notice of rescission on or before the prepayment date in the same manner that the notice of prepayment was provided.

Section 4.04. Partial Prepayment of Certificate. Upon surrender of any Certificate prepaid in part only, the Trustee shall execute and deliver to the Owner thereof, at the expense of the City, a new Certificate or Certificates of authorized denominations equal in aggregate principal amount to the unprepaid portion of the Certificate surrendered and of the same interest rate and the same maturity.

Section 4.05. Effect of Notice of Prepayment. Notice having been given as aforesaid, and moneys for the prepayment (including the interest to the applicable date of prepayment and including any applicable premium), having been set aside in the Lease Payment Fund, the Certificates shall become due and payable on said date of prepayment, and, upon presentation and surrender thereof at the Corporate Trust Office of the Trustee, said Certificates shall be paid

at the unpaid principal amount (or applicable portion thereof) with respect thereto, plus interest accrued and unpaid to said date of prepayment.

If, on said date of prepayment, moneys for the prepayment of all the Certificates to be prepaid, together with interest to said date of prepayment, shall be held by the Trustee so as to be available therefor on such date of prepayment, and, if notice of prepayment thereof shall have been given as aforesaid, then, from and after said date of prepayment, interest represented by said Certificates shall cease to accrue and become payable. All moneys held by or on behalf of the Trustee for the prepayment of Certificates shall be held in trust for the account of the Owners of the Certificates so to be prepaid.

All Certificates paid at maturity or prepaid prior to maturity pursuant to the provisions of this Article IV shall be cancelled upon surrender thereof and destroyed.

ARTICLE V

LEASE PAYMENTS; LEASE PAYMENT FUND

Section 5.01. Assignment of Rights in Lease Agreement. The Corporation has in the Assignment Agreement transferred, assigned and set over to the Trustee certain of its rights in the Lease Agreement, including but not limited to all of the Corporation's rights to receive and collect all of the Lease Payments and all other amounts required to be deposited in the Lease Payment Fund pursuant to the Lease Agreement or pursuant hereto. All Lease Payments and such other amounts to which the Corporation may at any time be entitled shall be paid directly to the Trustee, and all of the Lease Payments collected or received by the Corporation shall be deemed to be held and to have been collected or received by the Corporation as the agent of the Trustee, and if received by the Corporation at any time shall be deposited by the Corporation with the Trustee within one Business Day after the receipt thereof, and all such Lease Payments and such other amounts shall be forthwith deposited by the Trustee upon the receipt thereof in the Lease Payment Fund (except as provided in Section 3.02).

Section 5.02. Establishment of Lease Payment Fund. The Trustee shall establish a special fund designated as the "Lease Payment Fund". All moneys at any time deposited by the Trustee in the Lease Payment Fund shall be held by the Trustee in trust for the benefit of the Owners of the Certificates. So long as any Certificates are Outstanding, neither the City nor the Corporation shall have any beneficial right or interest in the Lease Payment Fund or the moneys deposited therein, except only as provided in this Agreement, and such moneys shall be used and applied by the Trustee as hereinafter set forth.

Section 5.03. Deposits. There shall be deposited in the Lease Payment Fund all Lease Payments received by the Trustee (except as provided in Section 3.02), including any moneys required to be deposited therein pursuant to the Lease Agreement or pursuant to this Agreement, and including any other moneys required to be credited towards payment of the Lease Payments.

Section 5.04. Application of Moneys. All amounts in the Lease Payment Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the principal, interest and prepayment premiums (if any) with respect to the Certificates as the same shall become due and payable, in accordance with the provisions of Article II and Article IV.

Section 5.05. Surplus. Any surplus remaining in the Lease Payment Fund, after prepayment and payment of all Certificates, including premiums and accrued interest (if any) and payment of any applicable fees to the Trustee or provision for such prepayment or payment having been made to the satisfaction of the Trustee, shall be withdrawn by the Trustee and remitted to the City.

ARTICLE VI

INSURANCE AND CONDEMNATION FUND
INSURANCE; EMINENT DOMAIN

Section 6.01. Establishment of Insurance and Condemnation Fund; Application of Net Proceeds of Insurance Award. The provisions of this Section are subject to Section 4.02 of the Property Lease. Any Net Proceeds of insurance (other than rental interruption insurance) against accident to or destruction of any structure constituting any part of the Leased Property collected by the City in the event of any such accident or destruction shall be paid to the Trustee by the City pursuant to Section 6.2(a) of the Lease Agreement and deposited by the Trustee promptly upon receipt thereof in a special fund to be established and held by the Trustee, designated as the "Insurance and Condemnation Fund". If the City determines and notifies the Trustee in writing of its determination, within ninety (90) days following the date of such deposit, that the replacement, repair, restoration, modification or improvement of the Leased Property is not economically feasible or in the best interest of the City, then such Net Proceeds shall be promptly transferred by the Trustee to the Lease Payment Fund, and applied to the prepayment of Lease Payments pursuant to Section 4.01(C); provided, that such transfer shall only be made if the amount transferred is sufficient to prepay the principal amount of Certificates attributable to the portion of the Leased Property damaged or destroyed, determined on the basis of the ratio resulting from dividing the fair market value of the portion of the Leased Property so damaged or destroyed by the fair market value of the Leased Property, and only if the remaining unpaid Lease Payments represent fair consideration for the remaining portion of the Leased Property. All Net Proceeds deposited in the Insurance and Condemnation Fund and not so transferred to the Lease Payment Fund shall be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Leased Property by the City, upon receipt of Written Requests of the City stating with respect to each payment to be made (i) the name and address of the person, firm or corporation to whom payment is due, (ii) the amount to be paid and (iii) that each obligation mentioned therein has been properly incurred, is a proper charge against the Insurance and Condemnation Fund, has not been the basis of any previous withdrawal, and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation. Each such Written Request requisition of the City shall be sufficient evidence to the Trustee of the facts stated therein, and the Trustee shall have no duty to confirm the accuracy of such facts. Any balance of the Net Proceeds remaining after such work has been completed (as evidenced by a Certificate of the City to the Trustee) shall be paid to the City. The preceding sentence notwithstanding, before the remaining Net Proceeds are paid to the City by the Trustee, the City shall deliver to the Trustee a certificate stating that the Leased Property has been replaced, repaired, restored, modified or improved with the Net Proceeds to a fair market value not less than the aggregate principal components of the unpaid lease Payments, and that the City has full use, occupancy and enjoyment of the Leased Property.

Section 6.02. Application of Net Proceeds of Eminent Domain Award. The provisions of this Section are subject to Section 4.02 of the Property Lease. If all or any part of the Leased Property shall be taken by eminent domain proceedings (or sold to a government threatening to exercise the power of eminent domain) the Net Proceeds therefrom shall be deposited with the Trustee in the Insurance and Condemnation Fund pursuant to Section 6.2(b) of the Lease Agreement and shall be applied and disbursed by the Trustee as follows:

(a) If all of the Leased Property (or portions thereof such that the remainder is not useable for essential public purposes of the City) shall have been taken in such eminent domain proceedings or sold to a government threatening the use of eminent domain powers, or if the City has given written notice to the Trustee of its determination that such proceeds are not needed for repair or rehabilitation of the Leased Property, the Trustee shall transfer such proceeds to the accounts within the Lease Payment Fund to be credited towards the prepayments of the Lease Payments required to be paid pursuant to Section 6.2(b) of the Lease Agreement and applied to the prepayment of Certificates in the manner provided in Section 4.01(C).

(b) If less than all of the Leased Property shall have been taken in such eminent domain proceedings or sold to a government threatening the use of eminent domain powers and the remainder is useable for essential public purposes of the City, and if the City has given written notice to the Trustee of its determination that such proceeds are needed for repair, rehabilitation or replacement of the Leased Property, the Trustee shall pay to the City, or to its order, from said proceeds such amounts as the City may expend for such repair or rehabilitation, upon the filing of Written Requests of the City in the form and containing the provisions set forth in Section 6.01.

Section 6.03. Cooperation. The Corporation and the Trustee shall cooperate fully with the City at the expense of the City in filing any proof of loss with respect to any insurance policy maintained pursuant to Article V of the Lease Agreement and, to the extent indemnified to its satisfaction from any liability or expense related thereto, in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Leased Property or any portion thereof.

ARTICLE VII

MONEYS IN FUNDS

Section 7.01. Held in Trust. The moneys and investments held by the Trustee under this Trust Agreement are irrevocably held in trust for the Certificates, and for the purposes herein specified, and such moneys shall be expended only as provided in this Trust Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of (i) the City, (ii) the Trustee, (iii) the Corporation or (iv) the Owner of Certificates.

Section 7.02. Investments Authorized. All moneys in any of the funds established pursuant to this Trust Agreement shall be invested by the Trustee, upon Written Request of the City, solely in Investment Securities which mature or will be otherwise available for the purposes of the fund from which such moneys are being invested. In the absence of any Written Request of the City directing investments, the Trustee shall invest in Investment Securities described in (f) of the definition thereof; provided, further, that as long as the Trustee is U.S. Bank Trust Company, National Association , the Trustee shall invest such money in the money market fund set forth in the letter of authorization and direction executed by the City and delivered to the Trustee. If no specific money market fund has been specified by the City, the Trustee shall make a request to the City for investment directions. Such moneys shall be held in cash, uninvested, until specific investment directions are provided by the City to the Trustee.

Investment Securities shall be purchased at Fair Market Value, provided the Trustee shall not be responsible to determine Fair Market Value. Moneys in all funds shall be invested in Investment Securities maturing not later than five (5) years from the date said investment is made.

Section 7.03. Accounting. The Trustee shall furnish to the City, not less than monthly, an accounting (which may be in the form of the Trustee's regular statement) of all investments made by the Trustee. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Section 7.02.

Section 7.04. Allocation of Earnings. Any income, profit or loss on such investments in any of the funds shall be deposited in or charged to the respective funds from which such investments were made.

Section 7.05. Valuation of Investments. In computing the amount in any fund or account, Investment Securities shall be valued at the market price thereof. Valuation shall occur annually, prior to the adoption of the City's budget.

Section 7.06. Commingling of Investment Securities and Disposition of Investments. Investments in all funds may be commingled for purposes of making, holding or disposing of

investments, notwithstanding provisions herein for transfer to or holding in particular funds amounts received or held by the Trustee hereunder, provided that the Trustee shall at all times account for such investments strictly in accordance with the funds to which they are credited and otherwise as provided in this Trust Agreement. The Trustee or an affiliate may act as principal or agent in the making or disposing of any investment.

The Trustee may sell, or present for prepayment, any Investment Securities so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Investment Securities is credited, and the Trustee shall not be liable or responsible for any loss resulting from any investment made pursuant to this Section 7.06.

The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the City the right to receive brokerage confirmations of security transactions as they occur, the City will not receive such confirmations to the extent permitted by law. The Trustee will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder. The Trustee may make any investments hereunder through its own bond or investment department or trust investment department, or those of its parent or any affiliate. The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee hereunder.

Section 7.07. Acquisition, Disposition and Valuation of Investments. Except as otherwise provided in the following sentence, the City covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Trust Agreement, or otherwise containing gross proceeds of the Certificates (within the meaning of section 148 of the Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Trust Agreement or the Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Code shall be valued at their present value (within the meaning of section 148 of the Code).

Section 7.08. Federal Tax Law Covenants.

(a) Generally. The City shall not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, interest represented by the Certificates to become includable in gross income for federal income tax purposes.

(b) Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Certificates or the Lease Agreement to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(c) Maintenance of Tax-Exemption. The City shall take all actions necessary to assure the exclusion of interest with respect to the Certificates from the gross income of the Owners of the

Certificates to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the Closing Date.

(d) Rebate Requirement. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings to the federal government.

(e) No Arbitrage. The City will not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Certificates which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Certificates to be "arbitrage bonds" within the meaning of section 148 of the Code.

(f) Record Retention. The City will retain its records of all accounting and monitoring it carries out with respect to the Certificates for at least 3 years after the Certificates mature or are prepaid (whichever is earlier); however, if the Certificates are prepaid and refunded, the City will retain its records of accounting and monitoring at least 3 years after the earlier of the maturity or prepayment of the obligations that refunded the Certificates.

(g) Compliance with Tax Certificates. The City and the Corporation will comply with the provisions of the Certificate as to Arbitrage and the Certificate Regarding Use of Proceeds with respect to the Certificates, which are incorporated herein as if fully set forth herein.

ARTICLE VIII

THE TRUSTEE

Section 8.01. Compensation of the Trustee. The City shall from time to time, as agreed upon between the City and the Trustee, pay to the Trustee reasonable compensation for its services, and shall reimburse the Trustee for all its advances and expenditures, including but not limited to advances to, and fees and expenses of, independent appraisers, accountants, consultants, counsel, agents and attorneys-at-law or other experts employed by it in the exercise and performance of its powers and duties hereunder.

Section 8.02. Removal of Trustee. The City and the Corporation may by written agreement between themselves, or the Owners of a majority in aggregate principal amount of all Certificates Outstanding may by written request, at any time and for any reason, remove the Trustee and any successor thereto, and shall thereupon appoint a successor or successors thereto. Any such successor shall be a bank, national banking association, corporation or trust company in good standing, duly authorized to exercise trust powers and subject to examination by federal or State authority having a combined capital (exclusive of borrowed capital) and surplus of at least Fifty Million Dollars ($50,000,000). If such bank, national banking association, corporation or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section the combined capital and surplus of such bank, national banking association, corporation or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of conditions so published.

The Trustee may at any time resign by giving written notice to the City and the Corporation and by giving to the Certificate Owners notice by mailing such notice to the registered owners of the Certificates. Upon receiving such notice of resignation, the City shall promptly appoint a successor Trustee by an instrument in writing; provided, however, that in the event that the City does not appoint a successor Trustee within thirty (30) days following receipt of such notice of resignation, the resigning Trustee may petition the appropriate court having jurisdiction to appoint a successor Trustee. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. Upon such acceptance, the City shall mail notice thereof to the Certificate Owners at their respective addresses set forth on the Certificate registration books maintained pursuant to Section 2.11.

Section 8.03. Appointment of Agent. The Trustee may appoint an agent to exercise any of the powers, rights or remedies granted to the Trustee under this Trust Agreement, and to hold title to property or to take any other action which may be desirable or necessary.

Section 8.04. Merger or Consolidation. Any company into which the Trustee may be merged or converted, or with which it may be consolidated, or any company resulting from any merger, conversion or consolidation to which it shall be a party, or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business (provided that such company shall be eligible under Section 8.02) shall be the successor to the Trustee without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

Section 8.05. Protection and Rights of the Trustee. The Trustee shall be protected and shall incur no liability in acting or proceeding in good faith upon any resolution, notice, telegram, facsimile, request, consent, waiver, certificate, statement, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Trust Agreement, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. The Trustee may consult with counsel, who may be counsel to the Corporation, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith in accordance therewith.

Whenever in the administration of its duties under this Trust Agreement, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed), shall be deemed to be conclusively proved and established by the certificate of the City Representative or the Corporation Representative and such certificate shall be full warranty to the Trustee for any action taken or suffered under the provisions of this Trust Agreement upon the faith thereof, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

The Trustee may become the Owner of the Certificates with the same rights it would have if it were not the Trustee; may acquire and dispose of other bonds or evidences of indebtedness of the City with the same rights it would have if it were not the Trustee; and may act as a depositary for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Certificates, whether or not such committee shall represent the Owners of the majority in principal amount of the Certificates then Outstanding.

The recitals, statements and representations by the City and the Corporation contained in this Trust Agreement or in the Certificates shall be taken and construed as made by and on the part of the City and the Corporation, as the case may be, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.

The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Trustee shall not be answerable for the default or misconduct of any such attorney, agent, or receiver selected by it with reasonable care. The Trustee shall not be answerable for the exercise of any discretion or power under this Trust Agreement or for anything whatever in connection with the funds and accounts established hereunder, except only for its own negligence or willful misconduct.

The Trustee shall be responsible to perform only those duties specifically set forth herein and no implied duties or obligations shall be read into this Trust Agreement against the Trustee.

The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Certificates.

The Trustee is authorized and directed to execute in its capacity as Trustee the Assignment Agreement.

The Trustee shall not be deemed to have knowledge of an Event of Default hereunder unless it shall have actual knowledge at its Corporate Trust Office.

No provision of this Trust Agreement or any other document related hereto shall require the Trustee to risk or advance its own funds or otherwise incur any financial liability in the performance of its duties or the exercise of its rights hereunder.

Before taking any action under Article XII or this Article hereof the Trustee may require indemnity satisfactory to the Trustee be furnished from any expenses and to protect it against any liability it may incur hereunder.

The immunities extended to the Trustee also extend to its directors, officers, employees and agents.

The Trustee shall not be liable for any action taken or not taken by it in accordance with the direction of a majority (or other percentage provided for herein) in aggregate principal amount of Certificates outstanding relating to the exercise of any right, power or remedy available to the Trustee.

The permissive right of the Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty.

Every provision of this Trust Agreement, the Lease Agreement, the Property Lease and the Assignment Agreement relating to the conduct or liability of the Trustee shall be subject to the provisions of this Trust Agreement, including without limitation, this Article.

In acting as Trustee hereunder, the Trustee acts solely in its capacity as Trustee hereunder and not in its individual or personal capacity, and all persons, including without limitation the Owners, the City and the Corporation, having any claim against the Trustee shall look only to the funds and accounts held by the Trustee hereunder for payment, except as otherwise provided herein. Under no circumstances shall the Trustee be liable in its individual or personal capacity for the obligations evidenced by the Certificates.

The Trustee makes no representation or warranty, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the City or the Corporation of the project or any portion thereof, or any other representation or warranty with respect to the Property or any portion thereof. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with this Trust Agreement, the Lease Agreement or the Property Lease or the existence, furnishing or functioning of the Property or the City's use of the Leased Property.

The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee.

The Trustee's rights to immunities and protection from liability hereunder and its rights to payment of its fees and expenses shall survive its resignation or removal and final payment or defeasance of the Certificates.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Trust Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the City elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable

for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The City agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

The Trustee shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement. In case an Event of Default has occurred (which has not been cured) the Trustee shall exercise such of the rights and powers vested in it by the Trust Agreement, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

ARTICLE IX

MODIFICATION OR AMENDMENT OF AGREEMENT

Section 9.01. Amendments Permitted. This Agreement and the rights and obligations of the parties hereto and the Lease Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental agreement which shall become effective when the written consents of the Owners of at least sixty percent (60%) in aggregate principal amount of the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 9.03, shall have been filed with the Trustee. No such modification or amendment shall (1) extend or have the effect of extending the fixed maturity of any Certificate or reducing the interest rate with respect thereto or extending the time of payment of interest, or reducing the amount of principal thereof or reducing any premium payable upon the prepayment thereof, without the express consent of the Owner of such Certificate, or (2) reduce or have the effect of reducing the percentage of Certificates required for the affirmative vote or written consent to an amendment or modification of the Lease Agreement, or (3) modify any of the rights or obligations of the Trustee without its written assent thereto. Any such supplemental agreement shall become effective as provided in Section 9.02.

This Agreement and the rights and obligations of the parties hereto and the Lease Agreement and the rights and obligations of the respective parties thereto, may be modified or amended at any time by a supplemental agreement, without the consent of any such Owners, but only to the extent permitted by law and only (1) to add to the covenants and agreements of any party, other covenants to be observed, or to surrender any right or power herein or therein reserved to the City, (2) to cure, correct or supplement any ambiguous or defective provision contained herein or therein so long as such modification or amendment is not inconsistent with any other provision contained herein, (3) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which shall not adversely affect the interests of the Owners of the Certificates, (4) to correct any incorrect property description or (5) to make such additions, deletions or modifications as may be necessary to assure compliance with section 148(f) of the Code relating to required rebate of excess investment earnings to the United States or otherwise as may be necessary to assure exemption from federal income taxation of the interest component of the Lease Payments. The Trustee may in its discretion, but shall not be obligated to, enter into any such supplemental agreement authorized by this Section which affects the Trustee's own rights, duties or immunities under this Trust Agreement. Any such supplemental agreement shall become effective upon execution and delivery by the parties hereto or thereto as the case may be.

Section 9.02. Procedure for Amendment with Written Consent of Certificate Owners. This Agreement and the Lease Agreement may be amended by supplemental agreement as provided in this Section 9.02 in the event the consent of the Owners of the Certificates is

required pursuant to Section 9.01. A copy of such supplemental agreement, together with a request to the Certificate Owners for their consent thereto, shall be mailed by the Trustee to each Owner of a Certificate at his address as set forth on the Registration Books, but failure to receive copies of such supplemental agreement and request shall not affect the validity of the supplemental agreement when assented to as in this Section provided.

Such supplemental agreement shall not become effective unless there shall be filed with the Trustee the written consents of the Owners of at least sixty percent (60%) in aggregate principal amount of the Certificates then Outstanding (exclusive of Certificates disqualified as provided in Section 9.03) and a notice shall have been mailed as hereinafter in this Section provided. Each such consent shall be effective only if accompanied by proof of ownership of the Certificates for which such consent is given, which proof shall be such as is permitted by Section 2.10. Any such consent shall be binding upon the Owner of the Certificate giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

After the Owners of the required percentage of Certificates shall have filed their consents to such supplemental agreement, the Trustee shall mail a notice to the Owners of the Certificates in the manner hereinbefore provided in this Section for the mailing of such supplemental agreement of the notice of adoption thereof, stating in substance that such supplemental agreement has been consented to by the Owners of the required percentage of Certificates and will be effective as provided in this Section (but failure to receive copies of said notice shall not affect the validity of such supplemental agreement or consents thereto). A record, consisting of the papers required by this Section to be filed with the Trustee, shall be conclusive proof of the matters therein stated. Such supplemental agreement shall become effective upon the mailing of such last-mentioned notice, and such supplemental agreement shall be deemed conclusively binding upon the parties hereto and the Owners of all Certificates at the expiration of sixty (60) days after such mailing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such sixty (60) day period.

Section 9.03. **Disqualified Certificates.** Certificates owned or held by or for the account of the City or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with the City (except any Certificates held in any pension or retirement fund) shall not be deemed Outstanding for the purpose of any vote, consent, waiver or other action or any calculation of Outstanding Certificates provided for in this Agreement, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Agreement. Upon request of the Trustee, the City shall specify in a certificate to the Trustee those Certificates disqualified pursuant to this Section, and the Trustee may conclusively rely on such certificate.

Section 9.04. Effect of Supplemental Agreement. From and after the time any supplemental agreement becomes effective pursuant to this Article IX, this Agreement or the Lease Agreement, as the case may be, shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Certificates Outstanding, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any supplemental agreement shall be deemed to be part of the terms and conditions of this Agreement or the Lease Agreement, as the case may be, for any and all purposes.

The Trustee may require each Certificate Owner, before his consent provided for in this Article IX shall be deemed effective, to reveal whether the Certificates as to which such consent is given are disqualified as provided in Section 9.03.

Section 9.05. Endorsement or Replacement of Certificates Delivered After Amendments. The Trustee or the City may determine that Certificates delivered after the effective date of any action taken as provided in this Article IX shall bear a notation, by endorsement or otherwise, in form approved by the City, as to such action. In that case, upon demand of the Owner of any Certificate Outstanding at such effective date and presentation of his Certificate for the purpose at the Corporate Trust Office of the Trustee, a suitable notation shall be made on such Certificate. The Trustee or the City may determine that the delivery of substitute Certificates, so modified as in the opinion of the Trustee is necessary to conform to such Certificate Owners" action, which substitute Certificates shall thereupon be prepared, executed and delivered. In that case, upon demand of the Owner of any Certificate then Outstanding, such substitute Certificate shall be exchanged at the Corporate Trust Office of the Trustee, without cost to such Owner, for a Certificate of the same character then Outstanding, upon surrender of such Outstanding Certificate.

Section 9.06. Amendatory Endorsement of Certificates. The provisions of this Article IX shall not prevent any Certificate Owner from accepting any amendment as to the particular Certificates held by him, provided that proper notation thereof is made on such Certificates.

ARTICLE X

COVENANTS; NOTICES

Section 10.01. Compliance With and Enforcement of Lease Agreement. The City covenants and agrees with the Owners of the Certificates to perform all obligations and duties imposed on it under the Lease Agreement. The Corporation covenants and agrees with the Owners of the Certificates to perform all obligations and duties imposed on it under the Lease Agreement.

The City will not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would or might be an event of default under or a ground for cancellation or termination of the Lease Agreement. The Corporation and the City, immediately upon receiving or giving any notice, communication or other document in any way relating to or affecting their respective estates, or either of them, in the Leased Property, which may or can in any manner affect such estate of the City, will deliver the same, or a copy thereof, to the Trustee.

Section 10.02. Prosecution and Defense of Suits. The Corporation and the City shall promptly, upon request of the Trustee or any Certificate Owner, from time to time take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Leased Property, whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify and save the Trustee and every Certificate Owner harmless from all loss, cost, damage and expense, including attorneys" fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceeding.

Section 10.03. Recordation and Filing. The City shall record and file the Lease Agreement, the Assignment Agreement and all such documents as may be required by law (and shall take all further actions which may be necessary or be reasonably required by the Trustee), all in such manner, at such times and in such places as may be required by law in order fully to preserve, protect and perfect the security of the Trustee and the Certificate Owners.

Section 10.04. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of that certain Continuing Disclosure Certificate executed by the City as of the Closing Date, as originally executed and as it may be amended from time to time in accordance with its terms. Notwithstanding any other provision of this Trust Agreement, failure of the City to comply with such Continuing Disclosure Certificate shall not constitute an Event of Default; *provided, however*, that any Participating Underwriter (as such term is defined in such Continuing Disclosure Certificate) or any Owner or beneficial owner of the Certificates may take such actions as may be necessary and appropriate to compel

performance by the City of its obligations under this Section, including seeking mandate or specific performance by court order.

Section 10.05. Further Assurances. The Corporation and the City will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Agreement and the Lease Agreement, and for the better assuring and confirming unto the Owners of the Certificates the rights and benefits provided herein.

ARTICLE XI

LIMITATION OF LIABILITY

Section 11.01. Limited Liability of City. Except for the payment of Lease Payments when due in accordance with the Lease Agreement and the performance of the other covenants and agreements of the City contained in the Lease Agreement and herein, the City shall have no pecuniary obligation or liability to any of the other parties or to the Owners of the Certificates with respect to this Trust Agreement or the terms, execution, delivery or transfer of the Certificates, or the distribution of Lease Payments to the Owners by the Trustee.

Section 11.02. No Liability for Trustee Performance. Neither the City nor the Corporation shall have any obligation or liability to any of the other parties or to the Owners of the Certificates with respect to the performance by the Trustee of any duty imposed upon it under this Trust Agreement, except where the City or the Corporation, as the case may be, has given specific direction to the Trustee to take certain actions.

Section 11.03. Indemnification. The Corporation and the City agree, to the extent permitted by law, to indemnify and save the Trustee harmless from and against all claims, suits, losses, expenses, liabilities, and actions, including legal fees and expenses brought against it, or to which it is made a party, and from all losses and damages suffered by it as a result thereof, including where and to the extent such claim, suit or action arises out of the actions of any other party to this Agreement, including but not limited to (a) the ownership, operation or use of the Leased Property by the City or (b) the Trustee's acceptance or administration of the trust under the Trust Agreement, or the exercise or performance of any of its powers or duties hereunder, but excluding liabilities which are due to the negligence or willful misconduct of the Trustee. Such indemnity shall survive the satisfaction and discharge of this Trust Agreement or resignation or removal of the Trustee. In the event the Corporation or the City is required to indemnify the Trustee as herein provided, the Corporation or the City shall be subrogated to the rights of the Trustee to recover such losses or damages from any other person or entity.

Section 11.04. Opinion of Counsel. Before being required to take any action, the Trustee may require an opinion of Independent Counsel acceptable to the Trustee, which opinion shall be made available to the other parties hereto upon request, which counsel may be counsel to any of the parties hereto, or a verified certificate of any party hereto, or both, concerning the proposed action. If it does so in good faith, Trustee shall be protected in relying thereon.

Section 11.05. Limitation of Rights to Parties and Certificate Owners. Nothing in this Agreement or in the Certificates expressed or implied is intended or shall be construed to give any person other than the City, the Corporation, the Trustee and the Owners of the Certificates, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or provision hereof; and all such covenants, conditions and provisions are

and shall be for the sole and exclusive benefit of the City, the Corporation, the Trustee and said Owners.

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES OF CERTIFICATE OWNERS

Section 12.01. Assignment of Rights. Pursuant to the Assignment Agreement the Corporation has transferred, assigned and set over to the Trustee all of the Corporation's rights in and to the Lease Agreement (excepting only the Corporation's rights under Sections 5.7, 7.3 and 9.4 thereof), including without limitation all of the Corporation's rights to exercise such rights and remedies conferred on the Corporation pursuant to the Lease Agreement as may be necessary or convenient (i) to enforce payment of the Lease Payments and any other amounts required to be deposited in the Lease Payment Fund or the Insurance and Condemnation Fund, and (ii) otherwise to exercise the Corporation's rights and take any action to protect the interests of the Trustee or the Certificate Owners in an Event of Default.

Section 12.02. Remedies. If an Event of Default shall happen, then and in each and every such case during the continuance of such Event of Default, the Trustee may, and upon request of the Owners as provided in Article IX of the Lease Agreement shall, upon being indemnified to its satisfaction exercise any and all remedies available pursuant to law or granted pursuant to the Lease Agreement; provided, however, that notwithstanding anything herein or in the Lease Agreement to the contrary, there shall be no right under any circumstances to accelerate the maturities of the Certificates or otherwise to declare any Lease Payment not then in default to be immediately due and payable.

Section 12.03. Application of Funds. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article XII or Article IX of the Lease Agreement shall be applied by the Trustee in the order following upon presentation of the several Certificates, and the stamping thereon of the payment if only partially paid, or upon the surrender thereof if fully paid -

First, to the payment of the costs and expenses of the Trustee incurred in and about the performance of its powers and duties under this Trust Agreement, then, the Certificate Owners in declaring such Event of Default, including reasonable compensation to its or their agents, attorneys and counsel;

Second, to the payment of the whole amount then owing and unpaid with respect to the Certificates for principal and interest, with interest on the overdue principal and installments of interest, (provided that such interest on overdue installments shall be paid only to the extent funds are available therefor following payment of interest on overdue principal, as aforesaid,and in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid with respect to the Certificates, then to the payment of such principal and interest without preference or priority of principal over interest, or of interest over principal, or of any installment of

interest over any other installment of interest, ratably to the aggregate of such principal and interest.

Section 12.04. Institution of Legal Proceedings. If one or more Events of Default shall happen and be continuing, the Trustee in its discretion may, and upon the written request of the Owners of a majority in principal amount of the Certificates then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owners of Certificates by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights or duties hereunder.

Section 12.05. Non-waiver. Nothing in this Article XII or in any other provision of this Agreement or in the Certificates, shall affect or impair the obligation of the City to pay or prepay the Lease Payments in accordance with and subject to the terms and provisions of the Lease Agreement, or affect or impair the right of action, which is also absolute and unconditional, of the Certificate Owners to institute suit to enforce and collect such payment. No delay or omission of the Trustee or of any Owner of any of the Certificates to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article XII to the Trustee or to the Owners of Certificates may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Certificate Owners.

Section 12.06. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Certificate Owners is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

Section 12.07. Power of Trustee to Control Proceedings. In the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the written direction of the Owners of a majority in principal amount of the Certificates then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Certificates, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity.

Section 12.08. Limitation on Certificate Owners' Right to Sue. No Owner of any Certificate executed and delivered hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Agreement, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of

Default hereunder; (b) the Owners of at least twenty-five percent (25%) in aggregate principal amount of all the Certificates then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Certificates of any remedy hereunder; it being understood and intended that no one or more Owners of Certificates shall have any right in any manner whatever by his or their action to enforce any right under this Agreement, except in the manner herein provided, and that all proceedings at law or in equity with respect to an Event of Default shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Certificates.

The right of any Owner of any Certificate to receive payment of said Owner's proportionate interest in the Lease Payments as the same become due, or to institute suit for the enforcement of such payment, shall not be impaired or affected without the consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Agreement.

ARTICLE XIII

DEFEASANCE

Section 13.01. Discharge of Trust Agreement. The Certificates may be paid by the City in any of the following ways, provided that the City also pays or causes to be paid any other sums payable hereunder by the City:

(a) by paying or causing to be paid the Principal Amount relating to the Certificates, together with interest thereon, as and when the same become due and payable;

(b) by depositing with the Trustee, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 13.03) to pay or prepay all Certificates then Outstanding ; or

(c) by delivering to the Trustee, for cancellation by it, all of the Certificates then Outstanding.

If the City shall also pay or cause to be paid all other sums payable by the City hereunder, then and in that case, at the election of the City (evidenced by a Written Request of the City, filed with the Trustee, signifying the intention of the City to discharge all such indebtedness and this Trust Agreement), and notwithstanding that any Certificates shall not have been surrendered for payment, this Trust Agreement and the pledge of Lease Payments and other assets made under this Trust Agreement and all covenants, agreements and other obligations of the City under this Trust Agreement shall cease, terminate, become void and be completely discharged and satisfied. In such event, upon the Written Request of the City, the Trustee shall cause an accounting for such period or periods as may be requested by the City to be prepared and filed with the City and shall execute and deliver to the City all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over, transfer, assign or deliver all moneys or securities or other property held by it pursuant to this Trust Agreement which are not required for the payment or prepayment of Certificates not theretofore surrendered for such payment or prepayment to the City.

Section 13.02. Discharge of Liability on Certificates. Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 13.03) to pay or prepay any Outstanding Certificates (whether upon or prior to their respective maturities or the prepayment date of such Certificates), provided that, if such Certificates are to be prepaid prior to maturity, notice of such prepayment shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, then all liability of the City in respect of such Certificates shall cease, terminate and be completely discharged, and the Owner thereof shall thereafter be entitled only

to payment out of such money or securities deposited with the Trustee as aforesaid for their payment, subject, however, to the provisions of Section 13.04.

The City may at any time surrender to the Trustee for cancellation by it any Certificates previously executed and delivered, which the City may have acquired in any manner whatsoever, and such Certificates, upon such surrender and cancellation, shall be deemed to be paid and retired.

Section 13.03. Deposit of Money or Securities with Trustee. Whenever in this Trust Agreement it is provided or permitted that there be deposited with or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any Certificates, the money or securities so to be deposited or held may include money or securities held by the Trustee in the funds established pursuant to this Trust Agreement and shall be--

(a) lawful money of the United States of America in an amount equal to the principal amount of such Certificates and all unpaid interest thereon to maturity, except that, in the case of Certificates which are to be prepaid prior to maturity and in respect of which notice of such prepayment shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount of such Certificates and all unpaid interest thereon to the prepayment date; or

(b) Defeasance Obligations (as defined below), the principal of and interest on which when due will provide money sufficient in the opinion of a certified public accountant to pay the principal of and all unpaid interest to maturity, or to the prepayment date, as the case may be, on the Certificates to be paid or prepaid, as such principal and interest become due, provided that, in the case of Certificates which are to be prepaid prior to the maturity thereof, notice of such prepayment shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice;

provided, in each case, that the Trustee shall have been irrevocably instructed (by the terms of this Trust Agreement or by Written Request of the City) to apply such money to the payment of such principal and interest with respect to such Certificates.

For purposes of this Section, "Defeasance Obligations" shall mean Federal Securities, as herein defined.

Section 13.04. Payment of Certificates After Discharge of Trust Agreement. Notwithstanding any provisions of this Trust Agreement, any moneys held by the Trustee in trust for the payment of the Principal Amount relating to any Certificates, together with interest thereon and remaining unclaimed for two years after the Principal Amount relating to all of the Certificates has become due and payable (whether at maturity or upon call for prepayment as provided in this Trust Agreement), if such moneys were so held at such date, or two years after

the date of deposit of such moneys if deposited after said date when all of the Certificates became due and payable, shall be repaid to the City free from the trusts created by this Trust Agreement and all liability of the Trustee with respect to such moneys shall thereupon cease; provided, however, that before the repayment of such moneys to the City as aforesaid, the Trustee may (at the cost of the City) first mail to the Owners of Certificates which have not yet been paid, at the addresses shown on the Registration Books a notice, in such form as may be deemed appropriate by the Trustee with respect to the Certificates so payable and not presented and with respect to the provisions relating to the repayment to the City of the moneys held for the payment thereof.

ARTICLE XIV

MISCELLANEOUS

Section 14.01. Records. The Trustee shall keep complete and accurate records of all moneys received and disbursed under this Agreement, which shall be available for inspection by the City, the Corporation, and any Owner, or the agent of any of them, at any time during regular business hours, upon reasonable prior notice.

Section 14.02. Notices. All written notices to be given under this Agreement shall be given by mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective upon receipt after deposit in the United States mail, postage prepaid or, in the case of personal delivery, upon delivery to the address set forth below:

If to the City:

City Clerk
City of Livermore
1052 South Livermore Avenue
Livermore, CA 94550

If to the Corporation:

Public Property Financing Corporation of California
2945 Townsgate Road, Suite 200
Westlake Village, California 91361
Attention: President

If to the Trustee:

U.S. Bank Trust Company, National Association
One California Street, Suite 1000
San Francisco, California 94111
Attention: Corporate Trust Services
Fax (415) 677-3768

Section 14.03. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State.

Section 14.04. Binding Effect; Successors. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Whenever in this Agreement either the Corporation, the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants

and agreements in this Agreement contained by or on behalf of the Corporation, the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 14.05. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 14.06. Destruction of Cancelled Certificates. Whenever in this Agreement provision is made for the surrender to or cancellation by the Trustee and the delivery to the City of any Certificates, the Trustee, in lieu of such cancellation and delivery, shall destroy such Certificates and deliver a certificate of such destruction to the City.

Section 14.07. Headings. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Agreement. All references herein to "Articles", "Sections", and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement; and the words "herein", "hereof", "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

Section 14.08. Waiver of Notice. Whenever in this Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 14.09. Separability of Invalid Provisions. In case any one or more of the provisions contained in this Agreement or in the Certificates shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The parties hereto hereby declare that they would have entered into this Agreement and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Certificates pursuant thereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Agreement may be held illegal, invalid or unenforceable.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

By: _____
Authorized Officer

PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA

By: _____
Treasurer

CITY OF LIVERMORE

By: _____
City Manager

Attest:

By: _____
City Clerk

EXHIBIT A

(FORM OF 2022 CERTIFICATE OF PARTICIPATION)

CITY OF LIVERMORE
2022 CERTIFICATE OF PARTICIPATION
(Livermore Village Development)

Evidencing the Undivided Fractional Interest of the Owner
Hereof in Lease Payments to be Made by the

CITY OF LIVERMORE, CALIFORNIA

As Rental For Certain Property Pursuant
to a Lease Agreement With the

Public Property Financing Corporation of California

DATED DATE: RATE OF INTEREST: MATURITY DATE: CUSIP
_____, 2022

REGISTERED OWNER:

PRINCIPAL AMOUNT:

THIS IS TO CERTIFY THAT the Registered Owner identified above, or registered assigns, as the registered owner (the "Registered Owner") of this Certificate of Participation (the "Certificate") is the owner of an undivided fractional interest in Lease Payments under the Lease Agreement dated as of April 1, 2022, by and between the Public Property Financing Corporation of California, a nonprofit public benefit corporation duly formed and acting under the laws of the State of California (the "Corporation"), and the City of Livermore, a general law city and municipal corporation and political subdivision duly organized and existing under the Constitution and the laws of the State of California the ("City") (the "Lease Agreement") which Lease Payments and certain other rights and interests under the Lease Agreement have been assigned to U.S. Bank Trust Company, National Association, as trustee (the "Trustee"), having a corporate trust office in San Francisco, California, or such other place designated by the Trustee (the "Corporate Trust Office") .

The Registered Owner of this Certificate is entitled to receive, subject to the terms of the Lease Agreement, on the Maturity Date identified above, the Principal Amount identified above, representing a portion of the Lease Payments designated as principal, and to receive on April 1, 2023 and semiannually thereafter on April 1 and October 1 of each year (the "Payment Dates") until payment in full of said principal, the Registered Owner's proportionate share of the Lease Payments designated as interest coming due during the interest period immediately preceding each of the Payment Dates; provided that interest with respect hereto shall be payable from the Payment Date next preceding the date of execution of this Certificate unless (i) this Certificate is executed on a Payment Date, in which event interest shall be payable from such Payment Date, or (ii) this Certificate is executed after the close of business on the fifteenth (15th) day of the month immediately preceding a Payment Date and prior to such Payment Date, in which event interest shall be payable from such Payment Date, or (iii) unless this Certificate is executed on or before March 15, 2023, in which event interest shall be payable from the Dated Date. Said proportionate share of the portion of the Lease Payments designated as interest is the result of the multiplication of the aforesaid portion of the Lease Payments designated as principal by the Rate of Interest per annum identified above. Said amounts are payable in lawful money of the United States of America in the case of principal and interest at maturity upon presentation hereof at the Corporate Trust Office of the Trustee, and in the case of interest prior to maturity by check or draft mailed on the applicable Payment Dates by the Trustee to the Registered Owner hereof at the address as it appears on the registration books of the Trustee.

This Certificate has been executed and delivered by the Trustee pursuant to the terms of a Trust Agreement by and among the Trustee, the Corporation and the City, dated as of October 1, 2022 (the "Trust Agreement"). The City has certified that it is authorized to enter into the Lease Agreement and the Trust Agreement under the constitution and laws of the State of California, for the purpose of leasing certain public improvements from the Corporation. Reference is hereby made to the Lease Agreement and the Trust Agreement (copies of which are on file at the Corporate Trust Office of the Trustee) for a description of the terms on which the Certificates are delivered, the rights thereunder of the owners of the Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the City under the Lease Agreement, to all of the provisions of the Lease Agreement and the Trust Agreement the Registered Owner of this Certificate, by acceptance hereof, assents and agrees.

The City is obligated under the Lease Agreement to pay Lease Payments from any source of available funds. The obligation of the City to pay the Lease Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to pay Lease Payments does not constitute a debt of the City, the State of California or any of its political subdivisions, and does not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement may be amended by the parties thereto with the written consent of the owners of at least sixty percent (60%) in aggregate principal amount of the

Certificates then outstanding, and may be amended without such consent under certain circumstances; provided that no such amendment shall adversely affect the interests of the owners of the Certificates or shall impair the right of any owner to receive in any case such owner's proportionate share of any Lease Payment in accordance with such owner's Certificate.

This Certificate is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Corporate Trust Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Trust Agreement and upon surrender and cancellation of this Certificate. Upon such transfer a new Certificate or Certificates, of authorized denomination or denominations and of the same maturity, for the same aggregate principal amount will be executed and delivered to the transferee in exchange herefor. The City, the Corporation and the Trustee may treat the registered owner hereof as the absolute owner hereof for all purposes, whether or not this Certificate shall be overdue, and the City, the Corporation and the Trustee shall not be affected by any notice to the contrary.

The Certificates maturing on or before April 1, 20__, are not subject to optional prepayment prior to their stated maturity. The Certificates maturing on or after April 1, 20__, are subject to optional prepayment on any date on or after April 1, 20__, in whole or in part, from prepayments of the Lease Payments made at the option of the City pursuant to the Lease Agreement, at a prepayment price equal to the principal amount thereof to be prepaid together with accrued interest to the prepayment date, without premium.

The Certificates maturing on April 1, 20__ are subject to mandatory sinking fund prepayment prior to their respective stated maturities, in the amounts and years set forth below, at the prepayment price equal to the principal amount thereof to be prepaid, together with accrued interest to the date fixed for prepayment.

Sinking Fund Prepayment Date (April 1)	Sinking Payments
	$

The Certificates are subject to prepayment on any Payment Date in whole, or in part, proportionately among maturities and by lot within a maturity, from the Net Proceeds (as defined in the Trust Agreement) of insurance or condemnation with respect to the Leased Property (as defined in the Lease Agreement), which Net Proceeds are deposited in the Lease Payment Fund and credited towards the prepayment of the Lease Payments made by the City pursuant to the Lease Agreement, at a prepayment price equal to the principal amount thereof to be prepaid together with accrued interest to the date fixed for prepayment, without premium.

As provided in the Trust Agreement, notice of prepayment shall be mailed, not less than twenty (20) nor more than forty-five (45) days before the prepayment date, to the registered owner of the Certificate to be prepaid, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for prepayment. Any such notice may be conditional upon receipt of sufficient funds for the prepayment and may be rescinded.

If this Certificate is called for prepayment and payment is duly provided therefor as specified in the Trust Agreement, interest represented hereby shall cease to accrue from and after the date fixed for prepayment.

The Trustee has no obligation or liability to the registered owners for the payment of the interest or principal or the prepayment premiums, if any, represented by the Certificates; but rather the Trustee's sole obligations are to administer, for the benefit of the City and the Certificate registered owners, the various funds established under the Trust Agreement.

Unless this Certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Trustee for registration of transfer, exchange, or payment, and any Certificate executed and delivered is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co., or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, this Certificate has been executed and delivered by U.S. Bank Trust Company, National Association, as trustee, acting pursuant to the Trust Agreement.

Execution Date:

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

By: _____
Authorized Officer

* * * * * * * * * * * *

(FORM OF ASSIGNMENT)

For value received, the undersigned do(es) hereby sell, assign and transfer unto

_____

_____

_____

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within Certificate and do(es) hereby irrevocably constitute and appoint _____ _____, attorney, to transfer the same on the registration books of the Trustee, with full power of substitution in the premises.

Dated:

Signature Guaranteed:

_____ _____

NOTICE: Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the Trustee.

NOTICE: The signature on this assignment must correspond with the name(s) as written on the face of the within Certificate in every particular without alteration or enlargement or any change whatsoever.

EXHIBIT B

FORM OF PROJECT FUND REQUISITION

DISBURSEMENT REQUEST NO.: _____

U.S. Bank Trust Company, National Association

Re: City of Livermore 2022 Certificates of Participation (Livermore Village Development)

Ladies and Gentlemen:

In accordance with the terms of a Trust Agreement, by and among, the Public Property Financing Corporation of California, U.S. Bank Trust Company, National Association and the City of Livermore, dated as of October 1, 2022 (the "Trust Agreement"), I am a City Representative of the City of Livermore, and you are hereby authorized and requested to make immediate disbursement of funds held by you in the Project Fund for Project Costs relating to the Project (as such terms are defined in the Trust Agreement) pursuant to Section 3.04 of the Trust Agreement.

You are hereby requested to pay from the Project Fund, to the person(s), corporation(s) or other entity(ies) designated on Schedule A attached hereto, in payment of all or a portion of the Project Costs described on said Schedule. Supporting documentation for the listed Project Costs are attached hereto.

The undersigned hereby certifies that (i) the amounts listed on Schedule A constitute Project Costs (as defined in the Trust Agreement), (ii) no part of the amount requested herein has been included in any other request previously filed with you; (iii) to the knowledge of the undersigned, there has not been filed with or served upon the City any notice of any lien or attachment upon or claim (except for any preliminary notice of lien as may be filed in accordance with law) affecting the right of the person, corporation or other entity stated below to receive payment of the amount stated below, which lien has not been released or will not be released simultaneously with the payment requested hereunder; and (iv) the labor, services and/or materials covered hereby have been performed upon or furnished to the Project and the payment requested herein is due and payable under a purchase order, contract or other authorization;

Dated: _____, 20___.

CITY OF LIVERMORE

By:_____

City Representative

SCHEDULE A

Payee (include address)	Description of Costs	Project Costs Amount	Amount

PRELIMINARY OFFICIAL STATEMENT DATED _____, 2022

NEW ISSUE - BOOK-ENTRY ONLY

RATING: S&P: "__"
See "RATING"

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Special Counsel, subject, however to certain qualifications described herein, under existing law, the portion of Lease Payments designated as and comprising interest and received by the owners of the Certificates is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax. In the further opinion of Special Counsel, such interest is exempt from California personal income taxes. Special Counsel expresses no opinion regarding any other tax consequences caused by the ownership or disposition of, or the accrual or receipt of interest on, the Certificates. See "TAX MATTERS."

$_____*
CITY OF LIVERMORE
2022 Certificates of Participation
(Livermore Village Development)

Dated: Date of Delivery **Due: April 1, as shown on inside cover**

Authority for Execution and Delivery. The 2022 Certificates of Participation (the "Certificates") are being executed and delivered under a Trust Agreement dated as of October 1, 2022 (the "Trust Agreement"), among the City of Livermore (the "City"), the Public Property Financing Corporation of California (the "Corporation") and U.S. Bank Trust Company, National Association, as trustee (the "Trustee"). See "THE CERTIFICATES – Authority for Execution and Delivery."

Purpose. The Certificates are being executed and delivered to (i) finance the design and construction of a parking garage to provide adequate parking for all existing and new development and other improvements in the City (and (ii) pay certain costs of executing and delivering the Certificates. See "PLAN OF FINANCING."

Security for the Certificates. The Certificates evidence and represent direct, undivided fractional interests in certain payments (the "Lease Payments") to be made by the City pursuant to a Lease Agreement dated as of October 1, 2022 (the "Lease Agreement"), between the City and the Corporation, under which the Corporation will lease certain real property to the City in consideration of the payment by the City of the Lease Payments. The Corporation, for the benefit of the Owners of the Certificates, has assigned, among other things, its right to receive Lease Payments to the Trustee. See "SECURITY FOR THE CERTIFICATES."

Terms of the Certificates. The Certificates will be executed and delivered in denominations of $5,000 principal amount or integral multiples thereof. Interest with respect to the Certificates accrues from their date of delivery and is payable semiannually on April 1 and October 1, commencing April 1, 2023. See "THE CERTIFICATES – General Certificate Terms."

Book-Entry Only. The Certificates will be executed and delivered as fully registered certificates in book-entry form only, initially registered in the name of Cede & Co., New York, New York, as nominee of The Depository Trust Company ("DTC"), New York, New York. Purchasers will not receive physical certificates representing their interest in the Certificates. The principal and premium (if any) on and interest with respect to the Certificates will be payable by the Trustee to DTC for subsequent disbursement to DTC participants, so long as DTC or its nominee remains the registered owner of the Certificates. See "THE CERTIFICATES – Book-Entry System."

Prepayment. The Certificates are subject to optional prepayment, extraordinary mandatory prepayment from the net proceeds of insurance or condemnation proceedings, and mandatory sinking fund prepayment prior to their scheduled payment dates. See "THE CERTIFICATES – Prepayment of the Certificates."

This cover page contains information for general reference only, and is not a summary of the security or terms of this issue. Investors must read the entire Official Statement, including the section entitled "RISK FACTORS," for a discussion of special factors that should be considered, in addition to the other matters set forth in this Official Statement, in considering the investment quality of the Certificates.

MATURITY SCHEDULE

See inside front cover

NEITHER THE CERTIFICATES NOR THE OBLIGATION OF THE CITY TO MAKE LEASE PAYMENTS CONSTITUTES A DEBT OF THE CITY OR OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMIT OR RESTRICTION, OR AN OBLIGATION FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION.

The Certificates will be sold and awarded pursuant to a competitive bidding process held on _____, 2022, as set forth in the Notice of Intention to Sell. The Bonds will be offered, when, as and if issued and accepted by the Purchasers, subject to the approval of Jones Hall, A Professional Law Corporation, San Francisco, California, Special Counsel to the City, and subject to certain other conditions. Jones Hall, A Professional Law Corporation is also serving as Disclosure Counsel to the City. In addition, certain legal matters will be passed upon for the City by the City Attorney. It is anticipated that the Certificates, in book-entry form, will be available for delivery through the facilities of DTC, on or about October __, 2022.

The date of this Official Statement is _____, 2022.

** Preliminary; subject to change.*

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances will this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor will there be any sale of these securities in any jurisdiction in which such offer solicitation or sale would be unlawful.

MATURITY SCHEDULES*

(Base CUSIP†: _____)

$_____
CITY OF LIVERMORE
2022 Certificates of Participation
(Livermore Village Development)

$_____ Serial Certificates

Maturity Date (April 1)	Principal Amount	Interest Rate	Yield	Price	CUSIP†

$_____ ____% Term Certificates Due April 1, 20___; Price: ____; Yield: ____%; CUSIP† : ____

** Preliminary; subject to change.*

† Copyright, American Bankers Association. CUSIP data are provided by Standard & Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc., and are provided for convenience of reference only. Neither the City nor the Purchaser assumes any responsibility for the accuracy of these CUSIP data.

CITY OF LIVERMORE, CALIFORNIA

City Council

Robert Woerner, *Mayor*
Gina Bonnano, *Vice Mayor*
Robert W. Carling, *Council Member*
Brittni Kick, *Council Member*
Trish Munro, *Council Member*

City Officials

Marianna Marysheva, *City Manager*
Jason Alcala, *City Attorney*
Marie Weber, *City Clerk*
Tina Olson, *Administrative Services Director*
Erik Peterson, *Accounting Supervisor*
David Doyle, *Accounting Supervisor*

Special Counsel and Disclosure Counsel
Jones Hall, A Professional Law Corporation
San Francisco, California

Municipal Advisor
KNN Public Finance, LLC
Oakland, California

Trustee
U.S. Bank Trust Company, National Association
Los Angeles, California

GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

Use of Official Statement. This Official Statement is submitted in connection with the sale of the Certificates referred to herein and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not to be construed as a contract with the purchasers of the Certificates.

Estimates and Forecasts. When used in this Official Statement and in any continuing disclosure by the City, in any press release and in any oral statement made with the approval of an authorized officer of the City, the words or phrases "will likely result," "are expected to," "will continue," "is anticipated," "estimate," "project," "forecast," "expect," "intend" and similar expressions identify "forward looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and those differences may be material.

Limit of Offering. No dealer, broker, salesperson or other person has been authorized by the City or the Purchaser to give any information or to make any representations other than those contained herein and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Certificates by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale.

Limited Scope of Information. The City has obtained certain information set forth herein from sources that are believed to be reliable, but this information is not guaranteed as to accuracy or completeness. The information and expressions of opinions herein are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City or any other parties described in this Official Statement since the date hereof.

All summaries of or references to the documents referred to in this Official Statement are made subject to the provisions of such documents and do not purport to be complete statements of any or all of such provisions. All capitalized terms used herein, unless noted otherwise, have the meanings given them in APPENDIX B.

Stabilization of Prices. In connection with this offering, the Purchaser may over-allot or effect transactions that stabilize or maintain the market price of the Certificates at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time. The Purchaser may offer and sell the Certificates to certain dealers and others at prices lower than the public offering prices set forth on the cover page hereof and said public offering prices may be changed from time to time by the Purchaser.

The Purchaser has provided the following sentence for inclusion in this Official Statement: The Purchaser has reviewed the information in this Official Statement in accordance with, and as a part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Purchaser does not guarantee the accuracy or completeness of such information.

NO REGISTRATION. THE CERTIFICATES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON AN EXCEPTION FROM THE REGISTRATION REQUIREMENTS CONTAINED IN SUCH ACT. THE CERTIFICATES HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE.

City Internet Site. The City maintains a website, but the information presented on the website is not a part of this Official Statement and should not be relied upon in making an investment decision with respect to the Certificates.

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OFFICIAL STATEMENT

$_____*
CITY OF LIVERMORE
2022 Certificates of Participation
(Livermore Village Development)

The purpose of this Official Statement (which includes the cover page and the attached appendices) is to provide information concerning the execution and delivery of the City of Livermore 2022 Certificates of Participation (Livermore Village Development) (the "**Certificates**"), evidencing and representing direct, undivided fractional interests of the registered owners thereof in certain semiannual lease payments (the "**Lease Payments**") to be made by the City of Livermore (the "**City**") to the Public Property Financing Corporation of California (the "**Corporation**") under the Lease Agreement described below.

Any statements made in this Official Statement involving matters of opinion or of estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized.

Capitalized terms used but not defined in this Official Statement have the meanings set forth in APPENDIX B.

INTRODUCTION

The City. The City is a general law city with a council/manager form of government, which was incorporated on April 1, 1876. It comprises approximately 24.72 square miles and is located in southeastern Alameda County (the "County"), approximately 43 miles southeast of San Francisco and 30 miles southeast of Oakland.

For selected financial, economic and demographic information about the City, see "APPENDIX A – City of Livermore General Financial and Demographic Information."

The City's audited financial statements for the fiscal year ended June 30, 2021, are attached as APPENDIX C.

Authority for Execution and Delivery. The Certificates are being executed and delivered under a Trust Agreement dated as of October 1, 2022 (the "**Trust Agreement**"), among the City, the Corporation and U.S. Bank Trust Company, National Association, as trustee (the "**Trustee**").

Purpose of the Certificates.

The Certificates are being executed and delivered to:

(i) finance the acquisition and construction of public improvements benefitting the City, including (a) the costs of design and construction of a four-level public parking garage with approximately 460 spaces east of L Street, between Veterans Way and First Street in the City to provide adequate parking for all existing and new development in the downtown, (b) additional site improvements and (c) the acquisition and construction of such other improvements identified by the City from time to time (collectively, the "**Project**"); and

(ii) pay certain costs of executing and delivering the Certificates.

See "PLAN OF FINANCING."

Security for the Certificates. In order to provide funds to finance the Project, the Corporation and the City have entered into a Property Lease dated as of October 1, 2022 (the "**Property Lease**"), pursuant to which the City will lease certain real property and the improvements thereon (the "**Leased Property**") to the Corporation, and the Corporation and the City have entered into a Lease Agreement dated as of October 1, 2022 (the "**Lease Agreement**"), under which the Corporation will lease the Leased Property back to the City in consideration of the payment by the City of semiannual lease payments (the "**Lease Payments**"). See "THE LEASED PROPERTY" for a description of the Leased Property.

The Corporation will assign its right to receive the Lease Payments to the Trustee under an Assignment Agreement dated as of October 1, 2022 (the "**Assignment Agreement**"), between the Corporation and the Trustee, in consideration for which the Trustee has agreed to execute and deliver the Certificates. The Certificates evidence and represent direct, undivided fractional interests of the Certificate Owners in the Lease Payments. See "SECURITY FOR THE CERTIFICATES."

Funds for the Lease Payments. The Lease Payments are payable from any source of available moneys of the City. Subject to provisions of the Lease Agreement providing for abatement of the Lease Payments in certain circumstances (see "- Abatement" below), the City covenants in the Lease Agreement to take such action as may be necessary to include all Lease Payments in each of its budgets during the term of the Lease Agreement and to make the necessary annual appropriations for the Lease Payments.

Prepayment. The Certificates are subject to optional prepayment, extraordinary mandatory prepayment from the net proceeds of insurance or condemnation proceedings, and mandatory sinking fund prepayment prior to their scheduled payment dates. See "THE CERTIFICATES – Prepayment of the Certificates."

Abatement. The Lease Payments are subject to complete or partial abatement in the event and to the extent that there is substantial interference with the City's use and possession of the Leased Property or any portion thereof. If the Lease Payments are abated under the Lease Agreement, the Certificate Owners would receive less than the full amount of principal of and interest represented by the Certificates. To the extent proceeds of rental interruption insurance are available, Lease Payments (or a portion thereof) may be made from those proceeds during

periods of abatement. See "SECURITY FOR THE CERTIFICATES – Abatement" and "RISK FACTORS – Abatement."

Legal Opinions. Upon delivery of the Certificates, Jones Hall, A Professional Law Corporation, San Francisco, California, Special Counsel ("**Special Counsel**") will release its final approving legal opinions with respect to the Certificates, regarding the validity and tax-exempt status of the Certificates, in the forms attached hereto as APPENDIX D.

Risk Factors. The Certificates are payable only from Lease Payments made by the City to the Corporation and assigned to the Trustee under the Trust Agreement. For a discussion of some of the risks associated with the purchase of the Certificates, see "RISK FACTORS."

Limited Obligations. NEITHER THE CERTIFICATES NOR THE OBLIGATION OF THE CITY TO MAKE LEASE PAYMENTS CONSTITUTES A DEBT OF THE CITY OR OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMIT OR RESTRICTION, OR AN OBLIGATION FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION.

THE CERTIFICATES

This section provides summaries of the Certificates and certain provisions of the Trust Agreement. See "APPENDIX B – Summary of Principal Legal Documents" for a more complete summary of the Trust Agreement. Capitalized terms used but not defined in this section have the meanings given in APPENDIX B.

Authority for Execution and Delivery

The Certificates are being executed and delivered under the Trust Agreement, a resolution of the City Council adopted on _____, 2022, and a resolution of the Board of Directors of the Corporation adopted on _____, 2022. Under these resolutions, the Certificates may be executed and delivered in a maximum principal amount of $_____.

General Certificate Terms

Certificate Terms. The Certificates will be dated as of the date of original delivery, will bear interest at the rates per annum and will mature on the dates and in the amounts set forth on the inside front cover of this Official Statement. The Certificates will be executed and delivered in fully registered form without coupons in denominations of $5,000 principal amount or any integral multiple of $5,000, except that no Certificate will represent principal payable in more than one year.

Interest with respect to the Certificates accrues from their date of delivery and is payable semiannually on April 1 and October 1, commencing April 1, 2023 (each, a "**Payment Date**").

Book-Entry Only System. The Certificates, when executed and delivered, will be registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company, New York, New York ("**DTC**"). So long as DTC, or Cede & Co. as its nominee, is the registered owner of all Certificates, all payments with respect to the Certificates will be made directly to DTC, and disbursement of such payments to the participants in DTC's book-entry system ("**DTC Participants**") will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners (defined below) will be the responsibility of the DTC Participants, as more fully described hereinafter. See "– Book-Entry System" below.

Calculation of Interest. Interest represented by each Certificate will be payable from the Payment Date next preceding the date of execution thereof, unless:

(a) it is executed as of a Payment Date, in which event interest with respect thereto shall be payable from such Payment Date,

(b) it is executed after a Record Date and before the following Payment Date, in which event interest with respect thereto shall be payable from such Payment Date, or

(c) it is executed on or before March 15, 2023, in which event interest with respect thereto shall be payable from the Closing Date;

provided, however, that if, as of the date of any Certificate, interest represented by such Certificate is in default, interest represented by such Certificate shall be payable from the Payment Date to which interest represented thereby has previously been paid or made available for

payment. Interest represented by the Certificates is payable on each Payment Date to and including the date of maturity or prepayment, whichever is earlier.

Such interest represents the portion of Lease Payments designated as interest and coming due on each of the respective Payment Dates. The share of the portion of Lease Payments designated as interest with respect to any Certificate will be computed by multiplying the portion of Lease Payments designated as principal represented by such Certificate by the rate of interest represented by such Certificate (on the basis of a 360-day year consisting of twelve 30-day months).

Record Date. The Trust Agreement defines the "Record Date" with respect to the Certificates as the close of business on the 15th calendar day of the month preceding each Payment Date, whether or not such 15th calendar day is a Business Day.

Payments of Interest and Principal. Payment of interest represented by any Certificate on any Payment Date will be made to the person appearing on the Registration Books as the Owner thereof as of the close of business on the Record Date immediately preceding such Payment Date, such interest to be paid by check mailed on the applicable Payment Date to such Owner, by first class mail postage prepaid, at such Owner's address as it appears on the Registration Books.

The principal, interest and prepayment premium, if any, represented by any Certificate at maturity or upon prepayment are payable in lawful money of the United States of America upon surrender of such Certificate at the Corporate Trust Office.

Notwithstanding the foregoing, while the Certificates are held in the book-entry only system of DTC, all such payments of principal, premium (if any) of, and interest with respect to, the Certificates will be made to Cede & Co. as the registered owner of the Certificates, for subsequent disbursement to Participant and beneficial owners. See "APPENDIX F – BOOK-ENTRY PROVISIONS."

Prepayment of the Certificates*

Optional Prepayment. The Certificates maturing on or before April 1, 20__, are not subject to optional prepayment before their respective stated maturities.

The Certificates maturing on or after April 1, 20__, are subject to optional prepayment in whole at any time or in part on any date, on or after April 1, 20__, at a prepayment price equal to the principal amount thereof and accrued interest to the date fixed for prepayment, without premium, from the proceeds of the optional prepayment of Lease Payments made by the City pursuant to the Lease Agreement, at a prepayment price equal to the principal amount thereof to be prepaid, together with accrued interest to the prepayment date, without premium.

Extraordinary Mandatory Prepayment From Net Proceeds of Insurance or Condemnation. The Certificates are subject to mandatory prepayment, in whole on any date or in part on any Payment Date, from the Net Proceeds of an insurance, title insurance, condemnation, or eminent domain award to the extent credited towards the prepayment of the Lease Payments by the City pursuant to the Lease Agreement, at a prepayment price equal to

* Preliminary; subject to change.

the principal amount thereof to be prepaid, together with accrued interest to the date fixed for prepayment, without premium.

Mandatory Sinking Fund Prepayment. The Certificates maturing on April 1, 20__ (the "**Term Certificates**"), are subject to mandatory prepayment in part by lot on April 1 in each year on and after April 1, 20__, from the principal components of scheduled Lease Payments required to be paid by the City pursuant to the Lease Agreement with respect to each such prepayment date, at a prepayment price equal to the principal amount thereof to be prepaid, together with accrued interest to the date fixed for prepayment, without premium, as follows:

Sinking Fund Prepayment Date (April 1)	Principal Amount To Be Prepaid
(Maturity)	

Selection of Certificates for Prepayment. Whenever less than all Outstanding Certificates are called for prepayment, the Trustee will select Certificates for prepayment from the Outstanding Certificates not previously called for prepayment, among maturities selected by the City, in integral multiples of $5,000, and by lot within a maturity, in any manner deemed appropriate by the Trustee. Whenever provision is made pursuant to "- Extraordinary Mandatory Prepayment From Net Proceeds of Insurance or Condemnation" above, and less than all Outstanding Certificates are called for prepayment, the Trustee shall select Certificates for prepayment from the Outstanding Certificates not previously called for prepayment, proportionately among maturities, in integral multiples of $5,000, and by lot within a maturity, in any manner deemed appropriate by the Trustee. For the purposes of such selection, Certificates shall be deemed to be composed of $5,000 portions, and any such portion may be separately prepaid. The Trustee shall promptly notify the City and the Corporation in writing of the Certificates so selected for prepayment.

Notice of Prepayment. While the Certificates are subject to DTC's book-entry system, the Trustee will be required to give notice of prepayment only to DTC as provided in the letter of representations executed by the City and received and accepted by DTC. DTC and DTC Participants will have sole responsibility for providing any such notice of prepayment to the beneficial owners of the Certificates to be prepaid. Any failure of DTC to notify any Participant, or any failure of DTC Participants to notify the Beneficial Owner of any Certificates to be prepaid, of a notice of prepayment or its content or effect prepayment redemption described below under "–Effect of Notice of Prepayment."

During any period in which the Certificates are not subject to the book-entry system, notice of prepayment of any Certificates to be prepaid will be given to the respective Owners of Certificates designated for prepayment by first-class mail, postage prepaid, at their addresses appearing on the registration books of the Trustee at least 20 but not more than 45 days prior to the prepayment date. Such notice must also be given to each of certain specified securities depositories and to certain other specified services. Neither failure to receive a prepayment notice nor any defect in the notice shall affect the sufficiency of the proceedings for the prepayment of the Certificates.

However, while the Certificates are subject to DTC's book-entry system, the Trustee will be required to give notice of prepayment only to DTC as provided in the letter of representations executed by the City and received and accepted by DTC. DTC and DTC Participants will have sole responsibility for providing any such prepayment notice to the beneficial owners of the Certificates to be prepaid. Any failure of DTC to notify any Participant, or any failure of DTC Participants to notify the Beneficial Owner of any Certificates to be prepaid, of a notice of prepayment or its content or effect, will not affect the validity of the notice of prepayment, or alter the effect of prepayment set forth in the Trust Agreement.

Rescission of Prepayment. The City has the right to rescind any notice of the optional prepayment of Certificates by written notice to the Trustee on or prior to the dated fixed for prepayment. Any notice of optional prepayment will be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for prepayment for the payment in full of the Certificates then called for prepayment, and such cancellation will not constitute an Event of Default. The City and the Trustee have no liability to the Owners or any other party related to or arising from such rescission of prepayment.

The Trustee will mail notice of such rescission of prepayment to the respective Owners of the Certificates designated for prepayment at their respective addresses appearing on the Registration Books, and to the Securities Depositories and the Municipal Securities Rulemaking Board.

Effect of Notice of Prepayment. If moneys for the prepayment (including the interest to the applicable date of prepayment) of Certificates have been set aside in the Lease Payment Fund, the Certificates will become due and payable on the date of such prepayment, and, upon presentation and surrender thereof at the Office of the Trustee, those Certificates will be paid at the unpaid principal amount (or applicable portion thereof) represented thereby plus interest accrued and unpaid to the date of prepayment.

If, on the date of prepayment, moneys for the prepayment of all the Certificates to be prepaid, together with interest represented thereby to the date of prepayment, are held by the Trustee so as to be available therefor on such date of prepayment, then, from and after the date of prepayment, interest represented by the Certificates will cease to accrue and become payable. All moneys held by the Trustee for the prepayment of Certificates will be held in trust for the account of the Owners of the Certificates so to be prepaid, and will be held by the Trustee in cash uninvested.

Book-Entry System

DTC will act as securities depository for the Certificates. The Certificates will be executed and delivered as fully-registered Certificates registered in the name of Cede & Co. (DTC's partnership nominee). One fully-registered Certificate will be executed and delivered for each maturity of the Certificates, each in the aggregate principal amount of such maturity, and will be deposited with DTC. See "APPENDIX F – BOOK-ENTRY PROVISIONS".

The City and the Trustee cannot and do not give any assurances that DTC, DTC Participants or others will distribute payments of principal, interest or premium with respect to the Certificates paid to DTC or its nominee as the registered owner, or will distribute any prepayment notices or other notices, to the Beneficial Owners, or that they will do so on a timely basis or will serve and act in the manner described in this Official Statement. The City and the Trustee are

not responsible or liable for the failure of DTC or any DTC Participant to make any payment or give any notice to a Beneficial Owner with respect to the Certificates or an error or delay relating thereto.

Transfer and Exchange

The provisions of the Trust Agreement regarding the registration, exchange and transfer of the Certificates apply only during any period in which the Certificates are not subject to DTC's book-entry system. While the Certificates are subject to DTC's book-entry system, their registration, exchange and transfer will be effected through DTC and DTC Participants and will be subject to the procedures, rules and requirements established by DTC. See APPENDIX F.

Transfer of Certificates. The registration of any Certificate may, in accordance with its terms, be transferred upon the Registration Books by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Certificate for cancellation at the Corporate Trust Office of the Trustee, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever any Certificate or Certificates will be surrendered for registration of transfer, the Trustee will execute and deliver a new Certificate or Certificates of the same maturity and aggregate principal amount of the same series, in any authorized denominations. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer and exchange will be paid by the City, except that the Trustee may require the payment by the Certificate Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

Exchange of Certificates. Certificates may be exchanged at the Corporate Trust Office of the Trustee, for a like aggregate principal amount of Certificates of other authorized denominations of the same maturity and the same Series. The City will pay any costs of the Trustee incurred in connection with such exchange, except that the Trustee may require the payment by the Certificate Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

Limitations on Transfer or Exchange. The Trustee may refuse to transfer or exchange either (i) any Certificate during the period established by the Trustee for the selection of Certificates for prepayment, or (ii) the portion of any Certificate which the Trustee has selected for prepayment under the Trust Agreement.

THE LEASED PROPERTY

General

Lease Payments will be made by the City under the Lease Agreement for the use and occupancy of the Leased Property, which is comprised of land and the improvements thereon, consisting of City Hall, the Civic Center Meeting Hall (Council chambers), Rincon Library and Springtown Library.

City Hall. The City's 51,261 square foot, two-story City Hall was originally built in 2002 and houses the City's municipal government offices. The estimated land value of City Hall is $_____ and the estimated insured value of City Hall is $37,766,500.

Civic Center. The City's 6,750 square foot, one-story Civic Center was originally built in 2019 and includes chambers for the City Council. The estimated land value of Council chambers is $____ and the estimated insured value of the Council chambers is $8,666,000.

Rincon Library. The City's 4,355 square foot, one-story Rincon Library was originally built in 1992. The estimated land value of the Rincon Library is $___ and the estimated insured value of the Rincon Library is $3,667,790.

Springtown Library. The City's 2,480 square foot, one-story Springtown Library was originally built in 1980. The estimated land value of the Springtown Library is $____ and the estimated insured value of the Springtown Library is $1,856,987.

Modification of Leased Property

Under the Lease Agreement, the City has the right, at its own expense, to make additions, modifications and improvements to the Leased Property or any portion thereof. All additions, modifications and improvements to the Leased Property will thereafter comprise part of the Leased Property and become subject to the provisions of the Lease Agreement.

Such additions, modifications and improvements may not in any way damage the Leased Property, or cause the Leased Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto under the Lease Agreement, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements.

The City will not permit any lien to be established or remain against the Leased Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City under the Lease Agreement; provided that if any such lien is established and the City first notifies the Corporation of the City's intention to do so, the City may in good faith contest any lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and will provide the Corporation with full security against any loss or forfeiture that might arise from the nonpayment of any such item, in form satisfactory to the Corporation. The Corporation will cooperate fully in any such contest, upon the request and at the expense of the City.

Substitution of Property

Under the Lease Agreement, the City has, and is granted, the option at any time and from time to time to substitute other (the "**Substitute Property**") for the Leased Property or any portion thereof (the "**Former Property**"), provided that the City must satisfy all of the requirements set forth in the Lease Agreement that are conditions precedent to such substitution, and which include (among others) the following:

(a) The City shall certify in writing to the Corporation and the Trustee, that the estimated fair market value of such Substitute Property is at least equal to estimated fair market value of such Former Property, except that the estimated fair market value of such Substitute Property, together with the portion of the Leased Property remaining after the removal of the Former Property, shall not be required to exceed the aggregate principal components of the unpaid Lease Payments.

(b) The City must certify in writing to the Corporation and the Trustee that such Substitute Property serves essential public purposes of the City and constitutes property which the City is permitted to lease under the laws of the State of California.

(c) The City must file with the Corporation and the Trustee a certificate to the effect that the value of the Substitute Property and any other property that will be subject to the Lease Agreement and the Property Lease are at least equal to the value of the Former Property, and that the useful life of the Substitute Property at least equals the useful life of the Former Property.

Upon the satisfaction of all conditions precedent to substitution under the Lease Agreement, the Term of the Lease Agreement will thereupon end as to the Former Property and commence as to the Substitute Property), and all references to the Former Property will apply with full force and effect to the Substitute Facility.

The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such substitution.

The Corporation and the City will execute, deliver and cause to be recorded all documents required to discharge the Lease Agreement, the Property Lease and the Assignment Agreement against the Former Property, and to cause the Substitute Site or Substitute Property to become subject to all of the terms and conditions of the Lease Agreement, Property Lease and the Assignment Agreement.

See APPENDIX B for additional conditions to the substitution of property under the Lease Agreement.

Removal of Property

Under the Lease Agreement, City has the option at any time and from time to time to remove any portion of the Leased Property from the Lease Agreement and the Property Lease (the "**Released Property**") provided that the City has satisfied all of the requirements of the Lease Agreement that are conditions precedent to such release, and which include (among others) that the City certifies in writing to the Corporation and the Trustee that the Leased Property as revised

by such removal is of equal or greater value than the the unpaid principal component of the Certificates.

Upon the satisfaction of all conditions precedent to release under the Lease Agreement, the Term of the Lease Agreement will thereupon end as to the Released Property.

The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such release.

The Corporation and the City will execute, deliver and cause to be recorded all documents required to discharge the Lease Agreement, the Property Lease and the Assignment Agreement of record against the Released Property.

See APPENDIX B for additional conditions to the release of property from the Lease Agreement and the Property Lease.

PLAN OF FINANCING

The proceeds of the Certificates will be used to (i) finance the Project; and (ii) pay certain costs of executing and delivering the Certificates.

The Project

On January 30, 2018, City Council approved locations for open space, housing, parking and circulation systems, cultural facilities, commercial uses, and a hotel for the Downtown catalyst sites. The approved plan includes additional parking to meet the increased demand expected to accompany downtown development in the City.

The Project consists of the design and construction of a four-level public parking garage with approximately 460 spaces east of L Street, between Veterans Way and First Street in the City, additional site improvements and the acquisition and improvement of such other public facilities identified by the City from time to time.

The Project is not serving as a lased asset for the Certificates. See "THE LEASED PROPERTY."

Estimated Sources and Uses of Funds

The proceeds to be received from the sale of the Certificates, and related amounts, are anticipated to be applied as follows:

SOURCES	Total
Principal Amount of Certificates	
Plus/Less: Net Original Issue Premium/(Discount)	
Total Sources	
USES	
Deposit into Project Fund	
Deposit into Costs of Issuance Fund [1]	
Purchaser's Discount	
Total Uses	

[1] Includes fees of Special Counsel, Disclosure Counsel, municipal advisor, rating agency, Trustee; title insurance premium; printing costs; and other costs of executing and delivering the Certificates.

SCHEDULE OF LEASE PAYMENTS

The table below shows the annual Lease Payments, which corresponds to the payments of principal and interest with respect to the Certificates and assumes no optional or extraordinary mandatory prepayments.

Rental Period Ending (April 1)*	Principal Component	Interest Component	Total
TOTAL			

(1) "Rental Period" is defined in the Lease to mean each twelve-month period during the Term of this Lease Agreement commencing on April 2 in any year and ending on the next succeeding April 1, except that the first rental period shall commence on the Closing Date. Lease Payments are due on the fifteenth day prior to the corresponding Payment Date.

THE CORPORATION

The Corporation

The Corporation was organized on April 15, 1991, as a California nonprofit public benefit corporation. The Corporation was formed for the specific and primary purpose of benefiting California governmental agencies by participating with such governmental agencies in projects to maintain, improve and assist the activities of such governmental agencies by acquiring, purchasing, selling, leasing or otherwise transferring real and personal property in connection with such projects, and assisting the governmental agencies in financing, acquiring and constructing of such projects, as well as other purposes as specified in the Corporation's articles of incorporation.

The Corporation has no financial liability to the owners of the Certificates with respect to the payment of Lease Payments by the City, or with respect to the performance by the City of the other agreements and covenants it is required to perform.

The Corporation functions as an independent entity and its policies are determined by a board of directors. Under the bylaws of the Corporation, the board of directors of the Corporation consists of at least two, but no more than five, directors holding office for terms of six years. The Corporation has no employees and the directors of the Corporation receive no compensation for work or service performed as Corporation directors.

SECURITY FOR THE CERTIFICATES

This section provides summaries of the security and sources of payment for the Certificates and certain provisions of the Trust Agreement and Lease Agreement. See APPENDIX B for a more complete summary of the Trust Agreement and Lease Agreement. Capitalized terms used but not defined in this section have the meanings given in APPENDIX B.

General

Lease Payments. Each Certificate evidences and represents a proportionate undivided interest of the Owner thereof in the Lease Payments to be made by the City under the Lease Agreement.

Assignment to Trustee. Under the Assignment Agreement, the Corporation will transfer, assign and set over to the Trustee, for the benefit of the Owners of all Outstanding Certificates, substantially all of the Corporation's rights under the Lease Agreement and the Property Lease, including without limitation:

(a) the right to receive and collect all of the Lease Payments from the City under the Lease Agreement;

(b) the right to exercise such rights and remedies conferred on the Corporation pursuant to the Lease Agreement as may be necessary or convenient (i) to enforce payment of the Lease Payments, prepayments thereof and any other amounts required to be deposited in the Lease Payment Fund established under the Trust Agreement, or (ii) otherwise to protect the interests of the Certificate Owners in the event of a default by the City under the Lease Agreement.

This assignment will be absolute and irrevocable, and will be without recourse to the Corporation.

Under the Lease Agreement, the City acknowledges that all Lease Payments have been assigned by the Corporation to the Trustee in trust under the Assignment Agreement, for the benefit of the Owners of the Certificates, and the City consents to such assignment. The Corporation directs the City, and the City agrees to pay to the Trustee at its Corporate Trust Office, all Lease Payments (including prepayments thereof).

Lease Payments

Obligation to Make Lease Payments. Under the Lease Agreement (subject to the provisions of the Lease Agreement regarding abatement and prepayment), the City will pay to the Corporation, its successors and assigns, the Lease Payments (denominated into components of principal and interest) in the respective amounts specified in the Lease Agreement, to be due and payable in immediately available funds on the Payment Dates immediately following each of the respective Lease Payment Dates, and to be deposited by the City with the Trustee on each of the Lease Payment Dates.

The Lease Payments payable in any Rental Period are for the use of the Leased Property during such Rental Period.

Effect of Prepayment. If notice of prepayment has been duly given and moneys for the payment of the prepayment price of the Certificates to be prepaid are held by the Trustee, then the Certificates will become due and payable on the date of prepayment, and, upon presentation and surrender thereof at the Corporate Trust Office of the Trustee, those Certificates will be paid at the unpaid principal amount (or applicable portion thereof) with respect thereto, plus interest accrued and unpaid to the date of prepayment. From and after the date of prepayment, interest represented by the prepaid Certificates will cease to accrue and become payable. All moneys held by or on behalf of the Trustee for the prepayment of Certificates will be held in trust for the account of the owners of the Certificates so to be prepaid.

Fair Rental Value. The Lease Payments coming due and payable during each Rental Period constitute the total rental for the Leased Property for such Rental Period, and the City will pay the Lease Payments in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Leased Property during each Rental Period.

The Corporation and the City have agreed and determined that the total Lease Payments represent the fair rental value of the Leased Property. In making that determination, consideration has been given to the estimated value of the Leased Property as of the Closing Date, other obligations of the City and the Corporation under this Lease, the uses and purposes that may be served by the Leased Property, and the benefits therefrom that will accrue to the City and the general public.

Source of Payments; Budget and Appropriation

General. The Lease Payments are payable from any source of legally available funds of the City, subject to the provisions of the Lease Agreement regarding abatement and prepayment.

The City covenants in the Lease Agreement to take such action as may be necessary to include all estimated Lease Payments due under the Lease Agreement in each of its final approved budgets. The City further covenants to make all necessary appropriations (including any supplemental appropriations) from any source of legally available funds of the City for all the actual amount of Lease Payments that come due and payable during the period covered by each such budget.

These covenants on the part of the City are duties imposed by law and it is the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in the Lease Agreement agreed to be carried out and performed by the City.

Limited Obligation

THE OBLIGATION OF THE CITY TO MAKE LEASE PAYMENTS DOES NOT CONSTITUTE A DEBT OF THE CITY OR OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMIT OR RESTRICTION, OR AN OBLIGATION FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION.

Abatement

Use and Possession of the Leased Property. Lease Payments will be made by the City for and in consideration of the right of beneficial use and occupancy of the Leased Property. If due to damage or destruction to the Leased Property, eminent domain or for any reason, there is substantial interference with the use and possession of all or part of the Leased Property, the City's obligation to make Lease Payments from its funds will be subject to abatement. Abatement of Lease Payments is not an event of default under the Trust Agreement, the Lease Agreement or the Certificates and will not permit the Trustee to take any action or avail itself of any remedy against the City. The City will not have an obligation to make Lease Payments with respect to the Leased Property other than from amounts in the Lease Payment Fund or eminent domain award or the proceeds of any rental interruption insurance until such substantial interference with the use and possession of the Leased Property, or a portion thereof, has been remedied.

Absence of Earthquake and Flood Insurance. The obligation to make Lease Payments may be adversely affected if the Leased Property or any improvements thereon are damaged or destroy by natural hazard such as earthquake or flood. The City, however, is not obligated under the Lease Agreement to procure and maintain, or cause to be maintained, earthquake or flood insurance on the Leased Property. The City, however, is obligated under the Lease Agreement to maintain other types of insurance. In the event of damage or destruction to the Leased Property caused by perils for which the City is not required to provide insurance under the Lease Agreement, the City will not be obligated to repair, replace or reconstruct the Leased Property, though the City may choose to do so.

Insurance and Condemnation Fund; Application of Net Proceeds of Insurance and Condemnation

Any net proceeds of insurance or condemnation awards with respect to the Leased Property will be deposited in the Insurance and Condemnation Fund. In the event of an insurance award, the net proceeds on deposit in the Insurance and Condemnation Fund shall be used, as directed by the City, either (a) to replace, repair, restore, modify or improve such Leased Property if the City determines that such is economically feasible or in the best interests of the City, or (b) to the extent not so used, to prepay the Lease Payments allocable to such Leased Property and thereby prepay Certificates. In the event of an eminent domain award with respect to the Leased Property, the net proceeds on deposit in any Insurance and Condemnation Fund shall be used as directed by the City, as follows: (i) if the City determines that such eminent domain proceedings have not materially affected the interest of the City in such Leased Property or its ability to make payments under the Lease Agreement, such proceeds shall be used either for repair, replacement or rehabilitation of such Leased Property, or credited towards the allocable Lease Payments next coming due and payable; or (ii) if the City determines otherwise, and in any event if all of the Leased Property is taken in eminent domain proceedings, such proceeds shall be used to prepay the Lease Payments and Certificates.

Covenants to Maintain Insurance

Public Liability and Property Damage Insurance. The City shall maintain or cause to be maintained, throughout the Term of the Lease Agreement, insurance policies, including a standard comprehensive general liability insurance policy or policies in protection of the Corporation, the Trustee and the City, and their respective members, officers, agents and employees. Said policy or policies shall provide for indemnification of said parties against direct

or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property.

Said policy or policies shall provide coverage in the minimum liability limits of $1,000,000 for personal injury or death of each person and $3,000,000 for personal injury or deaths of two or more persons in each accident or event, and in a minimum amount of $100,000 (subject to a deductible clause of not to exceed $5,000 for damage to property resulting from each accident or event. Such public liability and property damage insurance may, however, be in the form of a single limit policy in the amount of $3,000,000 covering all such risks. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried by the City and may be maintained in the form of insurance maintained through a joint exercise of powers authority created for such purpose or in the form of self-insurance by the City.

The Net Proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the insurance proceeds shall have been paid.

Fire and Extended Coverage Insurance. The City will maintain, or cause to be maintained, throughout the remainder of the Term of the Lease Agreement, insurance against loss or damage to any part of the Leased Property by fire and lightning, with extended coverage and vandalism and malicious mischief insurance. Said extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, and will include coverage for damage from earthquakes if such earthquake coverage is available from reputable insurance companies at a reasonable cost. Such insurance shall be in an amount equal to one hundred percent (100%) of the replacement cost of the Leased Property. Such insurance may be subject to such deductibles as the City deems prudent, provided such policy expressly waives any co-insurance policy. Such policy may be maintained as part of or in conjunction with any other fire and extended coverage carried by the City and may be maintained in whole or in part in the form of insurance maintained through a joint exercise of powers authority created for such purpose. The Net Proceeds of such insurance shall be applied as provided in the Lease.

Rental Interruption Insurance. Under the Lease Agreement, the City will procure and maintain, or cause to be procured and maintained, at all times throughout the Term of the Lease Agreement, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the buildings, facilities and other improvements constituting any part of the Leased Property, as a result of any of the hazards covered in the casualty insurance required by the Lease Agreement and described above, in an amount at least equal to the maximum Lease Payments coming due and payable during any two consecutive fiscal years during the remaining Term of the Lease Agreement.

Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance.

The Net Proceeds of such insurance, if any, will be paid to the Trustee and deposited in the Lease Payment Fund, and will be credited towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable.

See “APPENDIX B – Summary of Principal Legal Documents” for a summary of certain other insurance requirements under the Lease Agreement.

CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS

The constitutional and statutory provisions discussed in this section have the potential to affect the ability of the City to levy taxes and spend tax proceeds for operating and other purposes.

Article XIIIA of the California Constitution

On June 6, 1978, California voters approved Proposition 13 ("**Proposition 13**"), which added Article XIIIA to the State Constitution ("**Article XIIIA**"). Article XIIIA limits the amount of any ad valorem tax on real property to 1% of the full cash value thereof, except that additional ad valorem taxes may be levied to pay debt service on (i) indebtedness approved by the voters prior to July 1, 1978, (ii) (as a result of an amendment to Article XIIIA approved by State voters on June 3, 1986) on bonded indebtedness for the acquisition or improvement of real property which has been approved on or after July 1, 1978, by two-thirds of the voters on such indebtedness, and (iii) bonded indebtedness incurred by a school district or community college district for the construction, reconstruction, rehabilitation or replacement of school facilities or the acquisition or lease of real property for school facilities, approved by 55% of the voters of the district, but only if certain accountability measures are included in the proposition. Article XIIIA defines full cash value to mean "the county assessor's valuation of real property as shown on the 1975-76 tax bill under full cash value, or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership have occurred after the 1975 assessment." This full cash value may be increased at a rate not to exceed 2% per year to account for inflation.

Article XIIIA has subsequently been amended to permit reduction of the "full cash value" base in the event of declining property values caused by damage, destruction or other factors, to provide that there would be no increase in the "full cash value" base in the event of reconstruction of property damaged or destroyed in a disaster and in other minor or technical ways.

Legislation Implementing Article XIIIA. Legislation has been enacted and amended a number of times since 1978 to implement Article XIIIA. Under current law, local agencies are no longer permitted to levy directly any property tax (except to pay voter-approved indebtedness). The one percent property tax is automatically levied by the county and distributed according to a formula among taxing agencies. The formula apportions the tax roughly in proportion to the relative shares of taxes levied prior to 1989. Increases of assessed valuation resulting from reappraisals of property due to new construction, change in ownership or from the 2% annual adjustment are allocated among the various jurisdictions in the "taxing area" based upon their respective "situs." Any such allocation made to a local agency continues as part of its allocation in future years.

In accordance with Article XIIIA, all taxable property is now shown at "full cash value" on the County's property tax rolls.

Appropriation Limitation - Article XIIIB

On November 6, 1979, the voters of the State approved Proposition 4, known as the Gann Initiative, which added Article XIIIB to the State Constitution. On June 5, 1990, the voters approved Proposition 111, which amended Article XIIIB in certain respects.

Under Article XIIIB, as amended, state and local government entities each have an annual "appropriations limit" which limits the ability to spend certain monies that are called "appropriations

subject to limitation" (consisting of most tax revenues and certain state subventions, together called "proceeds of taxes," and certain other funds) in an amount higher than the "appropriations limit." Article XIIIB does not affect the appropriation of monies that are excluded from the definition of "appropriations limit," including debt service on indebtedness existing or authorized as of January 1, 1979, or bonded indebtedness subsequently approved by two-thirds of the voters.

The "appropriations limit" is adjusted annually for changes in the cost of living and in population, for transfers in the financial responsibility for providing services, and in the case of certain declared emergencies.

If an entity receives any proceeds of taxes in excess of its appropriations limit, it may, by resolution of the entity's governing board, increase its appropriations limit to equal that amount (provided that the State has excess appropriations limit of its own in that fiscal year). The City's appropriations limit for fiscal year 2022-23 is $440,433,435, and the City does not anticipate exceeding this limit.

Proposition 218 - Article XIIIC and Article XIIID

General. On November 5, 1996, the voters of the State approved Proposition 218, known as the "Right to Vote on Taxes Act." Proposition 218 added Articles XIIIC and XIIID to the State Constitution and contains a number of interrelated provisions affecting the ability of the City to levy and collect both existing and future taxes, assessments, fees and charges.

On November 2, 2010, State voters approved Proposition 26, entitled the "Supermajority Vote to Pass New Taxes and Fees Act". Section 1 of Proposition 26 declares that Proposition 26 is intended to limit the ability of the State Legislature and local government to circumvent existing restrictions on increasing taxes by defining the new or expanded taxes as "fees." Proposition 26 amended Articles XIIIA and XIIIC of the State Constitution. The amendments to Article XIIIA limit the ability of the State Legislature to impose higher taxes (as defined in Proposition 26) without a two-thirds vote of the Legislature. The amendments to Article XIIIC define "taxes" that are subject to voter approval as "any levy, charge, or exaction of any kind imposed by a local government," with certain exceptions.

Taxes. Article XIIIC requires that all new local taxes be submitted to the electorate before they become effective. Taxes for general governmental purposes of the City ("general taxes") require a majority vote; taxes for specific purposes ("special taxes"), even if deposited in the City's General Fund, require a two-thirds vote. The voter approval requirements of Article XIIIC reduce the flexibility of the City to raise revenues for the General Fund, and no assurance can be given that the City will be able to impose, extend or increase such taxes in the future to meet increased expenditure needs.

Property-Related Fees and Charges. Article XIIID also adds several provisions making it generally more difficult for local agencies to levy and maintain property-related fees, charges, and assessments for municipal services and programs. These provisions include, among other things, (i) a prohibition against assessments that exceed the reasonable cost of the proportional special benefit conferred on a parcel, (ii) a requirement that assessments must confer a "special benefit," as defined in Article XIIID, over and above any general benefits conferred, (iii) a majority protest procedure for assessments that involves the mailing of notice and a ballot to the record owner of each affected parcel, a public hearing and the tabulation of ballots weighted according to the proportional financial obligation of the affected party, and (iv) a prohibition against fees and

charges that are used for general governmental services, including police, fire or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

Reduction or Repeal of Taxes, Fees and Charges. Article XIIIC also removed limitations on the initiative power in matters of reducing or repealing local taxes, assessments, fees or charges. No assurance can be given that the voters of the City will not, in the future, approve an initiative or initiatives that reduce or repeal local taxes, assessments, fees or charges currently comprising a substantial part of the City's General Fund, including Measure P (a quarter-cent general sales tax increase passed by the voters of the City in 2010) and Measure O (a quarter percent sales tax increase passed by voters in 2004). See "APPENDIX A – City of Livermore General Financial and Demographic Information – Major Revenues." If such repeal or reduction occurs, the City's ability to pay debt service with respect to the Certificates could be adversely affected.

Burden of Proof. Article XIIIC provides that local government "bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity." Similarly, Article XIIID provides that in "any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance" with Article XIIID.

Impact on City's General Fund. The approval requirements of Articles XIIIC and XIIID reduce the flexibility of the City to raise revenues for the General Fund, and no assurance can be given that the City will be able to impose, extend or increase the taxes, fees or charges in the future that it may need to meet increased expenditure needs. The City believes all of its existing local taxes, fees and assessments are compliant with Proposition 218 and Proposition 26.

Judicial Interpretation. Although some court cases have been decided, further interpretation and application of Articles XIIIC and XIIID will be determined by the courts, and it is not possible at this time to predict with certainty the outcome of such determination.

Unitary Property

AB 454 (Chapter 921, Statutes of 1986) provides that revenues derived from most utility property assessed by the State Board of Equalization ("**Unitary Property**"), commencing with the 1988-89 fiscal year, will be allocated as follows: (1) each jurisdiction will receive up to 102% of its prior year State-assessed revenue; and (2) if county-wide revenues generated from Unitary Property are less than the previous year's revenues or greater than 102% of the previous year's revenues, each jurisdiction will share the burden of the shortfall or excess revenues by a specified formula. This provision applies to all Unitary Property except railroads, whose valuation will continue to be allocated to individual tax rate areas.

The provisions of AB 454 constitute neither an elimination of the assessment of any State-assessed properties nor a revision of the methods of assessing utilities by the State Board of Equalization. Generally, AB 454 allows valuation growth or decline of Unitary Property to be shared by all jurisdictions in a county.

Proposition 62

On November 4, 1986, California voters adopted Proposition 62, which requires that (i) any local tax for general governmental purposes (a "**general tax**") must be approved by a majority vote of the electorate; (ii) any local tax for specific purposes (a "**special tax**") must be approved by a two-thirds vote of the electorate; (iii) any general tax must be proposed for a vote by two-thirds of the legislative body; and (iv) proceeds of any tax imposed in violation of the vote requirements must be deducted from the local agency's property tax allocation.

Most of the provisions of Proposition 62 were affirmed by the 1995 California Supreme Court decision in *Santa Clara County Local Transportation Authority v. Guardino*, which invalidated a special sales tax for transportation purposes because less than two-thirds of the voters voting on the measure had approved the tax.

The City does not believe any of the taxes constituting City revenues are levied in violation of Proposition 62.

Proposition 22

Proposition 22, entitled "The Local Taxpayer, Public Safety and Transportation Protection Act," was approved by the voters of the State in November 2010. Proposition 22 eliminates or reduces the State's authority to (i) temporarily shift property taxes from cities, counties and special districts to schools, (ii) use vehicle license fee revenues to reimburse local governments for State-mandated costs (the State will have to use other revenues to reimburse local governments), (iii) redirect property tax increment from redevelopment agencies to any other local government, (iv) use State fuel tax revenues to pay debt service on State transportation bonds, or (v) borrow or change the distribution of State fuel tax revenues.

Proposition 22 has resulted in more stable revenues for the City, and the City expects this to continue to be the case.

Future Initiatives

Article XIIIA, Article XIIIB, Proposition 218, Proposition 62, Proposition 1A and Proposition 22 were each adopted as measures that qualified for the ballot pursuant to California's initiative process. From time to time, other initiative measures could be adopted, further affecting the City or its revenues or the ability of the City to expend revenues.

RISK FACTORS

This section provides a general overview of certain risk factors which should be considered, in addition to the other matters set forth in this Official Statement, in evaluating an investment in the Certificates. This section is not meant to be a comprehensive or definitive discussion of the risks associated with an investment in the Certificates, and the order in which this information is presented does not necessarily reflect the relative importance of various risks. Potential investors in the Certificates are advised to consider the following factors, among others, and to review this entire Official Statement to obtain information essential to the making of an informed investment decision. Any one or more of the risk factors discussed below, among others, could lead to a decrease in the market value and/or in the marketability of the Certificates. There can be no assurance that other risk factors not discussed herein will not become material in the future.

Security for the Certificates

General. The obligation of the City to make Lease Payments does not constitute an obligation of the City to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to make Lease Payments does not constitute a debt or indebtedness of the City, the Corporation, the State or any of its political subdivisions, within the meaning of any constitutional or statutory debt limitation or restriction. The obligation of the City to make Lease Payments is in consideration of the right of the City to the continued use and possession of the Leased Property. In the event of failure of such use and possession, the obligations of the City may be abated in whole or in part as described herein.

Although the Lease Agreement does not create a pledge, lien or encumbrance upon the funds of the City, the City is obligated under the Lease Agreement to pay the Lease Payments from any source of legally available funds and the City has covenanted in its Lease Agreement that, for so long as the Leased Property is available for its use, it will make the necessary annual appropriations within its budget for its Lease Payments.

See “SECURITY FOR THE CERTIFICATES.”

Available General Revenue. The City is liable and may become additionally liable on other obligations payable from general revenues, some of which may have a priority over the Lease Payments. To the extent that additional obligations are incurred by the City, the funds available to make Lease Payments may be decreased. Certain taxes, assessments, fees and charges presently imposed by the City could be subject to the voter approval requirements of Article XIIIC and Article XIIID of the California Constitution. Based upon the outcome of an election by the voters, or future changes in Article XIIIC and Article XIIID or their interpretation by the courts, such fees, charges, assessments and taxes might no longer be permitted to be imposed, or may be reduced or eliminated and new taxes, assessments fees and charges may not be approved. Property tax revenue can be adversely affected by reduction of assessed values by appeal or economic downturn and sales and other taxes also can be reduced by economic downturn or loss of significant taxpayers. To the extent that City tax revenue from any source is reduced or eliminated, the funds available to make Lease Payments may be decreased. See also “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS.”

Abatement

Use and Possession of the Leased Property. Lease Payments are paid by the City for and in consideration of the right of beneficial use and occupancy of the Leased Property. If, for any reason, there is substantial interference with the use and possession of all or part of the Leased Property, the City's obligation to make Lease Payments from its funds will be subject to abatement. See "SECURITY FOR THE CERTIFICATES — Abatement" and APPENDIX B for additional information regarding abatement. Abatement of Lease Payments is not an event of default under the Trust Agreement, the Lease Agreement or the Certificates and will not permit the Trustee to take any action or avail itself of any remedy against the City. The City will not have an obligation to make Lease Payments with respect to the Leased Property other than from the proceeds of the Certificates or the proceeds of any rental interruption insurance, until such substantial interference with the use and possession of the Leased Property, or a portion thereof, has been remedied.

Damage or Destruction. If damage or destruction to the Leased Property results in abatement or adjustment of Lease Payments and the resulting Lease Payments, together with moneys in the Lease Payment Fund (and in the event of damage or destruction, together with rental interruption insurance proceeds, if any, are insufficient to make all payments of principal and interest due with respect to the Certificates during the period that the Leased Property is being replaced, repaired or reconstructed, then such payments of principal and interest may not be made in full and no remedy is available to the Trustee or the Owners under the Lease Agreement or Trust Agreement for nonpayment under such circumstances.

Absence of Earthquake and Flood Insurance. The obligation to make Lease Payments may be adversely affected if the Leased Property or any improvements thereon are damaged or destroyed by natural hazard such as earthquake or flood. The City, however, is not obligated under the Lease Agreement to procure and maintain, or cause to be maintained, earthquake or flood insurance on the Leased Property. The City, however, is obligated under the Lease Agreement to maintain other types of insurance. See APPENDIX B.

In the event of damage or destruction to the Leased Property caused by perils for which the City is not required to provide insurance under the Lease Agreement, the City will not be obligated to repair, replace or reconstruct the Leased Property, though the City may choose to do so.

The State, by statute, requires each city and county to adopt a comprehensive, long-term general plan for the physical development of the city or county. The general plan is required to contain, among other things, a safety element for the protection of the community from any unreasonable risks associated with the effects of various natural hazards. The safety element must include mapping of known seismic and other geologic hazards. However, knowing of the existence and location of a seismic fault does not mean that there are not others not known nor prevent earthquakes destructive to property from occurring. While the buildings on the Leased Property are generally built or have been retrofitted to exceed State building codes at the time with respect to seismic risk, a destructive earthquake could occur in the City and to the Leased Property in particular. So far this has not happened, and the City has not suffered serious earthquake damage to the Leased Property or any of its other property.

Remedies Against the City

Failure by the City to pay Lease Payments or other payments required to be made under the Lease Agreement or failure to observe and perform its other covenants and agreements under the Lease Agreement for a period of 30 days (or greater period, pursuant to the Lease Agreement) after written notice of such failure and request that it be remedied has been given to the City by the Corporation, or the Trustee, as the assignee of the Corporation, constitute events of default under the Lease Agreement and permit the Trustee to pursue remedies at law or in equity to enforce such covenants and agreements.

The enforcement of any remedies provided in the Lease Agreement and Trust Agreement could prove both expensive and time consuming. Although the Lease Agreement and the Trust Agreement provide that the Trustee may take possession of the Leased Property and lease it if there is a default by the City, and the Lease Agreement provides that the Trustee may have such rights of access to the Leased Property as may be necessary to exercise any remedies, portions of the Leased Property may not be easily recoverable and even if recovered, could be of little value to others. Furthermore, it is not certain whether a court would permit the exercise of the remedies of repossession and leasing of the Leased Property.

No Acceleration Upon Default

If the City defaults on its obligations to make Lease Payments, the Trustee may have limited ability to re-let the Leased Property so as to preserve the tax exempt nature of the interest component of the Lease Payments and the Certificates. In the event of a default, there is no available remedy of acceleration of the total Lease Payments due over the term of the Lease Agreement. The City will only be liable for Lease Payments on an annual basis, and the Trustee would be required to seek a separate judgment in each fiscal year for that fiscal year's Lease Payments.

COVID-19 Pandemic

General. The spread of the novel strains of coronavirus that causes the disease known as COVID-19 ("**COVID-19**") and local, state, and federal actions in response to COVID-19, is having a significant impact on the economy and on the City's operations and finances. On February 11, 2020, the World Health Organization announced the official name for the outbreak of COVID-19, an upper respiratory tract illness. COVID-19 has since spread across the globe. The COVID-19 pandemic has had an adverse effect on, among other things, the world economy, global supply chain, international travel, and a number of travel-related industries. The temporary and permanent business closures caused by the COVID-19 pandemic have led to a stark increase in unemployment across the County and the nation. Depending on the length and the breadth of the impacts of the COVID-19 pandemic, the economic costs may be very significant for the City and the region's economy. On June 8, 2020, the National Bureau of Economic Research announced that the United States of America officially entered into a recession in February 2020. In addition, capital markets in the United States and globally have been volatile.

In mid-March 2020, based on guidance and directives from the State and public health agencies, all counties in the Bay Area and the City implemented and revised Shelter-in-Place ("**Shelter-in-Place**") emergency orders or directives, which directed individuals to stay home, except for limited travel for the conduct of essential services. Most retail establishments (including restaurants, bars and nightclubs, entertainment venues and gyms) were closed in response to

the Shelter-in-Place orders or directives. The Governor of the State announced similar Shelter-in-Place emergency orders effective for the entire State, which were lifted in June 2021.

In December 2020, two vaccines were approved for use in the United States and vaccinations began in California. A third vaccine was approved for emergency use in February 2021. In August 2021, booster shots became available to all Americans.

Impacts of COVID-19 Emergency Uncertain. The COVID-19 pandemic is still ongoing; however, indications are strong that the pandemic is transitioning to its endemic stage though its dynamic nature leads to uncertainties. There are many variables that will continue to contribute to the economic impact of the COVID-19 pandemic and the recovery, including the length of time social distancing measures are in place, the effectiveness of State and Federal governments' relief programs and the timing for the containment and treatment of COVID-19. The ultimate impact of COVID-19 on the City's operations and finances is not fully known, and it may be some time before the full impact of the COVID-19 pandemic is known.

The City is unable to predict the ultimate long-term impacts of the COVID-19 pandemic on the City's finances, and there can be no assurance that the COVID-19 pandemic will not have a material effect on the City's ability to make the Lease Payments.

State Law Limitations on Appropriations

Article XIIIB of the California Constitution limits the amount that local governments can appropriate annually. The City's ability to make Lease Payments may be affected if the City should reach its appropriations limit. The City does not anticipate reaching said limit in the foreseeable future. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS." The COVID-19 pandemic is expected to have a material impact on State revenues and appropriations.

City Bankruptcy

In addition to the limitation on remedies contained in the Trust Agreement, the rights and remedies provided in the Trust Agreement and the Lease Agreement may be limited by and are subject to the provisions of federal bankruptcy laws, as now or hereafter enacted, and to other laws or equitable principles that may affect the enforcement of creditors' rights.

Under Chapter 9 of the United States Bankruptcy Code, which governs the bankruptcy proceedings for public agencies, there are no involuntary petitions in bankruptcy. If the City were to file a petition under Chapter 9 of the Bankruptcy Code, the Owners, the Trustee and the Corporation could be prohibited from taking any steps to enforce their rights under the Lease Agreement, and from taking any steps to collect amounts due from the City under the Lease Agreement.

If a Bankruptcy Court were to determine that the Lease Agreement is a lease for the purposes of the Bankruptcy Code, the City would have the right to reject (*i.e.,* terminate) the Lease Agreement. If the City elects to reject the Lease Agreement, the Leased Property could be re-let for the benefit of the Owners, but there can be no assurance that the Leased Property can be re-let for an amount sufficient to pay the Certificates or that such re-letting will not adversely affect the exclusion of any interest component of rental payments from federal or state income taxation.

In addition the Bankruptcy Code severely limits any claim for damages suffered as a result of rejection of a lease.

Earthquakes and Other Natural Disasters

Earthquakes or other natural disasters, including fires, landslides or floods, could interrupt operation of the City and thereby interrupt the ability of the City to pay the Lease Payments. The City is located in a very active seismic area with major faults in and around the City. In 2004, the City adopted its current general plan (the "**General Plan**"), the long-range policy document for growth, land use, transportation, sustainability and resource and open space conservation. The current General Plan looks out to the horizon year 2025, and was last updated in 2013.

Seismic Risk. Earthquakes can give rise to various seismic hazards including ground shaking, liquefaction, ground rupture and the generation of large waves in bodies of water. These seismic hazards can cause damage to structures and risk the health and safety of citizens, particularly in unreinforced masonry buildings. Major earthquakes have occurred in the vicinity of the City in the past, and can be expected to occur again in the near future.

According to the Public Safety Element of the City's General Plan:

- The City is located in the San Andreas Fault Zone, one of the most seismically active regions in the United States. The San Andreas Fault Zone has generated numerous moderate to strong historic earthquakes in northern California and in the San Francisco Bay Area.

- The Greenville Fault, an active fault that is the easternmost strand of the San Andreas fault system in the San Francisco Bay region, is located approximately four miles to the east of the City's downtown, and crosses the eastern part of the City. Each of the three segments of the Greenville fault is considered capable of generating earthquakes in the range of Richter magnitude 6.6 to 6.9. If all segments were to rupture in a single seismic event, a 7.2 magnitude earthquake would be expected. The United States Geologic Survey ("**USGS**") estimates a six percent probability of a 6.7 magnitude or greater earthquake on the Greenville fault during the period 2000 to 2030.

- The Las Positas Fault, which is considered to be active, trends northeast to southwest approximately 2.5 miles to the southeast of the City's downtown, and is located almost completely within the City. The Las Positas fault could potentially generate an earthquake of Richter magnitude 6.3. The probability of an earthquake on the fault has not been determined. In addition, several other major active faults are located in the vicinity of Livermore, including the Calaveras and Hayward faults. Because of the high level of seismic activity in and around Livermore, the area has been classified as seismic risk Zone 4 (the highest risk category) by the California Building Code.

- In addition to these faults, the Livermore fault is also located within the urbanized portion of the City. The Livermore fault is considered to be potentially active. It is approximately five miles in length and is considered capable of generating an earthquake with a moment magnitude of 6.2.

- In addition to the known active faults in the Planning Area, recent research regarding the structural geology and tectonics of the Mount Diablo-Livermore region indicate that there is another potential source of large magnitude earthquakes in the region. A structural trend of folds and thrust faults has been mapped in the hills north of the Livermore Valley. The largest of these features is the Mount Diablo anticline. Recent research has interpreted this feature to be a large fold developed above a buried, or "blind," thrust fault. The accumulation of strain on the blind Mount Diablo Thrust presents the potential for an earthquake along this structure. The USGS considers the fault capable of generating a magnitude 6.7 earthquake with a 4 percent probability of occurring during the period 2000 to 2030. An earthquake on the fault would not be expected to cause fault rupture at the surface. However, strong ground shaking would be expected within the Livermore area during such an earthquake.

Flooding. According to the Public Safety Element of the City's General Plan:

- Most flooding within the City is caused by heavy rainfall and subsequent run-off volumes that cannot be adequately conveyed by the existing storm drainage system combined with surface water bodies.

- Portions of the City are located within the dam failure inundation hazard areas for Lake Del Valle and Patterson Reservoir. Patterson Dam is located east of Greenville Road and north of Patterson Pass Road, and impounds the 100-acre foot Patterson Reservoir. The Del Valle Dam is located at the northern end of Lake Del Valle, and impounds an average of 44,000 acre-feet in the reservoir. The depth of inundation would vary from near zero at topographic highs or uplands to many feet in low-lying areas and in creek channels. Both of these dams are under the jurisdiction of the California Department of Water Resources (DWR), Division of Safety of Dams. Existing dams under DWR jurisdiction are periodically inspected to ensure adequate maintenance and to direct the owner to correct any deficiencies found. Regular inspections and required maintenance of the dams substantially reduce the potential for catastrophic failure.

- The City is not susceptible to inundation by coastal hazards, such as tsunamis, extreme high tides, or sea level rise, due to the elevation of the area and the distance from the margin of the San Francisco Bay and Pacific Ocean.

- According to the Federal Emergency Management Agency's Flood Insurance Rate Maps, or FIRMS, the majority of the City is designated as subject to minimal flooding. However, some portions of the City are located in 100-year flood zones.

- In 2002, the Alameda County Flood Control and Water Conservation District, Zone 7 embarked on a watershed-wide Stream Management Master Plan. Zone 7 owns and maintains approximately 40 miles of flood control channels, including creeks and concrete-lined channels, in the watershed area. Most of these channels are in the Pleasanton area. However, Zone 7 owns portions of flood control channels in the City. Zone 7 maintains an ongoing program of channel acquisition funded by developer fees. Under this program, the agency enters into an agreement with a developer or another agency to take ownership, including maintenance responsibilities, of facilities that are constructed to Zone 7 standards. The

developer or agency is reimbursed a predetermined amount for channel improvements and right-of-way. When the flood control sys- tem is completed, Zone 7 will own and maintain approximately 120 miles of creeks and channels, including the primary drainage features, in the City.

Wildfires. In recent years, wildfires have caused extensive damage throughout the State. Certain of these fires have burned thousands of acres and destroyed hundreds and in some cases thousands of homes. In some instances, entire neighborhoods have been destroyed. Some commentators believe that climate change will lead to even more frequent and damaging wildfires in the future. To quantify this potential hazard, the California Department of Forestry and Fire Protection ("**CAL FIRE**") has developed a fire modeling and mapping process that utilizes three main criteria in order to evaluate and recommend potential fire hazards in wildland areas. The criteria are type of vegetation, fire weather, and topography. The maps developed by CAL FIRE identify areas as Fire Hazard Severity Zones and include three severity classifications: moderate, high, and very high. Wildland fire is a hazard that exists throughout the City. The entire City has been identified as a "Community At Risk" by CAL FIRE.

In the event taxable property within the City were destroyed by wildfires, the assessed valuation of such property would be reduced. Such reduction of assessed valuations could result in a reduction of tax revenues to the City.

PG&E Public Safety Power Shutoffs. Pacific Gas and Electric Company ("**PG&E**") has adopted a Community Wildfire Safety Program in an effort to prevent wildfires in the State. As part of its Community Wildfire Safety Program, PG&E has notified customers, including the City, that PG&E has implemented additional precautionary measures to help reduce the risk of wildfires. In particular, PG&E has notified the City that, if extreme fire danger conditions threaten a portion of the electric system serving a community, PG&E may turn off electricity in the interest of public safety (referred to as a "**Public Safety Power Shutoff**"). According to PG&E, a Public Safety Power Shutoff could impact customers in an area that is not experiencing high winds or other extreme weather conditions because PG&E's system relies on power lines working together to provide electricity across cities, counties and regions, including the City and the County.

Climate Change

The adoption by the State of the California Global Warming Solutions Act of 2006 (AB 32) and subsequent companion bills demonstrate the commitment by the State to take action and reduce greenhouse gases ("**GHG**") to 1990 levels by 2020 and 80% below 1990 levels by 2050. The State Attorney General's Office, in accordance with SB 375, now requires that local governments examine local policies and large-scale planning efforts to determine how to reduce greenhouse gas emissions. Additionally, the State adopted Senate Bill No. 32, which established a revised statewide GHG emission reduction target of 40% below 1990 levels by 2030.

Consistent with the State's objective outlined above, in November 2012, the City adopted a Climate Action Plan. The primary purpose of the plan is to design a feasible strategy to reuce community-generated GHG emissions. The Climate Action Plan is currently being updated by the City.

Climate change will have new, direct impacts and will also exacerbate existing local natural hazards. Increased temperatures, when coupled with prolonged drought events, can increase the intensity of wildfires that may occur, and pose significant health and safety risks for vulnerable communities. Shorter, more intense wet seasons could make flooding more frequent,

and may increase the landslide risk. California may experience greater water and food insecurity, and drought may become a more persistent issue as the effects of climate change deepen.

Cybersecurity

The City and its departments face multiple cyber threats including, but not limited to, hacking, viruses, malware and other attacks on computers and other sensitive digital networks and systems. No assurances can be given that the security and operational control measures of the City will be successful in guarding against any and each cyber threat and attack. The results of any attack on the computer and information technology systems could have a material adverse impact on the operations of the City and damage the digital networks and systems. The resulting costs and/or impacts on operations and General Fund revenues could be material.

In September of 2019, the City was the target of a ransomware attack. The City did not pay a ransom to the threat actors in accordance with advice from law enforcement agencies. Ultimately, the threat did not result in any reportable data theft and City networks were repaired and restored systematically after a six-week period.

No Liability by the Corporation to the Owners

The Corporation shall not have any obligation or liability to the Owners with respect to the payment when due of the Lease Payments by the City, or with respect to the performance by the City of other agreements and covenants required to be performed by it contained in the Lease Agreement or the Trust Agreement, or with respect to the performance by the Trustee of any right or obligation required to be performed by it contained in the Trust Agreement.

Impact of State Budget on City Revenues

At various times, including currently, the State has experienced significant financial and budgetary stress. State budgets are affected by national and local economic conditions and other factors over which the City has no control. The State's financial condition and budget policies affect communities and local public agencies throughout the State. To the extent that the State budget process results in reduced revenues to the City, the City will be required to make adjustments to its budget.

For example, declining revenues and fiscal difficulties that arose in the State commencing in fiscal year 2008-09 led the State to undertake a number of budgeting strategies, which had subsequent impacts on local agencies within the State. These techniques included the issuance of IOUs in lieu of warrants (checks), the enactment of statutes deferring amounts owed to public schools, until a later date in the fiscal year, or even into the following fiscal year (known as statutory deferrals), trigger reductions, which were budget cutting measures that were implemented or could have been implemented if certain State budgeting goals were not met, among others, and the dissolution of local redevelopment agencies in part to make available additional funding for schools.

The City cannot predict what actions will be taken in future years by the State Legislature and the Governor to address a State budget deficit. Future State budgets will be affected by national and state economic conditions and other factors over which the City has no control. To the extent that the State budget process results in reduced

revenues to the City, the City will be required to make adjustments to its budget. Decrease in such revenues may have an adverse impact on the City's ability to pay the Certificates.

Change in Law

No assurance can be given that the State, the County or the City electorate will not at some future time adopt initiatives or that the State Legislature or the City Council will not enact legislation that could result in a reduction of the City's General Fund revenues and therefore a reduction of the funds legally available to the City to make Lease Payments. See, for example, "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS – Proposition 218 Article XIIIC and Article XIIID."

Tax Exemption of the Certificates

The City has covenanted in the Lease Agreement that it will not use or permit the use of any proceeds of the Certificates or any funds of the Corporation or the City, directly or indirectly, in any manner, and will not take or omit to take any action that would cause the interest component of the Lease Payments to be included in the gross income of the Owners for federal income tax purposes. In the event the City fails to comply with the foregoing tax covenant, the interest component of the Certificates may be includable in the gross income of the Owners thereof for federal tax purposes. See "TAX MATTERS."

Secondary Market

No assurance can be given that the marketability of the Certificates will not be affected by the introduction or enactment of any future legislation (including without limitation amendments to the Internal Revenue Code), or changes in interpretation of the Internal Revenue Code, or any action of the Internal Revenue Service (the 'IRS"), including but not limited to the publication of proposed or final regulations, the issuance of rulings, the selection of the Certificates for audit examination, or the course or result of any IRS audit or examination of the Certificates or obligations that present similar tax issues as the Certificates.

No assurance can be given that the rating initially assigned to the Certificates by a rating agency will not be downgraded, or that the rating criteria or views of a rating agency will not change, some time in the future, with a resulting decline in the secondary market price of the Certificates. See "RATING."

TAX MATTERS

Federal Tax Status. In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Special Counsel, subject, however to the qualifications set forth below, under existing law, the portion of Lease Payments designated as and comprising interest and received by the owners of the Certificates is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax.

The opinions set forth in the preceding paragraph are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986, as amended (the "**Tax Code**") that must be satisfied subsequent to the delivery of the Certificates in order that the interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. The City has made certain representations and covenants in order to comply with each such requirement. Inaccuracy of those representations, or failure to comply with certain of those covenants, may cause the inclusion of such interest in gross income for federal income tax purposes, which may be retroactive to the date of delivery of the Certificates.

Tax Treatment of Original Issue Discount and Premium. If the initial offering price to the public at which a Certificate is sold is less than the amount payable at maturity thereof, then such difference constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public at which a Certificate is sold is greater than the amount payable at maturity thereof, then such difference constitutes "bond premium" for purposes of federal income taxes and State of California personal income taxes.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the Certificate on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Certificates to determine taxable gain upon disposition (including sale, prepayment, or payment on maturity) of such Certificates. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the Certificates who purchase the Certificates after the initial offering of a substantial amount of such maturity. Owners of such Certificates should consult their own tax advisors with respect to the tax consequences of ownership of Certificates with original issue discount, including the treatment of purchasers who do not purchase in the original offering to the public at the first price at which a substantial amount of such Certificates is sold to the public.

Under the Tax Code, bond premium is amortized on an annual basis over the term of the Certificate (said term being the shorter of the Certificate's maturity date or its call date). The amount of bond premium amortized each year reduces the adjusted basis of the owner of the Certificate for purposes of determining taxable gain or loss upon disposition. The amount of bond premium on a Certificate is amortized each year over the term to maturity of the Certificate on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). Amortized bond premium is not deductible for federal income tax purposes. Owners of premium Certificates, including purchasers who do not purchase in the original offering, should consult their own tax advisors

with respect to State of California personal income tax and federal income tax consequences of owning such Certificates.

California Tax Status. In the further opinion of Special Counsel, interest on the Certificates is exempt from California personal income taxes.

Other Tax Considerations. Current and future legislative proposals, if enacted into law, clarification of the Tax Code or court decisions may cause interest with respect to the Certificates to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such legislative proposals, clarification of the Tax Code or court decisions may also affect the market price for, or marketability of, the Certificates. It cannot be predicted whether or in what form any such proposal might be enacted or whether, if enacted, such legislation would apply to Certificates issued prior to enactment.

The opinions expressed by Special Counsel are based upon existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of such opinion, and Special Counsel has expressed no opinion with respect to any proposed legislation or as to the tax treatment of interest on the Certificates, or as to the consequences of owning or receiving interest on the Certificates, as of any future date. Prospective purchasers of the Certificates should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Special Counsel expresses no opinion.

Owners of the Certificates should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the Certificates may have federal or state tax consequences other than as described above. Other than as expressly described above, Special Counsel expresses no opinion regarding other federal or state tax consequences arising with respect to the Certificates, the ownership, sale or disposition of the Certificates, or the amount, accrual or receipt of interest on the Certificates.

CERTAIN LEGAL MATTERS

The legal opinions of Special Counsel, approving the validity of the Certificates and addressing certain tax matters, in substantially the forms attached hereto as APPENDIX D, will be made available to purchasers at the time of original delivery of the Certificates. Special Counsel will, as Disclosure Counsel, also deliver a disclosure letter to the City and the Purchaser regarding the contents of this Official Statement. Certain matters will be passed upon for the City by the City Attorney.

CONTINUING DISCLOSURE

The City has covenanted for the benefit of owners of the Certificates to provide certain financial information and operating data relating to the City and its general fund by not later than nine months after the end of the City's fiscal year, or April 1 of each year based on the City's current fiscal year-end of June 30, commencing April 1, 2023, with the report for fiscal year 2021-22 (the "**Annual Report**") and to provide notices of the occurrence of certain listed events ("**Event Notices**"). All Annual Reports and Event Notices are required to be filed electronically with the Municipal Securities Rulemaking Board (the "**MSRB**").

These covenants have been made in order to assist the Purchaser in complying with Rule 15c2-12(b)(5) promulgated under the Securities Exchange Act of 1934, as amended (the "**Rule**"). The specific nature of the information to be contained in the Annual Report and the Event Notices is set forth in APPENDIX E.

The City and its related entities, most notably the Successor Agency to the Livermore Redevelopment Agency, have not complied in the past five years with all of their obligations established by previous continuing disclosure undertakings. Specifically, (i) certain of the City's operating data was not timely filed for fiscal 2016-17, as required by certain undertakings, and (ii) a notice of rating change was not timely filed for the Livermore-Amador Valley Water Management Agency, a joint powers agency to which the City belongs. [KNN to order DAC report]

COMPETITIVE SALE OF BONDS

The Bonds were sold pursuant to a competitive bidding process held on _____, 2022, pursuant to the terms set forth in the Notice of Intention to Sell the Bonds (the "**Notice of Intent**"), and were awarded to _____(the "**Purchaser**"), whose proposal represented the lowest true interest cost for the Bonds as determined in accordance with the Notice of Intent. The Purchaser has agreed to purchase the Bonds at a price of $_____ (being the principal amount of the Bonds plus original issue premium of $_____ and less a Purchasers' discount of $_____). The Purchaser will purchase all of the Bonds if any are purchased.

LITIGATION

The City is not aware of any pending or threatened litigation concerning the validity of the Certificates or challenging any action taken by the City with respect to the Certificates. Furthermore, the City is not aware of any pending or threatened litigation to restrain, enjoin, question or otherwise affect the Trust Agreement or in any way contesting or affecting the validity or enforceability of any of the foregoing or any proceedings of the City taken with respect to any of the foregoing.

There are a number of lawsuits and claims pending and threatened against the City unrelated to the Certificates or actions taken with respect to the Certificates. It is the opinion of the City as of this date that such litigation, claims and threatened litigation will not materially affect the City's finances or impair its ability to make debt service payments on the Certificates.

PROFESSIONAL FEES

In connection with the execution and delivery of the Certificates, fees payable to the following professionals involved in the offering are contingent upon the issuance and delivery of the Certificates:

- KNN Public Finance, LLC, as Municipal Advisor;
- Jones Hall, A Professional Law Corporation, as Special Counsel and Disclosure Counsel; and
- U.S. Bank Trust Company, National Association as Trustee.

RATING

S&P Global Ratings, a Standard & Poor's Financial Services LLC business ("S&P") has assigned its rating of "AA" to the Certificates. This rating reflects only the views of S&P, and an explanation of the significance of this rating, and any outlook assigned to or associated with this rating, should be obtained from S&P.

Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. The City has provided certain additional information and materials to the rating agency (some of which does not appear in this Official Statement).

Future events, including the impacts of the COVID-19 pandemic that is described under the caption "RISK FACTORS — Infectious Disease Outbreak and COVID-19 Global Pandemic," could have an adverse impact on the rating of the Certificates, and there is no assurance that the criteria required by S&P to achieve the rating on the Certificates will not change during the period that the Certificates remain outstanding.

There is no assurance that this rating will continue for any given period of time or that this rating will not be revised downward or withdrawn entirely by the rating agency, if in the judgment of the rating agency, circumstances so warrant. Any such downward revision or withdrawal of any rating on the Certificates may have an adverse effect on the market price or marketability of the Certificates.

EXECUTION

The execution and delivery of this Official Statement have been duly authorized by the City.

CITY OF LIVEMORE

By: _____
City Manager

APPENDIX A

CITY OF LIVEMORE
GENERAL FINANCIAL AND DEMOGRAPHIC INFORMATION

General

The City is a general law city with a council manager form of government, which was incorporated on April 1, 1876. It comprises approximately 24.72 square miles and is located in southeastern Alameda County, approximately 43 miles southeast of San Francisco and 30 miles southeast of Oakland.

The estimated January 1, 2022 population of the City is 86,149. The City is part of the rapidly developing Tri-Valley area which contains the cities of Pleasanton, Livermore, Dublin and San Ramon and has a total estimated January 1, 2022 population of 320,510.

The primary industry in the City is research and development. There are approximately 4,500 acres zoned for research and development and light/heavy industry, including 49 industrial parks with over 19 million square feet of industrial space. The City is also home to two national laboratories: Lawrence Livermore National Laboratory and Sandia National Laboratories, and the Livermore Municipal Airport.

The City was originally a rural community and still has many agricultural activities occurring in its sphere of influence, including ranching uses and a significant wine industry. The Livermore Valley Wine Country in and around the City covers over 5,000 acres, and is one of California's oldest wine regions and home to over three dozen wineries, many with more than 50 tasting rooms and visitor centers. The region is also a developing golf destination with the PGA and LPGA choosing the Tri-Valley as one of their Nationwide Tournament hosts.

The County

The County is located on the east side of the San Francisco Bay, extending to the City of Albany on the north, the City of Fremont on the south, and to the City of Livermore on the east, and is approximately ten miles west of San Francisco. Automobile access to San Francisco is provided by the San Francisco-Oakland Bay Bridge.

The northern part of the County has direct access to San Francisco Bay and the City of San Francisco. It is highly diversified with residential areas, active commercial areas, traditional heavy industry, the University of California at Berkeley, the Port of Oakland, and sophisticated manufacturing, computer services and biotechnology firms. The middle of the County is also highly developed including older established residential and industrial areas. The southeastern corner of the County, including the cities of Pleasanton and Livermore, has seen strong growth in residential development and manufacturing. Many high-tech firms have moved from neighboring Silicon Valley in Santa Clara County to the County.

City Services and Government

The City provides a full range of services, including public safety (police and fire), highways and streets, sewer, water, public improvements, planning and zoning, general administration services and housing services.

The Livermore Capital Projects Financing Authority (the "**Authority**") provides financing assistance to the City and has been included in the City's financial plan document as the

Livermore Capital Projects Financing Authority Debt Service Funds and as part of the Airport Enterprise Fund and the Water Enterprise Fund. The Authority is controlled by the City and has the same governing body as the City, which also performs all accounting and administrative functions for the Authority.

The City is organized as a council-manager form of local municipal government. The City Council consists of five members elected at-large for four-year, overlapping terms. The City Council selects the Mayor from among its members for a one-year term. On November 26, 2018 the City adopted an ordinance to transition from an at-large to district-based election system to comply with the California Voting Rights Act (California Government Code Section 34886 and 34871(c)). The City Council selected a district map dividing the City into four single member districts. City Council members will be elected in City Council districts 3 and 4 beginning at the general municipal election in November 2020, and every four years thereafter. Council members will be elected in City Council districts 1 and 2 beginning at the general municipal election in November 2022, and every four years thereafter. The Mayor will continue to be elected on an at-large basis.

The Mayor and City Council provide community leadership, develop policies to guide the City in delivering services and achieving community goals, and encourage citizen understanding and involvement.

The City Manager is appointed by the City Council and responsible for administration of municipal affairs. All municipal departments operate under the supervision of the City Manager. Through the City Manager, City staff, using the resources appropriated by the Council in the budget to achieve desired service results in the community, carries out the policies of the Council.

Possible Impacts of COVID-19

As described in this Official Statement, the short-term and long-term impact of COVID-19 on the City's finances cannot be predicted. The Certificates described in this Official Statement are secured by the City's general fund. See "RISK FACTORS – Infections Disease Outbreak and COVID-19 Global Pandemic."

Budget Process

The fiscal year of the City begins on the first day of July and ends on the 30th day of June of the following calendar year. Development of an annual or biennal budget typically begins six months prior to the fiscal year or initial fiscal year of the two-year budget under consideration. Budgeting is a continuing process involving the presentation of budget estimates by all departments, review of requests by the City Manager and referral of a preliminary budget to the City Council for consideration. After the City Council review and public hearings on the proposed budget, adoption of the budget for the forthcoming year or two year period is normally enacted by resolution prior to July 1. For a biennial budget, the City Council reviews the budget at the end of the initial fiscal year to determine if changes or adjustments need to be made for either fiscal year.

Operating Budget Policy. The operating budget takes the form of a two-year financial plan, which is adopted in its entirety by the City Council. The operating budget is subject to supplemental appropriations throughout its term in order to provide flexibility to meet changing needs and conditions. A mid-period review is conducted in the off year and appropriations are adjusted accordingly. The operating budget is presented on a program basis, with an emphasis on matching costs of services with appropriated revenues available to provide those services while maintaining stable reserves; however, the legal level of budgetary control is at the fund level.

Capital Improvement Budget Policy. A capital improvement plan (the "**CIP**") is prepared and updated every two years on the same cycle as the operating budget and is adopted to be consistent with the General Plan. The CIP budget is subject to supplemental appropriations throughout its term in order to provide flexibility to meet changing needs and conditions.

From the effective date of the budget, the amounts stated as recommended expenditures become appropriated to the various departments and programs. The City Manager may transfer appropriations between departments or programs within any fund. Any revisions or transfers that alter the total appropriations of any fund must be approved by the City Council. In addition, supplemental appropriations and budget transfers related to capital improvement projects between funds and projects need approval from the City Council. All appropriations and encumbrances lapse at the end of the fiscal year to the extent that they have not been expended or lawfully encumbered. Valid outstanding encumbrances (those for which performance under executory contract is expected in the next fiscal year) are re-appropriated and become part of the subsequent year's budget. At a public meeting after the adopting of the budget, the Council may amend or supplement the budget by motion adopted by the affirmative vote of at least three members of the five-member City Council.

The CIP for Fiscal Years 2021-2023 allocates approximately $15.5 million of General Fund resources for capital improvements, representing a significant investment in the City's downtown area.

The most recent

Long-Term Financial Plan. The City also maintains a long-term financial plan (the "**Forecast**"), which is intended to help evaluate the City's financial condition and help assess the financial implications of current and proposed budgets, programs and assumptions. The Forecast is also used to help shape budget decisions by providing early warning of adverse trends and develop strategies to achieve City goals. The most recent Forecast is projected through Fiscal Year 2027-28.

Appropriations Limit

The following table shows the City of Livermore's appropriation limit and appropriations subject to limitation for the fiscal years 2018-19 through 2022-23. See also "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS –Appropriations Limitation — Article XIIIB."

CITY OF LIVERMORE
Appropriations Limit and
Appropriations Subject to Limitation

	2018-19	2019-20	2020-21	2021-22	2022-23
Appropriations Limit	$344,087,147	$368,161,204	$385,462,616	$408,160,948	$440,433,435
Appropriations Subject to Limitation	67,435,856	74,420 994	78,774,574	76,546,934	105,628,659

General Fund Budgets

General. The City's currently budgeted General Fund revenues and expenditures for fiscal years 2021-22, and 2022-23, and actual General Fund revenues and expenditures for fiscal years 2020-21, are set forth in the following table. Budgeted amounts are based on the most current and reliable currently information. The City's audited financial statements for the fiscal year ended June 30, 2021, are included as APPENDIX C to this Official Statement.

CITY OF LIVERMORE
General Fund Adopted Budgets
For Fiscal Years 2020-21 (Actual) and 2021-22 and 2022-23 (Adopted Budget)

	Actual 2020-21	Existing Budget 2021-22 (1)	Adopted Budget 2021-22 (2)	Existing Budget 2022-23	Adopted Budget 2022-23 (2)
Revenues:					
Property Tax	$38,874,958	$41,401,520	$40,464,176	$42,953,530	$43,011,015
Sales Tax	35,441,550	34,094,000	37,550,000	36,500,000	39,047,000
Franchise Tax	5,686,312	5,185,281	5,827,371	5,222,356	6,043,000
Business License Tax	6,804,846	5,906,285	7,370,000	6,101,374	7,672,000
Other Taxes	3,651,054	4,250,000	5,862,930	5,550,000	6,850,800
License and Permits	2,587,449	2,596,220	3,315,100	2,566,487	3,220,242
Fines and Forfeitures	395,011	370,000	345,000	380,000	355,000
Use of Money and Property	7,952,228	3,830,381	4,075,607	3,921, 943	3,939,280
Intergovernmental Revenues	15,307,657	16,267,460	17,030,373	11,602,258	12,364,166
Other In-Lieu Taxes	7,990	7,980	7,980	7,980	7,980
Charges for Current Services	7,954,985	8,063,192	8,694,048	8,299,003	8,608,340
Other Revenues	3,438,904	469,750	2,106,261	474,750	486,250
Total Revenues	128,102,944	122,442,069	132,648,846	123,579,681	131,605,073
Transfers In	537,023	4,278,135	705,275	2,132,599	852,919
Total Sources	128,639,967	126,720,204	133,354,121	125,712,280	132,457,992
Expenditures:					
Personnel	33,724,109	37,319,745	36,424,489	37,828,248	40,360,639
Supplemental Personnel	26,407,327	29,286,282	27,985,199	30,158,021	29,622,797
Services and Supplies	49,130,697	54,657,407	56,649,200	50,448,932	56,620,959
Capital Outlay	97,734	--	--	49,100	396,000
Total Operating Expenditures	109, 359,867	121,263,434	121,058,888	118,484,301	127,000,395
Transfers Out	4,189,577	6,759,479	6,294,486	9,182,168	8,218,044
Capital Improvement	4,367,190	14,207,000	13,577,000	1,090,000	1,897,000
Reserves	5,697,188	1,599,556	4,643,528	1,043,263	2,180,358
Total Expenditures	123,613,822	143,829,469	145,573,902	129,799,732	139,295,797

(1) Includes supplemental budget requests.
(2) Fiscal year 2022-23 financial plan update, adopted by City Council on June 13, 2022.

2022-23 Adopted Budget. The City's 2022-23 adopted budget (the "**Adopted Budget**") projects a cumulative general fund surplus of approximately $4.3 million and an estimated $7.2 million unassigned general fund balance at the end of fiscal year 2022-23. General Fund revenues are expected to increase by $10.2 million in fiscal year 2021-22 and $8 million in fiscal year 2022-23 beyond original estimates. This is primarily related to growth in sales tax and business license tax revenues though all of the City's revenue sources are expected to increase beyond original estimates.

CITY OF LIVERMORE
Proposed Financial Plan Update:
General Fund Budget Projections

	Actual 2020-21	Adopted 2021-22	Projected Actuals 2021-22 (1)	Adopted 2022-23
Operating Revenue	$128,102,944	$132,648,846	$134,563,212	$131,605,073
Transfers In	537,023	705,275	705,275	852,919
Use of Unassigned Reserves	0	12,219,781	3,911,526	4,837,805
Use of ERP Reserves	0	0	0	2,000,000
Total Sources	$128,639,967	$145,573,902	$139,180,013	$139,295,797
Total Operating Expenditures	$109,359,867	$121,058,888	$114,454,879	$127,000,395
Transfers Out	4,189,577	6,294,486	6,294,486	8,218,044
Capital Improvement Plan	4,367,190	13,577,000	13,787,120	1,897,000
Contributions to Reserves	5,697,188	4,643,528	4,643,528	2,180,358
Total Uses	$123,613,822	$145,573,902	$139,180,013	$139,295,797
Excess/(Shortfall)	$5,026,145	$0	$0	$0

(1) Projected Actuals made using a number of assumptions and estimates.
Source: City of Livermore

City General Fund Reserves

Operating Reserves. The City is committed to the establishment of minimum fund balance/net position which will help maintain the City's credit worthiness, and to provide funds for catastrophic events, economic uncertainties, contingencies and cash flow requirements. It is the goal of the City to achieve and maintain a combined minimum unrestricted (committed, assigned and unassigned) fund balance in its General Fund equal to 30% of the current year's budgeted operating expenditures and outgoing transfers for debt service as listed below:

- The City's General Fund balance committed for Operating Reserve Stabilization is established at a minimum of 15% of the General Fund's budgeted operating expenditures plus debt service transfers, to be used in a catastrophic event or in a major emergency or in periods of severe fiscal crisis as described in the Comprehensive Fund Balance Policy.

- The City's General Fund Assigned for Economic Uncertainty Reserve is established at a minimum of 13.5% of the General Fund's budgeted operating expenditures plus debt service transfers, to be used during times of severe economic distress such as protracted recessionary periods, State raids on local resources, or other impactful unforeseen events which greatly diminish the financial ability of the City to deliver core services.

- The City will strive to maintain a minimum unassigned fund balance in its General Fund of 1.5% of the budgeted operating expenditures and outgoing debt service transfers. This

minimum fund balance is to protect against cash flow shortfalls related to timing of projected revenue receipts and to maintain budgeted level of services.

As of June 30, 2021, all of these reserves were fully funded with the unassigned fund balance exceeding the City Council goal by 75.4%. The General Fund reserve as of June 30, 2021, exceeds the 30% unrestricted fund balance in its General Fund by $26.3 million, or 23.8% of General Fund operating expenditures plus debt service transfers.

CITY OF LIVERMORE
Available General Fund Balances

	2020-21	2021-22 (1)	2022-23 (1)
15% Committed Reserve	$17,419,222	$18,740,986	$19,831,165
13.5% Assigned Reserve	15,677,300	16,866,888	17,848,049
Assigned Infrastructure Replacement	12,000,000	14,000,000	16,000,000
Assigned ERP	2,000,000	2,000,000	-- (2)
1.5% Unassigned Reserve	1,741,922	1,874,099	1,983,116
Available Unassigned (3)	26,273,570	14,053,789	7,215,984
TOTAL FUND BALANCE	$75,112,014	$67,535,762	$62,878,314

(1) Projected.
(2) Included in Fiscal Year 2022-23 Budget.
(3) Calculated by adding the unrealized loss on investments ($3,544,354 for Fiscal Year 2020-21), and subtracting 1.5% from the Unassigned Fund Balance, See – "Financial Statements" below. Investments are typically held to maturity, so unrealized gains or losses are excluded from Available Fund Balances and are not budgeted for.
Source: City of Livermore

Infrastructure Repair and Replacement Reserves. In June of 2016, the City Council directed staff to establish an Infrastructure Repair and Replacement Reserve to begin accumulating the resources necessary to address the City's aging infrastructure as part of the Council Goal and Priority of Asset Management. One of the City's strategies to contain costs and leverage its buying power is to save during times of economic prosperity so that resources are available during the next economic downturn. Council has directed staff to reserve $2 million per year.

State Budget and Its Impact on the City

Fiscal Year 2022-2023 State Budget. On June 30, 2022, the Governor signed the fiscal year 2022-23 State Budget (the **"2022-23 State Budget"**), a $308 billion spending plan, including $234.4 billion in general fund spending, and a historic $100 billion budget surplus. The 2022-23 State Budget includes significant general fund investments, provides for tax rebates to millions of taxpayers, and provides for a $37.2 billion reserve.

Impact of State Budget on City. The City receives a portion of its funding from the State. The City's projects that approximately 7.8% of the City's General Fund revenues will come from State sources.

Voters approved Proposition 1A in November 2004 to amend the State Constitution to place constraints on the State's ability to divert certain specified revenues from local agencies to the State. Subsequently, in November 2010, voters approved Proposition 22 to amend the State Constitution to further constrain or eliminate the State's ability to redirect revenues from local agencies. "CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING CITY REVENUES AND APPROPRIATIONS – Proposition 1A" and "– Proposition 22."

Additional Information. Information about the 2022-23 State Budget and other State budgets is available at www.ebudget.ca.gov. An impartial analysis of the budget is posted by the Legislative Analyst Office at www.lao.ca.gov. In addition, various State official statements, many of which contain a summary of the current and past State budgets, may be found at the website of the State Treasurer, www.treasurer.ca.gov. *The information referred to in this paragraph is prepared by the respective State agency maintaining each website and not by the City. The City takes no responsibility for the continued accuracy of the Internet addresses or for the accuracy or timeliness of information posted there, and such information is not incorporated in this Official Statement by these references*.

Financial Statements

The accounting policies of the City conform to generally accepted accounting principles. The Governmental Accounting Standards Board ("**GASB**") published its Statement No. 34 "Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments" on June 30, 1999. Statement No. 34 provides guidelines to auditors, state and local governments and special purpose governments such as school districts and public utilities for financial reporting for all governmental agencies in the United States. Generally, the basic financial statements and required supplementary information should include (i) Management's Discussion and Analysis; (ii) financial statements prepared using the economic measurement focus and the accrual basis of accounting; (iii) fund financial statements prepared using the current financial resources measurement focus and the modified accrual method of accounting; and (iv) required supplementary information.

Accounts of the City are organized on the basis of funds, each of which is considered a separate accounting entity. There are three groups of funds: governmental funds (which include the General Fund), proprietary funds (which include enterprise funds and internal service funds) and fiduciary funds (which are used to account for resources held for the benefit of parties outside the City).

All governmental funds and fiduciary funds use the modified accrual basis of accounting. The proprietary funds use the accrual basis of accounting. The General Fund is the general operating fund of the City and is used to account for all financial resources except those required to be accounted for in a separate fund.

In fiscal year 2014-15, the City implemented GASB Statements No. 68 and 71. These statements establish standards for measuring and recognizing liabilities, deferred outflows of resources, deferred inflows of resources and pension plan expenses. GASB Statements No. 68 and No. 71 do not change the pension funding obligations of the City and have had no effect on the General Fund. See also "– Employee Retirement System."

In fiscal year 2016-17, the City implemented GASB Statement No. 74, which relates to plan level financial reporting for fiduciary fund financial statements. In fiscal year 2017-18, the City implemented GASB Statement No. 75, which relates to improved accounting and financial reporting by state and local governments for other post-employment benefits ("**OPEB**").

The City's most recent audited financial statements are included in the Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2021, which is attached as APPENDIX C to this Official Statement. The financial statements were prepared by the City and audited by Eide Bailly LLP (the "**Auditor**").

The financial statements should be read in their entirety. *The City has neither requested nor obtained permission from the Auditor to include the audited financial statements as an*

appendix to this Official Statement. Accordingly, the Auditor has not performed any post-audit review of the financial condition or operations of the City or General Fund. In addition, the Auditor has not reviewed this Official Statement.

Set forth on the following pages are (i) a general fund balance sheet for fiscal years 2016-17 through 2020-21 and (ii) a statement of revenues, expenditures and changes in fund balance for the City's General Fund for the same period.

CITY OF LIVERMORE
General Fund Balance Sheet

	Audited 2016-17	Audited 2017-18	Audited 2018-19	Audited 2019-20	Audited 2020-21
ASSETS:					
Cash and investments in City Treasury	$41,778,029	$49,948,78	$55,223,247	$62,232,532	$69,899,712
Accounts receivable	9,014,068	8,042,464	8,917,551	6,501,251	11,000,416
Interest receivable	1,027,729	1,377,384	2,030,505	1,540,378	1,278,834
Due from other funds	679,279	1,191,119	14,651	102,953	--
Advances to other funds	5,094,048	4,983,136	3,880,245	3,880,245	3,874,396
Prepaids and deposits	97,720	200,584	104,759	20,000	8,000
Notes receivable	--	--	--	--	--
Land held for redevelopment	--	1,727,437	1,727,437	1,727,437	1,727,437
Total assets	57,690,873	67,470,602	71,898,395	76,004,796	86,788,795
LIABILITIES:					
Accounts payable or other accrued liabilities	1,732,637	3,217,410	5,674,185	3,514,024	3,992,870
Accrued payroll and benefits	977,522	946,345	990,348	1,394,778	1,556,050
Deposit payable	20,939	26,783	135,210	1,085,290	2,805,547
Advance from other funds	476,958	359,493	--	--	--
Unearned rents and revenue	14,507	--	53,000	--	1,256,835
Total liabilities	3,222,563	4,550,031	6,852,743	5,994,092	9,611,302
DEFERRED INFLOWS OF RESOURCES					
Unavailable revenue	--	1,531	4,017	12,191	--
Total deferred inflows of resources	--	1,531	4,017	12,191	--
Fund Balances:					
Nonspendable	5,191,768	6,911,157	5,712,441	5,627,682	5,609,833
Restricted	--	--	--	--	--
Committed	14,534,792	15,689,514	15,954,446	16,561,703	17,419,222
Assigned	17,891,417	20,120,563	22,359,001	24,905,533	29,677,300
Unassigned	16,850,333	20,197,806	21,015,747	22,903,595	24,471,138
Total fund balances	54,468,310	62,919,040	65,041,635	69,998,513	77,177,493
Total liabilities and fund balances	$57,690,873	$67,470,602	$71,898,395	$76,004,796	$86,788,795

Source: City of Livermore Annual Comprehensive Financial Reports.

CITY OF LIVERMORE
Statement of General Fund Revenues, Expenditures and Changes in Fund Balance

	Audited 2016-17	Audited 2017-18	Audited 2018-19	Audited 2019-20	Audited 2020-21
Revenues:					
Property Taxes and special assessments	$30,187,436	$32,637,569	$35,234,143	$37,421,396	$38,874,958
Sales taxes	30,684,026	32,346,374	35,556,493	32,869,001	35,441,550
Other taxes	15,503,409	17,306,457	16,895,027	16,253,107	16,150,202
Licenses and permits	2,587,073	3,329,443	2,647,472	2,408,482	2,587,449
Intergovernmental	8,852,215	9,353,334	9,713,419	10,260,780	15,307,657
Contributions from outside sources	--	75,515	125,000	36,737	3,024,939
Fines and forfeitures	382,735	472,063	522,198	480,714	395,011
Charges for current services	10,499,907	9,424,003	7,752,120	8,632,078	7,954,985
Use of money and property	3,115,686	3,556,356	8,531,498	9,654,094	4,407,874
Miscellaneous	1,194,782	1,140,518	443,392	419,446	413,965
Total revenues	103,007,269	109,641,632	117,420,762	118,435,835	124,558,590
Expenditures:					
Current:					
General government					
City Council	163,769	158,834	153,040	146,052	292,587
City Manager	1,567,504	1,878,162	1,992,078	1,845,388	2,115,420
City Attorney	1,613,198	1,339,275	1,635,294	1,750,605	1,874,129
City Clerk	--	--	--	--	--
Administrative Services	4,963,911	5,022,105	5,584,001	5,752,797	6,459,231
General Services	4,951,296	5,011,989	5,367,660	7,069,468	3,040,213
Fire	18,153,885	19,730,024	21,467,182	21,956,743	22,758,011
Police	31,332,961	34,028,461	36,597,420	36,151,077	38,135,545
Public Works	6,018,508	6,701,971	7,048,763	7,298,306	7,886,134
Community & Econ. Development	16,881,991	16,497,855	17,896,133	17,999,658	22,185,775
Library	5,218,799	5,570,535	5,587,920	5,834,282	5,517,721
Capital outlay					
Capital projects	1,308,516	1,938,989	6,906,865	3,319,627	3,462,289
Total expenditures	92,174,338	97,878,200	110,236,356	109,124,003	113,727,055
Excess of revenues over (under) expenditures	10,832,931	11,763,432	7,184,406	9,311,832	10,831,535
Other financing sources (uses):					
Transfers in	2,287,970	3,845,182	900,260	691,026	537,023
Transfers out	(5,792,127)	(7,348,147)	(5,962,071)	(5,045,980)	(4,189,578)
Total other financing sources (uses)	(3,504,157)	(3,502,965)	(5,061,811)	(4,354,954)	(3,652,555)
Net change in fund balance	7,328,774	8,260,467	2,122,595	4,956,878	7,178,980
Fund balance - July 1	47,139,536	54,468,310	62,919,040	65,041,635	69,998,513
Beginning fund, as restated	--	54,658,573	--	--	--
Fund balance - June 30	$54,468,310	$62,919,040	$65,041,635	$69,998,513	$77,177,493

Source: City of Livermore Annual Comprehensive Financial Reports.

Major Revenues

The following table summarizes the City's most significant tax revenue, which is deposited in the general fund.

CITY OF LIVERMORE
General Fund Tax Revenues

Type of Revenue	2018-19[a]	2019-20[a]	2020-21[a]	Projected 2021-22[b]	Projected 2022-23[b]
Property Tax	$35,234,143	$37,421,396	$38,874,958	$40,464,176	$43,011,015
Sales and Use Tax	35,556,493	32,869,001	35,441,550	37,550,000	39,047,000
Business License Tax	6,013,252	5,968,119	6,804,846	7,370,000	7,672,000
Franchise Taxes	5,206,202	5,410,593	5,686,312	5,827,371	6,043,000
Other Taxes[c]	5,675,573	4,874,395	3,659,044	5,870,910	6,858,780
Total	**$87,685,663**	**$86,543,504**	**$90,466,710**	**$97,082,457**	**$102,631,795**

[a] Restated from the City of Livermore Audited Financial Reports.
[b] Provided by City Finance Department.
[c] Other Taxes include Transient Occupancy Tax, Real Property Tax, Business Construction Tax and other Taxes in Lieu.
Source: City of Livermore.

Property Taxes

Property tax has historically been one of the top two largest revenue sources for the City and has been the number one revenue source since fiscal year 2019-20. In the Adopted Budget, the property tax revenue is projected to increase by $2.5 million, from $40.5 million in fiscal year 2021-22 to an estimated $43 million in fiscal year 2022-23 primarily on the strength of the current housing market and continued residential and commercial development activity.

Assessed Valuation. All non-exempt property is assessed using full cash value as defined by Article XIIIA of the California Constitution. State law exempts from taxation $7,000 of the full cash value of an owner-occupied dwelling, provided that the owner files and qualifies for such exemption. This exemption does not result in any loss of tax revenue to local agencies, since the State reimburses local agencies for the value of taxes on exempted property. State law also provides exemptions from *ad valorem* property taxation for certain classes of property based on ownership or use, such as household and personal effects, intangible personal property (such as bank accounts, stocks and bonds), business inventories and real property used for religious, non-profit hospital, scientific and charitable purposes; the State does not reimburse local agencies for any tax not levied due to these exemptions. State and federal government property also is not taxed, nor is local government property located within the jurisdiction of that local government.

For assessment and collection purposes, property is classified as either “secured” or “unsecured” and is listed accordingly on separate parts of the assessment roll. The “secured roll” is that part of the assessment roll containing State-assessed real property and other real property having a tax lien which is sufficient, in the opinion of the assessor, to secure payment of the taxes. Unsecured property comprises all other taxable property, including personal property and leasehold interests. Unsecured property is assessed on the “unsecured roll.” Every tax levied by a county that becomes a lien on secured property has priority over all present and future private liens arising pursuant to State law on the secured property, regardless of the time of the creation of the other liens. A tax levied on unsecured property does not become a lien against the taxed unsecured property, but may become a lien on other property owned by the taxpayer. Valuation of secured property and a statutory tax lien is established as of January 1 prior to the tax year (the tax year is the July 1 - June 30 fiscal year of the State) of the related tax levy, and the secured and unsecured tax rolls are certified as of July 1 of the tax year by the County Assessor. New property and improvements are assessed and added to “supplemental” rolls during the year acquired or improvements are completed, and taxed at the secured or unsecured rate then in effect, as the case may be, for the remaining portion of that year. The next year and thereafter such assets are assessed on the regular tax rolls.

Future growth in assessed valuation allowed under Article XIIIA is allocated on the basis of “situs” among the jurisdictions that serve the tax rate area within which the growth occurs. Local agencies and school districts will share the growth of “base” revenues from the tax rate area. Each year’s growth allocation becomes part of each agency’s allocation in the following year.

The following table represents the most recent ten-year history of taxable assessed valuation in the City:

CITY OF LIVERMORE
Historical Assessed Valuations

Fiscal Year	Common Property	Public Utility	Unsecured	Total Taxable Assessed Valuation
2011-12	$12,677,885,472	$16,667,214	$621,343,226	$13,315,895,912
2012-13	12,785,579,465	16,652,307	712,651,650	13,514,883,422
2013-14	13,495,749,069	16,534,025	677,891,857	14,190,174,951
2014-15	14,441,874,348	15,920,292	618,857,248	15,076,651,888
2015-16	15,425,274,831	16,125,723	644,740,332	16,086,140,886
2016-17	16,462,710,778	16,036,533	669,293,841	17,148,041,152
2017-18	17,584,794,540	13,149,678	665,835,413	18,263,779,631
2018-19	18,716,232,125	13,261,314	742,728,963	19,472,222,402
2019-20	19,706,452,617	12,659,804	887,677,095	20,606,789,516
2020-21	20,739,018,910	12,463,593	890,242,048	21,641,724,551
2021-22	_____	_____	_____	_____

Source: California Municipal Statistics

Factors Relating to Increases/Decreases in Assessed Value. As indicated in the previous table, assessed valuations are subject to change in each year. Increases or decreases in assessed valuation result from a variety of factors including but not limited to general economic conditions, supply and demand for real property in the area, government regulations such as zoning, and natural disasters such as earthquakes, fires, floods and droughts.

Wildfires. Wildfires have occurred in recent years in different regions of the State, the most destructive of which have burned thousands of acres and destroyed thousands of homes and structures. Many of these fires have originated in wildlands adjacent to urban areas. Although the recent wildfires have not included territory within the City's boundaries, the City is vulnerable to a wind-driven fire starting along the City's eastern border.

The City cannot predict or make any representations regarding the effects that natural disasters including but not limited to earthquakes, fires, floods, droughts and related conditions may have on the value of taxable property within the City, or to what extent the effects said disasters might have had on economic activity in the City or throughout the State. See also "SECURITY FOR THE CERTIFICATES – COVID-19 Global Pandemic."

Property Tax Base Transfer Ballot Measure. On November 3, 2020, State voters approved a constitutional amendment entitled Property Tax Transfers, Exemptions and Revenue for Wildfire Agencies and Counties Amendment ("**Proposition 19**"), which will: (i) expand special rules that give property tax savings to homeowners that are over the age of 55, severely disabled, or whose property has been impacted by a natural disaster or contamination, when they buy a different home; (ii) narrow existing special rules for inherited properties; and (iii) broaden the scope of legal entity ownership changes that trigger reassessment of properties. The City cannot make any assurance as to what effect the implementation of Proposition 19 will have on assessed valuation of real property in the City.

Tax Levies, Collections and Delinquencies. Secured property tax rates are set annually by the first business day of September for the levy of property taxes in that tax year. The levy is

payable in two equal installments due November 1 and February 1, and payments become delinquent if not postmarked or paid by end of the business day on December 10 and April 10, respectively. Taxes on unsecured property (personal property and leasehold interests) are levied at the preceding fiscal year's secured tax rate and have a due date set by each county effectively no earlier than July 1 and no later than July 31 of each year. Taxes on unsecured property become delinquent if not postmarked or paid by end of business day on August 31, or if added to the unsecured roll after July 31, become delinquent at the end of the month succeeding the month of enrollment.

A 10% penalty attaches to any delinquent payment for secured roll taxes, plus a charge of $10 if unpaid after April 10. In addition, property on the secured roll for which taxes are delinquent becomes tax-defaulted if not paid by June 30 of the same fiscal year. Such property may thereafter be redeemed by payment of (a) the delinquent taxes, (b) the 10% penalty, (c) the $10 charge, (d) an additional penalty of 1.5% per month (18% annualized rate) from July 1 to the time of redemption and (e) a redemption fee of $15 per parcel, $5 of which goes to the State (collectively, the "Redemption Amount"). Properties may be redeemed under an installment plan of paying the Redemption Amount in five equal installments over a period of four years. A delinquent taxpayer may enter into the installment plan at any time up to the June 30 occurring five years after the property becomes tax defaulted. If taxes are unpaid five years after the property becomes tax defaulted or, if an installment plan is in place, then at the end of the installment plan, the County can initiate a "power to sell" procedure for the County Tax Collector to sell the property at auction. Alternatively, in certain instances the County may institute a superior court action to foreclose the lien on the property; if the lawsuit is successful, the property may be sold at a judicial foreclosure sale.

A 10% penalty attaches to delinquent taxes on property on the unsecured roll, and after the last day of the second month after the 10% penalty attaches, an additional penalty of 1.5% per month begins to accrue and a lien is recorded against the assessee. The taxing authority may collect delinquent unsecured personal property taxes by: (a) a civil action against the taxpayer; (b) filing a certificate of delinquency in the office of the County Clerk specifying certain facts in order to obtain a judgment lien on specific property of the taxpayer; and (c) seizure and sale of personal property, improvements or possessory interests belonging or assessed to the assessee.

Supplemental roll taxes are due on the date the bill is mailed. If the tax bill is mailed within the months of July through October, the first installment shall become delinquent at 5 p.m., or the end of the business day, whichever is later, on December 10 of the same year and the second installment shall become delinquent at 5 p.m., or the end of the business day, whichever is later, on April 10 of the next year; if the bill is mailed within the months of November through June, the first installment shall become delinquent at 5 p.m., or the end of the business day, whichever is later, on the last day of the month following the month in which the bill is mailed and the second installment shall become delinquent at 5 p.m., or the end of the business day, whichever is later, on the last day of the fourth calendar month following the date the first installment is delinquent. A 10% penalty attaches to any delinquent payment for supplemental roll taxes.

All tax due dates and delinquency dates become the next business day if they fall on a day that is not a business day.

Disclaimer Regarding Property Tax Collection Procedures. The property tax collection procedures described above are subject to amendment based on legislation or executive order which may be enacted by the State legislature or declared by the Governor from time to time.

The following is a summary of *ad valorem* tax rates for a representative tax rate area, TRA 16-071, within the City. TRA 16-071 has a total fiscal year 2021-22 secured assessed valuation of $7,614,575,601, approximately 34.34% of the City's total local secured assessed valuation.

CITY OF LIVERMORE
Tax Rates - TRA 16-071

	2017-18	2018-19	2019-20	2020-21	2021-22
General	1.0000%	1.0000%	1.0000%	1.0000%	1.0000%
Alameda County	.0000	.0112	.0108	.0036	.0041
Livermore Valley Joint Unified School District	.0803	.0771	.0743	.0691	.0706
Chabot Las Positas CCD	.0445	.0443	.0422	.0214	.0458
Flood Zone 7, State Water	.0359	.0332	.0309	.0309	.0307
Bay Area Rapid Transit District	.0084	.0070	.0120	.0139	.0060
TOTAL	1.1691%	1.1728%	1.1702%	1.1389%	1.1572%

Source: California Municipal Statistics, Inc.

The secured tax charges and year-end delinquencies for the most recent five years are reflected on the following table:

CITY OF LIVERMORE
Secured Tax Charge and Delinquencies

Fiscal Year	Secured Tax Charge[1]	Amount Delinquent as of June 30	Percent Delinquent June 30
2014-15	$23,879,546.57	$256,837.43	1.08%
2015-16	25,581,676.66	325,351.24	1.27
2016-17	27,223,319.92	301,816.94	1.11
2017-18	29,227,082.95	260,838.11	0.89
2018-19	31,300,680.02	275,282.83	0.88
2019-20	33,217,746.56	354,318.98	1.07
2020-21	34,692,169.16	335,389.31	0.97

(1) 1% General Fund apportionment.
Source: California Municipal Statistics, Inc.

No Teeter Plan. The Alternative Method of Distribution of Tax Levies and Collections and of Tax Sale Proceeds (the "**Teeter Plan**") has been adopted by 53 of the 58 counties, including Alameda County, as provided for in Section 4701 *et seq.* of the State Revenue and Taxation Code. Under the Teeter Plan, each participating local agency, including cities, levying property taxes in a county receives the amount of uncollected taxes credited to its fund, in the same manner as if the amount credited had been collected. In return, the county receives and retains delinquent payments, penalties and interest as collected, that would have been due the local agency. However, although a local agency receives the total levy for its property taxes without regard to actual collections, to the extent of a reserve established and held by its county for this

purpose, the basic legal liability for property tax deficiencies at all times remains with the local agency. The Teeter Plan is to remain in effect unless the county board of supervisors orders its discontinuance or unless, prior to the commencement of any fiscal year of the county, the board of supervisors receives a petition for its discontinuance from two-thirds of the participating revenue districts in the county. The board of supervisors may, after holding a public hearing on the matter, discontinue the procedures under the Teeter Plan with respect to any tax levying agency in its county.

The City has elected not to participate in the Teeter Plan. That means that the City is subject to any delinquencies in the collection of property taxes but gains all penalty and interest amounts when such delinquencies are collected.

Largest Property Taxpayers. The following table represents the 20 largest secured property taxpayers in the City for fiscal year 2021-22.

CITY OF LIVERMORE
Largest Taxpayers

Property Owner	Primary Land Use	2021-22 Assessed Valuation	Percent of Total [(a)]
1. Livermore Premium Outlets LLC	Outlet Stores	$ 224,809,590	1.06%
2. Livermore Oaks Joint Venture LLC	Industrial	148,318,172	0.70
3. Longfellow Logistics Center LLC	Industrial	137,408,960	0.65
4. Kaiser Foundation Hospitals	Industrial	105,875,506	0.50
5. Arkay Properties LLC	Industrial	101,412,454	0.48
6. Jack London Blvd. & Isabel Ave. LLC	Industrial	83,746,604	0.39
7. BCORE Shield 6933 Preston Owner LLC	Industrial	69,570,700	0.33
8. Marathon Drive Buildings LLC	Industrial	67,581,119	0.32
9. 3055 Livermore Owner LLC	Office Building	64,524,170	0.30
10. Raintree Ironwood LLC	Apartments	61,732,367	0.29
11. Sequoia Equities Mill Springs	Apartments	53,000,863	0.25
12. FM Industries Inc.	Industrial	50,435,950	0.24
13. BCDPF Bay Area Commerce Center LP	Industrial	48,730,000	0.23
14. BTMU Capital Leasing & Finance Inc.	Industrial	48,569,006	0.23
15. Sutter Health	Commercial Land	47,032,612	0.22
16. Eleanor Sade Trust	Industrial	45,344,315	0.21
17. 174 Lawrence Drive Investors LLC	Industrial	44,621,034	0.21
18. Valley Care Senior Housing Inc.	Apartments	42,920,971	0.20
19. Golden Bears LLC & Ellis Street Properties	Auto Dealership	41,525,210	0.20
20. Livermore Investments LLC	Shopping Center	39,932,035	0.19
		$1,527,091,638	7.19%

(a) 2021-22 Local Secured Assessed Valuation: $21,248,057,637.
Source: California Municipal Securities, Inc.

Sales and Use Tax.

For fiscal year, 2020-21, sales tax was the City's second largest revenue source, with over 16.2% of all sales tax revenue derived from its outlet mall. In addition to a consumer trend of moving away from brick and mortar stores, COVID-19 impacted consumer behavior and retails sales. Sales tax revenue in the Adopted Budget are expected to increase by $1.5 million from 37.6 million in fiscal year 2021-22 to $39.1 million in fiscal year 2022-23 due to anticipated continued recovery from the pandemic and inflation.

The sales tax is imposed on retail sales of tangible personal property. A similar use tax is imposed on purchases out-of-state and delivered for use in California. Since the passage of the Bradley-Burns Act in 1955, the State has collected, along with its own sales taxes, a uniform 1% sales and use tax for allocation to cities and counties based on a point-of-sale formula. The passage of Proposition 172 in 1993 permanently extended an additional 0.5% sales tax dedicated to local public safety. Sales and use tax receipts to the City are deposited in the City's general fund.

The following table summarizes historical taxable transactions in the City. Total taxable sales during calendar year 2021 in the City were reported to be $2,907,568,783, a 22.62% increase over the total taxable sales of $2,371,274,613 reported during calendar year 2020.

CITY OF LIVERMORE
Taxable Transactions - 2017 through 2021
Number of Permits and Valuation of Taxable Transactions

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions (in thousands)	Number of Permits	Taxable Transactions (in thousands)
2017	1,513	$1,888,222	2,722	$2,787,558
2018	1,501	1,980,658	2,806	2,917,004
2019	1,530	2,005,968	2,901	2,959,726
2020	1,545	1,489,580	2,947	2,371,275
2021	1,479	1,915,735	2,815	2,907,569

Source: State Department of Tax and Fee Administration.

The following table summarizes historical taxable transactions in the County. Total taxable sales during calendar year 2021 in the County were reported to be $37,893,681,750, a 17.77% decrease over the total taxable sales of $32,176,001,960 reported during calendar year 2020.

ALAMEDA COUNTY
Taxable Transactions - 2017 through 2021
Number of Permits and Valuation of Taxable Transactions

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions (in thousands)	Number of Permits	Taxable Transactions (in thousands)
2017	27,431	$20,561,252	45,232	$32,476,174
2018	27,816	22,857,349	47,402	35,073,302
2019	28,375	21,882,886	49,197	35,040,749
2020	28,831	19,931,259	50,461	32,176,002
2021	26,964	22,613,147	47,565	37,893,682

Source: State Department of Tax and Fee Administration.

Business License Tax

The Business License Tax is a type of excise tax imposed on businesses for the privilege of conducting business within the City. Every person or business that sells tangible items, provides service or has an office (including Internet businesses) within the City must have a business license. Business license taxes are based on the gross receipts earned from sales or services performed within the City. Major businesses exempted from the tax are banks and insurance companies. In the majority of cases the City's tax is based on gross receipts. The Adopted Budget projects that the business license tax will increase $1.5 million in fiscal year 2021-22 and $1.6 million in 2022-23. These increases can be attributed to Sandia National Laboratory annual revenues of $1.0 million and the remainder due to recovery from the pandemic and inflation.

The City's Business License consultant, HdL, discovered that Sandia National Laboratories ("**SNL**") and Lawrence Livermore National Laboratory ("**LLNL**") (collectively the "**Labs**") should have been paying the City's Business License tax but have not done so to date. The City can collect up to three years for past due amounts. City staff has been working with the Labs to determine the correct amount owed to the City for the previous three years and the amount due in fiscal year 2022-23. City staff has reached agreement with SNL but has not yet done so for LLNL. As such the increased Business License revenue associated with SNL is included in the FY 2022-23 Plan Update, as mentioned above, but staff has not included anything for LLNL. In addition, the fiscal year 2022-23 budget does not include the three years back payment for either lab. City staff recommends allocating the back payments received from the Labs to prepay OPEB liabilities, from which the future annual OPEB contribution savings will be allocated to the Infrastructure Repair and Replacement Reserve.

Franchise Taxes

Several State statutes provide cities with the authority to impose fees on privately-owned utility companies and other businesses for the privilege of using city right-of-way. The City collects franchise fees from gas and electric utilities, cable television and garbage franchises, which fees were $.03 million higher in fiscal year 2021-22 than franchise fees collected in the previous fiscal year.

Other Taxes

Cities in California are authorized to levy and collect other taxes for deposit in the general fund in addition to property taxes. Other taxes collected by the City include Transient Occupancy Tax, Real Property Tax, and Business Construction Tax.

Transient Occupancy Tax. Sometimes referred to as a hotel tax, this tax is imposed on occupants for the privilege of occupying rooms in hotels, motels, inns and other taxed properties. The City's current transient occupancy tax is 8%. Transient occupancy tax projections decreased by roughly $0.9 million in Fiscal Year 2020-21, but is expected to grow over the next several years due to the addition of hotels expected to be built in the City.

Real Property Tax. Real estate transfer taxes are imposed by the City upon the transfer of real property, based on the price of the property transferred to the new owner. Real property transfer taxes increased $0.5 million in Fiscal Year 2020-21 from the previous Fiscal Year.

Long-Term General Fund Obligations

Set forth below is a summary of long-term obligations payable from the City's General Fund.

2020 Certificates of Participation. On June 25, 2020, $7,465,000 Refunding Certificates of Participation, Series 2020A (the "**Series 2020A Certificates**") and $42,035,000 Refunding Certificates of Participation, Series 202B (the "**Series 2020B Certificates**") were executed and delivered to refund the certain outstanding obligations of the City.

The 2020A Certificates were executed and delivered to cause the current refunding of the outstanding $9,380,000 initial principal amount Variable Rate Demand Certificates of Participation, Series 2014A (Livermore Valley Performing Arts Center Refunding) (Qualified 501(c)(3) Certificates)," which were executed and delivered on November 7, 2014 and refinance the related outstanding lease payment obligation under a Lease Agreement dated as of November 1, 2014, by and between the City and the Public Agency Finance Corporation.

The 2020B certificates were executed and delivered to refinance all outstanding lease payment obligations under a Lease Agreement dated as of June 1, 2011, by and between the City and the Livermore Capital Projects Financing Authority, and cause the current refunding of the outstanding $17,470,000 initial principal amount "2011 Certificates of Participation (Capital Projects)", which were executed and delivered on June 30, 2011.

The 2020B certificates were also executed and delivered to cause the current refunding of the outstanding $49,720,000 initial principal amount City of Livermore Variable Rate Demand Certificates of Participation, Series 2014B (Livermore 2008 Certificates) (Governmental Certificates), which were executed and delivered on November 7, 2014, and to refinance the related outstanding payment obligation under the 2014 Lease Agreement.

The 2020A Certificates mature on October 1, 2041, and the average annual debt service on the 2020A Certificates is $514,000. The 2020B Certificates mature on October 1, 2040, and the average annual debt service on the 2020B Certificates is $2,623,000.

Overlapping Debt Obligations

Set forth below is a direct and overlapping debt report (the "**Debt Report**") prepared by California Municipal Statistics, Inc. and dated June 30, 2022. The Debt Report is included for general information purposes only. The City has not reviewed the Debt Report for completeness or accuracy and makes no representation in connection therewith.

The Debt Report generally includes long-term obligations sold in the public credit markets by public agencies whose boundaries overlap the boundaries of the City in whole or in part. Such long-term obligations generally are not payable from revenues of the City (except as indicated) nor are they necessarily obligations secured by land within the City. In many cases, long-term obligations issued by a public agency are payable only from the general fund or other revenues of such public agency. See also "Long-Term General Fund Obligations" below for further discussion of the City's general fund debt obligations.

CITY OF LIVERMORE
Statement of Direct and Overlapping Bonded Debt
(Debt Issued as of June 30, 2022)

2021-22 Assessed Valuation: $22,172,608,303

OVERLAPPING TAX AND ASSESSMENT DEBT:	**Total Debt 6/30/22**	**% Applicable [1]**	**City's Share of Debt**
Alameda County	$ 183,745,000	6.397%	$ 11,754,168
Bay Area Rapid Transit District	2,521,570,000	2.492	62,837,524
Chabot-Las Positas Community College District	805,595,000	15.242	122,788,790
Livermore Valley Joint Unified School District	246,710,000	93.462	230,580,100
East Bay Regional Park District	184,590,000	0.086	158,747
City of Livermore Community Facilities District No. 99-1	10,295,000	100.000	10,295,000
City of Livermore Community Facilities District No. 2009-1 I.A. No. 1	16,843,452	100.000	16,843,452
City of Livermore Community Facilities District No. 2009-1 I.A. No. 2	4,318,815	100.000	4,318,815
City of Livermore Community Facilities District No. 2009-1 I.A. No. 3	2,568,315	100.000	2,568,315
City of Livermore Community Facilities District No. 2016-2	8,500,000	100.000	8,500,000
City of Livermore 1915 Act Bonds	1,812,000	100.000	1,812,000
California Statewide Communities Development Authority Assessment District Bonds	9,376,390	100.000	9,376,390
TOTAL OVERLAPPING TAX AND ASSESSMENT DEBT			$481,833,301
DIRECT AND OVERLAPPING GENERAL FUND DEBT:			
Alameda County General Fund Obligations and Coliseum Authority	$742,688,000	6.397%	$ 47,509,751
Livermore Area Recreation and Park District Pension Obligation Bonds	12,215,000	92.116	11,251,969
City of Livermore Certificates of Participation	46,415,000	**100.000**	**46,415,000**
TOTAL GROSS DIRECT AND OVERLAPPING GENERAL FUND DEBT			$105,176,720
Less: City of Livermore obligations supported from impact fees, airport, & water enterprise revenues			**13,397,106**
TOTAL NET DIRECT AND OVERLAPPING GENERAL FUND DEBT			$ 91,779,614
OVERLAPPING TAX INCREMENT DEBT (Successor Agency):	$17,190,000	100.000%	$17,190,000
TOTAL GROSS DIRECT DEBT			**$46,415,000**
TOTAL NET DIRECT DEBT			**$33,017,894**
TOTAL OVERLAPPING DEBT			**$557,785,021**
GROSS COMBINED TOTAL DEBT			$604,200,021 [2]
NET COMBINED TOTAL DEBT			$590,802,915

Ratios to 2021-22 Assessed Valuation:

Total Overlapping Tax and Assessment Debt	2.17%
Total Gross Direct Debt ($46,415,000)	**0.21%**
Total Net Direct Debt ($33,017,894)	**0.15%**
Gross Combined Total Debt	2.72%
Net Combined Total Debt	2.66%

Ratios to Redevelopment Successor Agency Incremental Valuation ($844,092,024):

Total Overlapping Tax Increment Debt	2.04%

(1) The percentage of overlapping debt applicable to the city is estimated using taxable assessed property value. Applicable percentages were estimated by determining the portion of the overlapping district's assessed value that is within the boundaries of the city divided by the district's total taxable assessed value.
(2) Excludes tax and revenue anticipation notes, enterprise revenue, mortgage revenue and non-bonded capital lease obligations.
Source: California Municipal Statistics, Inc.

Labor Relations

There are currently 371.875 full equivalent (FTE) City employees, the majority of which are assigned to representation units, with formal or informal labor organizations as follows:

CITY OF LIVERMORE
Labor Relations

Employee Organization	Number of FTE Positions	Contract Expiration Date
Association of Livermore Employees	199.125	9/30/2025
Livermore Management Group	58.000	6/30/2025
Livermore Police Officers Association	83.000	4/30/2025
Police Management	8.000	6/30/2025
Unrepresented	23.750	N/A
Total	371.875	

Source: City of Livermore Human Resources Division.

Risk Management

The City is self-insured for general liability claims up to a self-insured retention ("**SIR**") of $750,000 per occurrence. It is a member of California Joint Powers Risk Management Authority ("**CJPRMA**"), an excess insurance pool that provides coverage for each occurrence that exceeds the SIR. CJPRMA provides coverage up to $40,000,000 per occurrence. The first $5,000,000 layer is retained by CJPRMA and the second and third layers totaling $35,000,000 are covered by reinsurance, purchased through their broker of record, Aon. The City contributed $513,314 to CJPRMA for liability coverage for the fiscal year ending June 30, 2021. The City purchases a variety of insurance products from Aon, both through the CJPRMA pooled program and directly. The City paid $249,497 directly to Aon, $396,479 to Alliant through CJPRMA for property insurance, and $56,876 for auto physical damage insurance to Aon through CJPRMA.

The Local Agency Workers Compensation Excess Joint Powers Authority ("**LAWCX**") covers workers compensation up to statutory limits. The City has a deductible or uninsured liability of up to $500,000 per claim. During the fiscal year ended June 30, 2021, the City contributed $401,931 for program year coverage.

See Note 14 in the City's fiscal year 2020-21 audited financial statements, which are attached to this Official Statement as Appendix C, for additional information about the City's risk management practices.

Employee Retirement System

*This caption contains certain information relating to California Public Employees' Retirement System ("**CalPERS**"). The information is primarily derived from information produced by CalPERS, its independent accountants and actuaries. The City has not independently verified the information provided by CalPERS and makes no representations and expresses no opinion as to the accuracy of the information provided by CalPERS.*

The annual comprehensive financial reports of CalPERS are available on its Internet website at www.calpers.ca.gov. The CalPERS website also contains CalPERS' most recent actuarial valuation reports and other information concerning benefits and other matters. Such information is not incorporated by reference in this Official Statement Neither the City nor Purchaser can guarantee the accuracy of such information. Actuarial assessments are "forward-looking" statements that reflect the judgment of the fiduciaries of the pension plans, and are based upon a variety of assumptions, one or more of which may not materialize or may be changed in the future. Actuarial assessments will change with the future experience of the pension plans.

GASB Statement No. 68. In June 2012, the GASB adopted new standards (GASB Statement No. 68, or "**GASB 68**") with respect to accounting and financial reporting by state and local government employers for defined benefit pension plans. The new standards revise the accounting treatment of defined benefit pension plans, changing the way expenses and liabilities are calculated and how state and local government employers report those expenses and liabilities in their financial statements. Major changes include: (i) the inclusion of unfunded pension liabilities on the government's balance sheet (previously, such unfunded liabilities were typically included as notes to the government's financial statements); (ii) pension expense incorporates more rapid recognition of actuarial experience and investment returns and is no longer based on the employer's actual contribution amounts; (iii) lower actuarial discount rates that are required to be used for underfunded plans in certain cases for purposes of the financial statements; (iv) closed amortization periods for unfunded liabilities that are required to be used for certain purposes of the financial statements; and (v) the difference between expected and actual investment returns to will be recognized over a closed five-year smoothing period. The reporting requirements took effect in fiscal year 2014-15. Based on the adoption of the new accounting standards, beginning with the fiscal year 2014-15 actuarial valuation, the annual required contribution and the annual pension expense will be different. GASB 68 is a change in accounting reporting and disclosure requirements, but it does not change the City's pension plan funding obligations.

Information shown in this section that has been sourced from a CalPERS Actuarial Valuation Report has not been prepared in accordance with GASB 68. For a presentation of additional information that is required by GASB 68, see Note 10 to the City's Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2021, which is attached as APPENDIX C.

Plan Description. All qualified permanent and probationary employees are eligible to participate in the City's separate Safety (police) cost-sharing and Miscellaneous (all other) agent multiple-employer defined benefit plans ("**Plans**"), administered by the CalPERS. The Miscellaneous Plans are agent multiple-employer defined benefit pension plans administered by CalPERS, which acts as a common investment and administrative agent for its participating member employers. Benefit provisions under the Plans are established by State statute and City resolution. CalPERS issues publicly available reports that include a full description of the pension plans regarding benefit provisions, assumptions and membership information that can be found on the CalPERS website.

The City's Safety Plans became part of a cost-sharing multiple employer defined benefit pension plan administered by CalPERS, commonly referred to as a risk pool, as of the actuarial valuation date of June 30, 2003. Risk pools exist for employers with less than 100 active plan members.

The City has three retirement benefit tiers in the Plans. Membership in the first tier of the retirement system is closed to new employees hired on or after December 26, 2012. The second tier was adopted by the City in November 2012 for all employees hired on and after December 31, 2012. The third tier was adopted by the City effective January 1, 2013 pursuant to State Assembly Bill 340. Membership of the Miscellaneous Plan consists of 460 retirees and beneficiaries currently receiving benefits, 293 retirees and beneficiaries entitled to, but not yet, receiving benefits, and 320 active plan members. All tiers of the Miscellaneous plans were reported together in the census data reported by CalPERS. The Safety Police Plan data was not prepared by CalPERS.

Contributions. Section 20814(c) of the California Public Employees' Retirement Law requires that the employer contribution rates for all public employers be determined on an annual basis by the actuary and shall be effective on the July 1 following notice of a change in the rate. Funding contributions for both Plans are determined annually on an actuarial basis as of June 30 by CalPERS. The City must contribute these amounts. The actuarially determined rate is the estimated amount necessary to finance the costs of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability. The City is required to contribute the difference between the actuarially determined rate and the contribution rate of employees. For the year ended June 30, 2021, the City's contributions to the plans were $10,729,567 and $5,457,222 to the Miscellaneous and Safety police plan, respectively. All tiers were of the Miscellaneous and Safety plans were combined together by CalPERS. All City employees pay the full CalPERS member contribution as provided for in the most recent labor contracts.

Benefits Provided. CalPERS provides service and disability retirement benefits, cost of living adjustments, and death benefits to plan members and beneficiaries. Benefits are based on years of credited service, equal to one year of full time employment. Members with five years of total credited service are eligible to retire at age 50 with statutorily reduced benefits. Members may apply for a non-duty disability retirement benefit after 5 years of service. The death benefit is one of the following: the Basic Death Benefit, the 1959 Survivor Benefit, or the Optional Settlement 2W Death Benefit. The cost of living adjustments for each plan are applied as specified by the Public Employees' Retirement Law.

The provisions and benefits of each plan that were in effect at June 30, 2021, are summarized as follows:

	Miscellaneous	Safety
Benefit vesting schedule	5 years service	5 years service
Benefit payments	Monthly for life	Monthly for life
Minimum retirement age	50/52	50
Employees hired prior to December 30, 2012	**Tier 1**	**Tier 1**
Monthly benefits, as a % of salary	2.7% at 55	3% at 50
Required member contribution rates	8%	9%
% paid by employee	8%	9%(1)
% paid by employer	0%	0%(1)
Required employer contribution rates (normal cost)	11.854%	23.674%
Employer payment of unfunded liability	$7,272,015(4)	$2,916,644
Employees hired December 31, 2012	**Tier 2**	**Tier 2**
Monthly benefits, as a % of annual salary	2% at 60(2)	3% at 55(3)
Required member (employee) contribution rates	7%	9%
Required employer contribution rates (normal cost)	11.854%	20.585%
Employer payment of unfunded liability	--	$8,081
Employees hired after December 31, 2012	**Tier 3**	**Tier 3**
Monthly benefits, as a % of annual salary	2% at 62(2)	2.7% at 57(3)
Required member (employee) contribution rates	6.25%	12.0%
Required employer contribution rates (normal cost)	11.854%	13.044%
Employer payment of unfunded liability	--	$3,696

(1) Rates presented in the table above were effective 7/1/2016.
(2) Newly hired Misc. Employees will be enrolled in the 2% at 60 or 2% at 62 formula, dependent on the individual's eligibility, as per AB340.
(3) Newly hired Safety Employees will be enrolled in the 3% at 55 or 2.7% at 57 formula, dependent on the individual's eligibility, as per AB340.
(4) Balance mentioned above is a combined amount for all Miscellaneous plans. As a percentage of projected payroll, the UAL contribution for fiscal year 2020-21 is 23.858% for an estimated total employer contribution rate of 35.712%.
Source: City of Livermore Annual Comprehensive Financial Report.

Actuarial Assumptions and Other Inputs. The City's total pension liabilities in the June 30, 2021 actuarial valuations were determined using the following actuarial assumptions and were measured as of June 30, 2020 and determined by an actuarial valuation as of June 30, 2019 using the following actuarial assumptions: discount rate 7.15%, inflation 2.500%, payroll growth 2.875%, projected salary increase 2.75%-4.5%, depending on age, service, and type of employment, investment rate of return 7.25%, net of pension plan investment expenses, including inflation, and mortality 36.1 to 17.0, which represents life expectancy over the age ranging from 50 to 70 years and assumptions include 20 years of mortality improvement. The underlying mortality assumptions and all other actuarial assumptions used in the June 30, 2020 valuation were based on the results of the 2017 CalPERS Experience Study for the period 1997 to 2015. Further details of the Experience Study can be found on the CalPERS website.

Discount Rate. The discount rate used to measure the total pension liability was 7.15%. The projection of cash flows used to determine the discount rate assumed that contributions from plan members will be made at the current member contribution rates and that contributions from employers will be made at statutorily required rates, actuarially determined. Based on those assumptions, the Plan's fiduciary net position was projected to be available to make all projected future benefit payments of current plan members. Therefore, the long-term expected rate of return on plan investments was applied to all periods of projected benefit payments to determine the total pension liability.

The long-term expected rate of return on pension plan investments was determined using a building-block method in which expected future real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class.

Pension Liability. The following tables show the development of accrued and unfunded liabilities and the normal cost rate and the unfunded accrued liability for the City's plans, as projected at June 30, 2020.

DEVELOPMENT OF ACCRUED AND UNFUNDED LIABILITIES
CITY OF LIVERMORE

	Miscellaneous Plans	Safety Plan - PEPRA	Safety Plan - Tier 1	Safety Plan - Tier 2
1. Entry Age Normal Accrued Liability				
a) Active Members	$120,012,558	$1,436,502	$54,621,665	$3,429,209
b) Transferred Members	17,435,093	26,295	1,409,690	16,568
c) Terminated Members	5,054,035	51,496	1,361,116	216,740
d) Members and Beneficiaries Receiving Payments	182,220,465	--	114,440,534	0
e) Total	324,722,151	1,514,293	171,833,005	3,662,517
2. Market Value of Assets (MVA)	226,623,352	1,372,556	121,735,361	3,301,261
3. Unfunded Accrued Liability (UAL) [(1e) - (2)]	98,098,799	141,737	50,097,644	361,256
4. Funded Ratio [(2) / (1e)]	69.8%	90.6%	70.8%	90.1%

NORMAL COST RATE AND UAL PAYMENTS FOR CALPERS PLANS
CITY OF LIVERMORE

Plan	Contribution	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28
Miscellaneous	Normal Cost Rate	11.47%	11.35%	11.0%	10.6%	10.3%	10.0%	9.7%
	UAL Payment	$8,506,527	$9,104,749	$8,401,000	$9,053,000	$8,987,000	$9,401,000	$9,636,000
Safety Plan PEPRA	Normal Cost Rate	13.13%	12.78%	12.8%	12.8%	12.8%	12.8%	12.8%
	UAL Payment	6,324	$8,628	$11,000	$14,000	$15,000	$16,000	$16,000
Safety Plan Tier 1	Normal Cost Rate	23.71%	23.75%	23.8%	23.8%	23.8%	23.8%	23.8%
	UAL Payment	$3,442,084	$3,947,504	$4,262,000	$4,577,000	$4,779,000	$4,969,000	$5,090,000
Safety Plan Tier 2	Normal Cost Rate	20.64%	20.64%	20.6%	20.6%	20.6%	20.6%	20.6%
	UAL Payment	$14,593	$23,220	$30,000	$35,000	$38,000	$41,000	$42,000

Safety Police Cost-Sharing Multiple-Employer Defined Benefit Plan. As of June 30, 2021, the City reported net pension liabilities for its proportionate share of the net pension liability of the Safety Police Plan to be $46,528,122. The City's net pension liability for the Plans is measured as the proportionate share of the net pension liability. The net pension liability of the Plans are measured as of June 30, 2020, and the total pension liability for the Plan used to calculate the net pension liability was determined by an actuarial valuation as of June 30, 2017 rolled forward to June 30, 2018 using standard update procedures. The City's proportion of the net pension liability was based on a projection of the City's long-term share of contributions to the pension plan relative to the projected contributions of all participating employers, actuarially determined. The City's proportionate share of the net pension liability for the Plan as of the measurement dates of June 30, 2019 and 2020 was as follows:

	Safety Police[1]
Proportion- June 30, 2019	0.67581%
Proportion- June 30, 2020	0.69837
Change-Increase (decrease)	0.02256

(1) All tiers of the Safety plan were combined together on the GASB 68 report by CalPERS.
Source: City of Livermore Annual Comprehensive Financial Report.

Pension Plans Fiduciary Net Position. Detailed information about the Plans' fiduciary net positions are available in the separately issued CalPERS financial reports.

Recent Actions Taken by CalPERS. At its April 17, 2013, meeting, CalPERS' Board of Administration (the "**Board of Administration**") approved a recommendation to change the CalPERS amortization and smoothing policies. Prior to this change, CalPERS employed an amortization and smoothing policy that spread investment returns over a 15-year period with experience gains and losses paid for over a rolling 30-year period. After this change, CalPERS will employ an amortization and smoothing policy that will pay for all gains and losses over a 20-year period with a five-year ramp-up, and five-year ramp-down, period. The new amortization and smoothing policy was used for the first time in the June 30, 2013, actuarial valuations in setting employer contribution rates for fiscal year 2015-16.

On February 18, 2014, the Board of Administration approved new demographic actuarial assumptions based on a 2013 study of recent experience. The largest impact, applying to all benefit groups, is a new 20-year mortality projection reflecting longer life expectancies and that longevity will continue to increase. Because retirement benefits will be paid out for more years, the cost of those benefits will increase as a result. The Board of Administration also assumed earlier retirements for Police 3%@50, Fire 3%@55, and Miscellaneous 2.7%@55 and 3%@60, which will increase costs for those groups. As a result of these changes, rates will increase beginning in fiscal year 2016-17 (based on the June 30, 2014 valuation) with full impact in fiscal year 2020-21.

On November 18, 2015, the Board of Administration adopted a funding risk mitigation policy intended to incrementally lower its discount rate – its assumed rate of investment return – in years of good investment returns, help pay down the pension fund's unfunded liability, and provide greater predictability and less volatility in contribution rates for employers. The policy establishes a mechanism to reduce the discount rate by a minimum of 0.05 percentage points to a maximum of 0.25 percentage points in years when investment returns outperform the existing discount rate, currently 7.5%, by at least four percentage points. CalPERS staff modeling anticipates the policy will result in a lowering of the discount rate to 6.5% in about 21 years, improve funding levels gradually over time and cut risk in the pension system by lowering the volatility of investment returns. More information about the funding risk mitigation policy can be

accessed through CalPERS' web site at the following website address: https://www.calpers.ca.gov/page/newsroom/calpers-news/2015/adopts-funding-risk-mitigation-policy. *The reference to this Internet website is provided for reference and convenience only. The information contained within the website may not be current, has not been reviewed by the City and is not incorporated in this Official Statement by reference.*

On December 21, 2016, the CalPERS Board voted to lower its discount rate from the then current 7.5% to 7.0% over the next three years according to the following schedule.

Fiscal Year	Discount Rate
2017-18	7.375%
2018-19	7.250
2019-20	7.000

For public agencies like the City, the new discount rate took effect July 1, 2018. Lowering the discount rate means employers that contract with CalPERS to administer their pension plans will see increases in their normal costs and unfunded actuarial liabilities. Active members hired after January 1, 2013, under the Public Employees' Pension Reform Act will also see their contribution rates rise. The three-year reduction of the discount rate resulted in average employer rate increases of about 1 percent to 3 percent of normal cost as a percent of payroll for most miscellaneous retirement plans, and a 2 percent to 5 percent increase for most safety plans. Additionally, many CalPERS employers saw a 30 to 40 percent increase in their current unfunded accrued liability payments. These payments were made to amortize unfunded liabilities over 20 years to bring the pension fund to a fully funded status over the long-term.

On November 15, 2021, the CalPERS Board selected a new asset allocation mix that will guide the fund's investment portfolio for the next four years, while at the same time retaining the reduction of discount rate from 7.0% to 6.8%. Notable changes for employers include a decrease in median total employer contribution rates, from less than 1% in miscellaneous plans to a decrease of more than 2% in some safety plans. Contribution changes will take effect in fiscal year 2023-24 for public agencies.

For more information regarding the City's Plans and assumptions used in its most recent actuarial study, see Note 10 of Appendix C to the Official Statement.

Other Post-Employment Benefits

Description of Postretirement Healthcare Benefit. The City has two types of retirement health benefits as determined by City Council resolution and through agreements with its labor units. One plan is a Defined Benefit Plan (Other Post Employment Benefit, or "**OPEB**") which provides health care benefits for retired employees under third party insurance plans. The second plan is a Defined Contribution Plan in which the City contributes a fixed amount to a retirement health savings account on behalf of employees who are not eligible for OPEB. The City's Defined Benefit OPEB plan is closed to new entrants; all new employees are enrolled into the City's Defined Contribution plan.

The City's Annual Comprehensive Financial Report for the fiscal year ended June 30, 2021, and in particular Note 10 thereto, includes information about the City's postemployment eligibility and retiree contribution requirements.

Funding Policy and Actuarial Assumptions. The actuarially determined contribution ("**ADC**") to the OPEB plan was determined as part of a June 30, 2018 actuarial valuation using the entry age normal actuarial cost method. This is a projected benefit cost method, which takes

into account those benefits that are expected to be earned in the future as well as those already accrued. The actuarial assumptions included (a) 6.5% investment rate of return, (b) 3.0% projected annual salary increase, and (c) 2.75% general inflation rate and (d) health inflation decreases ranging from 4.0%-7.5%. The actuarial methods and assumptions used include techniques that smooth the effects of short-term volatility in actuarial accrued liabilities and the actuarial value of assets. Actuarial calculations reflect a long-term perspective and actuarial valuations involve estimates of the value of reported amounts and assumptions about the probability of events far into the future. Actuarially determined amounts are subject to revision at least biannually as results are compared to past expectations and new estimates are made about the future.

In accordance with the City's budget, the ADC is to be funded throughout the year as a percentage of payroll. During fiscal year ended June 30, 2010, the City joined the Public Agencies Post-Retirement Health Care Plan, a multiple employer trust administered by Public Agency Retirement Services ("**PARS**"). At June 30, 2021, the City contributed $5,163,000 to an irrevocable trust administrated by PARS, managed by an appointed board not under the control of City Council. This trust is not considered a component unit by the City and has been excluded from these financial statements. Separately issued financial statements for PARS may be obtained from PARS at 4350 Von Karman Ave., Suite 200, Newport Beach, CA 92660.

OPEB Trust Fund. The City is the plan administrator and PARS administers the trust for the City's retiree healthcare benefit plan – a single-employer defined benefit OPEB plan that provides healthcare benefits for eligible general and public safety employees of the City. Membership of the Plan consists of 320 retirees and beneficiaries currently receiving benefits, 17 terminated plan members entitled to but not yet receiving benefits, and 174 active plan members. Post-employment healthcare and similar benefit allowances are provided to eligible employees who retire from the City or to their surviving spouses. PARS establishes rates for each employer based on an actuarially determined rate for each employer. For the year ended June 30, 2021 the City's average contribution rate was 19.5% of covered-employee payroll. Plan members are not required to contribute to the plan. For the year ended June 30, 2021, the City contributed $5,163,000 in relation to the actuarially determined contribution.

OPEB Trust Fund Investment Information. PARS offers different investment portfolios as part of the investment vehicle. The City invests in "Capital Appreciation" portfolio; the primary goal of the Capital Appreciation objective is growth of principal. The major portions of the assets are invested in the equity securities and market fluctuations are expected. The portfolio is constructed to control risk through four layers of diversification – asset classes (cash, fixed income, equity), investment styles (large cap, small cap, international, value, growth), managers and securities. Disciplined mutual fund selections and monitoring helps to drive return potential while reducing portfolio risk.

OPEB Trust Fund Total Liability. The changes in the OPEB liability are as follows:

	Total OPEB Liability	Plan Fiduciary Net Position	Net OPEB Liability (Asset)
Balance at June 30, 2020	$79,199,184	$32,250,629	$46,948,555
Changes in the Year:			
Service Cost	1,223,662	--	1,223,662
Interest on total pension liability	5,115,274	--	5,115,274
Changes of assumptions	(1,463,176)	--	(1,463,176)
Difference between expected and actual	(1,868,874)	--	(1,868,874)
Contribution – Employer	--	5,163,000	(5,163,000)
Contribution – Employee	--	--	--
Net investment income	--	10,050,944	(10,050,944)
Benefit payments	(3,452,661)	(3,452,661)	--
Administrative expenses	--	(141,453)	141,453
Net Changes	(445,775)	11,619,830	(12,065,605)
Balance at June 30, 2021	$78,753,409	$48,870,459	$34,882,950

OPEB Trust Fund Actuarial Methods and Assumptions. The City's net OPEB liability of was measured as of June 30, 2021 and was determined by an actuarial valuation as of June 30, 2020 using the following actuarial assumptions, applied to all periods included in the measurement, unless otherwise specified: discount rate 6.25%, inflation 2.75%, salary increases -3.00%, annually, and investment rate of return 6.5%. Mortality, retirement, disability and termination based on the CalPERS 1997-2015 Experience Study and mortality improvement is based on mortality projected fully generational with Scale MP-2020.

OPEB Trust Fund Discount Rate. The discount rates used to measure the total OPEB liability were 6.25% as of June 30, 2021. The projection of cash flows used to determine the discount rate assumed that City contributions will be made at rates equal to the actuarially determined contribution rates. Based on those assumptions, the OPEB plan's fiduciary net position was projected to be available to make all projected future benefit payments of current plan members. Therefore, the long term expected rate of return on OPEB plan investments was applied to all periods of projected benefit payments to determine the total OPEB liability.

OPEB Trust Fund Expense. For the year ended June 30, 2021, the City recognized OPEB Expense of $1,421,075.

For more information regarding the City's OPEB and assumptions used in its most recent actuarial study, see Note 11 of the City's audited financial statements, attached as Appendix C to the Official Statement.

City Investment Policy and Portfolio

The City follows the practice of pooling cash and investments of all funds, except for funds required to be held by outside fiscal agents under the provisions of bond Trust Agreements and deferred compensation plan agreements. Under provisions of the City's investment policy and in accordance with California Government Code Section 53601, the City, subject to certain limits, may invest in the following types of investments: securities of the U.S. government, its agencies and instrumentalities; insured or collateralized certificates of deposit (or time deposits); negotiable certificates of deposit; bankers' acceptances; commercial paper of "prime" quality; Local Agency Investment Fund (a State Treasurer's pool) demand deposits; California State or local agency obligations; passbook savings account demand deposits; repurchase agreements with a maturity no greater than one year; reverse repurchase agreements with a maturity no greater than 92 days; mutual funds registered with the SEC which invest in securities authorized by law; medium-term corporate notes; and certain pass-through securities with a minimum term of five years.

At June 30, 2021, the City had no investments in repurchase agreements. In addition, at no time during the fiscal year did the City borrow funds through the use of reverse repurchase agreements, even though such transactions are authorized by the City's investment policy. Investments at June 30, 2021 in all funds, exclusive of funds held by trustees, were as follows:

Type	City of Livermore Investment Portfolio Book Value as of June 30, 2021
U.S. Govt-Sponsored Enterprise	
Callable	$75,820,542
Non-Callable	84,209,677
California Local Agency Investment Fund	73,575,830
Money Market Mutual Funds	6,223,218
Negotiable Certificates of Deposit	16,908,202
Medium Term Corporate Notes	74,378,529
Municipal Bonds	3,236,815
Total Investments	334,352,813
Cash Equivalent (Overdraft)	17,572,960
Total Cash and Investments	**$351,925,773**

See also "Note 3" to the City's financial statements attached as APPENDIX C for further discussion of City investments.

Population

The following table lists population estimates for the City, the County and the State for the last five calendar years, as of January 1, 2022.

CITY OF LIVERMORE, ALAMEDA COUNTY AND STATE OF CALIFORNIA
Population Estimates
Calendar Years 2018 through 2022, as of January 1

Year (January 1)	City of Livermore	Alameda County	State of California
2018	90,392	1,651,760	39,519,535
2019	90,769	1,659,608	39,605,361
2020	91,082	1,663,114	39,648,938
2021	87,388	1,662,370	39,303,157
2022	86,149	1,651,979	39,185,605

Source: California State Department of Finance.

Employment and Industry

The City is included in the Oakland-Hayward-Berkeley Metropolitan Division ("**MD**"). The unemployment rate in the Oakland-Hayward-Berkeley MD was 2.6% in May 2022, down from a revised 2.9% in April 2022, and below the year-ago estimate of 6.4%. This compares with an unadjusted unemployment rate of 3.4% for California and 3.4% for the nation during the same period. The unemployment rate was 2.5% in Alameda County, and 2.7% in Contra Costa County. See "RISK FACTORS – Infectious Disease Outbreak and COVID-19 Global Pandemic" in this Official Statement.

The table below list employment by industry group for Alameda and Contra Costa Counties for the years 2017 to 2021.

OAKLAND-HAYWARD-BERKELEY MD
(Alameda and Contra Costa Counties)
Annual Averages Civilian Labor Force, Employment and Unemployment,
Employment by Industry
(March 2021 Benchmark)

	2017	2018	2019	2020	2021
Civilian Labor Force (1)	1,396,000	1,401,700	1,403,400	1,362,300	1,352,300
Employment	1,343,400	1,357,700	1,360,500	1,239,100	1,268,700
Unemployment	52,600	44,000	42,900	123,200	83,600
Unemployment Rate	3.8%	3.1%	3.1%	9.0%	6.2%
Wage and Salary Employment: (2)					
Agriculture	1,400	1,300	1,400	1,500	1,600
Mining and Logging	200	200	200	200	200
Construction	71,200	74,900	75,500	70,700	73,000
Manufacturing	95,700	100,600	101,000	98,700	105,200
Wholesale Trade	48,700	47,500	45,400	42,100	41,300
Retail Trade	114,400	114,500	111,800	101,100	105,300
Transportation, Warehousing, Utilities	41,300	42,300	43,700	45,200	48,600
Information	26,900	27,600	27,600	25,800	25,000
Finance and Insurance	38,900	37,500	37,200	35,900	34,700
Real Estate and Rental and Leasing	17,400	17,800	18,100	16,700	16,800
Professional and Business Services	184,500	189,500	193,200	184,800	189,900
Educational and Health Services	191,500	194,300	198,400	191,300	198,200
Leisure and Hospitality	114,900	117,700	121,000	84,700	91,700
Other Services	40,200	41,000	41,200	33,100	35,000
Federal Government	13,800	13,400	13,400	14,200	13,500
State Government	39,300	39,400	39,600	38,200	37,900
Local Government	121,500	121,800	121,800	113,500	111,900
Total, All Industries (3)	1,161,800	1,181,300	1,190,300	1,097,700	1,129,700

(1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.
(2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.
(3) Totals may not add due to rounding.
Source: State of California Employment Development Department.

Principal Employers

The following table shows the principal employers in the City, as shown in the City's Annual Comprehensive Financial Report for fiscal year ending June 30, 2021.

CITY OF LIVERMORE
Principal Employers
As of June 2021

Employer	Number of Employees	Percentage of Total City Employment
Lawrence Livermore National Laboratory	8,765	16.63%
Sandia National Laboratories	1,570	2.98
Livermore Valley Joint Unified School District	1,299	2.46
Lam Research	1,166	2.21
Gillig	886	1.68
Form Factor	800	1.52
City of Livermore	493	0.94
Las Positas College	476	0.90
Topcon Positioning Systems	400	0.76
Costco	363	0.69

Source: City of Livermore Annual Comprehensive Financial Report for the year ending June 30, 2021.

Effective Buying Income

"Effective Buying Income" is defined as personal income less personal tax and nontax payments, a number often referred to as "disposable" or "after-tax" income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor's income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), nontax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as "disposable personal income."

The following table summarizes the median household effective buying income for the City, the County, the State and the United States for the period 2018 through 2022.

CITY OF LIVERMORE, ALAMEDA COUNTY, THE STATE OF CALIFORNIA AND THE UNITED STATES
Effective Buying Income and Median Household
As of January 1, 2018 through 2022

Year	Area	Total Effective Buying Income (000's Omitted)	Median Household Effective Buying Income
2018	City of Livermore	$4,085,174	$92,270
	Alameda County	61,987,949	73,633
	California	1,113,648,181	59,646
	United States	8,640,770,229	50,735
2019	City of Livermore	$4,390,474	$97,232
	Alameda County	67,609,653	79,446
	California	1,183,264,399	62,637
	United States	9,017,967,563	52,841
2020	City of Livermore	$4,616,994	$102,432
	Alameda County	72,243,436	84,435
	California	1,243,564,816	65,870
	United States	9,487,165,436	55,303
2021	City of Livermore	$5,001,434	$109,472
	Alameda County	77,794,202	88,389
	California	1,290,894,604	67,956
	United States	9,809,944,764	56,790
2022	City of Livermore	$5,435,829	$123,915
	Alameda County	85,225,529	99,940
	California	1,452,426,153	77,058
	United States	11,208,582,541	64,448

Source: The Nielsen Company (US), Inc for year 2018; Claritas, LLC for 2019 through 2022.

Construction Activity

The following tables show a five-year summary of the valuation of building permits issued in the City and the County.

CITY OF LIVERMORE
Total Building Permit Valuations
(Valuations in Thousands)

	2017	2018	2019	2020	2021
Permit Valuation					
New Single-family	$48,846.5	$35,068.3	$18,587.7	$24,298.7	$12,450.6
New Multi-family	40,255.5	28,068.7	42,645.5	24,057.3	1,862.0
Res. Alterations/Additions	21,902.6	21,382.3	20,828.8	19,284.9	20,206.2
Total Residential	111,004.60	84,519.3	82,062.0	67,640.9	34,518.8
New Commercial	28,710.5	46,603.7	27,492.0	36,361.6	21,024.0
New Industrial	4,630.4	0.0	5,288.4	0.0	0.0
New Other	5,315.4	11,055.3	12,277.4	20,475.1	21,039.6
Com. Alterations/Additions	47,239.0	24,031.3	31,963.5	34,132.3	17,232.2
Total Nonresidential	85,895.3	81,690.3	77,021.3	90,969.0	59,295.8
New Dwelling Units					
Single Family	192	116	74	92	65
Multiple Family	188	202	249	96	6
TOTAL	380	318	323	188	71

Source: Construction Industry Research Board, Building Permit Summary.

ALAMEDA COUNTY
Total Building Permit Valuations
(Valuations in Thousands)

	2017	2018	2019	2020	2021
Permit Valuation					
New Single-family	$763,677.9	$689,530.0	$675,129.8	$394,500.3	$407,585.0
New Multi-family	1,307,094.0	1,431,985.0	782,536.4	722,038.0	829,822.2
Res. Alterations/Additions	501,276.2	469,158.5	512,409.9	293,866.8	222,971.3
Total Residential	2,572,048.1	2,590,673.5	1,970,076.1	1,410,405.1	1,460,378.5
New Commercial	582,896.6	551,547.4	596,865.5	238,516.5	312,914.6
New Industrial	26,703.6	302,121.2	5,638.5	0.0	600.0
New Other	148,820.3	89,686.1	992,668.1	131,447.0	110,817.0
Com. Alterations/Additions	829,413.8	819,040.7	199,753.3	628,230.5	892,656.8
Total Nonresidential	1,587,834.3	1,762,395.4	1,794,925.4	998,194.0	1,316,988.4
New Dwelling Units					
Single Family	2,175	1,867	1,871	1,152	1,589
Multiple Family	6,889	6,540	4,145	2,610	4,494
TOTAL	9,064	8,407	6,016	3,762	6,083

Source: Construction Industry Research Board, Building Permit Summary.

Transportation

Interstate Highway 580 (east-west), Interstate Highway 680 (north-south) and Highway 61 provide access to the nearby cities of Oakland, San Francisco, Sacramento, San Jose, and the Central Valley.

The City is located 28 miles from the Oakland International Airport, 29 miles from San Jose Municipal Airport and 46 miles from San Francisco International Airport. The Port of Oakland and the Port of San Francisco are also located 30 miles and 43 miles from the City, respectively. The City is 9 miles from the Dublin/Pleasanton Bay Area Rapid Transit ("**BART**") station. The BART station in the city connects the City with San Francisco and cities in four county areas.

APPENDIX B

SUMMARY OF PRINCIPAL LEGAL DOCUMENTS

APPENDIX C

AUDITED FINANCIAL STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2021

APPENDIX D

PROPOSED FORM OF FINAL OPINION

APPENDIX E

FORM OF CONTINUING DISCLOSURE CERTIFICATE

$_____
CITY OF LIVERMORE
2022 Certificates of Participation
(Livermore Village Development)

This CONTINUING DISCLOSURE CERTIFICATE (this "Disclosure Certificate") is executed and delivered by the CITY OF LIVERMORE (the "City") in connection with the execution and delivery of the certificates of participation captioned above (together, the "Certificates"). The Certificates are being executed and delivered pursuant to a Trust Agreement, dated as of October 1, 2022 (the "Trust Agreement"), by and among the City, the Public Property Financing Corporation of California, and U.S. Bank Trust Company, National Association, as trustee.

The City covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the Certificates and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth above and in the Trust Agreement, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

"Annual Report" means any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Annual Report Date" means the date that is nine months after the end of the City's fiscal year (currently April 1 based on the City's fiscal year end of June 30).

"Dissemination Agent" means the City, or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

"Listed Events" means any of the events listed in Section 5(a) of this Disclosure Certificate.

"MSRB" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information that may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

"Official Statement" means the final official statement executed by the City in connection with the issuance of the Certificates.

"Participating Underwriter" means _____, the original purchaser of the Certificates required to comply with the Rule in connection with offering of the Certificates.

"Rule" means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as it may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than the Annual Report Date, commencing April 1, 2021, with the report for the 2019-20 fiscal year,provide to the MSRB, in an electronic format as prescribed by the MSRB, an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than 15 Business Days prior to the Annual Report Date, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by 15 Business Days prior to the Annual Report Date the Dissemination Agent (if other than the City) has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with the previous sentence. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report, and later than the Annual Report Date, if not available by that date. If the City's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c). The City shall provide a written certification with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by the City hereunder.

(b) If the City does not provide (or cause the Dissemination Agent to provide) an Annual Report by the Annual Report Date, the City shall, in a timely manner, provide (or cause the Dissemination Agent to provide) to the MSRB, in an electronic format as prescribed by the MSRB, a notice of failure to file an Annual Report.

(c) With respect to each Annual Report, the Dissemination Agent shall:

(i) determine each year prior to the Annual Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of annual continuing disclosure reports; and

(ii) if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, and stating the date it was provided.

Section 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following:

(a) The City's audited financial statements prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the City's audited financial statements are not available by the Annual Report Date, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) Unless otherwise provided in the audited financial statements filed on or before the Annual Report Date, financial information and operating data with respect to the City for the

preceding fiscal year, substantially similar to that provided in the corresponding tables in the Official Statement:

(i) The adopted budget of the City for the then-current fiscal year, or a summary of budgeted general fund revenues and appropriations for the then-current fiscal year.

(ii) A summary of the aggregate amount of, final maturity date for, and debt service or lease payments for the then-current year with respect to any debt or obligations payable from the City's general fund issued or incurred in the then-current fiscal year (if and to the extent not included in the audited financial statements or adopted budget of the City contained in the City's Annual Report).

(iii) The aggregate assessed valuation of taxable property in the City for the then-current fiscal year and the amount of property taxes delinquent for the prior year (if the County of Alameda is not on the Teeter Plan for that year) if and to the extent not included in the audited financial statements of the City.

(c) In addition to any of the information expressly required to be provided under this Disclosure Certificate, the City shall provide such further material information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

(d) Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which are available to the public on the MSRB's Internet web site or filed with the Securities and Exchange Commission. The City shall clearly identify each such other document so included by reference.

Section 5. <u>Reporting of Significant Events</u>.

(a) The City shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Certificates:

(1) Principal and interest payment delinquencies.

(2) Non-payment related defaults, if material.

(3) Unscheduled draws on debt service reserves reflecting financial difficulties.

(4) Unscheduled draws on credit enhancements reflecting financial difficulties.

(5) Substitution of credit or liquidity providers, or their failure to perform.

(6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.

(7) Modifications to rights of security holders, if material.

(8) Bond calls, if material, and tender offers.

(9) Defeasances.

(10) Release, substitution, or sale of property securing repayment of the securities, if material.

(11) Rating changes.

(12) Bankruptcy, insolvency, receivership or similar event of the City or other obligated person.

(13) The consummation of a merger, consolidation, or acquisition involving the City or an obligated person, or the sale of all or substantially all of the assets of the City or an obligated person (other than in the ordinary course of business), the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.

(14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(15) Incurrence of a financial obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City or an obligated person, any of which affect security holders, if material.

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the City, any of which reflect financial difficulties.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall, or shall cause the Dissemination Agent (if not the City) to, file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsection (a)(8) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Certificates under the Trust Agreement.

(c) The City acknowledges that the events described in subparagraphs (a)(2), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13), (a)(14) and (a)(15) of this Section 5 contain the qualifier “if material” and that subparagraph (a)(6) also contains the qualifier “material” with respect to certain notices, determinations or other events affecting the tax status of the Certificates. The City shall cause a notice to be filed as set forth in paragraph (b) above with respect to any such event only to the extent that it determines the event’s occurrence is material for purposes of U.S. federal securities law. Whenever the City obtains knowledge of the occurrence of any of these Listed Events, the City will as soon as possible determine if such event would be material under applicable federal securities law. If such event is determined to be material, the City will cause a notice to be filed as set forth in paragraph (b) above.

(d) For purposes of this Disclosure Certificate, any event described in paragraph (a)(12) above is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

(e) For purposes of Section 5(a)(15) and (16), "financial obligation" means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term financial obligation shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

Section 6. Identifying Information for Filings with the MSRB. All documents provided to the MSRB under the Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior prepayment or payment in full of all of the Certificates. If such termination occurs prior to the final maturity of the Certificates, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 8. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any Dissemination Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be the City. Any Dissemination Agent may resign by providing 30 days' written notice to the City.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, if the City has received an opinion of nationally recognized bond counsel to the effect that such amendment or waiver would not, in an of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof, but taking into account any subsequent change in, or official interpretation of, the Rule.

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. If the City fails to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the Certificates may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Trust Agreement, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. (a) The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall have no duty or obligation to review any information provided to it by the City hereunder, and shall not be deemed to be acting in any fiduciary capacity for the City, the Bond holders or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Certificates.

(b) The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as amended from time to time, and shall be reimbursed for all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder.

Section 13. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and the holders and beneficial owners from time to time of the Certificates, and shall create no rights in any other person or entity.

Section 14. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be regarded as an original, and all of which shall constitute one and the same instrument.

Date: _____, 2022

CITY OF LIVERMORE

By: _____
Name: _____
Title: _____

APPENDIX F

BOOK-ENTRY PROVISIONS

*The following description of the Depository Trust Company, New York, New York ("**DTC**"), the procedures and record keeping with respect to beneficial ownership interests in the Certificates, payment of principal, interest and other payments with respect to the Certificates to DTC Direct and Indirect Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Certificates and other related transactions by and between DTC, DTC's Direct and Indirect Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither DTC's Direct and Indirect Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or DTC's Direct and Indirect Participants, as the case may be.*

*Neither the issuer of the Certificates (the "**Issuer**") nor the trustee, fiscal agent or paying agent appointed with respect to the Certificates (the "**Agent**") take any responsibility for the information contained in this Appendix.*

No assurances can be given that DTC, DTC's Direct Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Certificates, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Certificates, or (c) prepayment or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Certificates, or that they will so do on a timely basis, or that DTC, DTC's Direct Participants or Indirect Participants will act in the manner described in this Appendix. The current "Rules" applicable to DTC are on file with the Securities and Exchange Commission and the current "Procedures" of DTC to be followed in dealing with DTC's Direct Participants and Indirect Participants are on file with DTC.

1. DTC will act as securities depository for the securities (the "**Securities**"). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds $500 million, one certificate will be issued with respect to each $500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("**Direct Participants**") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned

subsidiary of The Depository Trust & Clearing Corporation ("**DTCC**"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("**Indirect Participants**"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com. *The information contained on this Internet site is not incorporated herein by reference.*

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC's records. The ownership interest of each actual purchaser of each Security ("**Beneficial Owner**") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as

possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

10. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

NOTICE OF SALE

$[_____]*

CITY OF LIVERMORE
2022 CERTIFICATES OF PARTICIPATION
(LIVERMORE VILLAGE DEVELOPMENT)

Date of Sale
[day], [date], 2022
[___] a.m., California Time

BIDS TO BE RECEIVED VIA PARITY®

For further information, please contact:
Melissa Shick
Director
KNN Public Finance
2054 University Avenue
Suite 300
Berkeley, CA 94704
Phone: 510-208-8226
Email: mshick@knninc.com

EXHIBIT F

$[_____]*
CITY OF LIVERMORE
2022 CERTIFICATES OF PARTICIPATION
(LIVERMORE VILLAGE DEVELOPMENT)

NOTICE IS HEREBY GIVEN that all-or-none bids will be received by the City of Livermore (the "City"), for the purchase of the captioned certificates of participation (the "Certificates"). All bids must be submitted via *Parity*®, the electronic bidding system, up to the time and at the place specified as follows:

TIME: _____:00 a.m., California Time

DATE: [Day], [Date], 2022

Bids for the purchase of the Certificates will be received and considered subject to the terms and conditions described herein.

Please note that the City reserves the right to cancel or reschedule the sale of the Certificates upon notice given through *Thomson Municipal News* at any time before the time for the receipt of bids, and if the sale is rescheduled, notice of the new sale date and time, if any, will be given through *Thomson Municipal News* no later than 5:00 p.m. California time the day prior to the new day bids are to be received, and bids will be received in the manner set forth above at the rescheduled date and time as the City may determine.

DESCRIPTION OF THE CERTIFICATES

EXECUTION AND DELIVERY. The Certificates will be executed and delivered in the original principal amount of $[_____]*, and bear interest from the date of their delivery, in full book-entry only form in denominations of $5,000 and any integral multiple thereof, maturing as shown below under the caption "**MATURITY SCHEDULE**." The Certificates are subject to optional prepayment, mandatory sinking fund prepayment and special mandatory prepayment prior to maturity as shown below under the caption "**PREPAYMENT**." Prospective bidders should note that the terms of sale permit adjustment of individual maturities. See "**ADJUSTMENTS OF PRINCIPAL AMOUNTS**" below.

Reference is made to the Preliminary Official Statement (defined below) prepared in connection with the offering of the Certificates for a complete description of the Certificates.

INTEREST RATE. Interest will be calculated on the basis of a 360-day year composed of twelve 30-day months. Interest with respect to the Certificates shall accrue from their date at a rate or rates to be determined at the sale thereof. Interest with respect to the Certificates is payable semiannually on April 1 and October 1 in each year (the "Interest Payment Dates") commencing April 1, 2023. Bidders may specify any number of separate interest rates, and any rate may be repeated as often as desired; provided, however, that:

(i) each interest rate specified must be in a multiple of 1/20 of 1% or 1/8 of 1%;
(ii) a zero rate of interest cannot be specified;
(iii) no rate of interest shall exceed 5.00% per annum;
(iv) interest with respect to each Certificate shall accrue from its dated date to its stated maturity date at the interest rate specified in the bid;

∗ Preliminary, subject to change.

(v) all Certificates of the same maturity date shall bear the same rate of interest; and

(vi) premium bids must be paid as part of the purchase price, and no bid will be accepted which contemplates the waiver of any interest or other concession by the bidder as substitute for payment in full of the purchase price.

Bidders may not bid a price of less than 100% of the aggregate principal amount of the Certificates. Bids that do not conform to the terms of this paragraph will be rejected.

PAYMENT. Principal and interest with respect to the Certificates will be payable by U.S. Bank Trust Company, National Association, the trustee for the Certificates (the "Trustee"), in lawful money through the facilities of the Depository Trust Company, or its nominee.

AUTHORITY FOR ISSUANCE AND PURPOSE. The Certificates are being delivered pursuant to a Trust Agreement dated as of October 1, 2022, by and amongst the City, the Public Property Financing Corporation of California (the “Corporation”) and the Trustee (the “Trust Agreement”). The Certificates represent direct, undivided fractional interests in lease payments to be made by the City to the Corporation (the “Lease Payments”) under a Lease Agreement, dated as of October 1, 2022, by and between the City and the Corporation (the “Lease Agreement”) and from amounts on deposit in certain funds and accounts established under the Trust Agreement. The proceeds of the Certificates will be used to (i) finance the acquisition and construction of a public parking garage to serve development in the City’s downtown (described in the Preliminary Official Statement) and (ii) pay the costs of delivering the Certificates.

DENOMINATIONS. The Certificates will be executed and delivered as fully registered Certificates in the denomination of $5,000 each or any integral multiple thereof.

DATE OF CERTIFICATES. The Certificates will be dated their date of delivery (the “Closing Date”), which is anticipated to be on or about October __, 2022.

MATURITY SCHEDULE[1]. The Certificates will mature, or be subject to mandatory sinking fund prepayment, on April 1 in each of the years, and in the amounts, as set forth in the following table. The final principal amount of the Certificates, and the final amount of each maturity of the Certificates, is subject to increase or reduction as described below under the heading "**ADJUSTMENT OF PRINCIPAL AMOUNTS**." Each bidder must specify in its bid whether, for any particular year, the Certificates will mature or, alternatively, be subject to mandatory sinking fund prepayment in such year.

Maturity (April 1)	Principal Amount
2023	
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	
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2049	
2050	
2051	
2052	

[1] Preliminary, subject to change. See also “Adjustment of Principal Amounts” herein.

ADJUSTMENT OF PRINCIPAL AMOUNTS. The principal amounts set forth in this Notice of Sale reflect certain estimates of the City with respect to the likely interest rates of the winning bid and the premium and underwriting discount contained in the winning bid. Potential bidders will be notified via *Thomson Municipal News* not later than 1:00 p.m. (California time) on the business day prior to the date bids are to be received of any change to the principal payment schedule for the Certificates to be utilized for the bidding process. The final maturity schedule will be designed so that the financing objectives of the City will be met. The City reserves the right to increase or decrease the aggregate principal amount of the Certificates following the submission of the bids. Each principal payment is subject to increase or decrease in $5,000 increments, without limitation.

The winning bidder will be notified of any adjustment in principal amounts as described in “**TERMS OF SALE - PROCESS OF AWARD**” below. The winning bidder may not withdraw

its bid or change its interest rates bid as a result of any changes made to the principal amounts. Subsequent to the adjustment of principal payments, the dollar amount of the purchase price will be changed so that the net compensation to the winning bidder (expressed as a percentage of the aggregate principal amount of Certificates) does not increase or decrease from what it would have been if no adjustment had been made to the principal amounts, taking into consideration the reoffering yields for the different maturities.

OPTIONAL PREPAYMENT. The Certificates maturing on or before April 1, 20__, are not subject to optional prepayment prior to their stated maturity. The Certificates maturing on or after April 1, 20__, are subject to prepayment, as a whole or in part at the election of the City among maturities on such basis as designated by the City and by lot within a maturity, at the option of the City, on April 1, 20__, and on any date thereafter, at a prepayment price equal to 100% of the principal amount of Certificates to be redeemed, together with accrued interest thereon to the date fixed for prepayment, without premium.

MANDATORY SINKING FUND PREPAYMENT. Any bidder may, at its option, specify that one or more maturities of the Certificates will consist of term Certificates which are subject to mandatory sinking fund prepayment in consecutive years immediately preceding the maturity thereof, as designated in the bid of such bidder. In the event that the bid of the successful bidder specifies that any maturity of Certificates will be term Certificates, such term Certificates will be subject to mandatory sinking fund prepayment on April 1 in each year so designated in the bid, in the respective amounts for such years as set forth above under the heading "MATURITY SCHEDULE", at a prepayment price equal to the principal amount thereof to be paid together with accrued interest thereon to the prepayment date, without premium.

SPECIAL MANDATORY PREPAYMENT FROM INSURANCE AND SALE PROCEEDS. The Certificates are subject to prepayment as a whole, or in part, on any date, from any net proceeds of insurance or condemnation required to be used for such purpose, at a prepayment price equal to 100% of the principal amount thereof plus interest accrued thereon to the date fixed for prepayment, without premium.

BOOK ENTRY SYSTEM. The Certificates when delivered will be registered in the name of CEDE & CO., as nominee of The Depository Trust Company, New York, New York ("DTC"), and will be initially delivered as one certificate for each of the maturities of the Certificates. DTC will be appointed depository for the Certificates and registered ownership of the Certificates may not thereafter be transferred except as provided in the procedures, rules and requirements established by DTC. The Trustee will pay payments of principal and interest to DTC for subsequent disbursement to DTC Participants who will remit such payments to the Beneficial Owners of the Certificates.

SECURITY. The Certificates represent direct, undivided fractional interests in the Lease Payments made under the Lease Agreement in consideration for the use and occupancy of certain real property and improvements. Bidders are referred to the Preliminary Official Statement for further details as to the security for the Certificates.

NO RESERVE FUND. The City will not establish a debt service reserve fund for the Certificates.

TAX EXEMPTION. In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the portion of the Lease Payments designated as and comprising interest and received by the owners of the Certificates is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax. In the further opinion of Bond Counsel, the portion of the Lease Payments designated as and comprising interest and received by the owners of the Certificates is exempt from personal income taxation by the State of California. Bidders are referred to the Preliminary Official Statement for a description of the proposed opinion of Bond Counsel.

The opinions set forth in the preceding paragraph are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986 (the "Tax Code") that must be satisfied subsequent to the delivery of the Certificates in order that such interest be, or continue to be, excluded from gross income for federal income tax purposes. The City will covenant to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of delivery of the Certificates.

DELIVERY OF CERTIFICATES. Delivery of the Certificates will be made to the successful bidder through the facilities of The Depository Trust Company in New York, New York (or at any other mutually agreeable location) on or about October __, 2022. Payment must be made in cash, Federal Reserve Bank funds, or other immediately available funds.

CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION FEE. Attention of bidders is directed to California Government Code Section 8856, which provides that the lead underwriter or the purchaser of the Certificates will be charged the California Debt and Investment Advisory Commission fee.

QUALIFICATION FOR SALE; BLUE SKY. Compliance with blue sky laws shall be the sole responsibility of the successful bidder. The City will furnish such information and take such action not inconsistent with law as the successful bidder may request and the City shall deem necessary or appropriate to qualify the Certificates for offer and sale under the blue sky or other securities laws and regulations of such states and other jurisdictions of the United States of America as may be designated by the successful bidder; provided, however, that the City shall not execute a general or special consent to service of process or qualify to do business in connection with such qualification or determination in any jurisdiction. The successful bidder will not offer to sell or solicit any offer to buy the Certificates in any jurisdiction where it is unlawful for such bidder to make such offer, solicitation or sale, and the bidder shall comply with the blue sky and other securities laws and regulations of the states and jurisdictions in which the bidder sells the Certificates.

CUSIP NUMBERS. It is anticipated that CUSIP numbers will be printed on the Certificates, but neither the failure to print such numbers on any Certificates nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Certificates in accordance with the terms thereof. Pursuant to MSRB Rule G-34, the City's municipal advisor will apply for CUSIP number assignment prior to the sale of the Certificates, but the cost shall be payable by the Purchaser.

NO LITIGATION CERTIFICATE. At the time of issuance of the Certificates, the City will certify there is no litigation pending concerning the validity of the Certificates, the Trust Agreement, the Lease Agreement or any proceedings of the City with respect thereto, and that there are no lawsuits or claims pending against the City which will materially affect the City's finances.

RIGHT OF CANCELLATION BY SUCCESSFUL BIDDER. The successful bidder will have the right, at its option, to cancel its purchase of the Certificates if the City fails to cause execution and delivery of the Certificates and tender the same for delivery within 60 days from the date of award thereof. In such event, the successful bidder will be entitled to the return of the deposit accompanying the bid (see "**TERMS OF SALE - GOOD FAITH DEPOSIT**").

PRELIMINARY OFFICIAL STATEMENT AND FINAL OFFICIAL STATEMENT. The preliminary official statement, distributed in connection with the sale of the Certificates, dated September __, 2022 (the "Preliminary Official Statement") has been deemed final by the City for purposes of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), but is subject to revision, amendment and completion in a final official statement (the "Final Official Statement") as provided in the Rule. Limited quantities of the Preliminary Official Statement will

be furnished upon request made to the City's municipal advisor identified on the cover of this Notice of Sale. The City will deliver to the purchaser of the Certificates a certificate dated the Closing Date to the effect that the City has reviewed each of the Preliminary Official Statement and Final Official Statement and has determined that as of the date of each thereof, to the best of its knowledge and belief, each of the Preliminary Official Statement and Final Official Statement does not contain an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. Up to 50 copies of the Final Official Statement will be furnished to the successful bidder at no charge within 7 business days after the award of the Certificates. If the successful bidder requests more than 50 copies of the Final Official Statement within 2 business days after the award of the Certificates, the City will provide such copies within 7 business days after the award as long as the successful bidder pays the related costs.

CONTINUING DISCLOSURE. The City will covenant to provide, by not later than nine months after the end of the City's fiscal year (presently June 30) and commencing April 30, 2023 with the report for the fiscal year ending June 30, 2022, an annual report which shall contain pertinent operating and financial information of the City relating to the Certificates as more fully described in the Preliminary Official Statement (the "Annual Report") and the Continuing Disclosure Certificate of the City dated the Closing Date, and to provide notices of the occurrence of certain enumerated material events. The Annual Report will be filed by the City or a dissemination agent (if the City has appointed such a dissemination agent) on behalf of the City with the Municipal Securities Rulemaking Board. The notices of material events will be filed by the City or dissemination agent on behalf of the City with the Municipal Securities Rulemaking Board. The specific nature of the information to be contained in the Annual Report or the notices of material events is summarized in the Preliminary Official Statement under the caption **"CONTINUING DISCLOSURE"** and in Appendix E – Form of Continuing Disclosure Certificate thereto. These covenants have been made in order to assist the Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

TERMS OF SALE

BASIS OF AWARD. Unless all bids are rejected as described in this Notice of Sale, the Certificates will be awarded to the responsible bidder whose bid produces the lowest true interest cost with respect to the Certificates. The true interest cost specified in any bid will be that rate which, when used in computing the present value of principal and interest to be paid on all Certificates from the expected date of delivery (which is assumed for computational purposes to be October __, 2022), to their respective maturity dates, or mandatory sinking fund prepayment dates in the case of term Certificates, produces an amount equal to the purchase price (including any premium) specified in such bid. For purposes of computing the true interest cost represented by any bid, the purchase price specified in such bid shall be equal to the par amount of the Certificates plus any premium specified in such bid, less any original issue discount, and the true interest cost shall be calculated by the use of a semiannual interval of compounding interest based on the Interest Payment Dates for the Certificates. In the event of a tied bid, the procedure for determining the winning bid will be the toss of a coin to be conducted by the City among such bidders whose bids have produced the tie.

ALL OR NONE BID. Any prospective purchaser may submit a bid for the Certificates, provided that if any of the Certificates are bid for, then all of the Certificates must be bid for.

PURCHASE PRICE; PAR, PREMIUM, AND DISCOUNT. The Certificates maturing on and after April 1, 20__, must bear an interest rate of not less than _____%. Bids for the Certificates maturing before April 1, 20__, may provide for reoffering at par value, or at a premium.

BOND INSURANCE. Bids involving bond insurance will not be accepted.

FORM OF BID. All bids for the Certificates must be unconditional and for not less than all of the Certificates offered for sale. Each bid must be in accordance with the terms and conditions set forth herein. Bids will only be accepted via *PARITY*® pursuant to this Notice until _____:00 a.m., California Time on the date set forth for receipt of bids. To the extent any instructions or directions set forth in *PARITY*® conflict with this Notice, the terms of this Notice shall control. For further information about *PARITY*®, potential bidders may contact the City's municipal advisor (see the cover page of this Notice of Sale for contact information).

Bids may be submitted on the attached Bid Form.

ELECTRONIC BIDS. Solely as an accommodation to bidders, the City will receive bids delivered electronically through the following service (the "Bid Service" or "Parity®").

IHS Markit
450 West 33rd Street
New York, New York 10001
(212) 849-5023
Internet address: http://www.newissuehome.i-deal.com

If any provision of this Notice of Sale conflicts with information provided by the Bid Service, this Notice of Sale shall control. Each bidder submitting an electronic bid agrees by doing so that it is solely responsible for all arrangements with (including any charges by) the Bid Service, that the City does not endorse or encourage the use of the Bid Service, and that the Bid Service is not acting as an agent of the City. Instructions for submitting electronic bids must be obtained from the Bid Service, and the City does not assume any responsibility for ensuring or verifying bidder compliance with the Bid Service's procedures. The City shall be entitled to assume that any bid received via the Bid Services has been made by a duly authorized agent of the bidder.

If a bidder submits an electronic bid for the Certificates, such bidder thereby agrees to the following terms and conditions:

(i) If any provision in this Notice of Sale with respect to the Certificates conflicts with information or terms provided or required by the Bid Service, this Notice of Sale, including any amendments issued through the News Service, shall control;

(ii) each bidder shall be solely responsible for making necessary arrangements to access the Bid Service for purposes of submitting its bid in a timely manner and in compliance with the requirements of this Notice of Sale;

(iii) the City shall not have any duty or obligation to provide or assure access to the Bid Service to any bidder, and the City shall not be responsible for proper operation of, or have any liability for, any delays, interruptions or damages caused by use of the Bid Service or any incomplete, inaccurate or untimely bid submitted by any bidder through the Bid Service;

(iv) the City is using the Bid Service as a communication mechanism, and not as an agent of the City, to conduct the electronic bidding for the Certificates;

(v) the Bid Service is acting as an independent contractor, and is not acting for or on behalf of the City;

(vi) the City is not responsible for ensuring or verifying bidder compliance with any procedures established by the Bid Service;

(vii) the City may regard the electronic transmission of a bid through the Bid Service (including information regarding the purchase price for the Certificates and interest rates for any maturity of the Certificates) as though the information were submitted on the Official Bid Form and executed on the bidder's behalf by a duly authorized signatory;

(viii) if the bidder's bid is accepted by the City, the Official Bid Form, this Notice of Sale and the information that is transmitted electronically through the Bid Service shall form a contract, and the bidder shall be bound by the terms of such contract; and

(ix) information provided by the Bid Service to bidders shall form no part of any bid or any contract between the winning bidder and the City unless that information is included in this Notice of Sale provided by the City.

WARNING REGARDING ELECTRONIC BIDS. THE CITY WILL ACCEPT BIDS IN ELECTRONIC FORM SOLELY THROUGH PARITY® ON THE OFFICIAL BID FORM CREATED FOR THAT PURPOSE. EACH BIDDER SUBMITTING AN ELECTRONIC BID UNDERSTANDS AND AGREES BY DOING SO THAT IT IS SOLELY RESPONSIBLE FOR ALL ARRANGEMENTS WITH PARITY®, THAT THE CITY NEITHER ENDORSES NOR EXPLICITLY ENCOURAGES THE USE OF PARITY®, AND THAT PARITY® IS NOT ACTING AS AN AGENT OF THE CITY. INSTRUCTIONS AND FORMS FOR SUBMITTING ELECTRONIC BIDS MUST BE OBTAINED FROM PARITY®, AND THE CITY ASSUMES NO RESPONSIBILITY FOR ENSURING OR VERIFYING BIDDER COMPLIANCE WITH THE PROCEDURES OF PARITY®. THE CITY SHALL ASSUME THAT ANY BID RECEIVED THROUGH PARITY® HAS BEEN MADE BY A DULY AUTHORIZED AGENT OF THE BIDDER.

THE CITY, THE MUNICIPAL ADVISOR AND BOND COUNSEL ASSUME NO RESPONSIBILITY FOR ANY ERROR CONTAINED IN ANY BID SUBMITTED ELECTRONICALLY, OR FOR FAILURE OF ANY BID TO BE TRANSMITTED, RECEIVED OR OPENED AT THE OFFICIAL TIME FOR RECEIPT OF BIDS. THE OFFICIAL TIME FOR RECEIPT OF BIDS WILL BE DETERMINED BY THE CITY AT THE PLACE OF BID OPENING, AND THE CITY SHALL NOT BE REQUIRED TO ACCEPT THE TIME KEPT BY PARITY® AS THE OFFICIAL TIME.

TRUE INTEREST COST. Bidders are requested to supply a calculation of the true interest cost of the Certificates to the City on the basis of their respective bids, which shall be considered as informative only and not binding on either the bidder or the City. The true interest cost specified in any bid will be that rate which, when used in computing the present value of all payments of principal and interest to be paid on all Certificates from the Closing Date (which is anticipated to be October__, 2022) to their respective maturity dates or mandatory sinking fund prepayment dates, produces an amount equal to the purchase price (including any premium) specified in such bid.

DELIVERY AND PAYMENT. It is estimated that delivery of the Certificates will be made to the Purchaser on or about October __, 2022. Payment of the purchase price (less the amount of the good faith deposit described in "**GOOD FAITH DEPOSIT**" below) must be made in funds immediately available to the City.

UNDERWRITING GROUP. Each bidder is requested to furnish the names of all joint managers participating in the bid. The successful bidder will be required to submit a list of all syndicate members in addition to the managers not later than 24 hours after receiving a verbal award.

RIGHT OF CANCELLATION OF SALE BY THE CITY. The City reserves the right, in its sole discretion, at any time before the time for the receipt of bids to cancel the public sale of the Certificates. In such event, the City shall cause notice of cancellation of this invitation for bids and the public sale of the Certificates to be communicated through *Thomson Municipal News* as promptly as practicable. However, no failure to publish such notice or any defect or omission therein shall affect the cancellation of the public sale of the Certificates.

RIGHT TO MODIFY OR AMEND. The City reserves the right, in its sole discretion, to modify or amend this Notice of Sale including, but not limited to, the right to change the principal

amount and principal amortization schedule of the Certificates being offered, however, such modifications or amendments shall be made not later than 1:00 p.m., California time, on the business day prior to the bid opening and communicated through *Thomson Municipal News*.

RIGHT OF POSTPONEMENT BY THE CITY. The City reserves the right, in its sole discretion, to postpone, from time to time, the date and time established for the receipt of bids. Any such postponement will be communicated through *Thomson Municipal News* not later than 1:00 p.m., California time, on the business day prior to any announced date for receipt of bids. If any date is postponed, any alternative sale date will be announced via *Thomson Municipal News* by 1:00 p.m. California Time on the business day prior to such alternative sale date. On any such alternative sale date and time, any bidder may submit a bid for the purchase of the Certificates in conformity in all respects with the provisions of this Notice of Sale, except for the date of sale and except for the changes announced by *Thomson Municipal News* at the time the sale date and time are announced.

RIGHT OF REJECTION. The City reserves the right, in its discretion, to reject any and all bids and to waive any irregularity or informality in any bid. The City retains absolute discretion to determine whether any bid is timely, complete or legible. The City takes no responsibility for informing any bidder prior to the time for receiving bids that its bid is incomplete, illegible or not received.

PROCESS OF AWARD. The City will take final action awarding the Certificates or rejecting all bids not later than thirty (30) hours after the time for receipt of bids, unless such time period is waived by the Purchaser (defined below).

The following steps constitute the City's process for a final award of the Certificates:

(1) The City's municipal advisor, on behalf of the City, will give a verbal notice of award to the apparent winning bidder (the "Apparent Winning Bidder") to be determined as described below under "**–BASIS OF AWARD**" above.

(2) The Apparent Winning Bidder shall provide within one hour of verbal notice the initial reoffering prices and confirm that it is prepared to execute the Issue Price Certificate described under "**REOFFERING PRICE CERTIFICATE AND ESTABLISHMENT OF ISSUE PRICE**" below.

(3) The Apparent Winning Bidder shall provide the Good Faith Deposit by wire transfer, as described under "**GOOD FAITH DEPOSIT.**"

(4) The City's municipal advisor will fax or email to the Apparent Winning Bidder confirmation of the final principal amortization schedule and purchase price for the Certificates, after adjustments, if any, are made, as described under "**DESCRIPTION OF THE CERTIFICATES– ADJUSTMENT OF PRINCIPAL AMOUNTS.**"

(5) The City will email to the Apparent Winning Bidder written confirmation of the final award.

Upon completion of all the steps described above, the Apparent Winning Bidder will be deemed the Purchaser of the Certificates (the "Purchaser") and will be bound by the terms of the contract to purchase the Certificates, which contract shall consist of: (a) this Notice of Sale; (b) the information that is transmitted electronically by the bidder through Parity®; and (c) any adjustments to the final principal amortization schedule and purchase price made as described under "**DESCRIPTION OF THE CERTIFICATES– ADJUSTMENT OF PRINCIPAL AMOUNTS.**"

GOOD FAITH DEPOSIT. A Good Faith Deposit ("Deposit") in the form of a wire transfer in the amount of $___ payable to the order of the City, must be provided by the Apparent Winning Bidder not later than 3:30 p.m., California time, on the next business day following the award, as

a guaranty that the Purchaser will accept and pay for the Certificates in accordance with the terms of the bid. The Deposit made by wire transfer must be in immediately available funds and to the account at the wire address specified by the City to the Apparent Winning Bidder. The Deposit will be applied to the purchase price of the Certificates. If after the award of the Certificates the Apparent Winning Bidder fails to complete its purchase on the terms stated in its proposal, the Deposit will be retained by the City. No interest on the Deposit will accrue to any bidder.

Upon the determination by the City of the Apparent Winning Bidder (as described above under "PROCESS OF AWARD"), the City's municipal advisor will request the Apparent Winning Bidder to (i) wire the Good Faith Deposit to the Trustee, as described above, and (ii) provide, within ninety (90) minutes of such request, the Federal wire reference number of such Good Faith Deposit.

In the event that the Apparent Winning Bidder does not wire the Good Faith Deposit as required, or does not provide the Federal wire reference number confirming the wire-transfer of such deposit to the municipal advisor within the time specified above, the City may reject the bid of the Apparent Winning Bidder and may award the Certificates to a responsible bidder that submitted a conforming bid that represents the next lowest true interest cost to the City.

No interest will be paid upon a Good Faith Deposit made by an Apparent Winning Bidder. Upon receipt of the Good Faith Deposit by the City, the Good Faith Deposit will immediately become the property of the City. The Good Faith Deposit will be held and invested for the exclusive benefit of the City. The Good Faith Deposit, without interest thereon, will be credited against the purchase price of the Certificates purchased by the Purchaser at the time of delivery thereof.

If the purchase price is not paid in full upon tender of the Certificates, the City shall retain the Good Faith Deposit and the Purchaser will have no right in or to the Certificates or to the recovery of its Good Faith Deposit, or to any allowance or credit by reason of such deposit, except pursuant to a right of cancellation. See "**RIGHT OF CANCELLATION.**" In the event of nonpayment of the purchase price for the Certificates by the Purchaser, the City reserves any and all rights granted by law to recover the full purchase price of the Certificates and, in addition, any damages suffered by the City.

REOFFERING PRICE CERTIFICATE AND ESTABLISHMENT OF ISSUE PRICE: Upon notification that it has submitted the winning bid, the Purchaser shall provide the initial offering prices at which it has offered or reasonably expects to offer all of the Certificates of each maturity to the general public (excluding bond houses, brokers or similar persons acting in the capacity of underwriters or wholesalers) in a bona fide public offering.

Prior to delivery of the Certificates, the Purchaser shall be required to provide to City a reoffering price certification in form and substance similar to either the certificate attached as Appendix A to the Official Bid Form, the certificate attached as Appendix B to the Official Bid Form, or the certificate attached as Appendix C to the Official Bid Form. In addition, based on reasonable requests of Bond Counsel, the Purchaser will provide information regarding its sales of the Certificates. For purposes of this paragraph, sales of the Certificates to other securities brokers or dealers will not be considered sales to the general public.

(b) The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the Certificates) will apply to the initial sale of the Certificates (the "competitive sale requirements") because:

(1) the City shall disseminate this Notice of Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;

(2) all bidders shall have an equal opportunity to bid;

(3) the City may receive bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and

(4) The City anticipates awarding the sale of the Certificates to the bidder who submits a firm offer to purchase the Certificates at the highest price (or lowest overall true interest cost), as set forth in this Notice of Sale.

Any bid submitted pursuant to this Notice of Sale shall be considered a firm offer for the purchase of the Certificates, as specified in the bid.

(c) If the competitive sale requirements are not satisfied, the City shall so advise the Purchaser. In such event, the City shall treat the first price at which 10% of a maturity of the Certificates (the "10% test") is sold to the public as the issue price of that maturity unless the Purchaser has elected on the bid form to apply the "hold-the-offering price rule," as described below, in which case the initial offering price to the public as of the sale date of any maturity of the Certificates will be treated as the issue price of that maturity, in each case applied on a maturity-by-maturity basis. If the competitive sale requirements are not satisfied, the Purchaser shall advise the City if any maturity of the Certificates satisfies the 10% test as of the date and time of the award of the Certificates, and if the Purchaser has elected to apply the hold-the-offering-price rule, the Purchaser shall notify the City, within one hour of the time of award of the Certificates, which maturities of the Certificates satisfy the 10% test and which maturities shall be subject to the hold-the-offering-price rule. Bids will not be subject to cancellation if the competitive sale requirements are not satisfied.

(d) By submitting a bid, the Purchaser shall (i) confirm that the underwriters have offered or will offer the Certificates to the public on or before the date of award at the offering price or prices (the "initial offering price"), or at the corresponding yield or yields, set forth in the bid submitted by the Purchaser and (ii) if the Purchaser has elected to use the hold-the-offering-price rule, the Purchaser agrees, on behalf of the underwriters participating in the purchase of the Certificates, that the underwriters will neither offer nor sell unsold Certificates of any maturity to which the hold-the-offering-price rule applies to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

(1) the close of the 5th business day after the sale date; or

(2) the date on which the underwriters have sold at least 10% of that maturity of the Certificates to the public at a price that is no higher than the initial offering price to the public.

The Purchaser shall promptly advise the City when the underwriters have sold 10% of that maturity of the Certificates to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the 5th business day after the sale date.

(e) If the competitive sale requirements are not satisfied, and the Purchaser does not elect to use the hold-the-offering-price rule, then until the 10% test has been satisfied as to each maturity of the Certificates, the Purchaser agrees to promptly report to the City the prices at which such unsold Certificates of that maturity have been sold to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until the 10% test has been satisfied as to the Certificates of that maturity or until all Certificates of that maturity have been sold.

(f) The City acknowledges that, if the Purchaser has elected to use the hold-the-offering-price rule, in making the representation set forth above, the Purchaser will rely on (i) the agreement of each underwriter to comply with the hold-the-offering-price rule, as set forth in an

agreement among underwriters and the related pricing wires, (ii) if a selling group has been created in connection with the initial sale of the Certificates to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (iii) if an underwriter is a party to a retail distribution agreement that was employed in connection with the initial sale of the Certificates to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, as set forth in the retail distribution agreement and the related pricing wires. The City further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the hold-the-offering-price rule and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Certificates.

(g) By submitting a bid, each bidder confirms that:

(i) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the bidder is a party) relating to the initial sale of the Certificates to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to (A) report the prices at which it sells to the public the unsold Certificates of each maturity allotted to it until it is notified by the Purchaser that either the 10% test has been satisfied as to the Certificates of that maturity or all Certificates of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Purchaser and as set forth in the related pricing wires, and

(ii) any agreement among underwriters relating to the initial sale of the Certificates to the public, together with the related pricing wires, contains or will contain language obligating each underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of the Certificates to the public to require each broker-dealer that is a party to such retail distribution agreement to (A) report the prices at which it sells to the public the unsold Certificates of each maturity allotted to it until it is notified by the Purchaser or such underwriter that either the 10% test has been satisfied as to the Certificates of that maturity or all Certificates of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Purchaser or such underwriter and as set forth in the related pricing wires.

(h) Sales of any Certificates to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Notice of Sale. Further, for purposes of this Notice of Sale:

(i) "public" means any person other than an underwriter or a related party,

(ii) "underwriter" means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Certificates to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Certificates to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Certificates to the public),

(iii) a purchaser of any of the Certificates is a "related party" to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (A) more than 50% common ownership of the voting power or the total value of their stock, if both

entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(iv) "sale date" means the date that the Certificates are awarded by the City to the Purchaser.

ADDITIONAL INFORMATION AVAILABLE. Requests for additional information about the Certificates, the City or the Corporation may be directed to the City's Bond Counsel, Jones Hall, attention: Chris Lynch, telephone (415) 391-5780; or the City's municipal advisor (see the cover of this Notice of Sale for contact information).

APPROVED by the City Council of the City of Livermore by resolution adopted September 12, 2022.

/s/ Tina Olson
Administrative Services Director
City of Livermore

EXHIBIT F

OFFICIAL BID FORM
City of Livermore
2022 Certificates of Participation
(Livermore Village Development)

TO: CITY OF LIVERMORE

BIDDING FIRM'S NAME: _____

DATE: _____, 2022

As provided in the Notice of Sale with regard to this financing, we offer to purchase all of the captioned certificates of participation (the "Certificates"), more particularly described in Preliminary Official Statement dated _____, 2022. We hereby agree to pay $_____ which is not less than $_____* or 100% of par for the Certificates with principal and interest to be payable in the amounts and at the interest rates set forth below. The Purchase Price equals the principal amount with respect to the Certificates ($_____*) [plus a Premium of $_____] [minus a Discount of $_____].

Schedule of Maturity Dates, Principal Amounts, and Interest Rates** **EXHIBIT F**

Maturity Date (April 1)	Principal* Amount	(Check One) Serial** Maturity	Mandatory** Sinking Fund Prepayment	Interest Rate
2023	$	_____	_____	_____%
2024		_____	_____	_____
2025		_____	_____	_____
2026		_____	_____	_____
2027		_____	_____	_____
2028		_____	_____	_____
2029		_____	_____	_____
2030		_____	_____	_____
2031		_____	_____	_____
2032		_____	_____	_____
2033		_____	_____	_____
2034		_____	_____	_____
2035		_____	_____	_____
2036		_____	_____	_____
2037		_____	_____	_____
2038		_____	_____	_____
2039		_____	_____	_____
2040		_____	_____	_____
2041		_____	_____	_____
2042		_____	_____	_____
2043		_____	_____	_____
2044		_____	_____	_____
2045		_____	_____	_____
2046		_____	_____	_____
2047		_____	_____	_____
2048		_____	_____	_____
2049		_____	_____	_____
2050		_____	_____	_____
2051		_____	_____	_____
2052		_____	_____	_____

Our calculation of the true interest cost (determined as described in the section of the Notice of Sale entitled "Basis of Award"), which is considered to be informative only and not a part of the proposal, is as follows: The total amount of interest payable on the Certificates during the life of the issue under the attached bid is $_____. The amount of premium is $_____. The true interest cost is _____%.

Check One:

_____ There is enclosed herewith a (certified) (cashier's) check for $_____ payable to the order of the City of Livermore.

_____ We agree to provide a wire transfer not later than 3:30 p.m., California time, on the next business day following the award, in the amount of $_____ in immediately available funds to the account at the wire address specified by the City of Livermore to us.

If the competitive sale requirements are not met and 10% of any maturity of the Certificates are not sold at the initial offering price on the Sale Date, the bidder hereby indicates its preference that the City of Livermore determine the issue price of any such maturity using the rule marked below, each as described in the Notice of Sale under the caption "Reoffering Price Certificate and Establishment of Issue Price":

* Subject to adjustment as described under "ADJUSTMENT OF PRINCIPAL PAYMENTS."

** Place a check in the appropriate column indicating whether the principal component is a serial maturity or mandatory sinking fund prepayment. Circle the final maturity of each term Bond specified.

_____ The 10% test
_____ The hold-the-offering-price rule

If the competitive sale requirements are not met, and the bidder elects to use the hold-the-offering-price rule, the winning bidder shall notify the City of Livermore, within one hour of the City of Livermore's acceptance of the bid, which maturities of the Certificates satisfy the 10% test and which maturities shall be subject to the hold-the-offering-price rule.

We agree that if we are the successful bidder for the Certificates we will provide the City of Livermore with a Final Reoffering Price Certificate in the form attached as Appendix A, Appendix B or Appendix C hereto.

We hereby represent that as of the date of award and as of the date of delivery of the Certificates, all members of our account either participate in DTC or clear through or maintain a custodial relationship with an entity that participates in said depository.

Following is a list of the members of our account on whose behalf this bid is made.

List of Members of Account:

_____

Respectfully submitted,

Firm:_____
Account Manager

By:_____

Printed Name:_____
Title:_____

Address:_____
_____

Telephone No.:_____
Fax No.:_____
Email: _____

APPENDIX A TO OFFICIAL BID FORM
FORM OF REOFFERING PRICE CERTIFICATE*

TO BE DELIVERED IF COMPETITIVE SALE REQUIREMENTS ARE MET (I.E., 3 BIDS FROM COMPETITIVE PROVIDERS ARE RECEIVED)

$_____
City of Livermore
2022 Certificates of Participation
(Livermore Village Development)

ISSUE PRICE CERTIFICATE

The undersigned, on behalf of [**NAME OF UNDERWRITER**] (**"**[**SHORT NAME OF UNDERWRITER**]**"**), hereby certifies as set forth below with respect to the sale of the above-captioned obligations (the "Certificates").

1. ***Reasonably Expected Initial Offering Price***.

(a) As of the Sale Date, the reasonably expected initial offering prices of the Certificates to the Public by [**SHORT NAME OF UNDERWRITER**] are the prices listed in Schedule 1 (the "Expected Offering Prices"). The Expected Offering Prices are the prices for the Maturities of the Certificates used by [**SHORT NAME OF UNDERWRITER**] in formulating its bid to purchase the Certificates. Attached as Schedule 1 is a true and correct copy of the bid provided by [**SHORT NAME OF UNDERWRITER**] to purchase the Certificates.

(b) [**SHORT NAME OF UNDERWRITER**] was not given the opportunity to review other bids prior to submitting its bid.

(c) The bid submitted by [**SHORT NAME OF UNDERWRITER**] constituted a firm offer to purchase the Certificates.

2. ***Defined Terms***.

(a) *Maturity* means Certificates with the same credit and payment terms. Certificates with different maturity dates, or Certificates with the same maturity date but different stated interest rates, are treated as separate Maturities.

(b) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term "related party" for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(c) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Certificates. The Sale Date of the Certificates is [**DATE**].

(d) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Certificates to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Certificates to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Certificates to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents [**SHORT NAME OF UNDERWRITER**]'s interpretation of any laws, including

specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Certificate as to Arbitrage and with respect to compliance with the federal income tax rules affecting the Certificates, and by Jones Hall, A Professional Law Corporation, in connection with rendering its opinion that the interest on the Certificates is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Certificates.

Dated: [**ISSUE DATE**]

[**UNDERWRITER**]

By: _____
Name and Title

SCHEDULE 1
BIDDING DOCUMENTATION AND INITIAL OFFERING PRICES

APPENDIX B TO OFFICIAL BID FORM
FORM OF REOFFERING PRICE CERTIFICATE

TO BE DELIVERED IF COMPETITIVE SALE REQUIREMENTS ARE NOT MET (3 COMPETITIVE BIDS ARE NOT RECEIVED) AND 10% TEST IS USED FOR ISSUE PRICE

$_____
City of Livermore
2022 Certificates of Participation
(Livermore Village Development)

ISSUE PRICE CERTIFICATE

The undersigned, on behalf of [**NAME OF UNDERWRITER/REPRESENTATIVE**] ([**"[SHORT NAME OF UNDERWRITER]")**][**the "Representative")**][**, on behalf of itself and** [**NAMES OF OTHER UNDERWRITERS**] **(together, the "Underwriting Group"),**] hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the "Certificates").

1. ***Sale of the General Rule Maturities***. As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity was sold to the Public is the respective price listed in Schedule 1.

2. ***Initial Offering Price of the Hold-the-Offering-Price Maturities***.

(a) [**SHORT NAME OF UNDERWRITER**][**The Underwriting Group**] offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule 1 (the "Initial Offering Prices") on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Certificates is attached to this certificate as Schedule 1.

(b) As set forth in the Notice of Sale and bid award, [**SHORT NAME OF UNDERWRITER**][**the members of the Underwriting Group**] [**has**][**have**] agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, [**it**][**they**] would neither offer nor sell any of the Certificates of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the "hold-the-offering-price rule"), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) has offered or sold any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Certificates during the Holding Period.

3. ***Defined Terms***.

(a) *General Rule Maturities* means those Maturities of the Certificates listed in Schedule 1 hereto as the "General Rule Maturities."

(b) *Hold-the-Offering-Price Maturities* means those Maturities of the Certificates listed in Schedule 1 hereto as the "Hold-the-Offering-Price Maturities."

(c) *Holding Period* means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date ([**DATE**]), or (ii) the date on which [**SHORT NAME OF UNDERWRITER**][**the Underwriters**] [**has**][**have**] sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.

(d) *Issuer* means the City of Livermore, California.

(e) *Maturity* means Certificates with the same credit and payment terms. Certificates with different maturity dates, or Certificates with the same maturity date but different stated interest rates, are treated as separate maturities.

(f) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term "related party" for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(g) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Certificates. The Sale Date of the Certificates is [**DATE**].

(h) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Certificates to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Certificates to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Certificates to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents [**NAME OF UNDEWRITING FIRM**][**the Representative's**] interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Certificate as to Arbitrage and with respect to compliance with the federal income tax rules affecting the Certificates, and by Jones Hall, A Professional Law Corporation, in connection with rendering its opinion that the interest on the Certificates is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Certificates.

Dated: [**ISSUE DATE**]

[**UNDERWRITER**]

By: _____
Name and Title

SCHEDULE 1

LISTING OF 10% TEST, UNDERSOLD MATURITIES AND PRICING WIRE

APPENDIX C TO OFFICIAL BID FORM
FORM OF REOFFERING PRICE CERTIFICATE

TO BE DELIVERED IF COMPETITIVE SALE REQUIREMENTS ARE NOT MET (3 COMPETITIVE BIDS ARE NOT RECEIVED) AND PURCHASER ELECTS TO USE HOLD-THE-OFFERING-PRICE FOR ISSUE PRICE

$_____
City of Livermore
2022 Certificates of Participation
(Livermore Village Development)

ISSUE PRICE CERTIFICATE

The undersigned, on behalf of [**NAME OF UNDERWRITER/REPRESENTATIVE**] ([**"[SHORT NAME OF UNDERWRITER]")**][**the "Representative")**][**, on behalf of itself and [NAMES OF OTHER UNDERWRITERS] (together, the "Underwriting Group"),**] hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the "Certificates").

1. ***Initial Offering Price of the Certificates***.

(a) [**SHORT NAME OF UNDERWRITER**][**The Underwriting Group**] offered each Maturity of the Certificates to the Public for purchase at the respective initial offering prices listed in Schedule 1 (the "Initial Offering Prices") on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Certificates is attached to this certificate as Schedule 1.

(b) As set forth in the [**Bond Purchase Agreement][Notice of Sale and bid award**], [**SHORT NAME OF UNDERWRITER**][**the members of the Underwriting Group**] [**has**][**have**] agreed in writing that, (i) for each Maturity of the Certificates, [**it**][**they**] would neither offer nor sell any of the Certificates of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the "hold-the-offering-price rule"), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) has offered or sold any Maturity of the Certificates at a price that is higher than the respective Initial Offering Price for that Maturity of the Certificates during the Holding Period.

2. ***Defined Terms***.

(a) *Holding Period* means, for each Maturity of the Certificates, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date ([**DATE**]), or (ii) the date on which [**SHORT NAME OF THE UNDERWRITER**][**the Underwriters**] [**has**][**have**] sold at least 10% of such Maturity of the Certificates to the Public at prices that are no higher than the Initial Offering Price for such Maturity.

(b) *Issuer* means City of Livermore, California.

(c) *Maturity* means Certificates with the same credit and payment terms. Certificates with different maturity dates, or Certificates with the same maturity date but different stated interest rates, are treated as separate Maturities.

(d) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term "related party" for purposes of this certificate generally means any two or more persons who have greater than 50% common ownership, directly or indirectly.

(e) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Certificates. The Sale Date of the Certificates is [**DATE**].

(f) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Certificates to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Certificates to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Certificates to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents [**NAME OF UNDEWRITING FIRM**][**the Representative's**] interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Certificate as to Arbitrage and with respect to compliance with the federal income tax rules affecting the Certificates, and by Jones Hall, A Professional Law Corporation, in connection with rendering its opinion that the interest on the Certificates is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Certificates.

Dated: [**ISSUE DATE**]

[**UNDERWRITER**]

By: _____
Name and Title

SCHEDULE 1

LISTING OF HOLD-THE-PRICE MATURITIES, INITIAL OFFERING PRICES AND PRICING WIRE

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 10.1**

DATE: September 12, 2022

TO: Honorable Mayor and City Council

FROM: Tina Olson, Administrative Services Director

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.

2.2	Livermore Housing Authority annual update presented by Executive Director Sarah Ramler. Material: PowerPoint Presentation
6.1	Discussion and direction regarding Comprehensive General Plan Update – Draft Land Use Alternatives Materials: Public Comment Received and PowerPoint Presentation
6.2	Resolution approving, authorizing, and directing a lease financing of the L Street parking garage (Livermore Village parking garage) and related improvements, the sale of Certificates of Participation, the distribution of a preliminary and final official statement, and granting to the Mayor, City Manager, Administrative Services Director, City Attorney, or designee the authority to approve the related documents and actions. Material: PowerPoint Presentation
7.0	Council Committee Reports and Matters Initiated by City Manager, City Attorney, Staff, Council Members. Material: Council Reports

DISCUSSION

ATTACHMENTS

1. Supplemental Materials.pdf

Prepared by: Debbie Elam
Deputy City Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Livermore Housing Authority

Annual Update

SEPTEMBER 2022

PRESENTED BY SARAH RAMLER, EXECUTIVE DIRECTOR

1

LHA Administered Housing Programs

Housing Choice Voucher Program (Section 8) – *voucher rental subsidies*

- **533 households served**
- 402 Tenant Based Vouchers
- 85 Project Based Vouchers
- 40 Mainstream Vouchers
- 14 Veteran Affairs Supportive Housing
- 2 Homeownership Vouchers

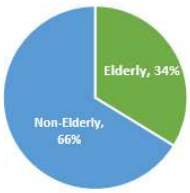
LHA Owned Properties

- **167 total units**
- 125 Leahy Square
- 27 Bluebell
- 9 Las Posadas
- 6 Chestnut

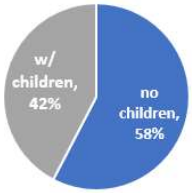
2

LHA Owned Property Demographics

Elderly and Non-Elderly



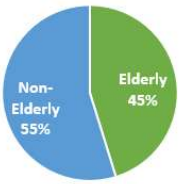
Families with Children

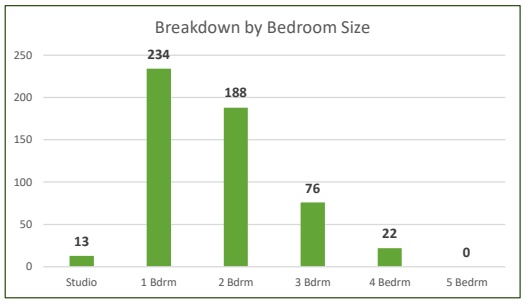


3

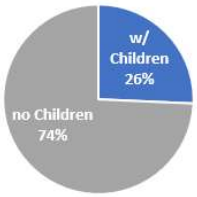
HCV Program Demographics

Elderly and Non-Elderly





Families with Children



4

Key LHA Activities

Property Improvements:

- **Leahy** underwent a $2.4M rehab improving resident resources, security, and structural updates
- **Bluebell** interiors are being rehabbed on a rolling basis and exterior renovations are set to begin by the end of September 2022
- **Chestnut & Las Posadas** rehab is needed at these properties and is being prioritized for next fiscal year

Increasing HUD Funding and Expanding LHA Programing:

- Awarded additional vouchers from HUD for the Mainstream Program
- Partnering with the VA to increase number of VASH vouchers *(housing vouchers for Veterans)*
- Project basing activities with: Avance, Downtown Livermore Apartments, Pacific Avenue Senior Homes, Vineyards, and will continue to pursue this method of utilizing vouchers through city/community partnerships
- Will be providing housing and services for homeless students as a result of the over $550k award from the State of California's Family Homelessness Challenge Grant

NASDAQ: MGRC
www.mgrc.com

5700 Las Positas Road, Livermore, CA
94551 p 925.606.9200 | f 925.453.3200

September 6, 2022

Andy Ross
Senior Planner
Planning Division
City of Livermore
1052 S. Livermore Avenue

Re: Comments on Proposed Southfront-Vasco Land Use Alternatives for City of Livermore's General Plan Update

Dear Mr. Ross:

McGrath RentCorp ("McGrath") owns approximately 140 acres of real property located at 5700 Las Positas Road ("Property")[1] in the City of Livermore ("City"). The Property is located south of Interstate 580 ("I-580") near the intersection of Vasco Road and Las Positas Road. The City has identified the Property as part of the Southfront-Vasco Focus Area in the City's ongoing evaluation of its preferred land use alternative for the City's General Plan Update. McGrath has closely reviewed and considered the three land use alternatives for the Southfront-Vasco Focus Area that were presented to the General Plan Advisory Committee ("GPAC") and the Planning Commission during meetings held in June 2022. As further detailed in this letter, changing the Property's existing High Intensity Industrial General Plan land use designation – as contemplated in Alternative B and Alternative C – will significantly limit and adversely impact McGrath's current and future ability to use the Property.

McGrath strongly encourages the City to consider alternative long-range planning mechanisms that will authorize existing industrial uses on the Property to continue pursuant to the High Intensity Industrial land use designation and allow for the development of new industrial land uses that will strengthen the City's economic and employment growth. As further discussed below, McGrath proposes that the City consider establishing a mixed-use overlay designation over the Property's existing High Intensity Industrial land use designation that would provide property owners the flexibility to develop pursuant to the underlying High Intensity Industrial designation standards or the mixed-use overlay designation standards (e.g., high density residential and/or commercial). McGrath believes that a flexible long-range planning mechanism, such as the establishment of an overlay designation, will better provide the City and property owners with the ability to better respond and adapt to evolving market demands and changing local conditions (e.g., development of the proposed future Southfront Valley Link Station).

The Ability to Continue Using the Property for Industrial Use is Critical to McGrath's Business and Operational Needs

McGrath is a longtime employer in the City and operates as a business-to-business rental company that rents and sells relocatable modular buildings, storage containers and offices, electronic test equipment, and liquid and solid containment tanks and boxes. McGrath acquired the Property in 1992 and has been using and operating on the Property since 1997. Since acquiring the Property, McGrath's business has steadily grown, which resulted in evolving and expanded use of the Property over the past 20-years to meet its growing

[1] The Property consists of Assessor Parcel Numbers 099-0040-080, 099-0040-072, 099-0040-074, 099-0040-073, 099-0040-075, 099-0040-076, 099-0040-077, 099-0040-078, and 099-0040-079.

business and operational needs.

The Property currently includes McGrath's office headquarters which consists of approximately 7.74 acres of the site and includes over 200 employees. McGrath's operational facilities are also located on the Property, including modular buildings, ground level offices (i.e., containers that have been converted to relocatable offices), container storage (including stacking), and storage of tractor trailers, containment tanks, and roll off boxes. As a longtime employer in the City, McGrath is committed to the community. McGrath employs many residents and regularly supports local businesses and organizations in the community, including providing temporary relocatable classrooms for schools and other temporary facilities for local events.

Much of the Property is currently designated High Intensity Industrial under the General Plan and located within the Heavy Industrial (I-3) zoning district. The northern portions of the Property fronting I-580 are designated Service Commercial (SC) and located within the SC zoning district. McGrath's inventory of relocatable modular buildings and storage containers and the refurbishment center are located within the area designated High Intensity Industrial and the I-3 zoning district. During recent meetings with the GPAC and the Planning Commission, the City presented the following three land use alternatives for the Southfront-Vasco Focus Area:

- **Alternative A.** Alternative A would retain most of the existing industrial land use designation for the Property. Under this Alternative, the City proposes changing the land use designation for certain portions of the Property located near the proposed future Southfront Valley Link Station from industrial to Residential High Density and Public.

- **Alternative B.** Alternative B would convert most of the existing industrial land use designation applicable to the Property to Residential High Density, Residential Medium Density, Commercial - Wine Country, Commercial - Neighborhood, and Public.

- **Alternative C.** Alternative C would also convert a significant amount of the existing industrial land use designation on the Property to Residential High Density, Residential Medium Density, Commercial - Wine Country, Commercial - Neighborhood, and Public.

While McGrath understands and appreciates that the General Plan Update is intended to guide the City's plans regarding land use, transportation, jobs, and housing until horizon year 2045, the conversion of a significant portion of the Property from High Intensity Industrial to residential, commercial, and/or public – as contemplated under Alternatives B and C – will adversely impact McGrath's current and future use of the Property.

Converting the Property's Industrial Land Use Designation Will Adversely Impact McGrath's Current and Future Use of the Property

Changing the Property's General Plan land use designation from High Intensity Industrial to residential and/or commercial land use designations will render McGrath's current use of the Property a legal non-conforming use, significantly limiting what McGrath can do on the Property, who McGrath can sell or lease the Property to, and what can be developed on the Property.

The General Plan defines a "non-conforming use" as "a use that was valid when brought into existence, but no longer permitted by later regulation. … Any use lawfully existing on any piece of property that is inconsistent with a new or amended General Plan and that in turn is a violation of a zoning ordinance amendment subsequently adopted in conformance with the General Plan, will be a non-conforming use. Typically, non-conforming uses are permitted to continue for a designated period of time, subject to certain restrictions."[2] The City's Development Code (Chapter 9.16), which states that the intent is to limit the number and extent of nonconforming uses in the City, sets forth restrictions applicable to nonconforming land uses, structures, and parcels.

[2] General Plan, p. I3-24.

As a non-conforming use, McGrath could not change its current use and intensity of use. It could not expand its office headquarters or pursue additional development on the Property as may be required by McGrath's business and operational needs. McGrath (or another property owner) could not pursue development of additional or new industrial uses on the Property in the event such development is deemed to be the most suitable use of the site based on market conditions and market demands, unless such new use complies with the updated General Plan land use designation and applicable provisions of the Development Code. McGrath's current use of the Property would therefore be considerably limited, which may significantly impact McGrath's ability to expand and change its use on the site as needed to adapt to its changing business and operational needs.

The City's three land use alternatives for the Southfront-Vasco Focus Area would result in a significant reduction in the City's industrial land use supply, converting lands designated for industrial uses to non-employment uses. The proposed conversion of industrial lands adjacent to the McGrath site to residential and commercial uses may also further result in the imposition of additional operational restrictions on existing industrial users such as McGrath.

Converting the Property's General Plan land use designation from High Intensity Industrial to residential and/or commercial will also adversely impact McGrath's ability to sell or lease the Property in the future in response to market demands and conditions. The Property is located within a primarily industrial area and there may be industrial opportunities to sell or develop portions of the Property into other types of industrial uses (e.g., warehouse uses, research and development) to meet projected demands for such uses that may support various industries in the region, including but not limited to life sciences, technology, construction, manufacturing, and information services. Converting the Property's existing High Intensity Industrial land use designation may therefore impede McGrath's ability to pursue these industrial opportunities in the future if McGrath elects to sell or lease portions of the Property.

Establishing An Overlay Designation Will Provide Property Owners Flexibility to Respond to Market Demands and Local Conditions

McGrath strongly encourages the City to consider alternative flexible long-range planning mechanisms such as establishing a General Plan mixed-use overlay designation over the Property's existing High Intensity Industrial designation that would allow for phased land use changes to occur, as appropriate, in response to market demands and local conditions. The overlay designation would be used along with the existing underlying industrial land-use designation, allowing existing industrial uses on the Property to remain conforming land uses and authorizing the development of new industrial uses (e.g., warehouses and research and development). Property owners would have the option to develop consistent with the underlying industrial designation or the mixed-use overlay designation. This would allow the existing industrial uses to remain conforming land uses and preserve the existing industrial land uses on the Property while providing property owners with the ability to develop consistent with either the overlay designation or the underlying industrial designation based on evolving market demands and conditions.

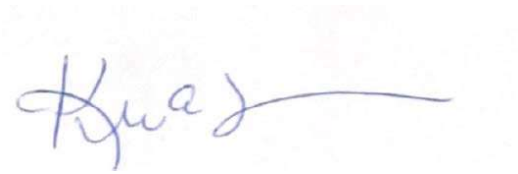
The mixed-use overlay designation would provide property owners with the option to develop the Property with residential, commercial, mixed-use, and/or open-space designations as established in the General Plan Update. The General Plan would set forth the goals, objectives and policies for the overlay designation and the City's zoning code (Development Code) would implement the General Plan's vision for the overlay designation through development regulations and guidelines specific to the overlay.

Establishing an overlay designation will also allow the City and property owners to retain development options within the Southfront-Vasco Focus Area while the Valley Link Project progresses. Each of the three land use alternatives for the Southfront-Vasco Focus Area show the proposed future Southfront Valley Link Station. Alternatives B and C, which convert a significant amount of the existing industrial land use designation on the Property to residential and commercial land use designations, rely on the successful completion of the Southfront Valley Link Station, which, if implemented, will not be constructed for many years. Allowing the existing industrial uses to continue as conforming land uses while providing property owners with the ability to develop consistent with the overlay designation would allow for phased land use changes in the area to occur

in a manner responsive to changing local conditions such as the proposed future Southfront Valley Link Station, if and when it is completed.

McGrath appreciates the City's consideration of its comments. We look forward to further discussions with the City as the City progresses with its evaluation of the preferred land use alternative for the General Plan Update. In the meantime, please do not hesitate to contact me with any questions.

Sincerely,



Kristina VanTrease
McGrath RentCorp
Senior Vice President, Strategy and Business Development

From:	Keith Diggs
To:	Cityclerk - Livermore; GP Update
Cc:	HousingElements@hcd.ca.gov
Subject:	Livermore Site Inventory & Land Use Alternatives
Date:	Friday, September 9, 2022 8:21:14 PM
Attachments:	220909 YL Letter re Livermore site inventory.pdf

Hello,

Please find attached a letter from YIMBY Law concerning Livermore's draft housing element site inventory and Monday's consideration of land use alternatives. Please contact me with questions.

Keith Diggs ♂
Housing Elements Advocacy Manager
703-409-5198

YIMBY LAW

Sue the Suburbs.
yimbylaw.org

The City of Livermore

Via email: cityclerk@LIvermoreCA.gov; GPUpdate@cityoflivermore.net

Cc: HousingElements@hcd.ca.gov

September 9, 2022

Re: Livermore Site Inventory & Land Use Alternatives

To Whom It May Concern:

YIMBY Law understands that the City's draft housing element is currently under review by HCD. As you know, the City is required to plan for 2,075 lower-income homes within the next eight years (Draft Housing Element, p.4-10)—yet the current draft does not include an inventory of sites as required by State law. (Compare *id.* app. A [maps, but no listing] with Gov. Code § 65583.2(b)(1) [requiring "[a] listing of properties by assessor parcel number"]; HCD Site Inventory Gudebook p.7 [requiring listing on form provided by HCD].)

We therefore expect the draft will be rejected. In advance of the City's considering land use alternatives at its council meeting on Monday, we urge the City to credit Livermore Venture Partners' proposal to build 320 affordable units toward its housing need. The City has so far stonewalled LVP's criticisms of the housing element (Draft, pp.1-23 to -25 [repeatedly making "[n]o revisions … to address [LVP] comment[s]"]).

We echo LVP's criticisms as reflected in the draft housing element (*ibid.*), and note that the location of the proposed development has *no neighbors*, other than the college that would partner on the development, who could claim an adverse effect. It is truly baffling that the City would resist this.

In considering land use alternatives on Monday, and when the City finally produces a site inventory, we are watching to see the LVP proposal included. It will go a long way toward meeting Livermore's legal duty to accommodate affordable housing.

Sincerely,

Keith Diggs
Housing Elements Advocacy Manager, YIMBY Law
keith@yimbylaw.org

Draft Land Use Alternatives

Council Briefings

September 12, 2022

Presented by Andy Ross, Senior Planner, City of Livermore

1

Presentation Outline

- Project Overview
- Land Use Alternatives Process
- Community Outreach Update
- Draft Land Use Alternatives
- City Council Discussion & Direction

2

Staff Recommendation

Staff recommends the City Council:

- Provide policy direction on whether the draft land use alternatives within the focus areas, proposed for further assessment, represents a sufficient and diverse range of possible development patterns
- Direct Staff to proceed with evaluating the range and mix of draft land use alternatives to achieve a desired healthy balance of uses in the city overall and return with the results of the analysis.

No decisions on a preferred land use scenario will be made until evaluation is complete and shared with community

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Project Overview

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Community Outreach Events To Date

- Outreach events
  - 1 Workshop
  - 17 Pop-ups
  - 2 Online activities
  - 1 Communitywide survey
  - 3 Presentations to community groups
  - 1 Property owner meeting
  - 12 GPAC meetings
  - 2 Planning Commission meetings
  - 3 City Council meetings
  - Meetings with Developers, Brokers, and business owners
- 1,600 participants (September 9, 2021, to May 31, 2022)

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What We've Heard (Feedback)

- Community Input
  - Maintain small town feel
  - Add a variety of affordable housing
  - Look at vacant infill sites as places to accommodate future growth
  - Foster a strong, local economy
  - Provide better access to transit

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General Plan Advisory Committee

- 19 members representing Livermore
- Committee Role
  - Review and discuss plans and work products
  - Provide feedback to project team, PC, and CC
  - Serve as liaisons to the community
  - Advise on effective outreach and engagement
- Committee has completed 12 meetings:
  - Introduction to the General Plan
  - Visioning
  - Housing Element Overview and Review
  - Focus Areas Identification and Draft Land Use Alternatives Development
  - Economic Trends in Livermore
  - Sustainability Efforts in Livermore

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General Plan Vision Statement

In 2045, Livermore will be a community with a big heart where families and individuals flourish, and people with diverse experiences and perspectives work together for the common good. Insightful land-use policies and wise resource management will ensure services and infrastructure for a high quality of life and enable Livermore to be safe and welcoming for all.

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Prosperity
Excellent city services and infrastructure support a thriving local economy with a wide spectrum of local jobs including those in science and technology, arts and trades, agriculture, and tourism.

Homes
Individuals and families of all types and income levels can find diverse housing choices close to jobs, exceptional schools, shopping, entertainment, and well-maintained parks.

Vibrancy
People enjoy a vibrant downtown, commercial districts, cultural venues, wineries and breweries, and parks throughout the city and surrounding areas to work, shop, dine, and have fun.

Equity
Everyone can easily participate in civic life and have a voice in city decisions. We enable access to services and opportunities and provide for those who have been underserved so that everyone can be healthy and flourish.

Mobility
A wide variety of convenient, comfortable zero- emission modes of transportation and interconnecting routes enable everyone to easily travel to meet their daily needs for work, errands, and play.

Diversity
Neighbors feel connected to each other and their city, welcome and celebrate everyone, and respect differing viewpoints to foster a close-knit community where civic life and opportunity thrive.

Sustainability
We live sustainably to preserve our vital resources, work to clean up our environment, protect open spaces and habitats, and integrate nature into the urban environment.

Continuity
We honor our complex heritage, which began with the indigenous peoples, who were the original stewards of this land, and followed by the increasingly diverse community that is our future.

Resiliency
We prepare for emergencies and a changing climate, help those affected, and ensure the durability of our homes, businesses, and supporting infrastructure, while maintaining sufficient financial reserves.

Arts
We foster a vibrant and thriving cultural arts community so that the arts, in all their beauty and variety, will enhance the lives of residents and visitors alike.

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General Plan Elements

Required:

- Land Use
- Circulation
- Housing
- Open Space and Conservation
- Noise
- Public Safety
- Environmental Justice (for cities that have disadvantaged communities)

» **Custom for Livermore:**

- Community Character
- Infrastructure and Public Services
- Economic Development
- Climate Change

» **Last Full Update: 2004**
(last amended in 2021)

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Land Use Element

- Plans for and shapes the future physical development of Livermore
- Ensures a mix of land uses providing varied job and housing opportunities
- Maintains its surrounding agriculture and open space

It is comprised of:

- Goals and Policies
- Land Use designations with descriptions
- Map

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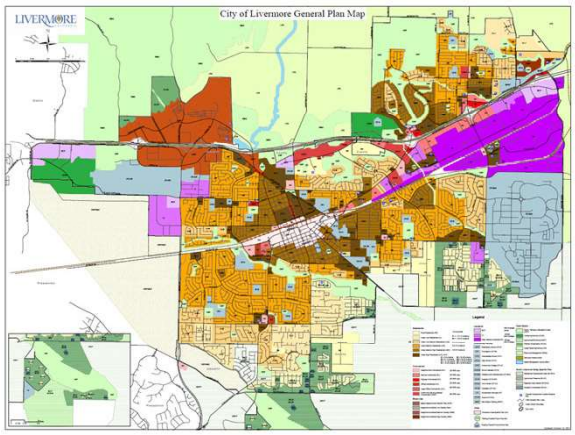
General Plan Land Use Map

Map and designations determine:

- What can be built
- Where uses can be built
- At what intensity or density



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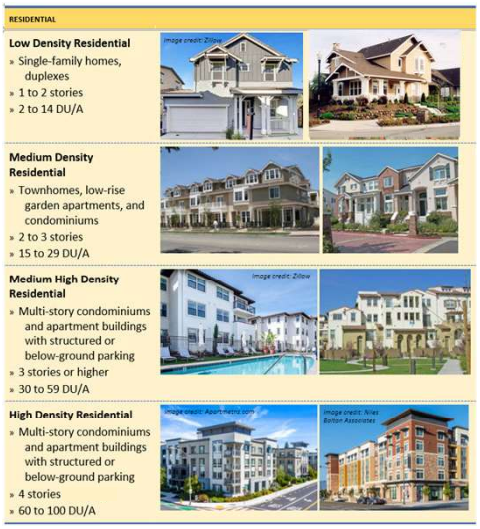
Draft Land Use Alternatives Components

- Draft Land Use Alternatives Maps
- Place Type Menu
- Buildout Tables



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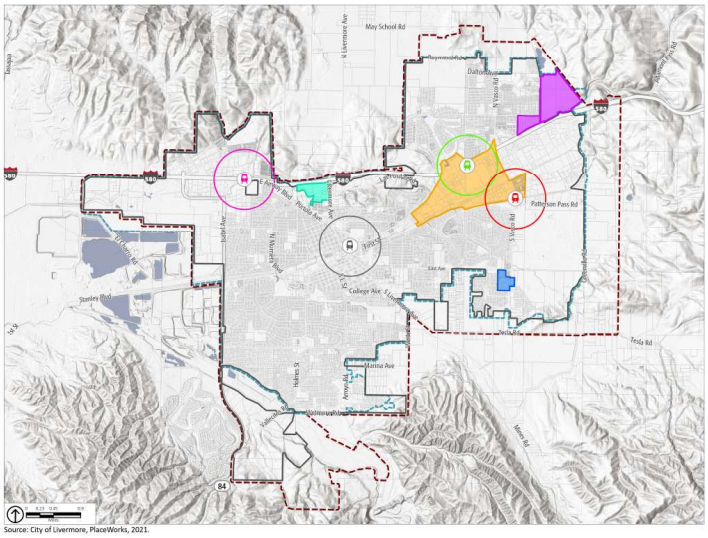
Focus Area Map and Transit Locations



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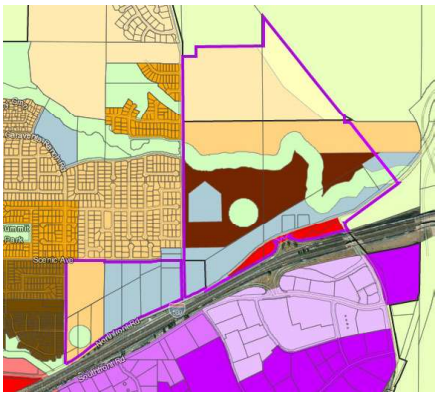
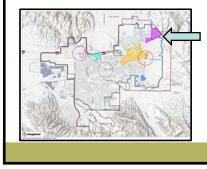
Laughlin Road Focus Area





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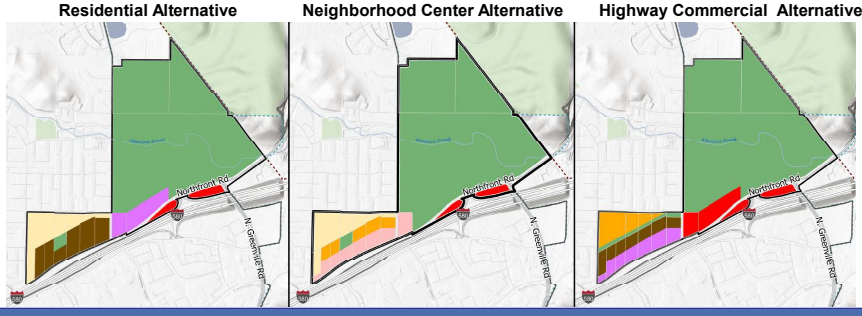
Laughlin Road Focus Area

Vision: preserve open space, facilitate new compatible residential and commercial uses

Residential Alternative | **Neighborhood Center Alternative** | **Highway Commercial Alternative**



	Existing (2020)	Alternative A Residential (net new)			Alternative B Neighborhood Center (net new)			Alternative C Highway Commerical (net new)		
		Min	*Mid*	*Max*	*Min*	*Mid*	*Max*	*Min*	*Mid*	*Max*
Homes	0	1,137	1,608	2,079	141	291	441	820	1,116	1,413
Population	0	3,024	4,277	5,530	375	774	1,174	2,181	2,970	3,759
Jobs	0	136	257	378	711	1,540	2,370	464	781	1,009

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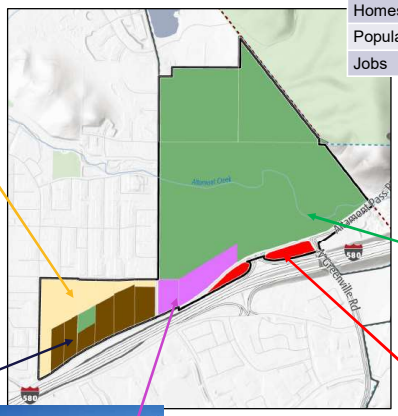
Laughlin Road – Residential Alternative

Alt A	Existing (2020)	Min	Mid	Max
Homes	0	1,137	1,608	2,079
Population	0	3,024	4,277	5,530
Jobs	0	136	257	378

Residential Low Density (1 to 2 stories, 2 to 14 DU/A)

Residential High Density (4 stories, 60 to 100 DU/A)



Open Space

Commercial - Highway (0.3 to 1.0 FAR)

General Industrial (0.3 to 0.5 FAR)

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Laughlin Road – Neighborhood Center Alternative

Alternative B	Existing (2020)	Min	Mid	Max
Homes	0	141	291	441
Population	0	375	774	1,174
Jobs	0	711	1,540	2,370

Residential Low Density (1 to 2 stories, 2 to 14 DU/A)

Residential Medium Density (2 to 3 stories, 15 to 29 DU/A)

Open Space

Commercial - Highway (0.3 to 1.0 FAR)

Commercial - Neighborhood (0.3 to 1.0 FAR)

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Laughlin Road – Highway Oriented Alternative

Alternative C	Existing (2020)	Min	Mid	Max
Homes	0	820	1,116	1,413
Population	0	2,181	2,970	3,759
Jobs	0	464	781	1,009

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Southfront-Vasco Focus Area

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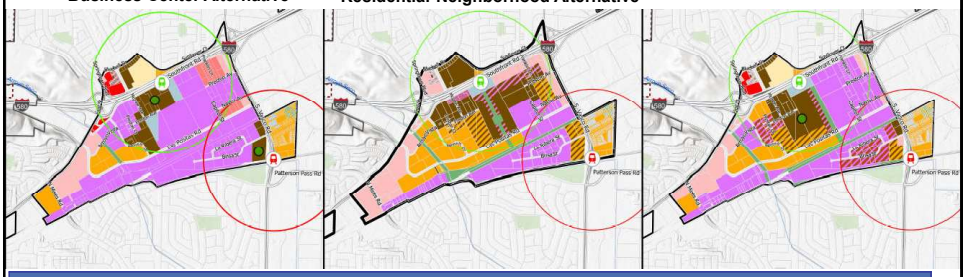
Southfront-Vasco Focus Area

Vision: transit oriented, complete neighborhood, with a mix of housing, jobs, and services

Business Center Alternative | **Residential Neighborhood Alternative** | **Blended Alternative**



	Existing (2020)	Alternative A Business Center (net new)			Alternative B Residential Neighborhood (net new)			Alternative C Blended (net new)		
		Min	*Mid*	*Max*	*Min*	*Mid*	*Max*	*Min*	*Mid*	*Max*
Homes	773	3,521	4,734	5,948	7,741	10,564	13,387	4,763	6,542	8,322
Population	2,053	9,365	12,593	15,821	20,592	28,101	35,610	12,669	17,403	22,136
Jobs	2,956	2,726	5,807	8,889	1,469	4,871	8,274	1,489	4,248	7,007

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Southfront – Business Center Alternative

Alt A	Existing (2020)	Min	Mid	Max
Homes	773	3,521	4,734	5,948
Population	2,053	9,365	12,593	15,821
Jobs	2,956	2,726	5,807	8,889

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Southfront-Residential Neighborhood Alternative

Alt B	Existing (2020)	Min	Mid	Max
Homes	773	7,741	10,564	13,387
Population	2,053	20,592	28,101	35,610
Jobs	2,956	1,469	4,871	8,274

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Southfront – Blended Alternative

Alternative C	Existing (2020)	Min	Mid	Max
Homes	773	4,763	6,542	8,322
Population	2,053	12,669	17,403	22,136
Jobs	2,956	1,489	4,248	7,007

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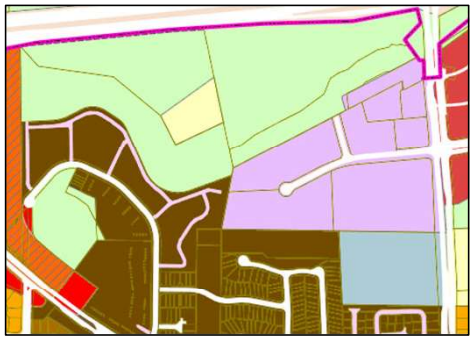
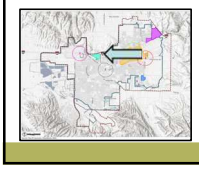
Las Positas Court Focus Area





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Las Positas Court Focus Area

Vision: Revitalize underutilized industrial office spaces, facilitate housing, improve connectivity to existing services, and create a strong entryway

Open Space Alternative | **Mixed Use Alternative** | **Industrial Alternative**

	Existing (2020)	Alternative A Open Space (net new)			Alternative B Mixed Use (net new)			Alternative C Industrial (net new)		
		Min	*Mid*	*Max*	*Min*	*Mid*	*Max*	*Min*	*Mid*	*Max*
Homes	0	18	74	129	392	580	768	189	281	373
Population	0	49	196	343	1,043	1,543	2,043	503	747	992
Jobs	253	247	996	1,745	296	1,102	1,909	992	2,665	4,338

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Las Positas Court – Open Space Alternative

Alternative A	Existing (2020)	Min	Mid	Max
Homes	0	18	74	129
Population	0	49	196	343
Jobs	253	247	996	1,745

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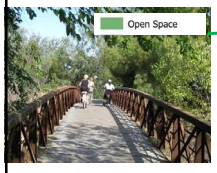
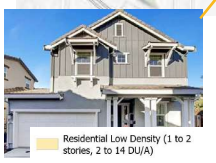
Las Positas Court – Mixed Use Alternative

Alternative B	Existing (2020)	Min	Mid	Max
Homes	0	392	580	768
Population	0	1,043	1,543	2,043
Jobs	253	296	1,102	1,909





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Las Positas Court – Industrial Alternative

Alternative C	Existing (2020)	Min	Mid	Max
Homes	0	189	281	373
Population	0	503	747	992
Jobs	253	992	2,665	4,338

General Industrial (0.3 to 0.5 FAR)

Open Space

Residential Medium-High Density (30 to 59 DUA)

Mixed Industrial - Industrial-Office (0.5 to 2.0 FAR)

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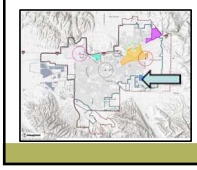
East Avenue and South Vasco Road



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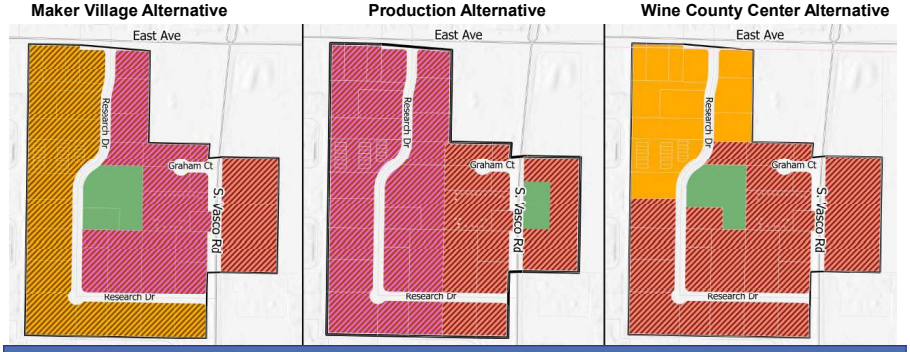
East Avenue and South Vasco Road

Vision: visitor destination that supports production spaces and serves as a gateway to South Livermore Wine Country

Maker Village Alternative | **Production Alternative** | **Wine County Center Alternative**



	Existing (2020)	Alternative A Maker Village (net new)			Alternative B Production (net new)			Alternative C Wine Country Center (net new)		
		Min	*Mid*	*Max*	*Min*	*Mid*	*Max*	*Min*	*Mid*	*Max*
Homes	5	373	556	738	-5	-5	-5	118	175	233
Population	13	992	1,478	1,963	-13	-13	-13	314	466	619
Jobs	442	-205	72	349	0	412	825	-141	210	561

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East Ave/S Vasco– Maker Village Alternative

Alternative A	Existing (2020)	Min	Mid	Max
Homes	5	373	556	738
Population	13	992	1,478	1,963
Jobs	442	-205	72	349

Residential Medium-High Density (30 to 59 DUA)

Mixed Industrial - Commercial and Industrial (0.3 to 1.0 FAR)

Open Space

Commercial - Wine-Country (0.3 to 1.0 FAR)

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East Ave/S Vasco – Production Alternative

Mixed Industrial - Commercial and Industrial (0.3 to 1.0 FAR)

Mixed Industrial - Commercial and Industrial (0.3 to 1.0 FAR)

Open Space

Alternative B	Existing (2020)	Min	Mid	Max
Homes	5	-5	-5	-5
Population	13	-13	-13	-13
Jobs	442	0	412	825

Commercial - Wine-Country (0.3 to 1.0 FAR)

Commercial - Wine-Country (0.3 to 1.0 FAR)

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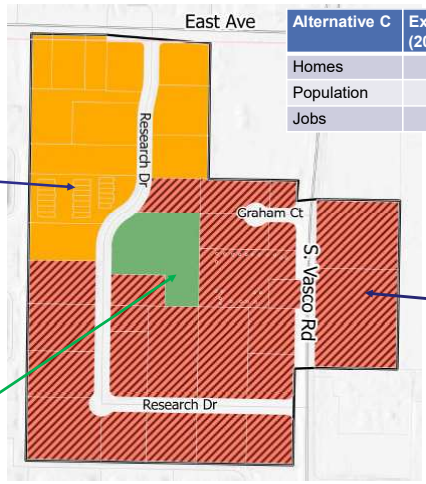
East Ave/S Vasco -Wine Country Center Alternative

Residential Medium Density (2 to 3 stories, 15 to 29 DU/A)

Open Space



Alternative C	Existing (2020)	Min	Mid	Max
Homes	5	118	175	233
Population	13	314	466	619
Jobs	442	-141	210	561

Commercial - Wine-Country (0.3 to 1.0 FAR)

Commercial - Wine-Country (0.3 to 1.0 FAR)

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Task 4 - Land Use Alternatives Process

	Step	Timing
1.	Identify focus areas	Q1 to Q2 2022
2.	Develop and Confirm land use alternatives for each focus area	Q2 to Q3 2022
3.	Evaluate and compare alternatives	Q3 to Q4 2022
4.	Select a preferred alternative for further study	Q1 2023 – Q2 2023
5.	Refine the preferred scenario to become the updated General Plan Land Use map	Q3 2023

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Step 3 - Land Use Alternatives Evaluation

Alternatives evaluation will consider:

- Climate change and resilience
- Public safety from flooding and fires
- Equity
- Parks
- Housing supply
- Student generation and school capacity
- Commercial land use supply (adequate sites and geographic distribution)
- Infrastructure capacity
- Open space preservation and biological resources
- Historic resources
- Aesthetics and urban design
- Fiscal impacts
- Transportation impacts
- Commercial diversity (product, service, recreation)

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Staff Recommendation

Staff recommends the City Council:

- Provide policy direction on whether the draft land use alternatives within the focus areas, proposed for further assessment, represents a sufficient and diverse range of possible development patterns

- Direct Staff to proceed with evaluating the range and mix of draft land use alternatives to achieve a desired healthy balance of uses in the city overall and return with the results of the analysis.

No decisions on a preferred land use scenario will be made until evaluation is complete and shared with community

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2022 Certificates of Participation (2022 COP) L Street Parking Garage Project

September 12, 2022

Presented by Tina Olson, Administrative Services Director

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Financing the L Street Parking Garage Project

- **The Project**: Design and construction of the L Street Parking Garage, reconfigured surface parking lot, trash enclosure facility and related site improvements
  - Prior Council Approvals: Project approval and the use of COP to finance the Project
  - Estimated Cost: $40.4 million
  - Final Cost: Construction bids expected the end of October
- **The 2022 COP**: Finance the Project and certain transaction costs

Sources of Funds:	
Total Bond Proceeds	$40,989,046
Total Sources:	**$40,989,046**
Uses of Funds:	
L Street Garage Project Cost:	$40,400,000
Cost of Issuance:	320,000
Underwriter's Discount:	269,046
Total Uses:	**$40,989,046**
Estimated Results:	
True Interest Cost[1]	4.38%
FY 2023 Lease Payment	$1,750,850
Average Annual Lease Payments (FY 2024 - FY 2052)	2,450,198
Total Lease Payments through FY 2052	72,806,600

[1] Based on market conditions as of August 22, 2022 plus a 50bps interest rate cushion. Preliminary and subject to change.

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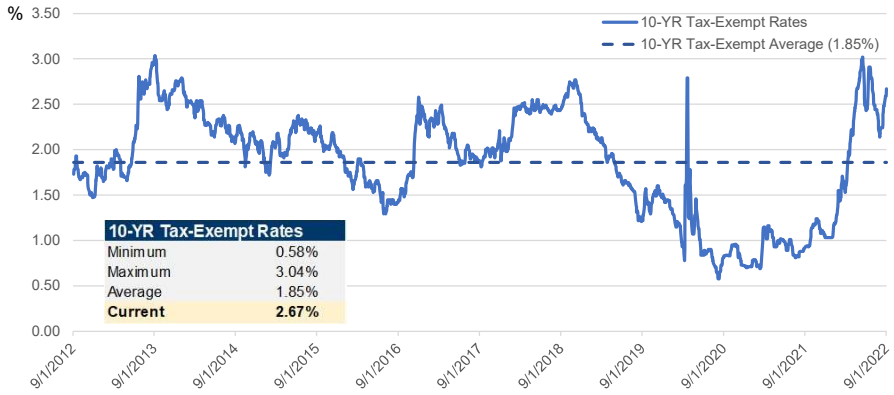
Tax-Exempt Interest Rates

- Tax-exempt interest rates have increased over the course of 2022, with current rates above 10-year historical averages but below the maximum in 2013

10-Year Tax-Exempt Rates Since September 2012



10-YR Tax-Exempt Rates	
Minimum	0.58%
Maximum	3.04%
Average	1.85%
Current	**2.67%**

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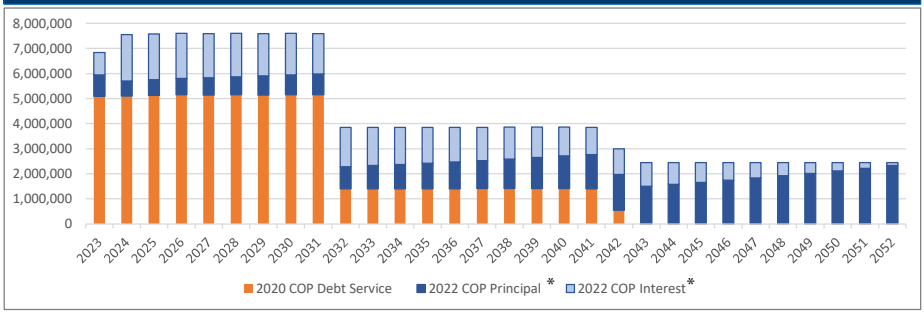
Estimated Annual COP Payment Schedule

- The 2022 COP will be issued as fixed rate
  - 30-year level annual repayment term
  - Estimated annual debt payments of $2.5 million
- The 2020 COP are the only additional long-term debt obligation of the City's general fund
  - Estimated maximum aggregate annual debt payments of $7.6 million through FY 2030-31

Aggregate City of Livermore General Fund Debt Service



*Preliminary, Subject to Change

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Lease/Leaseback Security Structure

- Common financing structure for general law cities to finance capital projects
- The City most recently utilized lease COP in 2020 (2020 COP), when the City refinanced its outstanding 2011 COP, 2014A COP, and 2014B COP
- Certain of the City's assets will be utilized as the leased assets for the 2022 COP
  - City Hall
  - Civic Center Meeting Hall
  - Rincon Library and Springtown Library will be leased only if necessary based on the final par amount of the 2022 COP
- The lease payments are payable from the City's general fund, and the City will covenant to budget and appropriate for the scheduled lease payments on an annual basis

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Key Financing Documents

- Site Lease/Lease Agreement: accomplishes lease/leaseback structure with financing corporation
- Trust Agreement/Assignment Agreement: accomplishes securitization of City's lease payments with assistance from U.S. Bank Trust Company, as trustee
- Preliminary Official Statement:
  - Primary disclosure document
  - Subject to federal securities laws
  - Must include all "material facts" (information a reasonable investor would consider in deciding to buy the 2022 COP)
  - Key sections:
    - "THE CERTIFICATES": summarizes the key terms of the 2022 COP
    - "SECURITY FOR THE CERTIFICATES": summarizes key security terms, including the lease payments made by the City under the Lease Agreement. Staff expects to pay the lease payments from the City's general fund.
    - "APPENDIX A - CITY OF LIVERMORE GENERAL FINANCIAL AND DEMOGRAPHIC INFORMATION": summarizes financial and operating data that is material to the City's ability to pay the lease payments.
    - "RISK FACTORS": highlights the primary risks associated with the 2022 COP

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Issuance Timeline

- **September 13:** Rating Presentation to S&P
- **Mid October:** Receive S&P credit rating
- **Late October:** Open construction bids
- **Early November:** Release Preliminary Official Statement and Notice of Sale to municipal bond market
- **Mid November:** Sale of 2022 COP
- **Late November:** Close 2022 COP; Receive proceeds
- **Early December:** Award construction contract
- **Early January:** Begin garage construction

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Recommended Action

A. Adopt a Resolution approving the forms of and authorizing the execution and delivery of a Site Lease, Lease Agreement, Trust Agreement, and a Continuing Disclosure Agreement in connection with the offering and sale of the City of Livermore 2022 Certificates of Participation for the L Street Parking Garage Project (Livermore Village Development) and authorizing the distribution of a Preliminary Official Statement and a Notice of Sale in connection therewith, and authorizing execution of necessary documents, certificates, and certain other related actions

B. Grant to the City Manager and the Administrative Services Director the authority to amend and execute documents, determine appropriateness of bond terms and conditions, and to carry out, give effect to, and comply with the terms and intent of the Resolution

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Council Member	Committee Meeting Date	Committee	Agenda Link	Meeting Type	Committee Report: Summary
Mayor Woerner	7/26/2022	Tri Valley Non Profit Association		Event	Celebration/Presentation of Check
Mayor Woerner	7/28/2022	Eden Housing		Event	Presentation at Owl's Landing - Eden Housing Scholarship
Mayor Woerner	8/1/2022	Livermore Amador Valley Transportation Authority	https://wheelsbus.com/meetings-agenda/		
Mayor Woerner	8/10/2022	Tri Valley San Joaquin Regional Rail Authority	https://www.valleylinkrail.com/valleylink-project	Board of Directors	
Mayor Woerner	8/11/2022	Valley Link	-		Hydrogen Proof of Concept
Mayor Woerner	8/12/2022	East Bay Regional Communications System Authority	http://www.ebrcsa.org/meetings.page	Board of Directors	
Mayor Woerner	8/22/2022	Tri Valley San Joaquin Regional Rail Authority	https://www.valleylinkrail.com/valleylink-project	Board of Directors Special Meeting	
Mayor Woerner	8/24/2022	Livermore Pleasanton Liaison Committee Meeting		Regular	
Mayor Woerner	8/31/2022	Tri Valley Mayors Summit Luncheon		Event	
Mayor Woerner	9/7/2022	Valley Link		Sustainability Ad Hoc Committee Meting	
Mayor Woerner	9/7/2022	Advisory Bodies Interviews		LYAC Interviews	
Mayor Woerner	9/8/2022	Local Agency Formation Commission	LAFCO Meetings		
Mayor Woerner	9/8/2022	LLNL/Lab Foundation 70th Anniversary Celebration		Event	
Mayor Woerner	9/11/2022	9-11 Memorial		Event - East Avenue Fire Station	
Mayor Woerner	9/12/2022	Tri Valley Cities Councils		Mayors, Managers, Liaisons Meeting	

Council Member	Committee Meeting Date	Committee	Meeting Type	Committee Report: Summary
Council Member Carling	8/15/2022	Livermore/Pleasanton liaison committee		airport discussion
Council Member Carling	8/17/2022	Livermore Amador Valley Water Management Agency Joint Powers Authority	board meeting	
Council Member Carling	8/31/2022	Tri-Valley Mayors Summit		

Council Member	Committee Meeting Date	Committee	Meeting Type	Committee Report: Summary
Council Member Munro	7/28/2022	Tri-Valley Council - Affordable Housing Committee		Kate Hartley, Section Director from the Bay Area Housing Finance Authority (BAHFA), discussed ways cities can access regional housing assistance. Presentation on a potential 2024 Ballot Measure for regional housing assistance
Council Member Munro	7/28/2022	League of California Cities East Bay Division	Division Meeting	A Conversation with Guy Marzorati on November ballot issues, along with East Bay Division elections
Council Member Munro	7/30/2022	Eagle Scout Presentation		Presented certificate to Andrew Tantzen
Council Member Munro	8/1/2022	Little League World Series—First Pitch		Successfully got the first pitch over the plate to the catcher.
Council Member Munro	8/2/2022	National Night Out		Visited three parties. What a great evening for all!
Council Member Munro	8/7/2022	American Sociological Association meeting		Presented Livermore's work on Equity and Inclusion at the American Sociological Association's annual conference. It was a chance to reflect on the work of the E&I subcommittee, the relationship among city staff, elected officials, and community, and what enables good work to happen.
Council Member Munro	8/22/2022	General Aviation Airports Conference	Conference	Welcomed attendees to the General Aviation Airports Conference, hosted by LVK
Council Member Munro	8/26/2022	Intergovernmental Committee (CITY / LARPD / LVJUSD)		Discussed removal of debris at Holmes Street Underpass, the upcoming Bond Measure, plans for Community Service Day, increasing Youth in government programs
Council Member Munro	8/31/2022	Tri-Valley Mayors Summit		
Council Member Munro	9/7/2022	League of California Cities East Bay Division	CalCities Annual Conference and Expo	Attended sessions on different aspects of city governance in Long Beach
Council Member Munro	9/11/2022	21st Anniversary Remembrance of 9/11		