CITY COUNCIL
AGENDA

Monday, July 25, 2016

REGULAR MEETING - 7:00 PM

COUNCIL CHAMBERS
3575 PACIFIC AVENUE
LIVERMORE, CA  94550

VIDEO CONFERENCE LOCATION
WESTIN CAPE TOWN
CONVENTION SQUARE, LOWER LONG STREET
CAPE TOWN, 8000 SOUTH AFRICA

CITY COUNCIL

John Marchand, Mayor
Stewart Gary, Vice Mayor
Steven Spedowsk, Council Member
Laureen Turner, Council Member
Bob Woerner, Council Member

Regular City Council meetings are broadcast live on Channel 29 and videotaped for local television and for replay. For a schedule of City Council meeting replay airtimes or to access videos of previous meetings, log onto www.tri-valleytv.org. City Council meetings are also streamed live on the web at www.tri-valleytv.org/live-tv29.html.
HOW TO PARTICIPATE IN YOUR CITY COUNCIL MEETING

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

**Speaker Cards** - If you wish to address the Council, you must complete a speaker card for each item about which you want to speak. The speaker card box is located in the Council Chambers lobby. Place your speaker card in this box behind the tab that corresponds to the agenda item number. Staff will collect the cards for each item immediately before the item is to be considered and gives the speaker cards to the Mayor. The Mayor will call speakers to the public lectern. No cards will be accepted once the presentation on that item has commenced.

**Citizens Forum** is an opportunity for the public to speak regarding items not listed on the agenda. Speakers are limited to a maximum of three minutes per person. The Mayor may reduce the amount of time based on the number of persons wishing to speak. You should be aware 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 questions from the City Council and a presentation by the applicant. The Mayor will then open the hearing to the public and offer an opportunity for public comments. You may take a maximum of three minutes to make your comments.

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

**Written Materials** may be submitted by the public. If you wish your materials to be sent to the City Council prior to the City Council meeting, they must be submitted to the City Clerk’s Office no later than 5:00 pm on Thursday, eleven days prior to the Monday meeting. Those items will be copied and sent to the City Council with the agenda packet. Materials submitted after 5:00 pm on Thursday, eleven days prior to the meeting will be copied and given to the City Council the night of the meeting; however, it is unlikely that the City Council will be able to read the materials before the start of the meeting. Therefore, it is suggested that you give a verbal summary of your materials at the meeting.

The **City Council Agenda and Agenda Reports** are prepared by City staff and are available for public review on Friday evening, ten 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](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](http://cityoflivermore.net/agenda).

If supplemental materials are made available to the members of the City Council at the meeting, a copy will be available for public review at the Council Chambers, 3575 Pacific Avenue, Livermore.

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 CALL (925) 960-4200 (VOICE) OR (925) 960-4104 (TDD) AT LEAST 72 HOURS IN ADVANCE OF THE MEETING.
REGULAR MEETING

1. CALL TO ORDER 7:00 PM
1.01 Roll Call
Council Member Steven Spedewfski
Council Member Laureen Turner
Council Member Bob Woerner
Vice Mayor Stewart Gary
Mayor John Marchand

1.02 Pledge of Allegiance

2. PROCLAMATIONS AND PRESENTATIONS
2.01 Mayor's Special Award for Livermore Community Service honoring John Shirley.
2.02 Confirmation of advisory body appointments and reappointments, and administration of oath of office to new members.

Beautification Committee
Paul Eldredge
Cathy Norfleet Peeler

Library Board of Trustees
Jennifer Estridge
David Struebing

Livermore Area Youth Advisory Commission - Youth Members
Yagulan Srikumar
Alicia Zhang

Livermore Area Youth Advisory Commission - Youth Reappointments
Piper Cooke
Amy Malocsay
Yesenia Medina
Monique Quihuis
Ethan Shang
Shannon Yan

Livermore Area Youth Advisory Commission - Adult Member
John Kibbe

Staff Report PAGE 14
Attachment 1 - Youth Requests for Reappointment

3. CITIZENS FORUM

- In conformance with the Brown Act, no City Council action can occur on items presented during Citizens Forum.
- Please complete a speaker card. When the Mayor calls your name, walk to the lectern to address the City Council.
- Speakers are limited to a maximum of three minutes per person. 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 at 9:30 pm, or following the Public Hearings, whichever occurs first.
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 complete a speaker card.

4.01 Approval of minutes - July 11, 2016 regular City Council meeting.
   Draft Minutes PAGE 22

4.02 Resolution accepting for permanent maintenance and releasing of security for the 2014 Annual Sewer Replacement, Project No. 2014-03.
   Staff Report PAGE 29
   Resolution

4.03 Resolution accepting for permanent maintenance and releasing of security for the 2015 Street Resurfacing, Project No. 2015-01.
   Staff Report PAGE 32
   Resolution

4.04 Resolution authorizing execution of an agreement with W. Bradley Electric, Inc., in the amount of $96,700, for the Annual Crosswalk Safety and Miscellaneous Traffic Improvements, Project Nos. 2015-06, 2001-12, and 1991-44.
   Staff Report PAGE 35
   Resolution
   Exhibit A to Resolution

4.05 Resolution appropriating $100,000 in Gas Tax Funds and $98,000 in General Funds to the 2016 Slurry Seal, Project No. 2016-04; authorizing execution of an agreement with Telfer Pavement Technologies, LLC, in the amount of $1,157,007, for construction of the project; and authorizing execution of an agreement with the City of Dublin to include a portion of Dublin street improvements in the project.
   Staff Report PAGE 43
   Attachment 1 - List of Slurry Seal Streets
   Resolution
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   Exhibit B to Resolution
4.06 Resolution authorizing the appropriation of airport funds in the amount of $150,000 to the Rehabilitate Runway 7R-25L Project, No. 2013-13; and authorizing execution of an agreement with DeSilva Gates Construction, LP, in the amount of $3,189,285, for construction of the Rehabilitate Runway 7R-25L Project.

   Staff Report   PAGE 67
   Resolution
   Exhibit A to Resolution

4.07 Resolution initiating formation of and intention to establish Landscape Maintenance District No. LL-863 for Tract 8195; preliminarily approving the Engineer’s Report; and setting the public hearing date for September 12, 2016. Location: Ponderosa Homes, southwest corner of East Avenue and South Vasco Road.

   Staff Report   PAGE 76
   Attachment 1 - Assessment Diagram Boundary Map
   Resolution

4.08 Resolution rescinding Resolution No. 2016-075 and adopting a new resolution summarily vacating public utility easements adjacent to and within the vacated portions of Atlantis Street and Voyager Street, and authorizing execution of quit claim deeds for the vacated public utility easements.

   Staff Report   PAGE 84
   Attachment 1 - Vicinity Map
   Resolution
   Exhibit A to Resolution
   Exhibit B to Resolution
   Exhibit C to Resolution

4.09 Resolution repealing resolution 318-79, policy relating to billing, collections and write-off of uncollectible accounts.

   Staff Report   PAGE 137
   Attachment 1 - Resolution 318-79
   Resolution
4.10 Resolution authorizing execution of a grant agreement with the Federal Aviation Administration in the amount of $3,079,962, for the construction of the Rehabilitate Runway 7R/25L Pavement and Airfield Electrical System Project No. 2013-13 at the Livermore Airport.

Staff Report PAGE 144
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Exhibit A to Resolution

4.11 Resolution authorizing the City Attorney to initiate Judicial Foreclosure for Delinquent Special Taxes, Community Facilities District No. 88-2R (Greenville/Brisa).

Staff Report PAGE 157
Resolution
Exhibit A to Resolution

4.12 Resolution authorizing the City Attorney to initiate Judicial Foreclosure for Delinquent Special Taxes, Community Facilities District No. 99-1 (Tri-Valley Technology Park).

Staff Report PAGE 163
Resolution
Exhibit A to Resolution

5. PUBLIC HEARINGS

5.01 Hearing to receive protests related to the annual fire hazard abatement program and confirmation of the 2016 fire hazard abatement assessments for collection on the county assessor tax roll.

Recommendation: Staff recommends the City Council consider adoption of a resolution overruling protests and confirming the placement of the assessments on the County tax roll.

Staff Report PAGE 170
Resolution
Exhibit A to Resolution

6. MATTERS FOR CONSIDERATION

6.01 Ballot measure to preserve the Open Space designation in the General Plan for the Springtown Golf Course.
**Recommendation:** Staff recommends the City Council adopt a resolution ordering to election at the General Municipal election scheduled for November 8, 2016, the City Council sponsored measure to preserve the existing Open Space designation for the Springtown Golf Course in the Land Use Element for the 2003-2025 General Plan. Staff also recommends the City Council provide direction regarding the preparation, signing and filing of a rebuttal argument, if warranted.

**Staff Report** PAGE 174

**Attachment 1 - Additional Parcels to Include in the Ballot Measure Resolution**

**Exhibit A to Resolution**

6.02 Discussion and direction regarding agreements and related approvals for Improvement Area No. 2 of the City of Livermore Community Facilities District 2009-1 (El Charro) 2016 Special Tax Bonds (CrossWinds Church).

**Recommendation:** Staff recommends that the City Council approve the issuance and sale of the Improvement Area No. 2 of the City of Livermore Community Facilities District 2009-1 2016 Special Tax Bonds, and adopt a resolution approving execution of Fiscal Agent Agreement with MUFG Union Bank, N.A., and approving execution of the Private Placement Agreement between Petersen Aura LLC, CrossWinds Church, and the City of Livermore. A 4/5 vote is required to approve this item.

**Staff Report** PAGE 185

**Resolution**

**Exhibit A to Resolution**

**Exhibit B to Resolution**

6.03 Selection of voting alternate(s) for League of California Cities Annual Conference.

**Recommendation:** Staff recommends the City Council designate voting alternate(s) for the annual conference.

**Document** PAGE 263

6.04 Discussion and direction regarding residential recycled water program.

**Recommendation:** Staff recommends the City Council receive information on the residential recycled water program and provide direction to staff.

**Staff Report** PAGE 266
7. COUNCIL COMMITTEE REPORTS AND MATTERS INITIATED BY CITY MANAGER, CITY ATTORNEY, STAFF, AND COUNCIL MEMBERS

7.01 Council Committee Reports and Matters Initiated by City Manager, City Attorney, Staff, and Council Members. A verbal report may be given.

8. ADJOURNMENT – To a special meeting – City Council and Planning Commission Workshop, August 1, 2016 at 7:00 pm, Robert Livermore Community Center, Cresta Blanca Room, 4444 East Avenue, Livermore; and to a regular City Council meeting, September 12, 2016 at 7:00 pm, Council Chambers, 3575 Pacific Avenue, Livermore.

The regular City Council meeting of August 8, 2016 has been cancelled.

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Proclamation
Of The
City of Livermore

Honoring
John Shirley

Mayor's Special Award for Livermore Community Service
July 25, 2016

WHEREAS, John Shirley was born in Santa Ana, California on December 8th, 1924; and

WHEREAS, in March of 1943, John was drafted into the United States Army where he served in the European Theater during WWII. For most of the war, John was a Platoon Sergeant and was in six campaigns and one invasion. He was awarded the Silver Star, two Bronze Stars with valor, and a Purple Heart. John documented his military experience in the book, "I Remember, Stories of a Combat Infantryman in WWII"; and

WHEREAS, at the end of his military service, John attended the University of California at Davis and was accepted into the first veterinary class, graduating in 1952. While at UC Davis, John met and married his wife, Helen; and

WHEREAS, in 1954, John and Helen Shirley settled in Livermore, where they raised five children in the community of 6500 residents, and John established the first veterinary practice to serve all creatures, great and small; and

WHEREAS, Dr. Shirley served on the City Planning Commission and in 1958, was elected to the Livermore City Council. John was reelected in 1962, serving a total of eight years on the Council, with two years as Mayor; and

WHEREAS, while serving on the Planning Commission and City Council, Dr. Shirley was a strong advocate for well planned, smart growth. John took part in an update to the General Plan, the creation of Livermore's Civic Center, and the introduction of development fees for parks and sewer connections to provide quality housing, shopping, employment, recreational and educational opportunities for Livermore residents; and

WHEREAS, John Shirley continues to be actively engaged in local issues, with the Chamber of Commerce, with the Rotary Club of Livermore, with the local arts community, and with WWII Veterans' organizations; and

WHEREAS, Dr. Shirley is held in high esteem by this community as a soldier, a statesman, an author and humanitarian;

NOW, THEREFORE, the City Council of the City of Livermore honors John Shirley for his selfless service to the Livermore community and recognizes his selection as recipient of the Mayor's Special Award for Livermore Community Service.

Mayor John Marchand

Vice Mayor Stewart W. Gary

Council Member Steven Spedowfski

Council Member Laureen Turner

Council Member Bob Woerner
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Susan Neer, City Clerk

SUBJECT: Confirmation of Advisory Body Appointments and Reappointments and Administration of Oath of Office to New Members

RECOMMENDED ACTION

The City Council Subcommittee on Advisory Bodies recommends the City Council confirm the following appointments and reappointments to the Beautification Committee, Library Board of Trustees and the Livermore Area Youth Advisory Commission. Upon confirmation of the appointments, the City Clerk will administer the oath of office to new members.

SUMMARY

The City Council Subcommittee on Advisory Bodies interviewed the candidates for the Beautification Committee, Library Board of Trustees and the Livermore Area Youth Advisory Commission on July 13, 2016, and recommends confirmation of the appointments and reappointments.

DISCUSSION

A motion is in order to confirm the following recommended appointments.

Beautification Committee
Appointment of Cathy Norfleet Peeler to an unexpired term ending June 1, 2019
Appointment of Paul Eldredge to an unexpired term ending June 1, 2020

Library Board of Trustees
Appointment of Jennifer Estridge to an unexpired term ending June 1, 2019
Appointment of David Struebing to an unexpired term ending June 1, 2019
Livermore Area Youth Advisory Commission - Youth Members

Appointment of Alicia Zhang to an unexpired term ending September 1, 2017
Appointment of Yagulan Srikumar to a regular term ending September 1, 2018

The following youth members were reappointed to regular terms ending September 1, 2018.

Piper Cooke
Amy Malocsay
Yesenia Medina
Monique Quihuis
Ethan Shang
Shannon Yan

Livermore Area Youth Advisory Commission - Adult Member

Appointment of John Kibbe to an adult regular term ending September 1, 2018

FISCAL AND ADMINISTRATIVE IMPACTS

None.

ATTACHMENTS

1. Youth requests for reappointment

Prepared by:

Susan Neer
City Clerk

Approved by:  Fiscal Review by:

Marc Roberts  Douglas Alessio
City Manager  Administrative Services Director
September 1, 2016

The Honorable Mayor and
Members of the City Council
1052 South Livermore Avenue
Livermore, CA 94550

Attn: Susan Neer, City Clerk

Dear Honorable Mayor and Members of the City Council:

☑️ I plan to complete my term as an active, present and committed member of the Youth Advisory Commission.

☐ I regret to inform you that I will terminate my service on the Youth Advisory Commission effective September 1, 2016.

Sincerely,

Piper Cooke

cc: M. Kline
    L. Gardner
    H. Friden
September 1, 2016

The Honorable Mayor and
Members of the City Council
1052 South Livermore Avenue
Livermore, CA 94550

Attn: Susan Neer, City Clerk

Dear Honorable Mayor and Members of the City Council:

☑️ I plan to complete my term as an active, present and committed member of the Youth Advisory Commission.

☐ I regret to inform you that I will terminate my service on the Youth Advisory Commission effective September 1, 2016.

Sincerely,

Amy Malocsay

cc: M. Kline
    L. Gardner
    H. Friden
September 1, 2016

The Honorable Mayor and
Members of the City Council
1052 South Livermore Avenue
Livermore, CA 94550

Attn: Susan Neer, City Clerk

Dear Honorable Mayor and Members of the City Council:

☐ I plan to complete my term as an active, present and committed member of the Youth Advisory Commission.

☐ I regret to inform you that I will terminate my service on the Youth Advisory Commission effective September 1, 2016.

Sincerely,

Yesenia Medina

cc: M. Kline
L. Gardner
H. Friden
September 1, 2016

The Honorable Mayor and
Members of the City Council
1052 South Livermore Avenue
Livermore, CA 94550

Attn: Susan Neer, City Clerk

Dear Honorable Mayor and Members of the City Council:

☑️ I plan to complete my term as an active, present and committed member of the Youth Advisory Commission.

☐ I regret to inform you that I will terminate my service on the Youth Advisory Commission effective September 1, 2016.

Sincerely,

Monique Quihuis

cc: M. Kline
    L. Gardner
    H. Friden
September 1, 2016

The Honorable Mayor and
Members of the City Council
1052 South Livermore Avenue
Livermore, CA  94550

Attn:  Susan Neer, City Clerk

Dear Honorable Mayor and Members of the City Council:

☐ I plan to complete my term as an active, present and committed member of the Youth Advisory Commission.

☐ I regret to inform you that I will terminate my service on the Youth Advisory Commission effective September 1, 2016.

Sincerely,

[Signature]

Ethan Shang

cc:  M. Kline
     L. Gardner
     H. Friden
September 1, 2016

The Honorable Mayor and
Members of the City Council
1052 South Livermore Avenue
Livermore, CA 94550

Attn: Susan Neer, City Clerk

Dear Honorable Mayor and Members of the City Council:

☐ I plan to complete my term as an active, present and committed member of the Youth Advisory Commission.

☐ I regret to inform you that I will terminate my service on the Youth Advisory Commission effective September 1, 2016.

Sincerely,

[Signature]

Shannon Yan

cc: M. Kline
    L. Gardner
    H. Friden
REGULAR MEETING

1. CALL TO ORDER – The meeting of the City Council was called to order by Mayor John Marchand at 7:00 pm, in the City Council Chambers, 3575 Pacific Avenue, Livermore, California.

1.01 ROLL CALL – Present: Mayor John Marchand, Vice Mayor Stewart Gary, and Council Members Steven Spedowfski and Bob Woerner. Mayor Marchand announced that CM Turner was unable to participate by video conference and was absent/excused.

1.02 PLEDGE OF ALLEGIANCE

2. PROCLAMATIONS AND PRESENTATIONS

2.01 Proclamation declaring July 31 – August 7, 2016 as Play Ball Week in Livermore.

Mayor Marchand presented a proclamation to Bill Aboumrad and David Wetmore declaring July 31 – August 7, 2016 as Play Ball Week in Livermore.

3. CITIZENS FORUM

Connie Kopps, Livermore, spoke regarding vector control and land use issues in the Springtown area.

David McGuigan, Livermore, spoke regarding his arrest by the Livermore Police Department.

John Stein, Livermore, spoke regarding proposed zoning between the railroad tracks and First Street and the questioned the purpose for the upcoming downtown development community workshop.

In response to questions by Mayor Marchand, Community and Economic Development Director Stephan Kiefer clarified that the purpose of the July 14, 2016 community workshop was to obtain community feedback and refine the proposed plan for the downtown development.

4. CONSENT CALENDAR
ON THE MOTION OF VM GARY, SECONDED BY CM WOERNER, AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL APPROVED THE CONSENT CALENDAR.

4.01 Approval of Minutes - June 27, 2016 regular City Council meeting.

4.02 Adoption of Ordinance 2038 establishing development standards for Planned Development - Residential District 15-001 and amending the Zoning District Map of the City of Livermore, and approving a development agreement between the City of Livermore and Signature Homes to subdivide land and construct 49 single-family homes adjacent to Central Avenue.

4.03 Resolution 2016-081 approving allocation of Tourism and Special Event Grant Program funds in the amount of $5,000, for July 1, 2016 - June 15, 2017.

4.04 Resolution 2016-082 appropriating $227,000 in gas tax funds to the Safe Routes to School Project, and authorizing execution of an agreement with FBD Vanguard Construction, Inc., in the amount of $438,603, for construction of the Safe Routes to School Project No. 2015-29.

4.05 Resolution 2016-083 authorizing the budgeted expenditure of $173,443 for local cable programming services and City Council and special meeting video services by the Tri-Valley Community Television (TVCTV) for Fiscal Year 2016-2017.

4.06 Resolution 2016-084 adopting a revised Salary Plan in accordance with California Code of Regulations, Title 2, Section 570.5 and to incorporate organizational restructuring and amendments effective July 11, 2016.

4.07 Resolution 2016-085 authorizing a cost-based rate review to comprehensively evaluate Livermore Sanitation, Inc.'s financial data to ensure the Livermore community is receiving the best services for the lowest prices.

5. PUBLIC HEARINGS

5.01 Hearing to consider various actions to pre-zone and annex the approximately 9.34-acre Pleasant View Lane Neighborhood and form an Assessment District to provide sewer service and construct roadway improvements along Arroyo Road and Pleasant View Lane.

Recommendation: Staff recommended the City Council continue the item to July 25, 2016.

THE CITY COUNCIL CONTINUED THE ITEM TO A DATE TO BE DETERMINED.

5.02 Hearing to consider protests related to the non-payment of solid waste, recycling, and organics handling services provided by Livermore Sanitation for collection on the County Assessor tax roll.
Recommendation: Staff recommended the City Council receive protests and consider adopting a resolution overruling objections and protests to delinquent service fees and confirming the 2016 lien assessments; and direct staff to forward a finalized copy of the assessment report to the County Tax Assessor.

Recycling Specialist Marisa Gan presented the staff report.

In response to questions by CM Spedowsksi, City Attorney Jason Alcala clarified that the liens would be paid with annual property taxes.

Mayor Marchand opened the public hearing.

There were no speakers and the hearing was closed.

ON THE MOTION OF CM SPEDOWFSKI, SECONDED BY CM WOERNER, AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL ADOPTED THE FOLLOWING RESOLUTION:

Resolution 2016-086 considering and overruling objections and protests to delinquent service fees and confirming assessments – Livermore Sanitation accounts.

5.03 Hearing to consider the Annual Progress Report, which tracks the City’s progress in implementing the Housing Element of the General Plan, pursuant to Government Code Section 65400.

- Location: Citywide
- Applicant: City of Livermore
- On-site and off-site public improvements: None
- Site Area: Citywide
- Zoning: Various
- General Plan: Various
- Historic Status: None
- CEQA: NA
- Application Number: Project Tracking (PT) 16-002

Recommendation: Staff recommended the City Council review and accept the Housing Element Annual Progress Report for 2015.

Associate Planner Lori Parks presented the staff report.

In response to questions by CM Woerner, City Manager Marc Roberts reviewed the requirements of state law, saying the City was in compliance and the housing element was certified.

Mayor Marchand said the City was required to zone and ensure that there was sufficient land available, but was not required to build the housing.
Mayor Marchand opened the public hearing.

Andrew Barker, Livermore, spoke regarding the community’s need for additional affordable housing.

Connie Kopps, Livermore, spoke regarding housing needs in Livermore.

There were no more speakers and the hearing was closed.

Mayor Marchand said low, very low, or extremely low housing required significant subsidy and although the City had limited funding, it took the issue seriously and worked to maximize Livermore’s affordable housing. He said the Urban Growth Boundary was created by a citizen initiative to support infill development rather than urban sprawl; the City could not build outside the Boundary unless the issue was voted to do so by the community.

In response to questions by CM Spedowfski, Community and Economic Development Department Director Stephan Kiefer said affordable housing unit numbers would increase in 2017 due to a number of projects currently underway.

CM Spedowfski spoke regarding the high cost of living in Livermore and said the City was developing creative partnerships with other agencies. He said the affordable housing fund continued to grow and the City was trying to find ways to maximize the money with grants and nonprofit organizations; he was encouraged by upcoming projects and partnerships.

City Manager Marc Roberts provided background and context surrounding affordable housing in Livermore, saying the purpose of the annual report was to put information in front of the City Council. He spoke regarding Livermore’s existing affordable housing units, inclusionary program and fee, and the history of staffing dedicated to affordable housing. He said it generally took between 3-5 years to cobble resources for an affordable housing program, which was not generally funded by the City, and it took longer to bring affordable housing online. He spoke regarding the loss of redevelopment as a funding source.

In response to questions by CM Woerner, Mr. Roberts said creating an affordable housing unit, even with other programs, would require a subsidy between $100,000-$200,000 per unit.

CM Woerner said if the City were to build 100 or 200 units per year, the annual cost would be up to $40 million. He said the City was zoning for affordable housing, setting the conditions, and collecting funds so housing could be built. He said the problem was not easy to solve and required a tremendous amount of money.

VM Gary expressed appreciation for Mr. Robert’s background on the issue and suggested providing similar information online and with future standalone reports. He spoke regarding the City’s leadership in the Tri-Valley given the zoning and programs in place. He said local taxpayers did not solely fund inclusionary
housing; rather, partnerships with nonprofits, state and federal dollars, and
developer contributions were needed. He said once the City reached its general
plan buildout, Livermore would stand tall for continuing to be a diverse
cosmopolitan community that had done its best to meet everyone’s needs.

Mayor Marchand spoke regarding the tradeoffs between housing density and affordability, saying with the high price of land, density needed to be increased to make housing affordable.

THE CITY COUNCIL ACCEPTED THE REPORT.

6. MATTERS FOR CONSIDERATION

6.01 Selection of voting delegate and alternate(s) for League of California Cities Annual Conference.

Recommendation: Staff recommended the City Council designate a voting delegate and alternate(s) for the annual conference.

MAYOR MARCHAND WAS APPOINTED AS VOTING DELEGATE; ALTERNATE VOTING DELEGATE TO BE DETERMINED AT THE JULY 25, 2016 MEETING.

6.02 Discussion and direction regarding primary argument for ballot measure for the November 8, 2016

Recommendation: Staff recommended the City Council provide direction.

The City Council discussed changes to the primary argument for the ballot measure.

Mayor Marchand suggested replacing the words “It has never been the intention…” with “It is not the intention…”

CM Woerner spoke regarding condensing the paragraphs, saying that the third paragraph was the most important; he suggested reordering the paragraphs to place the third paragraph at the beginning of the argument as the first paragraph.

VM Gary supported moving the third paragraph to the first, leaving the other paragraphs the same with the Mayor’s suggested change, which would keep the history and background to develop the full argument.

Mayor Marchand invited public comment.

Connie Kopps, Livermore, expressed opposition to the ballot measure and questioned the motivation behind it.

In response to questions by CM Woerner, City Attorney Jason Alcala confirmed that the ballot measure would not change the ability for the area to be a golf
CM Woerner said the City Council motives were transparent and driven from pure intentions; the community was concerned that the golf course could be developed, which had happened in other communities. He said the purpose of the initiative was to make it clear that development was not an option without a vote of the people.

Mayor Marchand said the ballot measure was asking the public to make the ultimate decision to vote for area as open space so no future City Council could put housing on the property without another vote of the people. The current City Council had already voted to keep it as open space, and was transparently have the voters of Livermore affirm that.

VM Gary said the issue before the City Council was the wording of the language for the ballot; the Council had already voted to put it on the ballot and they were not reconsidering anything other than the wording.

ON THE MOTION OF VM GARY, SECONDED BY CM WOERNER AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL APPROVED THE PRIMARY ARGUMENT FOR BALLOT MEASURE FOR THE NOVEMBER 8, 2016 WITH TWO AMENDMENTS:

1. REPLACE THE WORDS “IT HAS NEVER BEEN” WITH “IT IS NOT”; AND

2. REORDER THE PARAGRAPHS TO PLACE THE THIRD AT THE BEGINNING OF THE ARGUMENT AS THE FIRST PARAGRAPH

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

7.01 Council Committee Reports and Matters Initiated by City Manager, City Attorney, Staff, and Council Members.

Livermore Amador Valley Transit Authority (LAVTA)  CM Spedowfski said on June 27, 2016 he attended the Projects and Services subcommittee meeting.

Hagemann Farm Open House  CM Spedowfski said on July 2, 2016 he attended the event where there were over 400 people in attendance.

Livermore Amador Valley Transit Authority (LAVTA)  CM Spedowfski said he attended the board meeting on July 11, 2016. He reported that a $250,000 grant had been received to replace two hybrid electric buses.

CM Woerner stated he had nothing to report.

VM Gary stated he had nothing to report.
**Summer History Talk**  Mayor Marchand said on June 22, 2016 he attended the presentation by Alan Frank on the history of the train depot. He said the original ticket window had been recovered and would be donated to the refurbishment project.

**Lawrence Livermore National Laboratory (LLNL)**  Mayor Marchand said on June 29, 2016 he attended the ribbon cutting ceremony for the new high performance computing building.

**Alameda County Transportation Commission (ACTC)**  Mayor Marchand said on June 30, 2016 he attended the meeting.

**Hagemann Farm Open House**  Mayor Marchand said on July 2, 2016 he attended the event.

**Fourth of July Fireworks Celebration**  Mayor Marchand said on July 4, 2016 he attended the event in downtown Livermore.

**Livermore Cultural Arts Council (LCAC)**  Mayor Marchand said on July 6, 2016 he attended the meeting where there was discussion regarding the plan for the downtown.

**U.S. Conference of Mayors**  Mayor Marchand said he attended the annual meeting from June 24-27, 2016. Session topics included recycling, the Mayors Water Task Force, and a panel discussion on creating compassionate communities.

**Alameda County Transportation Commission (ACTC)**  Mayor Marchand said on July 11, 2016 he attended the meeting regarding express lanes and the Planning and Policy committee meeting.

8. **ADJOURNMENT** – at 8:12 pm, in honor and memory of the five fallen Dallas police officers, to a regular City Council meeting on Monday, July 25, 2016 at 7:00 pm, Council Chambers, 3575 Pacific Avenue, Livermore.

APPROVED:  

__________________________
JOHN P. MARCHAND, MAYOR

PREPARED:  

__________________________
SARAH BUNTING, DEPUTY CITY CLERK

ATTEST:  

__________________________
SUSAN NEER, CITY CLERK
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Stephan Kiefer, Community & Economic Development Director


RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing acceptance for permanent maintenance and release of the security bonds for the 2014 Annual Sewer Replacement Project.

SUMMARY

On June 22, 2015, the City Council awarded the contract for construction of the 2014 Annual Sewer Replacement Project to RGW Construction. The contract was substantially completed on June 27, 2016.

DISCUSSION

The 2014 Annual Sewer Replacement Project replaced approximately 11,000 linear feet, or just over two miles of public sanitary sewer main. The project was required due to the age and condition of the existing pipes. The locations were coordinated with the City’s Sewer Collections Division. This project also included two smaller projects to convert an existing storm drain vault into an oil separator near Edgewater Lane and Knoll Way and to install a storm drain line on Greenville Road just north of Marathon Drive to alleviate an existing drainage issue. These three capital projects were combined into one contract for cost and operational efficiency. The project was completed in accordance with the contract documents in a manner acceptable to the City Engineer.

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, 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 (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 $1,974,697.09 plus a 10 percent construction contingency. The final project amount was $2,088,013.67, which is 5.7 percent above the original contract based on final bid item quantities and 3 change orders. The total value of change orders was $23,882.37, which consisted primarily of increasing the liner size to match the existing lateral pipe in the field and additional work required to excavate and remove cement treated base encountered in storm drain trench on Greenville Road. The final bid quantities were more than originally anticipated due to additional deteriorated sewer laterals and mainlines discovered during construction.

There will be no added expenses required to maintain these improvements.

ATTACHMENTS

None.

Prepared by:

Joe Kuderca
Associate Engineering Technician

Approved by:  Fiscal Review by:

[Signatures]

Marc Roberts  Douglas Alessio
City Manager  Administrative Services Director
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING ACCEPTANCE FOR PERMANENT MAINTENANCE AND RELEASE OF SECURITY

(2014 Annual Sewer Replacement, Project No. 2014-03)

The City Engineer of the City of Livermore has filed with the City Clerk her report in writing that all work on the 2014 Annual Sewer Replacement project, Project No. 2014-03 ("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 as follows:

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; and

4. The City hereby accepts the improvements.

On motion of Council Member _______________________, seconded by Council Member _______________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST: APPROVED AS TO FORM:

____________________________   _____________________________
Susan Neer      Catrina Fobian
City Clerk      Assistant City Attorney

RESOLUTION NO. ________
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Stephan Kiefer, Community & Economic Development Director

SUBJECT: Acceptance for Permanent Maintenance and Release of Security for the 2015 Street Resurfacing, Project No. 2015-01

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing acceptance for permanent maintenance and release of the security bonds for the 2015 Street Resurfacing.

SUMMARY

On October 26, 2015, the City Council awarded the contract for construction of the 2015 Street Resurfacing to Goodfellow Top Grade Construction. The contract was substantially completed on June 10, 2016.

DISCUSSION

The 2015 Street Resurfacing repaired failed street pavement sections, constructed ADA-accessible curb ramps, repaired damaged portions of curb, gutter and sidewalk, and applied an asphalt overlay and restriped approximately 3.4 centerline miles (7.7 lane miles) of Livermore Streets. This project also included the reconstruction of the asphalt concrete sidewalk on the south side of El Caminito between El Padro Dr. and Encino Dr. The street resurfacing (asphalt overlay) consists of a 1½ to 2 inch thick layer of asphalt concrete applied to existing streets that were in need of rehabilitation. Depending on the condition of the street, various types of treatments were specified. Some treatment options included base repairs, surface milling, application of an asphalt concrete leveling course, stabilizing fabric and a final layer of new asphalt. New striping was then applied to the resurfaced streets. The project was completed in accordance with the contract documents in a manner acceptable to the City Engineer.

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,
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 $2,189,765 plus a 10 percent construction contingency. The final project amount was $2,227,351, which is 1.7 percent above the original contract based on final bid item quantities and 3 change orders. The total value of change orders was $27,817.57 which consists primarily of asphalt concrete removal and replacement at the airport and removal and replacement of miscellaneous concrete curb and gutter and sidewalk at multiple locations.

There will be no added expenses required to maintain these improvements.

ATTACHMENTS

None.

Prepared by:

Robert Tingley
Associate Engineering Technician

Approved by: 

Marc Roberts
City Manager

Fiscal Review by:

Douglas Alessio
Administrative Services Director
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING ACCEPTANCE FOR PERMANENT MAINTENANCE
AND RELEASE OF SECURITY

(2015 Street Resurfacing, Project No. 2015-01)

The City Engineer of the City of Livermore has filed with the City Clerk her report in
writing that all work on the 2015 Street Resurfacing project, Project No. 2015-01 (“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
as follows:

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; and

4. The City hereby accepts the improvements.

On motion of Council Member _______________________, seconded by Council
Member _______________________, the foregoing resolution was passed and adopted on
July 25, 2016, by the following vote:

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

ATTEST: APPROVED AS TO FORM:

____________________________   _____________________________
Susan Neer      Kevin Young
City Clerk      Assistant City Attorney

RESOLUTION NO. _________
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Stephan Kiefer, Community and Economic Development Director

SUBJECT: Agreement with W. Bradley Electric, Inc. for the Annual Crosswalk Safety and Miscellaneous Traffic Improvements at Various Locations, Project No. 2015-06, 2001-12, 1991-44

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution awarding and authorizing execution of an agreement with W. Bradley Electric, Inc., in the amount of $96,700, for the Annual Crosswalk Safety and Miscellaneous Traffic Improvements Project.

SUMMARY

The Annual Crosswalk Safety and Miscellaneous Traffic Improvements project will upgrade existing pedestrian crossing signals to enhance pedestrian safety at various locations, and will also install a closed circuit television (CCTV) at Livermore Avenue and Arroyo Plaza to monitor real time traffic conditions. On June 23, 2016 seven bids were received for this project. Staff recommends the City Council authorize execution of a contract with W. Bradley Electric, Inc., the lowest responsible, responsive bidder.

DISCUSSION

There are a number of components to this project. First, under CIP2015-06, the project will replace existing in pavement flashers at the Concannon Boulevard/Barcelona Street intersection with rectangular rapid flashing beacons (beacon), and will install a new beacon at the midblock crosswalk in front of Granada High School at Wall Street.

In the past, the City has installed in pavement flashers at some high-pedestrian crossings to help alert motorists of pedestrian presence in the crosswalk. Such devices are embedded in the pavement and are regularly subjected to direct vehicle loading, and water infiltration resulting in high failure rates and high maintenance costs. Beacons are pole mounted rectangular flashers located on the sidewalk area, which require less maintenance and are proving more reliable.
Another aspect of this project (under CIP2001-12) will upgrade existing traffic signal pedestrian push buttons (push buttons) with vibrotactile push buttons at the following high pedestrian activity signalized intersections:

- First Street at L Street
- First Street at Livermore Avenue
- First Street at Maple Street

Finally, the project includes implementing intelligent transportation system (ITS) components to the City’s traffic signal system. The project will install a CCTV camera at the northern City limit on Livermore Avenue at Arroyo Plaza. This will allow real time video monitoring of the traffic conditions at the City entrance closest to I-580. This project will increase the number of CCTV cameras throughout the City to 19 cameras. This part of the project is under CIP1991-44.

On June 23, 2016, bids for this project were received and opened with seven contractors submitting bids. The lowest responsive, responsible bidder was W. Bradley Electric, Inc. Following is a summary of bids and the Engineer’s Estimate:

<table>
<thead>
<tr>
<th>CONTRACTOR</th>
<th>CITY</th>
<th>BID AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>W. Bradley Electric, Inc.</td>
<td>Novato</td>
<td>$ 96,700.00</td>
</tr>
<tr>
<td>BES Bear Electrical Solutions, Inc.</td>
<td>Alviso</td>
<td>$ 99,085.00</td>
</tr>
<tr>
<td>Long Electric Co.</td>
<td>Napa</td>
<td>$ 118,000.00</td>
</tr>
<tr>
<td>Columbia Electric, Inc.</td>
<td>San Leandro</td>
<td>$ 123,490.00</td>
</tr>
<tr>
<td>Mike Brown Electric Co.</td>
<td>Cotati</td>
<td>$ 128,900.00</td>
</tr>
<tr>
<td>Tennyson Electric, Inc.</td>
<td>Livermore</td>
<td>$ 154,345.00</td>
</tr>
<tr>
<td>St. Francis Electric, LLC</td>
<td>San Leandro</td>
<td>$ 176,500.00</td>
</tr>
<tr>
<td><strong>Engineer’s Estimate</strong></td>
<td></td>
<td><strong>$ 97,400.00</strong></td>
</tr>
</tbody>
</table>

The lowest responsive and responsible bidder, W. Bradley Electric, Inc., has completed a number of similar projects for the City and other agencies and performed satisfactorily.

FISCAL AND ADMINISTRATIVE IMPACTS

The total estimated cost for this project is $121,000 including design, construction, contingencies, and testing. Funding for the Annual Crosswalk Safety and Miscellaneous Traffic Improvements is included in the updated 2015-2017 Capital Improvement Plan under CIP No.’s 2015-06, 2001-12, and 1991-44. Funding sources are summarized in the table below.
### ATTACHMENTS

None.

### Prepared by:

Carlo T. Sendaydiego  
Traffic Engineer

### Approved by:

Marc Roberts  
City Manager

### Fiscal Review by:

Douglas Alessio  
Administrative Services Director

<table>
<thead>
<tr>
<th>Project</th>
<th>FY 15-16</th>
<th>FY 16-17</th>
<th>Fund No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Crosswalk Safety Improvement CIP2015-06</td>
<td>$70,000</td>
<td>$70,000</td>
<td>$140,000</td>
</tr>
<tr>
<td>Annual Signal Modification Project CIP2001-12</td>
<td>$216,000</td>
<td>$150,000</td>
<td>$366,000</td>
</tr>
<tr>
<td>Master Traffic Signal Control System CIP1991-44</td>
<td></td>
<td>$426,000</td>
<td>$526,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>$1,032,000</strong></td>
</tr>
</tbody>
</table>
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AWARDING BID, AND AUTHORIZING SIGNING OF AGREEMENT
WITH W. BRADLEY ELECTRIC, INC.

(Annual Crosswalk Safety and Miscellaneous Traffic Improvements, Project Nos. 2015-16, 2001-12, and 1991-44)

The City of Livermore advertised, and received bids, for the Annual Crosswalk Safety and Miscellaneous Traffic Improvements project, Project Nos. 2015-06, 2001-12, and 1991-44. W. Bradley Electric, Inc. submitted the lowest responsible bid, in the amount of $96,700, acceptable to the City of Livermore.

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

1. Awards the bid to the lowest responsible bidder, W. Bradley Electric, Inc., in the amount of $96,700;

2. Rejects all other bids or proposals; and

3. Authorizes the City Manager to sign and enter into an agreement (attached hereto as Exhibit A), on behalf of the City of Livermore, with the successful bidder hereinafore, in accordance with the terms, specifications, and general provisions of the bid package for the project specified herein. A copy of the agreement, together with the bid, is on file in the Engineering Division.

On motion of Council Member ________________________, seconded by Council Member_______________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

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

ATTEST:  APPROVED AS TO FORM:

______________________________________  _____________________________
Susan Neer      Kevin Young
City Clerk      Assistant City Attorney

RESOLUTION NO. ________
EXHIBIT A

DOCUMENT 00520

AGREEMENT

THIS AGREEMENT, made this __________ day of 2016 by and between

______________________________
W. Bradley Electric, Inc.

whose place of business is located at __________________________

90 Hill Road, Novato, CA 94945

(the "Contractor"), and the CITY OF LIVERMORE, a municipal corporation, (the "City"), organized under the laws of the State of California.

WHEREAS, the City, by its Resolution No. __________________, adopted on the ____ day of ______, awarded to the Contractor the following contract:

Annual Crosswalk Safety and Miscellaneous Traffic Improvements at Various Locations,
CIP Project No. 2015-06

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the Contractor and the City agree as follows:

ARTICLE 1. Work

1.1 The Contractor shall complete all Work specified in the Contract Documents, in accord with the Drawings, Specifications, and all other terms and conditions of the Contract Documents ("Work").

ARTICLE 2. Not Used

ARTICLE 3. Contract Times and Liquidated Damages

3.1 Contractor shall commence work under this Contract within 15 work days after the date of award of the Agreement by the City Council, unless an alternate date is established in the Notice to Proceed.

The Work will be Substantially Complete within 40 working days from the date when the Contract Time commences to run as provided in Document 00700 General Conditions.

The Work will be Finally Complete and ready for final payment in accordance with the Contract Documents 15 Calendar days from the date when the Notice of Completion commences to run as provided in Document 00700 General Conditions.

3.2 Liquidated Damages. The City and the Contractor recognize that time is of the essence of this Agreement and that the City will suffer financial loss in the form of contract administration expenses (including project management and consultant's expenses) if Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the Contract Documents. The Contractor and the City agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by the City because of a delay in completion of the Work. Accordingly, the City and the Contractor agree that as liquidated damages for delay the Contractor shall pay the City:

3.2.1 One thousand dollars ($1,000) for each day that expires after the time specified herein for the Contractor to achieve Substantial Completion, until Work is Substantially Complete; and
3.2.2 One thousand dollars ($1,000) for each day that expires after the time specified herein for the Contractor to achieve Final Completion, until Work is Finally Complete.

3.2.3 Two hundred dollars ($200) for each hour that expires outside of 9:00 AM and 2:30 PM (weekdays) for each traffic signal that is not fully operational due to the Contractor's activities, unless written authorization is given by the City allowing traffic signal disruption outside of the 9:00 AM and 2:30 PM period. Excessive traffic delays caused by inoperative traffic signals would require additional efforts in addressing or responding to the actual event, and responding to resident inquiries.

These measures of liquidated damages shall apply cumulatively and shall be presumed to be, except as provided below, the damages suffered by the City resulting from delay in completion of the Work.

3.3 Liquidated damages for delay shall only cover administrative, overhead, and general loss of public use damages suffered by the City as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from defective work, costs of substitute facilities or damages suffered by others who then seek to recover their damages from the City (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties, and defense costs thereof), interest on bonds or lost revenues.

ARTICLE 4. Contract Sum

The City shall pay an amount not to exceed $96,700.00 (Contract Sum) to the Contractor for completion of Work in accordance with the Contract Documents. Actual payment will be determined by the number of units constructed for the items specified in the bid schedule multiplied by the unit prices bid. A contingency allowance not to exceed 10% of the Contract Sum may be paid to the Contractor by the City, provided the cost of any such unexpected extra work or items to be paid from the contingency allowance is processed in accordance with the Contract Documents. Any work or items to be paid from the contingency allowance shall be determined as provided in the Contract Documents.

ARTICLE 5. The Contractor's Representations and Warranties

In order to induce the City to enter into this Agreement, the Contractor represents and warrants that it has performed all obligations imposed under Document 00200 Instructions to Bidders, including but not limited to:

5.1 Contractor has visited the Site and has examining thoroughly and understood all reports of exploration and tests of subsurface conditions, drawings or reports, available for bidding purposes;

5.2 Contractor has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Site, locality, actual conditions, as-built conditions, and all local conditions, and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by the Contractor and safety precautions and programs incident thereto; and

5.3 Contractor has given City written notice of all conflicts, errors, discrepancies discovered and received written resolution thereof acceptable to Contractor.

5.4 Contractor understands that the unit prices specified in Document 410, Bid Form, shall remain in full force and effect for the duration of this Contract with no change for the duration of the Contract.
ARTICLE 6. Contract Documents

The Contract Documents consist of the following documents, including all changes, addenda and modifications thereto:

Document 00510 Notice of Award
Document 00520 Agreement
Document 00550 Notice to Proceed
Document 00610 Performance Bond
Document 00612 Payment Bond
Document 00614 Maintenance Bond
Document 00680 Escrow Agreement For Security Deposits In Lieu of Retention
Document 00700 General Conditions
Document 00800 Supplementary General Conditions
Specifications Divisions 1 through 34
Drawings, Tables and Schedules

ARTICLE 7. Miscellaneous

7.1 Except as set forth in this Agreement, terms used in this Agreement are defined in Document 00700 General Conditions and will have the meaning indicated therein.

7.2 It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of the City, or acting as an employee or representative of the City, liable on this Agreement, any of the Contract Documents, upon any warranty of authority or otherwise, and it is further understood and agreed that liability of the City is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

7.3 The Contract Sum includes all allowances and accepted alternates.

7.4 Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at the City’s offices, and will be made available to any interested party on request. In accordance with Section 1861 of the Labor Code, the Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code that require every employer to be insured against liability for worker’s compensation or to undertake self-insurance in accordance with the provisions of that Code, and the Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.

7.5 This Agreement and the Contract Documents shall be deemed to have been entered into in the City of Livermore, County of Alameda, State of California, and shall be governed in all respects by California law (excluding choice of law rules). Venue for all disputes or litigation hereunder shall be Alameda County; Contractor waives CCP Section 394.
IN WITNESS WHEREOF the parties hereto have executed this Agreement in duplicate the day and year first above written.

CONTRACTOR:

By: ________________
Signature
Leslie Murphy CEO

Its: 
Title (If Corporation: Chairman, President or Vice President)

By: ________________
Signature
Mike Murphy COO

Its: 
Title (If Corporation: Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer)

CITY

CITY OF LIVERMORE, a municipal corporation

By: ________________
_____________________

Attest: ____________________
_____________________, Secretary

Approved as to form and legality this ___ day of __________, 20___

_____________________, City Attorney

END OF DOCUMENT
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Stephan Kiefer, Community and Economic Development Director

SUBJECT: Appropriation of Funds and Agreements with Telfer Pavement Technologies, LLC and the City of Dublin for Construction of the 2016 Slurry Seal Project, Project No. 2016-04

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. Appropriating $100,000 in Gas Tax Fund 2106 (Fund 653) and $98,000 in General Funds (Fund 001) to the 2016 Slurry Seal in Fiscal Year 2016-17;

2. Awarding and authorizing execution of an agreement with Telfer Pavement Technologies, LLC, in the amount of $1,157,007.90, for construction of the 2016 Slurry Seal Project; and

3. Authorizing execution of an agreement with the City of Dublin to include the City of Dublin Street Improvements in the City of Livermore’s 2016 Slurry Seal Project.

DISCUSSION

The 2016 Slurry Seal Project will rehabilitate approximately 14.2 centerline miles (30.0 lane miles) of residential, industrial, collector and arterial streets, as shown on the attached street list. The project also includes the 2016 Citywide Curb and Gutter Replacement, Project No. 2007-22, as a separate bid schedule. In addition, as part of an inter-agency cooperation between cities, this project will rehabilitate a City of Dublin street (Amador Plaza Road) as requested by the City of Dublin. The cost of the Dublin work will be reimbursed by the City of Dublin. A cooperative agreement has been drafted with the City of Dublin covering the City of Livermore’s costs for administration and construction of the Dublin work (“Dublin Agreement.”) A draft of the Dublin Agreement is attached to the resolution accompanying this item which the Dublin City Council is expected to consider on July 19, 2016. If Dublin has not executed the Dublin Agreement prior to the time the
Livermore City Council considers award of the Project, the resolution will be revised so the Project does not include the Dublin work.

Slurry seal pavement treatment consists of a 1/4-inch to 3/8-inch layer of asphalt material and fine aggregate. Slurry seal is typically applied as a preventative maintenance measure, to streets that are in fair or good condition. The condition of all streets and roadways throughout the City is regularly assessed and tracked. Streets are prioritized for treatment based on a variety of factors including age, traffic volume and physical condition. Streets that warrant treatment receive pavement section repairs as needed, typically four to six inches deep, followed by slurry seal treatment. The work also includes installation of striping and pavement markings. Slurry seal treatment seals pavement cracks and prevents the intrusion of water, thereby extending the useful life of City streets. Slurry seal treatment is considerably cheaper than an asphalt pavement overlay (street resurfacing) and is a cost effective method to extend the useful life of city streets.

On June 22, 2016, bids for this project were received and opened with 4 contractors submitting bids. The lowest responsible, responsive bidder was Telfer Pavement Technologies, LLC. The following is a list of the bids received and the Engineer’s Estimate for the project:

<table>
<thead>
<tr>
<th>CONTRACTOR</th>
<th>CITY</th>
<th>BID AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telfer Pavement Technologies, LLC</td>
<td>McClellan</td>
<td>$1,157,009.70</td>
</tr>
<tr>
<td>American Asphalt</td>
<td>Hayward</td>
<td>$1,213,051.85</td>
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<tr>
<td>Bond Blacktop</td>
<td>Hayward</td>
<td>$1,290,209.14</td>
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<td>VSS International</td>
<td>W. Sacramento</td>
<td>$1,310,000.00</td>
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<tr>
<td>Engineer’s Estimate</td>
<td></td>
<td>$1,075,000.00</td>
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</table>

In accordance with Livermore Municipal Code Section 2.68.530, Change Order authorization of 10% of the contract value is allowed.

Telfer Pavement Technologies, LLC has satisfactorily completed similar work for the City as a subcontractor and a reference check with the City and County of San Francisco proved satisfactory with Telfer serving as a Prime Contractor.

FISCAL AND ADMINISTRATIVE IMPACTS

The 2016 Slurry Seal Project is included in the updated 2015-2017 Capital Improvement Program with a total budget of $1,155,000 in Fiscal Year 2016-17 for construction, inspection, contingencies, materials testing, and administration. Part of the project includes the 2016 Citywide Curb and Gutter Replacement Project which has a budget of $15,000 in Fiscal Year 2016-17. In order to complete the 2016 Slurry Seal Project,
appropriations of $100,000 from Gas Tax Fund 2106 (Fund 653) and $98,000 from General Funds are being requested in FY 2016-17. The appropriations are required because the low bid exceeded the engineer’s estimate by 7.6% and general funds are needed to temporarily cover the cost of the City of Dublin’s portion of the work. Additionally, in order to reimburse the General Fund, a contribution from the City of Dublin will be made to the City of Livermore to reimburse the base bid ($84,672.90), construction contingencies ($8,467) and administration costs ($4,000) for the actual quantities placed in the field for the Dublin portion of the work. The budget for the 2016 Slurry Seal Project is summarized in the table below:

<table>
<thead>
<tr>
<th>Fund No.</th>
<th>Project No.</th>
<th>Fund Name</th>
<th>FY 16-17 (existing)</th>
<th>FY 16-17 (proposed)</th>
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<tr>
<td>650</td>
<td>2007-22</td>
<td>Gas Tax Prop 111</td>
<td>$15,000</td>
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<tr>
<td>344</td>
<td>2016-04</td>
<td>Solid Waste &amp; Recycling Impact Fee</td>
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<td>$235,000</td>
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<td>650</td>
<td>2016-04</td>
<td>Gas Tax Prop 111</td>
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<td>652</td>
<td>2016-04</td>
<td>Special Gas Tax-2107</td>
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<tr>
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<td>Gas Tax-2103</td>
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<tr>
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<td>Measure B-2000 Pass-Thru</td>
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<td>688</td>
<td>2016-04</td>
<td>Measure BB-Local St &amp; Rd</td>
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<td>Gas Tax - 2106</td>
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<td>001</td>
<td>2016-04</td>
<td>General Fund</td>
<td>0</td>
<td>$98,000</td>
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<td><strong>Totals:</strong></td>
<td></td>
<td></td>
<td><strong>$1,170,000</strong></td>
<td><strong>$1,368,000</strong></td>
</tr>
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**ATTACHMENTS**

1. List of Slurry Seal Streets

Prepared by:

Jim Vingo
Associate Civil Engineer

Approved by:  

[Signature]
Marc Roberts  
City Manager

Fiscal Review by:  

[Signature]
Douglas Alessio  
Administrative Services Director
<table>
<thead>
<tr>
<th>GC</th>
<th>STREET</th>
<th>FROM</th>
<th>TO</th>
</tr>
</thead>
<tbody>
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<td>CC</td>
<td>CEDAR DR</td>
<td>TANAGER RD</td>
<td>N MURRIETA BL</td>
</tr>
<tr>
<td>CC</td>
<td>TANAGER WY</td>
<td>E/O CURLEW RD</td>
<td>TANAGER RD</td>
</tr>
<tr>
<td>CC</td>
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<td>S/O TANAGER WY</td>
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<td>ALBATROSS AV</td>
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<td>RINCON AV</td>
</tr>
<tr>
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<td>BERNAL AV</td>
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<tr>
<td>CG, CL</td>
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<td>KATHY WY</td>
<td>CHARLOTTE WY</td>
<td>#5369 KATHY WY</td>
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</table>
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AWARDING BID TO, AND AUTHORIZING AGREEMENT WITH, TELFER PAVEMENT TECHNOLOGIES, LLC FOR SLURRY SEAL PROJECT IN THE AMOUNT OF $1,157,007.90; AUTHORIZING AGREEMENT WITH CITY OF DUBLIN FOR THE PROJECT; APPROVING A SUPPLEMENTAL APPROPRIATION OF $100,000 OF GAS TAX FUNDS AND $98,000 OF GENERAL FUNDS; AND CEQA DETERMINATION

(2016 Slurry Seal, Project No. 2016-04)

The City of Livermore (“Livermore”) advertised, and received bids for, the following work: (1) 2016 Slurry Seal project, Project No. 2016-04 to rehabilitate approximately 14.2 centerline miles (30.0 lane miles) of residential, industrial, collector, and arterial streets as reported in the accompanying staff report; (2) the 2016 Citywide Curb and Gutter Replacement, Project No. 2007-22; and (3) rehabilitation of Amador Plaza Road in the City of Dublin (“Dublin”) as requested by the City of Dublin and to be paid for by Dublin (“Project”).

Livermore received bids for the Project from four bidders and Livermore staff has identified the bid submitted by Telfer Pavement Technologies, LLC, in the amount of $1,157,007.90, to be the lowest responsive bid submitted by a responsible bidder. Livermore staff recommends the City Council award the bid to Telfer Pavement Technologies, LLC.

An agreement has been drafted between Livermore and Dublin setting the terms pursuant to which Livermore will be able to award and administrate the Project work in Dublin and pursuant to which Dublin will pay for that work (“Dublin Agreement”). Dublin’s City Council is expected to consider the Dublin Agreement at its July 19, 2016 council meeting. In the event Dublin does not authorize and execute the Dublin Agreement before the Livermore City Council is presented with this resolution, the Project as awarded will not include any work in Dublin.

The amounts of $1,155,000 for the 2016 Slurry Seal project, included in the updated 2015-2017 Capital Improvement Program; and $15,000 for the 2016 Citywide Curb and Gutter Replacement project included in the FY 2016-17 budget exist to pay for Project costs. An additional $100,000 is requested because the low bid exceeded the engineer’s estimate. Staff requests the City Council appropriate the additional $100,000 in FY 2016-17 from Gas Tax Fund 2106 (Fund 653). Staff also requests the City Council appropriate $98,000 from the General Fund (Fund 001) to cover the Project work in Dublin, which expenditures will be reimbursed by Dublin plus a $4,000 administration fee pursuant to the terms of the Dublin Agreement. With the requested additional appropriations, the total Project budget is $1,368,000.

Staff recommends the Livermore City Council determine that the Project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations (“CCR”) section 15301, because the Project is for the repair, maintenance, or minor alteration of existing streets and public facilities, involving negligible or no expansion of existing use.

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

1. The Project, consisting of (1) 2016 Slurry Seal project, Project No. 2016-04; (2) the 2016 Citywide Curb and Gutter Replacement, Project No. 2007-22; and (3) rehabilitation of
Amador Plaza Road in the city of Dublin as requested by the City of Dublin and to be paid for by Dublin, is categorically exempt from the requirements of CEQA pursuant to 14 California Code of Regulations ("CCR") section 15301, because the Project is for the repair, maintenance, or minor alteration of existing streets and public facilities, involving negligible or no expansion of existing use.

2. The bid to construct the Project is awarded to Telfer Pavement Technologies, LLC, a responsible bidder that submitted the lowest responsive bid, in the amount of $1,157,007.90;

3. All other bids or proposals submitted to undertake the Project are rejected;

4. The City Manager is authorized to sign and enter into the agreement, attached hereto as Exhibit A, on behalf of the City of Livermore, with Telfer Pavement Technologies, LLC, in accordance with the terms, specifications, and general provisions of the bid package for the Project;

5. The City Manager is authorized to sign and enter into an agreement, in substantial conformance with the draft agreement attached hereto as Exhibit B, on behalf of the City of Livermore with the City of Dublin providing the terms pursuant to which the City of Livermore will award and administrate the Project work in the city of Dublin and the City of Dublin will pay for that work; and

6. The amounts of $1,155,000 for the 2016 Slurry Seal project, included in the updated 2015-2017 Capital Improvement Program, and $15,000 for the 2016 Citywide Curb and Gutter Replacement project included in the FY 2016-17 budget exist to pay for the Project. Additionally, a supplemental appropriation is approved in the amount of $100,000 from unappropriated Gas Tax Fund 2016 (Fund 653) and $98,000 from unappropriated General Funds (Fund 001) in FY 2016-17 for the Project.

On motion of Council Member ________________________, seconded by Council Member_________________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

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

ATTEST:                      APPROVED AS TO FORM:
_____________________________   ____________________________
Susan Neer      Robert Mahlowitz
City Clerk      Assistant City Attorney
EXHIBIT A

DOCUMENT 00520

AGREEMENT

THIS AGREEMENT, made this ______ day of ______ 2016 by and between Telfer Pavement Technologies

whose place of business is located at 4522 Parker Ave, Suite 350 McClellan, CA 95652

(the "Contractor"), and the CITY OF LIVERMORE, a municipal corporation, (the "City"), organized under the laws of the State of California.

WHEREAS, the City, by its Resolution No. _________, adopted on the ______ day of ______, 2016 awarded to the Contractor the following contract:

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the Contractor and the City agree as follows:

ARTICLE 1. Work

1.1 The Contractor shall complete all Work specified in the Contract Documents, in accord with the Drawings, Specifications, and all other terms and conditions of the Contract Documents ("Work").

ARTICLE 2. Not Used

ARTICLE 3. Contract Times and Liquidated Delay Damages

3.0 Contractor shall commence work under this Contract within 15 working days after the date of award of the Agreement by the City Council, unless an alternate date is established in the Notice to Proceed.

The Notice to Proceed shall be issued for this Contract on July 25, 2016 August 1, 2016.

The Work will be Substantially Complete within 50 working days from the date when the Contract Time commences to run as provided in Document 00700 General Conditions.

The Work will be Finally Complete in accordance with the Contract Documents within 10 Calendar days from the date of the written concurrence that the Work is Substantially Complete as provided in Document 00700 General Conditions.

3.1 Liquidated Delay Damages The City and the Contractor recognize that time is of the essence of this Agreement and that the City will suffer financial loss in the form of contract administration expenses (including project management and consultant’s expenses) if Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the Contract Documents. The Contractor and the City agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by the City because of a delay in completion of the Work. Liquidated damages for delay shall only cover administrative, overhead, and general loss of public

AGREEMENT

DOCUMENT 00520 – PAGE 1
use damages suffered by the City as a result of delay. Liquidated delay damages shall not cover the cost of other types of damage such as completion of the Work, damages resulting from defective work, costs of substitute facilities or damages suffered by others who then seek to recover their damages from the City (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties, and defense costs thereof), interest on bonds or lost revenues. Accordingly, the City and the Contractor agree that as liquidated delay damages the Contractor shall pay the City:

3.1.1 $500 1500 dollars ($) for each day that expires after the time specified herein for the Contractor to achieve Substantial Completion, until Work is Substantially Complete; and

3.1.2 250 dollars ($) for each day that expires after the time specified herein for the Contractor to achieve Final Completion, until Work is Finally Complete.

These measures of liquidated delay damages shall apply cumulatively and shall be presumed to be, except as provided below, the damages suffered by the City resulting from delay in completion of the Work.

ARTICLE 4. Contract Sum

The City shall pay an amount not to exceed $1,157,007.90 (Contract Sum) to the Contractor for completion of Work in accordance with the Contract Documents. Actual payment will be determined by the number of units constructed for the items specified in the bid schedule multiplied by the unit prices bid. A contingency allowance not to exceed 10% of the Contract Sum may be paid to the Contractor by the City, provided the cost of any such unexpected extra work or items to be paid from the contingency allowance is processed in accordance with the Contract Documents. Any work or items to be paid from the contingency allowance shall be determined as provided in the Contract Documents.

ARTICLE 5. The Contractor's Representations and Warranties

In order to induce the City to enter into this Agreement, the Contractor represents and warrants that it has performed all obligations imposed under Document 00200 Instructions to Bidders, including but not limited to:

5.1 Contractor has visited the Site and has examining thoroughly and understood all reports of exploration and tests of subsurface conditions, drawings or reports, available for bidding purposes;

5.2 Contractor has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Site, locality, actual conditions, as-built conditions, and all local conditions, and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by the Contractor and safety precautions and programs incident thereto; and

5.3 Contractor has given City written notice of all conflicts, errors, discrepancies discovered and received written resolution thereof acceptable to Contractor.
EXHIBIT A

ARTICLE 6. Contract Documents

The Contract Documents consist of the following documents, including all changes, addenda and modifications thereto:

- Document 00510: Transmittal of Agreement
- Document 00520: Agreement
- Document 00550: Notice to Proceed
- Document 00610: Performance Bond
- Document 00612: Payment Bond
- Document 00614: Maintenance Bond
- Document 00680: Escrow Agreement For Security Deposits In Lieu of Retention
- Document 00700: General Conditions
- Document 00800: Supplementary General Conditions
- Specifications: Divisions 1 through 34
- Drawings, Tables and Schedules

ARTICLE 7. Miscellaneous

7.1 Except as set forth in this Agreement, terms used in this Agreement are defined in Document 00700 General Conditions and will have the meaning indicated therein.

7.2 It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of the City, or acting as an employee or representative of the City, liable on this Agreement, any of the Contract Documents, upon any warranty of authority or otherwise, and it is further understood and agreed that liability of the City is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

7.3 The Contract Sum includes all allowances and accepted alternates.

7.4 Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at the City's offices, and will be made available to any interested party on request. In accordance with Section 1861 of the Labor Code, the Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code that require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and the Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.

7.5 This Agreement and the Contract Documents shall be deemed to have been entered into in the City of Livermore, County of Alameda, State of California, and shall be governed in all respects by California law (excluding choice of law rules). Venue for all disputes or litigation hereunder shall be Alameda County; Contractor waives CCP Section 394.
IN WITNESS WHEREOF the parties hereto have executed this Agreement in duplicate the day and year first above written.

CONTRACTOR:

By: [Signature]

Its: Stephen E. Olsen, Vice President Slurry Division
Title (If Corporation: Chairman, President or Vice President)

By: ____________________________
Signature

Its: ____________________________
Title (If Corporation: Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer)

CITY

CITY OF LIVERMORE, a municipal corporation

By: ____________________________

______________________________
Attest: __________________________
______________________________, Secretary

Approved as to form and legality this 11th day of July, 2016

______________________________, City Attorney

END OF DOCUMENT
AGREEMENT BETWEEN THE CITY OF LIVERMORE AND CITY OF DUBLIN TO INCLUDE CITY OF DUBLIN STREET IMPROVEMENTS IN CITY OF LIVERMORE SLURRY SEAL 2016 PROJECT 2016-04

This Agreement ("Agreement") is entered into on _________, 2016 by and between the City of Livermore ("Livermore"), a California municipal corporation, and the City of Dublin ("Dublin"), a California municipal corporation. When used in this Agreement, the term “Parties” shall refer to and include Livermore and Dublin.

RECITALS

A. As part of Livermore’s Pavement Management Program, Livermore conducts an annual slurry seal project to resurface City streets. Dublin has requested that Livermore include Dublin street improvements as part of that work.

B. Livermore has prepared Slurry Seal 2016 Project 2016-04 to seek bids for street improvements in Livermore ("Project"). The request for bids sought proposals for work in Livermore ("Livermore Work"). Additionally, the bid request included technical specifications and requirements prepared by Dublin for slurry seal work on two streets in Dublin as an optional additional Project component, entitled Schedule B of the Project bid documents ("Dublin Work").

C. Livermore’s request for bids specified that the Project contract, if awarded, would be awarded to the bidder that submitted the lowest bid for the Livermore Work and that Livermore would award the low-bidder's additional Dublin Work bid component if authorized by Dublin.

D. Livermore has received and opened bids for the Project and Livermore staff has identified Telfer Pavement Technologies, LLC ("Telfer") as the responsible bidder who submitted the lowest bid for the Livermore Work. The Bid Form, Document 00410, Submitted by Telfer as part of its Project bid shows its bid for the Livermore Work and Dublin Work and is attached hereto as Exhibit A.

E. Dublin concurs in Livermore’s staff identification of Telfer as the lowest responsible bidder and finds Telfer acceptable to complete the Dublin Work.

F. By entering into this Agreement, Dublin authorizes Livermore to award Telfer’s bid proposal to undertake the Dublin Work. The purpose of this Agreement is to provide the terms pursuant to which Livermore will administer the overall Project and the Dublin will reimburse Livermore for the Dublin Work.

NOW, THEREFORE, in consideration of the performance of the terms and conditions set forth in this Agreement, the parties agree as follows:
AGREEMENT

1. **Livermore Authority.** Dublin authorizes Livermore to act as its agent to award and administrate the contract for the Project including the Dublin Work. Livermore will award the contract to perform the Dublin Work pursuant to the terms of this Agreement. In so doing, Livermore is acting as the agent of Dublin for construction purposes only. Livermore will not maintain the Dublin Work improvements once the construction work is completed.

2. **Low Bid Requirements.** Pursuant to the Public Contract Code, Livermore will only award the Project to a responsible bidder that submits the lowest responsive bid for the Project work. The bidder to whom Livermore ultimately awards the Project or Livermore Work shall be referred to in this agreement as, “Contractor.”

3. **Term.** This Agreement shall be effective from the date both parties have signed it to July 1, 2017 unless terminated as set forth in this Agreement.

4. **Dublin Directive to Award.** By entering into this Agreement, Dublin directs Livermore to award the bid for the Dublin Work and to proceed with the Dublin Work. Livermore’s City Council is not bound by Dublin’s directive to award the Dublin Work and may still determine not to award the bid for the Dublin Work and/or Project at all, in which case this Agreement terminates. If Dublin has not approved and executed this Agreement by July 20, 2016, Livermore will not award the Dublin Work.

5. **Interagency Payment Limits.** No Livermore funds shall be expended to complete the Dublin Work and no Dublin funds shall be expended to complete of the Livermore Work.

6. **Administration Fee.** If Livermore awards the Dublin Work, Dublin shall pay Livermore $4,000 to compensate Livermore for the administrative services provided by Livermore, which is approximately 5 percent of the anticipated cost of the Dublin Work.

7. **Livermore Standards.** Although Livermore will endeavor to consult with Dublin and make efforts to meet all reasonable Dublin requests, Dublin agrees Livermore shall determine when the Dublin Work is complete and that Livermore standards shall govern all of the Project work, including the Dublin Work.

8. **Livermore Responsibilities.** Livermore shall do all of the following:

   (a) Award and administer the construction contract for the entire Project including the Dublin Work, including payments, price quote requests, work directives, change orders, and other construction documents. Livermore will consult with Dublin about matters involved with the Dublin Work, but Livermore is authorized to make decisions concerning the Project including the Dublin Work.
(b) File a Notice of Completion for the entire Project and, at Project completion, the City Council of Livermore shall determine whether to accept the work conducted in Livermore for maintenance.

(c) Notify Dublin when Livermore files a Notice of Completion for the Project.

(d) Pay the Contractor for completed construction of the Livermore Work. Forward the invoices for payments to Dublin for the Dublin Work.

(e) Assign Dublin all of Livermore’s rights and cooperate with Dublin to enable Dublin to pursue warranty claims and defective work claims on behalf of Dublin against the Contractor following Project completion.

9. **Dublin Obligations.** Dublin shall do all of the following:

(a) Attend the preconstruction meeting for the Project.

(b) Obtain any necessary regulatory permits required for the Dublin Work at Dublin’s expense.

(c) Coordinate the schedule for Dublin Work with the Contractor.

(d) Provide notice required by Dublin or any law or regulation to any person or entity entitled to notice of the Dublin Work.

(e) Inspect the Dublin Work and coordinate any necessary material testing with the Contractor and pay for all material testing costs.

(f) Participate with Livermore in negotiating any change orders for the Dublin Work with the Contractor. Dublin agrees that Livermore shall be the final decision-maker concerning any change orders concerning any of the Project work.

(g) Provide any information Contractor requires concerning the Dublin Work as part of a properly-submitted Request for Information.

(h) Provide Livermore timely written notice when the Dublin Work is substantially complete including a list of any punch list of items remaining outstanding on the Dublin Work. If Dublin has not provided this information when desired by Livermore, Livermore shall provide written notice to Dublin seeking the information. Ten calendar days after sending this notice, Livermore may proceed to determine whether the Dublin Work is substantially complete and may provide Contractor a punch list of outstanding Dublin Work to be completed, a copy of which shall be provided to Dublin.

(i) Notify Livermore when all punch list work items for the Dublin Work have been completed. If Dublin has not provided this information when desired by Livermore, Livermore shall provide written notice to Dublin seeking the information. Ten calendar days after sending this notice, Livermore may proceed to determine whether
the punch list items for the Dublin Work is complete, a copy of which shall be provided to Dublin.

(j) Make payments for the Dublin Work to Livermore, to be provided to the Contractor pursuant to the terms of the Project contract, in the amount provided in the Project bid, subject to authorized change orders, plus the Administrative Fee of $4,000 as set forth above. Livermore shall make all payments owed to the Contractor for all Project work and provide Dublin copies of invoices and payments for the Dublin Work. Dublin shall refund Livermore for payments Livermore makes for the Dublin Work. Dublin’s payments shall be made payable to the City of Livermore, reference Slurry Seal 2016 Project 2016-04 on the payments. Payments shall be made within 30 calendar days of the date Dublin receives invoices from Livermore.

(k) Notify Livermore in writing regarding any warranty issues concerning the Dublin Work. The warranty period for the Dublin Work shall extend one year from the date the entire Project is accepted by the Livermore City Council.

(l) Inspect any warranty repairs made to the Dublin Work and notify Livermore in writing if repairs are unacceptable within five calendar days of a repair.

(m) Dublin shall be responsible to accept the Dublin Work for public maintenance.

10. Indemnity and Liability.

(a) Dublin agrees that in exchange for Livermore’s agreement to administrate the bidding, award, and construction of the Dublin Work, that Dublin’s sole remedy for any damage arising out of Livermore’s performance of its obligations is a claim for specific performance.

(b) Dublin and Livermore agree that they are not indemnifying each other for claims, harms, or damages of any kind arising out of or related to this Agreement. Instead, indemnification for the Project work shall be provided to Livermore pursuant to the terms of the contract it enters into with the Contractor, for which Livermore will request insurance and performance, payment, and maintenance bonds. Livermore agrees that Dublin may pursue any claim related to the Dublin Work against the Contractor which Livermore could pursue directly against the Contractor in court and pursuant to the dispute resolution provisions of the contract for the Project.

(c) To the extent not adjudicated as the legal responsibility of the Contractor, Dublin and not Livermore shall be responsible for any third party claim for personal injury or money damages related to or arising out of the Dublin Work.

(d) To the extent not adjudicated as the legal responsibility of the Contractor, Livermore and not Dublin shall be responsible for any third party claim for personal injury or money damages related to or arising out of the Livermore Work.
(e) Livermore represents and warrants that the Contractor will be contractually required to name the City of Dublin, its officials, employees, agents and volunteers as additional insureds and all such insurance will remain in effect until the Project has been accepted for maintenance by Livermore and Dublin, for the work in their respective cities.

11. **Termination.** Until the Dublin Work commences, Livermore may terminate this Agreement for any reason at Livermore’s sole discretion by providing thirty (30) days' written notice to Dublin.

12. **Notices.** Wherever this Agreement requires notice or demand be given, such notice or demand shall be made in writing and forwarded by registered mail or overnight delivery, addressed as follows:

**City:**
City Engineer  
ATTN: Project 2016-04  
City of Livermore  
1052 S. Livermore Avenue  
Livermore, California 94550

**Dublin:**  
Andrew Russell  
City of Dublin  
100 Civic Plaza  
Dublin, CA 94568

Any party may change such address or contact person by written notice by registered mail to the other.

13. **Modification.** This Agreement may only be modified or amended by written agreement signed by both parties hereto.

14. **Entire Agreement.** This instrument, including any attachments hereto, constitutes the entire agreement of the parties relating to the subject matter of this Agreement and correctly sets forth the rights, duties and obligations of each party to the other.

15. **Partial Invalidity.** If any provision or portion of this Agreement shall be deemed invalid, it is agreed that such invalidity shall affect only such provision or portion thereof, and the remainder of this contract shall remain in force and effect.

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IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement as of the dates set forth below.

City of Livermore

By: __________________________
   Marc Roberts
   Livermore City Manager

Date: ______________

Approved as to form:

By: __________________________
   Livermore City Attorney

ATTEST:

_____________________________
   Susan Neer, Livermore City Clerk

City of Dublin

By: __________________________
   Christopher L. Foss
   Dublin City Manager

Date: ______________

Approved as to form:

By: __________________________
   John D. Bakker, City Attorney

ATTEST:

_____________________________
   Caroline Soto, Dublin City Clerk
EXHIBIT B

DOCUMENT 00410
BID FORM

CITY OF LIVERMORE
2016 Slurry Seal Project
City Project No. 2016-04

Re: Contract # 2016-04, 2016 Slurry Seal Project

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the City of Livermore, a political subdivision of the State of California ("City") in the form included in the Contract Documents, Document 00520 Agreement, to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Sum and within the Contract Time indicated in this Bid and in accordance with all other terms and conditions of the Contract Documents.

2. Bidder accepts all of the terms and conditions of the Contract Documents and the Invitation to Bid and Instructions to Bidders, including without limitation, those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for 90 calendar days after the day of Bid opening. Bidder will sign and submit the Agreement, Bonds and other documents required by Document 00200 Instructions to Bidders by the time and in the manner set forth in Document 00200 Instructions to Bidders.

3. In submitting this Bid, Bidder represents:

(a) Bidder has examined all of the Contract Documents and of the following Addenda (receipt of all of which is hereby acknowledged).

<table>
<thead>
<tr>
<th>Date</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/15/16</td>
<td>1</td>
</tr>
<tr>
<td>6/17/16</td>
<td>2</td>
</tr>
</tbody>
</table>

(b) Bidder has visited the Site and performed all tasks, research, investigation, reviews, examinations, analysis, and given notices, regarding the Project and the Site, as set forth in Document 00520 Agreement, Article 5.

4. Based on the foregoing, Bidder proposes and agrees to fully perform the Work within the time stated and in strict accordance with the Contract Documents for the following sum of money listed in the following Bid Schedule:
EXHIBIT B

SCHEDULE OF BID PRICES

All bid items, including lump sums, unit prices, additive alternates and deductive alternates must be filled in completely. Quote in words and numerals where requested.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Est. Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Site Preparation/Mobilization</td>
<td>1</td>
<td>LS</td>
<td>25,000.00</td>
<td>25,000.00</td>
</tr>
<tr>
<td>2.</td>
<td>Traffic Control &amp; Construction Area Signs</td>
<td>1</td>
<td>LS</td>
<td>65,000.00</td>
<td>65,000.00</td>
</tr>
<tr>
<td>3.</td>
<td>Crack Seal</td>
<td>1</td>
<td>LS</td>
<td>130,000.00</td>
<td>130,000.00</td>
</tr>
<tr>
<td>4.</td>
<td>AC repair (2&quot; Type A, 3/4&quot; max)</td>
<td>3,666</td>
<td>SF</td>
<td>2.63</td>
<td>9,641.58</td>
</tr>
<tr>
<td>5.</td>
<td>AC repair (4&quot; Type A, 3/4&quot; max)</td>
<td>12,555</td>
<td>SF</td>
<td>6.83</td>
<td>85,750.65</td>
</tr>
<tr>
<td>6.</td>
<td>AC repair (6&quot; Type A, 3/4&quot; max)</td>
<td>6,570</td>
<td>SF</td>
<td>8.40</td>
<td>55,188.60</td>
</tr>
<tr>
<td>7.</td>
<td>AC repair (8&quot; Type A, 3/4&quot; max)</td>
<td>1,218</td>
<td>SF</td>
<td>15.23</td>
<td>18,550.14</td>
</tr>
<tr>
<td>8.</td>
<td>Type II Slurry Seal</td>
<td>1,736,265</td>
<td>SF</td>
<td>0.13</td>
<td>225,714.45</td>
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<tr>
<td>8a.</td>
<td>Type I Slurry Seal</td>
<td>133,007</td>
<td>SF</td>
<td>0.15</td>
<td>19,951.05</td>
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<tr>
<td>9.</td>
<td>Type II Micro Surfacing</td>
<td>769,671</td>
<td>SF</td>
<td>0.17</td>
<td>130,844.07</td>
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<td>10.</td>
<td>Double Type II Micro Surfacing</td>
<td>164,941</td>
<td>SF</td>
<td>0.42</td>
<td>69,275.22</td>
</tr>
<tr>
<td>11.</td>
<td>Adjust 24&quot; Manhole Cover to Grade</td>
<td>6</td>
<td>EA</td>
<td>500.00</td>
<td>3,000.00</td>
</tr>
<tr>
<td>12.</td>
<td>Adjust Water Valve Box or Monument Box Cover to Grade and clean out water valve box</td>
<td>8</td>
<td>EA</td>
<td>375.00</td>
<td>3,000.00</td>
</tr>
<tr>
<td>13.</td>
<td>Install Truncated Dome Panel at Ex ADA Ramp</td>
<td>42</td>
<td>EA</td>
<td>820.00</td>
<td>33,680.00</td>
</tr>
<tr>
<td>14.</td>
<td>Install New Concrete ADA Curb Ramp</td>
<td>3</td>
<td>EA</td>
<td>4,500.00</td>
<td>13,500.00</td>
</tr>
<tr>
<td>15.</td>
<td>Replace Concrete Curb and Gutter</td>
<td>59</td>
<td>LF</td>
<td>85.00</td>
<td>5,015.00</td>
</tr>
<tr>
<td>16.</td>
<td>Paint Curb</td>
<td>23</td>
<td>LF</td>
<td>2.00</td>
<td>46.00</td>
</tr>
</tbody>
</table>
### EXHIBIT B

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Est. Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>17.</td>
<td>Detail 10</td>
<td>7,734</td>
<td>LF</td>
<td>0.51</td>
<td>3,944.39</td>
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<tr>
<td>18.</td>
<td>Detail 22</td>
<td>15,432</td>
<td>LF</td>
<td>1.20</td>
<td>18,518.40</td>
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<tr>
<td>19.</td>
<td>Detail 25</td>
<td>11,205</td>
<td>LF</td>
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<td>5,266.35</td>
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<tr>
<td>20.</td>
<td>Detail 27B</td>
<td>2,848</td>
<td>LF</td>
<td>0.40</td>
<td>1,139.20</td>
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<tr>
<td>21.</td>
<td>Detail 29</td>
<td>1,290</td>
<td>LF</td>
<td>2.50</td>
<td>3,225.00</td>
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<tr>
<td>22.</td>
<td>Detail 32</td>
<td>985</td>
<td>LF</td>
<td>2.60</td>
<td>2,561.00</td>
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<tr>
<td>23.</td>
<td>Detail 37B</td>
<td>200</td>
<td>LF</td>
<td>0.83</td>
<td>166.00</td>
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<tr>
<td>24.</td>
<td>Detail 38</td>
<td>1,465</td>
<td>LF</td>
<td>0.95</td>
<td>1,371.75</td>
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<td>25.</td>
<td>Detail 39</td>
<td>9,053</td>
<td>LF</td>
<td>0.65</td>
<td>5,884.45</td>
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<td>26.</td>
<td>Detail 39A</td>
<td>792</td>
<td>LF</td>
<td>0.65</td>
<td>514.80</td>
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<td>27.</td>
<td>4&quot; Stripe (thermoplastic)</td>
<td>314</td>
<td>LF</td>
<td>0.75</td>
<td>235.80</td>
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<tr>
<td>28.</td>
<td>12&quot; Stripe (thermoplastic)</td>
<td>6,811</td>
<td>LF</td>
<td>3.75</td>
<td>25,541.25</td>
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<td>29.</td>
<td>Legends (thermoplastic)</td>
<td>4,996</td>
<td>SF</td>
<td>4.80</td>
<td>23,980.80</td>
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<tr>
<td>30.</td>
<td>Reflective Fire Hydrant Markers (Type D or G)</td>
<td>95</td>
<td>EA</td>
<td>12.00</td>
<td>1,140.00</td>
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<tr>
<td>31.</td>
<td>Tree Trimming</td>
<td>72</td>
<td>EA</td>
<td>135.00</td>
<td>9,720.00</td>
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<tr>
<td>32.</td>
<td>Remove Existing Striping and Pavement Markings</td>
<td>1</td>
<td>LS</td>
<td>45,000.00</td>
<td>45,000.00</td>
</tr>
</tbody>
</table>

Subtotal Base Bid Sch: **1,041,305.00**

### Deductive Bid Schedule A - Project 2007-22, Livermore Citywide Curb and Gutter Replacement

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Est. Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>33.</td>
<td>Site Preparation/Mobilization</td>
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<td>LS</td>
<td>500.00</td>
<td>500.00</td>
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BID FORM

DOCUMENT 00410 – PAGE 3
EXHIBIT B

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<tr>
<th>Item</th>
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<th>Est. Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Cost</th>
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<tbody>
<tr>
<td>34.</td>
<td>Traffic Control &amp; Construction Area Signs</td>
<td>1</td>
<td>LS</td>
<td>$2,500.00</td>
<td>$2,500.00</td>
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<tr>
<td>35.</td>
<td>Replace concrete curb &amp; gutter</td>
<td>308</td>
<td>LF</td>
<td>$85.00</td>
<td>$26,180.00</td>
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<tr>
<td>36.</td>
<td>Remove tree (between 12&quot; and 18&quot; diameter) at 4329 Drake Ct</td>
<td>1</td>
<td>EA</td>
<td>$1,850.00</td>
<td>$1,850.00</td>
</tr>
</tbody>
</table>

Total of Items 1 through 36 (written):

One million seventy-two thousand three hundred thirteen, five dollars and zero cents.

Number: 1,072,335.

Additive Bid Schedule B- Micro-surface- Amador Plaza Rd, Dublin

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Est. Quantity</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>37.</td>
<td>Site Preparation/Mobilization</td>
<td>1</td>
<td>LS</td>
<td>$1500.00</td>
<td>$1500.00</td>
</tr>
<tr>
<td>38.</td>
<td>Traffic Control &amp; Construction Area Signs</td>
<td>1</td>
<td>LS</td>
<td>$3500.00</td>
<td>$3500.00</td>
</tr>
<tr>
<td>39.</td>
<td>Crack Seal</td>
<td>1</td>
<td>LS</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>40.</td>
<td>AC repair (6&quot; Type A, 3/4&quot; max)</td>
<td>1428</td>
<td>SF</td>
<td>$11.00</td>
<td>$15,708.00</td>
</tr>
<tr>
<td>41.</td>
<td>Type II Micro Surfacing</td>
<td>90000</td>
<td>SF</td>
<td>$0.24</td>
<td>$21,600.00</td>
</tr>
<tr>
<td>42.</td>
<td>Detail 22</td>
<td>335</td>
<td>LF</td>
<td>$1.50</td>
<td>$502.50</td>
</tr>
<tr>
<td>43.</td>
<td>Detail 24, 25, 27b</td>
<td>213</td>
<td>LF</td>
<td>$0.60</td>
<td>$127.80</td>
</tr>
<tr>
<td>44.</td>
<td>Detail 28</td>
<td>496</td>
<td>LF</td>
<td>$2.95</td>
<td>$1,463.70</td>
</tr>
<tr>
<td>45.</td>
<td>Detail 31</td>
<td>1258</td>
<td>LF</td>
<td>$2.85</td>
<td>$3,585.80</td>
</tr>
<tr>
<td>46.</td>
<td>Detail 38</td>
<td>434</td>
<td>LF</td>
<td>$1.10</td>
<td>$477.40</td>
</tr>
<tr>
<td>47.</td>
<td>Detail 38A</td>
<td>177</td>
<td>LF</td>
<td>$1.00</td>
<td>$177.00</td>
</tr>
<tr>
<td>48.</td>
<td>Detail 39</td>
<td>3817</td>
<td>LF</td>
<td>$0.70</td>
<td>$2,671.90</td>
</tr>
</tbody>
</table>
EXHIBIT B

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>49.</td>
<td>Detail 39A</td>
<td>84</td>
<td>LF</td>
<td>$0.70</td>
</tr>
<tr>
<td>50.</td>
<td>12&quot; Stripe (Thermoplastic)</td>
<td>180</td>
<td>LF</td>
<td>$1.25</td>
</tr>
<tr>
<td>51.</td>
<td>Legends (Thermoplastic)</td>
<td>1052</td>
<td>SF</td>
<td>$5.50</td>
</tr>
<tr>
<td>52.</td>
<td>Reflective Fire Hydrant Markers (Type D OR G)</td>
<td>5</td>
<td>EA</td>
<td>$12.00</td>
</tr>
<tr>
<td>53.</td>
<td>Remove existing striping and pavement markings</td>
<td>1</td>
<td>LS</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>54.</td>
<td>Install new sign on new post</td>
<td>24</td>
<td>EA</td>
<td>$400.00</td>
</tr>
<tr>
<td>55.</td>
<td>Relocate existing sign to existing new post</td>
<td>9</td>
<td>EA</td>
<td>$250.00</td>
</tr>
<tr>
<td>56.</td>
<td>Paint Curb</td>
<td>420</td>
<td>LF</td>
<td>$2.00</td>
</tr>
</tbody>
</table>

Subtotal Sch. B: $84,672.90

5. The contract award, if awarded, will be based on the lowest bid for the combined total of the Base Bid Schedule A (Items 1-36). The City reserves the right to exclude Deductive Bid Schedule A or add Additive Bid Schedule B prior to award.

6. Subcontractors and their sub-bids for work included in all bid items and additive or deductive alternates are listed on the attached Document 00432 Subcontractors List.

7. The undersigned understands that the City reserves the right to reject this bid.

8. If written notice of the acceptance of this Bid, hereinafter referred to as Notice of Award, is mailed or delivered to the undersigned Bidder within the time described in Section 2 above or at any other time thereafter before it is withdrawn, the undersigned will execute and deliver the documents required by Document 00200 Instructions to Bidders including, but not limited to, Document 00520 Agreement, Document 00610 Construction Performance Bond, Document 00612 Construction Labor and Material Bond, and Document 00614 Maintenance Bond, all within the time and in the manner specified in Document 00200 Instructions to Bidders.

9. Notice of Award or request for additional information may be addressed to the undersigned at the address set forth below.

10. The undersigned herewith encloses a cashier's check or certified check of or on a responsible bank in the United States, or a corporate surety bond furnished by a surety authorized to do a surety business in the State of California, in the amount of ten percent (10%) of the total of Bid Items 1-56 and made payable to City of Livermore.

11. The undersigned agrees to commence work under the Contract Documents on the date established by the Contract Documents and to complete all work within the time specified in Document 00520 Agreement.

12. The undersigned agrees that, in accordance with Document 00700 General Conditions, liquidated damages for failure to complete all work in the contract within the time specified in Document 00520 Agreement shall be as set forth in Document 00520 Agreement.

13. The names of all persons interested in the foregoing Bid as principals are: See Attached

BID FORM

DOCUMENT 00410 – PAGE 5
Telfer Pavement Technologies, LLC
EIN 47-3748889
Owner Information

1. Ergon Asphalt & Emulsions, INC.
   2829 Lakeland Drive
   Jackson, MS. 39232
   (601) 933-3515

2. Telfer Tank Line, INC.
   211 Foster Street
   Martinez, CA. 94553
   (925) 228-1515

3. Telfer Enterprises, INC.
   211 Foster Street
   Martinez, CA. 94553
   (925) 228-1515

4. Asphalt Service Co.
   211 Foster Street
   Martinez, CA. 94553
   (925) 228-1515

5. Continental Western Transportation Co., INC.
   9235 Harris Plant Road
   San Diego, CA. 92145
   (858) 268-1151

Officers:

1. Michael Stephen Telfer, President & General Manager
2. John Albin Telfer, Executive Vice President
3. Daniel Irving Frankel, Vice President of Operations
4. Kenneth Camp Chambless, Chief Financial Officer
(IMPORTANT NOTICE: If Bidder or other interested person is a corporation, give the legal name of corporation, state where incorporated, and names of president and secretary thereof; if a partnership, give name of the firm and names of all individual co-partners composing the firm; if Bidder or other interested person is an individual, give first and last names in full).

Licensed in accordance with an act for the registration of Contractors, and with license number: 1005314.

Contractor Department of Industrial Relations (DIR) number, per SB 854: 1000027901.

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

Signature of Bidder

NOTE: If Bidder is a corporation, set forth the legal name of the corporation together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation. If Bidder is a partnership, set forth the name of the firm together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership.

Business Address: 4522 Parker Ave. Suite 350

McClellan, CA. 95652

Telephone Number(s): (916) 383-1756

Date of Bid: 6/22/2016

END OF DOCUMENT
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Stephan Kiefer, Community and Economic Development Director

SUBJECT: Construction of the Rehabilitate Runway 7R-25L Project

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. Appropriating $150,000 in Airport Funds (Fund 210) to the Rehabilitate Runway 7R-25L Project in Fiscal Year 2016-17; and

2. Awarding and authorizing execution of an agreement with DeSilva Gates Construction, LP, in the amount of $3,189,285, for construction of the Rehabilitate Runway 7R-25L Project contingent upon the FAA’s award of a grant for Project costs in the amount of $3,079,962.

SUMMARY

The Rehabilitate Runway 7R-25L Project will rehabilitate the secondary, shorter Airport runway and install LED lighting for aircraft safety. The project will also replace existing lighting on the main runway with more efficient LED lights.

DISCUSSION

The secondary Airport Runway 7R-25L (the shorter, southernmost runway) is cracking and requires a new asphalt concrete surface course. This will be accomplished by pulverizing the existing asphalt concrete and a portion of the existing base rock to serve as a base for a new asphalt surface. The runway will then be restriped.

In order to minimize inconvenience to Airport patrons, all Runway 7R-25L-related work is required to be performed within 30 consecutive calendar days. The primary runway will
remain open during construction of Runway 7R-25L. The new asphalt will be given time to cure, and the final striping will be installed as night work.

The main Runway, 7L-25R may be closed for a maximum of 15 consecutive nights to facilitate installation of the upgraded lights. This work will be done after construction is finished on the secondary runway.

On April 19, 2016, bids for this project were received and opened with two contractors submitting bids. The lowest responsive and responsible bidder was DeSilva Gates Construction, LP. The following is a list of the bids received and the Engineer’s Estimate for the project:

<table>
<thead>
<tr>
<th>CONTRACTOR</th>
<th>CITY</th>
<th>BID AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeSilva Gates Construction, LP</td>
<td>Dublin, CA</td>
<td>$3,189,285.00</td>
</tr>
<tr>
<td>Teichert Construction</td>
<td>Roseville, CA</td>
<td>$3,237,920.00</td>
</tr>
<tr>
<td>Engineer’s Estimate</td>
<td></td>
<td>$2,631,000.00</td>
</tr>
</tbody>
</table>

DeSilva Gates Construction, LP has performed similar work for the City of Livermore in a satisfactory manner.

The project is largely funded by two separate FAA grants - one for the design phase and one for the construction phase. The design grant agreement was previously authorized on July, 22, 2013. The FAA construction grant agreement will be approved tonight as a separate agenda item.

**FISCAL AND ADMINISTRATIVE IMPACTS**

Ninety percent of construction, inspection, and administration project costs will be funded by a grant through the Federal Aviation Administration (FAA). A 10 percent local match is required from the City, and is funded by the Airport Operating Fund, Fund 210. The Airport Operating Fund will also cover any construction contingencies as well as any staff charges that are not eligible for reimbursement under the FAA grant.

The Rehabilitate Runway 7R-25L Project is included in the updated 2015-2017 Capital Improvement Program with a total budget of $3,422,180 in Fiscal Year 2016-17 which is $150,000 short of the current budget amount of $3,572,190 for construction, contingencies, testing, inspection, and administration. An appropriation in the amount of $150,000 is requested in Fiscal Year 2016-17 from the Airport Fund (Fund 210) in order to complete the Rehabilitate Runway 7R-25L Project. There are adequate funds in Fund 210 to accommodate this appropriation. The budget for the Rehabilitate Runway 7R-25L Project is summarized in the table below:
### Rehabilitate Runway 7R-25L, Project 2013-13

<table>
<thead>
<tr>
<th>Fund No.</th>
<th>Fund Name</th>
<th>FY 16-17 (existing)</th>
<th>FY 16-17 (proposed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>212</td>
<td>Airport Grant</td>
<td>$3,079,962</td>
<td>$3,079,962</td>
</tr>
<tr>
<td>210</td>
<td>Airport</td>
<td>$342,218</td>
<td>$492,218</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$3,422,180</td>
<td>$3,572,180</td>
</tr>
</tbody>
</table>

### ATTACHMENTS

None

Prepared by:

Jim Vingo  
Associate Civil Engineer

Approved by:  

Marc Roberts  
City Manager

Fiscal Review by:  

Douglas Alessio  
Administrative Services Director
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AWARDING BID IN THE AMOUNT OF $3,189,285; AUTHORIZING SIGNING OF AGREEMENT WITH DESILVA GATES CONSTRUCTION, LP; AND APPROVING SUPPLEMENTAL APPROPRIATION AIRPORT OPERATING FUNDS IN THE AMOUNT OF $150,000

(Rehabilitate Runway 7R-25L, Project No. 2013-13)

The City of Livermore advertised, and received bids for, City Project No. 2013-13, Rehabilitate Runway 7R/25L Pavement and Airfield Electrical System, to rehabilitate the secondary, shorter runway at the Livermore Municipal Airport and install LED lighting for aircraft safety ("Project"). Two contractors submitted bids for a contract to undertake the Project. Staff determined that the bid submitted by DeSilva Gates Construction, LP, in the amount of $3,189,285, is the lowest responsive bid submitted by a responsible bidder and recommends the City Council award it the bid.

In addition to the Project bid amount, projected expenses, and a standard budget for Project contingencies, the total estimated Project cost is $3,572,180. Ninety percent of Project construction, inspection, and administration costs will be funded by a grant through the Federal Aviation Administration (FAA), which would cover 90 percent of the construction costs, or $3,079,962. Via a concurrently presented separate resolution, the City Council is being asked to accept the FAA grant in this amount. The City will be required to contribute a 10 percent local match for the cost of the Project, to be funded from Airport Operating Fund, Fund 210. Staff points out that the FAA grant amount does not total 90 percent of the total estimated Project cost because certain costs are not eligible for FAA funding.

City funding for the Project is included in the City’s updated 2015-2017 Capital Improvement Program with a total budget of $3,422,180 in Fiscal Year 2016-17, $150,000 short of the current total Project estimated cost of $3,572,180. This $150,000 is necessary to undertake and complete the Project which staff recommends the City Council appropriate from Airport Fund 210. Adequate funds exist in Fund 210 to accommodate this appropriation.

On May 22, 2013, the FAA issued a categorical exclusion under the National Environmental Policy Act of 1969 for the Project work. Further, on November 10, 2015, via Resolution No. 2015-153, the City Council determined that the Project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations (CCR), section 15301, as the repair, maintenance, or minor alteration of existing public facilities, involving negligible or no expansion of existing use.

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

1. The bid to construct City Project No. 2013-13, Rehabilitate Runway 7R/25L Pavement and Airfield Electrical System ("Project"), is awarded to the lowest responsive, responsible bidder, DeSilva Gates Construction, LP, in the amount of $3,189,285;

2. The City Manager is authorized to sign and enter into the agreement, attached hereto as Exhibit A, on behalf of the City of Livermore, with DeSilva Gates Construction, LP. An
additional copy of the agreement, together with the bid and all contract documents, is on file in the Engineering Division;

3. All other Project bids or proposals are rejected; and

4. A supplemental appropriation is approved, in the amount of $150,000, from Airport Operating Funds in FY 2016-17, for costs of the Project.

On motion of Council Member ________________________, seconded by Council Member _________________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

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

ATTEST: 

__________________________  ____________________________
Susan Neer      Robert Mahlowitz
City Clerk      Assistant City Attorney

APPROVED AS TO FORM:
DOCUMENT 00520
AGREEMENT

THIS AGREEMENT, made this _______day of _________, 20___ by and between Desilva-Gates Construction, LP (the “Contractor”), and the CITY OF LIVERMORE, a municipal corporation, (the “City”), organized under the laws of the State of California.

WHEREAS, the City, by its Resolution No. , adopted on the ______ day of ______, 20___ awarded to the Contractor the following contract:

Rehabilitate Runway 7R-25L
Project 2013-13
A.I.P. No. 03-06-0123-25

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the Contractor and the City agree as follows:

ARTICLE 1. Work

1.1 The Contractor shall complete all Work specified in the Contract Documents, in accord with the Drawings, Specifications, and all other terms and conditions of the Contract Documents (“Work”).

ARTICLE 2. Not Used

ARTICLE 3. Contract Times and Liquidated Delay Damages

3.0 Contractor shall commence work under this Contract within 15 Calendar Days after the date of award of the Agreement by the City Council, unless an alternate date is established in the Notice to Proceed.

The Work will be Substantially Complete within Sixty-five (65) Calendar Days from the date when the Contract Time commences to run as provided in Document 00700 General Conditions.

The Work will be Finally Complete in accordance with the Contract Documents within fifteen (15) Calendar Days from the date of the written concurrence that the work is Substantially complete as provided in Document 00700 General Conditions.

3.1 Penalty Clauses. The City and the Contractor agree that as a penalty clause the Contractor shall pay the City:

3.1.1 5,000.00 dollars ($) for each Calendar Day or any part thereof that expires after the Runway 7R-25L closure time specified (30 consecutive Calendar Days) that Runway 7R-25L remains closed to aircraft traffic; and

3.1.2 Runway 7L-25R shall remain open to aircraft traffic between 6:00 AM and 9:00 PM throughout the duration of the Contract. The Contractor shall pay a penalty of 5,000 dollars ($) for each hour or any part thereof that Runway 7L-25R is closed to aircraft traffic between
6:00 AM and 9:00 PM.

3.1.3 Work on Runway 7L-25R shall be restricted to a Runway 7L-25R nighttime closure window (between 9:00 PM and 6:00 AM) of 15 consecutive Calendar Days. The Contractor shall pay a penalty of 2,000 dollars ($) for each hour or any part thereof that Runway 7L-25R is closed to aircraft traffic between 9:00 PM and 6:00 AM outside the 15 consecutive Calendar Day Runway 7L-25R nighttime closure window.

3.2 Liquidated Delay Damages. The City and the Contractor recognize that time is of the essence of this Agreement and that the City will suffer financial loss in the form of contract administration expenses (including project management and consultant's expenses) if Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the Contract Documents. The Contractor and the City agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by the City because of a delay in completion of the Work. Liquidated delay damages shall only cover administrative, overhead, and general loss of public use damages suffered by the City as a result of delay. Liquidated delay damages shall not cover the cost of other types of damage such as completion of the Work, damages resulting from defective work, costs of substitute facilities or damages suffered by others who then seek to recover their damages from the City (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties, and defense costs thereof), interest on bonds or lost revenues. Accordingly, the City and the Contractor agree that as liquidated delay damages the Contractor shall pay the City:

3.2.1 5,000.00 dollars ($) for each Calendar Day that expires after the time specified herein for the Contractor to achieve Substantial Completion, until Work is Substantially Complete; and

3.2.2 1,000.00 dollars ($) for each Calendar Day that expires after the time specified herein for the Contractor to achieve Final Completion, until Work is Finally Complete.

These measures of liquidated delay damages shall apply cumulatively and shall be presumed to be, except as provided below, the damages suffered by the City resulting from delay in completion of the Work.

ARTICLE 4. Contract Sum

The City shall pay an amount not to exceed $ 3,189,285.00 (Contract Sum) to the Contractor for completion of Work in accordance with the Contract Documents. Actual payment will be determined by the number of units constructed for the items specified in the bid schedule multiplied by the unit prices bid. A contingency allowance not to exceed 10% of the Contract Sum may be paid to the Contractor by the City, provided the cost of any such unexpected extra Work or items to be paid from the contingency allowance is processed in accordance with the Contract Documents. Any Work or items to be paid from the contingency allowance shall be determined as provided in the Contract Documents.

ARTICLE 5. The Contractor's Representations and Warranties

In order to induce the City to enter into this Agreement, the Contractor represents and warrants that it has performed all obligations imposed under Document 00200 Instructions to Bidders, including but not limited to:

5.1 Contractor has visited the Site and has examined thoroughly and understood all reports of exploration and tests of subsurface conditions, drawings or reports, available for bidding purposes;
5.2 Contractor has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Site, locality, actual conditions, as-built conditions, and all local conditions, and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by the Contractor and safety precautions and programs incident thereto; and

5.3 Contractor has given City written notice of all conflicts, errors, discrepancies discovered and received written resolution thereof acceptable to Contractor.

ARTICLE 6. Contract Documents
The Contract Documents consist of the following documents, including all changes, addenda and modifications thereto:

Document 00510 Notice of Award
Document 00520 Agreement
Document 00550 Notice to Proceed
Document 00610 Performance Bond
Document 00612 Payment Bond
Document 00614 Maintenance Bond
Document 00680 Escrow Agreement For Security Deposits In Lieu of Retention
Document 00700 General Conditions
Document 00800 Supplementary General Conditions
Document 00850 Federal Conditions
Technical Specifications Divisions 1 and 2
Drawings
Cited Standards for Materials and Testing
Cited FAA Advisory Circulars

ARTICLE 7. Miscellaneous

7.1 Except as set forth in this Agreement, terms used in this Agreement are defined in Document 00700 General Conditions and will have the meaning indicated therein.

7.2 It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of the City, or acting as an employee or representative of the City, liable on this Agreement, any of the Contract Documents, upon any warranty of authority or otherwise, and it is further understood and agreed that liability of the City is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

7.3 The Contract Sum includes all allowances and accepted alternates.

7.4 Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at the City's offices, and will be made available to any interested party on request. In accordance with Section 1861 of the Labor Code, the Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code that require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and the Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.

7.5 This Agreement and the Contract Documents shall be deemed to have been entered into in the City of Livermore, County of Alameda, State of California, and shall be governed in all respects by California law (excluding choice of law rules). Venue for all disputes or litigation hereunder shall be Alameda County; Contractor waives CCP Section 394.
EXHIBIT A

IN WITNESS WHEREOF the parties hereto have executed this Agreement in duplicate the day and year first above written.

CONTRACTOR:

By:  Michael A. Kloos
Signature  Michael A. Kloos

Its:  Vice President
Title  (If Corporation: Chairman, President or Vice President)

By:  
Signature  

Its:  
Title  (If Corporation: Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer)

CITY

CITY OF LIVERMORE, a municipal corporation

By:  

Attest:  ____________________________, Secretary

Approved as to form and legality this 11th day of July, 2015

______________________________, Assistant City Attorney

END OF DOCUMENT
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Stephan Kiefer, Community and Economic Development Director

SUBJECT: Resolution of Intention to Form Maintenance District No. LL-863 (Tract 8195)

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. initiating formation of and intention to establish Landscape Maintenance District No. LL-863 for Tract 8195;
2. preliminarily approving the Engineer’s Report; and
3. setting the Public Hearing date for September 12, 2016.

SUMMARY

To meet the conditions of approval for Tentative Tract Map 8195, the property owner, Ponderosa Homes II Inc., has elected to form a Landscape Maintenance District to finance the maintenance and operation of public landscaping and amenities within Tract 8195. The property owner has submitted a signed petition and consent for the formation of Landscape Maintenance District No.LL-863

DISCUSSION

Tract 8195 is a 49 single family home subdivision located on the southwest corner of East Avenue and South Vasco Road. The conditions of approval for Vesting Tentative Tract 8195, approved by City Council on September 14, 2015, require the owner to form a maintenance district or other mechanism to finance the operation and maintenance of the public landscaping within this development. In order to satisfy this requirement, the owner has elected to form Landscape Maintenance District No.LL-863 pursuant to the Landscape and Lighting Act of 1972. The areas to be maintained include:
1. Backing Lot Landscaping on South Vasco Road for Tract 8195 from the southerly tract boundary to the northerly tract boundary;
2. Backing Lot Landscaping on East Avenue for Tract 8195 from the westerly tract boundary to the easterly tract boundary;
3. Walkway within the backing lot landscaping on South Vasco Road for Tract 8195 from the southerly tract boundary to the northerly tract boundary.
4. Walkway within the backing lot landscaping on East Avenue for Tract 8195 from the westerly tract boundary to the easterly tract boundary.
5. Monument Sign, Wine Barrel and associated walkway and amenities lighting for Tract 8195 at the northeasterly corner of tract boundary.

Staff has reviewed the Engineer’s Report and Assessment Diagram for the proposed maintenance district. The law firm of Jones Hall has prepared the legal documents for the district formation.

Staff recommends the City Council consider forming Maintenance District No. LL-863 using the following process:

July 25, 2016 - Council adopts a resolution:
   a) Initiating formation of and intention to establish Landscape Maintenance District No. LL-863 for Tract 8195;
   b) Preliminarily approving the Engineer’s Report;
   c) Setting the Public Hearing date for September 12, 2016

September 12, 2016 – Council holds a public hearing, confirms the ballots and adopts a resolution approving and levying the assessments associated with Maintenance District LL-863.

FISCAL AND ADMINISTRATIVE IMPACTS

The City will administer Landscape Maintenance District No. LL-863 on an annual basis and will budget for and manage the necessary maintenance, operation, and administration. All related expenditures will be recovered via the assessment process. The estimated FY 2016-17 total costs of $25,251.82 will be assessed on the 49 parcels at $515.34 each. District costs beyond FY 2016-17 would be assessed at a maximum of $515.34 per parcel, adjusted by Consumer Price Index + 1%.

ATTACHMENTS

1. Assessment diagram boundary map
Prepared by:

Hamm Inthavong
Associate Engineering Technician

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Douglas Alessio
Administrative Services Director
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION INITIATING FORMATION OF, AND INTENTION TO ESTABLISH, A MAINTENANCE DISTRICT

Maintenance District No. LL-863 (Tract 8195)

BE IT RESOLVED by the City Council (the “Council”) of the City of Livermore (the “City”), as follows:

1. Authority. The Council hereby initiates the formation of a maintenance district pursuant to the Landscaping and Lighting Act of 1972, Part 2, commencing with Section 22500, of Division 15 of the California Streets and Highways Code (the “Act”).

2. Designation. The maintenance district proposed in this resolution is hereby given the distinctive designation of “City of Livermore Maintenance District No. LL-863 (Tract 8195)” (the “District”).

3. Boundaries. The general location and the proposed boundaries of the District are as shown on a map entitled “Assessment Diagram, City of Livermore Maintenance District No. LL-863 (Tract 8195),” on file and open to inspection in the office of the City Clerk. This map indicates by a boundary line the extent of the territory included in the District.

4. Maintenance. The maintenance activities proposed to be financed by the District are described in Exhibit A, attached hereto and hereby made a part hereof.

5. Engineer’s Report. The City Engineer is hereby designated as the Engineer of Work for the District. The Engineer of Work has caused to be prepared a report, under the Act (the “Engineer’s Report”) and has filed the Engineer’s Report with the City Clerk. The Engineer’s Report has been duly considered by this Council with the aid of City staff, and is hereby deemed sufficient and preliminarily approved and shall stand as the Engineer’s Report for all subsequent proceedings for the District. Reference is hereby made to the Engineer’s Report for a full and detailed description of the improvements, the boundaries of the proposed maintenance district, and the proposed assessments upon assessable lots and parcels of land within the District.

6. Public Hearing. Pursuant to the Act, this Council hereby orders that a public hearing shall be held before this Council, in the regular meeting place thereof, City Council Chambers, 3575 Pacific Avenue, Livermore, California, on Monday, September 12, 2016, at the hour of 7:00 p.m., for the purposes of this Council’s determination whether the public interest, convenience, and necessity require the maintenance assessments, whether the properties in the District are specially benefited by the maintenance activities, the tabulation of special assessment ballots and the determination of the existence of any majority protest and this Council’s final action upon the Engineer’s Report and the assessments therein. The public hearing may be continued from time to time as determined by the Council.
7. **Mailed Notices.** The City Clerk is hereby authorized and directed to cause notice of the hearing herein ordered to be given by mailing, postage prepaid, in the United States mail, and such notice shall be deemed to have been given when so deposited in such mail. The envelope or cover of the mailing shall include the name of the City and the return address of the City Clerk as the sender. The mailed notice shall be given to all property owners within the District as shown in the Engineer's Report by such mailing by name to those persons whose names and addresses appear on the last equalized assessment roll of the County of Alameda or the State Board of Equalization assessment roll, as the case may be. The amount of the proposed assessment for each parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire District, the amount chargeable to the owner's particular parcel, the anticipated duration of payments for the assessment, the reason for such assessment and the basis upon which the amount of the proposed assessment was calculated. Each such mailed notice to owners shall contain a ballot which includes the City's address for receipt of completed ballots showing the owner's name, identification of the parcel and support or opposition to the proposed assessment. Each notice shall include, in a conspicuous place, a summary of the procedures applicable to the completion, return and tabulation of ballots, including a disclosure that the existence of a majority protest (whereby ballots submitted in opposition exceed those submitted in favor of the assessment, with ballots weighed according to proportional financial obligation of the affected property) will result in the assessment not being imposed. The notice herein provided shall be mailed not less than 45 days before the date of the public hearing ordered herein. On the face of the envelope mailed to the record owner, in which the notice and ballot are enclosed, there shall appear in substantially the following form in no smaller than 16-point bold type: “OFFICIAL BALLOT ENCLOSED.”

8. **Ballots.** The City Clerk is hereby designated as the impartial person to receive and tabulate the ballots. Ballots shall be received up to the time of the closing of the public hearing. Ballots that are not signed or not marked and ballots that are defaced shall not be accepted. Ballots shall be returned in addressed return envelopes to be provided by the City with the ballots, and such envelopes shall remain sealed until the completion of the public portion of the public hearing.

9. **Information.** Any person wanting additional information about the assessments or the District may contact Hamm Inthavong, Engineering Division, City of Livermore, 1052 South Livermore Avenue, Livermore, California, 94550, Telephone: (925) 960-4500. The Engineer’s Report and other written material about the District may also be reviewed at the City Clerk’s Office, City Hall, 1052 South Livermore Avenue, Livermore, California, during regular City business hours.

10. **Special Counsel.** The law firm of Jones Hall, A Professional Law Corporation, San Francisco, California, is appointed and employed to do and perform all legal services required in the conduct of these formation proceedings, including the preparation of all papers not required to be prepared by the Engineer of Work, examining and approving the engineering documents as to legal sufficiency and advising the Engineer of Work in the preparation of her work, and advising all officials of the City on all matters relating thereto when called upon. The law firm’s compensation for these services shall be as established by a separate agreement, the form of which is on file with the City Attorney and which is hereby approved for execution by and on behalf of the City Attorney.
On motion of Council Member ________________________, seconded by Council Member ________________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST:  APPROVED AS TO FORM:

_____________________________  ____________________________
Susan Neer      Jason Alcala
City Clerk      City Attorney
EXHIBIT A

CITY OF LIVERMORE
Maintenance District No. LL-863 (Tract 8195)

DESCRIPTION

The assessments in the above district shall be levied for the following, and shall include all incidental expenses, including administration, legal, collection and contracting:

Installation, maintenance and operation to include repair, replacement and servicing of trees, shrubs, plantings and irrigation systems together with earth berms, slopes, curbs, root deflectors and concrete or wood appurtenances, all as delineated on the improvement plans for Tract 8195 prepared by MacKay & Somps (Civil) and Ripley Design (Landscape Architect) or as specified in the City of Livermore Community Development Department, Engineering Division standard details and specifications and further described as:

1. Backing Lot Landscaping on Vasco Road for Tract 8195 from the southerly tract boundary to the northerly tract boundary.
2. Backing Lot Landscaping on East Avenue for Tract 8195 from the westerly tract boundary to the easterly tract boundary.
3. Walkway within the backing lot landscaping on South Vasco Road for Tract 8195 from the southerly tract boundary to the northerly tract boundary.
4. Walkway within the backing lot landscaping on East Avenue for Tract 8195 from the westerly tract boundary to the easterly tract boundary.
5. Monument Sign, Wine Barrel and associated walkway and amenities lighting for Tract 8195 at the northeasterly corner of the tract boundary.

Together with any and all incidental expenses in connection therewith all as more particularly authorized pursuant to the Landscaping and Lighting Act of 1972.
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Stephan Kiefer, Community and Economic Development Director

SUBJECT: Rescind Resolution No. 2016-075 and Adopt a New Resolution Summarily Vacating and Quit Claim the Public Utility Easements Adjacent to Previously Vacated Atlantis Street and Voyager Street

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. rescinding Resolution No. 2016-075 approved on June 27, 2016; and
2. summarily vacating, and authorizing the City Manager to Quit Claim the Public Utility Easements adjacent to and within the previously vacated Atlantis Street and Voyager Street.

DISCUSSION

On June 27, 2016, the City Council approved the summary vacation and quit claim of Public Utility Easements adjacent to and within the previously vacated portions of Atlantis Street and Voyager Street, because they were superseded by the relocation of utilities into easements previously granted to the City with Parcel Map 10266. However, prior to recordation of Resolution No. 2016-075, errors were discovered on the resolution and attached documents, including erroneous assessor’s parcel numbers. To correct these errors, staff recommends the City Council adopt a resolution rescinding Resolution No. 2016-075 and summarily vacating, and authorizing the City Manager to Quit Claim to the underlying property owners the Public Utility Easements adjacent to and within the previously vacated Atlantis Street and Voyager Street. The new resolution corrects the errors contained within the documents of Resolution No. 2016-075.

FISCAL AND ADMINISTRATIVE IMPACTS

None.
ATTACHMENTS

1. Vicinity Map

Prepared by:
Debbie Salgado
Associate Civil Engineer

Approved by:  Fiscal Review by:

Marc Roberts  Douglas Alessio
City Manager  Administrative Services Director
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION RESCINDING RESOLUTION NO. 2016-075 AND ADOPTING A NEW RESOLUTION SUMMARILY VACATING PUBLIC UTILITY EASEMENTS ADJACENT TO AND WITHIN THE VACATED PORTIONS OF ATLANTIS STREET AND VOYAGER STREET AND AUTHORIZING THE CITY MANAGER TO EXECUTE QUIT CLAIM DEEDS FOR THE VACATED PUBLIC UTILITY EASEMENTS

The Livermore Planning Commission and City Council approved Tentative Parcel Map 10266 and found the vacation of portions of Atlantis Street, and portions of Voyager Street north and south of Discovery Drive consistent with the General Plan.

The City Council summarily vacated portions of Atlantis Street and Voyager Street on December 8, 2014. The public utility easements adjacent to these vacated streets were reserved pending relocation of the utilities. The utilities that were within the public utility easements adjacent to and within the vacated portion of Voyager Street and Atlantis Street have now been relocated.

Streets and Highways Code section 8333, et seq., allows the legislative body of a local agency to summarily vacate public utility easements that have been superseded by relocation.

The City Council desires to rescind Resolution No. 2016-075 to correct errors in the previously adopted resolution, and adopt a new resolution to summarily vacate and quit claim the public utility easements adjacent to and within the vacated portion of Voyager Street and Atlantis Street.

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

1. Rescinds Resolution No. 2016-075.

2. Vacates the following public utility easements adjacent to and within the previously vacated Atlantis Street and Voyager Street as set forth below, and collectively attached hereto as Exhibit A:
3. The easements have been superseded by relocation and there are no other public facilities located within the easements that are vacated. (Streets and Highways Code section 8333(c)).

4. From and after the date this resolution is recorded, the public utility easements adjacent to and within the vacated portions of Atlantis Street and Voyager Street are vacated and no longer constitute public utility easements.

5. The City Clerk is directed to file a certified copy of this resolution of vacation with associated legal descriptions with the Alameda County Recorder's Office.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore authorizes the City Manager to execute a Quit Claim Deed to Livermore Oaks Joint Venture, LLC (Grantee), attached hereto as Exhibit B, to convey those public utility easements listed as Exhibits 1 through 6 above for those easement rights previously granted to the City on Parcel Map 10266 on Atlantis Street and Voyager Street.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore authorizes the City Manager to execute a Quit Claim Deed to Livermore Amador Valley Transit Authority (Grantee), attached hereto as Exhibit C, to convey that public utility easement listed as Exhibit 7 above for those easement rights previously reserved on Atlantis Street.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore directs the City Clerk to record the executed Quit Claim Deeds with the Alameda County Recorder's Office.

On motion of Council Member ______________________, seconded by Council Member ______________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
EXHIBIT A
EXHIBIT “1”
6 FT PUE VACATION

APN: 904-0012-049

ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT 6 FOOT WIDE PUBLIC UTILITY EASEMENT, AS SAID EASEMENT IS SHOWN ON THAT CERTAIN PARCEL MAP NO. 10268, FILED FOR RECORD ON DECEMBER 14, 2014, IN BOOK 328 OF MAPS AT PAGE 37, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF VOYAGER STREET AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE NORTHWEST CORNER OF PARCEL 1, AS SAID PARCEL IS SHOWN ON SAID MAP;

THENCE ALONG THE SOUTHERLY PROLONGATION OF SAID EASTERLY LINE, SOUTH 00° 58' 37" WEST, 112.237 FEET TO THE INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY LINE OF SAID VOYAGER STREET AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE, ALONG THE ARC OF A 50.000 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, WHOSE CENTER POINT BEARS NORTH 10° 33' 36" WEST, THROUGH A CENTRAL ANGLE OF 07° 07' 33", AN ARC DISTANCE OF 6.219 FEET TO THE INTERSECTION WITH THE EASTERLY LINE OF THE AFOREMENTIONED 6 FOOT PUE;

THENCE LEAVING LAST SAID LINE AND ALONG SAID EASTERLY LINE, THE FOLLOWING TEN (10) COURSES:

1) SOUTH 00° 58' 37" WEST, 404.605 FEET;

2) ALONG THE ARC OF A 14.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 23' 41", AN ARC DISTANCE OF 22.088 FEET;

3) SOUTH 89° 25' 04" EAST, 381.217 FEET;

4) ALONG THE ARC OF A 84.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11.134 FEET;

5) NORTH 82° 59' 15" EAST, 72.049 FEET;

6) ALONG THE ARC OF A 76.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 105° 11' 22", AN ARC DISTANCE OF 139.528 FEET;

7) SOUTH 08° 10' 37" WEST, 72.049 FEET;

8) ALONG THE ARC OF A 84.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11.134 FEET;

9) SOUTH 00° 34' 56" WEST, 672.863 FEET;

10) ALONG THE ARC OF A 24.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 37.699 FEET TO THE INTERSECTION WITH THE NORTHERLY LINE OF THE 6 FOOT PUE AS SHOWN ON SAID MAP;
THENCE LEAVING LAST SAID LINE AND ALONG SAID NORTHERLY LINE, NORTH 89° 25' 06" WEST, 18,000 FEET TO THE INTERSECTION WITH THE EASTERLY LINE OF THE PUE RESERVED IN THAT CERTAIN DOCUMENTRecorded ON DECEMBER 20, 2014, AS INSTRUMENT NO. 2014-317742 OFFICIAL RECORDS OF ALAMEDA COUNTY;

THENCE LEAVING LAST SAID LINE AND ALONG SAID EASTERLY LINE, THE FOLLOWING TEN (10) COURSES:

1) ALONG THE ARC OF A 30,000 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT, WHOSE CENTER POINT BEARS NORTH 37° 27' 05" EAST, THROUGH A CENTRAL ANGLE OF 53° 07' 51", AN ARC DISTANCE OF 27,819 FEET;

2) NORTH 00° 34' 58" EAST, 672.863 FEET;

3) ALONG THE ARC OF A 90,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11,930 FEET;

4) NORTH 08° 10' 37" EAST, 72,049 FEET;

5) ALONG THE ARC OF A 70,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 105° 11' 22", AN ARC DISTANCE OF 128,513 FEET;

6) SOUTH 82° 59' 15" WEST, 72,049 FEET;

7) ALONG THE ARC OF A 90,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 07° 36' 41", AN ARC DISTANCE OF 11,930 FEET;

8) NORTH 89° 25' 04" WEST, 381.217 FEET;

9) ALONG THE ARC OF A 20,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90° 23' 41", AN ARC DISTANCE OF 31,554 FEET;

10) NORTH 00° 58' 37" EAST, 402.986 FEET TO THE POINT OF BEGINNING.

CONTAINING 10,896± SQUARE FEET OR 0.2501± ACRES OF LAND.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

RODNEY A. STEWART II, PLS 9225
LICENSE EXPIRES: 09/30/2017

DATE
LEGEND:

PROPERTY LINE
EASEMENT LINE
P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCEMENT
M MAP
P.U.E. PUBLIC UTILITY EASEMENT
PM PARCEL MAP

R=14.000
D=90°23′41″
L=22.088′

S89°25′04″E 381.217′
N89°25′04″W 381.217′

6′ P.U.E. VACATION
AREA= 10,896± SQUARE FEET

PARCEL 1
PM10266
328 M 37

PARCEL 4
PM 10256
326 M 73

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road Phone (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

EXHIBIT "1"
VOYAGER P.U.E. VACATION

LIVERMORE, CALIFORNIA

DATE JUNE, 2016
SCALE 1" = 150′
BY JAK
JOB NO. 96562-27
SHEET 1 OF 2
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ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT 6 FOOT WIDE PUBLIC UTILITY EASEMENT, AS SAID EASEMENT IS SHOWN ON THAT CERTAIN PARCEL MAP NO. 10266, FILED FOR RECORD ON DECEMBER 14, 2014, IN BOOK 328 OF MAPS AT PAGE 37, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE WESTERLY LINE OF PARCEL 1 AS SAID PARCEL IS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE NORTHERLY TERMINUS OF THAT CERTAIN COURSE DESIGNATED AS "N 00° 38' 23" W, 822.106′", ON SAID MAP;

THENCE ALONG SAID WESTERLY LINE, SOUTH 00° 38' 23" EAST, 37,443 FEET TO THE INTERSECTION WITH THE NORTHERLY LINE OF THE 6 FOOT WIDE PUE AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG THE NORTHERLY AND EASTERLY LINES OF SAID PUE, ALSO BEING THE SOUTHERLY AND WESTERLY LINES OF THAT CERTAIN PUE RESERVED IN THAT CERTAIN DOCUMENT RECORDED ON DECEMBER 20, 2014, AS INSTRUMENT NO. 2014-317742 OFFICIAL RECORDS OF ALAMEDA COUNTY, THE FOLLOWING SIX (6) COURSES:

1) NORTH 82° 59' 15" EAST, 50,280 FEET;

2) ALONG THE ARC OF A 90,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11,930 FEET;

3) SOUTH 89° 25' 04" EAST, 381.215 FEET;

4) ALONG THE ARC OF A 20,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 31.416 FEET;

5) SOUTH 00° 34' 56" WEST, 744.500 FEET;

6) ALONG THE ARC OF A 30,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 53° 07' 48", AN ARC DISTANCE OF 27.819 FEET TO THE INTERSECTION WITH THE NORTHERLY LINE OF THE 6 FOOT PUE AS SHOWN ON SAID MAP (328 M 37);

THENCE LEAVING LAST SAID LINE AND ALONG SAID NORTHERLY LINE, NORTH 89° 25' 04" WEST, 18,000 FEET TO THE INTERSECTION WITH THE WESTERLY LINE OF SAID 6 FOOT PUE AS SHOWN ON SAID MAP;

THENCE ALONG THE WESTERLY AND SOUTHERLY LINES OF SAID 6 FOOT PUE, THE FOLLOWING SIX (6) COURSES:

1) ALONG THE ARC OF A 24,000 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, WHOSE CENTER POINT BEARS NORTH 00° 34' 56" EAST, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 37.699 FEET;

2) NORTH 00° 34' 56" EAST, 744.500 FEET;
3) ALONG THE ARC OF A 14.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 21.991 FEET;

4) NORTH 89° 25' 04" WEST, 381.215 FEET;

5) ALONG THE ARC OF A 84.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11.134 FEET;

6) THENCE SOUTH 82° 59' 15" WEST, 50.950 FEET TO THE AFOREMENTIONED WESTERLY LINE OF PARCEL 1 AS SHOWN ON SAID MAP (328 M 37);

THENCE ALONG SAID WESTERLY LINE, NORTH 00° 38' 23" WEST, 6.037 FEET TO THE POINT OF BEGINNING.

CONTAINING 7,468± SQUARE FEET OR 0.1714± ACRES OF LAND.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

RODNEY A. STEWART II, PLS 9225
LICENSE EXPIRES: 09/30/2017

DATE

RODNEY A. STEWART II
No. 9225

PROFESSIONAL LAND SURVEYOR
STATE OF CALIFORNIA

R:\1999\96562-27\Documents\Survey\Legal Descriptions\96562-27 WEST 6FT PUE VACATION NORTH.docx
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EXHIBIT “3”
PUBLIC UTILITY EASEMENT (P.U.E.)
VACATION

APN: 904-0012-049

ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA,
STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL 1, AS SAID PARCEL IS SHOWN ON THAT CERTAIN PARCEL MAP
10266, FILED FOR RECORD ON DECEMBER 30, 2014, IN BOOK 328 OF MAPS AT PAGE 37,
OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

COMMENCING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF SAID VOYAGER STREET
AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE NORTHWEST CORNER OF PARCEL 1,
AS SAID PARCEL IS SHOWN ON SAID MAP;

THENCE ALONG THE SOUTHERLY PROLONGATION OF SAID EASTERLY LINE, SOUTH 00° 58’ 37”
WEST, 112.237 FEET TO THE INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY LINE OF
SAID VOYAGER STREET AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE NORTHEAST
CORNER OF THE PUE RESERVED IN THAT CERTAIN DOCUMENT RECORDED ON DECEMBER 20,
2014, AS INSTRUMENT NO. 2014-317742 OFFICIAL RECORDS OF ALAMEDA COUNTY, SAID POINT
ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG THE EASTERLY LINE OF SAID EASEMENT, THE FOLLOWING TEN (10)
COURSES:

1) SOUTH 00° 58’ 37” WEST, 402.986 FEET,

2) ALONG THE ARC OF A 20,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A
CENTRAL ANGLE OF 90° 23’ 41”, AN ARC DISTANCE OF 31.554 FEET,

3) SOUTH 89° 25’ 04” EAST, 381.217 FEET,

4) ALONG THE ARC OF A 90.000 FOOT CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE
OF 7° 35’ 41”, AN ARC DISTANCE OF 11.930 FEET,

5) NORTH 82° 59’ 15” EAST, 72.049 FEET,

6) ALONG THE ARC OF A 70.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A
CENTRAL ANGLE OF 105° 11’ 22”, AN ARC DISTANCE OF 128.513 FEET,

7) SOUTH 08° 10’ 37” WEST, 72.049 FEET,

8) ALONG THE ARC OF A 90.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL
ANGLE OF 7° 35’ 41”, AN ARC DISTANCE OF 11.930 FEET,

9) SOUTH 00° 34’ 56” WEST, 672.863 FEET,

10) ALONG THE ARC OF A 30.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL
ANGLE OF 90° 00’ 00”, AN ARC DISTANCE OF 47.124 FEET TO THE INTERSECTION WITH THE
NORTHERLY RIGHT OF WAY LINE OF DISCOVERY DRIVE AS SHOWN ON SAID MAP
(328 M 37);

THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 89° 25’ 04” WEST, 120.000 FEET TO THE
INTERSECTION WITH THE WESTERLY LINE OF SAID EASEMENT (2014-317742 OR);

R:\1999-\96562-27\Documents\Survey\Legal Descriptions\96562-27 VOYAGER ROADWAY VACATION
3B.docx
RW ACQUISITION MAP NO. 21

THENCE ALONG SAID WESTERLY LINE, THE FOLLOWING SIX (6) COURSES:

1) ALONG THE ARC OF A 30.000 FOOT NON-TANGENT RADIUS CURVE TO THE LEFT, WHOSE CENTER POINT BEARS NORTH 00° 34' 56" EAST, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 47.124 FEET,

2) NORTH 00° 34' 56" EAST, 744.500 FEET,

3) ALONG THE ARC OF A 20.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 31.416 FEET,

4) NORTH 89° 25' 04" WEST, 381.215 FEET,

5) ALONG THE ARC OF A 90.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11.930 FEET,

6) THENCE SOUTH 82° 59' 15" WEST, 50.280 FEET TO A POINT ON THE WESTERLY LINE OF SAID PARCEL 1 (328 M 37);

THENCE ALONG SAID WESTERLY LINE, THE FOLLOWING FOUR (4) COURSES:

1) NORTH 00° 38' 23" WEST, 37.443 FEET,

2) NORTH 89° 25' 04" WEST, 59.450 FEET,

3) NORTH 00° 58' 37" EAST, 456.600 FEET,

4) ALONG THE ARC OF A 50.000 FOOT NON-TANGENT RADIUS CURVE TO THE LEFT, WHOSE CENTER POINT BEARS NORTH 24° 33' 23" EAST, THROUGH A CENTRAL ANGLE OF 35° 06' 59", AN ARC DISTANCE OF 30.640 FEET TO THE POINT OF BEGINNING.

CONTAINING 95,687 ± SQUARE FEET OR 2.1967 ± ACRES OF LAND, MORE OR LESS.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

[Signature]

RODNEY A. STEWART, LS 9225
LICENSE EXPIRES: 9/30/17

[Stamp]

6/17/16
DATE

R:\1999-96562-27\Documents\Survey\Legal Descriptions\96562-27 VOYAGER ROADWAY VACATION 3B.docx

100
EXHIBIT “4”
6 FT PUE VACATION

APN: 904-0012-050

ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT 6 FOOT WIDE PUBLIC UTILITY EASEMENT, AS SAID EASEMENT IS SHOWN ON THAT CERTAIN PARCEL MAP NO. 10266, FILED FOR RECORD ON DECEMBER 14, 2014, IN BOOK 328 OF MAPS AT PAGE 37, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS DISK MONUMENT LOCATED ON DISCOVERY DRIVE, SAID POINT BEING THE WESTERLY TERMINUS OF THAT CERTAIN COURSE DESIGNATED AS "N 89° 25' 04" W, 445.102', ON SAID MAP;

THENENCE ALONG THE MONUMENT LINE OF DISCOVERY DRIVE, NORTH 89° 25' 04" WEST, 66.000 FEET;

THENENCE LEAVING SAID LINE, SOUTH 00° 34' 56" WEST, 36.000 FEET TO THE INTERSECTION WITH THE SOUTHERLY LINE OF THE 6 FOOT WIDE PUE AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENENCE ALONG THE SOUTHERLY LINE OF SAID PUE, SOUTH 89° 25' 04" EAST, 18.000 FEET TO THE INTERSECTION WITH THE WESTERLY LINE OF THE PUE RESERVED IN THAT CERTAIN DOCUMENTRecorded ON DECEMBER 20, 2014, AS INSTRUMENT NO. 2014-317742 OFFICIAL RECORDS OF ALAMEDA COUNTY;

THENENCE LEAVING LAST SAID LINE AND ALONG SAID WESTERLY LINE, THE FOLLOWING THREE (3) COURSES:

1) ALONG THE ARC OF A 30.000 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT, WHOSE CENTER POINT BEARS SOUTH 37° 27' 08" WEST, THROUGH A CENTRAL ANGLE OF 53° 07' 48", AN ARC DISTANCE OF 27.819 FEET;

2) SOUTH 00° 34' 56" WEST, 375.010 FEET;

3) ALONG THE ARC OF A 20.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET TO A POINT OF REVERSE CURVATURE;

THENENCE LEAVING LAST SAID LINE, ALONG THE ARC OF A 50.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 268° 40' 50", AN ARC DISTANCE OF 234.599 FEET TO A POINT OF REVERSE CURVATURE, SAID POINT BEING ON THE EASTERLY LINE OF SAID PUE (2014-317742 OR);

THENENCE ALONG SAID EASTERLY LINE, THE FOLLOWING THREE (3) COURSES:

1) ALONG THE ARC OF A 20.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET;

2) NORTH 00° 34' 56" EAST, 375.010 FEET;

3) ALONG THE ARC OF A 30.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 53° 07' 48", AN ARC DISTANCE OF 27.819 FEET TO THE
AFOREMENTIONED SOUTHERLY LINE OF THE 6 FOOT WIDE PUE AS SHOWN ON SAID MAP (328 M 37);

THENCE LEAVING LAST SAID LINE, AND ALONG SAID SOUTHERLY LINE, SOUTH 89° 25' 04" EAST, 18,000 FEET TO THE INTERSECTION WITH THE EASTERLY LINE OF THE 6 FOOT WIDE PUE AS SHOWN ON SAID MAP;

THENCE ALONG THE EASTERLY, SOUTHERLY AND WESTERLY LINES OF SAID 6 FOOT WIDE PUE, THE FOLLOWING SEVEN (7) COURSES:

1) ALONG THE ARC OF A 24,000 FOOT RADIUS CURVE TO THE LEFT, WHOSE CENTER POINT BEARS SOUTH 00° 34' 56" WEST, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 37,699 FEET;

2) SOUTH 00° 34' 56" WEST, 375,010 FEET;

3) ALONG THE ARC OF A 14,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 10,853 FEET TO A POINT OF REVERSE CURVATURE;

4) ALONG THE ARC OF A 56,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 268° 49' 50", AN ARC DISTANCE OF 262.751 FEET TO A POINT OF REVERSE CURVATURE;

5) ALONG THE ARC OF A 14,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 10,853 FEET;

6) NORTH 00° 34' 56" EAST, 375,010 FEET;

7) ALONG THE ARC OF A 24,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 37,699 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,512± SQUARE FEET OR 0.1495± ACRES OF LAND.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

[Signature]

RODNEY A. STEWART II, PLS 9225
LICENSE EXPIRES: 09/30/2017

[Stamp]

DATE
LEGEND:

PROPERTY LINE
EASEMENT LINE
P.O.B.
POINT OF BEGINNING
P.O.C.
POINT OF COMMENCEMENT
M
MAP
P.U.E.
PUBLIC UTILITY EASEMENT
PM
PARCEL MAP
SQ.FT.
SQUARE FEET
OR
OFFICIAL RECORDS

DISCOVERY DRIVE

0 40' 80' 160'
Scale 1" = 80 ft

Challenger Street
(2014-317742 OR)

6' P.U.E. VACATION
AREA=6,512± SQ.FT.

Parcel 2
PM 10266
328 M 37

P.U.E.
2014-317742 OR
(TO BE VACATED)

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road Phone (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

EXHIBIT "4"
VOYAGER P.U.E. VACATION
LIVERMORE, CALIFORNIA

DATE JUNE, 2016
SCALE 1" = 80'

BY JAK
JOB NO. 96562-27
SHEET 1 OF 2
### LINE TABLE

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EXHIBIT "5"
PUBLIC UTILITY EASEMENT (P.U.E.)
VACATION

APN: 904-0012-050

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL 2, AS SAID PARCEL IS SHOWN ON THAT CERTAIN PARCEL MAP 10268, FILED FOR RECORD ON DECEMBER 30, 2014, IN BOOK 328 OF MAPS AT PAGE 37, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF DISCOVERY DRIVE, SAID POINT ALSO BEING THE NORTHWEST CORNER OF THAT CERTAIN PUE AND ACCESS EASEMENT RESERVED IN THAT CERTAIN DOCUMENTRecorded ON DECEMBER 20, 2014, AS INSTRUMENT NO. 2014-317742 OFFICIAL RECORDS OF ALAMEDA COUNTY;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY OF DISCOVERY DRIVE SOUTH 89° 25' 04" EAST, 120,000 FEET TO THE NORTHEAST CORNER OF SAID EASEMENT;

THENCE LEAVING LAST SAID LINE AND ALONG THE GENERAL EASTERLY LINE OF SAID EASEMENT, THE FOLLOWING SIX (6) COURSES:

1) ALONG THE ARC OF A 30,000 FOOT NON-TANGENT RADIUS CURVE TO THE LEFT, WHOSE CENTER POINT BEARS SOUTH 00° 34' 56" WEST, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 47.124 FEET;

2) SOUTH 00° 34' 56" WEST, 375.010 FEET;

3) ALONG THE ARC OF A 20,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET TO A POINT OF REVERSE CURVATURE;

4) ALONG THE ARC OF A 50,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 88° 49' 50", AN ARC DISTANCE OF 77.519 FEET TO A POINT OF REVERSE CURVATURE;

5) ALONG THE ARC OF A 20,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET;

6) THENCE SOUTH 00° 34' 56" WEST, 413.010 FEET TO THE SOUTHERLY LINE OF PARCEL 2, AS SAID PARCEL IS SHOWN ON SAID MAP (328 M 37);

THENCE ALONG SAID SOUTHERLY LINE, NORTH 89° 25' 04" WEST, 60,000 FEET TO THE INTERSECTION WITH THE WESTERLY LINE OF SAID EASEMENT (2014-317742 OR);

THENCE LEAVING LAST SAID LINE AND ALONG THE EASTERLY LINE OF EASEMENT, THE FOLLOWING SIX (6) COURSES:

1) NORTH 00° 34' 56" EAST, 413.010 FEET,

2) ALONG THE ARC OF A 20,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET TO A POINT OF REVERSE CURVATURE,
3) ALONG THE ARC OF A 50,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 88° 49' 50", AN ARC DISTANCE OF 77.519 FEET TO A POINT OF REVERSE CURVATURE,

4) ALONG THE ARC OF A 20,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET,

5) NORTH 00° 34' 56" EAST, 375.010 FEET;

6) ALONG THE ARC OF A 30,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 47.124 FEET TO THE POINT OF BEGINNING.

CONTAINING 57,622± SQUARE FEET OR 1.3228± ACRES OF LAND, MORE OF LESS.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

[Signature]

RODNEY A. STEWART II, LS 9225
LICENSE EXPIRES: 9/30/2017

[Stamp]

6/17/16 DATE
EXHIBIT “6”  
VACATION OF A PORTION OF  
6 FOOT WIDE PUE

APN: 904-0012-016-05

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT CERTAIN 6 FOOT WIDE PUBLIC UTILITY EASEMENT AS SHOWN ON THAT CERTAIN MAP OF TRACT 7300, FILED FOR RECORD ON APRIL 11, 2006, IN BOOK 291 OF MAPS, AT PAGE 3, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE WESTERLY RIGHT OF WAY LINE OF ATLANTIS STREET, SAID POINT BEING THE SOUTHERLY TERMINUS OF THAT CERTAIN COURSE DESIGNATED AS “N 0° 34’ 55” E, 381.165’”, ON SAID MAP (291 M 3);

THENCE LEAVING SAID WESTERLY RIGHT OF WAY LINE, NORTH 89° 25’ 04” WEST, 6,000 FEET TO A POINT ON THE WESTERLY LINE OF THE 6 FOOT WIDE PUE RUNNING PARALLEL TO SAID RIGHT OF WAY LINE AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG THE WESTERLY LINE OF SAID 6 FOOT WIDE PUE, ALONG THE ARC OF A 14,000 FOOT NON-TANGENT RADIUS CURVE TO THE RIGHT, WHOSE CENTER POINT BEARS NORTH 89° 25’ 04” WEST, THROUGH A CENTRAL ANGLE OF 44° 24’ 55”, AN ARC DISTANCE OF 10.853 FEET TO A POINT OF REVERSE CURVATURE;

THENCE CONTINUING ALONG LAST SAID LINE, ALONG THE ARC OF A 56,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 94° 24’ 33”, AN ARC DISTANCE OF 92.274 FEET;

THENCE LEAVING LAST SAID LINE, NORTH 00° 34’ 56” EAST, 8,197 FEET TO A POINT ON THE AFOREMENTIONED WESTERLY RIGHT OF WAY LINE OF ATLANTIS STREET AS SHOWN ON SAID MAP (291 M 3);

THENCE ALONG SAID RIGHT OF WAY LINE, ALONG THE ARC OF A 50,000 FOOT NON-TANGENT RADIUS CURVE TO THE RIGHT, WHOSE CENTER POINT BEARS NORTH 46° 38’ 15” EAST, THROUGH A CENTRAL ANGLE OF 87° 53’ 22”, AN ARC DISTANCE OF 76.698 FEET;

THENCE LEAVING LAST SAID LINE, NORTH 00° 34’ 56” EAST, 14.292 FEET TO THE POINT OF BEGINNING.

CONTAINING 528± SQUARE FEET OF LAND, MORE OR LESS.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

[Signature]

RODNEY A. STEWART II, L.S. 9225  
LICENSE EXPIRES: 09/30/2017

DATE: 6/17/16

RODNEY A. STEWART II, NO. 9225
STATE OF CALIFORNIA

R:\1999-\96562-27\Documents\Survey\Legal Descriptions\96562-27 ATLANTIS STREET PUE VACATION WEST.docx
EXHIBIT "7"
VACATION OF A PORTION OF
6 FOOT WIDE PUE

APN: 904-0012-018-03

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT CERTAIN 6 FOOT WIDE PUBLIC UTILITY EASEMENT AS SHOWN ON THAT CERTAIN MAP OF TRACT 7300, FILED FOR RECORD ON APRIL 11, 2006, IN BOOK 291 OF MAPS, AT PAGE 3, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF ATLANTIS STREET, SAID POINT BEING THE SOUTHERLY TERMINUS OF THAT CERTAIN COURSE DESIGNATED AS "N 0° 34' 56" E, 381.010", ON SAID MAP (291 M 3);

THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE, SOUTH 89° 25' 04" EAST, 6.000 FEET TO A POINT ON THE EASTERLY LINE OF THE 6 FOOT WIDE PUE RUNNING PARALLEL TO SAID RIGHT OF WAY LINE AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG THE EASTERLY LINE OF SAID 6 FOOT WIDE PUE, ALONG THE ARC OF A 14.000 FOOT NON-TANGENT RADIUS CURVE TO THE LEFT, WHOSE CENTER POINT BEARS SOUTH 89° 25' 04" EAST, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 10.853 FEET TO A POINT OF REVERSE CURVATURE;

THENCE CONTINUING ALONG LAST SAID LINE, ALONG THE ARC OF A 56.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 94° 24' 33", AN ARC DISTANCE OF 92.274 FEET;

THENCE LEAVING LAST SAID LINE, NORTH 00° 34' 56" EAST, 8.197 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF ATLANTIS STREET AS SHOWN ON SAID MAP (291 M 3);

THENCE ALONG SAID RIGHT OF WAY LINE, ALONG THE ARC OF A 50.000 FOOT NON-TANGENT RADIUS CURVE TO THE LEFT, WHOSE CENTER POINT BEARS NORTH 45° 28' 17" WEST, THROUGH A CENTRAL ANGLE OF 87° 53' 22", AN ARC DISTANCE OF 76.698 FEET TO A POINT OF REVERSE CURVATURE;

THENCE LEAVING LAST SAID LINE, NORTH 00° 34' 56" EAST, 14.292 FEET TO THE POINT OF BEGINNING.

CONTAINING 528± SQUARE FEET OF LAND, MORE OR LESS.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

Rodney A. Stewart II, L.S. 9225
LICENSE EXPIRES: 09/30/2017

R:\1999-96562-27\Documents\Survey\Legal Descriptions\96562-27 ATLANTIS STREET PUE VACATION EAST.docx

111
RECORDING REQUESTED BY:
City Clerk
City of Livermore

WHEN RECORDED MAIL TO:
City Clerk
City of Livermore
1052 South Livermore Avenue
Livermore, CA 94550

MAIL TAX STATEMENTS TO:
The Undersigned grantor(s) declare(s):
CITY TRANSFER TAX $0.00
DOCUMENTARY TRANSFER TAX $ Release of easement
SURVEY MONUMENT FEE $0.00
Computed on the consideration or value or property conveyed; OR
computed on the consideration or value less liens or encumbrances
remaining at time of sale.

SAME AS ABOVE

APN 904-0012-049
APN 904-0012-050
APN 904-0012-016-05

QUIT CLAIM DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

CITY OF LIVERMORE, a Municipal Corporation, hereby Remises, Releases and Quit Claims to Livermore Oaks Joint Venture, LLC

the real property in the City of Livermore, County of Alameda, State of California, as described in Exhibits "1" through "6" and being depicted in Exhibits "1" through "6".

This Quit Claim is related to City of Livermore Resolution 2016-____, vacating the public utility easements concerning the real property

FOR LEGAL DESCRIPTION AND PLAT
SEE EXHIBITS "1" through "6" ATTACHED HERETO AND MADE A PART HEREOF

DATED: ____________

CITY OF LIVERMORE, a municipal corporation

__________________________
CITY MANAGER

ATTEST:

APPROVED AS TO FORM:

__________________________
CITY CLERK

__________________________
CITY ATTORNEY
EXHIBIT "4"
6 FT PUE

APN: 904-0012-049

ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT 6 FOOT WIDE PUBLIC UTILITY EASEMENT, AS SAID EASEMENT IS SHOWN ON THAT CERTAIN PARCEL MAP NO. 10266, FILED FOR RECORD ON DECEMBER 14, 2014, IN BOOK 328 OF MAPS AT PAGE 37, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF VOYAGER STREET AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE NORTHWEST CORNER OF PARCEL 1, AS SAID PARCEL IS SHOWN ON SAID MAP;

THENCE ALONG THE SOUTHERLY PROLONGATION OF SAID EASTERLY LINE, SOUTH 00° 58' 37" WEST, 112.237 FEET TO THE INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY LINE OF SAID VOYAGER STREET AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE, ALONG THE ARC OF A 50.000 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, WHOSE CENTER POINT BEARS NORTH 10° 33' 36" WEST, THROUGH A CENTRAL ANGLE OF 07° 07' 33", AN ARC DISTANCE OF 6.219 FEET TO THE INTERSECTION WITH THE EASTERLY LINE OF THE AFOREMENTIONED 6 FOOT PUE;

THENCE LEAVING LAST SAID LINE AND ALONG SAID EASTERLY LINE, THE FOLLOWING TEN (10) COURSES:

1) SOUTH 00° 58' 37" WEST, 404.605 FEET;

2) ALONG THE ARC OF A 14.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 23' 41", AN ARC DISTANCE OF 22.088 FEET;

3) SOUTH 89° 25' 04" EAST, 381.217 FEET;

4) ALONG THE ARC OF A 84.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11.134 FEET;

5) NORTH 82° 58' 15" EAST, 72.049 FEET;

6) ALONG THE ARC OF A 76.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 105° 11' 22", AN ARC DISTANCE OF 139.528 FEET;

7) SOUTH 08° 10' 37" WEST, 72.049 FEET;

8) ALONG THE ARC OF A 84.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11.134 FEET;

9) SOUTH 00° 34' 56" WEST, 672.863 FEET;

10) ALONG THE ARC OF A 24.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 37.699 FEET TO THE INTERSECTION WITH THE NORTHERLY LINE OF THE 6 FOOT PUE AS SHOWN ON SAID MAP;
THENCE LEAVING LAST SAID LINE AND ALONG SAID NORTHERLY LINE, NORTH 89° 25' 06" WEST, 18,000 FEET TO THE INTERSECTION WITH THE EASTERLY LINE OF THE PUE RESERVED IN THAT CERTAIN DOCUMENTRecorded ON DECEMBER 20, 2014, AS INSTRUMENT NO. 2014-317742 OFFICIAL RECORDS OF ALAMEDA COUNTY;

THENCE LEAVING LAST SAID LINE AND ALONG SAID EASTERLY LINE, THE FOLLOWING TEN (10) COURSES:

1) ALONG THE ARC OF A 30,000 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT, WHOSE CENTER POINT BEARS NORTH 37° 27' 05" EAST, THROUGH A CENTRAL ANGLE OF 53° 07' 51", AN ARC DISTANCE OF 27.819 FEET;

2) NORTH 00° 34' 56" EAST, 672.863 FEET;

3) ALONG THE ARC OF A 90,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11.930 FEET;

4) NORTH 08° 10' 37" EAST, 72.049 FEET;

5) ALONG THE ARC OF A 70,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 105° 11' 22", AN ARC DISTANCE OF 128.513 FEET;

6) SOUTH 82° 59' 15" WEST, 72.049 FEET;

7) ALONG THE ARC OF A 90,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11.930 FEET;

8) NORTH 89° 25' 04" WEST, 381.217 FEET;

9) ALONG THE ARC OF A 20,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90° 23' 41", AN ARC DISTANCE OF 31.554 FEET;

10) NORTH 00° 58' 37" EAST, 402.986 FEET TO THE POINT OF BEGINNING.

CONTAINING 10,896± SQUARE FEET OR 0.2501± ACRES OF LAND.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

RODNEY A. STEWART II, PLS 9225
LICENSE EXPIRES: 09/30/2017

DATE

R:\1999\96562-27\Documents\Survey\Legal Descriptions\96562-27 EAST 6FT PUE VACATION NORTH.docx

115
LEGEND:

- PROPERTY LINE
- EASEMENT LINE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- M MAP
- P.U.E. PUBLIC UTILITY EASEMENT
- PM PARCEL MAP

Scale 1” = 150 ft

R=14.000
D=90°23'41"
L=22.088'

S89°25'04"E 381.217'
N89°25'04"W 381.217'

PARCEL 1
PM10266
328 M 37

6' P.U.E. VACATION
AREA= 10,896± SQUARE FEET

6 P.U.E. TO BE VACATED

P.U.E.
2014-317742 OR
(TO BE VACATED)

DISCOVERY DRIVE

EXHIBIT "1"
VOYAGER P.U.E.
LIVERMORE, CALIFORNIA

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road Phone (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

DATE JUNE, 2016
SCALE 1” = 150'
BY JAK
JOB NO. 96562-27
SHEET 1 OF 2

RODNEY A. STEWART
LICENSED LAND SURVEYOR
No. 9225
9/30/17
STATE OF CALIFORNIA
### LINE TABLE

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APN: 904-0012-049

EXHIBIT "2"
6 FT PUE

ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA,
STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT 6 FOOT WIDE PUBLIC UTILITY EASEMENT, AS SAID EASEMENT IS
SHOWN ON THAT CERTAIN PARCEL MAP NO. 10266, FILED FOR RECORD ON DECEMBER 14,
2014, IN BOOK 328 OF MAPS AT PAGE 37, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING
MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE WESTERLY LINE OF PARCEL 1 AS SAID PARCEL IS SHOWN
ON SAID MAP, SAID POINT ALSO BEING THE NORTHERLY TERMINUS OF THAT CERTAIN
Course Designated as "N 00° 36' 23" W, 822.106', ON SAID MAP;

THENCE ALONG SAID WESTERLY LINE, SOUTH 00° 38' 23" EAST, 37.443 FEET TO THE
INTERSECTION WITH THE NORTHERLY LINE OF THE 6 FOOT WIDE PUE AS SHOWN ON SAID
MAP, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG THE NORTHERLY AND EASTERN LINES OF SAID PUE, ALSO BEING THE
SOUTHERLY AND WESTERLY LINES OF THAT CERTAIN PUE RESERVED IN THAT CERTAIN
DOCUMENT RECORDED ON DECEMBER 20, 2014, AS INSTRUMENT NO. 2014-317742 OFFICIAL
RECORDS OF ALAMEDA COUNTY, THE FOLLOWING SIX (6) COURSES:

1) NORTH 82° 59' 15" EAST, 50.280 FEET;

2) ALONG THE ARC OF A 90,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A
CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11.930 FEET;

3) SOUTH 89° 25' 04" EAST, 381.215 FEET;

4) ALONG THE ARC OF A 20,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A
CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 31.416 FEET;

5) SOUTH 00° 34' 56" WEST, 744.500 FEET;

6) ALONG THE ARC OF A 30,000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A
CENTRAL ANGLE OF 53° 07' 48", AN ARC DISTANCE OF 27.819 FEET TO THE
INTERSECTION WITH THE NORTHERLY LINE OF THE 6 FOOT PUE AS SHOWN ON SAID
MAP (328 M 37);

THENCE LEAVING LAST SAID LINE AND ALONG SAID NORTHERLY LINE, NORTH 89° 25' 04"
WEST, 18.000 FEET TO THE INTERSECTION WITH THE WESTERLY LINE OF SAID 6 FOOT PUE AS
SHOWN ON SAID MAP;

THENCE ALONG THE WESTERLY AND SOUTHERLY LINES OF SAID 6 FOOT PUE, THE
FOLLOWING SIX (6) COURSES:

1) ALONG THE ARC OF A 24,000 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT,
WHOSE CENTER POINT BEARS NORTH 00° 34' 56" EAST, THROUGH A CENTRAL ANGLE
OF 90° 00' 00", AN ARC DISTANCE OF 37.699 FEET;

2) NORTH 00° 34' 56" EAST, 744.500 FEET;
3) ALONG THE ARC OF A 14.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 21.991 FEET;

4) NORTH 89° 25' 04" WEST, 381.215 FEET;

5) ALONG THE ARC OF A 84.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11.134 FEET;

6) THENCE SOUTH 82° 59' 15" WEST, 50.950 FEET TO THE AFOREMENTIONED WESTERLY LINE OF PARCEL 1 AS SHOWN ON SAID MAP (328 M 37);

THENCE ALONG SAID WESTERLY LINE, NORTH 00° 38' 23" WEST, 6.037 FEET TO THE POINT OF BEGINNING.

CONTAINING 7,468± SQUARE FEET OR 0.1714± ACRES OF LAND.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

RODNEY A. STEWART II, PLS 9225
LICENSE EXPIRES: 09/30/2017

DATE 6/17/16

PROFESSIONAL LAND SURVEYOR
STATE OF CALIFORNIA

RODNEY A.
STEWART II
No. 9225
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RW ACQUISITION MAP NO. 21

EXHIBIT “3”
PUBLIC UTILITY EASEMENT (P.U.E.)

APN: 904-0012-049

ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL 1, AS SAID PARCEL IS SHOWN ON THAT CERTAIN PARCEL MAP 10266, FILED FOR RECORD ON DECEMBER 30, 2014, IN BOOK 328 OF MAPS AT PAGE 37, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF SAID VOYAGER STREET AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE NORTHWEST CORNER OF PARCEL 1, AS SAID PARCEL IS SHOWN ON SAID MAP;

THENCE ALONG THE SOUTHERLY PROLONGATION OF SAID EASTERLY LINE, SOUTH 00° 58’ 37” WEST, 112.237 FEET TO THE INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY LINE OF SAID VOYAGER STREET AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE NORTHEAST CORNER OF THE PUE RESERVED IN THAT CERTAIN DOCUMENT RECORDED ON DECEMBER 20, 2014, AS INSTRUMENT NO. 2014-317742 OFFICIAL RECORDS OF ALAMEDA COUNTY, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG THE EASTERLY LINE OF SAID EASEMENT, THE FOLLOWING TEN (10) COURSES:

1) SOUTH 00° 58’ 37” WEST, 402.986 FEET,

2) ALONG THE ARC OF A 20.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 23’ 41”, AN ARC DISTANCE OF 31.554 FEET,

3) SOUTH 89° 25’ 04” EAST, 381.217 FEET,

4) ALONG THE ARC OF A 90.000 FOOT CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 7° 35’ 41”, AN ARC DISTANCE OF 11.930 FEET,

5) NORTH 82° 59’ 15” EAST, 72.049 FEET,

6) ALONG THE ARC OF A 70.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 105° 11’ 22”, AN ARC DISTANCE OF 128.513 FEET,

7) SOUTH 08° 10’ 37” WEST, 72.049 FEET,

8) ALONG THE ARC OF A 90.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 7° 35’ 41”, AN ARC DISTANCE OF 11.930 FEET,

9) SOUTH 00° 34’ 56” WEST, 672.863 FEET,

10) ALONG THE ARC OF A 30.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 00’ 00”, AN ARC DISTANCE OF 47.124 FEET TO THE INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF DISCOVERY DRIVE AS SHOWN ON SAID MAP (328 M 37);

THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 89° 25’ 04” WEST, 120.000 FEET TO THE INTERSECTION WITH THE WESTERLY LINE OF SAID EASEMENT (2014-317742 OR);
RW ACQUISITION MAP NO. 21

THENCE ALONG SAID WESTERLY LINE, THE FOLLOWING SIX (6) COURSES:

1) ALONG THE ARC OF A 30,000 FOOT NON-TANGENT RADIUS CURVE TO THE LEFT, WHOSE CENTER POINT BEARS NORTH 00° 34' 56" EAST, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 47.124 FEET,

2) NORTH 00° 34' 56" EAST, 744.500 FEET,

3) ALONG THE ARC OF A 20,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 31.416 FEET,

4) NORTH 89° 25' 04" WEST, 381.215 FEET,

5) ALONG THE ARC OF A 90,000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 07° 35' 41", AN ARC DISTANCE OF 11.930 FEET,

6) THENCE SOUTH 82° 59' 15" WEST, 50.280 FEET TO A POINT ON THE WESTERLY LINE OF SAID PARCEL 1 (328 M 37);

THENCE ALONG SAID WESTERLY LINE, THE FOLLOWING FOUR (4) COURSES:

1) NORTH 00° 38' 23" WEST, 37.443 FEET,

2) NORTH 89° 25' 04" WEST, 59.450 FEET,

3) NORTH 00° 58' 37" EAST, 456.500 FEET,

4) ALONG THE ARC OF A 50,000 FOOT NON-TANGENT RADIUS CURVE TO THE LEFT, WHOSE CENTER POINT BEARS NORTH 24° 33' 23" EAST, THROUGH A CENTRAL ANGLE OF 35° 06' 59", AN ARC DISTANCE OF 30.640 FEET TO THE POINT OF BEGINNING.

CONTAINING 95,687± SQUARE FEET OR 2.1967± ACRES OF LAND, MORE OR LESS.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

RODNEY A. STEWART, LS 9225
LICENSE EXPIRES: 9/30/17

DATE

10/12/14

RODNEY A. STEWART II
No. 9225
STATE OF CALIFORNIA

R:\1999\96562-27\Documents\Survey\Legal Descriptions\96562-27 VOYAGER ROADWAY VACATION 3B.docx

123
EXHIBIT "4"
6 FT PUE

APN: 904-0012-050

ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT 6 FOOT WIDE PUBLIC UTILITY EASEMENT, AS SAID EASEMENT IS SHOWN ON THAT CERTAIN PARCEL MAP NO. 10266, FILED FOR RECORD ON DECEMBER 14, 2014, IN BOOK 328 OF MAPS AT PAGE 37, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS DISK MONUMENT LOCATED ON DISCOVERY DRIVE, SAID POINT BEING THE WESTERLY TERMINUS OF THAT CERTAIN COURSE DESIGNATED AS "N 89° 25' 04" W, 445.102' ", ON SAID MAP;

THENCE ALONG THE MONUMENT LINE OF DISCOVERY DRIVE, NORTH 89° 25' 04" WEST, 66.000 FEET;

THENCE LEAVING SAID LINE, SOUTH 00° 34' 56" WEST, 36.000 FEET TO THE INTERSECTION WITH THE SOUTHERLY LINE OF THE 6 FOOT WIDE PUE AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG THE SOUTHERLY LINE OF SAID PUE, SOUTH 89° 25' 04" EAST, 18.000 FEET TO THE INTERSECTION WITH THE WESTERLY LINE OF THE PUE RESERVED IN THAT CERTAIN DOCUMENTRecorded on December 20, 2014, as Instrument No. 2014-317742 OFFICIAL RECORDS OF ALAMEDA COUNTY;

THENCE LEAVING LAST SAID LINE AND ALONG SAID WESTERLY LINE, THE FOLLOWING THREE (3) COURSES:

1) ALONG THE ARC OF A 30.000 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT, WHOSE CENTER POINT BEARS SOUTH 37° 27' 08" WEST, THROUGH A CENTRAL ANGLE OF 53° 07' 48", AN ARC DISTANCE OF 27.819 FEET;

2) SOUTH 00° 34' 56" WEST, 375.010 FEET;

3) ALONG THE ARC OF A 20.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET TO A POINT OF REVERSE CURVATURE;

THENCE LEAVING LAST SAID LINE, ALONG THE ARC OF A 50.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 268° 49' 50", AN ARC DISTANCE OF 234.599 FEET TO A POINT OF REVERSE CURVATURE, SAID POINT BEING ON THE EASTERLY LINE OF SAID PUE (2014-317742 OR);

THENCE ALONG SAID EASTERLY LINE, THE FOLLOWING THREE (3) COURSES:

1) ALONG THE ARC OF A 20.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET;

2) NORTH 00° 34' 56" EAST, 375.010 FEET;

3) ALONG THE ARC OF A 30.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 53° 07' 48", AN ARC DISTANCE OF 27.819 FEET TO THE
AFOREMENTIONED SOUTHERLY LINE OF THE 6 FOOT WIDE PUE AS SHOWN ON SAID MAP (328 M 37);

THENCE LEAVING LAST SAID LINE, AND ALONG SAID SOUTHERLY LINE, SOUTH 89° 25' 04" EAST, 18.000 FEET TO THE INTERSECTION WITH THE EASTERLY LINE OF THE 6 FOOT WIDE PUE AS SHOWN ON SAID MAP;

THENCE ALONG THE EASTERLY, SOUTHERLY AND WESTERLY LINES OF SAID 6 FOOT WIDE PUE, THE FOLLOWING SEVEN (7) COURSES:

1) ALONG THE ARC OF A 24.000 FOOT RADIUS CURVE TO THE LEFT, WHOSE CENTER POINT BEARS SOUTH 00° 34' 56" WEST, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 37.699 FEET;

2) SOUTH 00° 34' 56" WEST, 375.010 FEET;

3) ALONG THE ARC OF A 14.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 10.853 FEET TO A POINT OF REVERSE CURVATURE;

4) ALONG THE ARC OF A 56.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 268° 49' 50", AN ARC DISTANCE OF 262.751 FEET TO A POINT OF REVERSE CURVATURE;

5) ALONG THE ARC OF A 14.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 56", AN ARC DISTANCE OF 10.853 FEET;

6) NORTH 00° 34' 56" EAST, 375.010 FEET;

7) ALONG THE ARC OF A 24.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 37.699 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,512± SQUARE FEET OR 0.1495± ACRES OF LAND.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

[Signature]

RODNEY A. STEWART II, PLS 9225
LICENSE EXPIRES: 09/30/2017

DATE

6/17/16

[Seal]
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<td>N0°34'56&quot;E</td>
<td>375.010</td>
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<tr>
<td>L6</td>
<td>S89°25'04&quot;E</td>
<td>18.000</td>
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<td>L7</td>
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<td>375.010</td>
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<tr>
<td>L8</td>
<td>N0°34'56&quot;E</td>
<td>375.010</td>
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**CURVE TABLE**

<table>
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<th>CURVE #</th>
<th>RADIUS</th>
<th>DELTA</th>
<th>LENGTH</th>
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<tbody>
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<td>C1</td>
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<td>27.819'</td>
</tr>
<tr>
<td>C2</td>
<td>20.000</td>
<td>44°24'55&quot;</td>
<td>15.504'</td>
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<td>C3</td>
<td>50.000</td>
<td>268°49'50&quot;</td>
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<tr>
<td>C4</td>
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<tr>
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<td>27.819'</td>
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<tr>
<td>C10</td>
<td>24.000</td>
<td>90°00'00&quot;</td>
<td>37.699'</td>
</tr>
</tbody>
</table>

**EXHIBIT "4"**

VOYAGER P.U.E

LIVERMORE, CALIFORNIA

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road Phone (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

DATE JUNE, 2016
SCALE NO SCALE
BY JAK
JOB NO. 96562-27
SHEET 2 OF 2

Z:\1999-\96562-27\Survey\96562-27-PD-PUE VACATION.dwg 6-17-16 06:56:06 AM ratewart
EXHIBIT “5”
PUBLIC UTILITY EASEMENT (P.U.E.)

APN: 904-0012-050

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL 2, AS SAID PARCEL IS SHOWN ON THAT CERTAIN PARCEL MAP 10265, FILED FOR RECORD ON DECEMBER 30, 2014, IN BOOK 328 OF MAPS AT PAGE 37, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF DISCOVERY DRIVE, SAID POINT ALSO BEING THE NORTHWEST CORNER OF THAT CERTAIN PUE AND ACCESS EASEMENT RESERVED IN THAT CERTAIN DOCUMENT.Recorded ON DECEMBER 20, 2014, AS INSTRUMENT NO. 2014-317742 OFFICIAL RECORDS OF ALAMEDA COUNTY;

THENENCE ALONG SAID SOUTHERLY RIGHT OF WAY OF DISCOVERY DRIVE SOUTH 89° 25' 04" EAST, 120.000 FEET TO THE NORTHEAST CORNER OF SAID EASEMENT;

THENENCE LEAVING LAST SAID LINE AND ALONG THE GENERAL EASTERLY LINE OF SAID EASEMENT, THE FOLLOWING SIX (6) COURSES:

1) ALONG THE ARC OF A 30.000 FOOT NON-TANGENT RADIO CURVE TO THE LEFT, WHOSE CENTER POINT BEARS SOUTH 00° 34' 56" WEST, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 47.124 FEET;

2) SOUTH 00° 34' 56" WEST, 375.010 FEET,

3) ALONG THE ARC OF A 20.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET TO A POINT OF REVERSE CURVATURE,

4) ALONG THE ARC OF A 50.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 88° 49' 50", AN ARC DISTANCE OF 77.519 FEET TO A POINT OF REVERSE CURVATURE,

5) ALONG THE ARC OF A 20.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET,

6) THENCE SOUTH 00° 34' 56" WEST, 413.010 FEET TO THE SOUTHERLY LINE OF PARCEL 2,
    AS SAID PARCEL IS SHOWN ON SAID MAP (328 M 37);

THENENCE ALONG SAID SOUTHERLY LINE, NORTH 89° 25' 04" WEST, 60.000 FEET TO THE INTERSECTION WITH THE WESTERLY LINE OF SAID EASEMENT (2014-317742 OR);

THENENCE LEAVING LAST SAID LINE AND ALONG THE EASTERLY LINE OF EASEMENT, THE FOLLOWING SIX (6) COURSES:

1) NORTH 00° 34' 56" EAST, 413.010 FEET,

2) ALONG THE ARC OF A 20.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET TO A POINT OF REVERSE CURVATURE,
3) ALONG THE ARC OF A 50.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 88° 49' 50", AN ARC DISTANCE OF 77.519 FEET TO A POINT OF REVERSE CURVATURE,

4) ALONG THE ARC OF A 20.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 15.504 FEET,

5) NORTH 00° 34' 56" EAST, 375.010 FEET;

6) ALONG THE ARC OF A 30.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC DISTANCE OF 47.124 FEET TO THE POINT OF BEGINNING.

CONTAINING 57,622± SQUARE FEET OR 1.3228± ACRES OF LAND, MORE OF LESS.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

RODNEY A. STEWART II, LS 9225
LICENSE EXPIRES: 9/30/2017

DATE

RODNEY A. STEWART II
No. 9225
STATE OF CALIFORNIA

PROFESSIONAL LAND SURVEYOR
EXHIBIT "6"
PORTION OF
6 FOOT WIDE PUE

APN: 904-0012-016-05

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT CERTAIN 6 FOOT WIDE PUBLIC UTILITY EASEMENT AS SHOWN ON THAT CERTAIN MAP OF TRACT 7300, FILED FOR RECORD ON APRIL 11, 2008, IN BOOK 291 OF MAPS, AT PAGE 3, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE WESTERLY RIGHT OF WAY LINE OF ATLANTIS STREET, SAID POINT BEING THE SOUTHERLY TERMINUS OF THAT CERTAIN COURSE DESIGNATED AS "N 0° 34' 56" E, 381.166"", ON SAID MAP (291 M 3);

THENCE LEAVING SAID WESTERLY RIGHT OF WAY LINE, NORTH 89° 25' 04" WEST, 6.000 FEET TO A POINT ON THE WESTERLY LINE OF THE 6 FOOT WIDE PUE RUNNING PARALLEL TO SAID RIGHT OF WAY LINE AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG THE WESTERLY LINE OF SAID 6 FOOT WIDE PUE, ALONG THE ARC OF A 14.000 FOOT NON-TANGENT RADIUS CURVE TO THE RIGHT, WHOSE CENTER POINT BEARS NORTH 89° 25' 04" WEST, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF 10.853 FEET TO A POINT OF REVERSE CURVATURE;

THENCE CONTINUING ALONG LAST SAID LINE, ALONG THE ARC OF A 56.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 94° 24' 33", AN ARC DISTANCE OF 92.274 FEET;

THENCE LEAVING LAST SAID LINE, NORTH 00° 34' 56" EAST, 8.197 FEET TO A POINT ON THE AFOREMENTIONED WESTERLY RIGHT OF WAY LINE OF ATLANTIS STREET AS SHOWN ON SAID MAP (291 M 3);

THENCE ALONG SAID RIGHT OF WAY LINE, ALONG THE ARC OF A 50.000 FOOT NON-TANGENT RADIUS CURVE TO THE RIGHT, WHOSE CENTER POINT BEARS NORTH 46° 38' 15" EAST, THROUGH A CENTRAL ANGLE OF 87° 53' 22", AN ARC DISTANCE OF 76.698 FEET;

THENCE LEAVING LAST SAID LINE, NORTH 00° 34' 56" EAST, 14.292 FEET TO THE POINT OF BEGINNING.

CONTAINING 528± SQUARE FEET OF LAND, MORE OR LESS.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

RODNEY A. STEWART II, L.S. 9225
LICENSE EXPIRES: 09/30/2017

DATE

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QUIT CLAIM DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

CITY OF LIVERMORE, a Municipal Corporation, hereby Remises, Releases and Quit Claims to Livermore Amador Valley Transit Authority the real property in the City of Livermore, County of Alameda, State of California, as described in Exhibit "A" and being depicted on Exhibit "B".

This Quit Claim is related to City of Livermore Resolution 2016----, vacating the public utility easements concerning the real property

FOR LEGAL DESCRIPTION AND PLAT SEE EXHIBITS "A" ATTACHED HERETO AND MADE A PART HEREOF

DATED: ________________

CITY OF LIVERMORE, a municipal corporation

_____________________________
CITY MANAGER

ATTEST:

_____________________________
CITY CLERK

APPROVED AS TO FORM:

_____________________________
CITY ATTORNEY
EXHIBIT "7"
PORTION OF
6 FOOT WIDE PUE

APN: 904-0012-018-03

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF LIVERMORE, COUNTY OF
ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THAT CERTAIN 6 FOOT WIDE PUBLIC UTILITY EASEMENT AS SHOWN ON
THAT CERTAIN MAP OF TRACT 7300, FILED FOR RECORD ON APRIL 11, 2006, IN BOOK 291 OF
MAPS, AT PAGE 3, OFFICIAL RECORDS OF ALAMEDA COUNTY, BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF ATLANTIS STREET, SAID
POINT BEING THE SOUTHERLY TERMINUS OF THAT CERTAIN COURSE DESIGNATED AS " N 0°
34' 56" E, 381.010" ", ON SAID MAP (291 M 3);

THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE, SOUTH 89° 25' 04" EAST, 6.000 FEET TO
A POINT ON THE EASTERLY LINE OF THE 6 FOOT WIDE PUE RUNNING PARALLEL TO SAID
RIGHT OF WAY LINE AS SHOWN ON SAID MAP, SAID POINT ALSO BEING THE POINT OF
BEGINNING OF THIS DESCRIPTION;

THENCE ALONG THE EASTERLY LINE OF SAID 6 FOOT WIDE PUE, ALONG THE ARC OF A 14.000
FOOT NON-TANGENT RADIUS CURVE TO THE LEFT, WHOSE CENTER POINT BEARS
SOUTH 89° 25' 04" EAST, THROUGH A CENTRAL ANGLE OF 44° 24' 55", AN ARC DISTANCE OF
10.853 FEET TO A POINT OF REVERSE CURVATURE;

THENCE CONTINUING ALONG LAST SAID LINE, ALONG THE ARC OF A 56.000 FOOT RADIUS
CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 94° 24' 33", AN ARC DISTANCE OF
92.274 FEET;

THENCE LEAVING LAST SAID LINE, NORTH 00° 34' 56" EAST, 8.197 FEET TO A POINT ON THE
AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF ATLANTIS STREET AS SHOWN ON SAID
MAP (291 M 3);

THENCE ALONG SAID RIGHT OF WAY LINE, ALONG THE ARC OF A 50.000 FOOT NON-TANGENT
RADIUS CURVE TO THE LEFT, WHOSE CENTER POINT BEARS NORTH 45° 26' 17" WEST,
THROUGH A CENTRAL ANGLE OF 87° 53' 22", AN ARC DISTANCE OF 76.698 FEET TO A POINT OF
REVERSE CURVATURE;

THENCE LEAVING LAST SAID LINE, NORTH 00° 34' 56" EAST, 14.292 FEET TO THE POINT OF
BEGINNING.

CONTAINING 528± SQUARE FEET OF LAND, MORE OR LESS.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

RODNEY A. STEWART II, L.S. 9225
LICENSE EXPIRES: 09/30/2017

DATE

R:\1999\96562-27\Documents\Survey\Legal Descriptions\96562-27 ATLANTIS STREET PUE VACATION
EAST.docx

135
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Douglas Alessio, Administrative Services Director

SUBJECT: Repealing of Billing, Collection and Write-Off of Uncollectible Accounts Policy

RECOMMENDED ACTION

Staff recommends that the City Council repeal the resolution 318-79, approving the policy for Billing, Collection, and Write-Off of Uncollectible Accounts.

SUMMARY

In October 1979, the City Council adopted the Billing, Collection, and Write-Off of Uncollectible Accounts Policy which is later approved as an Administrative Regulation No. 2(AR 2). The purpose of this policy/Administrative Regulation was to provide standard guidelines and authorization levels by which City of Livermore Accounts Receivable may be removed from the books of the City when the accounts have been found to be uncollectible. It should be noted that there is a distinction between forgiving a debt and adjusting it to reflect its real financial value. "Writing off" is a misleading term that is often confused with the concept that the debt has somehow been forgiven. "Writing down" uncollected accounts is a bookkeeping entry only and does not forgive the debtor from any obligation to repay the City. If an appropriate opportunity arises, even after the receivable has been written down, the City may make efforts to collect the receivable.

The City is required to follow Generally Accepted Accounting Principles (GAAP) for its accounting procedures and financial statement presentation which requires reporting only those account receivable balances which have a high probability of collection. Ultimately it is not Council discretion whether or not to report the City’s assets at their appropriate value, but a GAAP requirement. To avoid unnecessary delays for routine collection and write-off actions, it is prudent, as well as industry practice, to set up general criteria, authority levels, and internal controls in an Administrative Regulation that would allow for streamlined write-down of uncollectible accounts.
DISCUSSION

The Billing, Collection, and Write-Off of Uncollectible Accounts Policy was approved by the City Council Resolution No. 318-79, dated October 29, 1979. The purpose of this Policy was to provide standard guidelines and authorization levels to administer City of Livermore’s “write off” of accounts receivable determined to be uncollectible. The City’s current policy requires that all accounts in excess of $1,000 which are considered uncollectable and therefore need to be removed from the account receivable balances of the City, need to be approved by the Council.

The City of Livermore currently collects payment for fees, charges and other collectibles associated with City operations. The staff diligently attempts to collect all monies due to the City from various revenue sources. However, not all outstanding receivables are secured as a normal course of business. The City primarily has two types of accounts receivable- the utility accounts receivable and all other non-utility accounts receivable. Collection process is same for both type of accounts receivable. The majority of the City’s delinquent accounts receivable are of small dollar amounts and stem from a breach of contract and damages to the City property.

Some accounts become uncollectible through a matter of law, such as bankruptcy, or practical application such as inability to locate the debtor or assets of the debtor. Other accounts become uncollectible when the statute of limitations expires. For example, the statute of limitations to file an action in court on a breach of contract is four years from the date the breach is discovered (Cal Code of Civil Procedure section 337) and the statute of limitation to file a suit for damages to the City’s real property is three years (Cal Code of Civil Procedure section 338).

Generally accepted accounting principles dictate the write-down of receivables to conservative collectable levels for financial reporting purposes. Where a debt is determined to be irrecoverable it must be subject to a write-down process to comply with the GAAP. Otherwise, the City will be overstating its assets on the balance sheet if these receivables are not adjusted to its realizable value when all reasonable efforts to collect have proven unsuccessful, and/or the statute of limitation has expired. Furthermore, in determining reasonable effort, the collection costs should not exceed the value of the receivables.

The write down of an uncollectible account is different from the forgiveness of an account due to the City. By writing down the uncollectible accounts, the City is not forgiving them, but acknowledging that the collection of these accounts is doubtful. Additionally, writing down of an account does not stop the City from pursuing further collection of the account if new information becomes available later on. The City Attorney’s Office and contracted collection agencies will continue attempting to collect upon these doubtful accounts and the City will recognize the revenue if a written-down account is subsequently collected.

Historically amounts written off during a fiscal year are not significant in nature and therefore not required to be reported or disclosed separately in the City’s Comprehensive Annual Financial Report (CAFR). For example: For the fiscal year 2011-12, $60,000 was
written off for individual delinquent accounts under $1,000 and about $90,000 for individual delinquent accounts over $1,000 for all funds. If the written-down amount is significant individually and/or collectively, it is required to be disclosed in the City’s CAFR and will be reported to the City Council.

Valuing and reporting accounts receivable balances properly in the financial statement in accordance with GAAP is an administrative procedure not a legislative procedure. To avoid unnecessary delays for routine collection and write-down actions, it is prudent to set up general criteria, authority levels, and internal controls in an Administrative Regulation that would allow for streamlined write-down of uncollectible accounts. By repealing this policy, the City would be able to update the Administrative Regulation reflecting industry’s best practices and create operating efficiencies in performing write-down procedures on an ongoing basis. There are appropriate checks and balances (internal controls) in place to make sure that the staff is not making unilateral decision when to write down uncollectable accounts receivable. Staff will amend the AR 2 which identifies the steps to be taken to collect payment on delinquent accounts and establish conditions under which an account may be written-down. Additionally, AR 2 will be updated to describe due diligence documentation and define authorization levels for write-offs. The updated AR 2 will include multiple administrative levels of authority and reporting to ensure adequate review of all delinquencies identified as uncollectible. Detailed records of any amounts written down shall be maintained.

To implement new write-down procedures, staff recommends that the resolution establishing the policy for Billing, Collection, and Write-Off of Uncollectible Accounts be repealed.

FISCAL AND ADMINISTRATIVE IMPACTS

There is no fiscal impact associated with the recommended action.

ATTACHMENTS

1. Resolution 318-79

Prepared by:
Waqas Hassan
Accountant

Approved by:  Fiscal Review by:
Marc Roberts  Douglas Alessio
City Manager  Administrative Services Director
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE

STATE OF CALIFORNIA

RESOLUTION NO. 318-79

A RESOLUTION APPROVING POLICY RELATING TO BILLING, COLLECTION
AND WRITE-OFF OF UNCOLLECTIBLE ACCOUNTS.

WHEREAS, the Finance Director has recommended the adoption
of a policy and the procedure for writing off uncollectible accounts,
which policy and procedure will be incorporated into the Adminis-
trative Regulations of the City of Livermore; and

WHEREAS, any such uncollectible debt proposed to be
written off which exceeds $1,000 shall first be reviewed and
approved by the City Council. Uncollectible accounts in amounts
less than $1,000 may be written off upon the recommendation of
the Finance Director and concurrence of the City Manager and
City Attorney; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the
City of Livermore that the policy for writing off uncollectible
accounts, as stated in the attached Administrative Regulation,
be and the same is hereby approved.

APPROVED AS TO FORM:

City Attorney

On motion of Councilmember Dahlbacka, seconded by
Councilmember Kamena, the foregoing Resolution was passed
and adopted this 29th. day of Oct., 1979, by the following
vote:

AYES: COUNCILMEMBERS Dahlbacka, Ebert, Turner and Mayor Kamena

NOES: none

ABSENT: Councilmember Staley

ATTEST:

Mayor, City of Livermore, California

City Clerk
1. **PURPOSE**

To provide a procedure by which City of Livermore Accounts Receivable may be removed from the books of the city when the accounts have been found to be uncollectible. Authorization for this procedure is based on City Council Resolution No. _____, dated _______ 1979.

2. **ORGANIZATIONS AFFECTED**

City of Livermore Finance Department, Water Service, Airport and Water Reclamation Plant of the Public Works Department, and all other departments originating billing requests.

3. **PROCEDURES**

a. All invoices for services rendered, rents, damages to city property, grants and other accounts receivable shall be issued by the Finance Department. Exceptions may be made by the Director of Finance with the approval of the City Manager. Originating departments shall request issuance of invoices on a form approved by the Finance Director. Upon issuance of an invoice, an account receivable is created and collection procedures commenced.

b. Reports of damage to city property, referenced to or accompanied by the related Police Report, or equally clear indication, of the party responsible for the damage reported, shall be forwarded to Finance together with the amount or estimate of damages. In the event questions are raised regarding the identity of the responsible party or parties, a copy of the report shall also be sent to the City Attorney for review and evaluation. Upon completion of repair, or securing estimates for repair, the responsible department shall request issuance of an invoice by the Finance Department.

c. For non-utility customers, the following procedure will apply: Upon passage of 30 days without payment, the Finance Department shall send a "Reminder Notice" to the debtor. If an additional 30 days passes without payment, the Finance Department shall send a "Past Due Notice" plus a "Final Notice" if the 90th day passes. If the account remains unpaid after an additional 10 days, "collection action" by the Finance Department will be initiated. For utility customers (e.g., water service) the procedures are to be as specified in the Livermore City Code as applicable.

d. The "collection action" to be taken by the Finance Department shall be whatever steps are deemed appropriate and potentially productive to collect the debt.
(d. cont'd.) After the lapse of 120 days without payment or arrangements for payment, the Finance Director or the representative of the Director shall either use the services of a collection agency, file a Small Claims Court action, or refer the matter to the City Attorney for further process. If payment has not been received due to bankruptcy, inability to locate the debtor or assets of the debtor, or other documentable cause, the Finance Director or the Director's representative shall forward the accumulated documentation to the City Attorney with a recommendation regarding write-off or further process.

e. Upon receipt of any such referral, the City Attorney shall evaluate the matter, including the supporting documentation, and either concur in any write-off recommendation made or institute any appropriate legal steps to secure collection of the city's account. The City Attorney shall advise the Finance Director of any steps taken. When such efforts fail to produce payment, the City Attorney shall make a recommendation concerning write-off and forward the accumulated documentation to the Finance Director.

f. The Finance Director shall review the original invoice and assembled record of collection attempts and results, and upon securing concurrence from the City Attorney, shall forward the file to the City Manager. The City Manager will review the file and if the Manager concurs in a recommended write-off, will return the file to the Finance Director. If any debt proposed for write-off exceeds $1,000, the City Manager will notify the City Council of his intention to approve the write-off. Following such notification, the City Manager will take final action and forward the completed file to the Finance Director for charging to "Collection Loss Write-Off" and crediting "Accounts Receivable" in the appropriate accounting fund. The completed file, including all documentation and collection efforts, and recommendations of the City Attorney and Finance Director shall be filed in the Finance Department to assure that any further payment or settlement can be properly recorded and so that the complete record is available for audit.
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION REPEALING RESOLUTION NO. 318-79, POLICY RELATING TO BILLING, COLLECTIONS, AND WRITE-OFF OF UNCOLLECTIBLE ACCOUNTS

On October 29, 1979, the City Council adopted Resolution No. 318-79, approving a policy relating to billing, collections and write-off of uncollectible accounts. Valuing and reporting accounts receivable balances properly in the financial statement in accordance with GAAP is an administrative procedure not a legislative procedure. To avoid unnecessary delays for routine collection and write-off actions, it is prudent to set up general criteria, authority levels, and internal controls in an administrative regulation that would allow for streamlined write-off of uncollectible accounts.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Livermore hereby repeals Resolution No. 318-79.

On motion of Council Member _________________________, seconded by Council Member _________________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

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

ATTEST:  APPROVED AS TO FORM:

_____________________________                ______________________________
Susan Neer      Jason Alcala
City Clerk       City Attorney
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Darren Greenwood, Public Works Director

SUBJECT: Authorize execution of a grant agreement with the Federal Aviation Administration in the amount of $3,079,962 for the construction of Project No. 2013-13, Rehabilitate Runway 7R/25L Pavement and Airfield Electrical System at the Livermore Airport.

RECOMMENDED ACTION

Staff recommends that the City Council adopt a resolution authorizing execution of Airport Improvement Program (AIP) Grant Agreement No. 3-06-0123-025-2016 with the Federal Aviation Administration (FAA) in the amount of $3,079,962 to fund the construction of City Project No. 2013-13, Rehabilitate Runway 7R/25L Pavement and Airfield Electrical System.

SUMMARY

Runway 7R/25L is the short, southern parallel runway at the Livermore Airport. The “Rehabilitate Runway 7R/25L Pavement and Airfield Electrical System” project is an Airport safety, maintenance and efficiency improvement project that is reflected in the Capital Improvement Budget for Fiscal Years 2015/16 and 2016/17. The total construction cost for this project is estimated at $3,422,180. The FAA has issued a $3,079,962 grant agreement to fund 90% of the construction cost. The Airport enterprise fund will provide the 10% matching funds of $342,218. Staff recommends the City Council adopt a resolution authorizing the execution of the FAA grant agreement.

DISCUSSION

This safety-related project gained priority grant funding status with FAA because the asphalt surface course of the secondary runway (Runway 7R/25L) has lost elasticity, is cracking and needs to be replaced. Further, the lighting of this existing 2,699-foot long runway has been planned since 2001 to improve overall safety and utility. The lighting project will not affect the runway’s current dimensions.
At the same time, an upgrade to the entire Airport lighting system is planned, primarily to retrofit the existing incandescent taxiway and runway light fixtures with Light Emitting Diodes (LED’s). Once retrofitted with LEDs, the Airport would use between 50% and 60% less energy on the taxiway lighting and airfield signage. The Airport’s annual electrical billing amounts to approximately $123,000, so this is a welcome cost reduction. The reduced maintenance of the long-lasting LED light fixtures is yet another significant benefit. The project also includes modifications to the Airport’s lighting vault and the installation of a new airfield lighting control panel in the FAA’s airport traffic control tower.

The FAA’s Runway Safety Action Team has been urging the pursuit and funding of this lighting project as it will aid in the prevention of runway incursions and facilitate the use of the runway at night and when the main runway is closed for maintenance or incident-related reasons. Most of the Airport’s based single and twin-engine aircraft are hangared on the south side of the airfield, an area immediately adjacent to the secondary runway. While the majority of these aircraft could utilize the secondary runway, due to the lack of lighting, tenants cannot legally land on an unlit runway after sunset and must use the main runway. This forces tenants to taxi an extended route to reach their hangars while wasting resources and adding unnecessary surface movements for FAA controller handling. Once lighting is installed, air traffic flow between the primary and secondary runways can be facilitated much more efficiently and safely.

Since this project involves safety, maintenance and utility improvements of existing facilities, it is consistent with the City General Plan and has been determined to be Categorically Exempt according to CEQA.

FISCAL AND ADMINISTRATIVE IMPACTS

The construction phase of City Project #2013-13 was funded in the amount of $2,145,000 in the Capital Improvement Budget for Fiscal Years 2015/16 and 2016/17. However, the lowest, qualified bid for the construction cost was submitted at $3,189,285. Project inspection fees and administrative costs brought the total amount to $3,422,180. Substantial increases in labor and materials cost in conjunction with airfield construction area control to satisfy the FAA’s required construction safety and phasing plan occurred, causing the initial estimate and FAA grant application to be insufficient.

The FAA accepted the bid and issued a grant for the City’s acceptance that would cover 90% of the construction costs, or $3,079,962. The Airport Enterprise Fund can provide the required $342,218 to cover the local 10% match as well as any FAA reimbursable project and/or staff expenses. A request to appropriate an additional $1,307,900 in FAA Airport Grant Funds (Fund 212) and $216,000 in Airport Funds (Fund 210) in Fiscal Year 2016-17 to Project No. 2013-13, was approved by Council on June 13, 2016 in the mid-cycle Capital Improvement Program budget for Fiscal Years 2015-16 and 2016-17.

However, in addition to the $3,422,180 construction cost, the project will require a contingency of $150,000 to cover unanticipated expenditures. Therefore, Council is also
being asked to consider a separate consent item tonight that requests approval of the construction agreement with DeSilva Gates, LP, to appropriate an additional $150,000 from Airport Fund 210 to the project as a contingency to cover unanticipated expenditures that would, upon FAA approval, also be subject to 90% reimbursement. Staff would only submit an amended grant request to the FAA for reimbursement of this additional amount in the event that the contingency funds are spent. The addition of the contingency will bring the total estimated construction amount to $3,572,180 with total Airport Fund 210 contributions of $492,218. Fund 210 currently has sufficient resources to cover this expenditure.

ATTACHMENTS

None.

Prepared by:

Leander Hauri
Airport Manager

Approved by:  Fiscal Review by:

Marc Roberts  Douglas Alessio
City Manager  Administrative Services Director
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF A FEDERAL AVIATION ADMINISTRATION GRANT AGREEMENT (AIP PROJECT NO. 3-06-0123-025-2016) TO ACCEPT GRANT AWARD IN THE AMOUNT OF $3,079,962

(Rehabilitate Runway 7R/25L Pavement and Airfield Electrical System, Project No. 2013-13)

City of Livermore Project No. 2013-13, Rehabilitate Runway 7R/25L Pavement and Airfield Electrical System, is an Airport safety, maintenance, and efficiency improvement project that is reflected in the City’s Capital Improvement Budget for Fiscal Years 2015-16 and 2016-17 (“Project”). The Project’s total construction cost is estimated to be $3,572,180.

The FAA has issued a grant agreement to fund 90 percent of eligible Project costs, in the amount of $3,079,962. A copy of the grant agreement is attached hereto as Exhibit A. The grant agreement requires the City to accept the grant by July 29, 2016.

In addition to the grant funding, staff is submitting a concurrent resolution requesting an additional appropriation of $150,000 from City Airport Fund 210 to add to already appropriated City funding to provide the remainder of the Project’s funding not covered by the FAA grant. Additionally, the same concurrently submitted resolution requests the City Council award the contract for the Project work pursuant to a public bidding process that took place.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Livermore authorizes the City Manager to sign, on behalf of the City of Livermore, Grant Agreement No. 3-06-0123-025-2016, with the Federal Aviation Administration, to partially fund construction of City Project No. 2013-13, Rehabilitate Runway 7R/25L Pavement and Airfield Electrical System, which is attached hereto as Exhibit A.

On motion of Council Member _________________________, seconded by Council Member _________________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

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

ATTEST: APPROVED AS TO FORM:

___________________________   ___________________________
Susan Neer      Robert Mahlowitz
City Clerk      Assistant City Attorney

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RESOLUTION NO. ________
GRANT AGREEMENT

PART I – OFFER

Date of Offer
July 13, 2016

Airport/Planning Area
Livermore Municipal

AIP Grant Number
3-06-0123-025-2016

DUNS Number
086168564

TO: City of Livermore
(herein called the “Sponsor”)

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the “FAA”)

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated April 26, 2016, for a grant of Federal funds for a project at or associated with the Livermore Municipal Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Livermore Municipal Airport (herein called the “Project”) consisting of the following:

Rehabilitate Runway, Install Runway Lighting, Rehabilitate [Overlay] Runway 7L/25R (approximately 2,699’ x 75’) including Lighting

which is more fully described in the Project Application.

NOW THEREFORE, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. 47101, et seq., (herein the AAIA grant statute is referred to as “the Act”), the representations contained in the Project Application, and in consideration of (a) the Sponsor’s adoption and ratification of the Grant Assurances dated March 2014, and the Sponsor’s acceptance of this Offer, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided,

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:
CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is $3,079,962.

   The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):
   - $0 for planning
   - $3,079,962 for airport development or noise program implementation
   - $0 for land acquisition.

   The source of this Grant may include funding from the Small Airport Fund.

2. **Period of Performance.** The period of performance begins on the date the Sponsor formally accepts this agreement. Unless explicitly stated otherwise in an amendment from the FAA, the end date of the project period of performance is 4 years (1,460 calendar days) from the date of formal grant acceptance by the Sponsor.

   The Sponsor may only charge allowable costs for obligations incurred prior to the end date of the period of performance (2 CFR § 200.309). Unless the FAA authorizes a written extension, the sponsor must submit all project closeout documentation and liquidate (pay off) all obligations incurred under this award no later than 90 calendar days after the end date of the period of performance (2 CFR § 200.343).

   The period of performance end date does not relieve or reduce Sponsor obligations and assurances that extend beyond the closeout of a grant agreement.

3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.

4. **Indirect Costs – Sponsor.** Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application and as accepted by the FAA to allowable costs for Sponsor direct salaries and wages.

5. **Determining the Final Federal Share of Costs.** The United States’ share of allowable project costs will be made in accordance with the regulations, policies and procedures of the Secretary. Final determination of the United States’ share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.

6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies and procedures of the Secretary. The Sponsor also agrees to comply with the assurances which are part of this agreement.

7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.

8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before July 29, 2016, or such subsequent date as may be prescribed in writing by the FAA.

9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term “Federal funds” means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of...
such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

10. **United States Not LIABLE for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

11. **System for Award Management (SAM) Registration And Universal Identifier.**

   A. **Requirement for System for Award Management (SAM):** Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at http://www.sam.gov).

   B. **Requirement for Data Universal Numbering System (DUNS) Numbers**

      1. The Sponsor must notify potential subrecipient that it cannot receive a contract unless it has provided its DUNS number to the Sponsor. A subrecipient means a consultant, contractor, or other entity that enters into an agreement with the Sponsor to provide services or other work to further this project, and is accountable to the Sponsor for the use of the Federal funds provided by the agreement, which may be provided through any legal agreement, including a contract.

      2. The Sponsor may not make an award to a subrecipient unless the subrecipient has provided its DUNS number to the Sponsor.

      3. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-606-8220) or on the web (currently at http://fedgov.dnb.com/webform).

12. **Electronic Grant Payment(s),** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

13. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by $25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

   The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA’s authority to increase the maximum obligation does not apply to the “planning” component of condition No. 1.

   The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

   An informal letter amendment has the same force and effect as a formal grant amendment.
14. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this grant.

15. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

16. **Buy American.** Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.

17. **Maximum Obligation Increase For Primary Airports.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:
   A. May not be increased for a planning project;
   B. May be increased by not more than 15 percent for development projects;
   C. May be increased by not more than 15 percent for land projects.

18. **Audits for Public Sponsors.** The Sponsor must provide for a Single Audit in accordance with 2 CFR Part 200. The Sponsor must submit the Single Audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at http://harvester.census.gov/facweb/. The Sponsor must also provide one copy of the completed 2 CFR Part 200 audit to the Airports District Office.

19. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:
   A. Verify the non-federal entity is eligible to participate in this Federal program by:
      1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if non-federal entity is excluded or disqualified; or
      2. Collecting a certification statement from the non-federal entity attesting they are not excluded or disqualified from participating; or
      3. Adding a clause or condition to covered transactions attesting individual or firm are not excluded or disqualified from participating.
   B. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g. Sub-contracts).
   C. Immediately disclose to the FAA whenever the Sponsor: (1) learns they have entered into a covered transaction with an ineligible entity or (2) suspends or debar a contractor, person, or entity.

20. **Ban on Texting While Driving.**
   A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
      1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
      2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

B. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts and subcontracts.

21. Trafficking in Persons.

A. Prohibitions: The prohibitions against trafficking in persons (Prohibitions) apply to any entity other than a State, local government, Indian tribe, or foreign public entity. This includes private Sponsors, public Sponsor employees, subrecipients of private or public Sponsors (private entity). Prohibitions include:

1. Engaging in severe forms of trafficking in persons during the period of time that the agreement is in effect;
2. Procuring a commercial sex act during the period of time that the agreement is in effect; or
3. Using forced labor in the performance of the agreement, including subcontracts or subagreements under the agreement.

B. In addition to all other remedies for noncompliance that are available to the FAA, Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), allows the FAA to unilaterally terminate this agreement, without penalty, if a private entity –

1. Is determined to have violated the Prohibitions; or
2. Has an employee who the FAA determines has violated the Prohibitions through conduct that is either:
   a. Associated with performance under this agreement; or
   b. Imputed to the Sponsor or subrecipient using 2 CFR part 180, “OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),” as implemented by the FAA at 2 CFR part 1200.

22. AIP Funded Work Included in a PFC Application:

Within 90 days of acceptance of this award, Sponsor must submit to the Federal Aviation Administration an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this grant award. The airport sponsor may not make any expenditure under this award until project work addressed under this award is removed from an approved PFC application by amendment.

23. Exhibit “A” Property Map. The Exhibit “A” Property Map dated 11/04/2014, is incorporated herein by reference or is submitted with the project application and made part of this grant agreement.

24. Pavement Maintenance Management Program. The Sponsor agrees that it will implement an effective airport pavement maintenance management program as required by Grant Assurance Pavement Preventive Management. The Sponsor agrees that it will use the program for the useful life of any pavement constructed, reconstructed, or repaired with federal financial assistance at the airport. The Sponsor further agrees that the program will

A. Follow FAA Advisory Circular 150/5380-6, “Guidelines and Procedures for Maintenance of Airport Pavements,” for specific guidelines and procedures for maintaining airport pavements, establishing an
effective maintenance program, specific types of distress and its probable cause, inspection guidelines, and recommended methods of repair;

B. Detail the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed;

C. Include a Pavement Inventory, Inspection Schedule, Record Keeping, Information Retrieval, and Reference, meeting the following requirements:

1. Pavement Inventory. The following must be depicted in an appropriate form and level of detail:
   a. Location of all runways, taxiways, and aprons;
   b. Dimensions;
   c. Type of pavement, and;
   d. Year of construction or most recent major rehabilitation.

2. Inspection Schedule.
   a. Detailed inspection. A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in the Advisory Circular 150/5380-6, the frequency of inspections may be extended to three years.
   b. Drive-By Inspection. A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition. For drive-by inspections, the date of inspection and any maintenance performed must be recorded.

3. Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The type of distress, location, and remedial action, scheduled or performed, must be documented. The minimum information is:
   a. Inspection date;
   b. Location;
   c. Distress types; and
   d. Maintenance scheduled or performed.

4. Information Retrieval System. The Sponsor must be able to retrieve the information and records produced by the pavement survey to provide a report to the FAA as may be required.

25. Project which Contain Paving Work in Excess of $500,000. The Sponsor agrees to:

   A. Furnish a construction management program to the FAA prior to the start of construction which details the measures and procedures to be used to comply with the quality control provisions of the construction contract including, but not limited to, all quality control provisions and test required by the Federal specifications. The program must include as a minimum:
      1. The name of the person representing the sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract
      2. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided.
      3. Procedures for determining that the testing laboratories meet the requirements of the American Society on Testing and Materials standards on laboratory evaluation referenced in the contract
specifications (D3666, C 1077).

4. Qualifications of engineering supervision and construction inspection personnel. 

5. A listing of all test required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test.

6. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.

B. Submit at completion of the project, a final test and quality assurance report documenting the summary results of all tests performed; highlighting those tests that indicated failure or that did not meet the applicable test standard. The report must include the pay reductions applied and the reasons for accepting any out-of-tolerance material. Submit interim test and quality assurance reports when requested by the FAA.

C. Failure to provide a complete report as described in paragraph b, or failure to perform such tests, will, absent any compelling justification; result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction will be at the discretion of the FAA and will be based on the type of types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the grant agreement.

D. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that sponsor test results are inaccurate.
The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

[Signature]

[Typed Name]
Manager
[Title of FAA Official]
PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.¹

Executed this __________________ day of ________________________________

City of Livermore
(Name of Sponsor)

(Signature of Sponsor’s Authorized Official)
By:
(Typed Name of Sponsor’s Authorized Official)
Title:
(Title of Sponsor’s Authorized Official)

CERTIFICATE OF SPONSOR’S ATTORNEY

I, __________________, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of __________________. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor’s official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at ______________ (location) this __________ day of ____________________________

By:
(Signature of Sponsor’s Attorney)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Douglas Alessio, Administrative Services Director

SUBJECT: Judicial Foreclosure for Delinquent Special Taxes, Assessment District 88-2R (Greenville/Brisa)

RECOMMENDED ACTION

Staff recommends City Council adopt a resolution authorizing the City Attorney to initiate judicial foreclosure actions against a delinquent parcel of real property located within Assessment District 88-2R (Greenville/Brisa) to collect delinquent special taxes on behalf of the bondholders for the district; and ordering that delinquent special taxes be removed from the tax roll.

SUMMARY

The City Council acts as the legislative body of Assessment District 88-2R (Greenville/Brisa). The City’s responsibilities include adherence to certain covenants contained in the Fiscal Agent Agreement for the bonds, including the covenant to file a judicial foreclosure action against each delinquent property that reaches the foreclosure threshold.

Within Assessment District 88-2R (Greenville/Brisa) there is one property that has failed to pay its 2015/2016 assessment which is in excess of the delinquency threshold of $10,000 for any single parcel. As such the City is obligated to proceed with a judicial foreclosure action to be filed in Alameda County Superior Court.

DISCUSSION

There is a single parcel within Assessment District 88-2R (Greenville/Brisa) that is delinquent for tax year 2015/16 in the cumulative special tax principal amount, including penalties and fees of $38,608.76. In order to recover the cumulative special tax principal amount to replenish district bond funds, the foreclosure covenant requires judicial foreclosure actions must be filed against the delinquent parcels.
The City of Livermore City Council (City Council) acts as the legislative body of the Assessment District 88-2R (Greenville/Brisa), which was duly formed pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the Act), in July of 1990.

The City Council, acting as the legislative body of Assessment District No. 88-2R (Greenville/Brisa), authorized the issuance of 1998 Authority Refunding bonds in December of 1998 to refinance the Livermore Capital Project Financing Authority (LCPFA) 1993 Authority Revenue Bonds dated November 23, 1993 which were issued for the purpose of refunding improvement bonds issued by the City with respect to the Greenville/Brisa Assessment District 1988-2 and the Greenville/Vaughn Assessment District 1989-2. The City Council levies special taxes on real property located within the district annually to service the bonds.

The City Council has covenanted with and for the benefit of the owners of the City of Livermore Assessment District 88-2R (Greenville/Brisa) Special Tax Bonds that it will order and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of certain delinquent special taxes.

Before the City may proceed with the foreclosure actions, the delinquent special tax installment must be removed from the tax roll. In addition to their original tax bill from Alameda County and any delinquency notice the County may have provided, the property owner has received multiple notices from the City informing them of their delinquency and requesting payment. A copy of the “Notice of Intent to Remove Delinquent Installments From the Tax Roll” is attached to the accompanying Resolution as Exhibit A. Once recorded, this document authorizes the Alameda County Tax Collector to remove the delinquent special taxes for these parcels.

**FISCAL AND ADMINISTRATIVE IMPACTS**

This item does not require an expenditure of City funds. All costs expended by the district will be recouped through the foreclosure action.

Prepared by:

Douglas Alessio  
Administrative Services Director

Approved by:  
Fiscal Review by:

Marc Roberts  
City Manager  
Douglas Alessio  
Administrative Services Director
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION ORDERING DELINQUENT SPECIAL TAXES FOR ASSESSMENT DISTRICT NO. 88-2R (GREENVILLE/BRISA) BE REMOVED FROM THE TAX ROLL AND FORWARDED TO FORECLOSURE COUNSEL

The City Council acts as the legislative body of the Assessment District No. 88-2R (Greenville/Brisa), which was duly formed pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, in July 1990.

The City Council, acting as the legislative body of Assessment District No. 88-2R (Greenville/Brisa), levies special taxes on real property located within that district annually to service the bonds.

The City Council has covenanted with and for the benefit of the owners of the City of Livermore (Alameda County, California) Assessment District No. 88-2R (Greenville/Brisa) Special Tax Bonds, that it will order and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of certain delinquent special taxes.

The special taxes for a single parcel of real property within Assessment District No. 88-2R (Greenville/Brisa) is delinquent for one or more installments for tax year 2015/16 in the cumulative principal amount, including penalties and fees of $38,608.76. This amount is in excess of the $10,000 delinquency threshold for any single parcel in the district and therefore the City is required to file and diligently prosecute a foreclosure action on behalf of the bondholders.

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

1. The City Attorney is authorized to initiate judicial foreclosure actions against the single delinquent parcel of real property designated on the attached Exhibit A-1;

2. The “Notice of Intent to Remove Delinquent Installments From the Tax Roll,” which form is attached hereto as Exhibit A, shall be recorded in the Office of the Alameda County Recorder; and

3. The delinquent special tax installments for the parcel of real property designated on the attached Exhibit A-1 shall be removed from the Alameda County Tax Roll to implement foreclosure actions, as authorized by the Act and agreed to within the bond covenants.
On motion of Council Member _____________________, seconded by Council Member _____________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

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

ATTEST: ____________________________  APPROVED AS TO FORM:

____________________________  ______________________________
Susan Neer      Catrina Fobian
City Clerk      Assistant City Attorney

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NOTICE OF INTENT TO REMOVE DELINQUENT INSTALLMENTS FROM THE TAX ROLL

CITY OF LIVERMORE

Assessment District 88-2R (Greenville/Brisa)

PLEASE TAKE NOTICE THAT:

1. The City of Livermore has ordered and is responsible for filing and prosecuting judicial foreclosure actions on behalf of bondholders against each parcel of real property described by Assessor's Parcel Number ("APN"), for the purpose of collecting delinquent installments listed on Exhibit "A-1" existing with respect to each such parcel.

2. From the date of recordation of this Notice, the County Tax Collector shall be credited upon the secured real property tax roll(s) with the delinquencies and the delinquencies shall no longer be collected by the County Tax Collector.

3. Upon presentation of written proof of recordation of this notice and a request by the City of Livermore, the County Tax Collector shall remove the delinquencies from the County tax roll.

4. The name of the owner of each APN as shown on the last equalized County assessment roll and the tax year and installment of each delinquency is listed on Exhibit "A-1".

5. Delinquencies occurring subsequent to the recordation of this Notice may also be removed from the County tax roll.

6. Recordation of this document constitutes notice that while the above referenced delinquencies may not appear on the County tax roll, they continue to represent a lien against the subject properties.

7. For questions concerning delinquencies, please contact:

   Jason Roth
   NBS
   32605 Temecula Parkway
   Ste. 100
   Temecula, CA 92592
   (800) 676-7516

Date

Douglas Alessio, Administrative Services Director
City of Livermore
County of Alameda, State of California
## EXHIBIT “A-1”

<table>
<thead>
<tr>
<th>APN</th>
<th>DISTRICT</th>
<th>OWNER</th>
<th>FISCAL YEAR</th>
<th>INSTALLMENT</th>
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<tr>
<td>099B-5751-001-00</td>
<td>88-2R</td>
<td>SADE ELEANOR TR</td>
<td>2015/16</td>
<td>SECOND ONLY</td>
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</tbody>
</table>
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Douglas Alessio, Administrative Services Director

SUBJECT: Judicial Foreclosure for Delinquent Special Taxes, Community Facilities District No. 99-1 (Tri-Valley Technology Park)

RECOMMENDED ACTION

Staff recommends City Council adopt a resolution authorizing the City Attorney to initiate judicial foreclosure actions against twenty-three (23) delinquent parcels of real property located within Community Facilities District No. 99-1 to collect delinquent special taxes on behalf of the bondholders for the district; and ordering that delinquent special taxes be removed from the tax roll.

SUMMARY

The City Council acts as the legislative body of Community Facilities District No. 99-1 (Tri-Valley Technology Park). The City’s responsibilities include adherence to certain covenants contained in the Fiscal Agent Agreement for the bonds, including the covenant to foreclose against delinquent properties once certain delinquency thresholds occur.

Within Community Facilities District No. 99-1 (Tri-Valley Technology Park) there are twenty-three (23) properties that are delinquent with aggregate delinquencies exceeding the established threshold of 5% of the total amount of special tax due and payable for the prior fiscal year for the entire district. The City now seeks to institute judicial foreclosure actions to be filed in Alameda County Superior Court to replenish District funds.

DISCUSSION

The City Council acts as the legislative body of the Community Facilities District No. 99-1 (Tri-Valley Technology Park), which was duly formed pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the Act), on January 10, 2000, by the adoption of Resolution No. 2000-6, and thereafter amended on March 13, 2000, by the adoption of Resolution No. 2000-61.
The City Council, acting as the legislative body of Community Facilities District No. 99-1 (Tri-Valley Technology Park), authorized the issuance of bonds for the defeasance and refunding in full of an outstanding series of bonds previously issued in 2000 on May 11, 2015, by the adoption of Resolution No. 2015-059. The City Council levies special taxes on real property located within the district annually to service the bonds.

The City Council has covenanted with and for the benefit of the owners of the City of Livermore (Alameda County, California) Community Facilities District No. 99-1 (Tri-Valley Technology Park) Special Tax Bonds, Series 2000, and the Special Tax Refunding Bonds, Series 2015, that it will order and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of certain delinquent special taxes.

There are twenty-three (23) parcels within Community Facilities District No. 99-1 (Tri-Valley Technology Park) that are delinquent for various tax years between 2011/12 and 2015/16 in the cumulative special tax principal amount of $283,593.17, the detail listing of which is included as Exhibit A1 to the accompanying resolution. In order to recover the cumulative special tax principal amount to replenish district bond funds, the foreclosure covenant requires that judicial foreclosure actions must be filed against the delinquent parcels.

Before the City may proceed with the foreclosure actions, the delinquent special tax installments must be removed from the tax roll. In addition to their original tax bill from Alameda County and any delinquency notice the County may have provided, each of these property owners has received multiple notices from the City informing them of their delinquency and requesting payment. A copy of the “Notice of Intent to Remove Delinquent Installments From the Tax Roll” is attached to the accompanying Resolution as Exhibit A. Once recorded, this document authorizes the Alameda County Tax Collector to remove the delinquent special taxes for these parcels.

FISCAL AND ADMINISTRATIVE IMPACTS

This item does not require an expenditure of City funds. All costs associated with the foreclosure actions which are incurred by the district will be recouped through the foreclosure actions.

ATTACHMENTS

None.

Prepared by:

Douglas Alessio
Administrative Services Director
Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Douglas Alessio
Administrative Services Director
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION ORDERING DELINQUENT SPECIAL TAXES BE REMOVED FROM THE TAX ROLL AND FORWARDED TO FORECLOSURE COUNSEL

The City Council acts as the legislative body of the Community Facilities District No. 99-1 (Tri-Valley Technology Park), which was duly formed pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, on January 10, 2000, by the adoption of Resolution No. 2000-6, and thereafter amended on March 13, 2000, by the adoption of Resolution No. 2000-61.

The City Council, acting as the legislative body of Community Facilities District No. 99-1 (Tri-Valley Technology Park), authorized the issuance of bonds for the defeasance and refunding in full of an outstanding series of bonds previously issued in 2000 on May 11, 2015, by the adoption of Resolution No. 2015-059. The City Council levies special taxes on real property located within that district annually to service the bonds.

The City Council has covenanted with and for the benefit of the owners of the City of Livermore (Alameda County, California) Community Facilities District No. 99-1 (Tri-Valley Technology Park) Special Tax Bonds, Series 2000, and the Special Tax Refunding Bonds, Series 2015 for that district, that it will order and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of certain delinquent special taxes.

The special taxes for twenty-three (23) parcels of real property within Community Facilities District No. 99-1 (Tri-Valley Technology Park) are delinquent for one or more installments for tax years from 2012/13 through 2015/16 in the cumulative principal amount, including penalties and fees, of $283,593.17, requiring that foreclosure actions be filed on behalf of the bondholders and diligently prosecuted.

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

1. The City Attorney is authorized to initiate judicial foreclosure actions against the twenty-three (23) delinquent parcels of real property designated on the attached Exhibit A-1;

2. The “Notice of Intent to Remove Delinquent Installments From the Tax Roll,” which form is attached hereto as Exhibit A, shall be recorded in the Office of the Alameda County Recorder; and

3. The delinquent special tax installments for the twenty-three (23) parcels of real property designated on the attached Exhibit A-1 shall be removed from
the Alameda County Tax Roll to implement foreclosure actions, as authorized by the Act and agreed to within the bond covenants.

On motion of Council Member _____________________, seconded by Council Member _____________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

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

ATTEST:  

APPROVED AS TO FORM:

_____________________________  _______________________________
Susan Neer       Catrina Fobian
City Clerk      Assistant City Attorney
NOTICE OF INTENT TO REMOVE DELINQUENT INSTALLMENTS FROM THE TAX ROLL

CITY OF LIVERMORE

Tri-Valley Technology Park CFD No. 99-1

PLEASE TAKE NOTICE THAT:

1. The City of Livermore has ordered and is responsible for filing and prosecuting judicial foreclosure actions on behalf of bondholders against each parcel of real property described by Assessor's Parcel Number ("APN"), for the purpose of collecting delinquent installments listed on Exhibit "A-1" existing with respect to each such parcel.

2. From the date of recordation of this Notice, the County Tax Collector shall be credited upon the secured real property tax roll(s) with the delinquencies and the delinquencies shall no longer be collected by the County Tax Collector.

3. Upon presentation of written proof of recordation of this notice and a request by the City of Livermore, the County Tax Collector shall remove the delinquencies from the County tax roll.

4. The name of the owner of each APN as shown on the last equalized County assessment roll and the tax year and installment of each delinquency is listed on Exhibit "A-1".

5. Delinquencies occurring subsequent to the recordation of this Notice may also be removed from the County tax roll.

6. Recordation of this document constitutes notice that while the above referenced delinquencies may not appear on the County tax roll, they continue to represent a lien against the subject properties.

7. For questions concerning delinquencies, please contact:

   Jason Roth
   NBS
   32605 Temecula Parkway
   Ste. 100
   Temecula, CA 92592
   (800) 676-7516

__________________________________________
Date

Douglas Alessio, Administrative Services Director
City of Livermore
County of Alameda, State of California
<table>
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</table>
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Ryan Rucker, Fire Marshal

SUBJECT: Annual Fire Hazard Abatement Protest Hearing

RECOMMENDED ACTION

Staff recommends the City Council consider all protests, and if council finds appropriate, adopt a resolution overruling protests and confirming the 2016 weed abatement assessments and direct staff to forward a certified copy of the assessment report with the County Auditor.

SUMMARY

The Fire Department concluded weed abatement on seven (7) parcels in June 2016. As a result, a significant fire hazard in the City has been reduced. A list of parcels abated is Exhibit A to the resolution.

DISCUSSION

Staff provided a schedule to all property owners including abatement timelines, type(s) of work needed based on parcel type, size and locations as well as the administrative costs which are charged when the City performs the abatement.

Invoices for each property abated have been sent to each property owner. In order to avoid the charges being placed on the parcel tax roll, property owners may pay invoices up to 5:00 p.m. on July 25, 2016. The cutoff date for payment is necessitated by the reporting system to the county tax assessor.

FISCAL AND ADMINISTRATIVE IMPACTS

Total cost of weed abatement work was $4376.40 which includes administrative costs incurred by the City based on Resolution No. 2016-042, which authorized the Fire
Department to proceed with the Fire Hazard Abatement Program. The total cost of work is fully recoverable and becomes a special assessment on the property owner's tax bill.

Administrative costs includes staff time to continue monitoring weed and debris hazards, preparation of parcel lists, publication of notices and mailing of letters and invoices for the work performed. Also included is the cost of updating the parcel databases.

ATTACHMENTS

None.

Prepared by:

Ryan Rucker
Fire Marshal

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Douglas Alessio
Administrative Services Director
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION OVERRULING PROTESTS AND CONFIRMING ASSESSMENTS – FIRE HAZARD ABATEMENT

Under Government Code sections 39560, et seq., the City of Livermore completed proper notice, hearings, and all required proceedings as described in Resolution No. 2016-026.

On March 14, 2016, the City Council passed and adopted Resolution No. 2016-026 declaring that there exist conditions of growing weeds, accumulated refuse, rubbish or dirt on private property and/or on the streets, parkways and/or sidewalks adjacent to each parcel of real property described therein, and that such conditions are a public nuisance and should be abated.

On April 25, 2016, the City Council adopted Resolution No. 2016-042 which ordered the abatement of weeds, refuse, rubbish and dirt on the parcels identified in Exhibit A attached hereto and declared that the abatement costs (including administrative costs incurred by the City) are the responsibility of the property owner.

The City Clerk has, within the time required by law, prepared the assessment list and caused it to be posted on or near the Council Chambers door with the time shown when said list shall be submitted to the City Council for confirmation. The time and place set for the confirmation of the assessment list by the City Council was July 25, 2016 at 7 p.m. in the Livermore Council Chambers, located at 3575 Pacific Avenue, in Livermore, California.

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

1. All protests, if any, have been overruled by motion.
2. The attached Exhibit A list is hereby confirmed, as submitted.
3. The cost of abating weeds for each property including the administrative costs, shall become an assessment on the property for the unpaid invoiced amount, and placed on the County tax roll.

On motion of Council Member _____________________, seconded by Council Member _____________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

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

ATTEST: APPROVED AS TO FORM:

____________________________    _____________________________
Susan Neer       Gabrielle Janssens
City Clerk       Deputy City Attorney

RESOLUTION NO. _______
## Notice of Public Hearing July 25, 2016

**Weed Abatement Assessments**

The City Council will conduct a public hearing to consider and rule on protests on July 25, 2016 at 7:00 p.m. in the City Council Chambers at 3575 Pacific Avenue, Livermore, CA. If you have any questions or need assistance prior to the meeting, contact Wende Moeur at 925-454-2366.

<table>
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<th>Parcel #</th>
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<th>Owner(s)</th>
<th>Mailing Address</th>
<th>Cost of Work</th>
<th>Admin Fee</th>
<th>Total Due</th>
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<td>098 035005400</td>
<td>Marylin Ave</td>
<td>Kenneth Kremer A Tr</td>
<td>22093 Redwood Rd Castro Valley, CA 94546-6439</td>
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<td>756.00</td>
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<td>099 002300800</td>
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<td>Chak H Lam &amp; Wan S Ng</td>
<td>Park Island 27-72-D Ma Wan Hongkong</td>
<td>530.00</td>
<td>360.40</td>
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<td>Linden Summit Investment Co</td>
<td>5056 Carducci Dr Pleasanton, CA 94588-6011</td>
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<td>099 080100500</td>
<td>2301 Concannon Blvd</td>
<td>John &amp; Suzanne Defreitas</td>
<td>#6 Twelve Oaks Dr Pleasanton, CA 94588-8209</td>
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<td>170.00</td>
<td>420.00</td>
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| Total      | 2,605.00              | $1,771.40           | $4,376.40                     |

The real property described in Resolution No. 2016-042 has been posted as required by law and the City Clerk has given written notice of the abatement to all persons owning the property described in Resolution No. 2016-042 at least five days prior to the date set for the hearing of objections to the abatement.

* Notifications were posted on parcels as a proper mailing address could not be identified

Total due is rounded to even cents per County tax rules

Exhibit A
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Susan Neer, City Clerk

SUBJECT: Ballot Measure to Preserve the Open Space Designation in the General Plan for the Springtown Golf Course

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution ordering the measure to preserve the Open Space designation in the General Plan for the Springtown Golf Course to election at the General Municipal Election scheduled for Tuesday, November 8, 2016.

Staff recommends the City Council provide direction regarding the preparation, signing, and filing of a rebuttal argument, if warranted.

SUMMARY

The City Council directed staff to prepare a measure to preserve the Open Space designation in the General Plan for the Springtown Golf Course and provided input on its language. The City Council now needs to formally order that measure to election on November 8, 2016, to place it on the ballot before the voters.

The City Council has already approved a primary argument in favor of the measure, but should provide direction for the preparation, signing, and filing of a rebuttal argument, if warranted, in response to a primary argument opposing the measure.

DISCUSSION

At its December 7, 2015 meeting, the City Council directed staff to prepare a ballot measure to preserve the Open Space designation in the General Plan for the Springtown Golf Course.

At its June 13, 2016 meeting, the City Council reviewed a proposed ballot measure and directed staff to present the measure on July 25, 2016, so that the City Council could order the measure to election on November 8, 2016, and place it on the ballot before the
voters. The City Council also appointed a subcommittee to prepare a primary argument in favor of the measure.

At its July 11, 2016 meeting, the City Council reviewed and approved its primary argument in favor of the measure.

Conversations between City staff, the Livermore Area Recreation and Park District, and various community members identified four additional parcels (APNs 099-0024-009-39, 099-0024-020, 099-0024-002-02, and 099-1300-005) owned by the City and considered to be part of the Springtown Golf Course. Those additional parcels are narrow bands that abut the northern edge of the Springtown Golf Course along the arroyo and are identified in Attachment 1 to this staff report. They are currently designated open space in the General Plan and are recommended for incorporation into the measure to also preserve them as open space along with the other Springtown Golf Course parcels.

The Enhanced Figure 3-3 attached to the ballot measure presented to the City Council on June 13, 2016, has been revised to incorporate the four additional parcels, and to more clearly show the location of the Springtown Association property and the property for the Springtown Library that are excluded from the measure. The revised enhanced Figure 3-3 is attached to the resolution accompanying this staff report for the measure.

Adoption of the resolution calling for the election on the measure and placing it on the ballot also establishes deadlines for filing of primary arguments for and against the measure, as well as for rebuttal arguments. Primary arguments are limited to 300 words in length and rebuttal arguments are limited to 250 words. Primary arguments for the measure must be submitted to the City Clerk’s Office by 5:00 p.m. on August 8, 2016, and rebuttals must be submitted by 5:00 p.m. on August 18, 2016.

The City Council should provide direction concerning who should prepare and sign a rebuttal argument in the event a primary argument against the measure is properly filed.

ENVIRONMENTAL REVIEW

The action ordering the City Council sponsored measure to preserve the existing Open Space designation for the Springtown Golf Course in the General Plan will not have a significant effect on the environment since it will not result in a direct or reasonably foreseeable indirect physical change to the Springtown Golf Course property per CEQA Section 15060(c)(2). The action is to simply continue applying the current OSP Open Space General Plan designation. Furthermore, the environmental impacts of the Springtown Golf Course OSP Open Space designation were evaluated in the 2003-2025 City of Livermore General Plan Final Environmental Impact Report, which was adopted in 2004.
FISCAL AND ADMINISTRATIVE IMPACTS

At its June 13, 2016 meeting, the City Council called for a General Municipal Election on November 8, 2016. The addition of the measure to election is not anticipated to increase the costs of the election. Additional incremental staff time is anticipated to process the measure and arguments for the election and to print, translate, bind, and mail the measure along with the other items included in the information pamphlets, which is expected to fall within the $30,000 amount previously estimated, and within the total amount of $100,000 budgeted for the election.

ATTACHMENTS

1. Additional parcels to include in the ballot measure

Prepared by:

Susan Neer
City Clerk

Approved by: Fiscal Review by:

Marc Roberts                    Douglas Alessio
City Manager                   Administrative Services Director
LEGEND

- Additional areas included with open space ballot initiative
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION ORDERING TO ELECTION AT THE GENERAL MUNICIPAL ELECTION SCHEDULED FOR NOVEMBER 8, 2016, THE CITY COUNCIL SPONSORED MEASURE TO PRESERVE THE EXISTING OPEN SPACE DESIGNATION FOR THE SPRINGTOWN GOLF COURSE IN THE LAND USE ELEMENT FOR THE 2003-2025 GENERAL PLAN

On June 13, 2016, the City Council adopted Resolution No. 2016-055 wherein it called and ordered held in the City of Livermore, County of Alameda, State of California, on Tuesday, November 8, 2016, a general municipal election of the qualified electors of the City for the purpose of electing one Mayor for the full term of two years and two members of the City Council for the full term of four years each.

The City Council now wants to add the Council sponsored initiative, attached to this resolution as Exhibit A, to be added to the ballot for the general municipal election on November 8, 2016.

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

Section 1. For the general municipal election called and ordered on June 13, 2016, the Livermore City Council hereby also submits to the qualified electors of the City at the November 8, 2016 election one ballot measure, attached as Exhibit A and incorporated herein by reference. The ballot question shall read as follows:

Measure ___: Shall the ordinance affirming and readopting the open space designation “OSP Parks, Trail Ways, Recreation Corridors and Protected Areas” in Land Use Element for the 2003-2025 City of Livermore General Plan for the Springtown Golf Course, except for the Springtown Library and the Springtown Association parcel, be adopted?

Section 2. The City Attorney is directed to prepare an impartial analysis of the ballot measure as required by section 9280 of the Elections Code.

Section 3. The City Council finds and determines that ordering the election on the City Council sponsored measure to preserve the existing Open Space designation for the Springtown Golf Course in the General Plan will not have a significant effect on the environment since it will not result in a direct or reasonably foreseeable indirect physical change to the Springtown Golf Course property per California Environmental Quality Act (CEQA) Guidelines section 15060(c)(2). The City Council further finds and determines that the action is to simply continue applying the current OSP Open Space General Plan designation, and that the environmental impacts of the Springtown Golf Course OSP Open Space designation were evaluated in the 2003-2025 City of Livermore General Plan Final Environmental Impact Report adopted in 2004.

RESOLUTION NO. ________
Section 4. Pursuant to Elections Code section 9286 et seq., arguments for and against the ballot measure, which are limited to 300 words in length, must be submitted to the City Clerk, 1052 South Livermore Avenue, Livermore, California no later than 5:00 p.m. on Monday, August 8, 2016.

Section 5. Pursuant to Elections Code section 9285 et seq., rebuttal arguments, which are limited to 250 words in length, will be permitted and must be submitted to the City Clerk, 1052 South Livermore Avenue, Livermore, California no later than 5:00 p.m. on Thursday, August 18, 2016.

Section 6. The City Clerk is directed to submit a certified copy of this resolution to the Board of Supervisors of the County of Alameda and to the Registrar of Voters and to take such further action as may be requested by County elections officials in connection with the general election on November 8, 2016.

On motion of Council Member _________________, seconded by Council Member _________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

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

ATTEST: APPROVED AS TO FORM:

__________________________    ___________________________
Susan Neer      Jason R. Alcala
City Clerk      City Attorney
Measure ___:

Shall the ordinance affirming and readopting the open space designation “OSP Parks, Trail Ways, Recreation Corridors and Protected Areas” in Land Use Element for the 2003-2025 City of Livermore General Plan for the Springtown Golf Course, except for the Springtown Library and the Springtown Association parcel, be adopted?

*******

Full Text of Measure

Measure _____


The people of the City of Livermore, California do ordain as follows:

Section 1.  Background.

The Springtown community has expressed a concern that the Springtown Golf Course could be developed for housing now that the golf course has ceased operation.

The City Council sponsored this initiative to preserve the existing open space designation of OSP Parks, Trail Ways, Recreation Corridors and Protected Areas in the Land Use Element for the 2003-2025 General Plan for the Springtown Golf Course, except for the Springtown Library property and except for the Springtown Association parcel (APN 099-0031-019-00) at 931 and 939 Larkspur Drive, as those designations exist on the date of the election on November 8, 2016.

Section 2.  Purpose.

The purpose of this initiative is to reaffirm and readopt the existing open space land use designation in the 2003-2025 City of Livermore General Plan for the Springtown Golf Course, except for the Springtown Library and the Springtown Association parcel.

It is the further purpose of this initiative to preserve the City’s ability to make minor adjustments to the exact edges of the land use designation for the Springtown Golf Course and the land use designations for the abutting properties. That continuing
flexibility will allow the City to address land use issues associated with properties abutting the Springtown Golf Course now that its operation has ceased, such as the location of their rear property lines.

Section 3. **Ordinance Affirming and Readopting General Plan Designations.**

A. If approved, the initiative measure would preserve the following open space designation for the Springtown Golf Course, except for the Springtown Library and the parcel owned by the Springtown Association, in the Land Use Element for the 2003-2025 General Plan as that designation exists on the date of the election on November 8, 2016:

**Land Use Element:**

The Open Space and Agriculture land use designation of Open Space (OSP) *Parks, Trail Ways, Recreation Corridors and Protected Areas* applied to the Springtown Golf Course in Figure 3-3 *General Plan Land Use Map* in the 2003-2025 Livermore General Plan, as depicted in the Enhanced Figure 3-3 (attached to this ordinance), is affirmed and readopted.

That designation includes the description on page 3-26 in the Land Use Element for the 2003-2025 Livermore General Plan that states the “[open space (OSP) land use designation] includes parks, trailways, recreation areas, recreation corridors, and protected areas, such as creeks and arroyos, or similar open space uses determined appropriate for the site.”

B. The area occupied by the Springtown Library is expressly excluded from this initiative measure.

C. The parcel owned by the Springtown Association (APN 099-0031-019-00) at 931 and 939 Larkspur Drive is expressly excluded from this initiative measure.

D. This initiative measure does not limit the City’s ability to make minor adjustments to the exact edges of the land use designation for the Springtown Golf Course and the land use designations for the abutting properties.

E. No part of this ordinance shall be repealed or amended except by a vote of the people.
Section 4. **Effective Date.** This ordinance shall be adopted if approved by the majority of qualified electors at the city’s general municipal election held on November 8, 2016; and shall be effective ten (10) days following the date upon which the Livermore City Council declares by resolution the results from that election.

Section 5. **Severability.** If any part of this ordinance is declared invalid by a court, such invalidity shall not affect any of the remaining parts.
ENHANCED FIGURE 3-3

Close-up View of Figure 3-3

Depicting the Reaffirmed and Readopted Open Space

OSP Parks, Trail Ways, Recreation Corridors and Protected Areas

Land Use Designations for the Springtown Golf Course
ENHANCED FIGURE 3-3
Springtown Golf Course Open Space Ballot Initiative

LEGEND
- Land subject to Springtown Golf Course Open Space Ballot Initiative
- OSP 2003-2025 City of Livermore General Plan Land Use Element parks, trail ways, recreation corridors, and protected areas
- Open space area not covered by ballot initiative
DATE: July 25, 2016

TO: Honorable Mayor and City Council

FROM: Stephan Kiefer, Community and Economic Development Director

SUBJECT: Agreements and Related Approvals for Improvement Area No. 2 of the City of Livermore Community Facilities District 2009-1 (El Charro) 2016 Special Tax Bonds (Crosswinds Church)

RECOMMENDED ACTION

Staff recommends the City Council approve the issuance and sale of the Improvement Area No. 2 of the City of Livermore Community Facilities District 2009-1 (El Charro) 2016 Special Tax Bonds (Crosswinds Church) and related documents.

Staff further recommends the City Council:

1. by 4/5 vote, adopt a resolution authorizing issuance of “Improvement Area No. 2 of the City of Livermore Community Facilities District 2009-1 (El Charro) 2016 Special Tax Bonds (Crosswinds Church)” (“2016 CFD Bonds”) on behalf of the City of Livermore Community Facilities District No. 2009-01 (“El Charro CFD”) with respect to Improvement Area No. 2 (“Improvement Area No. 2”); sale of the 2016 CFD Bonds on a private placement basis to a member (the “Purchaser”) of Crosswinds Church (the “Church”); and approving execution and delivery of a Fiscal Agent Agreement with MUFG Union Bank, N.A., as fiscal agent (the “Fiscal Agent Agreement”) and a Private Placement Agreement with the Purchaser and the Church (the “Private Placement Agreement”).

SUMMARY

Development of the El Charro Specific Plan Area relied upon construction of over $40 million of infrastructure. The finance structure assumed a portion of the monies would be from land-secured financing (bonds payable from special taxes levied in the El Charro CFD). Crosswinds Church is the owner of the taxable property in Improvement Area No. 2, which is located at 1660 Freisman Road. Crosswinds Church has asked the City to issue the 2016 CFD Bonds (which will be payable only from special taxes levied in
Improvement Area No. 2 in an amount not to exceed $5,000,000 through the El Charro CFD. Crosswinds Church has also proposed that the 2016 CFD Bonds be purchased by a member of the Church on a private placement basis; there will be only one owner of the 2016 CFD Bonds and it is not expected that the 2016 CFD Bonds will be transferred prior to their final maturity. Staff believes a private placement of the 2016 CFD Bonds is the preferred method of selling the 2016 CFD Bonds.

The Fiscal Year 2014-15 assessed value of Improvement Area No. 2 ($5,225,511) is less than three times the expected principal amount of the 2016 CFD Bonds. As a result, in order to comply with the Mello-Roos Community Facilities Act of 1982 (the "Mello-Roos Act") and adopted City debt policies, the City Council must find by a vote of not less than four-fifths of all of its members that the issuance of the 2016 CFD Bonds should proceed.

DISCUSSION

In accordance with the Mello-Roos Act, the City Council formed the El Charro CFD in 2009. The El Charro CFD includes Improvement Area No. 2, which is the property owned by Crosswinds Church. The City is authorized to levy special taxes in the CFD, including Improvement Area No. 2, and the City is authorized to incur indebtedness on behalf of the CFD that is payable from those special taxes. The proceeds of the debt must be used to finance certain public improvements in the El Charro Specific Plan Area necessary for development.

Improvement Area No. 2 has an existing special tax obligation to repay the City for the portion of the City 2011 Certificates of Participation (COP) allocated to Improvement Area No. 2 used to build El Charro Phase 1 infrastructure ("2011 COP reimbursement obligation"). At this time Crosswinds Church wishes to proceed with subdivision and commercial development of its parcel in Improvement Area No. 2. Phases 2a (Road A Realignment) and 2b (Friesmen Park) of the El Charro Infrastructure Improvements have been completed as part of the Outlet Mall Expansion and Crosswinds Church developments. There are some required El Charro infrastructure improvements including the Vineyard buffer and Road B required to be constructed before the proposed Crosswinds Church development can proceed. In addition, in accordance with its Development Agreement, Crosswinds Church must, upon sale of the Crosswinds Commercial parcel, pay off the 2011 COP reimbursement obligation and contribute its fair share of the remaining El Charro Infrastructure.

In anticipation of further development of the Crosswinds Church parcel, which is expected to occur in Fall of 2017, Crosswinds Church has asked the City to issue, on behalf of the CFD with respect to Improvement Areas No. 2, the 2016 CFD Bonds in the amount needed to (i) finance Improvement Area No. 2’s 2011 COP reimbursement obligation (the City will use the proceeds it receives from the 2011 COP reimbursement obligation to pay for a portion of the costs of a new Civic Center Meeting Hall and the new City downtown parking garage) and (ii) finance Improvement Area No. 2’s portion of the public infrastructure for the remaining Phases of the El Charro Infrastructure.
2016 CFD Bonds will be secured by and payable solely from special taxes levied in Improvement Area No. 2.

Attached to the resolution are copies of the Fiscal Agent Agreement, by and between the City and MUFG Union Bank, N.A., as fiscal agent for the 2016 CFD Bonds, and the Private Placement Agreement, by and among the City, the Church and the Purchaser. The Fiscal Agent Agreement describes the terms of the 2016 CFD Bonds and the uses of the proceeds of the 2016 CFD Bonds, and establishes various funds and accounts for benefit of the purchasers of the 2016 CFD Bonds. The Private Placement Agreement describes the obligations of the City, the Church and Purchaser.

The Resolution provides that the maximum principal amount of the 2016 CFD Bonds is $5 million; the yield of the 2016 CFD Bonds may not exceed 7.0 % percent; and the final maturity date of the 2016 CFD Bonds may not be later than September 1, 2046. In the event the property owner(s) in Improvement Area No. 2 default on the payment of special taxes and the City is unable to make scheduled debt service on the 2016 CFD Bonds, the City will have no obligation to make the debt service from any other source of funds.

Section 53345.8 of the Mello-Roos Act requires, with certain exceptions, that the value of the real property subject to special taxes levied in Improvement Area No. 2 be at least three times the principal amount of the CFD indebtedness that is allocable to Improvement Area No. 2 and the principal amount of all outstanding bonds that are secured by a special tax levied pursuant to the Act on property within the Improvement Area or a special assessment levied on property within the Improvement Area.

The fiscal year 2015-16 assessed value of the taxable property in Improvement Area No. 2 is $5,225,511.00 (the City has not commissioned an appraisal of the market value of the taxable property in Improvement Area No.2), which is less than three times the principal amount of the 2016 CFD Bonds; the City is not aware of any overlapping bonds payable from special taxes or assessments. As a result, and in order to comply with the City of Livermore Goals and Policies for Land Secured Financings (the “Goals and Policies”), adopted by the City Council on January 12, 2009, pursuant to Resolution No. 2009-005 and Section 53345.8 of the Mello-Roos Act, the City Council must find by a vote of not less than four-fifths of all of its members that the City’s issuance of the 2016 CFD Bonds should proceed.

Staff recommends that the City Council approve the issuance of the 2016 CFD Bonds and make the following supporting findings:

1. Crosswinds Church has explained that the Fiscal Year 2015-16 assessed value does not reflect the value of more than $10 million of improvements that have been made to the property by Crosswinds Church.

2. The El Charro infrastructure to be financed with the 2016 CFD Bonds is needed for ongoing development of the taxable property in Improvement Area No. 2.
(Crosswinds Church has applied to subdivide the parcel for commercial development).

3. The proposed purchaser of the 2016 CFD Bonds is a member of the church, meets the definition of “accredited investor” under Regulation D of the Securities Act of 1933¹ and has represented to the City that the purchaser has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of the 2016 CFD Bonds.

4. The City has no obligation to pay debt service on the 2016 CFD Bonds from moneys other than special taxes collected in Improvement Area No. 2.

5. Although the City has agreed in the Fiscal Agent Agreement, as permitted by the Act, to initiate judicial foreclosure proceedings of delinquent taxable parcels in Improvement Area No. 2, the City will do so only at the direction of the owner of the 2016 CFD Bonds and only if the owner of the 2016 CFD Bonds has provided the City with a deposit to pay foreclosure costs.

FISCAL AND ADMINISTRATIVE IMPACTS

The 2016 CFD Bonds are secured by and payable only from special taxes levied in Improvement Area No. 2 and the City has no obligation to pay debt service on the 2016 CFD Bonds from the City’s General Fund or any other City funds if special taxes are not sufficient.

The 2016 CFD Bonds will be purchased by a member of Crosswinds Church who will represent to the City that the purchaser meets the definition of “accredited investor” for purposes of federal securities laws.

ATTACHMENTS

None

¹ The definition of accredited investor is “intended to encompass those persons whose financial sophistication and ability to sustain the risk of loss of investment or ability to fend for themselves render the protections of the Securities Act’s registration process unnecessary.” Report on the Review of the Definition of “Accredited Investor,” U.S. Securities and Exchange Commission (December 18, 2015)
Prepared by:

Cheri Sheets
City Engineer

Approved by:

Marc Roberts
City Manager

Fiscal Review by:

Douglas Alessio
Administrative Services Director
IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF SPECIAL TAX BONDS, AND APPROVING AND AUTHORIZING RELATED DOCUMENTS AND ACTIONS

Improvement Area No. 2 of the
City of Livermore
Community Facilities District No. 2009-1 (El Charro)

The City Council conducted proceedings under and pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code (the “Act”), to form “City of Livermore Community Facilities District No. 2009-1 (El Charro)” (the “CFD”) and, among other improvement areas in the CFD, “Improvement Area No. 2 of the City of Livermore Community Facilities District No. 2009-1 (El Charro)” (“Improvement Area No. 2”), to authorize the levy of special taxes upon the land within the CFD, and to issue bonds and other debt (as defined in the Act) secured by said special taxes for the purpose of financing certain public improvements (the “Facilities”), all as described in those proceedings.

On January 12, 2009, by Resolution No. 2009-005, the Council adopted a resolution adopting local goals and policies for community facilities districts (the “Goals and Policies”).

The Council now wishes to provide for the issuance of special tax bonds to finance (i) the prepayment of a lease payment obligation of Improvement Area No. 2 that provided financing for a portion of the Facilities, (ii) the acquisition and construction of a portion of the Facilities and (iii) related costs and expenses, and there have been submitted to the Council certain documents described below providing for the issuance of the special tax bonds for the CFD and the use of the proceeds of those bonds, and the Council, with the aid of its staff, has reviewed the documents and found them to be in proper order.

The City wishes to sell the special tax bonds on a private placement basis to an accredited investor as generally defined under Regulation D of the Securities Act of 1933 to be identified by B.C. Ziegler and Company as private placement agent for this financing.

All conditions, things, and acts required to exist, to have happened, and to have been performed precedent to and in the issuance of the special tax bonds and the levy of the special taxes as contemplated by this resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act.

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

Section 1. Bonds Authorized. Pursuant to the Act, this resolution and the Fiscal Agent Agreement (as defined in Section 4 hereof), special tax bonds designated the “Improvement Area No. 2 of the City of Livermore Community Facilities District No. 2009-1 (El Charro) 2016 Special Tax Bonds (Crosswinds Church)” (the “Bonds”) in an aggregate principal amount not to exceed Five Million Dollars ($5,000,000) are hereby authorized to be issued. The
Bonds shall be executed in the form, mature, be payable in the priorities and bear interest at the rates as provided in the Fiscal Agent Agreement.

Section 2. Compliance with the Goals and Policies and the Act. The Council hereby finds that the issuance of the Bonds is in compliance with the Act and applicable provisions of the Goals and Policies. More specifically, the Council hereby makes the following determinations:

(a) Section 53345.8 of the Act requires, with certain exceptions, the value of the real property subject to special taxes levied in Improvement Area No. 2 to be at least three times the principal amount of the Bonds and the principal amount of all bonds that will be outstanding following issuance of the Bonds that are secured by a special tax levied pursuant to the Act on property within Improvement Area No. 2 or a special assessment levied on property within Improvement Area No. 2. The fiscal year 2015-16 assessed value of the taxable property in Improvement Area No. 2 is $5,225,511 (the City has not commissioned an appraisal of the market value of the taxable property in Improvement Area No. 2), which the City believes does not include the value of more than $10 million of improvements that CrossWinds Church (the “Church”) reports it has made to the taxable property. The fiscal year 2015-16 assessed value of the taxable property in Improvement Area No. 2 is less than three times the principal amount of the Bonds and the principal amount of all bonds that will be outstanding following issuance of the Bonds that are secured by a special tax levied pursuant to the Act on property within Improvement Area No. 2 or a special assessment levied on property within Improvement Area No. 2. As a result, and in order to comply with the Goals and Policies and Section 53345.8 of the Act, the Council hereby finds by a vote of not less than four-fifths of all of its members that the issuance of the Bonds should proceed because the proposed improvements to be financed with the Bonds are needed for ongoing development of the taxable property in Improvement Area No. 2, and Petersen Aura LLC, as purchaser of the Bonds (the “Purchaser”), which is owned in whole by an individual member of the Church, meets the definition of “accredited investor” under Regulation D of the Securities Act of 1933 and has sufficient knowledge and experience in financial and business matters to evaluate the risks of purchasing the Bonds.

(b) The rate and method of apportionment of special taxes for the District is in compliance with the Goals and Policies.

(c) It would be prudent in the management of the City’s fiscal affairs to issue the Bonds.

(d) The issuance of the Bonds will result in a lower overall cost than selling bonds in the public finance market at this time.

(e) The City will have no obligation to pay debt service on the Bonds from any source other than the special taxes collected in Improvement Area No. 2 and will be obligated to initiate judicial foreclosure proceedings of delinquent taxable parcels in Improvement Area No. 2 only at the direction of the Purchaser, and only in the event that the Purchaser has provided the City with a deposit to pay related costs.

Section 3. Authorities Granted. The Mayor, City Manager, Administrative Services Director or such other official of the City as may be designated by such officer pursuant to Section 7 hereof (each, an “Authorized Officer”) is hereby authorized and directed to execute
and deliver the documents approved herein in the form on file with the City Clerk, together with
such additions or changes as are approved by such Authorized Officer upon consultation with
the City Attorney and the City’s bond counsel, including such additions or changes as are
necessary or advisable to permit the timely issuance, sale and delivery of the Bonds, provided,
however, that no additions or changes shall (a) authorize an aggregate principal amount of
Bonds in excess of Five Million Dollars ($5,000,000); (b) result in a yield on the Bonds in excess
of 7.0% per annum; or (c) result in a maturity of the Bonds in excess of 40 years. The approval
of such additions or changes shall be conclusively evidenced by the execution and delivery by
an Authorized Officer of the documents herein specified.

The Bonds may only be sold to an accredited investor as generally defined under
Regulation D of the Securities Act of 1933 that has executed an investor letter in substantially
the form of Exhibit E to the Fiscal Agent Agreement.

Section 4. Fiscal Agent Agreement. The Council hereby approves the form of the
Fiscal Agent Agreement (the “Fiscal Agent Agreement”), in substantial conformance to the draft
attached hereto as Exhibit A, by and between the City and MUFG Union Bank, N.A., as fiscal
agent (the “Fiscal Agent”) with respect to the Bonds. The date, manner of payment, interest rate
or rates, interest payment dates, denominations, form, registration privileges, manner of
execution, place of payment, terms of redemption and other terms of the Bonds shall be as
provided in the Fiscal Agent Agreement as finally executed and delivered. The terms and
provisions of the Fiscal Agent Agreement, as executed, are incorporated herein by this
reference as if fully set forth herein. An Authorized Officer is hereby authorized and directed to
execute the Fiscal Agent Agreement on behalf of the City and the City Clerk is hereby
authorized and directed to attest thereto, subject to the terms of Section 3 hereof.

Section 5. Sale of Bonds; Private Placement Agreement. The Council hereby
approves the sale of the bonds by private placement to an accredited investor as generally
defined under Regulation D of the Securities Act of 1933 and approves the form of the Private
Placement Agreement (the “Private Placement Agreement”), in substantial conformance to the
draft attached hereto as Exhibit B, by and among the City, the Purchaser and the Church. The
terms and provisions of the Private Placement Agreement, as executed, are incorporated herein
by this reference as if fully set forth herein. An Authorized Officer is hereby authorized and
directed to execute the Private Placement Agreement on behalf of the City and the City Clerk is
hereby authorized and directed to attest thereto, subject to the terms of Section 3 hereof.

The Council hereby finds that sale of the Bonds to the Purchaser in a private placement
transaction will result in a lower overall cost than would be achieved by selling the Bonds
utilizing competitive bidding.

Section 6. Bond Delivery. The Bonds shall be prepared, executed and delivered to
the Fiscal Agent for authentication, all in accordance with the terms of the Fiscal Agent
Agreement. The Fiscal Agent, an Authorized Officer and other responsible officers of the City
are hereby authorized and directed to take such actions as are required to cause the delivery of
the Bonds upon receipt of the purchase price thereof.

Section 7. Actions Authorized. All actions heretofore taken by the officers and agents
of the City (including, but not limited to, the Authorized Officers) with respect to the
establishment of the CFD and Improvement Area No. 2 and the sale and issuance of the Bonds
are hereby approved, confirmed and ratified, and the appropriate officers of the City are hereby
authorized and directed to do any and all things and take any and all actions and execute any
and all certificates, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds in accordance with this Resolution, and any certificate, agreement, and other document described in the documents herein approved. All actions to be taken by an Authorized Officer, as defined herein, may be taken by such Authorized Officer or any designee, with the same force and effect as if taken by the Authorized Officer.

Section 8. Effectiveness. This resolution shall take effect from and after its adoption. The provisions of any previous resolutions in any way inconsistent with the provisions hereof in and for the issuance of the Bonds as herein described are hereby repealed.

On motion of Council Member ________________________, seconded by Council Member _________________________, the foregoing resolution was passed and adopted on July 25, 2016, by the following vote:

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

ATTEST:    APPROVED AS TO FORM:

Gabrielle Janssens
Deputy City Attorney

Susan Neer       Gabrielle Janssens
City Clerk       Deputy City Attorney
FISCAL AGENT AGREEMENT

by and between the

CITY OF LIVERMORE

and

MUFG UNION BANK, N.A.

as Fiscal Agent

Dated as of _______ 1, 2016

Relating to:

$___________

City of Livermore

Community Facilities District No. 2009-1 (El Charro)

2016 Special Tax Bonds (Crosswinds Church)
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FISCAL AGENT AGREEMENT

THIS FISCAL AGENT AGREEMENT (the “Agreement”) is made and entered into as of ________ 1, 2016, by and between the CITY OF LIVERMORE, a municipal corporation duly organized and existing under the laws of the State of California (the “City”) for and on behalf of the "City of Livermore Community Facilities District No. 2009-1 (El Charro)” (the “CFD”) with respect to its “Improvement Area No. 2 of the City of Livermore Community Facilities District No. 2009-1 (El Charro)” (“Improvement Area No. 2”), and MUFG UNION BANK, N.A., a national banking association duly organized and existing under the laws of the United States of America with a corporate trust office located in San Francisco, California, as fiscal agent (the “Fiscal Agent”).

WITNESSETH:

WHEREAS, the City Council of the City (the “City Council”) has formed the CFD, including Improvement Area No. 2, under the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (section 53311 et seq. of the California Government Code) (the “Act”); and

WHEREAS, the City Council, as the legislative body with respect to the CFD, is authorized under the Act to levy special taxes within Improvement Area No. 2 to pay for the costs of facilities and to authorize the issuance of bonds secured by said special taxes under the Act; and

WHEREAS, on July 25, 2016, the City Council adopted Resolution No. ______ (the “Resolution”) authorizing the issuance of special tax bonds (the “Bonds”) on behalf of the CFD with respect to Improvement Area No. 2; and

WHEREAS, it is in the public interest and for the benefit of the City, the CFD, Improvement Area No. 2 and the persons responsible for the payment of special taxes that the City enter into this Agreement to provide for the issuance of the Bonds (as defined below) hereunder to finance the acquisition and construction of facilities for the City and to provide for the disbursement of proceeds of the Bonds, the disposition of the special taxes securing the Bonds and the administration and payment of the Bonds; and

WHEREAS, the City has determined that all things necessary to cause the Bonds, when authenticated by the Fiscal Agent and issued as provided in the Act, the Resolution and this Agreement, to be legal, valid, binding and limited obligations in accordance with their terms, and all things necessary to cause the creation, authorization, execution and delivery of this Agreement and the creation, authorization, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, in consideration of the covenants and provisions herein set forth and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:
ARTICLE I

AUTHORITY AND DEFINITIONS

Section 1.01. Authority for this Agreement. This Agreement is entered into pursuant to the Act (as herein defined) and the Resolution.

Section 1.02. Agreement for Benefit of Owner of the Bonds. The provisions, covenants and agreements herein set forth to be performed by or on behalf of the City shall be for the equal benefit, protection and security of the Owner of the Bonds. All of the Bonds, without regard to the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, except as expressly provided in or permitted by this Agreement.

Section 1.03. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.03 shall, for all purposes of this Agreement, of any Supplemental Agreement, and of any certificate, opinion or other document herein mentioned, have the meanings herein specified. 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.


“Administrative Expenses” means costs directly related to the administration of the CFD consisting of: the actual costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by a City employee or consultant or both) and the actual costs of collecting the Special Taxes (whether by the County or otherwise); the actual costs of remitting the Special Taxes to the Fiscal Agent; actual costs of the Fiscal Agent (including its legal counsel) in the discharge of its duties under this Agreement; the actual costs of the City or its designee of complying with the disclosure provisions of the Act and this Agreement, including those related to public inquiries regarding the Special Tax and disclosures to Owner of the Bonds and the Owner; the actual costs of the City or its designee related to an appeal of the Special Tax; any amounts required to be rebated to the federal government; an allocable share of the salaries of the City staff directly related to the foregoing and a proportionate amount of City general administrative overhead related thereto. Administrative Expenses shall also include amounts advanced by the City for any administrative purpose of the CFD, including costs related to prepayments of Special Taxes, recordings related to such prepayments and satisfaction of Special Taxes, amounts advanced to ensure maintenance of tax exemption, and the costs of prosecuting foreclosure of delinquent Special Taxes, which amounts advanced are subject to reimbursement from other sources, including proceeds of foreclosure.

“Administrative Expense Fund” means the fund designated the “Improvement Area No. 2 of the City of Livermore Community Facilities District No. 2009-1 (El Charro) Administrative Expense Fund” established and administered under Section 4.06.

“Administrative Services Director” means the official of the City, or such official's designee, who acts in the capacity as the chief financial officer of the City.
“Agreement” means this Fiscal Agent Agreement, as it may be amended or supplemented from time to time by any Supplemental Agreement adopted pursuant to the provisions hereof.

“Annual Debt Service” means, for each Bond Year, the sum of (i) the interest due on the Outstanding Bonds in such Bond Year, assuming that the Outstanding Bonds are retired as scheduled, and (ii) the principal amount of the Outstanding Bonds due in such Bond Year (including any mandatory sinking payment due in such Bond Year).

“Auditor” means the auditor/controller of the County, or such other official at the County who is responsible for preparing property tax bills.

“Authorized Officer” means the City Manager, the Assistant City Manager, the Administrative Services Director, the City Clerk, or any other officer or employee authorized by the City Council of the City or by an Authorized Officer to undertake the action referenced in this Agreement as required to be undertaken by an Authorized Officer.

“Bond Counsel” means Jones Hall, A Professional Law Corporation or any other attorney or firm of attorneys acceptable to the City and nationally recognized for expertise in rendering opinions as to the legality and tax-exempt status of securities issued by public entities.

“Bond” or "Bonds" means the Bonds at any time Outstanding under this Agreement or any Supplemental Agreement.

“Bond Fund” means the fund designated the “Improvement Area No. 2 of the City of Livermore, Community Facilities District No. 2009-1 (El Charro) Special Tax Bonds Bond Fund" established and administered under Section 4.04.

“Bond Year” means the one-year period beginning on September 2nd in each year and ending on September 1 in the following year, except that the first Bond Year shall begin on the Closing Date and shall end on September 1, 2017.

“Business Day” means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions in the state in which the Fiscal Agent has its principal corporate trust office are authorized or obligated by law or executive order to be closed.

“Capitalized Interest Account” means the account by that name held by the Fiscal Agent and established and administered under section 4.04(A).

“CDIAC” means the California Debt and Investment Advisory Commission of the Office of the State Treasurer, or any successor agency, board or commission.

“CFD” means the "City of Livermore Community Facilities District No. 2009-1 (El Charro)" formed under the Resolution of Formation.

“City” means the City of Livermore.

“City Attorney” means any attorney or firm of attorneys employed by the City in the capacity of city attorney.
“City Council” means the City Council of the City, in its capacity as the legislative body of the CFD.

“Closing Date” means the date upon which there is a physical delivery of the Bonds in exchange for the amount representing the purchase price of the Bonds by the Owner.

“Costs of Issuance” means items of expense payable or reimbursable directly or indirectly by the City and related to the authorization, sale, delivery and issuance of the Bonds, which items of expense shall include, but not be limited to, printing costs, costs of reproducing and binding documents, closing costs, appraisal costs, filing and recording fees, fees and expenses of counsel to the City, initial fees and charges of the Fiscal Agent including its first annual administration fees and its legal fees and charges, including the allocated costs of in-house attorneys, expenses incurred by the City in connection with the issuance of the Bonds, Bond (underwriter’s) discount, legal fees and charges, including bond counsel, and counsel to any financial consultant, financial consultant’s fees, charges for execution, authentication, transportation and safekeeping of the Bonds and other costs, charges and fees in connection with the foregoing.

“Costs of Issuance Fund” means the fund designated the “Improvement Area No. 2 of the City of Livermore, Community Facilities District No. 2009-1 (El Charro) Special Tax Bonds, Costs of Issuance Fund” established and administered under Section 4.02.

“County” means the County of Alameda, California.

“Dated Date” means the dated date of the Bonds, which is the Closing Date.

“Debt Service” means the scheduled amount of interest and amortization of principal payable on the Bonds under Sections 2.02 and 2.03, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

“Fair Market Value” means with respect to the Bonds 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 Tax 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 Tax 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 Tax 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 10% beneficial interest if the return paid by such fund is without regard to the source of the investment.

“Federal Securities” means: (a) any 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), the payment of principal of and interest on which are unconditionally and fully guaranteed by the United States of America; and (b) any
obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

“Fiscal Agent” means MUFG Union Bank, N.A., the Fiscal Agent appointed by the City and acting as an independent fiscal agent with the duties and powers herein provided, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 7.01.

“Fiscal Year” means the twelve-month period extending from July 1 in a calendar year to June 30 of the succeeding year, both dates inclusive.

“Improvement Area No. 2” means “Improvement Area No. 2 of the City of Livermore Community Facilities District No. 2009-1 (El Charro)” formed under the Resolution of Formation.

“Improvement Fund” means the fund designated “Improvement Area No. 2 of the City of Livermore, Community Facilities District No. 2009-1 (El Charro), Special Tax Bonds, Improvement Fund,” established under Section 4.07.

“Independent Financial Consultant” means any consultant or firm of such consultants appointed by the City, and who, or each of whom:

(i) is judged by the City to have experience in matters relating to the issuance and/or administration of bonds under the Act;

(ii) is in fact independent and not under the domination of the City;

(iii) does not have any substantial interest, direct or indirect, with or in the City, or any owner of real property in Improvement Area No. 2, or any real property in Improvement Area No. 2; and

(iv) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make reports to the City.

“Interest Payment Date” means each September 1 and March 1 of every calendar year, commencing with September 1, 2016.

“Officer’s Certificate” means a written certificate of the City signed by an Authorized Officer of the City.

“Ordinance” means any ordinance of the City Council of the City levying the Special Taxes, including but not limited to Ordinance No. 1875 introduced by the City Council on March 23, 2009 and adopted by the City Council on April 13, 2009.

“Outstanding,” when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 8.04) all Bonds except (i) Bonds theretofore canceled by the Fiscal Agent or surrendered to the Fiscal Agent for cancellation; (ii) Bonds paid or deemed to have been paid within the meaning of Section 9.03; and (iii) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and delivered by the City under this Agreement or any Supplemental Agreement.

“Owner” means Petersen Aura LLC, and any successor thereto.
“Permitted Investments” means the following, but only to the extent that the same are acquired at Fair Market Value:

(a) Federal Securities.

(b) any of the following direct or indirect obligations of the following agencies of the United States of America: (i) direct obligations of the Export-Import Bank; (ii) certificates of beneficial ownership issued by the Farmers Home Administration; (iii) participation certificates issued by the General Services Administration; (iv) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing Administration; (v) project notes issued by the United States Department of Housing and Urban Development; and (vi) public housing notes and bonds guaranteed by the United States of America;

(c) interest-bearing demand or time deposits (including certificates of deposit) or deposit accounts in federal or state chartered savings and loan associations or in federal or State of California banks (including the Fiscal Agent, its parent, if any, and affiliates), provided that (i) the unsecured short-term obligations of such commercial bank or savings and loan association shall be rated in the highest short-term rating category by any Rating Agency, or (ii) such demand or time deposits shall be fully insured by the Federal Deposit Insurance Corporation;

(d) commercial paper rated in the highest short-term rating category by any Rating Agency, issued by corporations which are organized and operating within the United States of America, and which matures not more than 180 days following the date of investment therein;

(e) bankers acceptances, consisting of bills of exchange or time drafts drawn on and accepted by a commercial bank, including its parent (if any), affiliates and subsidiaries, whose short-term obligations are rated in the highest short-term rating category by any Rating Agency, or whose long-term obligations are rated A or better by any Rating Agency, which mature not more than 270 days following the date of investment therein;

(f) obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (a) rated A or better by any Rating Agency, or (b) fully secured as to the payment of principal and interest by Federal Securities;

(g) obligations issued by any corporation organized and operating within the United States of America having assets in excess of Five Hundred Million ($500,000,000), which obligations are rated A or better by any Rating Agency;

(h) money market funds (including money market funds for which the Fiscal Agent, its affiliates or subsidiaries provide investment advisory or other management services) which invest in Federal Securities or which are rated in the highest short-term rating category by any Rating Agency; and
(i) any investment agreement representing general unsecured obligations of a financial institution rated A or better by any Rating Agency, by the terms of which the Fiscal Agent is permitted to withdraw all amounts invested therein in the event any such rating falls below A.

(j) the Local Agency Investment Fund established pursuant to Section 16429.1 of the Government Code of the State of California, provided, however, that the Fiscal Agent shall be permitted to make investments and withdrawals in its own name and the Fiscal Agent may restrict investments in the such fund if necessary to keep moneys available for the purposes of this Fiscal Agent Agreement.

(k) the California Asset Management Program.

“Principal Office” means such corporate trust office of the Fiscal Agent as may be designated from time to time by written notice from the Fiscal Agent to the City, initially being at the address set forth in Section 9.06, or such other office designated by the Fiscal Agent from time to time.

“Proceeds” when used with reference to the Bonds, means the face amount of the Bonds, plus any accrued interest and premium, less any original issue and/or underwriter’s discount.

“Project” means those items described as the “Facilities” in the Resolution of Formation.

“Record Date” means the fifteenth day of the calendar month next preceding the applicable Interest Payment Date, whether or not such day is a Business Day.

“Regulations” means temporary and permanent regulations promulgated under the Tax Code.

“Resolution” or “Resolution of Issuance” means Resolution No. _______, adopted by the City Council on July 25, 2016, authorizing the issuance of the Bonds.

“Resolution of Formation” means Resolution No. 2009-043, entitled “Resolution of Formation of Community Facilities District,” adopted by the City Council on March 23, 2009, forming the CFD and Improvement Area No. 2.


“Special Tax Fund” means the special fund designated “Improvement Area No. 2 of the City of Livermore, Community Facilities District No. 2009-1 (El Charro), Special Tax Fund” established and administered under Section 4.05.

“Special Tax Prepayments” means the proceeds of any Special Tax prepayments received by the City, as calculated pursuant to the Rate and Method of Apportionment of the Special Taxes for Improvement Area No. 2, less any administrative fees or penalties collected as part of any such prepayment.
“Special Tax Prepayments Account” means the account by that name established within the Bond Fund under Section 4.04(A).

“Special Tax Revenues” means the proceeds of the Special Taxes received by the City, including any scheduled payments thereof and any Special Tax Prepayments, interest thereon and proceeds of the redemption or sale of property sold as a result of foreclosure of the lien of the Special Taxes to the amount of said lien and interest thereon, but shall not include any interest in excess of the interest due on the Bonds or any penalties collected in connection with any such foreclosure.

“Special Taxes” means the special taxes levied by the City Council within Improvement Area No. 2 under the Act, the Ordinance and this Agreement.

“State” means the State of California.

“Supplemental Agreement” means an agreement the execution of which is authorized by a resolution which has been duly adopted by the City under the Act and which agreement is amendatory of or supplemental to this Agreement, but only if and to the extent that such agreement is specifically authorized hereunder.

“Tax Code” means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Bonds, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Tax Code.

“Tax Consultant” means an independent financial or tax consultant retained by the City for the purpose of computing the Special Taxes.
ARTICLE II

THE BONDS

Section 2.01. Principal Amount; Designation. Subject to the provisions of Section 1 of the Resolution of Necessity, Bonds in the aggregate principal amount of $_______ are hereby authorized to be issued by the City for the CFD with respect to Improvement Area No. 2 under and subject to the terms of the Act, the Resolution, this Agreement and other applicable laws of the State of California.

The Bonds shall be designated as the “Improvement Area No. 2 of the City of Livermore Community Facilities District No. 2009-1 (El Charro) 2016 Special Tax Bonds (Crosswinds Church),” and shall be in the initial principal amount of $___________.

Section 2.02. Terms of the Bonds.

(A) Form. The Bonds shall be issued as fully registered Bonds without coupons. The Bonds shall be lettered and numbered in a customary manner as determined by the Fiscal Agent.

(B) Date of Bonds. The Bonds shall be dated the Closing Date.

(C) Maturities; Interest Rates. The Bonds shall be issued in the form of a single term bond, mature on September 1, 2046 and bear interest at the rate of 3.90%.

(D) Interest. The Bonds shall bear interest at the rates set forth above payable on the Interest Payment Dates in each year. Interest on all Bonds shall be calculated on the basis of a 360-day year composed of twelve 30-day months. Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof unless

(i) it is authenticated on an Interest Payment Date, in which event it shall bear interest from such date of authentication, or

(ii) it is authenticated prior to an Interest Payment Date and after the close of business on the Record Date preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or

(iii) it is authenticated on or before the Record Date preceding the first Interest Payment Date, in which event it shall bear interest from the Dated Date;

provided, however, that if at the time of authentication of a Bond, interest is in default thereon, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

(E) Method of Payment. Interest on the Bonds (including the final interest payment upon maturity or earlier redemption), is payable on the applicable Interest Payment Date by check of the Fiscal Agent mailed by first class mail to the registered Owner thereof at such registered Owner’s address as it appears on the registration books maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date, or by wire transfer made on such Interest Payment Date upon written instructions of the Owner of
The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent. All Bonds paid by the Fiscal Agent pursuant to this Section shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled Bonds and, upon request of the City, issue a certificate of destruction of such Bonds to the City.

Section 2.03. Redemption.

(A) Redemption Provisions.

(i) No Optional Redemption. The Bonds are not subject to redemption from amounts other than Special Tax Prepayments prior to their stated maturities.

(ii) Redemption from Special Tax Prepayments. The Bonds are subject to redemption from Special Tax Prepayments in whole or in part on the next date for which notice of redemption can timely be given under Section 2.03(D), at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as set forth below, together with accrued interest to the date fixed for redemption:

<table>
<thead>
<tr>
<th>Redemption Dates</th>
<th>Redemption Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Closing Date through 9/1/2026</td>
<td>106%</td>
</tr>
<tr>
<td>9/2/2026 and thereafter</td>
<td>103</td>
</tr>
</tbody>
</table>

(iii) Mandatory Sinking Fund Redemption. The Bonds are subject to mandatory redemption in part, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the redemption date, without premium, in the aggregate respective principal amounts all as set forth in the following table:

<table>
<thead>
<tr>
<th>Sinking Fund Redemption Date (September 1)</th>
<th>Principal Amount Subject to Redemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td></td>
</tr>
<tr>
<td>2020</td>
<td></td>
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<tr>
<td>2021</td>
<td></td>
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<td>2022</td>
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<td>2028</td>
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<td>2029</td>
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</tbody>
</table>
If the Bonds are redeemed in part under subsection (ii) above, the total amount of all future Sinking Fund Payments shall be reduced by the aggregate principal amount of Bonds so redeemed, to be allocated among such Sinking Fund Payments on a pro rata basis as directed by the City so as to maintain substantially the same debt service profile for the Bonds as in effect prior to such redemption.

(B) Notice to Fiscal Agent. The City shall give the Fiscal Agent written notice of its intention to redeem Bonds under subsection (A)(ii) not less than 45 days prior to the applicable redemption date or such lesser number of days as shall be authorized by the Fiscal Agent.

(C) Redemption Procedure by Fiscal Agent.

(i) Notices. The Fiscal Agent shall cause notice of any redemption to be mailed by first class mail, postage prepaid, at least thirty (30) days but not more than sixty (60) days prior to the date fixed for redemption, to the respective registered Owner of any Bonds designated for redemption, at their addresses appearing on the Bond registration books in the Principal Office of the Fiscal Agent; but such mailing shall not be a condition precedent to such redemption and failure to mail or to receive any such notice, or any defect therein, shall not affect the validity of the proceedings for the redemption of such Bonds.

(ii) Contents of Notices. Such notice shall state the redemption date and the redemption price and, if less than all of the then Outstanding Bonds are to be called for redemption shall state as to any Bond called in part the principal amount thereof to be redeemed, and shall require that such Bonds be then surrendered at the Principal Office of the Fiscal Agent for redemption at the said redemption price, and shall state that further interest on such Bonds will not accrue from and after the redemption date. The cost of mailing any such redemption notice and any expenses incurred by the Fiscal Agent in connection therewith shall be paid by the City.

(iii) Redemption. Whenever provision is made in this Agreement for the redemption of less than all of the Bonds of any maturity or any given portion thereof, the Fiscal Agent shall select the Bonds to be redeemed, from all Bonds or such given
portion thereof not previously called for redemption, by lot in any manner which the Fiscal Agent in its sole discretion shall deem appropriate; provided, however, that if Bonds are to be redeemed as a result of Special Tax Prepayments, Bonds shall be selected for redemption on a pro-rata basis among maturities.

(iv) New Bonds. Upon surrender of Bonds redeemed in part only, the City shall execute and the Fiscal Agent shall authenticate and deliver to the registered Owner, at the expense of the City, a new Bond or Bonds, of the same series and maturity, in aggregate principal amount equal to the unredeemed portion of the Bond or Bonds of such registered Owner.

(D) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of, and interest and any premium on, the Bonds so called for redemption shall have been deposited in the Bond Fund, such Bonds so called shall cease to be entitled to any benefit under this Agreement other than the right to receive payment of the redemption price, and no interest shall accrue thereon on or after the redemption date specified in the notice of redemption. All Bonds redeemed and purchased by the Fiscal Agent under this Section 2.03 shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled Bonds in accordance with the Fiscal Agent’s retention policy then in effect.

Section 2.04. Form of Bonds. The Bonds, the Fiscal Agent’s certificate of authentication and the assignment, to appear thereon, shall be substantially in the forms, respectively, set forth in Exhibit A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Agreement, the Resolution and the Act.

Section 2.05. Execution and Authentication of Bonds.

(A) Execution. The Bonds shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor of the City and the Clerk of the City Council who are in office on the date of execution of this Agreement or at any time thereafter, and the seal of the City shall be impressed, imprinted or reproduced by facsimile thereon. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the Owner, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the Owner. Any Bond may be signed and attested on behalf of the City by such persons as at the actual date of the execution of such Bond shall be the proper officers of the City although at the nominal date of such Bond any such person shall not have been such officer of the City.

(B) Authentication. Only such Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit A, executed and dated by the Fiscal Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Agreement, and such certificate of authentication of the Fiscal Agent shall be conclusive evidence that the Bonds registered hereunder have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of this Agreement.

Section 2.06. No Transfer; Exchange of Bonds. The Bonds may not be transferred except as required by operation of law.

Bonds may be exchanged at the Principal Office of the Fiscal Agent solely for a like aggregate principal amount of Bonds and of the same maturity. The cost for any services
rendered or any expenses incurred by the Fiscal Agent in connection with any such transfer or exchange shall be paid by the City. The Fiscal Agent shall collect from the Owner any tax or other governmental charge required to be paid with respect to such exchange. Whenever any Bond or Bonds shall be surrendered for exchange, the City shall execute and the Fiscal Agent shall authenticate and deliver a new Bond or Bonds, for a like aggregate principal amount. No exchanges of Bonds shall be required to be made (i) fifteen days prior to the date established by the Fiscal Agent for selection of Bonds for redemption or (ii) with respect to a Bond after such Bond has been selected for redemption; or (iii) between a Record Date and the succeeding Interest Payment Date.

Section 2.07. Bond Register. The Fiscal Agent will keep, or cause to be kept, at its Principal Office sufficient books for the registration and transfer of the Bonds which books shall show the series number, date, amount, rate of interest and last known owner of each Bond and shall at all times be open to inspection by the City during regular business hours upon reasonable notice; and, upon presentation for such purpose, the Fiscal Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, the ownership of the Bonds as hereinbefore provided. The City and the Fiscal Agent will treat the Owner of any Bond whose name appears on the Bond register as the absolute Owner of such Bond for any and all purposes, and the City and the Fiscal Agent shall not be affected by any notice to the contrary. The City and the Fiscal Agent may rely on the address of the Owner as it appears in the Bond register for any and all purposes.

Section 2.08. Temporary Bonds. The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, and may contain such reference to any of the provisions of this Agreement as may be appropriate. Every temporary Bond shall be executed by the City upon the same conditions and in substantially the same manner as the definitive Bonds. If the City issues temporary Bonds, it will execute and furnish definitive Bonds without delay and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange for the definitive Bonds at the Principal Office of the Fiscal Agent or at such other location as the Fiscal Agent shall designate, and the Fiscal Agent shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Agreement as definitive Bonds authenticated and delivered hereunder.

Section 2.09. Bonds Mutilated, Lost, Destroyed or Stolen.

(A) Mutilated. If any Bond shall become mutilated, at the expense of the Owner of such Bond, the City shall execute and the Fiscal Agent shall authenticate and deliver a replacement Bond of like tenor and principal amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Fiscal Agent of the Bond so mutilated. Every mutilated Bond so surrendered to the Fiscal Agent shall be canceled by it and destroyed by the Fiscal Agent, in accordance with the Fiscal Agent’s retention policy then in effect.

(B) Destroyed or Stolen. If any Bond shall be lost, destroyed or stolen, the City shall execute and the Fiscal Agent shall authenticate and deliver a replacement Bond of like tenor and principal amount in lieu of and in substitution for the Bond so lost, destroyed or stolen, at the expense of the Owner, but only following provision by the Owner to the Fiscal Agent of indemnity for the City and the Fiscal Agent satisfactory to the Fiscal Agent. The City may require payment of a sum not exceeding the actual cost of preparing each a replacement Bond delivered under this Section and the City and the Fiscal Agent may require payment of the
expenses which may be incurred by the City and the Fiscal Agent for the preparation, execution, authentication and delivery thereof. Any Bond delivered under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Bond so alleged to be lost, destroyed or stolen is at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Agreement with all other Bonds issued under this Agreement.

(C) Additional Stock. If the Fiscal Agent has an insufficient stock of unauthenticated printed Bonds for such purpose, it shall communicate with the Administrative Services Director with respect to the printing of an additional stock of Bonds, in such quantities and as otherwise approved in writing by the Administrative Services Director.

Section 2.10. Registration.

(A) Original Delivery. The Bonds shall be initially delivered in the form of a separate single fully registered Bond without coupons (which may be typewritten) for each maturity of the Bonds. Upon initial delivery, the ownership of each such Bond shall be registered on the registration books maintained by the Fiscal Agent in the name of the Owner.

(B) Legend. Each Bond shall contain the following statement: “THE BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND ARE SUBJECT TO TRANSFER RESTRICTIONS PURSUANT TO THE FISCAL AGENT AGREEMENT. THE BONDS ARE LIMITED OBLIGATIONS OF THE CITY. THE BONDS DO NOT, DIRECTLY, INDIRECTLY OR CONTINGENTLY, OBLIGATE, IN ANY MANNER, THE CITY TO LEVY ANY TAX (EXCEPT AS PROVIDED IN THE FISCAL AGENT AGREEMENT) OR TO MAKE ANY APPROPRIATION FOR PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR ANY COSTS INCIDENTAL THERETO (EXCEPT AS PROVIDED IN THE FISCAL AGENT AGREEMENT). THE BONDS ARE PAYABLE SOLELY FROM THE FUNDS PLEDGED FOR THEIR PAYMENT IN ACCORDANCE WITH THE FISCAL AGENT AGREEMENT. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CFD (EXCEPT AS PROVIDED IN THE FISCAL AGENT AGREEMENT), THE CITY OF LIVERMORE, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR ANY COSTS INCIDENTAL THERETO.”
ARTICLE III

ISSUANCE OF BONDS

Section 3.01. Issuance and Delivery of Bonds. At any time after the execution of this Agreement, the City may issue the Bonds for the CFD with respect to Improvement Area No. 2 in the aggregate principal amount set forth in Section 2.01 and deliver the Bonds to the Fiscal Agent for authentication and delivery to the Owner. The Authorized Officers of the City are hereby authorized and directed to execute and deliver any and all documents and instruments necessary to cause the issuance of the Bonds in accordance with the provisions of the Act, the Resolution and this Agreement, to authorize the payment of Costs of Issuance and costs of the Project by the Fiscal Agent from the proceeds of the Bonds and to do and cause to be done any and all acts and things necessary or convenient for the timely delivery of the Bonds to the Owner. The Fiscal Agent is hereby authorized and directed to authenticate the Bonds and deliver them to the Owner, upon receipt of the purchase price for the Bonds and an executed letter from the Owner in the form and substance of Exhibit E.

Section 3.02. Pledge of Special Tax Revenues. The Bonds shall be secured by a first pledge (which pledge shall be effected in the manner and to the extent herein provided) of all of the Special Tax Revenues and all moneys deposited in the Bond Fund (including the Capitalized Interest Account and the Special Tax Prepayments Account) and, until disbursed as provided herein, in the Special Tax Fund. The Special Tax Revenues and all moneys deposited into such funds (except as otherwise provided herein) are hereby dedicated to the payment of the principal of, and interest and any premium on, the Bonds as provided herein and in the Act until all of the Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose under Section 9.03.

Amounts in the Improvement Fund, the Administrative Expense Fund and the Costs of Issuance Fund are not pledged to the repayment of the Bonds. The Project is not pledged to the repayment of the Bonds, nor are the proceeds of any condemnation or insurance award received by the City with respect to the Project.

Section 3.03. Limited Obligation. All obligations of the City under this Agreement and the Bonds shall not be general obligations of the City, but shall be limited obligations, payable solely from the Special Tax Revenues and the funds pledged therefore hereunder. Neither the faith and credit nor the taxing power of the City (except to the limited extent set forth herein) or of the State of California or any political subdivision thereof is pledged to the payment of the Bonds.

Section 3.04. No Acceleration. The principal of the Bonds shall not be subject to acceleration hereunder. Nothing in this Section shall in any way prohibit the redemption of Bonds under Section 2.03, or the defeasance of the Bonds and discharge of this Agreement under Section 9.03.

Section 3.05. Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be dependent upon the completion of the acquisition of the Project or upon the performance by any person of his obligation with respect to the Project.
Section 3.06. No Cross-Collateralization. The Bonds are payable solely from the Special Tax Revenues and will not be secured by or payable from special tax revenues levied in any other improvement area of the CFD.
ARTICLE IV

PROCEEDS, FUNDS AND ACCOUNTS

Section 4.01. Application of Bond Proceeds. The Proceeds of the Bonds received from the Owner in the amount of $________ shall be paid to the Fiscal Agent, which shall deposit the Proceeds on the Closing Date as follows:

(i) $________ into the Costs of Issuance Fund;
(ii) $________ into the Capitalized Interest Account of the Bond Fund; and
(iii) $________ into the Improvement Fund, which includes the amount required to prepay a lease payment obligation to the City in the amount of $________.

The Fiscal Agent may, in its discretion, establish a temporary fund or account to facilitate the foregoing deposits.

Section 4.02. Costs of Issuance Fund.

(A) Establishment of Costs of Issuance Fund. The Costs of Issuance Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which a deposit shall be made as required by Section 4.01. Moneys in the Costs of Issuance Fund shall be held by the Fiscal Agent for the benefit of the City and shall be disbursed as provided in subsection (B) of this Section for the payment or reimbursement of Costs of Issuance.

(B) Disbursement. Amounts in the Costs of Issuance Fund shall be disbursed from time to time to pay Costs of Issuance, as set forth in a requisition substantially in the form of Exhibit C hereto, executed by the Administrative Services Director, containing respective amounts to be paid to the designated payees and delivered to the Fiscal Agent. Each such requisition shall be sufficient evidence to the Fiscal Agent of the facts stated therein and the Fiscal Agent shall have no duty to confirm the accuracy of such facts.

(C) Investment. Moneys in the Costs of Issuance Fund shall be invested and deposited by the Fiscal Agent under Section 6.01. Interest earnings and profits resulting from such investment shall be retained by the Fiscal Agent in the Costs of Issuance Fund to be used for the purposes of such fund.

(D) Closing of Fund. The Fiscal Agent shall maintain the Costs of Issuance Fund for a period of 90 days from the Closing Date and then the Fiscal Agent shall transfer any moneys remaining therein, including any investment earnings thereon, to the City for deposit in the Improvement Fund and used for the purposes thereof.
Section 4.03. No Reserve Fund. The City will not establish a debt service reserve fund for the Bonds.

Section 4.04. Bond Fund.

(A) Establishment of Bond Fund. The Bond Fund is hereby established as a separate fund to be held by the Fiscal Agent to the credit of which deposits shall be made as required by Section 4.01 and Section 4.07 and as otherwise set forth in this Agreement. Moneys in the Bond Fund shall be held by the Fiscal Agent for the benefit of the City and the Owner of the Bonds, and shall be disbursed for the payment of the principal of, and interest and any premium on, the Bonds as provided below.

Within the Bond Fund there is hereby established a separate account designated as the “Capitalized Interest Account” to be held in trust by the Fiscal Agent for the benefit of the City and the Owner of the Bonds into which shall be deposited the amount specified in Section 4.01(ii). Amounts on deposit in the Capitalized Interest Account shall be used and withdrawn by the Fiscal Agent solely for the payment of interest on the Bonds. When the amount in the Capitalized Interest Account is fully expended for the payment of interest, the account shall be closed.

There is also hereby created in the Bond Fund a separate account to be held by the Fiscal Agent, designated the “Special Tax Prepayments Account,” to the credit of which deposits shall be made as provided in clause (iii) of the second paragraph of Section 4.05(A).

(B) Disbursements. At least 10 Business Days before each Interest Payment Date, the Fiscal Agent shall notify the Administrative Services Director in writing as to the principal and premium, if any, and interest due on the Bonds on the next Interest Payment Date (whether as a result of scheduled principal of and interest on the Bonds, optional redemption of the Bonds or a mandatory sinking fund redemption). On each Interest Payment Date, the Fiscal Agent shall withdraw from the Bond Fund and pay to the Owner of the Bonds the principal of, and interest and any premium, due and payable on such Interest Payment Date on the Bonds.

At least 5 Business Days prior to each Interest Payment Date, the Fiscal Agent shall determine if the amounts then on deposit in the Bond Fund are sufficient to pay the debt service due on the Bonds on the next Interest Payment Date. In the event that amounts in the Bond Fund are insufficient for such purpose, the Fiscal Agent promptly shall notify the Administrative Services Director by telephone (and confirm in writing) of the amount of the insufficiency.

If there are insufficient funds in the Bond Fund to make the payments provided for in the second sentence of the first paragraph of this Section 4.04(B), the Fiscal Agent shall apply the available funds first to the payment of interest on the Bonds, then to the payment of principal due on the Bonds other than by reason of sinking payments, if any, and then to payment of principal due on the bonds by reason of sinking payments.
(C) **Disbursements from the Special Tax Prepayments Account.** Moneys in the Special Tax Prepayments Account shall be transferred by the Fiscal Agent to the Bond Fund on the next date for which notice of redemption of Bonds and notice to the Fiscal Agent can timely be given under Section 2.03, and shall be used to redeem Bonds on the redemption date selected in accordance with Section 2.03.

(D) **Investment.** Moneys in the Bond Fund, the Capitalized Interest Account and the Special Tax Prepayments Account shall be invested under Section 6.01. Interest earnings and profits resulting from such investment shall be retained in the Bond Fund.

(E) **Deficiency.** If at any time it appears to the Fiscal Agent that there is a danger of deficiency in the Bond Fund and that the Fiscal Agent may be unable to pay Debt Service on the Bonds in a timely manner, the Fiscal Agent shall report to the Administrative Services Director such fact. The City covenants to increase the levy of the Special Taxes in the next Fiscal Year (subject to the maximum amount authorized by the Resolution of Formation) in accordance with the procedures set forth in the Act for the purpose of curing Bond Fund deficiencies.

(F) **Excess.** Any excess moneys remaining in the Bond Fund following the payment of Debt Service on the Bonds on any September 1, shall be transferred to the Special Tax Fund.

**Section 4.05. Special Tax Fund.**

(A) **Establishment of Special Tax Fund.** The Special Tax Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which the Fiscal Agent shall deposit amounts received from or on behalf of the City consisting of Special Tax Revenues and amounts transferred from the Administrative Expense Fund and the Bond Fund. The City shall promptly remit any Special Tax Revenues received by it to the Fiscal Agent for deposit by the Fiscal Agent to the Special Tax Fund.

Notwithstanding the foregoing,

(i) Special Tax Revenues in an amount not to exceed the amount included in the Special Tax levy for such Fiscal Year for Administrative Expenses shall be separately identified by the Administrative Services Director and shall be deposited by the Fiscal Agent in the Administrative Expense Fund;

(ii) any Special Tax Revenues constituting the collection of delinquencies in payment of Special Taxes shall be separately identified by the Administrative Services Director and shall be disposed of by the Fiscal Agent first, for transfer to the Bond Fund to pay any past due debt service on the Bonds; and second, to be held in the Special Tax Fund for use as described in Section 4.05(B) below; and
(iii) any proceeds of Special Tax Prepayments shall be separately identified by the Administrative Services Director and shall be deposited by the Fiscal Agent as follows (as directed in writing by the Administrative Services Director): (a) that portion of any Special Tax Prepayment constituting a prepayment of construction costs shall be deposited by the Fiscal Agent to the Improvement Fund and (b) the remaining Special Tax Prepayment shall be deposited by the Fiscal Agent in the Special Tax Prepayments Account established pursuant to Section 4.04(A).

(B) Disbursements. On the fifth Business Day prior to each Interest Payment Date, the Fiscal Agent shall withdraw from the Special Tax Fund and transfer to the Bond Fund an amount, taking into account any amounts then on deposit in the Bond Fund and any expected transfers from the Improvement Fund (if any), the Capitalized Interest Account and the Special Tax Prepayments Account to the Bond Fund such that the amount in the Bond Fund equals the principal (including any sinking payment), premium, if any, and interest due on the Bonds on such Interest Payment Date and any past due principal or interest on the Bonds not theretofore paid from a transfer described in subparagraph (ii) of the second paragraph of Section 4.05(A).

Within 15 days after the end of each Bond Year, and after the foregoing transfers have been made, the Fiscal Agent shall transfer all amounts remaining on deposit in the Special Tax Fund to the Administrative Expense Fund, to be used as set forth in Section 4.06 below.

(C) Investment. Moneys in the Special Tax Fund shall be invested and deposited by the Fiscal Agent under Section 6.01. Interest earnings and profits resulting from such investment and deposit shall be retained in the Special Tax Fund to be used for the purposes thereof.

Section 4.06. Administrative Expense Fund.

(A) Establishment of Administrative Expense Fund. The Administrative Expense Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which deposits shall be made as required by Section 4.05(A). Moneys in the Administrative Expense Fund shall be held by the Fiscal Agent for the benefit of the City, and shall be disbursed as provided below.

(B) Disbursement. Amounts in the Administrative Expense Fund shall be withdrawn by the Fiscal Agent and paid to the City or its order upon receipt by the Fiscal Agent of an Officer's Certificate, in substantially the form of Exhibit D hereto, stating the amount to be withdrawn, that such amount is to be used to pay an Administrative Expense or a Cost of Issuance and the nature of such Administrative Expense or such Cost of Issuance.

Annually, on the last day of each Fiscal Year, the Fiscal Agent shall withdraw from the Administrative Expense Fund and transfer to the Special Tax Fund any amount in excess of that which is needed to pay any Administrative Expenses incurred but not yet paid, and which are not otherwise encumbered, as identified by the Administrative Services Director in an Officer's Certificate.
(C) **Investment.** Moneys in the Administrative Expense Fund shall be invested by the Fiscal Agent under Section 6.01. Interest earnings and profits resulting from such investment shall be retained by the Fiscal Agent in the Administrative Expense Fund to be used for the purposes of such fund.

**Section 4.07. Improvement Fund.**

(A) **Establishment of Improvement Fund.** The Improvement Fund is hereby established as a separate fund to be held by the Fiscal Agent and to the credit of which fund deposits shall be made as required by Sections 4.01, 4.02(D) and 4.05(A). Moneys in the Improvement Fund shall be disbursed, except as otherwise provided in subsection (D) of this Section, for the payment or reimbursement of costs of the Project.

(B) **Procedure for Disbursement.** Disbursements from the Improvement Fund shall be made by the Fiscal Agent upon receipt of an Officer’s Certificate substantially in the form of Exhibit B attached hereto, which shall:

(i) set forth the amount required to be disbursed, the purpose for which the disbursement is to be made (which shall be for payment of a Project cost or to reimburse expenditures of the City or any other party for Project costs previously paid), and the person to which the disbursement is to be paid; and

(ii) certify that no portion of the amount then being requested to be disbursed was set forth in any Officers Certificate previously filed requesting disbursement.

Each such requisition shall be sufficient evidence to the Fiscal Agent of the facts stated therein and the Fiscal Agent shall have no duty to confirm the accuracy of such facts.

(C) **Investment.** Moneys in the Improvement Fund shall be invested in accordance with Section 6.01. Interest earnings and profits from such investment shall be retained in the Improvement Fund to be used for the purpose of such fund.

(D) **Closing of Fund.** Upon the filing of an Officer’s Certificate stating that the Project has been completed and that all costs of the Project have been paid or are not required to be paid from the Improvement Fund, the Fiscal Agent shall transfer the amount, if any, remaining in the Improvement Fund to the Bond Fund for application to Debt Service payments due on the next succeeding Interest Payment Date and the Improvement Fund shall be closed.
ARTICLE V

COVENANTS

Section 5.01. Collection of Special Tax Revenues. The City shall comply with all requirements of the Act so as to assure the timely collection of Special Tax Revenues, including without limitation, the enforcement of delinquent Special Taxes.

(A) Processing. On or within 5 Business Days of each June 1, the Fiscal Agent shall provide the Administrative Services Director with a notice stating the amount then on deposit in the Bond Fund, and informing the City that the Special Taxes need to be levied under the Ordinance as necessary to provide for Annual Debt Service and Administrative Expenses. The receipt of or failure to receive such notice by the Administrative Services Director shall in no way affect the obligations of the Administrative Services Director under the following two paragraphs and the Fiscal Agent shall not be liable for failure to provide such notices to the Administrative Services Director. Upon receipt of such notice, the Administrative Services Director shall communicate with the Auditor to ascertain the relevant parcels on which the Special Taxes are to be levied, taking into account any parcel splits or combinations during the preceding and then current year.

(B) Levy. The Administrative Services Director shall effect the levy of the Special Taxes each Fiscal Year in accordance with the Ordinance by each August 1 that the Bonds are outstanding, or otherwise such that the computation of the levy is complete before the final date on which Auditor will accept the transmission of the Special Tax amounts for the parcels within Improvement Area No. 2 for inclusion on the next real property tax roll. Upon the completion of the computation of the amounts of the levy, the Administrative Services Director shall prepare or cause to be prepared, and shall transmit to the Auditor, such data as the Auditor requires to include the levy of the Special Taxes on the next real property tax roll.

(C) Computation. The Administrative Services Director shall fix and levy the amount of Special Taxes within Improvement Area No. 2 required for the payment of principal of and interest on any outstanding Bonds of the CFD with respect to Improvement Area No. 2 becoming due and payable during the ensuing calendar year, including an amount estimated to be sufficient to pay the Administrative Expenses and amounts necessary to discharge any rebate obligation, during such year, taking into account the balances in the applicable funds established under this Agreement and in the Special Tax Fund. The Special Taxes so levied shall not exceed the authorized amounts as provided in the proceedings under the Resolution of Formation.

(D) Collection. Except as set forth in the Ordinance, Special Taxes shall be payable and be collected in the same manner and at the same time and in the same installment as the general taxes on real property are payable, and have the same priority, become delinquent at the same time and in the same
proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the ad valorem taxes on real property.

Section 5.02. Covenant to Foreclose. Under the Act, the City hereby covenants with and for the benefit of the Owner of the Bonds that it will order, and cause to be commenced as hereinafter provided, and thereafter diligently prosecute to judgment (unless such delinquency is theretofore brought current), an action in the superior court to foreclose the lien of any Special Tax or installment thereof not paid when due as provided in the following paragraph. The Administrative Services Director shall notify the City Attorney of any such delinquency of which the Administrative Services Director is aware, and the City Attorney shall commence, or cause to be commenced, such proceedings.

On or about February 15 and June 15 of each Fiscal Year, the Administrative Services Director shall compare the amount of Special Taxes theretofore levied in Improvement Area No. 2 to the amount of Special Tax Revenues theretofore received by the City. If the Administrative Services Director determines that any single parcel subject to the Special Tax in Improvement Area No. 2 is delinquent in the payment of Special Taxes for more than 12 months, then the Administrative Services Director shall send or cause to be sent a notice of delinquency (and a demand for immediate payment thereof) to the owner of the parcel within 45 days of such determination, with a copy to the Owner of the Bonds. The City will not initiate foreclosure proceedings unless directed in writing to do so within the time period contemplated by Section 53356.1 of the Mello-Roos Act by the Owner of the Bonds, which written direction must be delivered to the City along with an amount reasonably determined by the City to be sufficient to pay its costs of prosecuting the foreclosure. Nothing in this paragraph is intended to limit any obligation imposed on the City by the Revenue & Taxation Code with respect to tax defaulted properties.

The Administrative Services Director and the City Attorney, as applicable, are hereby authorized to employ counsel to conduct any such foreclosure proceedings. The fees and expenses of any such counsel (including a charge for City staff time) in conducting foreclosure proceedings shall be an Administrative Expense hereunder.

Section 5.03. Punctual Payment. The City will punctually pay or cause to be paid the principal of, and interest and any premium on, the Bonds when and as due in strict conformity with the terms of this Agreement and any Supplemental Agreement, and it will faithfully observe and perform all of the conditions covenants and requirements of this Agreement and all Supplemental Agreements and of the Bonds.

Section 5.04. Extension of Time for Payment. In order to prevent any accumulation of claims for interest after maturity, the City shall not, directly or indirectly, extend or consent to the extension of the time for the payment of any claim for interest on any of the Bonds and shall not, directly or indirectly, be a party to the approval of any such arrangement by purchasing or funding said claims for interest or in any other manner. In case any such claim for interest shall be extended or funded, whether or not with the consent of the City, such claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Agreement, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which shall not have been so extended or funded.

Section 5.05. Against Encumbrances. The City will not encumber, pledge or place any charge or lien upon any of the Special Tax Revenues or other amounts pledged to the
Bonds superior to or on a parity with the pledge and lien herein created for the benefit of the Bonds, or their Owner, except as permitted by this Agreement.

**Section 5.06. Books and Records.**

(A) **City.** The City will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the Special Tax Revenues. Such books of record and accounts shall at all times during business hours be subject to the inspection of the Fiscal Agent and the Owner of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

(B) **Fiscal Agent.** The Fiscal Agent will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Fiscal Agent, in which complete and correct entries shall be made of all transactions made by it relating to the expenditure of amounts disbursed from the funds, and, if any, accounts in such funds held by the Fiscal Agent hereunder. Such books of record and accounts shall at all times during business hours be subject to the inspection of the City and the Owner of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing upon reasonable prior notice.

**Section 5.07. Protection of Security and Rights of Owner.** The City will preserve and protect the security of the Bonds and the rights of the Owner, and will warrant and defend their rights against all claims and demands of all persons. From and after the delivery of any of the Bonds by the City, the Bonds shall be incontestable by the City.

**Section 5.08. Further Assurances.** The City will adopt, 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 for the better assuring and confirming unto the Owner of the rights and benefits provided in this Agreement.

**Section 5.09. Private Activity Bond Limitations.** The City shall assure that the proceeds of the Bonds are not so used as to cause the Bonds to satisfy the private business tests of section 141(b) of the Tax Code or the private loan financing test of section 141(c) of the Code.

**Section 5.10. 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 the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code.

**Section 5.11. Rebate Requirement.** The City shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Bonds. The Administrative Services Director shall take note of any investment of monies hereunder in excess of the yield on the Bonds, and shall take such actions as are necessary to ensure compliance with this Section 5.11, such as increasing the portion of the Special Tax levy for Administration Expenses as appropriate to have funds available in the
Administrative Expense Fund to satisfy any rebate liability under this Section. If necessary to satisfy its obligations under this Section 5.11, the City may use:

(A) Amounts on deposit in the Administrative Expense Fund; and

(B) Any other funds available to Improvement Area No. 2, including amounts advanced by the City, in its sole discretion, to be repaid Improvement Area No. 2 as soon as practicable from amounts described in the preceding clauses (A) and (B).

Section 5.12. No Arbitrage. The City shall not take, or permit or suffer to be taken by the Fiscal Agent or otherwise, any action with respect to the proceeds of the Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Bonds would have caused the Bonds to be “arbitrage bonds” within the meaning of section 148 of the Tax Code.

Section 5.13. Yield of the Bonds. In determining the yield of the Bonds to comply with Sections 5.11 and 5.12, the City will take into account redemption (including premium, if any) in advance of maturity based on the reasonable expectations of the City, as of the Closing Date, regarding prepayments of Special Taxes and use of prepayments for redemption of the Bonds, without regard to whether or not prepayments are received or Bonds redeemed.

Section 5.14. Maintenance of Tax-Exemption. The City shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owner of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the date of issuance of the Bonds.

Section 5.15. No Continuing Disclosure. The City shall not provide any initial or continuing disclosure to the Owner of the Bonds.

Section 5.16. Limits on Special Tax Waivers and Bond Tenders. The City covenants not to exercise its rights under the Act to waive delinquency and redemption penalties related to the Special Taxes or to declare Special Tax penalties amnesty program if to do so would materially and adversely affect the interests of the Owner of the Bonds and further covenants not to permit the tender of Bonds in payment of any Special Taxes except upon receipt of a certificate of an Independent Financial Consultant that to accept such tender will not result in the City having insufficient Special Tax Revenues to pay the principal of and interest on the Bonds remaining Outstanding following such tender.

Section 5.17. City Bid at Foreclosure Sale. The City will not bid at a foreclosure sale of property in respect of delinquent Special Taxes, unless it expressly agrees to take the property subject to the lien for Special Taxes imposed by the City and that the Special Taxes levied on the property are payable while the City owns the property.
ARTICLE VI

INVESTMENTS; LIABILITY OF THE CITY

Section 6.01. Deposit and Investment of Moneys in Funds.

(A) General. Moneys in any fund or account created or established by this Agreement and held by the Fiscal Agent shall be invested by the Fiscal Agent in Permitted Investments, which in any event by their terms mature prior to the date on which such moneys are required to be paid out hereunder, as directed pursuant to an Officer’s Certificate filed with the Fiscal Agent at least two Business Days in advance of the making of such investments. In the absence of any such Officer’s Certificate, the Fiscal Agent shall invest any such moneys in Permitted Investments described in Section (h) of the definition thereof which by their terms mature prior to the date on which such moneys are required to be paid out hereunder to the extent reasonably practicable, and if such investments can not be made shall hold such funds uninvested. The Administrative Services Director shall make note of any investment of funds hereunder in excess of the yield on the Bonds so that appropriate actions can be taken to assure compliance with Section 5.11.

(B) Moneys in Funds. Moneys in any fund or account created or established by this Agreement and held by the Administrative Services Director shall be invested by the Administrative Services Director in any Permitted Investment or in any other lawful investment for City funds, which in any event by its terms matures prior to the date on which such moneys are required to be paid out hereunder. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account, subject, however, to the requirements of this Agreement for transfer of interest earnings and profits resulting from investment of amounts in funds and accounts. Whenever in this Agreement any moneys are required to be transferred by the City to the Fiscal Agent, such transfer may be accomplished by transferring a like amount of Permitted Investments.

(C) Actions of Officials. The Fiscal Agent and its affiliates or the Administrative Services Director may act as sponsor, advisor, depository, principal or agent in the acquisition or disposition of any investment. Neither the Fiscal Agent nor the Administrative Services Director shall incur any liability for losses arising from any investments made pursuant to this Section. The Fiscal Agent shall not be required to determine the legality of any investments.

(D) Valuation of Investments. Except as otherwise provided in the next sentence, all investments of amounts deposited in any fund or account created by or pursuant to this Agreement, or otherwise containing gross proceeds of the Bonds (within the meaning of section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Agreement or the Tax Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under the applicable provisions of the Tax Code shall be valued at their present value (within the meaning of section 148 of the Tax Code). The Fiscal Agent shall not be liable for verification of the application of such sections of the Tax Code or for any determination of Fair Market Value or present value and may conclusively rely upon an Officer’s Certificate as to such valuations.

(E) Commingled Money. Investments in any and all funds and accounts may be commingled in a separate fund or funds for purposes of making, holding and disposing of
investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular funds or accounts of amounts received or held by the Fiscal Agent or the Administrative Services Director hereunder, provided that the Fiscal Agent or the Administrative Services Director, as applicable, shall at all times account for such investments strictly in accordance with the funds and accounts to which they are credited and otherwise as provided in this Agreement.

(F) **Confirmations Waiver.** 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 specifically waives receipt of such confirmations to the extent permitted by law. The Fiscal Agent will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Fiscal Agent hereunder.

(G) **Sale of Investments.** The Fiscal Agent or the Administrative Services Director, as applicable, shall sell at Fair Market Value, or present for redemption, any investment security whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such investment security is credited and neither the Fiscal Agent nor the Administrative Services Director shall be liable or responsible for any loss resulting from the acquisition or disposition of such investment security in accordance herewith.

Section 6.02. Liability of City.

(A) **General.** The City shall not incur any responsibility in respect of the Bonds or this Agreement other than in connection with the duties or obligations explicitly herein or in the Bonds assigned to or imposed upon it. The City shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful default. The City shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements of the Fiscal Agent herein or of any of the documents executed by the Fiscal Agent in connection with the Bonds, or as to the existence of a default or event of default hereunder.

(B) **Reliance.** In the absence of bad faith, the City, including the Administrative Services Director, may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the City by the Fiscal Agent or an Independent Financial Consultant and conforming to the requirements of this Agreement. The City, including the Administrative Services Director, shall not be liable for any error of judgment made in good faith unless it shall be proved that it was negligent in ascertaining the pertinent facts. The City may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The City may consult with counsel, who may be the City Attorney, 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 and in accordance therewith.

(C) **No General Liability.** No provision of this Agreement shall require the City to expend or risk its own general funds or otherwise incur any financial liability (other than with respect to the Special Tax Revenues) in the performance of any of its obligations hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing
that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(D) **Owner of Bonds.** The City shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto satisfactorily established, if disputed.

**Section 6.03. Employment of Agents by City.** In order to perform its duties and obligations hereunder, the City may employ such persons or entities as it deems necessary or advisable. The City shall not be liable for any of the acts or omissions of such persons or entities employed by it in good faith hereunder, and shall be entitled to rely, and shall be fully protected in doing so, upon the opinions, calculations, determinations and directions of such persons or entities.
ARTICLE VII
THE FISCAL AGENT

Section 7.01. The Fiscal Agent.

(A) Appointment. The Fiscal Agent is hereby appointed as the fiscal, authentication, paying and transfer agent hereunder for the Bonds. The Fiscal Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Agreement, and no implied duties, covenants or obligations shall be read into this Agreement against the Fiscal Agent.

(B) Merger. Any company into which the Fiscal Agent 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 Fiscal Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under the following paragraph of this Section 7.01 shall be the successor to such Fiscal Agent without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. The Fiscal Agent shall give the Administrative Services Director written notice of any such succession hereunder.

(C) Removal. Upon 30 days written notice, the City may remove the Fiscal Agent initially appointed, and any successor thereto, and may appoint a successor or successors thereto, but any such successor shall be a bank, national banking association or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least $50,000,000, and subject to supervision or examination by federal or state authority. If such bank, national banking association 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 7.01, combined capital and surplus of such bank, national banking association or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(D) Resignation. The Fiscal Agent may at any time resign by giving written notice to the City by certified mail return receipt requested, and by giving to the Owner notice by mail of such resignation. Upon receiving notice of such resignation, the City shall promptly appoint a successor Fiscal Agent by an instrument in writing. Any resignation or removal of the Fiscal Agent shall become effective upon acceptance of appointment by the successor Fiscal Agent.

(E) No Successor. If no appointment of a successor Fiscal Agent shall be made pursuant to the foregoing provisions of this Section 7.01 within 45 days after the Fiscal Agent shall have given to the City written notice or after a vacancy in the office of the Fiscal Agent shall have occurred by reason of its inability to act, the Fiscal Agent, at the expense of the City, or the Owner may apply to any court of competent jurisdiction to appoint a successor Fiscal Agent. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Fiscal Agent.

(F) Court Order. If, by reason of the judgment of any court, the Fiscal Agent is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Fiscal Agent hereunder shall be assumed by and vest in the Administrative Services Director of the City in trust for the benefit of the Owner. The City covenants for the direct benefit
of the Owner that its Administrative Services Director in such case shall be vested with all of the rights and powers of the Fiscal Agent hereunder, and shall assume all of the responsibilities and perform all of the duties of the Fiscal Agent hereunder, in trust for the benefit of the Owner of the Bonds.

Section 7.02. Liability of Fiscal Agent.

(A) General. The recitals of facts, covenants and agreements herein and in the Bonds contained shall be taken as statements, covenants and agreements of the City, and the Fiscal Agent assumes no responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Agreement or of the Bonds, nor shall the Fiscal Agent incur any responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Bonds assigned to or imposed upon it. The Fiscal Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Fiscal Agent assumes no responsibility or liability for any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds. All indemnifications and releases from liability granted to the Fiscal Agent hereunder shall extend to the directors, officers and employees of the Fiscal Agent.

The Fiscal Agent 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 Fiscal Agent.

(B) Reliance. The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates, documents, written instructions or opinions furnished to the Fiscal Agent and conforming to the requirements of this Agreement; but in the case of any such certificates, documents, written instructions or opinions by which any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement. Except as provided above in this paragraph, the Fiscal Agent shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in accordance with the terms of this Agreement, upon any resolution, order, notice, request, consent or waiver, certificate, statement, affidavit, facsimile transmission, electronic mail, or other paper or document which it shall reasonably believe to be genuine and to have been adopted or signed by the proper person or to have been prepared and furnished pursuant to any provision of this Agreement, and the Fiscal Agent shall not be under any duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument.

(C) No Duty to Inquire. The Fiscal Agent shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements
of the City or the CFD herein or of any of the documents executed by the City or the CFD in connection with the Bonds, or as to the existence of a default or event of default thereunder.

(D) **Errors in Judgment.** The Fiscal Agent shall not be liable for any error of judgment made in good faith by a responsible officer of the Fiscal Agent unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts.

(E) **No Expenditures.** No provision of this Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(F) **No Action.** The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request or direction of any of the Owner under this Agreement unless such Owner shall have offered to the Fiscal Agent reasonable security or indemnity satisfactory to the Fiscal Agent against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(G) **Owner of Bonds.** The Fiscal Agent may become the owner of the Bonds with the same rights it would have if it were not the Fiscal Agent.

**Section 7.03. Information; Books and Accounts.** The Fiscal Agent shall provide to the City such information relating to the Bonds and the funds and accounts maintained by the Fiscal Agent hereunder as the City shall reasonably request, including but not limited to monthly statements reporting funds held and transactions by the Fiscal Agent, including the value of any investments held by the Fiscal Agent. The Fiscal Agent will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Fiscal Agent, in which complete and correct entries shall be made of all transactions relating to the expenditure of amounts disbursed from the Bond Fund, the Special Tax Fund and the Cost of Issuance Fund. Such books of record and accounts shall, upon reasonable notice, during business hours be subject to the inspection of the City and the Owner of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

**Section 7.04. Notice to Fiscal Agent.** The Fiscal Agent may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, facsimile transmission, electronic mail, written instructions, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Fiscal Agent may consult with counsel, who may be counsel to the City, 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, suffered or omitted by it hereunder in accordance therewith.

The Fiscal Agent shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto satisfactorily established, if disputed.

Whenever in the administration of its duties under this Agreement the Fiscal Agent 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) may, in the absence of willful misconduct on the part of the Fiscal Agent,
be deemed to be conclusively proved and established by an Officer’s Certificate of the City, and such certificate shall be full warrant to the Fiscal Agent for any action taken or suffered under the provisions of this Agreement or any Supplemental Agreement upon the faith thereof, but in its discretion the Fiscal Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

The Fiscal Agent agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Agreement provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Fiscal Agent shall forthwith receive the originally executed instructions and/or directions, (b) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Fiscal Agent shall have received a current incumbency certificate containing the specimen signature of such designated person.

Section 7.05. Compensation, Indemnification. The City shall pay to the Fiscal Agent from time to time reasonable compensation for all services rendered as Fiscal Agent under this Agreement, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys (including the allocated costs of in-house attorneys), agents and employees, incurred in and about the performance of their powers and duties under this Agreement, but the Fiscal Agent shall not have a lien therefor on any funds at any time held by it under this Agreement. The City further agrees, to the extent permitted by applicable law, to indemnify and save the Fiscal Agent, its officers, employees, directors and agents harmless against any liabilities, costs, claims or expenses, including fees and expenses of its attorneys, which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or willful misconduct. The obligations of the City under this Section shall survive resignation or removal of the Fiscal Agent under this Agreement, and payment of the Bonds and discharge of this Agreement, but any monetary obligation of the City arising under this Section shall be limited solely to amounts on deposit in the Administrative Expense Fund.
ARTICLE VIII

MODIFICATION OR AMENDMENT

Section 8.01. Amendments Permitted.

(A) With Consent. This Agreement and the rights and obligations of the City and of the Owner of the Bonds may be modified or amended at any time by a Supplemental Agreement with the written consent of the Owner of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 8.04. No such modification or amendment shall (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the City to pay the principal of, and the interest and any premium on, any Bond, without the express consent of the Owner of such Bond, or (ii) permit the creation by the City of any pledge or lien upon the Special Taxes superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as otherwise permitted by the Act, the laws of the State of California or this Agreement), or reduce the percentage of Bonds required for the amendment hereof.

(B) Without Consent. This Agreement and the rights and obligations of the City and of the Owner may also be modified or amended at any time by a Supplemental Agreement, without the consent of the Owner, only to the extent permitted by law and only for any one or more of the following purposes:

(i) to add to the covenants and agreements of the City herein, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon the City;

(ii) to make modifications not adversely affecting any Outstanding Bonds in any material respect;

(iii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Agreement, or in regard to questions arising under this Agreement, as the City and the Fiscal Agent may deem necessary or desirable and not inconsistent with this Agreement, and which shall not adversely affect the rights of the Owner of the Bonds; and

(iv) to make such additions, deletions or modifications as may be necessary or desirable to assure exclusion from gross income for federal income tax purposes of interest on the Bonds.

(C) Fiscal Agent’s Consent. Any amendment of this Agreement may not modify any of the rights or obligations of the Fiscal Agent without its written consent. The Fiscal Agent shall be furnished an opinion of counsel that any such Supplemental Agreement entered into by the City and the Fiscal Agent complies with the provisions of this Section 8.01 and the Fiscal Agent may conclusively rely on such opinion and shall be absolutely protected in so relying.

Section 8.02. Owner’ Meetings. The City may at any time call a meeting of the Owner. In such event the City is authorized to fix the time and place of said meeting and to
Section 8.03. Procedure for Amendment with Written Consent of Owner. The City and the Fiscal Agent may at any time adopt a Supplemental Agreement amending the provisions of the Bonds or of this Agreement or any Supplemental Agreement, to the extent that such amendment is permitted by Section 8.01(A), to take effect when and as provided in this Section 8.03. A copy of such Supplemental Agreement, together with a request to Owner for their consent thereto, shall be mailed by first class mail, by the Fiscal Agent, at the expense of the City), to the Owner of the Bonds Outstanding, but failure to mail copies of such Supplemental Agreement and request shall not affect the validity of the Supplemental Agreement when assented to as in this Section 8.03 provided.

Such Supplemental Agreement shall not become effective unless there shall be filed with the Fiscal Agent the written consent of the Owner of the Bonds then Outstanding (exclusive of Bonds disqualified as provided in Section 8.04) and a notice shall have been mailed as hereinafter in this Section 8.03 provided. Each such consent shall be effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof shall be such as is permitted by Section 9.04. Any such consent shall be binding upon the Owner of the Bonds 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 Fiscal Agent prior to the date when the notice hereinafter in this Section 8.03 provided for has been mailed.

After the Owner of the Bonds shall have filed its consent to the Supplemental Agreement, the City shall mail a notice to the Owner in the manner hereinbefore provided in this Section 8.03 for the mailing of the Supplemental Agreement, stating in substance that the Supplemental Agreement has been consented to by the Owner and will be effective as provided in this Section 8.03 (but failure to mail copies of said notice shall not affect the validity of the Supplemental Agreement or consents thereto). Proof of the mailing of such notice shall be filed with the Fiscal Agent. A record, consisting of the papers required by this Section 8.03 to be filed with the Fiscal Agent, shall be proof of the matters therein stated until the contrary is proved. The Supplemental Agreement shall become effective upon the filing with the Fiscal Agent of the proof of mailing of such notice, and the Supplemental Agreement shall be deemed conclusively binding (except as otherwise hereinabove specifically provided in this Article) upon the City and the Owner of all Bonds at the expiration of 60 days after such filing, 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 60-day period.

Section 8.04. Disqualified Bonds. Bonds owned or held for the account of the City, excepting any pension or retirement fund, shall not be deemed Outstanding for the purpose of any vote, consent or other action or any calculation of Outstanding Bonds provided for in this Article VIII, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Article VIII. Upon request of the Fiscal Agent, the City shall specify in a certificate to the Fiscal Agent those Bonds disqualified pursuant to this Section and the Fiscal Agent may conclusively rely on such certificate.

Section 8.05. Effect of Supplemental Agreement. From and after the time any Supplemental Agreement becomes effective under this Article VIII, this Agreement shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations under this Agreement of the City, the Fiscal Agent and all Owner of Bonds
Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such Supplemental Agreement shall be deemed to be part of the terms and conditions of this Agreement for any and all purposes.

Section 8.06. Endorsement or Replacement of Bonds Issued After Amendments. The City may determine that Bonds issued and delivered after the effective date of any action taken as provided in this Article VIII 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 Bond Outstanding at such effective date and upon presentation of his Bond for that purpose at the Principal Office of the Fiscal Agent or at such other office as the City may select and designate for that purpose, a suitable notation shall be made on such Bond. The City may determine that new Bonds, so modified as in the opinion of the City is necessary to conform to such Owner's action, shall be prepared, executed and delivered. In that case, upon demand of the Owner of any Bonds then Outstanding, such new Bonds shall be exchanged at the Principal Office of the Fiscal Agent without cost to the Owner, for Bonds then Outstanding, upon surrender of such Bonds.

Section 8.07. Amendatory Endorsement of Bonds. The provisions of this Article VIII shall not prevent the Owner from accepting any amendment as to the particular Bonds held by him, provided that due notation thereof is made on such Bonds.
ARTICLE IX

MISCELLANEOUS

Section 9.01. Benefits of Agreement Limited to Parties. Nothing in this Agreement, expressed or implied, is intended to give to any person other than the City, the Fiscal Agent and the Owner, any right, remedy, claim under or by reason of this Agreement. Any covenants, stipulations, promises or agreements in this Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the Owner and the Fiscal Agent.

Section 9.02. Successor and Predecessor. Whenever in this Agreement or any Supplemental Agreement either the City or the Fiscal Agent 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 City or the Fiscal Agent shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 9.03. Discharge of Agreement. If the City shall pay and discharge the entire indebtedness on all Bonds Outstanding in any one or more of the following ways:

(A) by paying or causing to be paid the principal of, and interest and any premium on, all Bonds Outstanding, as and when the same become due and payable;

(B) by depositing with the Fiscal Agent, in trust, at or before maturity, money which, together with the amounts then on deposit in the funds and accounts provided for in the Bond Fund hereof, is fully sufficient to pay all Bonds Outstanding, including all principal, interest and redemption premiums; or

(C) by irrevocably depositing with the Fiscal Agent, in trust, cash and/or Federal Securities in such amount as the City shall determine, as confirmed by an independent certified public accountant, will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in the Bond Fund (to the extent invested in Federal Securities), be fully sufficient to pay and discharge the indebtedness on all Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates.

If the City shall have taken any of the actions specified in (A), (B) or (C) above, and if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in this Agreement provided or provision satisfactory to the Fiscal Agent shall have been made for the giving of such notice, then, at the election of the City, and notwithstanding that any Bonds shall not have been surrendered for payment, the pledge of the Special Taxes and other funds provided for in this Agreement and all other obligations of the City under this Agreement with respect to such Bonds Outstanding shall cease and terminate. Notice of such election shall be filed with the Fiscal Agent.

Notwithstanding the foregoing, the following obligations and pledges of the City shall continue in any event: (i) the obligation of the City to pay or cause to be paid to the Owner of the

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Bonds not so surrendered and paid all sums due thereon, (ii) the obligation of the City to pay amounts owing to the Fiscal Agent pursuant to Section 7.05, and (iii) the obligation of the City to assure that no action is taken or failed to be taken if such action or failure adversely affects the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Upon compliance by the City with the foregoing with respect to all Bonds Outstanding, any funds held by the Fiscal Agent after payment of all fees and expenses of the Fiscal Agent, which are not required for the purposes of the preceding paragraph, shall be paid over to the City and any Special Taxes thereafter received by the City shall not be remitted to the Fiscal Agent but shall be retained by the City to be used for any purpose permitted under the Act and the Resolution of Formation.

**Section 9.04. Execution of Documents and Proof of Ownership by Owner.** Any request, declaration, consent or other instrument which this Agreement may require or permit to be executed by Owner may be in one or more instruments of similar tenor, and shall be executed by Owner in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by the Owner or his attorney of such request, declaration, consent or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as otherwise herein expressly provided, the ownership of registered Bonds and the amount, maturity, number and date of holding the same shall be proved by the registration books maintained by the Fiscal Agent under Section 2.07.

Any request, declaration, consent or other instrument or writing of the Owner of any Bond shall bind all future Owner of such Bond in respect of anything done or suffered to be done by the City or the Fiscal Agent in good faith and in accordance therewith.

**Section 9.05. Waiver of Personal Liability.** No member, officer, agent or employee of the City shall be individually or personally liable for the payment of the principal of or interest or any premium on the Bonds; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

**Section 9.06. Notices to and Demands on City and Fiscal Agent.** Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by the Fiscal Agent to or on the City may be given or served by facsimile transmission receipt of which has been confirmed or by being deposited postage prepaid in a post office letter box addressed (until another address is filed by the City with the Fiscal Agent) as follows:

City of Livermore
1052 S. Livermore Ave.
Livermore, CA 94550
Attention: City Manager
Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by the City to or on the Fiscal Agent may be given or served by facsimile transmission receipt of which has been confirmed or by being deposited postage prepaid in a post office letter box addressed (until another address is filed by the Fiscal Agent with the City) as follows:

MUFG Union Bank, N.A.
350 California Street, 11th Floor
San Francisco, CA 94104
Attention: Corporate Trust Services
Email: sonia.flores@unionbank.com
AccountAdministration-CorporateTrust@unionbank.com

Section 9.07. Partial Invalidity. If any Section, paragraph, sentence, clause or phrase of this Agreement shall for any reason be held by a court of competent jurisdiction to be illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Agreement. The City hereby declares that it would have adopted this Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds 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.

Section 9.08. Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any moneys held by the Fiscal Agent in trust for the payment and discharge of the principal of, and the interest and any premium on, the Bonds which remains unclaimed for two (2) years after the date when the payment of such principal, interest and premium have become payable, if such moneys were held by the Fiscal Agent at such date, shall be repaid by the Fiscal Agent to the City as its absolute property free from any trust, and the Fiscal Agent shall thereupon be released and discharged with respect thereto and the Owner of such Bonds shall look only to the City for the payment of the principal of, and interest and any premium on, such Bonds. Any right of the Owner to look to the City for such payment shall survive only so long as required under applicable law.

Section 9.09. Applicable Law. This Agreement shall be governed by and enforced in accordance with the laws of the State applicable to contracts made and performed in the State.

Section 9.10. Conflict with Act. In the event of a conflict between any provision of this Agreement with any provision of the Act as in effect on the Closing Date, the provision of the Act shall prevail over the conflicting provision of this Agreement.

Section 9.11. Conclusive Evidence of Regularity. Bonds issued under this Agreement shall constitute conclusive evidence of the regularity of all proceedings under the Act relative to their issuance and the levy of the Special Taxes.

Section 9.12. Payment on Business Day. In any case where the date of the maturity of interest or of principal (and premium, if any) of the Bonds, or the date fixed for redemption of any Bonds, or the date any action is to be taken under this Agreement, is other than a Business Day, the payment of interest or principal (and premium, if any) or the action shall be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date required and no interest shall accrue for the period from and after such date.
Section 9.13. State Reporting Requirements.

(A) **Annual Reporting.** Not later than October 30 of each calendar year, beginning with the October 30 first succeeding the date of the Bonds, and in each calendar year thereafter until the October 30 following the final maturity of the Bonds, the Administrative Services Director shall cause the information required by Government Code Section 53359.5(b) to be supplied to CDIAC. The annual reporting shall be made using such form or forms as may be prescribed by CDIAC.

(B) **Other Reporting.** If at any time the Fiscal Agent fails to pay principal and interest due on any scheduled payment date for the Bonds, the Fiscal Agent shall notify the Administrative Services Director of such failure or withdrawal in writing. The Administrative Services Director shall notify CDIAC and the Owner of the Outstanding Bonds of such failure or withdrawal within 10 days of such failure or withdrawal.

(C) **Special Tax Reporting.** The Administrative Services Director shall file a report with the City no later than January 1, 2017, and at least once a year thereafter, which annual report shall contain: (i) the amount of Special Taxes collected and expended with respect to the CFD, (ii) the amount of Bond proceeds collected and expended with respect to the CFD, and (iii) the status of the Project. It is acknowledged that the Special Tax Fund and the Special Tax Prepayments Account are the accounts into which Special Taxes collected on the District will be deposited for purposes of Section 50075.1(c) of the California Government Code, and the funds and accounts listed in Section 4.01 are the funds and accounts into which Bond proceeds will be deposited for purposes of Section 53410(c) of the California Government Code, and the annual report described in the preceding sentence is intended to satisfy the requirements of Sections 50075.1(d), 50075.3(d) and 53411 of the California Government Code.

(D) **Amendment.** The reporting requirements of this Section 9.13 shall be amended from time to time, without action by the City or the Fiscal Agent (i) with respect to subparagraphs (A) and (B) above, to reflect any amendments to Section 53359.5(b) or Section 53359.5(c) of the Act, and (ii) with respect to subparagraph (C) above, to reflect any amendments to Section 50075.1, 50075.3, 53410 or 53411 of the California Government Code. The City shall notify the Fiscal Agent in writing of any such amendments which affect the reporting obligations of the Fiscal Agent under this Agreement.

(E) **No Liability.** None of the City and its officers, agents and employees, the Administrative Services Director or the Fiscal Agent shall be liable for any inadvertent error in reporting the information required by this Section 9.13.

The Administrative Services Director shall provide copies of any such reports to the Owner of the Bonds upon the written request of the Owner of the Bonds and payment by the person requesting the information of the cost of the City to photocopy and pay any postage or other delivery cost to provide the same, as determined by the Administrative Services Director.

Section 9.14. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.
IN WITNESS WHEREOF, the City and the Fiscal Agent have caused this Agreement to be executed as of the date first written above.

CITY OF LIVERMORE, for and on behalf of
CITY OF LIVERMORE COMMUNITY FACILITIES
DISTRICT NO. 2009-1 (EL CHARRO)

By: ________________________________
    Administrative Services Director

MUFG UNION BANK, N.A.,

as Fiscal Agent

By: ________________________________
    Authorized Officer
EXHIBIT A

FORM OF BOND

No. __  **$_____**

UNITED STATES OF AMERICA
STATE OF CALIFORNIA
COUNTY OF ALAMEDA

IMPROVEMENT AREA NO. 2 OF THE
CITY OF LIVERMORE
Community Facilities District No. 2009-1 (El Charro)
Special Tax Bond (Crosswinds Church)

THE BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND ARE SUBJECT TO TRANSFER RESTRICTIONS PURSUANT TO THE FISCAL AGENT AGREEMENT. THE BONDS ARE LIMITED OBLIGATIONS OF THE CITY. THE BONDS DO NOT, DIRECTLY, INDIRECTLY OR CONTINGENTLY, OBLIGATE, IN ANY MANNER, THE CITY TO LEVY ANY TAX (EXCEPT AS PROVIDED IN THE FISCAL AGENT AGREEMENT) OR TO MAKE ANY APPROPRIATION FOR PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR ANY COSTS INCIDENTAL THERETO (EXCEPT AS PROVIDED IN THE FISCAL AGENT AGREEMENT). THE BONDS ARE PAYABLE SOLELY FROM THE FUNDS PLEDGED FOR THEIR PAYMENT IN ACCORDANCE WITH THE FISCAL AGENT AGREEMENT. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CFD (EXCEPT AS PROVIDED IN THE FISCAL AGENT AGREEMENT), THE CITY OF LIVERMORE, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR ANY COSTS INCIDENTAL THERETO.

INTEREST RATE          MATURITY DATE          DATED DATE
   ____%              September 1, ______          __________, 2016

REGISTERED OWNER:

PRINCIPAL AMOUNT:  *********DOLLARS

The City of Livermore (the “City”) for and on behalf of the “City of Livermore Community Facilities District No. 2009-1 (El Charro)” (the “CFD”) with respect to its “Improvement Area No. 2 of the City of Livermore Community Facilities District No. 2009-1 (El Charro)” (“Improvement Area No. 2”), for value received, hereby promises to pay solely from the Special Tax Revenues (as hereinafter defined) to be collected in Improvement Area No. 2 or amounts in certain funds and accounts held under the Agreement (as hereinafter defined), to the registered owner named
above (the “Owner”), or registered assigns, on the maturity date set forth above, unless redeemed prior thereto as hereinafter provided, the principal amount set forth above, and to pay interest on such principal amount from Dated Date set forth above, or from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for (unless this Bond is authenticated on or before an Interest Payment Date (as hereinafter defined) and after the close of business on the Record Date (as hereinafter defined) preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or prior to August 15, 2016, in which event it shall bear interest from the Dated Date identified above, payable semiannually on each September 1 and March 1, commencing September 1, 2016 (each an “Interest Payment Date”), at the interest rate set forth above, until the principal amount hereof is paid or made available for payment provided, however, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment.

Principal of and interest on the Bonds (including the final interest payment upon maturity or earlier redemption), is payable on the applicable Interest Payment Date by check of the Fiscal Agent (defined below) mailed by first class mail to the Owner at such Owner’s address as it appears on the registration books maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date, or by wire transfer made on such Interest Payment Date upon written instructions of the Owner of the Bonds delivered to the Fiscal Agent prior to the applicable Record Date. The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent or such other place as designated by the Fiscal Agent.

This Bond is one of a duly authorized issue of bonds in the aggregate principal amount of $___________ approved by resolution of the City Council of the City on July 25, 2016 (the “Resolution”), under the Mello-Roos Community Facilities Act of 1982, as amended, sections 53311, et seq., of the California Government Code (the “Act”) for the purpose of financing and refinancing certain facilities for the City, and is one of the series of bonds designated “Improvement Area No. 2 of the City of Livermore Community Facilities District No. 2009-1 (El Charro) 2016 Special Tax Bonds (Crosswinds Church)” (the “Bonds”). The issuance of the Bonds and the terms and conditions thereof are provided for by a Fiscal Agent Agreement, dated as of _______ 1, 2016 (the “Agreement”), between the City and MUFG Union Bank, N.A. (the “Fiscal Agent”) and this reference incorporates the Agreement herein, and by acceptance hereof the Owner of this Bond assents to said terms and conditions. The Agreement and this Bond are issued under, and both are to be construed in accordance with, the laws of the State of California.

Pursuant to the Act, the Resolution and the Agreement, the principal of and interest on this Bond are payable solely from the annual special tax authorized under the Act to be collected within Improvement Area No. 2 (the “Special Tax”) and certain funds held under the Agreement. Any tax for the payment hereof shall be limited to the Special Tax, except to the extent that provision for payment has been made by the City, as may be permitted by law. The Bonds do not constitute obligations of the City for which the City is obligated to levy or pledge, or has levied or pledged, general or special taxation other than described hereinabove. Neither the faith and credit nor the taxing power of the City (except to the limited extent set forth in the Agreement) or the State of California or any political subdivision thereof is pledged to the payment of the Bonds.
No Optional Redemption. The Bonds are not subject to redemption from sources other than Special Tax Prepayments prior to their stated maturities.

Redemption from Special Tax Prepayments. The Bonds are subject redemption from Special Tax Prepayments in whole or in part on the next date for which notice of redemption can timely be given, at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as set forth below, together with accrued interest to the date fixed for redemption:

<table>
<thead>
<tr>
<th>Redemption Dates</th>
<th>Redemption Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Closing Date through 9/1/2026</td>
<td>106%</td>
</tr>
<tr>
<td>9/2/2026 and thereafter</td>
<td>103</td>
</tr>
</tbody>
</table>

Mandatory Sinking Fund Redemption. The Bonds are subject to mandatory redemption in part, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the redemption date, without premium, in the aggregate respective principal amounts all as set forth in the following table:

<table>
<thead>
<tr>
<th>Sinking Fund Redemption Date (September 1)</th>
<th>Principal Amount Subject to Redemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td></td>
</tr>
<tr>
<td>2020</td>
<td></td>
</tr>
<tr>
<td>2021</td>
<td></td>
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<tr>
<td>2022</td>
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<td>2041</td>
<td></td>
</tr>
<tr>
<td>2042</td>
<td></td>
</tr>
<tr>
<td>2043</td>
<td></td>
</tr>
</tbody>
</table>
If the Bonds are redeemed in part from Special Tax Prepayments, the total amount of all future Sinking Fund Payments will be reduced by the aggregate principal amount of Bonds so redeemed, to be allocated among such Sinking Fund Payments on a pro rata basis as directed by the City so as to maintain substantially the same debt service profile for the Bonds as in effect prior to such redemption.

Notice of redemption with respect to the Bonds to be redeemed shall be given to the Owners thereof, in the manner, to the extent and subject to the provisions of the Agreement.

This Bond shall be registered in the name of the Owner hereof, as to both principal and interest. Each registration and transfer of registration of this Bond shall be entered by the Fiscal Agent in books kept by it for this purpose and authenticated by its manual signature upon the certificate of authentication endorsed hereon.

No transfer hereof shall be valid for any purpose, unless such transfer conforms to the requirements of the Fiscal Agent Agreement. No exchange hereof shall be valid for any purpose unless made by the Owner, by execution of the form of assignment endorsed hereon, and authenticated as herein provided, and the principal hereof, interest hereon and any redemption premium shall be payable only to the Owner or to such Owner’s order. The Fiscal Agent shall require the Owner to pay any tax or other governmental charge required to be paid with respect to such exchange. No exchange hereof shall be required to be made (i) fifteen days prior to the date established by the Fiscal Agent for selection of Bonds for redemption or (ii) with respect to a Bond after such Bond has been selected for redemption.

The Agreement and the rights and obligations of the City thereunder may be modified or amended as set forth therein. The principal of the Bonds is not subject to acceleration upon a default under the Agreement or any other document.

This Bond shall not become valid or obligatory for any purpose until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the Fiscal Agent.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED by the City that all acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of this Bond have existed, happened and been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any debt limit prescribed by the laws or Constitution of the State of California.
IN WITNESS WHEREOF, City of Livermore has caused this Bond to be signed by the facsimile signature of its Mayor and countersigned by the facsimile signature of the Clerk with the seal of the City imprinted hereon.

[S E A L]

______________________________  ________________________________
          Clerk                          Mayor

[FORM OF FISCAL AGENT’S CERTIFICATE OF AUTHENTICATION AND REGISTRATION]

This is one of the Bonds described in the Agreement which has been authenticated on _____________, 2016.

MUFG UNION BANK, N.A.,  
*as Fiscal Agent*

By: ____________________________

Authorized Signatory
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 Bond and do(es) hereby irrevocably constitute and appoint ________________________________, attorney, to transfer the same on the registration books of the Fiscal Agent, with full power of substitution in the premises.

Dated: ________________________________

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor.

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 Fiscal Agent.
EXHIBIT B

IMPROVEMENT AREA NO. 2 OF THE
CITY OF LIVERMORE
Community Facilities District No. 2009-1 (El Charro)
2016 Special Tax Bonds (Crosswinds Church)

OFFICER’S CERTIFICATE REQUESTING DISBURSEMENT
FROM IMPROVEMENT FUND

REQUISITION NO. _____

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting Administrative Services Director of the City of Livermore, a municipal corporation duly organized and existing under the laws of the State of California (the “City”) and as such, am familiar with the facts herein certified and am authorized to certify the same;

(ii) I am an “Authorized Officer,” as such term is defined in that certain Fiscal Agent Agreement, dated as of _______ 1, 2016 (the “Fiscal Agent Agreement”), by and between the City and MUFG Union Bank, N.A., as fiscal agent (the “Fiscal Agent”);

(iii) under Section 4.07(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the Improvement Fund established under the Fiscal Agent Agreement to each payee designated on Schedule A attached hereto and by this reference incorporated herein, the amount set forth opposite such payee, for payment or reimbursement of previous payment of a Project cost (as Project is defined in the Fiscal Agent Agreement) as described on attached Schedule A; and

(iv) no portion of the amount herein requested to be disbursed was set forth in any Officers Certificate previously filed requesting disbursement.

Dated: _______________

CITY OF LIVERMORE

By: ________________________________
   Administrative Services Director
**SCHEDULE A**

<table>
<thead>
<tr>
<th>Payee Name and Address</th>
<th>Purpose of Obligation</th>
<th>Amount</th>
</tr>
</thead>
</table>

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EXHIBIT C

IMPROVEMENT AREA NO. 2 OF THE
CITY OF LIVERMORE
Community Facilities District No. 2009-1(El Charro)

2016 Special Tax Bonds (Crosswinds Church)

OFFICER’S CERTIFICATE REQUESTING DISBURSEMENT FROM COSTS OF ISSUANCE FUND

REQUISITION NO. _____

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting Administrative Services Director of the City of Livermore, a municipal corporation duly organized and existing under the laws of the State of California (the “City”) and as such, am familiar with the facts herein certified and am authorized to certify the same;

(ii) I am an “Authorized Officer,” as such term is defined in that certain Fiscal Agent Agreement, dated as of _______ 1, 2016 (the “Fiscal Agent Agreement”), by and between the City and MUFG Union Bank, N.A., as fiscal agent (the “Fiscal Agent”);

(iii) under Section 4.02(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the Costs of Issuance Fund established under the Fiscal Agent Agreement to each payee designated on Schedule A attached hereto and by this reference incorporated herein, the amount set forth opposite such payee, for payment or reimbursement of previous payment of Costs of Issuance (as that term is defined in the Fiscal Agent Agreement) as described on attached Schedule A; and

(iv) the disbursements described on the attached Schedule A constitute Costs of Issuance, and are properly chargeable to the Costs of Issuance Fund.

Dated: ____________

CITY OF LIVERMORE

By: ____________________________  
Administrative Services Director
EXHIBIT A

SCHEDULE A

<table>
<thead>
<tr>
<th>Payee Name and Address</th>
<th>Purpose of Obligation</th>
<th>Amount</th>
</tr>
</thead>
</table>

C-2
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EXHIBIT D

IMPROVEMENT AREA NO. 2 OF THE
CITY OF LIVERMORE
Community Facilities District No. 2009-1 (El Charro)

2016 Special Tax Bonds (Crosswinds Church)

OFFICER’S CERTIFICATE REQUESTING DISBURSEMENT
FROM ADMINISTRATIVE EXPENSE FUND

REQUISITION NO. _____

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting Administrative Services Director of
the City of Livermore, a municipal corporation duly organized and existing under the laws of the
State of California (the “City”) and as such, am familiar with the facts herein certified and am
authorized to certify the same;

(ii) I am an “Authorized Officer,” as such term is defined in that certain Fiscal Agent
Agreement, dated as of _______ 1, 2016 (the “Fiscal Agent Agreement”), by and between the
City and MUFG Union Bank, N.A., as fiscal agent (the “Fiscal Agent”);

(iii) under Section 4.06(B) of the Fiscal Agent Agreement, the undersigned hereby
requests and authorizes the Fiscal Agent to disburse from the Administrative Expense Fund
established under the Fiscal Agent Agreement to each payee designated on Schedule A
attached hereto and by this reference incorporated herein, the amount set forth opposite such
payee, for payment or reimbursement of previous payment of an Administrative Expense or
Costs of Issuance (as those terms are defined in the Fiscal Agent Agreement) as described on
attached Schedule A; and

(iv) the disbursements described on the attached Schedule A constitute
Administrative Expenses or Costs of Issuance, and are properly chargeable to the
Administrative Expense Fund.

Dated: ____________

CITY OF LIVERMORE

By: ____________________________
Administrative Services Director
### SCHEDULE A

<table>
<thead>
<tr>
<th>Payee Name and Address</th>
<th>Purpose of Obligation</th>
<th>Amount</th>
</tr>
</thead>
</table>

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EXHIBIT E

FORM OF INVESTOR LETTER

[Closing Date]

City of Livermore  
1052 S. Livermore Ave.  
Livermore, CA 94550  
Attention: City Manager

Jones Hall, A Professional Law Corporation  
475 Sansome Street, Suite 1700  
San Francisco, CA 94111

MUFG Union Bank, N.A.  
350 California Street, 11th Floor  
San Francisco, CA 94104

B.C. Ziegler and Company  
2338 Port Aberdeen Place  
Newport Beach, CA 92660

Re: Improvement Area No. 2 of the City of Livermore Community Facilities District No. 2009-1 (El Charro) 2016 Special Tax Bonds (Crosswinds Church)

Ladies and Gentlemen:

The undersigned (the “Purchaser”) understands that the City of Livermore (the “City”) has issued it’s the captioned bonds (the “Bonds”) in the aggregate principal amount of $_________. The Purchaser intends to purchase the Bonds. In connection with such purchase of the Bonds, the Purchaser makes the certifications, representations, warranties, acknowledgements and covenants contained in this Investor Letter to each of the addressees hereof, with the express understanding that such certifications, representations, warranties, acknowledgements and covenants will be relied upon by such addressees.

The Purchaser hereby certifies, represents, warrants, acknowledges and covenants as follows:

(a) The Purchaser is an “accredited investor” as defined in Section 501(a)(5) of Regulation D promulgated under the Securities Act.

(b) The Purchaser is not purchasing the Bonds for more than one account, is purchasing the Bonds for its own account and is not purchasing the Bonds with a view to distributing the Bonds.

(c) The Purchaser has sufficient knowledge and experience in financial and business matters, including the purchase and ownership of municipal bonds and other tax-exempt obligations similar to the Bonds, to be capable of evaluating the merits and risks of an investment in the Bonds, and the Purchaser is able to bear the economic risks of such an investment.
(d) The Purchaser recognizes that an investment in the Bonds involves significant risks, that there is no established market for the Bonds and that none is likely to develop and, accordingly, that the Purchaser must bear the economic risk of an investment in the Bonds for an indefinite period of time.

(e) The Purchaser understands and agrees that it may not transfer the Bond under any circumstances.

(f) The Purchaser is not relying upon the City, or any of its affiliates, agents or employees, for advice as to the merits and risks of investment in the Bonds. The Purchaser understands that the Bonds are special, limited obligations payable and secured solely from Special Taxes as provided for in the Fiscal Agent Agreement, dated as of _______, 2016 (the “Agreement”), between the City and MUFG Union Bank, N.A., as fiscal agent (the “Fiscal Agent”). The Purchaser has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision.

(g) The Purchaser has conducted its own independent examination of, and has had an opportunity to ask questions and receive answers concerning, the City, the authorizing resolution of the City with respect to the Bonds (the “Resolution”), the Bonds, the Agreement and the security therefor and the transactions and documents related to or contemplated by the foregoing.

(h) The Purchaser has been furnished with all documents and information regarding the City, the Resolution, the Bonds, the Agreement and the security therefor and the transactions and documents related to or contemplated by the foregoing, and all matters related thereto, that it has requested. The Purchaser has not received any such information from the City other than the Agreement and the Resolution, and has relied upon information from the current owner of property in Improvement Area No. 2 of the City of Livermore Community Facilities District No. 2009-1 (El Charro) (the “Property Owner”) and B.C. Ziegler and Company, as placement agent for the Property Owner (the “Placement Agent”). The Purchaser hereby indemnifies the City, the Fiscal Agent, the Placement Agent and the City’s bond counsel against any failure by the Investor to transfer the Bonds in accordance with the restrictions relating thereto set forth in the Bonds, the Fiscal Agent Agreement and herein.

(i) The Purchaser understands and agrees that: (i) the offering and sale of the Bonds are exempt from Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, pursuant to Section (d) of said Rule; (ii) the Bonds will not be listed on any stock or other securities exchange and were issued without registration under the provisions of the Securities Act of 1933 or any state securities laws; (iii) no official statement or other disclosure document is being prepared in connection with the issuance of the Bonds; and (iv) the Bonds will not carry any rating from any rating service.
IN WITNESS WHEREOF, the Purchaser has executed this Investor Letter as of the date set forth above.

PETERSEN AURA LLC, a _______ limited liability company

By: Robert Peterson, Member

By: ___________________________
Name: ___________________________

By: ________ Peterson, Member

By: ___________________________
Name: ___________________________
PRIVATE PLACEMENT AGREEMENT

_________, 2016

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

CrossWinds Church
1660 Freisman Road
Pleasanton, CA 94588

The undersigned, Petersen Aura LLC, a _______ limited liability company (the "Purchaser") hereby offers to enter into this Private Placement Agreement (the "Placement Agreement") with the City of Livermore, California, a municipal corporation duly organized and existing under the laws of the State of California (the "Issuer") for and on behalf of the "City of Livermore Community Facilities District No. 2009-1 (El Charro)" (the "District") with respect to its "Improvement Area No. 2 of the City of Livermore Community Facilities District No. 2009-1 (El Charro)" ("Improvement Area No. 2"), and CrossWinds Church, a religious nonprofit organization incorporated under California law (the "Church"), in connection with the issuance of the Issuer's $___________ Community Facilities District No. 2009-1 (El Charro) 2016 Special Tax Bonds (Crosswinds Church), dated __________, 2016 (the "Bonds"). Upon acceptance, this Placement Agreement will be binding on the Purchaser, the Issuer and the Church.

1. **Purchase of the Bonds; Closing Date.** On the basis of the representations, warranties, covenants and agreements contained herein, but subject to the terms and conditions set forth herein, the Purchaser agrees to purchase, and the Issuer agrees to sell to the Purchaser, all (but not less than all) of the Bonds at a purchase price of $___________, which is 100% of the par amount of the Bonds.

The Bonds will be issued pursuant to a Fiscal Agent Agreement dated as of __________ 1, 2016 (the "Fiscal Agent Agreement"), between the Issuer, for and on behalf of the District with respect to Improvement Area No. 2, and MUFG Union Bank, N.A., as fiscal agent (the "Fiscal Agent") to prepay a lease payment obligation of the District and to finance construction of various public improvements eligible to be financed by the District (the "Project"). The Bonds will be payable out of Special Tax Revenues (as defined in the Fiscal Agent Agreement); Special Tax Revenues are derived from a special tax (the "Special Tax") levied by the Issuer on the property in Improvement Area No. 2 and collected by the County of Alameda, California.
The Bonds shall be dated ___________, 2016, and shall bear interest at the rates per annum and mature on the dates and in the amounts set forth on the schedule attached hereto as Exhibit A, which is hereby incorporated into this Placement Agreement by reference. The Bonds are not subject to redemption from amounts other than Special Tax Prepayments (as defined in the Fiscal Agent Agreement) prior to their stated maturities. The Bonds are subject to mandatory sinking fund redemption in part, from sinking fund payments made by the City from the Bond Fund (as defined in the Fiscal Agent Agreement), at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the redemption date, without premium, in the aggregate respective principal amounts as set forth on Exhibit A. The Bonds are subject to redemption from Special Tax Prepayments (as defined in the Fiscal Agent Agreement) in whole or in part on the next date for which notice of redemption can timely be given under Section 2.03(D) of the Fiscal Agent Agreement, at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as set forth on Exhibit A, together with accrued interest to the date fixed for redemption. The closing of the Bonds shall take place at the offices of Jones Hall, A Professional Law Corporation ("Bond Counsel"), on _____________, 2016 (the "Closing Date") or at such other date, place, or time as may be agreed upon by the parties.

2. Representations of the Issuer. In connection with the purchase of the Bonds by the Purchaser, the Issuer hereby represents and warrants as follows:

   (a) The Issuer is authorized by law to enter into this Placement Agreement and the documents referred to herein and to perform all actions necessary to consummate the transactions contemplated hereby and thereby, and has by all necessary official action, duly authorized and approved the issuance and sale of the Bonds upon the terms set forth herein.

   (b) The Issuer has by all necessary official action, duly authorized and approved the execution and delivery of all other documents and instruments to which the Issuer is a party relating to the issuance or sale of, or security for, the Bonds and that the Issuer and Jones Hall, A Professional Law Corporation have determined to be necessary in connection with the issuance of the Bonds (collectively, the "Issuer Documents").

   (c) The Issuer has not participated in the preparation or distribution of and has not reviewed the Private Placement Memorandum (as defined herein). The Purchaser acknowledges that the Private Placement Memorandum was prepared by or on behalf of the Church and that the Issuer shall have no responsibility or liability as a result of the preparation or distribution by the Church of the Private Placement Memorandum or the reliance by the Purchaser on the Private Placement Memorandum in connection with its decision to purchase the Bonds.

   (d) The Issuer's representations and covenants in the Fiscal Agent Agreement were, as of its date, and are, as of the date hereof, true and correct in all material respects.

   (e) There is no litigation pending against the Issuer or, to the best of its knowledge, threatened against the Issuer, with respect to which service or notice has been given, to restrain or enjoin the issuance and delivery of the Bonds, or contesting or questioning the
validity of the Bonds or the proceedings and authority under which the Bonds have been authorized and are to be issued or delivered, or the pledge or application of any money or security provided for the payment of the Bonds. There is no litigation pending against the Issuer, or, to the best of its knowledge, threatened which questions the right of such party to enter into this Placement Agreement or any of the Issuer Documents in connection with the issuance of the Bonds.

3. **Representations, Warranties and Agreements of the Church.** In connection with the purchase of the Bonds by the Purchaser, the Church hereby represents, warrants and agrees as follows:

   (a) The Church is authorized by law to enter into this Placement Agreement.

   (b) The Church has by all necessary official action, duly authorized and approved the execution and delivery of all other documents and instruments to which the Church is a party relating to the issuance or sale of, or security for, the Bonds (collectively, the "Church Documents").

   (c) The Church has by all necessary official action, duly authorized and approved the preparation and distribution of a Private Placement Memorandum for use by B.C. Ziegler and Company (the "Placement Agent") in connection with the placement of the Bonds.

   (d) The information contained in the Private Placement Memorandum, dated __________, 2016, or similar disclosure document (together with any addendum thereto or final version thereof, the "Private Placement Memorandum") was, as of its date, and will be, as of the Closing Date, true and correct in all material respects. The Private Placement Memorandum does not contain, as of its date, and will not contain, as of the Closing Date, any untrue statement of a material fact or any omission of a material fact necessary to make the statements and information contained therein, in light of the circumstances under which they were made, not misleading.

   (e) Except to the extent, if any, disclosed in the Private Placement Memorandum, the financial information contained in the Private Placement Memorandum is accurately reflective of the Church's current financial position in that there has been no material adverse change in the financial position or results of operations of the Church, nor has the Church incurred any material liabilities, other than in the ordinary course of business.

   (f) There is no litigation pending against the Church, or, to the best of its knowledge, threatened which questions the right of such party to enter into this Placement Agreement or any of the Church Documents in connection with the issuance of the Bonds.
(g) The Church hereby agrees to indemnify, defend, protect, and hold harmless the Issuer and any and all agents, employees, attorneys, representatives and successors and assigns of the Issuer from and against all losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees) and any demands of any nature whatsoever related directly or indirectly to, the Bonds (the "Indemnified Claims") except to the extent that the Indemnified Claims are a direct result of the Issuer’s failure to comply with applicable law or the Fiscal Agent Agreement.

(h) The Church agrees that, while the Bonds or any refunding obligations related thereto are outstanding, the Church will not bring any action, suit, proceeding, inquiry or investigation at law or in equity, before any court, regulatory agency, public board or body, that in any way seeks to challenge or overturn the formation of the District or Improvement Area No. 2, to challenge the adoption of the ordinance of the City levying Special Taxes in Improvement Area No. 2, to invalidate the District, Improvement Area No. 2 or any of the Bonds or any refunding bonds related thereto, or to invalidate the special tax lien imposed under Section 3115.5 of the Streets and Highways Code based on recordation of the notice of special tax lien relating thereto. The foregoing agreement shall not prevent the Church in any way from bringing any other action, suit or proceeding contending that the Special Tax has not been levied in accordance with the rate and method of apportionment of special tax for Improvement Area No. 2 pursuant to which the Special Tax is levied.

4. **Representations of the Purchaser.** In connection with its purchase of the Bonds, the Purchaser hereby represents and warrants as follows:

(a) The Purchaser has received and reviewed a copy of the Private Placement Memorandum with respect to the Bonds. The Purchaser has received from the Issuer and the Church all financial and other information relative to the Bonds and the security for the Bonds that it has requested and that it deems necessary to make an informed investment decision with respect to the Bonds. The Purchaser has had the opportunity to ask questions of and has requested and received all information from the Issuer and the Church which it deems necessary to purchase the Bonds. The Purchaser is not relying upon the City, or any of its affiliates, agents or employees, the Church, or any of its affiliates, agents or employees, or the Placement Agent or any of its affiliates, agents or employees for advise as to the merits and risks of investment in the Bonds.

(b) The Purchaser is an "accredited investor" as defined in Section 501(a)(5) of Regulation D promulgated under the Securities Act. The Purchaser has sufficient knowledge and experience in financial and business matters, including the purchase and ownership of municipal bonds and other tax-exempt obligations similar to the Bonds, to be capable of evaluating the merits and risks of an investment in the Bonds, and the Purchaser is able to bear the economic risks of such an investment.

(c) The Purchaser is not purchasing the Bonds for more than one account, is purchasing the Bonds for its own account and is not purchasing the Bonds with a view to distributing the Bonds. The Purchaser understands that the Bonds have not been registered under
the Securities Act or any state securities law. The Purchaser understands and agrees that it may not transfer the Bonds under any circumstances.

(d) The Purchaser acknowledges that no federal or state agency has passed on the merits of purchasing the Bonds or made any finding or determination as to the fairness of an investment in the Bonds.

(e) The Purchaser acknowledges the transfer restrictions set forth in the Fiscal Agent Agreement, the Private Placement Memorandum and herein, and hereby indemnifies the Placement Agent for any failure by the Purchaser to adhere to those restrictions if a subsequent transfer of the Bonds is made.

5. **Conditions to Closing.** The Purchaser’s obligation to purchase the Bonds is subject to the condition that subsequent to the date of this Placement Agreement and prior to the date of delivery of the Bonds:

(a) No legislation shall have been enacted and no decision by a court of relevant jurisdiction shall have been rendered, to the effect that the Bonds or obligations of the general character of the Bonds, are not exempt from registration under or from other requirements of the Securities Act or the Securities Exchange Act of 1934, as amended, or the Issuer Documents or the Church Documents and proceedings authorizing the issuance of the Bonds are not exempt from qualification under or other requirements of the Trust Indenture Act of 1939, as amended.

(b) No event shall have occurred which makes untrue or incorrect in any material respect, as of the date of such event, any statement or information contained in the Private Placement Memorandum, or which requires the addition of any information in the Private Placement Memorandum in order to make the statements and information contained therein not misleading in any material respect as of the date of the issuance and delivery of the Bonds.

(c) No general suspension of trading in securities has occurred on the New York Stock Exchange or other national securities exchange, no minimum prices have been established on such an exchange nor any material restrictions (not in force as of the date hereof) have been established upon trading securities generally by any governmental authority or any national securities exchange, and no general banking moratorium has been declared by federal, State of New York, or State officials authorized to do so.

(d) No legislation shall be enacted by or introduced in the Congress of the United States or recommended to the Congress for passage by the President of the United States, or the Treasury Department of the United States or the Internal Revenue Service or any member of the Congress or favorably reported for passage to either House of the Congress by any committee of such House to which such legislation has been referred for consideration, a decision by a court of the United States or of the State or the United States Tax Court shall be rendered, or an order, ruling, regulation (final, temporary or proposed), press release, statement or other form of notice by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or other governmental agency shall be made or proposed, the effect of
any or all of which would be to impose, directly or indirectly, federal income taxation upon interest received on obligations of the general character of the Bonds or the interest on the Bonds as described in the Private Placement Memorandum, or other action or events shall have transpired which may have the purpose or effect, directly or indirectly, of changing the federal income tax consequences of any of the transactions contemplated herein.

(e) Executed counterparts of the following documents shall be delivered at Closing:

(i) the Issuer Documents;

(ii) the Church Documents;

(iii) the unqualified approving opinion of Jones Hall, A Professional Corporation, San Francisco, California, Bond Counsel, dated as of the Closing Date;

(iv) Investor Letter from the Purchaser of the Bonds in the form set forth in the Fiscal Agent Agreement; and

(v) such additional legal opinions, certificates, proceedings, instruments and other documents as the Issuer, Bond Counsel, Placement Agent or Purchaser may reasonably request to evidence compliance with pertinent legal requirements, the truth and accuracy of the representations herein and in the Private Placement Memorandum, and the due performance or satisfaction at or prior to the Closing Date of all agreements then to be performed and all conditions then to be satisfied by the Issuer, Purchaser and the Church.

6. The Role of the Placement Agent and Related Disclosures. The Issuer and the Church hereby acknowledge that:

(a) The Placement Agent was retained by the Church. The Placement Agent's obligation as placement agent has been to use commercially reasonable efforts to arrange for the purchase of the Bonds by the Purchaser. The Placement Agent has not established the terms of the placement, and will not acquire or take delivery of the Bonds, arrange for the payment of the purchase price relating thereto, or otherwise effect the purchase of the Bonds, which purchase shall be effected solely by and between the Purchaser, the Issuer, and the Church.

(b) The Placement Agent has heretofore provided the Church an engagement letter, dated ____________ , 2016 (the "Engagement Letter") setting forth the role and responsibilities of the Placement Agent in connection with the placement of the Bonds and making disclosures pertinent thereto, which disclosures have previously been and are hereby further acknowledged by the Church.

(c) The Issuer hereby acknowledges and the Church has heretofore acknowledged in the Engagement Letter and hereby further acknowledges that:
(i) Municipal Securities Rulemaking Board ("MSRB") Rule G-17 requires the Placement Agent to deal fairly at all times with both municipal issuers and investors;

(ii) the Placement Agent's primary role is to assist in the placement of obligations in an arm's length, commercial transaction with the Issuer, the Purchaser and the Church, and the Placement Agent has financial and other interests that differ from those of the Issuer, the Purchaser and the Church;

(iii) unlike a financial or municipal advisor, the Placement Agent does not have a fiduciary duty to the Issuer or the Church under the federal securities law and is, therefore, not required by federal law to act in the best interests of the Issuer and the Church without regard to the Placement Agent's own financial or other interests;

(iv) the Placement Agent will review the Private Placement Memorandum in accordance with, as part of, its responsibilities under the federal securities law, as applied to the facts and circumstances of the transaction. However, the Church has prepared and distributed the Private Placement Memorandum, the Issuer has not reviewed or approved the Private Placement Memorandum and the Church has primary responsibility for disclosure to investors such as the Purchaser. Accordingly, the Placement Agent's participation in the preparation of and its review of the Private Placement Memorandum should not be construed by the Issuer or the Church as a guarantee of the accuracy or completeness of the information in the Private Placement Memorandum;

(v) the Issuer and the Church have consulted with their own legal and financial advisors to the extent they deemed appropriate in connection with the placement of the Bonds.

7. Payment of Purchase Price and Expenses. The Church is responsible for and shall pay, or cause to be paid from the proceeds of the Bonds or other funds of the Church, all expenses that are incidental to the performance of the obligations of the Issuer and the Church ("Expenses") under this Placement Agreement. Neither the Issuer, the Purchaser nor Placement Agent is responsible for paying any such expenses except, in the case of the Placement Agent, with respect to any regulatory assessments required to be paid by the Placement Agent. On the Closing Date, the Purchaser shall pay the purchase price with respect to the Bonds by sending an electronic payment wire to the Fiscal Agent for the account of the Issuer in the amount of $__________; and shall, on behalf of the Issuer and the Church, send electronic payment wires for the payment of Expenses as follows: to the Placement Agent in the amount of $__________, and to the Purchaser's Counsel in the amount of $_______. Specific closing instructions shall be provided by the Fiscal Agent at least two days prior to the Closing Date.

8. Beneficiaries. This Placement Agreement is made solely for the benefit of the parties hereto and no other person shall acquire or have any right hereunder or by virtue hereof; provided, however, that the Placement Agent (including its successors or assigns) shall be treated as a third party beneficiary with respect to the covenants, representations and acknowledgments provided hereunder.
9. **Responsibility to Update Representations; Survival.** The Purchaser represents and warrants that the information contained herein is true, accurate and complete and agrees to advise the Issuer and the Church if any representation and warranty contained herein becomes untrue prior to the date of issuance of the Bonds. The parties agree that all of the representations, warranties and agreements set forth herein shall survive the purchase of the Bonds.

10. **Governing Law.** This Placement Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State of California.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
This Placement Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

**PETERSEN AURA LLC**, a _______ limited liability company

**By: Robert Peterson**, Member

By: ___________________________
Name: ___________________________

**By: _______ Peterson**, Member

By: ___________________________
Name: ___________________________

Acceptance:

**THE CITY OF LIVERMORE, CALIFORNIA,**
a municipal corporation duly organized and existing under the laws of the State of California

By: ___________________________  Attest:  __________________________
Name: ___________________________  Name: ___________________________
Title: ___________________________  Title: ___________________________

**CROSSWINDS CHURCH**, a religious non-profit organization incorporated under California law

By: ___________________________  Attest:  __________________________
Name: ___________________________  Name: ___________________________
Title: ___________________________  Title: ___________________________
EXHIBIT A

Maturity Schedule

$____________

IMPROVEMENT AREA NO. 2 OF THE
CITY OF LIVERMORE
COMMUNITY FACILITIES DISTRICT NO. 2009-01
2016 SPECIAL TAX BONDS (CROSSWINDS CHURCH)

$______ Term Bond due September 1, 2046; Rate 3.90% Yield 6.90%

Optional Redemption

The Bonds are not subject to redemption from amounts other than Special Tax Prepayments prior to their stated maturities.

Redemption from Special Tax Prepayments

The Bonds are subject redemption from Special Tax Prepayments in whole or in part on the next date for which notice of redemption can timely be given under Section 2.03(D) of the Fiscal Agent Agreement, at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as set forth below, together with accrued interest to the date fixed for redemption:

<table>
<thead>
<tr>
<th>Redemption Dates</th>
<th>Redemption Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Closing Date through 9/1/2026</td>
<td>106%</td>
</tr>
<tr>
<td>9/2/2026 and thereafter</td>
<td>103</td>
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</tbody>
</table>

Mandatory Sinking Fund Redemption.

The Bonds are subject to mandatory redemption in part, from sinking fund payments made by the City from the Bond Fund, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the redemption date, without premium, in the aggregate respective principal amounts all as set forth in the following table:
<table>
<thead>
<tr>
<th>Sinking Fund Redemption Date (September 1)</th>
<th>Principal Amount Subject to Redemption</th>
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<tbody>
<tr>
<td>2019</td>
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<tr>
<td>2020</td>
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<td>2045</td>
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<tr>
<td>2046 (maturity)</td>
<td></td>
</tr>
</tbody>
</table>

If the Bonds are redeemed in part under mandatory sinking fund redemption, the total amount of all future Sinking Fund Payments shall be reduced by the aggregate principal amount of Bonds so redeemed, to be allocated among such Sinking Fund Payments on a pro rata basis as directed by the City so as to maintain substantially the same debt service profile for the Bonds as in effect prior to such redemption.
June 10, 2016

TO: Mayors, City Managers and City Clerks

RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference – October 5 – 7, Long Beach

The League’s 2016 Annual Conference is scheduled for October 5 – 7 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly), scheduled for noon on Friday, October 7, at the Long Beach Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to the League’s office no later than Friday, September 23, 2016. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please note the following procedures that are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city’s voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates must be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.

- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: www.cacities.org. In order to cast a vote, at least one voter must be present at the
Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but only between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may not transfer the voting card to another city official.

- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Long Beach Convention Center, will be open at the following times: Wednesday, October 5, 8:00 a.m. – 6:00 p.m.; Thursday, October 6, 7:00 a.m. – 4:00 p.m.; and Friday, October 7, 7:30–10:00 a.m. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city’s voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League office by Friday, September 23. If you have questions, please call Kayla Gibson at (916) 658-8247.

Attachments:
- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form
Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.

2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.

3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.

4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city’s voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.

5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.

6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.

7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.
DATE:    July 25, 2016

TO:      Honorable Mayor and City Council

FROM:    Darren Greenwood, Public Works Director

SUBJECT: Residential Recycled Water Program Update

RECOMMENDED ACTION

Staff recommends the City Council receive information on the residential recycled water program and provide direction to staff.

SUMMARY

The City has implemented a temporary Residential Recycled Water Program for the last two years to provide supplemental irrigation during periods of mandatory conservation. The program distributed about 5 million gallons of recycled water in 2015, but was expensive to administer and provided modest overall water savings as a conservation measure. Staff proposed to eliminate the program in 2016 if mandatory conservation measures were not required.

In May 2016, the State Water Resources Control Board issued a revised emergency regulation that returned local control to urban water suppliers. In June 2016, the Zone 7 Water Agency indicated that, after conducting the water supply assessment using the method outlined by the State, there will be no shortfall in Tri-Valley water supplies. Zone 7 and the Tri-Valley Water Retailers agreed to establish a voluntary 10% conservation level for 2016. Staff notified Residential Recycled Water participants that the program would not be implemented in 2016.

At the July 11, 2016 Council Meeting, Council directed staff to bring back a report on the Residential Recycled Water Program and to develop alternatives to implement the program in a more cost-effective manner or to minimize program subsidies.
DISCUSSION

During the past two summers, with State-adopted conservation mandates and City of Livermore emergency drought conservation measures in place, the Livermore Water Resources Division implemented a temporary Residential Recycled Water Program. The purpose of the program was to provide residents with access to recycled water, if needed, to supplement their potable water irrigation in order to keep trees, residential landscaping, and vegetable and fruit bearing plants alive during hot summer months.

In 2015, the City of Livermore distributed approximately 5 million gallons of recycled water to residents. The total cost of providing the 5 million gallons (15.34 acre-feet or 6,684 hundred cubit feet/units) of recycled water picked up by residents in 2015 was $193,806. The breakdown of the total cost is summarized below.

- Labor Cost = $167,311
  Regulations require residents to be permitted, fill stations to be attended and recycled water use sites to be inspected. Administrative staff spent many hours responding to inquiries about the program, assisting residents with completing permit applications, and tracking permits. A second fill station site was added in 2015 so two Water Section employees were required to attend the fill stations. In response to residents’ requests for fill stations to include hours outside normal City business hours, employees were required to work overtime. The fill stations were operated for a period of about 25 weeks in 2015.

- Parts & Equipment Cost = $3,988
  In 2014, a total of 67 residents participated in the Residential Recycled Water Program. However, by 2015 that number grew to 935. The original fill station site at the Visitors’ Parking Lot of the Water Resources Division Administration Building could not accommodate the growing numbers of vehicles lining up for recycled water. Staff had serious concerns about the safety hazard of vehicles potentially extending into the travelled way of West Jack London Boulevard. To eliminate the hazard, a second fill site was constructed on the west side of the Water Resources Division site.

- Signage Cost = $5,796
  Regulations require the containers used by residents to transport recycled water to be labeled. Also, many residents requested signs they could place in their yards to indicate that they were using recycled water. The signs cost approximately $16 each; 300 signs were distributed.

- Recycled Water Cost = $16,711
  The City’s current recycled water rate is $2.50/ccf. This cost resulted because residents were not charged for the 5 million gallons of recycled water picked up.

The Residential Recycled Water Program was not very cost-effective due to the labor hours required to supervise the fill stations. Also, the program did not significantly contribute to the City’s conservation percentage, since the 5 million gallons of recycled water distributed represented less than 1 percent of the 32 percent demand reduction achieved by Livermore water customers in 2015. Based on the cost and effectiveness of
the program in 2015, staff proposed that the program be eliminated in 2016 if mandatory conservation was not required.

On May 2, 2016, Water Resources Division staff emailed the over 900 permit holders from last year’s residential recycled water program, and posted information on the City’s website and social media platforms regarding the status of this year’s residential recycled water program. Residents were reminded that the intent of the program was to provide recycled water as a supplement to the allowed potable water irrigation if needed during the warm summer months to keep plants alive. Residents were also informed in the May 2nd email that if there were no State mandates for conservation, then the residential recycled water program would not be implemented this year.

On May 18, 2015, the State Water Resources Control Board adopted a revised emergency regulation for urban water conservation which became effective on June 1, 2016 and remains in effect until January 17, 2017. The revised regulation included changes to reflect the improved water supply conditions that now exist in some areas of the State and allowed for local decision-making.

A key change was the replacement of the existing state-assigned mandatory conservation standards with locally developed conservation standards based on each urban water supplier’s specific circumstances. Urban water suppliers were required to self-certify their water supply availability assuming three additional dry years and customer demands based on 2013 and 2014 averages.

The Zone 7 Water Agency has indicated that, after conducting the water supply assessment using the method outlined by the State, there will be no shortfall in water supply and the required conservation standard for the Tri-Valley is 0%. To continue to promote the wise use of water, Zone 7 and the Tri-Valley Water Retailers have agreed to call for 10 percent voluntary conservation during 2016.

On May 20, 2016, Water Resources staff emailed the Residential Recycled Water Program permittees to confirm that the program would not be implemented in 2016 due to the State’s revised emergency regulation, and the planned lifting of mandatory conservation requirements for Livermore and the Tri-Valley. On June 27, 2016 the City Council enacted Stage 1 of the Livermore Water Shortage Contingency Plan at the voluntary, 10 percent level.

At the July 11, 2016 Council Meeting, Council directed staff to bring back a report on the Residential Recycled Water Program and to develop alternatives to implement the program in a more cost-effective manner and to minimize program subsidies.

Staff developed the following cost projections based on the use of temporary staff to both minimize cost and reduce the impact to other essential operations and maintenance activities. Also, the cost estimates below are based on approximately 9 weeks of operation during August and September because the area behind the plant where the fill-
stations are located will be needed by October 1, 2016 for a "lay-down" area for a planned construction project at the Water Reclamation Plant. Since mandatory conservation requirements have been rescinded, staff assumes the number of residents seeking recycled water will decrease dramatically. Therefore, cost projections are based on about 30% of the total permitted users in 2015, or about 270 projected users in 2016 compared to about 935 in 2015.

The total labor cost would be approximately $27,000, including permit issuance, fill station monitoring and recycled water use-site inspections. Based on the amount of water distributed in 2015, adjusted for the shorter distribution period and lower expected number of participants, staff estimates the recycled water cost to be about $1,800 for about 540,000 gallons. Assuming there are no additional equipment or signage costs in 2016, the total estimated cost of a 9 week program serving an estimated 270 users is estimated at approximately $29,000.

To minimize the subsidy of Residential Recycled Water Program participants by non-participating ratepayers, staff examined the use of a one-time Permit or Program Fee. Staff is proposing the use of a flat Permit/Program Fee rather than a per-unit charge on the recycled water for ease of administration and to help minimize the cost of tracking and charging individual customers based on the specific volume of water taken.

Simply dividing the number of expected participants by the estimated cost ($29,000/270) yields a Permit Fee of approximately $107 each. While simple, this would result in a fee that is likely unacceptable to most program participants. If the goal were instead to defray 50% of the program cost to minimize the ratepayer subsidy, a program fee of about $50 would be more appropriate. Assuming the 30% participation rate of 2015 permitted users noted above, this would yield about $13,500 in revenue during 2016.

**FISCAL AND ADMINISTRATIVE IMPACTS**

If Council directs staff to implement the Residential Recycled Water Program in 2016, the estimated cost to the Water or Sewer Enterprise would be as much as approximately $29,000 for a 9-week operation, depending on whether a user fee is included in the Council direction. Sufficient resources are included in Fund 250 or Fund 230 to support this expenditure.

**ATTACHMENTS**

None.
Prepared by:

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Approved by:  

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City Manager

Fiscal Review by:  

Douglas Alessio  
Administrative Services Director
ADJOURNMENT

TO A SPECIAL MEETING

CITY COUNCIL AND PLANNING COMMISSION WORKSHOP

AUGUST 1, 2016 AT 7:00 PM

ROBERT LIVERMORE COMMUNITY CENTER
CRESTA BLANCA ROOM
4444 EAST AVENUE
LIVERMORE

AND

TO A REGULAR CITY COUNCIL MEETING

SEPTEMBER 12, 2016 AT 7:00 PM

COUNCIL CHAMBERS
3575 PACIFIC AVENUE
LIVERMORE

THE REGULAR CITY COUNCIL MEETING OF

AUGUST 8, 2016 HAS BEEN CANCELLED.