



CITY OF LAGUNA HILLS CITY COUNCIL/PLANNING AGENCY

REGULAR MEETING AGENDA Tuesday, April 26, 2022 – 7:00 PM (Closed Session at 6:00 PM when scheduled)

Dave Wheeler, Mayor

Janine Heft, Mayor Pro Tempore
Erica Pezold, Council Member

Don Caskey, Council Member
Don Sedgwick, Council Member

Location: City Council Chamber, 24035 El Toro Road, Laguna Hills, CA 92653

Any person wishing to address the City Council/Planning Agency on any matter, whether or not it appears on this Agenda, is asked to complete a pink "Request to Speak" form available on the table at the back of the Chamber. The completed form is to be submitted to the City Clerk prior to an individual being heard by the City Council/Planning Agency. Completion of the form is voluntary. All persons may attend the meeting regardless of whether this form is completed.

Members of the public wishing to address the City Council can do so during the Public Comments portion of the Agenda with a time limitation of three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes for Public Comments. If you are commenting on an Agenda item, your comments will be heard at the time that item is scheduled on the Agenda. If you are addressing the City Council on an item not listed on the Agenda, the City Council is prohibited by law from discussing or taking any action on that item.

Submission of Electronic Public Comments: While you may attend this meeting in person, those wishing to make electronic public comments may submit their comments by email to the City Clerk at publiccomments@lagunahillsCA.gov, by 5:00 p.m. on April 26, 2022. In the subject line of the email, please state your name and the item number you are commenting on. Any public comment received that does not specify a particular agenda item number will be announced during the general public comment portion of the agenda. If you wish to submit a public comment on more than one agenda item, please send a separate email for each item you are commenting on. All comments received by 5:00 p.m. on the date of the meeting will be provided to the City Council in advance to allow time for the Council Members to read them.

Announcement of Electronic Public Comments: During the applicable agenda item, the City Clerk will announce the name of the sender and subject matter of all email comments received by 5:00 p.m. on April 26, 2022. Email comments will NOT be read by the City Clerk during the meeting. Electronic public comments may only be submitted via email and comments via text and social media (Facebook, Twitter, etc.) will not be accepted. The email comments, including your name, will become part of the record of the City Council meeting and will be public information.

CLOSED SESSION - CONVENING AT 6:00 PM**CALL TO ORDER**

Resolution No. 96-04-09-1 established rules of decorum for public meetings held by the City of Laguna Hills. Resolution No. 96-04-09-1 is available on the table at the back of the City Council Chamber.

ROLL CALL OF CITY COUNCIL MEMBERS**ANNOUNCEMENT OF CLOSED SESSION ITEM(S)**

The City Council will convene into Closed Session, in the City Council Conference Room or City Council Chamber, City Hall, Laguna Hills Civic Center, to consider the following matter(s):

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to paragraph (1) of subdivision (d) of California Government Code Section 54956.9

Name of Case: *Californians for Homeownership, Inc., a California nonprofit public benefit corporation, vs. City of Laguna Hills*; Orange County Superior Court Case No. 30-2022-01255365-CU-WM-CJC; Verified Petition for Writ of Mandate.

PUBLIC COMMENT ON CLOSED SESSION ITEM(S)**ADJOURN TO CITY COUNCIL CONFERENCE ROOM OR CITY COUNCIL CHAMBER****CONVENE INTO CLOSED SESSION****RECONVENE TO CITY COUNCIL CHAMBER****RECESS**



CITY OF LAGUNA HILLS CITY COUNCIL/PLANNING AGENCY

REGULAR MEETING AGENDA Tuesday, April 26, 2022 – 7:00 PM (Closed Session at 6:00 PM when scheduled)

Dave Wheeler, Mayor

Janine Heft, Mayor Pro Tempore
Erica Pezold, Council Member

Don Caskey, Council Member
Don Sedgwick, Council Member

Location: City Council Chamber, 24035 El Toro Road, Laguna Hills, CA 92653

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Submission of Electronic Public Comments: While you may attend this meeting in person, those wishing to make electronic public comments may submit their comments by email to the City Clerk at publiccomments@lagunahillsCA.gov, by 5:00 p.m. on April 26, 2022. In the subject line of the email, please state your name and the item number you are commenting on. Any public comment received that does not specify a particular agenda item number will be announced during the general public comment portion of the agenda. If you wish to submit a public comment on more than one agenda item, please send a separate email for each item you are commenting on. All comments received by 5:00 p.m. on the date of the meeting will be provided to the City Council in advance to allow time for the Council Members to read them.

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GENERAL BUSINESS - CONVENING AT 7:00 PM**CALL TO ORDER**

Resolution No. 96-04-09-1 established rules of decorum for public meetings held by the City of Laguna Hills. Resolution No. 96-04-09-1 is available on the table at the back of the City Council Chamber.

INVOCATION: Pastor Brian Dagen of Calvary Chapel Mission Viejo

PLEDGE OF ALLEGIANCE: Council Member Pezold

ROLL CALL OF CITY COUNCIL MEMBERS**CLOSED SESSION REPORT****1. PRESENTATIONS AND PROCLAMATIONS****1.1 Lomarena Elementary School Student Liaison**

Recommendation: That the City Council present a Certificate of Appointment and receive an oral report from Lomarena Elementary School Student Liaison Rudolph Karnes.

1.2 Laguna Hills High School Student Liaison

Recommendation: That the City Council receive an oral report from Laguna Hills High School 2022 Spring Student Liaison Kaitlyn Heinecke.

1.3 Presentation of Proclamation for "Drowning Prevention Awareness"

Recommendation: That the City Council issue a Proclamation encouraging participation in the "Always Watch the Water" and "Never Swim Alone" campaigns by highlighting May through August as a "Drowning Prevention Awareness" period and that Mayor Wheeler present the Proclamation to Michael Contreras, Division Chief, Orange County Fire Authority.

1.4 Proclamation of "Lewis F. Moulton Arrival Day"

Recommendation: That the City Council issue a Proclamation declaring May 6 as "Lewis F. Moulton Arrival Day" and that Mayor Wheeler present the Proclamation to Jared Mathis, Scott Barnes, and other individuals from the Moulton Museum.

2. SCHEDULE OF FUTURE EVENTS**2.1 Schedule of Future Events**

Recommendation: That the Assistant City Clerk announce the upcoming City events in the months of April and May 2022.

3. PUBLIC COMMENTS

This is the time to address the City Council on any matter not listed on this Agenda that is within the subject matter jurisdiction of the City Council. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

4. CONSENT CALENDAR

All matters listed under “CONSENT CALENDAR” are considered to be routine and will be enacted by one motion approving the recommendation listed on the Agenda. There will be no separate discussion unless Members of the City Council or Staff request specific items be removed from the Consent Calendar.

4.1 Waive Reading in Full of all Ordinances and Resolutions on the Agenda

Recommendation: That the City Council waive reading in full of all ordinances and resolutions on the agenda and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

4.2 Approval of Minutes for April 12, 2022 Regular Meeting

Recommendation: That the City Council approve the City Council/Planning Agency Minutes for the April 12, 2022, Regular Meeting.

4.3 Ratification of April 26, 2022, Warrant Register

Recommendation: That the City Council ratify the accompanying Warrant Register for the period from April 1, 2022, to April 14, 2022, in the amount of \$979,661.18.

4.4 Proposed Office Lease for Suite 200 with Berger Harrison, APC, for 24031 El Toro Road, Suite 200, Laguna Hills, California

Recommendation: That the City Council approve an office lease with Berger Harrison, APC, a California professional corporation, for 24031 El Toro Road, Suite

200, Laguna Hills, California, and authorize the City Manager to execute the Lease.

4.5 Direction Regarding Unscheduled Vacancy for Traffic Commission

Recommendation: That the City Council: 1) Accept the resignation of Susan Caskey, Traffic Commissioner, effective April 12, 2022; and 2) Direct Staff to proceed with the appointment process to fill the unscheduled vacancy on the Traffic Commission, per Government Code Section 54974, and Laguna Hills Municipal Code Section 2-28.080.

4.6 2022 Laguna Hills Memorial Day Half Marathon, 10K, and 5K Event, and Aliso Viejo Community Association (AVCA) License to Enter and Indemnity Agreement to Access AVCA's Private Street During the Race Event

Recommendation: That the City Council: 1) Receive and file the pre-event planning report; and 2) Approve the AVCA License to Enter and Indemnity Agreement and authorize the City Manager to execute the Agreement.

4.7 Proposed Business Attraction and Retention Contractual Services Agreement with the Laguna Hills Chamber of Commerce for Fiscal Year 2022-2023 and a Related Budget Amendment

Recommendation: That the City Council: 1) Approve the proposed "Business Attraction and Retention Contractual Services Agreement" between the City of Laguna Hills and the Laguna Hills Chamber of Commerce; 2) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, amending the Fiscal Year 2021-2022 Budget by increasing the General Government Department Operating Budget for Business Attraction and Retention Services"; and 3) Authorize the Mayor to execute the Agreement.

ITEMS REMOVED FROM THE CONSENT CALENDAR

5. PLANNING AGENCY

There are no separate Planning Agency Business Items for this meeting.

6. CITY COUNCIL PUBLIC HEARINGS

7. ADMINISTRATIVE REPORTS**7.1. City Manager****7.2. City Attorney****7.2.1 Appointment of New City Manager and Approval of City Manager Employment Agreement**

Recommendation: That the City Council:

- 1) Receive and file an oral report providing a summary of the Council-designated labor representatives' recommendations concerning proposed salary, benefits, and terms and conditions of employment for Jarad L. Hildenbrand, a local agency executive, to serve as the City's next City Manager;
- 2) Appoint Jarad L. Hildenbrand as City Manager of the City of Laguna Hills, effective May 16, 2022, to serve at the direction and pleasure of the City Council, pursuant to Laguna Hills Municipal Code Chapter 2-08;
- 3) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, appointing Jarad L. Hildenbrand as City Manager of the City of Laguna Hills, and approving and authorizing the Mayor / Mayor Pro Tempore to execute a City Manager Employment Agreement";
- 4) Direct the City Clerk to administer the Oath of Office; and
- 5) Direct the City Clerk to provide written notice of contract termination to Interim City Manager Kenneth H. Rosenfield, P.E., pursuant to Section 2.0 of the April 2, 2022, Retired Annuitant Employment Agreement, effective May 16, 2022.

7.3. Deputy City Manager/Community Services Director**7.3.1 Authorization to Initiate a Proposition 218 Notification Process to Address State Mandated (SB 1383) Organic Waste Recycling Programs Resulting in a Modification to Solid Waste and Recycling Rates and to Review Proposed Draft Amendment No. 2 to CR&R Franchise Agreement**

Recommendation: That the City Council 1) Direct Staff to proceed with Proposition 218 compliance to establish the requisite new rate schedule for all residential and commercial customers in order to implement a residential food waste recycling program in accordance with SB 1383, setting a public hearing for consideration on June 14, 2022; and 2) Review the draft Amendment No. 2 to the Contract for the Collection, Transportation and Disposal of Municipal Solid Waste and for the Collection and Transportation of Recyclable Materials to Processors for Diversion between the City of Laguna Hills and CR&R Incorporated.

7.3.2 Establishment of City Council Ad-Hoc Committee for Preparation of the Upcoming 10-Year Solid Waste and Recycling Franchise Procurement

Recommendation: That the City Council appoint two Council Members to serve on a Solid Waste and Recycling Franchise Procurement Ad-Hoc Committee to assist in the work efforts of establishing procurement documents for the upcoming 10-Year Franchise Agreement effective July 1, 2024.

7.4. Chief of Police Services

7.4.1 Laguna Hills Police Services Public Safety Quarterly Report

Recommendation: That the City Council receive and file the Laguna Hills Police Services Public Safety Quarterly Report for the First Quarter 2022.

8. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS

9. CITY COUNCIL MEMBER COMMITTEE REPORTS

9.1. Committee Assignment Reports

Recommendation: That the City Council receive oral reports on the following City Council Committee Assignments:

1. Orange County Mosquito and Vector Control District Board of Trustees (Council Member Pezold) - April 21, 2022 meeting.
2. Orange County Transportation Authority Citizens Advisory Committee (Mayor Wheeler) - April 19, 2022 meeting.

10. CITY COUNCIL MEMBER COMMENTS

ADJOURNMENT

The next Regular Meeting of the City Council/Planning Agency will be May 10, 2022, at 7:00 p.m., in the City Council Chamber, located at 24035 El Toro Road, Laguna Hills, California.

CERTIFICATION

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, do hereby certify that a copy of the foregoing Agenda was posted at Laguna Hills City Hall, Laguna Hills Community Center, and the Courtyard at La Paz Center by April 22, 2022, at 5:00 p.m.



City Clerk

April 21, 2022

Date

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the office of the City Clerk at (949) 707-2635. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 24035 El Toro Road, Laguna Hills, California, during normal business hours.

City Council Members receive no additional compensation or stipend as a result of simultaneously convening meetings of the Laguna Hills Planning Agency.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022
TO: Mayor and Council Members
FROM: Melissa Au-Yeung
Deputy City Manager
ISSUE: Presentation of Proclamation for "Drowning Prevention Awareness"

RECOMMENDATION: That the City Council issue a Proclamation encouraging participation in the "Always Watch the Water" and "Never Swim Alone" campaigns by highlighting May through August as a "Drowning Prevention Awareness" period and that Mayor Wheeler present the Proclamation to Michael Contreras, Division Chief, Orange County Fire Authority.

SUMMARY:

The City received a request from the Orange County Fire Authority (OCFA) to issue a Proclamation declaring the City's participation in the "Always the Water" and "Never Swim Alone" campaigns from May through August. Staff recommends the City Council issue the Proclamation to be presented to OCFA Division Chief Michael Contreras at the April 26, 2022, City Council meeting.

ATTACHMENTS:

- Proclamation - Drowning Prevention Awareness



CITY OF LAGUNA HILLS

PROCLAMATION

DROWNING PREVENTION AWARENESS

MAY THROUGH AUGUST

WHEREAS, drowning is the leading cause of death and disability in California for children under five years of age; and

WHEREAS, for every child who dies from drowning, another eight receive emergency care for non-fatal submersion injuries; and

WHEREAS, fatal and non-fatal drowning is a silent event, occurring in as little as two inches of water, including inflatable swimming pools, spas, bathtubs, the ocean, and any other body of water; and

WHEREAS, the themes of this year's water safety campaign "Always Watch the Water" and "Never Swim Alone" give in-depth information that will be provided by staff on what Orange County residents can do to prevent drowning; and

WHEREAS, the initiatives set forth in the "ABCs of Water Safety" program will increase public awareness regarding proper procedures to prevent this needless tragedy; and

WHEREAS, the Orange County Fire Authority will be taking this opportunity to increase public awareness about drowning prevention through a diverse community outreach campaign

NOW, THEREFORE, I, Dave Wheeler, on behalf of the City Council of the City of Laguna Hills, California, do hereby proclaim its participation in the "Always Watch the Water" and "Never Swim Alone" 2022 campaigns that kick-off in May and continue through August by encouraging all families, parents, residents, schools, recreational facilities, businesses, and homeowner associations to become partners in preparedness by increasing their knowledge of proper safety measures in drowning prevention.

Dated this 26th day of April 2022

DAVE WHEELER, MAYOR



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Deputy City Manager

ISSUE: Proclamation of "Lewis F. Moulton Arrival Day"

RECOMMENDATION: That the City Council issue a Proclamation declaring May 6 as "Lewis F. Moulton Arrival Day" and that Mayor Wheeler present the Proclamation to Jared Mathis, Scott Barnes, and other individuals from the Moulton Museum.

BACKGROUND:

On May 6, 1874, twenty-year-old Chicago-born Lewis Fenno Moulton arrived in Orange County, California after having traveled from Boston by steamship boat, train, and stagecoach, arriving in Orange County at midnight on May 6, 1874. Moulton represented a courageous and pioneering spirit when he journeyed from Boston, Massachusetts to Orange County, California and continued in this spirit amassing the 22,000 acres that became Moulton Ranch and present-day Laguna Hills. In 1908 Moulton married Nellie Gail, a schoolteacher. Nellie, the celebrated matriarch of the Moulton family, was an avid "en plein air", plein air painter, and was a major supporter of the arts community and education in Orange County, having been one of the founding members and transformative donors of both the Laguna College of Art + Design and Chapman University.

The pioneering legacy of Lewis F. Moulton and the love for the arts represented by Nellie Gail Moulton will continue to be honored by the July 2022 opening of Moulton Museum in Laguna Hills, California. Moulton Museum will provide educational programs and feature a wide array of artifacts, artwork, pictures, film, maps, and telegrams from before Orange County was formed and through its development.

Proclamation of Lewis F. Moulton Arrival Day

April 26, 2022

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It is in order to recognize the ongoing contributions of the Moulton Family to the Orange County community, Laguna Hills and beyond that originated from the arrival of Lewis F. Moulton in 1874 by proclaiming May 6 as “Lewis F. Moulton Arrival Day”.

ATTACHMENTS:

- Proclamation - Lewis F Moulton Arrival Day



CITY OF LAGUNA HILLS

PROCLAMATION

MAY 6th as Lewis F. Moulton Arrival Day

WHEREAS, on May 6, 1874, twenty-year-old Chicago-born Lewis F. Moulton arrived in Orange County, California, after having traveled west from Boston on a Pacific Mail Steamship boat; and

WHEREAS, Mr. Moulton had journeyed five weeks by steamship that connected him to a train to cross the Isthmus of Panama; and

WHEREAS, after a few days, Mr. Moulton caught a San Diego-bound boat which landed him in Wilmington, California, a Los Angeles neighborhood; and

WHEREAS, Mr. Moulton thereafter traveled by stagecoach from Los Angeles to Santa Ana, arriving in Orange County, California, at midnight on May 6, 1874; and

WHEREAS, Mr. Moulton represented a courageous and pioneering spirit when he journeyed from Boston, Massachusetts, to Orange County, California; and

WHEREAS, Mr. Moulton then continued on with this pioneering spirit and within 20 years of his arrival in Orange County he amassed the 22,000 acres that became the Moulton Ranch and present-day Laguna Hills, Laguna Niguel, Laguna Woods, Aliso Viejo, and parts of Dana Point and Laguna Beach; and

WHEREAS, Lewis F. Moulton married school teacher Nellie Gail in 1908; and

WHEREAS, Nellie Gail Moulton, the celebrated matriarch of the Moulton Family, was an avid plein air painter and was a major supporter of the arts community and education in Orange County, having been one of the founding members and transformative donors of both the Laguna College of Art and Design and Chapman University; and

WHEREAS, the pioneering legacy of Lewis F. Moulton and the love for the arts represented by Nellie Gail Moulton will continue to be honored by the July 2022 opening of the Moulton Museum in Laguna Hills, California; and

WHEREAS, Moulton Museum will provide educational programs and feature a wide array of artifacts, artwork, pictures, film, maps, and telegrams from before Orange County was formed and through its development; and

WHEREAS, Moulton Museum will have its Grand Opening weekend in 2022;

WHEREAS, the ongoing contributions of the Moulton Family to the Orange County community and beyond originated from the arrival of Lewis F. Moulton in 1874.

NOW, THEREFORE, I, Dave Wheeler, Mayor, on behalf of the City Council of the City of Laguna Hills, California, do hereby proclaim May 6th as Lewis F. Moulton Arrival Day in Laguna Hills, California, and recognize the long-standing contributions of the Moulton Family to our community.

Dated this 26th day of April 2022.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022
TO: Mayor and Council Members
FROM: Jennifer Lee
 Assistant City Clerk
ISSUE: Schedule of Future Events

RECOMMENDATION: That the Assistant City Clerk announce the upcoming City events in the months of April and May 2022.

SUMMARY:

The following is a list of upcoming events for the City of Laguna Hills in the months of April and May 2022:

Virtual Town Hall Meeting – New Food Waste Recycling Program

Thursday, April 28, 2022, 6:30 – 7:30 p.m.

Document Shredding Day

Saturday, April 30, 2022, 8:00 a.m. – 12:00 p.m., Laguna Hills Community Center

Housing Element Update Workshop

Tuesday, May 3, 2022, 6:00 pm, Laguna Hills Community Center

Build-A-Fort Registration Begins

Residents: Tuesday, May 3, 2022; Non-Residents: Tuesday, May 10, 2022

Regular City Council Meeting

Tuesday, May 10, 2022, 7:00 p.m., Laguna Hills Civic Center Council Chamber

Traffic Commission Meeting

Wednesday, May 18, 2022, 7:00 p.m., Laguna Hills Civic Center Council Chamber

Regular City Council Meeting

Tuesday, May 24, 2022, 7:00 p.m., Laguna Hills Civic Center Council Chamber



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022
TO: Mayor and Council Members
FROM: Melissa Au-Yeung
Deputy City Manager
ISSUE: Approval of Minutes for April 12, 2022 Regular Meeting

RECOMMENDATION: That the City Council approve the City Council/Planning Agency Minutes for the April 12, 2022, Regular Meeting.

ATTACHMENTS:

- 220412 CC Minutes

**CITY OF LAGUNA HILLS
CITY COUNCIL/PLANNING AGENCY**

**REGULAR MEETING
MINUTES
Tuesday, April 12, 2022**

CLOSED SESSION - CONVENING AT 6:00 PM

The Closed Session Meeting was cancelled.

GENERAL BUSINESS - CONVENING AT 7:00 PM

CALL TO ORDER

The meeting was called to order at 6:59 p.m. by Mayor Wheeler.

INVOCATION: Rabbi Tzali Stillerman of Chabad Jewish Center of Aliso Viejo & Laguna Woods

PLEDGE OF ALLEGIANCE: Mayor Pro Tempore Heft

ROLL CALL OF CITY COUNCIL MEMBERS

Attendee Name	Title	Status	Arrived
Dave Wheeler	Mayor	Present	
Janine Heft	Mayor Pro Tempore	Present	
Don Caskey	Council Member	Present	
Erica Pezold	Council Member	Remote	
Don Sedgwick	Council Member	Present	

1. PRESENTATIONS AND PROCLAMATIONS

1.1 Laguna Hills High School Student Liaison

Laguna Hills High School 2022 Spring Student Liaison Austin Kays was not available at the meeting to provide a report.

1.2 Orange County Housing Finance Trust

The City Council received an update from Adam Eliason, Manager, Orange County Housing Finance Trust, on the Trust's activities over the past year.

1.3 Proclamation for "Sexual Assault Awareness Month"

The City Council issued a Proclamation declaring April 2022 as "Sexual Assault Awareness Month" and Mayor Wheeler presented the Proclamation to Chief of Police Service Captain Stiverson.

2. SCHEDULE OF FUTURE EVENTS

2.1 Schedule of Future Events

Assistant City Clerk Lee announce the upcoming City events for the month of April 2022.

3. PUBLIC COMMENTS

The following individuals addressed the City Council on non-agendized items:

Morena Rivera and Santos, residents of Laguna Hills, expressed their concerns regarding crime and safety in the Via Lomas neighborhood.

Karen Litfin, a resident of Laguna Hills, inquired about the upcoming Housing Element Update Workshop.

4. CONSENT CALENDAR

Motion to approve the Consent Calendar with Mayor Pro Tempore Heft removing Item No. 4.9 and Mayor Wheeler removing Item No. 4.3 and Item No. 4.8.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Mayor Pro Tempore
SECONDER:	Dave Wheeler, Mayor
AYES:	Dave Wheeler, Mayor; Janine Heft, Mayor Pro Tempore; Don Caskey, Council Member; Erica Pezold, Council Member; Don Sedgwick, Council Member

4.1 Waive Reading in Full of all Ordinances and Resolutions on the Agenda

Recommendation: That the City Council waive reading in full of all ordinances and resolutions on the agenda and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

4.2 Approval of Minutes for March 16, 2022 Special Meeting

Recommendation: That the City Council approve the Minutes for the March 16, 2022, Special Meeting.

4.4 Approval of Minutes for March 26, 2022 Special Meeting

Recommendation: That the City Council approve the Minutes for the March 26, 2022, Special Meeting.

4.5 Approval of Minutes for March 28, 2022 Special Meeting

Recommendation: That the City Council approve the Minutes for the March 28, 2022, Special Meeting.

4.6 Approval of Minutes for April 6, 2022 Special Meeting

Recommendation: That the City Council approve the Minutes for the April 6, 2022, Special Meeting.

4.7 Ratification of April 12, 2022, Warrant Register

Recommendation: That the City Council ratify the accompanying Warrant Register for the period from March 11, 2022, to March 31, 2022, in the amount of \$1,197,839.40.

4.10 Submission of an Aerial Waste Waiver to the San Diego Regional Water Quality Control Board for Pollutant Discharges from the City's Fourth of July Fireworks Display and Adoption of a Categorical Exemption Determining that the Event is Exempt from Environmental Review Pursuant to Title 14, Chapter 3, Section 15304(E) of the California Code of Regulations

Recommendation: That the City Council: 1) Direct Staff to submit an Aerial Waste Waiver to the San Diego Regional Water Quality Control Board for pollutant discharges from the City's Fourth of July fireworks display; and 2) Adopt a Categorical Exemption under CEQA pursuant to Guideline Section No. 15304 (Class 4, Minor Alterations to Land).

4.11 Progress Payment No. 1 for El Toro Road Eastbound Farside Paseo De Valencia Bus Stop and Shelter Passenger Amenity Improvements, CIP No. 517

Recommendation: That the City Council approve Progress Payment No. 1, in the net amount of \$31,224.18, and Contract Change Order No. 1, to OCLA Construction and Engineering, for El Toro Road Eastbound Paseo de Valencia Bus Stop and Shelter Passenger Amenity Improvements, CIP No. 517.

4.12 Initiation of the 2022 Weed Abatement Program

Recommendation: That the City Council adopt Resolution No. 2022-04-12-1: "A Resolution of the City Council of the City of Laguna Hills, California, declaring weeds and rubbish on specified private property to be a public nuisance, commencing public proceedings, and setting a public hearing for May 10, 2022."

ITEMS REMOVED FROM THE CONSENT CALENDAR**4.3 Approval of Minutes for March 22, 2022 Regular Meeting**

Mayor Wheeler removed Item No. 4.3 to abstain from voting on the item.

Recommendation: That the City Council approve the Minutes for the March 22, 2022, Regular Meeting.

RESULT:	APPROVED [4 TO 0]
MOVER:	Dave Wheeler, Mayor
SECONDER:	Don Caskey, Council Member
AYES:	Janine Heft, Mayor Pro Tempore; Don Caskey, Council Member; Erica Pezold, Council Member; Don Sedgwick, Council Member
ABSTAIN:	Dave Wheeler, Mayor

4.8 Records Retention Management

Mayor Wheeler removed Item No. 4.8 to make a motion to table the item to an undetermined future meeting.

Interim City Manager Rosenfield responded to Council Member requests for additional information.

Recommendation: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, authorizing and directing the City Clerk to dispose of certain City records in accordance with the City's Record Retention Schedule."

A motion to table the item to an undetermined future meeting was made by Mayor Wheeler, seconded by Council Member Pezold.

RESULT:	TABLED [4 TO 1]
MOVER:	Dave Wheeler, Mayor
SECONDER:	Erica Pezold, Council Member
AYES:	Dave Wheeler, Mayor; Janine Heft, Mayor Pro Tempore; Don Caskey, Council Member; Erica Pezold, Council Member
NAYS:	Don Sedgwick, Council Member

4.9 2022 Fourth of July Celebration Pre-Event Report and Fireworks Agreement

Mayor Pro Tempore Heft removed Item No. 4.9 to request additional information.

Community Services Superintendent Meehan responded to Council Member requests for additional information.

Recommendation: That the City Council: 1) Receive and file the 2022 Fourth of July Celebration pre-event report; and 2) Approve the Fireworks Display Agreement between Fireworks and Stage FX America, LLC, and the City of Laguna Hills for 2022 and authorize the City Manager to execute the Agreement.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Mayor Pro Tempore
SECONDER:	Don Caskey, Council Member
AYES:	Dave Wheeler, Mayor; Janine Heft, Mayor Pro Tempore; Don Caskey, Council Member; Erica Pezold, Council Member; Don Sedgwick, Council Member

5. PLANNING AGENCY

Mayor Wheeler recessed the City Council Meeting, and acting in capacity as Chair, called the Regular Meeting of the Planning Agency of the City of Laguna Hills, California, to order at 7:44 p.m.

5.1. ROLL CALL OF PLANNING AGENCY MEMBERS

Attendee Name	Title	Status	Arrived
Dave Wheeler	Chair	Present	
Janine Heft	Vice Chair	Present	
Don Caskey	Agency Member	Present	
Erica Pezold	Agency Member	Remote	
Don Sedgwick	Agency Member	Present	

5.2. PUBLIC COMMENTS

There were no Planning Agency public comments on non-agendized items.

5.3. APPROVAL OF MINUTES

5.3.1 Approval of Minutes for March 22, 2022, Regular Meeting

Recommendation: That the Planning Agency approve the Minutes for the March 22, 2022, Regular Meeting.

RESULT:	APPROVED [4 TO 0]
MOVER:	Janine Heft, Vice Chair
SECONDER:	Don Caskey, Agency Member
AYES:	Janine Heft, Vice Chair, Don Caskey, Agency Member, Erica Pezold, Agency Member, Don Sedgwick, Agency Member
ABSTAIN:	Dave Wheeler, Chair

5.4. ADMINISTRATIVE REPORTS

There were no Planning Agency Administrative Reports.

5.5. PLANNING AGENCY PUBLIC HEARINGS

5.5.1 Site Development Permit No. USE-0072-2021, a Request by MemorialCare Saddleback Medical Center to Construct a New Women's Health Pavilion and Associated Site Improvements at 24401 Calle De La Louisa

Senior Planner Wu reviewed the information provided in the staff report and provided a PowerPoint presentation.

Chair Wheeler opened the public hearing.

Project applicants, Marcia Manker, CEO, Saddleback Memorial Medical Center, and Mark Shuck, Executive Director Facilities Development and Operation, Memorial Health Care Systems, spoke in favor of the project, provided handouts of a PowerPoint presentation, responded to Agency Member requests for additional information, and agreed to abide by the project's conditions of approval.

Chair Wheeler closed the public hearing.

Chair Wheeler reopened the public hearing to allow for additional questions of the applicant.

Chair Wheeler closed the public hearing.

Recommendation: That the City Council: 1) Conduct a Public Hearing; 2) Find and determine that the project is categorically exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Section 15302 (Class 2, Replacement or Reconstruction); and 3) Adopt a Resolution entitled: "A Resolution of the Planning Agency of the City of Laguna Hills, California, approving Site Development Permit (SDP) No. USE-0072-2021, a request by MemorialCare Saddleback Medical

Center to construct a new Women's Health Pavilion and associated site improvements at 24401 Calle De La Louisa, including an exemption from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15302 (Class 2, Replacement or Reconstruction) of Title 14, Chapter 3 of the California Code of Regulations.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Vice Chair
SECONDER:	Don Caskey, Agency Member
AYES:	Dave Wheeler, Chair; Janine Heft, Vice Chair; Don Caskey, Agency Member; Erica Pezold, Agency Member; Don Sedgwick, Agency Member

PLANNING AGENCY ADJOURNMENT

Chair Wheeler adjourned the Planning Agency Meeting at 8:16 p.m. and reconvened the City Council Meeting. Council Member Pezold was present via teleconference and the remaining four Council Members were present in Chamber.

6. CITY COUNCIL PUBLIC HEARINGS

There were no City Council public hearings.

7. ADMINISTRATIVE REPORTS

7.1. City Manager

The City Manager gave no Administrative Reports.

7.2. Community Development Director

7.2.1 Proposal for City to Retain Specified Local Business Attraction and Retention Services from the Laguna Hills Chamber of Commerce for Fiscal Year 2022-2023

Community Development Director Longenecker reviewed the information provided in the staff report, provided a PowerPoint presentation, and responded to Council Member requests for additional information.

Sheri Feinberg, Government Affairs Director, Laguna Hills Chamber of Commerce, spoke in favor of an agreement between the City of Laguna Hills and the Laguna Hills Chamber of Commerce and responded to Council Member requests for additional information.

Interim City Manager responded to Council Member requests for additional information.

Recommendation: That the City Council review and approve proposed "deal points" that will then be used to prepare a proposed "Business Attraction and Retention Services Agreement" between the City of Laguna Hills and the Laguna Hills Chamber of Commerce for Fiscal Year 2022-2023.

A motion to direct staff to prepare a proposed Business Attraction and Retention Services Agreement with the Laguna Hills Chamber of Commerce, authorizing a payment amount of \$10,000 as proposed, including the deal points attached to the staff report but excluding proposed deal point item no. 3.B regarding Civic Center Office Space, and specifying that the City's payment be made within 30 days of approval of the agreement, was made by Mayor Pro Tempore Heft, seconded by Council Member Caskey.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Mayor Pro Tempore
SECONDER:	Don Caskey, Council Member
AYES:	Dave Wheeler, Mayor; Janine Heft, Mayor Pro Tempore; Don Caskey, Council Member; Erica Pezold, Council Member; Don Sedgwick, Council Member

Mayor Wheeler received consensus to direct Interim City Manager Rosenfield to notify the City Council when Suite 310, or a suite of similar size, becomes available by placing a discussion on a regular meeting Agenda.

8. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS

There were no matters agendized and presented by City Council Members.

9. CITY COUNCIL MEMBER COMMITTEE REPORTS

9.1. Committee Assignment Reports

Recommendation: That the City Council receive oral reports on the following City Council Committee Assignments:

1. South OC Watershed Management Area Executive Committee
(Council Member Caskey) March 31, 2022 Meeting.

Mayor Wheeler provided an oral report.

2. California Mayor's Coalition
(Mayor Wheeler) April 1, 2022 Meeting.

Mayor Wheeler provided an oral report.

10. CITY COUNCIL MEMBER COMMENTS

Mayor Pro Tempore Heft

Mayor Pro Tempore Heft provided an oral report including a video on TCA's 241 Channelizer Project.

Mayor Pro Tempore Heft requested that a discussion on funding tenant improvements to develop unused space in the Civic Center to increase City revenue be agendaized for a future meeting and received a second from Mayor Wheeler.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Wheeler declared the meeting adjourned at 9:34 p.m.

Melissa Au-Yeung, City Clerk

ATTEST:

Dave Wheeler, Mayor

Approved at meeting of April 26, 2022



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022
TO: Mayor and Council Members
FROM: Janice Reyes
Finance Director
ISSUE: Ratification of April 26, 2022, Warrant Register

RECOMMENDATION: That the City Council ratify the accompanying Warrant Register for the period from April 1, 2022, to April 14, 2022, in the amount of \$979,661.18.

SUMMARY:

The City issues accounts payable disbursements on a regular basis and presents it to City Council for ratification at its next regularly scheduled City Council Meeting. The attached Warrant Register containing checks and electronic funds transfers for the period from April 1, 2022, to April 14, 2022, is being presented for ratification by the City Council. Payments have been reviewed and approved by the appropriate departmental staff. The Director of Finance certifies to the accuracy of the attached register and to the availability of monies for payment thereof.

ATTACHMENTS:

- Warrant Register - April 26, 2022
- Payables Detail Report - April 26, 2022



City of Laguna Hills, CA

Warrant Register - April 26, 2022

By Check Number

Date Range: 04/01/2022 - 04/14/2022

Check Number	Vendor Number	Vendor Name	Payment Date	Payment Amount
Payment Type: Regular				
8820582	Z-CD-0145	POOL LOGIC	04/07/2022	500.00
8820583	Z-CS-0186	AVILA, GABRIELA	04/07/2022	500.00
8820584	C-0349	CPRS - SOUTH REGION	04/07/2022	150.00
8820585	C-1122	CROSTOWN ELECTRICAL & DATA, INC.	04/07/2022	3,644.70
8820586	D-0561	DOCU-TRUST	04/07/2022	100.00
8820587	E-0504	EL TORO WATER DISTRICT	04/07/2022	20,682.11
8820588	Z-CD-0010	ESPLANADE BUILDERS, INC.	04/07/2022	4,825.50
8820589	F-0604	FEDERAL EXPRESS CORPORATION	04/07/2022	3.37
8820590	F-0721	FLOCK SAFETY	04/07/2022	27,500.00
8820591	H-0804	HINDERLITER, DE LLAMAS & ASSOC., INC.	04/07/2022	500.00
8820592	J-1088	J THAYER COMPANY, INC	04/07/2022	243.75
8820593	Z-CD-0147	JIM MURRAY ROOFING INC.	04/07/2022	1,230.00
8820594	K-1196	KELLY ASSOCIATES MANAGEMENT GROUP, LLC	04/07/2022	1,475.00
8820595	M-1302	MOULTON NIGUEL WATER DISTRICT	04/07/2022	83.09
8820596	Z-CS-0371	OCEAN USER GROUP	04/07/2022	250.00
8820597	Z-CD-0203	PACIFIC CREST ROOFING	04/07/2022	930.00
8820598	Z-CD-0362	PERON, ANDRE AND LOUISE	04/07/2022	100.00
8820599	P-1832	PRINTEX PRINTING AND GRAPHICS INC.	04/07/2022	470.87
8820600	S-1902	SAN DIEGO GAS & ELECTRIC	04/07/2022	11,862.61
8820601	Z-CD-0175	SIMCIK, JASON	04/07/2022	100.00
8820602	S-1949	SMART & FINAL	04/07/2022	204.67
8820603	S-2250	SPARKLETTES	04/07/2022	148.28
8820604	S-2201	SUNSET PROPERTY SERVICES JONSET CORPORATION	04/07/2022	17,651.20
8820605	W-2302	THOMSON REUTERS - WEST	04/07/2022	279.94
8820606	T-2698	TPX COMMUNICATIONS	04/07/2022	809.27
8820607	U-2165	UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA	04/07/2022	105.70
8820608	V-2251	VIZUAL SYMPHONY, INC.	04/07/2022	1,633.82
8820609	Z-CD-0361	VOGELGESANG, JAMES	04/07/2022	720.00
8820610	Z-CD-0360	WARREN, DWIGHT	04/07/2022	570.00
8820611	Z-CD-0363	ADES, CHRISTINA	04/14/2022	42.52
8820612	A-0380	AGRICULTURAL PEST CONTROL SERVICES	04/14/2022	425.00
8820613	A-0138	ALL CITY MANAGEMENT, INC.	04/14/2022	6,823.60
8820614	A-0365	AT&T - CALNET 3	04/14/2022	22.56
8820615	B-0304	BEE MAN, THE	04/14/2022	155.00
8820616	B-0437	BRINKS, INCORPORATED	04/14/2022	198.61
8820617	B-0440	BUCKNAM INFRASTRUCTURE GROUP, INC.	04/14/2022	5,276.56
8820618	C-1133	CALIFORNIA YELLOW CAB	04/14/2022	172.00
8820619	C-1179	CANON SOLUTIONS AMERICA	04/14/2022	58.83
8820620	C-1144	CHARLES ABBOTT ASSOCIATES, INC	04/14/2022	18,207.75
8820621	C-0023	COX COMMUNICATION	04/14/2022	214.25
8820622	C-1122	CROSTOWN ELECTRICAL & DATA, INC.	04/14/2022	4,597.87
8820623	E-0554	ECONOMICS, INC.	04/14/2022	17,484.00
8820624	F-0604	FEDERAL EXPRESS CORPORATION	04/14/2022	130.11
8820625	C-1190	FINGERPRINT ID (AFIS) LAW ENF. - COUNTY OF ORANGE	04/14/2022	1,233.00
8820626	G-0865	GREENBELT NURSERY INC. dba GREENBELT GROWERS	04/14/2022	2,030.24
8820627	H-0829	HARTZOG & CRABILL, INC.	04/14/2022	10,875.00
8820628	Z-CD-0122	HOME DEPOT USA	04/14/2022	503.48
8820629	I-0942	IRVINE RANCH WATER DISTRICT	04/14/2022	159.79
8820630	J-1088	J THAYER COMPANY, INC	04/14/2022	148.05
8820631	J-1057	JAMEY CLARK, INC.	04/14/2022	1,160.51
8820632	Z-CS-0388	LOPEZ, CARLOS	04/14/2022	500.00
8820633	M-1302	MOULTON NIGUEL WATER DISTRICT	04/14/2022	19,027.66

Attachment: Warrant Register - April 26, 2022 (2830 : Warrant Register, April 26, 2022)

Warrant Register - April 26, 2022

Date Range: 04/01/2022 - 04/14/2022

Check Number	Vendor Number	Vendor Name	Payment Date	Payment Amount
8820634	O-1546	OFFICE SOLUTIONS	04/14/2022	40.77
8820635	O-1575	ORANGE COUNTY REGISTER-FREEDOM CA. NEWSPAPER PARTNERSHIP	04/14/2022	1,255.00
8820636	Q-1717	QUADIENT FINANCE USA, INC.	04/14/2022	1,000.00
8820637	R-1977	RJ ELECTRIC	04/14/2022	3,109.41
8820638	S-2289	SANDS, CINDY	04/14/2022	490.88
8820639	S-2267	SINTA DESIGN	04/14/2022	175.00
8820640	S-1904	SOUTHERN CALIFORNIA EDISON	04/14/2022	8,655.66
8820641	S-2308	SPECTRUM SPORTS MANAGEMENT, INC.	04/14/2022	10,000.00
8820642	S-2259	STRAIGHT 78	04/14/2022	700.00
8820643	Z-CS-0387	VASQUEZ, LUIS	04/14/2022	500.00
8820644	V-2224	VERIZON WIRELESS	04/14/2022	1,848.56
8820645	W-2448	WEST GATE CONTRACTOR	04/14/2022	8,000.00
8820646	W-2450	WEX BANK	04/14/2022	713.01
Total Regular:				223,208.56

Attachment: Warrant Register - April 26, 2022 (2830 : Warrant Register, April 26, 2022)

Warrant Register - April 26, 2022

Date Range: 04/01/2022 - 04/14/2022

Check Number	Vendor Number	Vendor Name	Payment Date	Payment Amount
Payment Type: Bank Draft				
DFT0001947	C-1007	OCSD LAW ENFORCEMENT CONTRACT, OC TREASURER-TAX	04/14/2022	747,811.65
DFT0001948	B-0276	BANK OF AMERICA VISA CARD	04/12/2022	2,747.59
DFT0001949	B-0276	BANK OF AMERICA VISA CARD	04/12/2022	4,589.23
DFT0001950	B-0276	BANK OF AMERICA VISA CARD	04/12/2022	589.28
DFT0001951	B-0276	BANK OF AMERICA VISA CARD	04/12/2022	714.87
Total Bank Draft:				756,452.62

Bank Code AP Bank Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	78	65	0.00	223,208.56
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	5	5	0.00	756,452.62
EFT's	0	0	0.00	0.00
	83	70	0.00	979,661.18

Attachment: Warrant Register - April 26, 2022 (2830 : Warrant Register, April 26, 2022)

All Bank Codes Check Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	78	65	0.00	223,208.56
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	5	5	0.00	756,452.62
EFT's	0	0	0.00	0.00
	83	70	0.00	979,661.18

Fund Summary

Fund	Name	Period	Amount
998	POOL	4/2022	979,661.18
			979,661.18



City of Laguna Hills, CA

Payables Detail Report

By Fund

Payment Dates 04/01/2022 - 04/14/2022

Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
Fund: 100 - GENERAL FUND					
04/07/2022	MOULTON NIGUEL WATER DISTRICT	033122	Water Usage, Public Services, Mar	100-355-635000	83.09
04/07/2022	CPRS - SOUTH REGION	040122	Annual Membership, FY 21/22	100-310-610000	150.00
04/07/2022	EL TORO WATER DISTRICT	040422	Water Usage, Public Services, Feb '22	100-355-635000	10,129.28
04/07/2022	SAN DIEGO GAS & ELECTRIC	040422	Street Lights, Traffic Control, Mar '22	100-356-631400	11,862.61
04/07/2022	EL TORO WATER DISTRICT	040422a	Water Usage, Public Services, Mar	100-355-635000	10,552.83
04/07/2022	DOCU-TRUST	045824	Offsite Data Storage, Mar '22	100-155-700030	100.00
04/07/2022	SPARKLETTS	12194330 033022	Operating Supplies, Comm Ctr, Mar	100-310-622005	148.28
04/07/2022	VIZUAL SYMPHONY, INC.	14026	Computer Hardware, Mar '22	100-195-720050	1,633.82
04/07/2022	TPX COMMUNICATIONS	154824868-0	Communications Expense, Apr '22	100-195-630000	809.27
04/07/2022	J THAYER COMPANY, INC	1583972-1	Computer Supplies, Mar '22	100-195-621000	243.75
04/07/2022	PRINTEX PRINTING AND GRAPHICS INC.	22876	Special Events-Program Service, Mar '22	100-310-695500	470.87
04/07/2022	SMART & FINAL	3831400019501	Office & Operating Supplies, Mar '22	100-155-622000	77.29
04/07/2022	SMART & FINAL	3831400019501	Office & Operating Supplies, Mar '22	100-195-620000	59.51
04/07/2022	SMART & FINAL	3831400019501	Office & Operating Supplies, Mar '22	100-195-622000	15.28
04/07/2022	SMART & FINAL	3831400019901	Operating Supplies, Mar '22	100-155-622000	52.59
04/07/2022	CROSTOWN ELECTRICAL & DATA,	4296-22-003	Traffic Signal Maintenance, Mar '22	100-356-720420	3,644.70
04/07/2022	THOMSON REUTERS - WEST	846096282	Subscription, City Clerk, Mar '22	100-155-626000	279.94
04/07/2022	FEDERAL EXPRESS CORPORATION	9-621-92087	Delivery Services, Mar '22	100-195-625000	3.37
04/07/2022	POOL LOGIC	CD-0774-SP-5-19-18420	Refund, Pool Bond, R #4216	100-000-228001	500.00
04/07/2022	ESPLANADE BUILDERS, INC.	CD-0832-BLDC-0141-202	Refund, C&D Deposit, REC-005780-2021	100-000-227001	2,331.50
04/07/2022	ESPLANADE BUILDERS, INC.	CD-0833-BLDC-0153-202	Refund, C&D Deposit, REC-006107-2021	100-000-227001	2,494.00
04/07/2022	SIMCIK, JASON	CD-0834-BLDR-1040-202	Refund, C&D Deposit, REC-006343-2021	100-000-227001	100.00
04/07/2022	PACIFIC CREST ROOFING	CD-0835-BLDR-1082-202	Refund, C&D Deposit, REC-006574-2022	100-000-227001	930.00
04/07/2022	JIM MURRAY ROOFING INC.	CD-0836-BLDR-1097-202	Refund, C&D Deposit, REC-006667-2022	100-000-227001	1,230.00
04/07/2022	WARREN, DWIGHT	CD-0837-BLDR-1162-202	Refund, C&D Deposit, REC-006980-2022	100-000-227001	570.00
04/07/2022	VOGELGESANG, JAMES	CD-0838-BLDR-1163-202	Refund, C&D Deposit, REC-006981-2022	100-000-227001	720.00
04/07/2022	PERON, ANDRE AND LOUISE	CD-0839-BLDR-0889-202	Refund, C&D Deposit, REC-005253-2021	100-000-227001	100.00
04/07/2022	FLOCK SAFETY	CINV-007632	Automated License Plate Readers, CIP 518	100-600-790600	27,500.00
04/07/2022	AVILA, GABRIELA	FRD-0268	Refund, Facility Deposit, R #1034416.002	100-000-222000	500.00
04/07/2022	OCEAN USER GROUP	FRD-0269	Refund, Facility Deposit, R #1034645.002	100-000-222000	250.00
04/07/2022	HINDERLITER, DE LLAMAS & ASSOC., INC.	SIN014241	Economic Development Services, Oct-Dec '21	100-155-700050	500.00
04/12/2022	BANK OF AMERICA VISA CARD	032022 COMSVCS	Departmental Expenditure, Mar '22	100-000-120000	0.21
04/12/2022	BANK OF AMERICA VISA CARD	032022 COMSVCS	Departmental Expenditure, Mar '22	100-195-720050	192.00
04/12/2022	BANK OF AMERICA VISA CARD	032022 COMSVCS	Departmental Expenditure, Mar '22	100-195-940000	53.83
04/12/2022	BANK OF AMERICA VISA CARD	032022 COMSVCS	Departmental Expenditure, Mar '22	100-310-620500	50.93
04/12/2022	BANK OF AMERICA VISA CARD	032022 COMSVCS	Departmental Expenditure, Mar '22	100-310-624500	125.00
04/12/2022	BANK OF AMERICA VISA CARD	032022 COMSVCS	Departmental Expenditure, Mar '22	100-310-645500	324.00
04/12/2022	BANK OF AMERICA VISA CARD	032022 COMSVCS	Departmental Expenditure, Mar '22	100-310-695500	51.63
04/12/2022	BANK OF AMERICA VISA CARD	032022 COMSVCS	Departmental Expenditure, Mar '22	100-310-695502	9.99
04/12/2022	BANK OF AMERICA VISA CARD	032022 COMSVCS	Departmental Expenditure, Mar '22	100-310-695507	3,588.37
04/12/2022	BANK OF AMERICA VISA CARD	032022 COMSVCS	Departmental Expenditure, Mar '22	100-310-695530	193.27
04/12/2022	BANK OF AMERICA VISA CARD	032022 GENGOV2	Departmental Expenditure, Mar '22	100-000-120000	(2.30)

Attachment: Payables Detail Report - April 26, 2022 (2830 : Warrant Register, April 26, 2022)

Payables Detail Report

Payment Dates: 04/01/2022 - 04/14/2022

Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
04/12/2022	BANK OF AMERICA VISA CARD	032022 GENGOV2	Departmental Expenditure, Mar '22	100-155-612002	2,474.83
04/12/2022	BANK OF AMERICA VISA CARD	032022 GENGOV2	Departmental Expenditure, Mar '22	100-155-620000	62.48
04/12/2022	BANK OF AMERICA VISA CARD	032022 GENGOV2	Departmental Expenditure, Mar '22	100-155-622000	153.33
04/12/2022	BANK OF AMERICA VISA CARD	032022 GENGOV2	Departmental Expenditure, Mar '22	100-155-626000	59.25
04/12/2022	BANK OF AMERICA VISA CARD	032022 POLSVCS	Departmental Expenditure, Mar '22	100-000-120000	(0.62)
04/12/2022	BANK OF AMERICA VISA CARD	032022 POLSVCS	Departmental Expenditure, Mar '22	100-420-622000	715.49
04/12/2022	BANK OF AMERICA VISA CARD	032022 PUBWKS	Departmental Expenditure, Mar '22	100-355-611000	493.58
04/12/2022	BANK OF AMERICA VISA CARD	032022 PUBWKS	Departmental Expenditure, Mar '22	100-355-720700	95.70
04/14/2022	AT&T - CALNET 3	000018014248	Traffic Signal, Public Services, Mar	100-356-630000	22.56
04/14/2022	ORANGE COUNTY REGISTER-FREEDOM CA. NEWSPAPER	0000538729	Legal Advertising, Mar '22	100-155-624001	1,255.00
04/14/2022	SOUTHERN CALIFORNIA EDISON	022322 - Acct #70016247	Street Lights, Traffic Control, Dec '21	100-356-631900	4,327.83
04/14/2022	SOUTHERN CALIFORNIA EDISON	032422 - Acct #70016247	Street Lights, Traffic Control, Jan '22	100-356-631900	4,327.83
04/14/2022	QUADIENT FINANCE USA, INC.	032722	Postage Replenishment, Mar '22	100-195-625000	1,000.00
04/14/2022	COX COMMUNICATION	032822	WiFi, Community Center, Mar '22	100-195-630000	214.25
04/14/2022	IRVINE RANCH WATER DISTRICT	040522	Water Usage, Public Services, Mar	100-355-635000	159.79
04/14/2022	SANDS, CINDY	041122	Petty Cash Replenishment, Jan - Apr '22	100-155-612002	15.00
04/14/2022	SANDS, CINDY	041122	Petty Cash Replenishment, Jan - Apr '22	100-155-622000	341.75
04/14/2022	SANDS, CINDY	041122	Petty Cash Replenishment, Jan - Apr '22	100-195-617000	100.00
04/14/2022	SANDS, CINDY	041122	Petty Cash Replenishment, Jan - Apr '22	100-195-620000	3.76
04/14/2022	SANDS, CINDY	041122	Petty Cash Replenishment, Jan - Apr '22	100-195-622000	5.37
04/14/2022	SANDS, CINDY	041122	Petty Cash Replenishment, Jan - Apr '22	100-355-646100	25.00
04/14/2022	STRAIGHT 78	041222	Deposit, 4th of July Event	100-000-140000	700.00
04/14/2022	MOULTON NIGUEL WATER DISTRICT	041322	Water Usage, Public Services, Mar	100-355-635000	19,027.66
04/14/2022	BEE MAN, THE	117366	Bee Removal, Public Services, Mar	100-355-720701	155.00
04/14/2022	BRINKS, INCORPORATED	11898340	Courier Fee, Armored Transport, Apr '22	100-155-625000	198.61
04/14/2022	GREENBELT NURSERY INC. dba GREENBELT GROWERS	15761	Landscape Maintenance, Mar '22	100-355-720700	2,030.24
04/14/2022	J THAYER COMPANY, INC	1585500-0	Office Supplies, Comm Ctr, Apr '22	100-310-620500	148.05
04/14/2022	SPECTRUM SPORTS MANAGEMENT, INC.	2022-31	Event Management Services, 1/2 Marathon	100-310-695507	10,000.00
04/14/2022	HARTZOG & CRABILL, INC.	22-0179(HCI#3641)	Traffic Signal Mgmt Services, Apr '22	100-356-700101	10,875.00
04/14/2022	WEST GATE CONTRACTOR	35	Graffiti Removal, Public Services, Mar '22	100-355-720500	8,000.00
04/14/2022	BUCKNAM INFRASTRUCTURE GROUP, INC.	361-02.11	City Engineer Services, Mar '22	100-356-700100	5,276.56
04/14/2022	CROSTOWN ELECTRICAL & DATA,	3941 - 3962	Traffic Signal Maintenance, Mar '22	100-356-720420	4,597.87
04/14/2022	CANON SOLUTIONS AMERICA	6000163747	Copier Usage, Community Services, Mar '22	100-195-641200	58.83
04/14/2022	RJ ELECTRIC	60595	Parks Contract Repair, Mar '22	100-355-720701	2,285.52
04/14/2022	RJ ELECTRIC	60626	Parks Contract Repair, Apr '22	100-355-720701	564.89
04/14/2022	RJ ELECTRIC	60657	Parks Contract Repair, Apr '22	100-355-720701	259.00
04/14/2022	AGRICULTURAL PEST CONTROL SERVICES	628734	Landscape Maintenance, Mar '22	100-355-720700	85.00
04/14/2022	AGRICULTURAL PEST CONTROL SERVICES	632965	Landscape Maintenance, Mar '22	100-355-720700	340.00
04/14/2022	CHARLES ABBOTT ASSOCIATES, INC	63922-A - PARKS BILLING	Parks Contract Repair, Mar '22	100-355-720701	75.00
04/14/2022	JAMEY CLARK, INC.	73074	Park Repairs, Public Services, Apr '22	100-355-720701	548.30
04/14/2022	JAMEY CLARK, INC.	73079	Park Repairs, Public Services, Apr '22	100-355-720701	612.21
04/14/2022	ALL CITY MANAGEMENT, INC.	76587	Crossing Guard Services, 3/20/22 - 4/2/22	100-420-720822	6,823.60
04/14/2022	FEDERAL EXPRESS CORPORATION	7-709-88485	Delivery Services, Mar '22	100-195-625000	32.56
04/14/2022	FEDERAL EXPRESS CORPORATION	7-718-35427	Delivery Services, Apr '22	100-195-625000	97.55
04/14/2022	WEX BANK	79825013 PUBWKS	Vehicle Fuel, Mar '22	100-356-613100	459.89
04/14/2022	WEX BANK	79825013 PUBWKS	Vehicle Fuel, Mar '22	100-356-646100	10.00

Attachment: Payables Detail Report - April 26, 2022 (2830 : Warrant Register, April 26, 2022)

Payables Detail Report

Payment Dates: 04/01/2022 - 04/14/2022

Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
04/14/2022	WEX BANK	79825059 POLSVCS	Vehicle Fuel, Mar '22	100-420-613100	52.99
04/14/2022	WEX BANK	79825187 COMDEV	Vehicle Fuel, Mar '22	100-225-613100	190.13
04/14/2022	VERIZON WIRELESS	9902710419	Communication Expense, Mar '22	100-195-630000	1,848.56
04/14/2022	HOME DEPOT USA	CD-0840-BLDR-1156-202	Refund, Permit Fees, REC-006973-2022	100-000-221011	1.00
04/14/2022	HOME DEPOT USA	CD-0840-BLDR-1156-202	Refund, Permit Fees, REC-006973-2022	100-000-221012	4.00
04/14/2022	HOME DEPOT USA	CD-0840-BLDR-1156-202	Refund, Permit Fees, REC-006973-2022	100-000-227001	100.00
04/14/2022	HOME DEPOT USA	CD-0840-BLDR-1156-202	Refund, Permit Fees, REC-006973-2022	100-000-442000	146.74
04/14/2022	HOME DEPOT USA	CD-0841-BLDR-1030-202	Refund, Permit Fees, REC-006236-2021	100-000-221011	1.00
04/14/2022	HOME DEPOT USA	CD-0841-BLDR-1030-202	Refund, Permit Fees, REC-006236-2021	100-000-221012	4.00
04/14/2022	HOME DEPOT USA	CD-0841-BLDR-1030-202	Refund, Permit Fees, REC-006236-2021	100-000-227001	100.00
04/14/2022	HOME DEPOT USA	CD-0841-BLDR-1030-202	Refund, Permit Fees, REC-006236-2021	100-000-442000	146.74
04/14/2022	ADES, CHRISTINA	CD-0842-PLMR-0574-202	Refund, Permit Fees, REC-004709-2021	100-000-221011	1.00
04/14/2022	ADES, CHRISTINA	CD-0842-PLMR-0574-202	Refund, Permit Fees, REC-004709-2021	100-000-221012	4.00
04/14/2022	ADES, CHRISTINA	CD-0842-PLMR-0574-202	Refund, Permit Fees, REC-004709-2021	100-000-442000	37.52
04/14/2022	VASQUEZ, LUIS	FRD-0270	Refund, Facility Deposit, R #1034713.002	100-000-222000	500.00
04/14/2022	LOPEZ, CARLOS	FRD-0271	Refund, Facility Deposit, R #1034566.002	100-000-222000	500.00
04/14/2022	OFFICE SOLUTIONS	I-01987696	Office Supplies, Mar '22	100-195-620000	40.77
04/14/2022	SINTA DESIGN	lhbm_040422	1/2 Marathon Expense, Mar '22	100-310-695507	175.00
04/14/2022	OCS LAW ENFORCEMENT CONTRACT, OC TREASURER-TAX FINGERPRINT ID (AFIS) LAW ENF. - COUNTY OF ORANGE	SH 61740	Law Enforcement Services, Apr '22	100-420-720800	747,811.65
04/14/2022		SH 61764	Fingerprint ID System Charges, Apr	100-420-720835	1,233.00
Fund 100 - GENERAL FUND Total:					924,640.53
Fund: 101 - MGP DEVELOPMENT APPLICATION - VALH PROJECT					
04/07/2022	KELLY ASSOCIATES MANAGEMENT GROUP, LLC	040222	Professional Services, Mar '22	101-000-223000	1,475.00
04/07/2022	KELLY ASSOCIATES MANAGEMENT GROUP, LLC	040222	Professional Services, Mar '22	101-000-450000	(1,475.00)
04/07/2022	KELLY ASSOCIATES MANAGEMENT GROUP, LLC	040222	Professional Services, Mar '22	101-225-700040	1,475.00
04/14/2022	FEDERAL EXPRESS CORPORATION	7-709-88485	Delivery Services, Mar '22	101-000-223000	32.56
04/14/2022	FEDERAL EXPRESS CORPORATION	7-709-88485	Delivery Services, Mar '22	101-000-450000	(32.56)
Fund 101 - MGP DEVELOPMENT APPLICATION - VALH PROJECT Total:					1,475.00
Fund: 212 - MEASURE M					
04/07/2022	SUNSET PROPERTY SERVICES JONSET CORPORATION	128813SP	Street Sweeping Services, Mar '22	212-355-720410	17,651.20
04/07/2022	UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA	320220370	Street Maintenance, Mar '22	212-355-720400	105.70
04/14/2022	CHARLES ABBOTT ASSOCIATES, INC	63922	Road Maintenance, Mar '22	212-355-720400	18,132.75
Fund 212 - MEASURE M Total:					35,889.65
Fund: 221 - SENIOR MOBILITY PROGRAM					
04/14/2022	CALIFORNIA YELLOW CAB	3406022	Senior Mobility Program, Mar '22	221-310-720000	172.00
Fund 221 - SENIOR MOBILITY PROGRAM Total:					172.00
Fund: 307 - C & D FORFEITED DEPOSITS					
04/14/2022	ECONOMICS, INC.	2017-2018.57	Professional Services, Recycling Program, Mar '22	307-355-700000	17,484.00
Fund 307 - C & D FORFEITED DEPOSITS Total:					17,484.00

Attachment: Payables Detail Report - April 26, 2022 (2830 : Warrant Register, April 26, 2022)

Payables Detail Report

Payment Dates: 04/01/2022 - 04/14/2022

Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
Fund: 600 - CAPITAL IMPROVEMENT PROJECT					
04/07/2022	FLOCK SAFETY	CINV-007632	Automated License Plate Readers, CIP 518	600-000-490100	(27,500.00)
04/07/2022	FLOCK SAFETY	CINV-007632	Automated License Plate Readers, CIP 518	600-255-950518	27,500.00
Fund 600 - CAPITAL IMPROVEMENT PROJECT Total:					-
Grand Total:					979,661.18

Attachment: Payables Detail Report - April 26, 2022 (2830 : Warrant Register, April 26, 2022)

Report Summary

Fund Summary

Fund	Expense Amount	Payment Amount
100 - GENERAL FUND	924,640.53	924,640.53
101 - MGP DEVELOPMENT APPLICATION - VALH PROJECT	1,475.00	1,475.00
212 - MEASURE M	35,889.65	35,889.65
221 - SENIOR MOBILITY PROGRAM	172.00	172.00
307 - C & D FORFEITED DEPOSITS	17,484.00	17,484.00
600 - CAPITAL IMPROVEMENT PROJECT	-	-
Grand Total:	979,661.18	979,661.18

Account Summary

Account Number	Account Name	Expense Amount	Payment Amount
100-000-120000	Accounts Receivable	(2.71)	(2.71)
100-000-140000	Pre-paid Expenditures	700.00	700.00
100-000-221011	Building Standards Fee	3.00	3.00
100-000-221012	SB1186 ADA CASp Fees	12.00	12.00
100-000-222000	Refundable Deposits	1,750.00	1,750.00
100-000-227001	SecurityDeposit-WasteRecycling	8,675.50	8,675.50
100-000-228001	Swimming Pool Bonds	500.00	500.00
100-000-442000	Building Related Permits	331.00	331.00
100-155-612002	Travel - ACC-OC	2,489.83	2,489.83
100-155-620000	Office Supplies	62.48	62.48
100-155-622000	Operating Supplies	624.96	624.96
100-155-624001	Advertising - Legal	1,255.00	1,255.00
100-155-625000	Postage & Delivery	198.61	198.61
100-155-626000	Subscriptions & Books	339.19	339.19
100-155-700030	Professional Svcs- City Clerk	100.00	100.00
100-155-700050	Professional Services- Financial	500.00	500.00
100-195-617000	Recruitment	100.00	100.00
100-195-620000	Office Supplies	104.04	104.04
100-195-621000	Computer Supplies	243.75	243.75
100-195-622000	Operating Supplies	20.65	20.65
100-195-625000	Postage & Delivery	1,133.48	1,133.48
100-195-630000	Telephone & Communication	2,872.08	2,872.08
100-195-641200	Rent/Lease - Copier	58.83	58.83
100-195-720050	Contract Serv-Software Support	1,825.82	1,825.82
100-195-940000	Computer Hardware & Software	53.83	53.83
100-225-613100	Vehicle-Fuel	190.13	190.13
100-310-610000	Memberships and Dues Expense	150.00	150.00
100-310-620500	Office Supplies - Comm Ctr	198.98	198.98
100-310-622005	Operating Supplies Comm Ctr	148.28	148.28
100-310-624500	Advertising-Program Services	125.00	125.00
100-310-645500	Maint&Repair-Facility Comm Ctr	324.00	324.00
100-310-695500	Special Events-Program Service	522.50	522.50
100-310-695502	Special Needs Program	9.99	9.99
100-310-695507	Marathon 5k	13,763.37	13,763.37
100-310-695530	City Anniversary Program	193.27	193.27
100-355-611000	Training and Education	493.58	493.58
100-355-635000	Utilities - Water	39,952.65	39,952.65
100-355-646100	Maint & Repairs - Vehicles	25.00	25.00
100-355-720500	Graffiti Removal	8,000.00	8,000.00
100-355-720700	Landscape Maintenance Contract	2,550.94	2,550.94
100-355-720701	Parks Contract Repair	4,499.92	4,499.92
100-356-613100	MOE Vehicle Fuel	459.89	459.89
100-356-630000	MOE Telephone &	22.56	22.56
100-356-631400	MOE Electricity-Streetlights &	11,862.61	11,862.61
100-356-631900	MOE Electricity On-bill Financing	8,655.66	8,655.66
100-356-646100	MOE Maintenance & Repairs	10.00	10.00
100-356-700100	MOE City Engineer Services	5,276.56	5,276.56

Attachment: Payables Detail Report - April 26, 2022 (2830 : Warrant Register, April 26, 2022)

Payables Detail Report

Payment Dates: 04/01/2022 - 04/14/2022

Account Summary

Account Number	Account Name	Expense Amount	Payment Amount
100-356-700101	MOE Traffic Engineer Services	10,875.00	10,875.00
100-356-720420	MOE Traffic Signal Maintenance	8,242.57	8,242.57
100-420-613100	Vehicle-Fuel	52.99	52.99
100-420-622000	Operating Supplies	715.49	715.49
100-420-720800	General Law Enforcement	747,811.65	747,811.65
100-420-720822	Crossing Guard Services	6,823.60	6,823.60
100-420-720835	Fingerprint Identification Svc	1,233.00	1,233.00
100-600-790600	Transfers Out - Capital Imprv	27,500.00	27,500.00
101-000-223000	Plan Application Deposit	1,507.56	1,507.56
101-000-450000	Planning Fees	(1,507.56)	(1,507.56)
101-225-700040	Consultant Services, Project	1,475.00	1,475.00
212-355-720400	Street Maintenance	18,238.45	18,238.45
212-355-720410	Street Sweeping	17,651.20	17,651.20
221-310-720000	Contract Services	172.00	172.00
307-355-700000	Professional Services	17,484.00	17,484.00
600-000-490100	Transfer In- General Fund	(27,500.00)	(27,500.00)
600-255-950518	Automated License Plate Readers	27,500.00	27,500.00
Grand Total:		979,661.18	979,661.18

Project Account Summary

Project Account Key	Expense Amount	Payment Amount
None	979,661.18	979,661.18
Grand Total:	979,661.18	979,661.18

Attachment: Payables Detail Report - April 26, 2022 (2830 : Warrant Register, April 26, 2022)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Deputy City Manager

ISSUE: Proposed Office Lease for Suite 200 with Berger Harrison, APC, for 24031 El Toro Road, Suite 200, Laguna Hills, California

RECOMMENDATION: That the City Council approve an office lease with Berger Harrison, APC, a California professional corporation, for 24031 El Toro Road, Suite 200, Laguna Hills, California, and authorize the City Manager to execute the Lease.

SUMMARY:

Staff has negotiated a sixty-three month lease with Berger Harrison, APC, a California professional corporation, for 24031 El Toro Road, Suite 200. Berger Harrison, APC, operates a general office for a law firm. The following is a summary of the key lease terms and financial analysis:

Commencement Date: June 1, 2022

Term: Sixty-three (63) months

Rentable Square Feet: 1,568

Upfront Capital: \$21,346

Rate: Months 1-12: \$2.25/ sq. ft.
Months 13-24: \$2.32/ sq. ft.
Months 25-36: \$2.39/ sq. ft.

Civic Center Lease with Berger Harrison, APC, for Suite 200

April 26, 2022

Page 2

Months 37-48: \$2.46/sq. ft.

Months 49-63: \$2.53/sq. ft.

Total Rent Payments: \$243,842

Net Present Value: \$124,734 (12% Discount Rate)

Additionally, negotiated terms include a total of two months of rent abatement in Months 12 and 24. The final lease has been included as an attachment and staff is recommending approval.

FISCAL IMPACT:

The lease includes total rent payments of \$243,842 over the term of the lease and has a positive net present value of \$124,734. A total of \$21,346 in upfront capital is required.

ATTACHMENTS:

- Proposed Lease



STANDARD MULTI-TENANT OFFICE LEASE - GROSS

1. Basic Provisions ("Basic Provisions").

1.1 **Parties.** This Lease ("Lease"), dated for reference purposes only April 26, 2022, is made by and between The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California ("Lessor") and Berger Harrison, APC, a California professional corporation ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain Portion of the Project (as defined below), commonly known as (street address, suite, city, state): 24031 El Toro Road, Suite 200 Laguna Hills, CA 92654 ("Premises"). The Premises are located in the County of Orange, and consist of approximately 1,568 rentable square feet and approximately 1,310 useable square feet. In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter specified, but shall not have any rights to the roof, the exterior walls, the area above the dropped ceilings, or the utility raceways of the building containing the Premises ("Building") or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." The Project consists of approximately 51,946 rentable square feet. (See also Paragraph 2)

1.2(b) **Parking:** 4/1000sf unreserved and N/A reserved vehicle parking spaces at a monthly cost of N/A per unreserved space and N/A per reserved space. (See Paragraph 2.6)

1.3 **Term:** 5 years and 3 months ("Original Term") commencing June 1, 2022 ("Commencement Date") and ending August 31, 2027 ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing Lessee shall be granted early possession upon the receipt of a fully executed lease agreement, monies outlined in section 1.7e, and a certificate of liability insurance naming Landlord and it's agent as additionally insured. ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** \$3,528.00 per month ("Base Rent"), payable on the First day of each month commencing June 1, 2022. (See also Paragraph 4)

☒ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 4.4. (See Addendum

Paragraph 1)

1.6 **Lessee's Share of Operating Expense Increase:** three point zero two percent (3.02 %) ("Lessee's Share"). In the event that that size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.

1.7 Base Rent and Other Monies Paid Upon Execution:

- (a) **Base Rent:** \$3,528.00 for the period June 1-30, 2022.
- (b) **Security Deposit:** \$3,970.80 ("Security Deposit"). (See also Paragraph 5)
- (c) **Parking:** N/A for the period N/A.
- (d) **Other:** N/A for N/A.
- (e) **Total Due Upon Execution of this Lease:** \$7,498.80.

1.8 **Agreed Use:** Law Firm, General Office. (See also Paragraph 6)

1.9 **Base Year; Insuring Party.** The Base Year is 2022. Lessor is the "Insuring Party". (See also Paragraphs 4.2 and 8)

1.10 **Real Estate Brokers.** (See also Paragraph 15 and 25)

(a) **Representation:** Each Party acknowledges receiving a Disclosure Regarding Real Estate Agency Relationship, confirms and consents to the following agency relationships in this Lease with the following real estate brokers ("Broker(s)") and/or their agents ("Agent(s)"):

Lessor's Brokerage Firm Essex Realty Management, Inc. License No. 00965485 Is the broker of (check one): ☒ the Lessor; or ☐ both the Lessee and Lessor (dual agent).

Lessor's Agent Angela Draper License No. 01972882 Is (check one): ☒ the Lessor's Agent (salesperson or broker associate); or ☐ both the Lessee's Agent and the Lessor's Agent (dual agent).

Lessee's Brokerage Firm Hughes Marino License No. 01898886 Is the broker of (check one): ☒ the Lessee; or ☐ both the Lessee and Lessor (dual agent).

Lessee's Agent Will Tober License No. 02001182 Is (check one): ☒ the Lessee's Agent (salesperson or broker associate); or ☐ both the Lessee's Agent and the Lessor's Agent (dual agent).

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of _____ or _____ % of the total Base Rent) for the brokerage services rendered by the Brokers.

1.11 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by Benjamin Berger and Michelle Berger, personally in their individual capacity. ("Guarantor"). (See also Paragraph 37)

1.12 **Business Hours for the Building:** 7:00 a.m. to 6:00 p.m., Mondays through Fridays (except Building Holidays) and 8:00 a.m. to 2:00 p.m. on Saturdays (except Building Holidays). "Building Holidays" shall mean the dates of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and N/A.

1.13 **Lessor Supplied Services.** Notwithstanding the provisions of Paragraph 11.1, Lessor is NOT obligated to provide the following within the Premises:

INITIALS

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OFG-21.20, Revised 01-01-2019

INITIALS

Last Edited: 4/21/2022 1:33 PM

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Attachment: Proposed Lease (2834 : Civic Center Lease with Berger Harrison, APC, for Suite 200)

☐ Janitorial services

☐ Electricity

☐ Other (specify): _____

1.14 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

- ☒ an Addendum consisting of Paragraphs 1 through 8 ;
- ☒ a plot plan depicting the Premises; **Exhibit "A"**
- ☒ a current set of the Rules and Regulations; **Exhibit "B"**
- ☒ a Work Letter **/Requirements for Improvements or Alterations by Lessee; Exhibit "D"**
- ☐ a janitorial schedule;
- ☒ other (specify): Exhibit "C" Waiver and Release. Exhibit "E" Personal Guaranty .

2. Premises.

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver the Premises to Lessee in a clean condition on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), and all other items which the Lessor is obligated to construct pursuant to the Work Letter attached hereto, if any, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("Applicable Requirements") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the zoning and other Applicable Requirements are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Premises ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) Lessee has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the

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financial capability and/or suitability of all proposed tenants.

2.5 Lessee as Prior Owner/Occupant. The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date, Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 Vehicle Parking. So long as Lessee is not in default, and subject to the Rules and Regulations attached hereto, and as established by Lessor from time to time, Lessee shall be entitled to rent and use the number of parking spaces specified in Paragraph 1.2(b) at the rental rate applicable from time to time for monthly parking as set by Lessor and/or its licensee.

(a) If Lessee commits, permits or allows any of the prohibited activities described in the Lease or the rules then in effect, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

(b) The monthly rent per parking space specified in Paragraph 1.2(b) is subject to change upon 30 days prior written notice to Lessee. The rent for the parking is payable one month in advance prior to the first day of each calendar month.

2.7 Common Areas - Definition. The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Premises that are provided and designated by the Lessor from time to time for the general nonexclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including, but not limited to, common entrances, lobbies, corridors, stairwells, public restrooms, elevators, parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 Common Areas - Lessee's Rights. Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 Common Areas - Rules and Regulations. Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to adopt, modify, amend and enforce reasonable rules and regulations ("Rules and Regulations") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. The Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the noncompliance with said Rules and Regulations by other tenants of the Project.

2.10 Common Areas - Changes. Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of the lobbies, windows, stairways, air shafts, elevators, escalators, restrooms, driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 Early Possession. Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of the Operating Expense Increase) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 Delay In Possession. Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 Lessee Compliance. Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). **Paragraph 8 of the Lease (See Addendum Paragraph 4)** Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. Rent.

4.1 Rent Defined. All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 Operating Expense Increase. Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share of the amount by which all Operating Expenses for each Comparison Year exceeds the amount of all Operating Expenses for the Base Year, such excess being hereinafter referred to as the "Operating Expense Increase", in accordance with the following provisions:

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(a) "Base Year" is as specified in Paragraph 1.9.

(b) "Comparison Year" is defined as each calendar year during the term of this Lease subsequent to the Base Year; provided, however, Lessee shall have no obligation to pay a share of the Operating Expense Increase applicable to the first 12 months of the Lease Term (other than such as are mandated by a governmental authority, as to which government mandated expenses Lessee shall pay Lessee's Share, notwithstanding they occur during the first twelve (12) months). Lessee's Share of the Operating Expense Increase for the first and last Comparison Years of the Lease Term shall be prorated according to that portion of such Comparison Year as to which Lessee is responsible for a share of such increase.

(c) The following costs relating to the ownership and operation of the Project, calculated as if the Project was at least 95% occupied, are defined as "Operating Expenses":

(i) Costs relating to the operation, repair, and maintenance in neat, clean, safe, good order and condition, but not the replacement (see subparagraph (g)), of the following:

(aa) The Common Areas, including their surfaces, coverings, decorative items, carpets, drapes and window coverings, and including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, stairways, parkways, driveways, landscaped areas, striping, bumpers, irrigation systems, Common Area lighting facilities, building exteriors and roofs, fences and gates;

(bb) All heating, air conditioning, plumbing, electrical systems, life safety equipment, communication systems and other equipment used in common by, or for the benefit of, tenants or occupants of the Project, including elevators and escalators, tenant directories, fire detection systems including sprinkler system maintenance and repair.

(cc) All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.

(ii) The cost of trash disposal, janitorial and security services, pest control services, and the costs of any environmental inspections;

(iii) The cost of any other service to be provided by Lessor that is elsewhere in this Lease stated to be an "Operating Expense";

(iv) The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 and any deductible portion of an insured loss concerning the Building or the Common Areas;

(v) The amount of the Real Property Taxes payable by Lessor pursuant to paragraph 10;

(vi) The cost of water, sewer, gas, electricity, and other publicly mandated services not separately metered;

(vii) Labor, salaries, and applicable fringe benefits and costs, materials, supplies and tools, used in maintaining and/or cleaning the Project and accounting and management fees attributable to the operation of the Project;

(viii) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such Capital Expenditure in any given month;

(ix) The cost to replace equipment or improvements that have a useful life for accounting purposes of 5 years or less.

(x) Reserves set aside for maintenance, repair and/or replacement of Common Area improvements and equipment.

(d) Any item of Operating Expense that is specifically attributable to the Premises, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Premises, Building, or other building. However, any such item that is not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(e) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(c) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(f) Lessee's Share of Operating Expense Increase is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the Operating Expense Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during

such Year exceed Lessee's Share, ~~Lessee~~ **Lessor** shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such Year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of said statement. Lessor and Lessee shall forthwith adjust between them by cash payment any balance determined to exist with respect to that portion of the last Comparison Year for which Lessee is responsible as to Operating Expense Increases, notwithstanding that the Lease term may have terminated before the end of such Comparison Year.

(g) Operating Expenses shall not include the costs of replacement for equipment or capital components such as the roof, foundations, exterior walls or a Common Area capital improvement, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.

(h) Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or by insurance proceeds.

4.3 Payment. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States on or before the day on which it is due, without offset or deduction (except as specifically permitted in this Lease). All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor

the sum of **\$2575** in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. Security Deposit. Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit

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to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall upon written request provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.

6. Use. (See Addendum Paragraph 3)

~~6.1 Use. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements of the Building, will not adversely affect the mechanical, electrical, HVAC, and other systems of the Building, and/or will not affect the exterior appearance of the Building. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.~~

6.2 Hazardous Substances.

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, byproducts or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use such as ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of

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Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 Inspection; Compliance. Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants authorized by Lessor shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, after reasonable notice, for the purpose of inspecting and/or testing the condition of the Premises and/or for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1e) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of written request therefor. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations. Notwithstanding Lessor's obligation to keep the Premises in good condition and repair, Lessee shall be responsible for payment of the cost thereof to Lessor as additional rent for that portion of the cost of any maintenance and repair of the Premises, or any equipment (wherever located) that serves only Lessee or the Premises, to the extent such cost is attributable to abuse or misuse. In addition, Lessee rather than the Lessor shall be responsible for the cost of painting, repairing or replacing wall coverings, and to repair or replace any similar improvements within the Premises. Lessor may, at its option, upon reasonable notice, elect to have Lessee perform any particular such maintenance or repairs the cost of which is otherwise Lessee's responsibility hereunder."

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, fire alarm and/or smoke detection systems, fire hydrants, and the Common Areas.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air lines, vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, and plumbing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof, ceilings, floors or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, do not trigger the requirement for additional modifications and/or improvements to the Premises resulting from Applicable Requirements, such as compliance with Title 24, and the cumulative cost thereof during this Lease as extended does not exceed \$2000. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

In addition to and without limiting the other requirements of this Paragraph 7.3, all utilities, installations, and alterations made by Lessee shall also be subject to the provisions of Exhibit "D" attached to this Lease.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

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7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing and the provisions of Paragraph 7.1(a), if the Lessee occupies the Premises for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity. (See Addendum Paragraph 4)

8.1 **Insurance Premiums.** The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 are included as Operating Expenses (see paragraph 4.2 (c)(iv)). Said costs shall include increases in the premiums resulting from additional coverage related to requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. Said costs shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. If the Project was not insured for the entirety of the Base Year, then the base premium shall be the lowest annual premium reasonably obtainable for the required insurance as of the Start Date, assuming the most nominal use possible of the Building and/or Project. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$2,000,000 procured under Paragraph 8.2(b).

8.2 Liability Insurance.

~~(a) Carried by Lessee. Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured- Managers or Lessors of Premises" Endorsement and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.~~

~~(b) Carried by Lessor. Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.~~

8.3 Property Insurance - Building, Improvements and Rental Value.

~~(a) Building and Improvements. Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Building and/or Project. The amount of such insurance shall be equal to the full insurable replacement cost of the Building and/or Project, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence.~~

~~(b) Rental Value. Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.~~

~~(c) Adjacent Premises. Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.~~

~~(d) Lessee's Improvements. Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.~~

8.4 Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.

~~(a) Property Damage. Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.~~

~~(b) Worker's Compensation Insurance. Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a "Waiver of Subrogation" endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.~~

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~~(c) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.~~

~~(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.~~

~~8.5 **Insurance Policies.** Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 10 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may increase his liability insurance coverage and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.~~

~~8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.~~

8.7 **Indemnity.** Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, a Breach of the Lease by Lessee and/or the use and/or occupancy of the Premises and/or Project by Lessee and/or by Lessee's employees, contractors or invitees. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability.** Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance.** Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Definitions.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in **Paragraph 8 of this Lease (See Addendum Paragraph 4)** ~~Paragraph 8.3(a)~~, irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or

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to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 Partial Damage - Uninsured Loss. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense (subject to reimbursement pursuant to Paragraph 4.2), in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 Total Destruction. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, ~~except as provided in Paragraph 8.6.~~

9.5 Damage Near End of Term. If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 Termination; Advance Payments. Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. Real Property Taxes.

10.1 Definitions. As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address. "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 Payment of Taxes. Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be included in the calculation of Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 Additional Improvements. Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of such other lessees. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.4 Joint Assessment. If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 Personal Property Taxes. Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real

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property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. Utilities and Services.

11.1 Services Provided by Lessor. Lessor shall provide heating, ventilation, air conditioning, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use in connection with an office, and replacement light bulbs and/or fluorescent tubes and ballasts for standard overhead fixtures. Lessor shall also provide janitorial services to the Premises and Common Areas 5 times per week, excluding Building Holidays, or pursuant to the attached janitorial schedule, if any. Lessor shall not, however, be required to provide janitorial services to kitchens or storage areas included within the Premises.

11.2 Services Exclusive to Lessee. Notwithstanding the provisions of paragraph 11.1, Lessee shall pay for all water, gas, light, power, telephone and other utilities and services specially or exclusively supplied and/or metered exclusively to the Premises or to Lessee, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2(vi), if a service is deleted by Paragraph 1.13 and such service is not separately metered to the Premises, Lessee shall pay at Lessor's option, either Lessee's Share or a reasonable proportion to be determined by Lessor of all charges for such jointly metered service.

11.3 Hours of Service. Said services and utilities shall be provided during times set forth in Paragraph 1.12. Utilities and services required at other times shall be subject to advance request and reimbursement by Lessee to Lessor of the cost thereof.

11.4 Excess Usage by Lessee. Lessee shall not make connection to the utilities except by or through existing outlets and shall not install or use machinery or equipment in or about the Premises that uses excess water, lighting or power, or suffer or permit any act that causes extra burden upon the utilities or services, including but not limited to security and trash services, over standard office usage for the Project. Lessor shall require Lessee to reimburse Lessor for any excess expenses or costs that may arise out of a breach of this subparagraph by Lessee. Lessor may, in its sole discretion, install at Lessee's expense supplemental equipment and/or separate metering applicable to Lessee's excess usage or loading.

11.5 Interruptions. There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

11.6 Within fifteen days of Lessor's written request, Lessee agrees to deliver to Lessor such information, documents and/or authorization as Lessor needs in order for Lessor to comply with new or existing Applicable Requirements relating to commercial building energy usage, ratings, and/or the reporting thereof.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease

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unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8 (See Addendum Paragraph 4) is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount

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necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor. (See Addendum Paragraph 5)

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided, however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the rentable floor area of the Premises, or more than 25% of Lessee's Reserved Parking Spaces, if any, are taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

~~15.1 Additional Commission. In addition to the payments owed pursuant to Paragraph 1.10 above, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or~~

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~~operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.~~

~~15.2 Assumption of Obligations. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.~~

15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker, agent or finder (other than the Brokers and Agents, if any) in connection with this Lease, and that no one other than said named Brokers and Agents is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published BY AIR CRE, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "**days**" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Project, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. Notices.

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

23.3 **Options.** Notwithstanding the foregoing, in order to exercise any Options (see paragraph 39), the Notice must be sent by Certified Mail (return receipt requested), Express Mail (signature required), courier (signature required) or some other methodology that provides a receipt establishing the date the notice was

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received by the Lessor.

24. Waivers.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. Disclosures Regarding The Nature of a Real Estate Agency Relationship.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) Lessor's Agent. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) Lessee's Agent. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not, without the express permission of the respective Party, disclose to the other Party confidential information, including, but not limited to, facts relating to either Lessee's or Lessor's financial position, motivations, bargaining position, or other personal information that may impact rent, including Lessor's willingness to accept a rent less than the listing rent or Lessee's willingness to pay rent greater than the rent offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Both Lessor and Lessee should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Holdover Base Rent shall be calculated on a monthly basis. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted

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hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 Attornment. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 Non-Disturbance. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 Self-Executing. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Lessor may not place any sign on the exterior of the Building that covers any of the windows of the Premises. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor.

37.1 Execution. The Guarantors, if any, shall each execute a guaranty in the form most recently published BY AIR CRE, **attached hereto as Exhibit "E"**.

37.2 Default. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted any option, as defined below, then the following provisions shall apply.

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39.1 Definition. "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 Options Personal To Original Lessee. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 Effect of Default on Options.

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties. In the event, however, that Lessor should elect to provide security services, then the cost thereof shall be an Operating Expense.

41. Reservations.

(a) Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessor may also: change the name, address or title of the Building or Project upon at least 90 days prior written notice; provide and install, at Lessee's expense, Building standard graphics on the door of the Premises and such portions of the Common Areas as Lessor shall reasonably deem appropriate; grant to any lessee the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein; and to place such signs, notices or displays as Lessor reasonably deems necessary or advisable upon the roof, exterior of the Building or the Project or on signs in the Common Areas. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights. The obstruction of Lessee's view, air, or light by any structure erected in the vicinity of the Building, whether by Lessor or third parties, shall in no way affect this Lease or impose any liability upon Lessor.

(b) Lessor also reserves the right to move Lessee to other space of comparable size in the Building or Project. Lessor must provide at least 45 days prior written notice of such move, and the new space must contain improvements of comparable quality to those contained within the Premises. Lessor shall pay the reasonable out of pocket costs that Lessee incurs with regard to such relocation, including the expenses of moving and necessary stationary revision costs. In no event, however, shall Lessor be required to pay an amount in excess of two months Base Rent. Lessee may not be relocated more than once during the term of this Lease.

(c) Lessee shall not: (i) use a representation (photographic or otherwise) of the Building or Project or their name(s) in connection with Lessee's business; or (ii) suffer or permit anyone, except in emergency, to go upon the roof of the Building.

42. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. Authority; Multiple Parties; Execution.

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. Offer. Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. Amendments. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY

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OR ARISING OUT OF THIS AGREEMENT.

48. Arbitration of Disputes. An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☒ is not attached to this Lease.

49. Accessibility; Americans with Disabilities Act.

(a) The Premises:

☒ have not undergone an inspection by a Certified Access Specialist (CASp). Note: A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential except as necessary to complete repairs and corrections of violations of construction related accessibility standards.

In the event that the Premises have been issued an inspection report by a CASp the Lessor shall provide a copy of the disability access inspection certificate to Lessee within 7 days of the execution of this Lease.

(b) Since compliance with the Americans with Disabilities Act (ADA) and other state and local accessibility statutes are dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in compliance with ADA or other accessibility statutes, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

50. Tenant Improvement Allowance. Lessor shall provide a Tenant Improvement Allowance of up to ten dollars (\$10) per usable square foot (1,310 usf). Such costs shall be attributable towards Tenant Improvement construction and all related fees and expenses relating generally to plumbing, sink, paint, flooring, window/wall coverings. Lessee shall not be obligated to remove or restore the Tenant Improvements in the Premises upon expiration of the Lease. Tenant improvement allowance will be paid upon receiving permits (if applicable), a paid copy of the invoice, a signed lien release from any vendor who does more than \$2,500 of work and a visual inspection by Lessor's agent. Lessee must use a licensed and insured contractor and must supply Lessor's agent with a copy of all documentation including plans, before improvements commence.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING AND SIZE OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: 24031 El Toro Road, Suite 100, Laguna Hills, CA 92654

On: _____

By LESSOR:

The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California

By: _____

Name Printed: Kenneth H. Rosenfield

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Executed at: _____

On: _____

By LESSEE:

Berger Harrison, APC, a California professional corporation

By: _____

Name Printed: Benjamin Berger

Title: CEO/Director

Phone: _____

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Attachment: Proposed Lease (2834 : Civic Center Lease with Berger Harrison, APC, for Suite 200)

Title: Interim City Manager

Phone: _____

Fax: _____

Email: _____

By: _____

Name Printed: _____

Title: _____

Phone: _____

Fax: _____

Email: _____

Address: _____

Federal ID No.: _____

BROKEREssex Realty Management, Inc.Attn: Angela DraperTitle: Marketing/Leasing AssociateAddress: 17744 Sky Park Circle, Suite 100, Irvine CA 92614Phone: 949-798-8100

Fax: _____

Email: adraper@essexrealty.com

Federal ID No.: _____

Broker/AGENT DRE License #: 00965485

Fax: _____

Email: _____

By: _____

Name Printed: Michelle BergerTitle: CFO/Secretary

Phone: _____

Fax: _____

Email: _____

Address: _____

Federal ID No.: _____

BROKERHughes MarinoAttn: Will ToberTitle: Senior Vice PresidentAddress: 2 Park Plaza, Suite 750, Irvine, CA 92614Phone: 949-333-3111

Fax: _____

Email: will@hughesmarino.com

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OFG-21.20, Revised 01-01-2019

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ADDENDUM TO LEASE

THIS ADDENDUM TO LEASE (this “Addendum”) shall constitute part of that certain STANDARD MULTI-TENANT OFFICE LEASE – GROSS (“Lease”), dated as of April 26, 2022, between **The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California** (“Lessor”), and **Berger Harrison, APC, a California professional corporation** (“Lessee”). The terms of this Addendum shall be incorporated into the Lease for all purposes. In the event of any conflict between the terms of the Lease and the terms of this Addendum, the terms of this Addendum shall control.

1. Base Rent Increase. Paragraph 4.4. is hereby added to the Lease to read as follows:

4.4.1 The monthly Base Rent payable as set forth Paragraph 1.5 and as set forth in Paragraph 1.7 (a) of the Lease shall be adjusted annually on the Commencement Date of the Lease, and on such other dates stated, to the amounts set forth below:

06/01/22-04/30/23	\$3,528.00	\$2.25 PSF
05/01/23-05/31/23	Abated	
06/01/23-04/30/24	\$3,633.84	\$2.32 PSF
05/01/24-05/31/24	Abated	
06/01/24-05/31/25	\$3,742.86	\$2.39 PSF
06/01/25-05/31/26	\$3,855.15	\$2.46 PSF
06/01/26-08/31/27	\$3,970.80	\$2.53 PSF

2. Option to Renew Provided Lessee is not in default of any of the terms or conditions of Lease, Lessee shall have one (1) five (5) year Renewal Option at the then Fair Market Rent by providing at least six (6) months prior written notice before the effective date of each Renewal Option Term.

3. Use. Paragraph 6.1 of the Lease is hereby deleted in its entirety and replaced by the following:

“6.1. Use. The Premises shall be used only for the Agreed Use and for no other use. Lessee’s use of the Premises shall be in compliance with and subject to all Applicable Requirements relating to or affecting the Project, the Premises or the Building or the use or operation thereof, whether now existing or hereafter enacted, including, without limitation, the Americans with Disabilities Act of 1990, 42 USC 12111 et seq. (the “ADA”) as the same may be amended from time to time, any and all federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of courts, ordinances, rules, codes, orders, decrees, directives, guidelines, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future which are or become applicable to Lessee, the Premises, the Building, or the Project (“Environmental Laws”), any transportation or traffic management plan in satisfaction of any requirement imposed on the Project by a governmental agency with jurisdiction over the Project, and any CC&Rs or any supplement thereto recorded in any official or public records with respect to the Project or any portion thereof (collectively, “Applicable Laws”). Lessee shall be responsible for obtaining any permit, business license, or other permits or licenses required by any governmental agency permitting Lessee’s use or occupancy of the Premises. Lessee shall not commit waste, overload the floors or structure of the Building, subject the Premises, the Building, the Common Area or the Project to any use which would damage the same or increase the risk of loss or violate any insurance coverage, permit any unreasonable odors, smoke, dust, gas, substances, noise or vibrations to emanate from the Premises, take any action which would constitute a nuisance or would disturb, obstruct or endanger any other tenants, take any action which would abrogate any warranties, or use or allow the

Premises to be used for any unlawful purpose. Lessor shall not be responsible for non-compliance by any other tenant or occupant of the Project with, or Lessor's failure to enforce, any of the rules or regulations or CC&Rs or any other terms or provisions of such tenant's or occupant's lease. Lessee shall promptly comply with the reasonable requirements of any board of fire insurance underwriters or other similar body now or hereafter constituted. Lessee shall not do any act which shall in any way encumber the title of Lessor in and to the Premises, the Building or the Project.

4. Insurance; Indemnity. Paragraph 8.1 through 8.6 of the Lease are hereby deleted in their entirety and replaced by the following:

"8.1 Lessor's Insurance. Lessor shall maintain insurance through individual or blanket policies insuring the Building against fire and extended coverage (including, if Lessor elects, "all risk" coverage, earthquake/volcanic action, flood and/or surface water insurance) for the full replacement cost of the Building, with deductibles and the form and endorsements of such coverage as selected by Lessor, together with rental abatement insurance against loss of Rent in an amount equal to the amount of Rent for a period of at least twelve (12) months commencing on the date of loss. Lessor may also carry such other insurance as Lessor may deem prudent or advisable, including, without limitation, liability insurance in such amounts and on such terms as Lessor shall determine. Lessee shall pay to Lessor, as a portion of the Operating Expenses, the costs of the insurance coverages described herein, including, without limitation, Lessor's cost of any self-insurance deductible or retention.

8.2 Lessee's Compliance with Insurance Requirements. Lessee shall obtain, maintain, and keep in full force and effect during the term of this Lease, at its sole cost and expense, and in a form and content satisfactory to Lessor, all insurance required under this Paragraph 8 against claims for injuries to persons or damages to property which may arise from or in connection with Lessee's operation and use of the Premises and the activities of the Lessee, its guests, agents, representatives, employees, or subcontractors. Lessee shall not take possession of the Premises unless and until it has provided evidence satisfactory to Lessor that it has secured all insurance required by this Paragraph 8.

8.3 Types of Insurance Required of Lessee. Without limiting the indemnity provisions set forth in this Lease, Lessee shall obtain and maintain in full force and effect during the term of this Lease, including any extension thereof, the following policies of insurance:

(a) Commercial General Liability Insurance. A policy of Commercial General Liability insurance written on an occurrence basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits of at least Two Million Dollars (\$2,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Premises/location, or the general aggregate limit shall be twice the required occurrence limit. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for: (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to this Lease.

(b) Automobile Liability Insurance. A policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least One Million Dollars (\$1,000,000) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles.

(c) Workers' Compensation and Employer's Liability Insurance. A policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Lessee agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers'

compensation insurance policy against Lessor, its officials, officers, employees, agents and volunteers. Lessee shall obtain and maintain, in full force and effect throughout the term of this Lease, a policy of Employer's Liability Insurance written on a per occurrence basis with limits of at least One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

(d) Property Insurance. A policy of Property Insurance against all risk of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

(e) Equipment Breakdown/ Boiler & Machinery Insurance. A policy of Equipment Breakdown / Boiler & Machinery Insurance with limits of not less than actual replacement costs for all property and improvements, encompassing explosion and breakdown. Lessee shall obtain and deliver to Lessor, along with copies of all policies of insurance required herein, a joint loss endorsement for the Property Insurance and Equipment Breakdown /Boiler & Machinery Insurance policies. Lessor is to be included as an additional insured on the Equipment Breakdown /Boiler & Machinery Insurance coverage.

(f) Business Interruption. Loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all peril commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

8.4 General.

(a) Acceptability of Insurers. Insurance required by this Paragraph 8 shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A-:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Line Insurers (LASLI), by the latest edition of A.M. Best's Key Rating Guide, except that Lessor will accept workers' compensation insurance from the State Compensation Fund. In the event Lessor determines that Lessee's use of the Premises creates an increased or decreased risk of loss to Lessor, Lessee agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from Lessor. Lessee shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

(b) Insurance Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to Lessor for written approval. Required insurance policies shall contain the following provisions, or Lessee shall provide endorsements on forms approved by Lessor to add the following provisions to the insurance policies:

(i) Additional Insured. Lessee's policy or policies of Commercial General Liability Insurance and Automobile Liability Insurance shall be endorsed to include Lessor, its officials, officers, employees, agents and volunteers, Lessor's lender, and any property management company of Lessor for the Premises. The additional insured endorsement shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Lessee, or (4) contain any other exclusions contrary to this Lease; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

(ii) Notice. Each insurance policy required by this Paragraph 8, except for workers' compensation and employer's liability insurance, shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to Lessor.

Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Lessee's failure to pay the insurance premium, the notice provided to Lessor shall be by ten (10) days prior written notice.

(iii) Primary and Non-Contributing Insurance. All policies of insurance maintained by Lessee pursuant to this Paragraph 8, except for workers' compensation and employer's liability insurance, shall be primary and any other insurance, deductible, or self-insurance maintained by Lessor, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

(iv) Waiver of Subrogation. All policies of insurance maintained by Lessee pursuant to this Paragraph 8 shall contain or be endorsed to waive subrogation against Lessor, its officials, officers, employees, agents and volunteers, or shall specifically allow Lessee to waive its right to recovery prior to a loss. Lessee hereby agrees to waive its own right of recovery against Lessor, its officials, officers, employees, agents and volunteers.

(c) Evidence of Coverage. Concurrently with the execution of this Lease, Lessee shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this Paragraph 8. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to Lessor for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with Lessor. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Lessee shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with Lessor evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. Lessee shall promptly furnish, at Lessor's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents Lessor requires to verify coverage.

(d) Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this Lease are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing contained herein shall be construed as limiting in any way the indemnification provision contained in this Lease, or the extent to which Lessee may be held responsible for payments of damages to persons or property.

(e) Enforcement of Agreement (Non-Estoppel). Lessee acknowledges and agrees that actual or alleged failure on the part of the Lessor to inform Lessee of any non-compliance with any of the insurance requirements set forth herein imposes no additional obligation on the Lessor nor does it waive any rights hereunder.

(f) Notification of Incidents. Lessee shall notify Lessor within twenty-four (24) hours after the occurrence of any accidents or incidents in the Premises, the Building, Common Areas or the Project which could give rise to a claim under any of the insurance policies required under this Paragraph 8.

8.5 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Lessee pursuant to this Paragraph 8:

(a) Lessee shall provide immediate written notice to Lessor if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

(b) All insurance coverage and limits provided by Lessee and available or applicable to this Lease are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Lease or any other agreement relating to Lessor or its operations shall limit the application of such insurance coverage.

(c) None of the insurance coverages required herein will be in compliance with the requirements of this Paragraph 8 if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to Lessor and approved in writing.

(d) Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay Lessee's occupancy of the Premises. It is Lessee's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

(e) Lessee agrees to ensure that its subconsultants and subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by Lessee, provide the same minimum insurance coverage required of Lessee. Lessee agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Paragraph 8. Lessee agrees that upon request, all agreements with subconsultants, subcontractors and others engaged in the Project will be submitted to Lessor for review."

5. Breach by Lessor; Performance by Lessee on Behalf of Lessor. Paragraph 13.6(c) is hereby added to the Lease to read as follows:

"13.6(c). Lessee's Remedies. Lessee and all successors and assigns covenant and agree that, in the event of any actual or alleged default by Lessor, Lessee's sole and exclusive remedy shall be either to seek either specific performance or monetary damages, provided that Lessor shall not be liable for loss of business profits or consequential damages, and provided further, that any recourse for monetary damages by Lessee against Lessor shall be limited solely and exclusively to an amount which is equal to the amounts paid by Lessee to Lessor under the Lease (and Lessee hereby expressly waives and releases personal liability of Lessor in excess of such amount on behalf of itself and all persons claiming by through, or under the lease) Further, in no event shall the obligations of Lessor under the Lease constitute the personal obligations of Lessor or its elected or appointed officers and officials, employees, agents, and volunteers, and Lessee shall have no right to seek recourse against Lessor's elected or appointed officers and officials, employees, agents, and volunteers, or any of their personal assets for the satisfaction of any liability of Lessor with respect to the Lease. Lessee expressly waives all remedies except those specifically set forth in the Lease, including, without limitation, any right of offset or abatement except as specifically set forth in the Lease, any right to terminate the Lease under Civil Code Sections 1932(2), 1933(4) and 1941 or any other successor statute, or any statutory, legal or equitable self-help remedy including, without limitation, Civil Code Section 1942 or any other current or future law. Nothing contained in the Lease shall entitle Lessee to terminate the Lease as a result of Lessor's default nor excuse Lessee from paying Rent or Additional Rent due hereunder."

6. Estoppel Certificates. All references in the Lease to "Estoppel Certificate", including, but not limited to the definition in Paragraph 16(a), shall refer to Lessor's standard form certificate.

7. Recordation. Lessee shall not have any right to cause the Lease or any short form or memorandum thereof to be recorded.

8. HVAC Operating Hours. Standard operating hours included within the Base Year Operating Expenses shall be weekdays from 7:00 a.m. to 6:00 p.m. and Saturdays from 8:00 a.m. to 1:00 p.m., excluding Sundays and normally recognized national holidays. Thereafter, Lessee shall pay for such additional use beyond the aforementioned hours at a rate equal to Lessor's actual operating costs and depreciation.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of the Lease.

"Lessor"

THE CITY OF LAGUNA HILLS

By: _____
Name Printed: Kenneth H. Rosenfield
Its: **Interim City Manager**

By: _____
Name Printed: **Melissa Au-Yeung**
Its: **City Clerk**

"Lessee"

Berger Harrison, APC, a California professional corporation

By: _____
Name Printed: Benjamin Berger
Title: CEO/Director

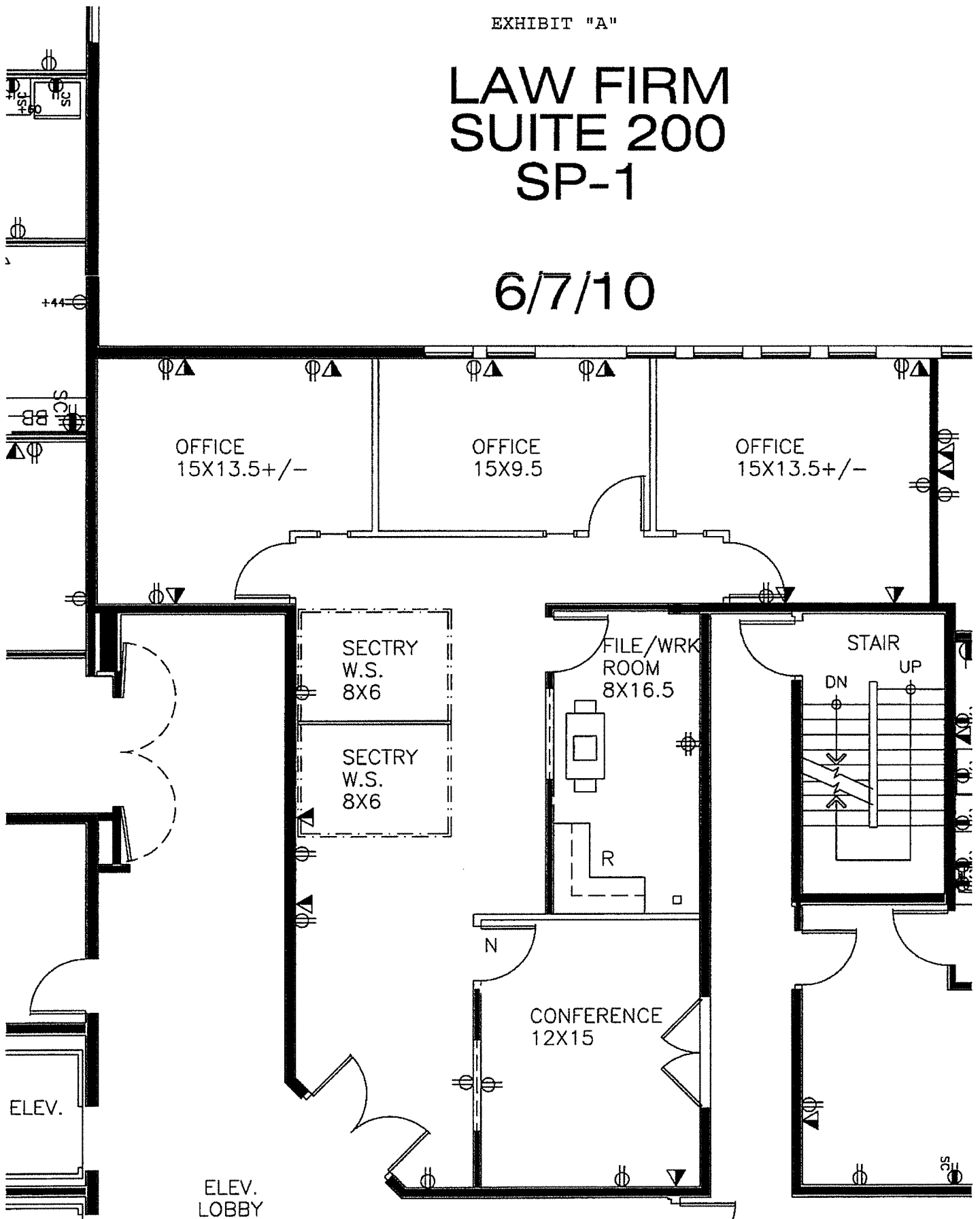
By: _____
Name Printed: Michelle Berger
Title: CFO/Secretary

Attachment: Proposed Lease (2834 : Civic Center Lease with Berger Harrison, APC, for Suite 200)

EXHIBIT "A"

LAW FIRM SUITE 200 SP-1

6/7/10



Attachment: Proposed Lease (2834 : Civic Center Lease with Berger Harrison, APC, for Suite 200)

EXHIBIT B

RULES AND REGULATIONS

ATTACHED TO AND MADE A PART OF STANDARD OFFICE LEASE

The following Rules and Regulations shall be in effect at the Office Building Project. Lessor reserves the right to adopt reasonable modifications and additions hereto. In the case of any conflict between these Rules and Regulations and the Lease, the Lease shall be controlling.

1. Except with the prior written consent of Lessor, no Lessee shall conduct any retail sales or any manufacturing of any kind in or from the Premises, or any business other than that specifically provided for in the Lease.

2. Lessor reserves the right to prohibit personal goods and services vendors from access to the Office Building Project except upon such reasonable terms and conditions, including but not limited to the payment of a reasonable fee and provision for insurance coverage, as are related to the safety, care and cleanliness of the Office Building Project, the preservation of good order thereon, and the relief of any financial or other burden on Lessor occasioned by the presence of such vendors or the sale by them of personal goods or services to the Lessee or its employees. If reasonably necessary for the accomplishment of these purposes, Lessor may exclude a particular vendor entirely or limit the number of vendors who may be present at any one time in the Office Building Project. The term “personal goods or services vendors” means persons who periodically enter the Office Building Project of which the Premises are a part for the purpose of selling goods or services to a Lessee, other than goods or services, which are used by a lessee only for the purpose of conducting its business on the Premises. “Personal goods or services” include, but are not limited to, drinking water and other beverages, food, barbering services, and shoe shining services. This Section 2 shall not apply to Lessee’s vendors and suppliers in connection with Lessee’s operation of its business.

3. The sidewalks, halls, passages, elevators and stairways shall not be obstructed by any Lessee or used by it for any purpose other than for ingress to and egress from their respective Premises. The halls, passages, entrances, elevators, stairways, balconies and roof are not for the use of the general public, and Lessor shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Lessor shall be prejudicial to the safety, character, reputation and interests of the Office Building Project and its lessees, provided that nothing herein contained shall be construed to prevent such access to persons with whom Lessee normally deals only for the purpose of conducting its business on the Premises (such as clients, customers, office suppliers and equipment vendors, and the like) unless such persons are engaged in illegal activities. No Lessee and no employees of any Lessee shall go upon the roof of the Building without the written consent of Lessor. This Section 3 shall not apply to Lessee’s vendor’s suppliers in connection with Lessee’s operation of its business.

4. The sashes, sash doors, windows, glass lights, and any lights or skylights that reflect or admit light into the halls or other places of the Building shall not be covered or obstructed. The toilet rooms, water and wash closets and other water apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein, and the expense of any breakage, stoppage or damage, resulting from the violation of this rule shall be borne by the Lessee who, or whose clerks, agents, employees, or visitors, shall have caused it.

5. No sign, advertisement or notice visible from the exterior of the Premises or Building shall be inscribed, painted or affixed by Lessee on any part of the Office Building Project or the Premises without the prior written consent of Lessor. If Lessor shall have given such consent at any time, whether before or after the execution of this Lease, such consent shall in no way operate as a waiver or release of any of the provisions hereof or of this Lease, and shall be deemed to relate only to the particular sign, advertisement or notice so consented to by Lessor and shall not be construed as dispensing with the necessity of obtaining the specific written consent of Lessor with respect to each and every such sign, advertisement or notice, as the case may be, so consented to by Lessor. Lessor shall have the right to remove any non-approved sign, advertisement or notice, without notice to and at the expense of Lessee, and Lessor shall not be liable in damages for such removal.

6. In order to maintain the outward professional appearance of the Office Building Project all window coverings to be installed at the Premises shall be subject to Lessor's prior approval. If Lessor, by a notice in writing to Lessee, shall object to any curtain, blind, shade or screen attached to or hung in, or used in connection with, any window door of the Premises, such use of such curtain, blind, shade or screen shall be forthwith discontinued by Lessee. No awnings shall be permitted on any part of the Premises.

7. Lessee shall not lay linoleum, tile, carpet or other similar floor covering so that the same shall be affixed to the floor of the Premises in any manner except as approved by Lessor.

8. Lessee shall not do or permit anything to be done in the Premises, or bring or keep anything therein, which shall in any way increase the rate of fire insurance on the Office Building Project, or on the property kept therein, or obstruct or interfere with the rights of other Lessees, or in any way injure or annoy them, or conflict with the regulations of the Fire Department or the fire laws, or with any insurance policy upon the Office Building Project, or any part thereof, or with any rules and ordinances established by the Board of Health or other governmental authority.

9. No Lessee shall sweep or throw or permit to be swept or thrown from the

Premises any dirt or other substance into any of the corridors or halls or elevators, or out of the doors or windows or stairways of the Building. Lessee shall not use, keep or permit to be used any foul or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Lessor or other occupants of the Office Building Project by reason of noise, odors, fire hazards and/or vibrations, or interfere in any way with other Lessees or those having business therein, nor shall any animals or birds be kept in or about the Office Building Project.

10. Lessee and its employees, agents and invitees shall not smoke any tobacco products or any other smoking materials whatsoever in the Premises, Building, common areas or any other area of the Project except in such areas, if any, as shall be designated by Lessor for smoking, in Lessor's sole and absolute discretion.

11. No cooking shall be done or permitted by Lessee on the Premises, except for the use of a microwave oven for food or Underwriter's Laboratory approved equipment for brewing coffee, tea, and similar beverages shall be permitted, provided that such use is in compliance with law. Offices in the Office Building Project shall not be used for the storage of merchandise or for sleeping or lodging.

12. Lessee, upon the termination of its tenancy, shall deliver to Lessor all the keys of offices, rooms and toilet rooms which shall have been furnished Lessee or which Lessee shall have had made, and in the event of loss of any keys so furnished, shall pay Lessor therefore.

13. On Saturdays after 6:00pm., Sundays and legal holidays, and on other days between the hours of 9:00 p.m. and 7:00 a.m., access to the Office Building Project or to the halls, corridors, elevators or stairways in the Building, or to the Premises may be refused unless the person seeking access is known to the building watchman, if any, in charge and has a pass or is properly identified. Lessor shall in no case be liable for damages for the admission to or exclusion from the Office Building Project of any person whom Lessor has the right to exclude under Rule 3 above. In case of invasion, mob, riot, public excitement, or other commotion, Lessor reserves the right but shall not be obligated to prevent access to the Office Building Project during the continuance of the same by closing the doors or otherwise, for the safety of the tenants and protection of property in the Office Building Project.

14. Lessee shall see that the windows and doors of the Premises are closed and securely locked before leaving the building and Lessee shall exercise extraordinary care and caution that all water faucets or water apparatus are entirely shut off before Lessee or Lessee's employees leave the Building, and that all electricity, gas or air shall likewise be carefully shut off, so as to prevent waste or damage, and for any default or carelessness Lessee shall make good all injuries sustained by other Lessees or occupants of the Building or Lessor.

15. Lessee shall not alter any lock or install a new or additional lock or any bolt

on any door of the Premises without prior written consent of Lessor. If Lessor shall give its consent, Lessee shall in each case furnish Lessor with a key for any such lock.

16. Lessee shall not install equipment such as, but not limited to, electronic tabulating or computer equipment requiring electrical or air conditioning service in excess of those to be provided by Lessor under the Lease and any such equipment shall be placed in the Premises in settings approved by Lessor to adsorb or prevent any vibration, noise or annoyance.

17. No bicycle, or shopping cart, or other vehicle or any animal shall be brought into the Premises or the halls, corridors, elevators or any part of the Building by Lessee.

18. Lessor shall have the right to prohibit the use of the name of the Office Building Project or any other publicity by Lessee which in Landlord's opinion tends to impair the reputation of the Office Building Project, or their desirability for other Lessees, and upon written notice from Lessor, Lessee will refrain from or discontinue such publicity.

19. Lessee shall not erect any aerial or antenna on the roof or exterior walls of the Premises, the Building, or the Office Building Project.

20. Lessee shall not overload the floor of the Premises. In addition, Lessee shall not mark, drive nails, screw or drill into partitions, ceilings or floor of the Premises or deface the Premises.

21. No furniture, freight or equipment of any kind shall be brought into the Building or the Building's elevator without the consent of Lessor and all moving of the same into or out of the Building shall be done at such time and in such manner, as Lessor shall designate. Lessor shall have the right to prescribe the weight, size and position of all safes and other heavy equipment brought into the Building and also the times and manner of moving the same in and out of the Office Building Project. Safes or other heavy objects shall, if considered necessary by Lessor, stand on wood strips of such thickness as is necessary to properly distribute the weight. However, Lessor's consent to placement of Lessee's safes, heavy equipment or furniture shall not constitute a representation or warranty by Lessor that the safe, heavy equipment or furniture complies, with regard to distribution of weight and/or vibration, with the provisions of the Rule 21 nor relieve Lessee from responsibility for the consequences of noncompliance. Lessor will not be responsible for loss of or damage to any safe or property from any cause and all damage done to the Building by moving or maintaining any such safe or property from any cause and all damage done to the Building by moving or maintaining any such safe or other property shall be repaired at the expense of Lessee. There shall not be used in any space, or in the public halls of the Building, either by any Lessee or others, any hand trucks except those equipped with rubber tires and side guards.

22. Except with the written consent of Lessor, no person or persons other than those approved by Lessor shall be permitted to enter the Building for their purpose of cleaning the same. Lessee shall not cause any unnecessary labor by reason of Lessee's carelessness or indifference in the preservation of good order and cleanliness. Lessor shall in no way be responsible to any Lessee for any loss of property on the Premises, however occurring, or for any damage done to the effects of any lessee by the janitor or any other employee or any other person. Janitor service shall include ordinary dusting and cleaning by the janitor assigned to such work and shall not include cleaning of carpets or rugs, except normal vacuuming, or moving of furniture and other special services. Janitor service may not be furnished on nights when rooms are occupied after 9:00p.m.

23. Lessor will direct electricians as to where and how telephone and telegraph wires are to be introduced. No boring or cutting for wires will be allowed without the consent of Lessor. The location of telephones, call boxes and other office equipment affixed to the Premises shall be subject to the approval of Lessor.

24. No furniture, packages, supplies, equipment or merchandise will be received in the Building or carried up or down in the elevators, except between such hours and in such elevators as shall be designated by Lessor.

25. Lessor reserves the right to exclude or expel from the Office Building Project any person who in the judgment of Lessor, is intoxicated or under the influence of liquor or illegal, non-prescription drugs, or who shall in any manner do any act in violation of any of the Rules and Regulations of the Office Building Project.

26. The requirements of Lessee will be attended to only upon application to Lessor. Contractors, vendors and employees of Lessor shall not perform any work or do anything outside of their regular duties unless under special instructions from the Lessor or Lessor's agent.

27. No vending machine shall be installed, maintained or operated upon the Premises without the written consent of the Lessor.

28. Lessor shall have the right, exercisable without notice and without liability to Lessee, to change the name and the street address of the Building and/or Office Building Project of which the Premises are a part.

29. Lessee agrees that it shall comply with all fire and security regulations that may be issued from time-to-time by Lessor and Lessee also shall provide Lessor with the name of a designated responsible employee to represent Lessee in all matters pertaining to such fire or security regulations.

30. Lessor reserves the right by written notice to Lessee, to rescind, alter or

waive any rule or regulation at any time prescribed for the Office Building Project when, in Lessor's judgment, it is necessary, desirable or proper for the best interest of the Office Building Project and its lessees.

31. Lessees shall not disturb, solicit, or canvas any occupant of the Office Building Project and shall cooperate to prevent same.

32. Lessor shall furnish heating and air conditioning during the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 p.m. on Saturday except for holidays. In the event Lessee requires heating and air conditioning during off hours, Sundays or Holidays, Lessor shall on notice provide such services at the then prevailing rate for such extra services.

33. Lessee shall cooperate with Lessor in obtaining maximum effectiveness of the cooling system by closing blinds when the sun's rays fall directly on windows of the premises. Lessee shall not obstruct, alter, or in any way impair the efficient operation of Lessor's heating, ventilating and air-conditioning system. Lessee shall not tamper with or change the setting of any thermostats or control valves.

34. Parking

- (a) The parking lot shall be accessible twenty-four (24) hours per day, subject to parking card or other reasonable Identification or security restriction as may be reasonably established by Lessor from time-to-time. Lessee agrees to cooperate with Lessor in completing regular maintenance of the parking lot.
- (b) Automobiles must be parked entirely within the stall lines.
- (c) All directional signs and arrows must be observed and the speed limit shall be 5 miles per hour.
- (d) Parking is prohibited in areas not striped for parking.
- (e) Lessor may refuse to permit any person who violates the within rules to park in the parking lot, and any violation of the rules shall subject the automobile to removal from the parking lot at the parker's expense.
- (f) Every parker is required to park and lock his or her own automobile. All responsibility for any loss or damage to automobile or any personal property therein is assumed by the parker.

- (g) The parking lot is for the sole purpose of parking one automobile per space. Washing, waxing, cleaning or servicing of any vehicles by the parker or his agents is prohibited.
- (h) Storage of vehicles in the parking facilities is prohibited. Lessee and Lessee's employees and visitors shall not leave vehicles in the parking lot overnight.
- (I) Lessor reserves the right to restrict customer, Lessee and Lessee's employees parking to a limited designated area or areas.

35. Lessee agrees to comply and acquaint its employees with such reasonable rules and regulations in the use of such Common areas as Lessor may adopt from time to time for the orderly and proper operation of said Common Areas.

Lessor reserves the right to make such other and further rules and regulations as in its judgment may be for the safety, care and cleanliness of the Office Building Project and for the preservation of good order therein. Lessee agrees to abide by these Rules and Regulations herein above stated and any additional rules and regulations, which are adopted hereafter.

Date: _____

Date: _____

Lessor's Initials: _____

Lessee's Initials: _____

EXHIBIT "C"**Waiver and Release.**

It is the express and understood intent, purpose, desire, and agreement of the parties in the event of termination for cause or expiration of the Lease term, that Lessee, on behalf of itself, its officers, heirs, agents, shareholders, employees, subcontractors, executors, successors and assigns, shall and does hereby release and discharge Lessor, and its respective elected and appointed officials, officers, directors, employees, attorneys, accountants, consultants, other professionals, and agents, from and against the following: any claims, penalties, actions or causes of action, obligations, and demands of any kind including but not limited to, any claims arising under the California Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the California Code of Civil Procedure), the Relocation Statutes and Regulations set forth in Chapter 16 (commencing with Section 7260) of Division 7 of the California Government Code and Subchapter 1 (commencing with Section 6000) Division 3 of Title 25 of the California Code of regulations, and claims for a "taking" or inverse condemnation arising under the United States or California Constitutions or under any federal, state, or local law, statute, ordinance, regulation, rule, official policy, court order, or common law (collectively, the "Released Claims").

The parties further acknowledge that the Released Claims include any claims for loss of business goodwill pursuant to Code of Civil Procedure §1263.510 et seq., for precondemnation damages and severance damages.

Date: _____

Date: _____

Lessor's Initials: _____ Lessee's Initials: _____

EXHIBIT "D"

WORK LETTER/REQUIREMENTS FOR IMPROVEMENTS OR ALTERATIONS BY LESSEE

If Lessor shall permit Lessee to construct any interior improvements (subsequent to the initial improvements to be constructed by Lessor, if any) in the Premises or to have any work performed in the Premises at any time prior to or during the Lease term by a contractor retained by Lessee ("Lessee's Work"), then Lessee shall comply with the requirements set forth herein. If Lessee's Work has been properly authorized, Lessee will receive written approval and consent for alterations to the Premises. All alterations to the Premises, excepting movable furniture and trade fixtures, shall, at Lessor's option, become a part of the realty and belong to Lessor.

1. **SUBMITTAL OF PLANS.** Prior to commencing any work in the Premises, Lessee shall submit to Lessor for approval its proposed plans for the work. Without limiting the foregoing, Lessee shall provide:

(a) A separate scale drawing denoting all proposed construction and/or demolition, if necessary.

(b) A separate drawing for each trade proposing structural, electrical, mechanical, civil or landscaping modifications.

(c) Specify all dimensions and complete references to all work to be performed in the affected areas.

(d) If adding extra electrical or mechanical equipment, provide complete operating and maintenance specifications for each item.

2. **CHECKLIST.** With respect to each project, Lessor will provide Lessee with a checklist listing the items required to be furnished to Lessor in connection with the proposed work. Lessee shall furnish to Lessor prior to, during, or upon completion of Lessee's Work, as applicable, each of the items specified in the checklist attached hereto as Attachment 1.

3. **CONTRACTORS PROVIDING INTERIOR IMPROVEMENT SERVICES.**

(a) The contractor employed by Lessee and any subcontractors shall be (i) duly licensed in the state in which the Premises are located, and (ii) subject to Lessor's prior written approval, which approval shall not be unreasonably withheld. If more than one trade is employed on a single job, state law requires the services of a general contractor in addition to contractors for specialty work being performed.

(b) Each contractor shall provide proof of licensing as a general or specialty contractor in accordance with state law. Additionally, each contractor shall furnish proof of licensing in the city or municipality in which the construction related activity is to take place.

(c) Lessee shall use Lessor's subcontractor for mechanical, electrical, plumbing, roofing and roofing consultant if available at competitive rates.

(d) Lessee and Lessee's contractors shall comply with all Applicable Laws pertaining to the performance of Lessee's Work and the completed improvements and all applicable safety regulations established by Lessor or the general contractor.

(e) Prior to commencement of any work in the Premises, Lessee and Lessee's contractors (and any subcontractors) shall obtain and provide Lessor with certificates evidencing Workers' Compensation, public liability and property damage insurance in amounts and forms and with companies

satisfactory to Lessor. Each general contractor (and any subcontractor) employed on the Premises shall provide Lessor with a current certificate of insurance in effect for that contractor with a thirty day notice of cancellation or revocation clause. Insurance requirements are as follows:

- (i) Comprehensive General Liability with a \$1,000,000 Combined Single Limit covering the liability of Lessor and contractor for bodily injury and property damage arising as a result of the construction of the improvements and the services performed thereunder. Lessor and any Management Company shall be named as an additional insured.
- (ii) Comprehensive Automobile Liability with a \$1,000,000 Combined Single Limit covering Lessor and vehicles used by contractor (and any subcontractor) in connection with the construction of the improvements.
- (iii) Workers' Compensation and Employer's Liability as required by law, for employees of the contractor (and any subcontractors) performing work on the Premises.

(f) The following requirements shall be incorporated as "Special Conditions" into the contract between Lessee and its contractors and a copy of the contract shall be furnished to Lessor prior to the commencement of Lessee's Work:

- (i) Prior to start of Lessee's Work, Lessee's contractor shall provide Lessor with a construction schedule in "bar graph" form indicating the completion dates of all phases of Lessee's Work.
- (ii) Lessee's contractor shall be responsible for the repair, replacement or clean-up of any damage done by it to other contractors' work which specifically includes accessways to the Premises which may be concurrently used by others.
- (iii) Lessee's contractor shall accept the Premises prior to starting any trenching operations. Any rework of sub-base or compaction required after the contractor's initial acceptance of the Premises shall be done by Lessee's contractor, which shall include the removal from the Project of any excess dirt or debris.
- (iv) Lessee's contractor shall contain its storage of materials and its operations within the Premises and such other space as it may be assigned by Lessor or Lessor's contractor. Should Lessee's contractor be assigned space outside the Premises, it shall move to such other space as Lessor or Lessor's contractor shall direct from time to time to avoid interference or delays with other work.
- (v) Lessee's contractor shall clean up the construction area and surrounding exterior areas daily. All trash, demolition materials and surplus construction materials shall be stored within the Premises and promptly removed from the Premises and the Project and disposed of in an approved sanitation site.
- (vi) Lessee's contractor shall provide temporary utilities, portable toilet facilities, and potable drinking water as required for its work within the Premises and shall pay to Lessor's contractor the cost of any temporary utilities and facilities provided by Lessor's contractor at Lessee's

contractor's request.

- (vii) Lessee's contractor shall notify Lessor or Lessor's project manager of any planned work to be done on weekends or other than normal job hours.
- (viii) Lessee's contractor or subcontractors shall not post signs on any part of the Project or on the Premises.

4. COSTS.

(a) Lessee shall promptly pay any and all costs and expenses in connection with or arising out of the performance of Lessee's Work (including the costs of permits thereof) and shall furnish to Lessor evidence of such payment upon request.

(b) Except in the case of carpet replacement or repainting, Lessee shall pay Lessor an amount equal to five percent (5%) of the total hard costs of construction and installation of Lessee's Work as compensation to Lessor for review of plans, use of facilities and other miscellaneous costs of Lessor incurred as a result of such work.

5. CONTRACTOR'S BONDS. At Lessor's sole discretion, Lessor may require Lessee to obtain performance and completion bonds to insure Interior Work

6. MECHANIC'S LIENS.

(a) Lessee shall not suffer or permit to be enforced against the Premises or any part of the Project any mechanic's, materialman's, contractor's or subcontractor's lien arising out of any work of improvement, however it may arise.

(b) Lessee shall notify Lessor at least ten (10) days prior to the commencement of construction of any Lessee's Work and Lessor shall have the right to post and record a notice of no responsibility in conformity with applicable law. Within ten (10) days following completion of Lessee's Work, Lessee shall file a Notice of Completion and deliver to Lessor an unconditional release and waiver of lien executed by each contractor, subcontractor and materialman involved in Lessee's Work.

(c) In the event any lien is filed against the Project or any portion thereof or against Lessee's leasehold interest therein as a result of Lessee's work, Lessee shall obtain the release and/or discharge of said lien, within ten (10) days after the filing thereof. In the event Lessee fails to do so, Lessor may obtain the release and/or discharge of said lien and Lessee shall indemnify Lessor for the costs thereof, including reasonable attorney's fees, together with interest at the Applicable Interest Rate from the date of demand. Nothing herein shall prohibit Lessee from contesting the validity of any such asserted claim, provided Lessee has furnished to Lessor a lien release bond freeing the Premises from the effect of the lien claim.

7. INDEMNITY. Lessee shall indemnify, defend (with counsel satisfactory to Lessor) and hold Lessor harmless from and against any and all suits, claims, actions, loss, cost or expense (including claims for workers' compensation, attorney's fees and costs) based on personal injury or property damage, or otherwise (including, without limitation, contract and breach of warranty claims) arising from the performance of Lessee's Work. Lessee shall repair or replace (or, at Lessor's election, reimburse Lessor for the cost of repairing or replacing) any portion of the Building or item of Lessor's equipment or any of Lessor's real or personal property damaged, lost or destroyed in the performance of Lessee's Work.

8. BUILDING STANDARDS. All work shall conform to Lessor's established building standards and specifications. Lessee is required to make these standards part of the construction documents.

9. ROOF PENETRATIONS. If improvements penetrate the roof membrane, the penetrations will be sealed per Lessor/IRC roofing specifications and inspected by IRC to maintain roof warranty. The cost of inspection and all corrective work shall be borne by Lessee. Lessee shall use Lessor's original roofing contractor.

10. BUILDING MODIFICATIONS. Work will only be approved within the confines of a given space. Lessee will not be allowed to modify building exterior or mechanical and electrical service as provided to the building in common with other tenants.

11. ELECTRICAL WORK. All electrical work shall be approved from the unit space electrical panel only. Additional service requirements shall be secured only by direction of Lessor. Lessee shall use Lessor's original electrical contractor if available at competitive rates.

12. SCHEDULE OF WORK. Lessee shall be required to provide a schedule of all work to be performed, subject to Lessor approval. All costs to produce such schedule shall be borne solely by Lessee.

13. CLEAN UP AND DISPOSAL OF CONSTRUCTION DEBRIS. Building trash containers are provided for office generated trash only and are not to be used for disposal of construction-related materials and debris. Unapproved usage will result in a penalty assessment to the Lessee equal to the cost of an extra pick-up service as provided under the current rate schedule of regular trash removal service.

14. INSPECTION BY LANDLORD. Lessor reserves the following rights: (i) the right of inspection prior to, during and at completion of all construction and/or demolition, (ii) the right to post and record a notice of nonresponsibility in conformity with California law, and (iii) the right to order, if reasonable, a total stop to all improvements underway for non-compliance with any of the requirements hereof.

15. GENERAL PROVISIONS.

(a) If Lessor has agreed to provide an allowance toward the cost of tenant improvements (other than the initial Lessee Improvement Allowance), Lessor shall retain from such funds an amount determined by Lessor until Lessee has fully complied with the requirements hereof.

(b) All materials, work, installations and decorations of any nature whatsoever brought on or installed in the Premises before the commencement of the Term or throughout the Term shall be at Lessee's risk, and neither Lessor nor any party acting on Lessor's behalf shall be responsible for any damage thereto or loss or destruction thereof due to any reason or cause whatsoever.

(c) Nothing contained herein shall make or constitute Lessee as the agent of Lessor.

Attachment 1 to "Exhibit D"**ITEMS TO BE FURNISHED TO LESSOR FOR EACH WORK OF IMPROVEMENT**

1. Plan of Alterations for Lessor Approval.
2. Contractor(s), Address, Telephone Number, Contact Person.
3. Copy of Contractor's State and City Business License.
4. Copy of Building Permit.
5. Copy of Final Inspection and Signed Building Permit Cards.
6. Copy of Certificate of Insurance Naming The City of Laguna Hills and Essex Realty Management as Additional Insured. Insurance to include Comprehensive General Liability, Comprehensive Auto, Workers' Compensation, Employer's Liability and original Endorsement.
7. Signed Unconditional Lien Waiver in favor of Development Corporation.
8. Schedule of Work.
9. Copy of Completion and Payment Bond.
10. Architect's License and Expiration.
11. Copy of Permit Plans.
12. Copy of As-Builts.
13. Copy of Recorded Notice of Completion.
14. Certificate of Occupancy.
15. Evidence of Insurance for All-Risk/Builder's Risk Insurance to the Amount of Improvements.



Exhibit E

GUARANTY OF LEASE

WHEREAS, The City of Laguna Hills, a municipal corporation organized and existing under the laws of the State of California, hereinafter "Lessor", and Berger Harrison, APC, a California professional corporation, hereinafter "Lessee", are about to execute a document entitled "Lease" dated April 26, 2022 concerning the premises commonly known as (street address, city, state, zip) 24031 El Toro Road, Suite 200 Laguna Hills, CA 92654 wherein Lessor will lease the premises to Lessee, and

WHEREAS, Benjamin Berger and Michelle Berger hereinafter "Guarantors" have a financial interest in Lessee, and

WHEREAS, Lessor would not execute the Lease if Guarantors did not execute and deliver to Lessor this Guaranty of Lease.

NOW THEREFORE, in consideration of the execution of said Lease by Lessor and as a material inducement to Lessor to execute said Lease, Guarantors hereby jointly, severally, unconditionally and irrevocably guarantee the prompt payment by Lessee of all rents and all other sums payable by Lessee under said Lease and the faithful and prompt performance by Lessee of each and every one of the terms, conditions and covenants of said Lease to be kept and performed by Lessee.

It is specifically agreed by Lessor and Guarantors that: (i) the terms of the foregoing Lease may be modified by agreement between Lessor and Lessee, or by a course of conduct, and (ii) said Lease may be assigned by Lessor or any assignee of Lessor without the consent of or notice to Guarantors and that this Guaranty shall guarantee the performance of said Lease as so modified.

This Guaranty shall not be released, modified or affected by the failure or delay on the part of Lessor to enforce any of the rights or remedies of the Lessor under said Lease.

No notice of default by Lessee under the Lease need be given by Lessor to Guarantors, it being specifically agreed that the guarantee of the undersigned is a continuing guarantee under which Lessor may proceed immediately against Lessee and/or against Guarantors following any breach or default by Lessee or for the enforcement of any rights which Lessor may have as against Lessee under the terms of the Lease or at law or in equity.

Lessor shall have the right to proceed against Guarantors following any breach or default by Lessee under the Lease without first proceeding against Lessee and without previous notice to or demand upon either Lessee or Guarantors.

Guarantors hereby waive (a) notice of acceptance of this Guaranty, (b) demand of payment, presentation and protest, (c) all right to assert or plead any statute of limitations relating to this Guaranty or the Lease, (d) any right to require the Lessor to proceed against the Lessee or any other Guarantor or any other person or entity liable to Lessor, (e) any right to require Lessor to apply to any default any security deposit or other security it may hold under the Lease, (f) any right to require Lessor to proceed under any other remedy Lessor may have before proceeding against Guarantors, (g) any right of subrogation that Guarantors may have against Lessee.

Guarantors do hereby subordinate all existing or future indebtedness of Lessee to Guarantors to the obligations owed to Lessor under the Lease and this Guaranty.

If a Guarantor is married, such Guarantor expressly agrees that recourse may be had against his or her separate property for all of the obligations hereunder.

The obligations of Lessee under the Lease to execute and deliver estoppel statements and financial statements, as therein provided, shall be deemed to also require the Guarantors to provide estoppel statements and financial statements to Lessor. The failure of the Guarantors to provide the same to Lessor shall constitute a default under the Lease.

The term "Lessor" refers to and means the Lessor named in the Lease and also Lessor's successors and assigns. So long as Lessor's interest in the Lease, the leased premises or the rents, issues and profits therefrom, are subject to any mortgage or deed of trust or assignment for security, no acquisition by Guarantors of the Lessor's interest shall affect the continuing obligation of Guarantors under this Guaranty which shall nevertheless continue in full force and effect for the benefit of the mortgagee, beneficiary, trustee or assignee under such mortgage, deed of trust or assignment and their successors and assigns.

The term "Lessee" refers to and means the Lessee named in the Lease and also Lessee's successors and assigns.

Any recovery by Lessor from any other guarantor or insurer shall first be credited to the portion of Lessee's indebtedness to Lessor which exceeds the maximum liability of Guarantors under this Guaranty.

No provision of this Guaranty or right of the Lessor can be waived, nor can the Guarantors be released from their obligations except in writing signed by the Lessor.

Any litigation concerning this Guaranty shall be initiated in a state court of competent jurisdiction in the county in which the leased premises are located and the Guarantors consent to the jurisdiction of such court. This Guaranty shall be governed by the laws of the State in which the leased premises are located and for the purposes of any rules regarding conflicts of law the parties shall be treated as if they were all residents or domiciles of such State.

In the event any action be brought by said Lessor against Guarantors hereunder to enforce the obligation of Guarantors hereunder, the unsuccessful party in such action shall pay to the prevailing party therein a reasonable attorney's fee. The attorney's fee award shall not be computed in accordance with any court fee schedule, but shall be such as to full reimburse all attorneys' fees reasonably incurred.

If any Guarantor is a corporation, partnership, or limited liability company, each individual executing this Guaranty on said entity's behalf represents and warrants that he or she is duly authorized to execute this Guaranty on behalf of such entity. Signatures to this Guaranty accomplished by means of electronic signature or similar technology shall be legal and binding.

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Attachment: Proposed Lease (2834 : Civic Center Lease with Berger Harrison, APC, for Suite 200)

If this Form has been filled in, it has been prepared for submission to your attorney for his approval. No representation or recommendation is made by AIR CRE, the real estate broker or its agents or employees as to the legal sufficiency, legal effect, or tax consequences of this Form or the transaction relating thereto.

GUARANTORS

Benjamin Berger and Michelle Berger

Executed At: _____

On: _____

By: _____

Name Printed: Benjamin Berger

Title: CEO/Director

Address: _____

By: _____

Name Printed: Michelle Berger

Title: CFO/Secretary

Address: _____

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Attachment: Proposed Lease (2834 : Civic Center Lease with Berger Harrison, APC, for Suite 200)

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DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A Buyer's agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more salesperson and broker associates, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- (b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the Buyer's or Seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the Seller's willingness to accept a price less than the listing price or the Buyer's willingness to pay a price greater than the price offered.

SELLER AND BUYER RESPONSIBILITIES

Either the purchase agreement or a separate document will contain a confirmation of which agent is representing you and whether that agent is representing you exclusively in the transaction or acting as a dual agent. Please pay attention to that confirmation to make sure it accurately reflects your understanding of your agent's role. The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. If you are a Buyer, you have the duty to exercise reasonable care to protect yourself, including as to those facts about the property which are known to you or within your diligent attention and observation. Both Sellers and Buyers should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. **This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).**

☐ Buyer	☐ Seller	☒ Lessor	☐ Lessee	<u>The City of Laguna Hills</u>	Date: <u>April 26, 2022</u>
☐ Buyer	☐ Seller	☐ Lessor	☒ Lessee	<u>Berger Harrison, APC</u>	Date: _____

Agent: Essex Realty Management DRE Lic. #: 00965485
Real Estate Broker (Firm)

By: Angela Draper DRE Lic. #: 01972882 Date: 4/26/2022
(Salesperson or Broker-Associate)

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Attachment: Proposed Lease (2834 : Civic Center Lease with Berger Harrison, APC, for Suite 200)

THIS FORM HAS BEEN PREPARED BY AIR CRE. NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF THIS FORM FOR ANY SPECIFIC TRANSACTION. PLEASE SEEK LEGAL COUNSEL AS TO THE APPROPRIATENESS OF THIS FORM.

Attachment: Proposed Lease (2834 : Civic Center Lease with Berger Harrison, APC, for Suite 200)

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**DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP
CIVIL CODE SECTIONS 2079.13 THROUGH 2079.24 (2079.16 APPEARS ON THE FRONT)**

2079.13. As used in Sections 2079.7 and 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

(a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. The agent in the real property transaction bears responsibility for that agent's salespersons or broker associates who perform as agents of the agent. When a salesperson or broker associate owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the salesperson or broker associate functions. **(b)** "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee of real property. **(c)** "Commercial real property" means all real property in the state, except (1) single-family residential real property, (2) dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, (3) a mobilehome, as defined in Section 798.3, (4) vacant land, or (5) a recreational vehicle, as defined in Section 799.29. **(d)** "Dual agent" means an agent acting, either directly or through a salesperson or broker associate, as agent for both the seller and the buyer in a real property transaction. **(e)** "Listing agreement" means a written contract between a seller of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer, including rendering other services for which a real estate license is required to the seller pursuant to the terms of the agreement. **(f)** "Seller's agent" means a person who has obtained a listing of real property to act as an agent for compensation. **(g)** "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the seller's agent. **(h)** "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. **(i)** "Offer to purchase" means a written contract executed by a buyer acting through a buyer's agent that becomes the contract for the sale of the real property upon acceptance by the seller. **(j)** "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property, and includes (1) single-family residential property, (2) multiunit residential property with more than four dwelling units, (3) commercial real property, (4) vacant land, (5) a ground lease coupled with improvements, or (6) a manufactured home as defined in Section 18007 of the Health and Safety Code, or a mobilehome as defined in Section 18008 of the Health and Safety Code, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. **(k)** "Real property transaction" means a transaction for the sale of real property in which an agent is retained by a buyer, seller, or both a buyer and seller to act in that transaction, and includes a listing or an offer to purchase. **(l)** "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. **(m)** "Seller" means the transferor in a real property transaction and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor of real property. **(n)** "Buyer's agent" means an agent who represents a buyer in a real property transaction.

2079.14. A seller's agent and buyer's agent shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and shall obtain a signed acknowledgment of receipt from that seller and buyer, except as provided in Section 2079.15, as follows: **(a)** The seller's agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. **(b)** The buyer's agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase. If the offer to purchase is not prepared by the buyer's agent, the buyer's agent shall present the disclosure form to the buyer not later than the next business day after receiving the offer to purchase from the buyer.

2079.15. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.16 Reproduced on Page 1 of this AD form.

2079.17(a) As soon as practicable, the buyer's agent shall disclose to the buyer and seller whether the agent is acting in the real property transaction as the buyer's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the buyer's agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. **(b)** As soon as practicable, the seller's agent shall disclose to the seller whether the seller's agent is acting in the real property transaction as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the seller's agent prior to or coincident with the execution of that contract by the seller.

(C) CONFIRMATION: The following agency relationships are confirmed for this transaction.

Seller's Brokerage Firm DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is the broker of (check one): ☐ the seller; or ☐ both the buyer and seller. (dual agent)

Seller's Agent DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is (check one): ☐ the Seller's Agent. (salesperson or broker associate); or ☐ both the Buyer's Agent and the Seller's Agent. (dual agent)

Buyer's Brokerage Firm DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is the broker of (check one): ☐ the buyer; or ☐ both the buyer and seller. (dual agent)

Buyer's Agent DO NOT COMPLETE, SAMPLE ONLY License Number _____

Is (check one): ☐ the Buyer's Agent. (salesperson or broker associate); or ☐ both the Buyer's Agent and the Seller's Agent. (dual agent)

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14. An agent's duty to provide disclosure and confirmation of representation in this section may be performed by a real estate salesperson or broker associate affiliated with that broker.

2079.18 (Repealed pursuant to AB-1289, 2017-18 California Legislative session)

2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2079.20 Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically

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Packet Pg. 81

Attachment: Proposed Lease (2834 : Civic Center Lease with Berger Harrison, APC, for Suite 200)

prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

2079.21 (a) A dual agent may not, without the express permission of the seller, disclose to the buyer any confidential information obtained from the seller. **(b)** A dual agent may not, without the express permission of the buyer, disclose to the seller any confidential information obtained from the buyer. **(c)** "Confidential information" means facts relating to the client's financial position, motivations, bargaining position, or other personal information that may impact price, such as the seller is willing to accept a price less than the listing price or the buyer is willing to pay a price greater than the price offered. **(d)** This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22 Nothing in this article precludes a seller's agent from also being a buyer's agent. If a seller or buyer in a transaction chooses to not be represented by an agent, that does not, of itself, make that agent a dual agent.

2079.23 (a) A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship. **(b)** A lender or an auction company retained by a lender to control aspects of a transaction of real property subject to this part, including validating the sales price, shall not require, as a condition of receiving the lender's approval of the transaction, the homeowner or listing agent to defend or indemnify the lender or auction company from any liability alleged to result from the actions of the lender or auction company. Any clause, provision, covenant, or agreement purporting to impose an obligation to defend or indemnify a lender or an auction company in violation of this subdivision is against public policy, void, and unenforceable.

2079.24 Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

AIR CRE. 500 North Brand Blvd, Suite 900, Glendale, CA 91203, Tel 213-687-8777, Email contracts@aircre.com

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Attachment: Proposed Lease (2834 : Civic Center Lease with Berger Harrison, APC, for Suite 200)

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City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022
TO: Mayor and Council Members
FROM: Melissa Au-Yeung
Deputy City Manager
ISSUE: Direction Regarding Unscheduled Vacancy for Traffic Commission

RECOMMENDATION: That the City Council: 1) Accept the resignation of Susan Caskey, Traffic Commissioner, effective April 12, 2022; and 2) Direct Staff to proceed with the appointment process to fill the unscheduled vacancy on the Traffic Commission, per Government Code Section 54974, and Laguna Hills Municipal Code Section 2-28.080.

SUMMARY:

On April 12, 2022, the City received a letter of resignation from Traffic Commissioner Susan Caskey, creating an unscheduled vacancy on the Traffic Commission. It is recommended that the City Council accept the resignation of Ms. Caskey and direct Staff to proceed with the process to fill the unscheduled vacancy per Government Code Section 54974 and Laguna Hills Municipal Code Section 2-28.080.

BACKGROUND:

Ms. Caskey was appointed to the Traffic Commission on January 26, 2021, and took her Oath of Office on February 9, 2021. Ms. Caskey is currently serving her first term, which is scheduled to expire on January 31, 2025.

Policy 201, adopted by the City Council for filling vacancies on City Commissions, adopts a procedure for filling the vacancy, as well as a timeline. Specifically, Policy 201 states that once an unscheduled vacancy exists, "then, the same procedure that is followed during the biennial process for appointing Commissioners will be necessary to fill the vacancy."

Unscheduled Vacancy for Traffic Commission

April 26, 2022

Page 2

The timeline for the process for appointing Commissioners is as follows:

May 2, 2022	Open of application period. Notices will be posted in the City Clerk's office and forwarded to the newspaper for publication. Notices will also be forwarded to homeowners' associations in Laguna Hills and to the Laguna Hills Technology Library, as well as made available on the City's website.
June 3, 2022	Close of application period; thirty days is the standard application period for the City's biennial Commission appointment process.
June 14, 2022	The City Council conducts interviews and appoints new Commissioner.
June 28, 2022	New Commissioner provided with Certificate of Appointment and is sworn in at City Council meeting.
July 20, 2022	New Traffic Commissioner attends first Traffic Commission meeting.

It is recommended that the City Council direct Staff to proceed with the process to fill the unscheduled vacancy per Government Code Section 54974 and the Laguna Hills Municipal Code Section 2-28.080.

ATTACHMENTS:

- Letter of Resignation - Commissioner Caskey

RECEIVED
APR 12 2022
CITY OF LAGUNA HILLS

April 12, 2022

Melissa Au-Yeung
Deputy City Manager
City of Laguna Hills
24035 El Toro Road
Laguna Hills CA 92653

Dear Melissa,

Please accept this as my formal resignation from the City of Laguna Hills Traffic Commission. My last day will be today April 12, 2022. I am grateful for the support of my fellow Commissioners, Amber Shah and Ken Rosenfield during my time on the Commission and deeply appreciate all the valuable experience I have gained. It has been a sincere pleasure working with all of you as a team.

Please let me know if you need any additional information.

Best wishes and thank you for everything.

Sincerely,



Susie Caskey
27182 Hidden Trail
Laguna Hills CA 92653
(949) 939-6525

Cc: Anna Lisa Lukes

Attachment: Letter of Resignation - Commissioner Caskey (2825 : Unscheduled Vacancy for Traffic Commission)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022

TO: Mayor and Council Members

FROM: Dan Meehan
Community Services Superintendent

ISSUE: 2022 Laguna Hills Memorial Day Half Marathon, 10K, and 5K Event, and Aliso Viejo Community Association (AVCA) License to Enter and Indemnity Agreement to Access AVCA's Private Street During the Race Event

RECOMMENDATION: That the City Council: 1) Receive and file the pre-event planning report; and 2) Approve the AVCA License to Enter and Indemnity Agreement and authorize the City Manager to execute the Agreement.

SUMMARY:

The 23rd annual City of Laguna Hills Memorial Day Half Marathon, 10K and 5K, honoring the USMC Dark Horse Battalion is scheduled for Monday, May 30, 2022. Event registration opened in early December 2021 and there are approximately one thousand four hundred (1,400) runners registered for the event at this time. The Laguna Hills 3/5 Marine Support Committee ("Team Darkhorse") has selected USMC Combat Veteran Raymond Orozco to serve as the Grand Marshall for the 2022 event. Attached to the staff report is a License to Enter and Indemnify Agreement from the Aliso Viejo Community Association ("AVCA") for the City Council's approval. The City once again intends to donate \$3 from each paid 5K, 10K, and half marathon race registration to Team Darkhorse at the conclusion of the event.

BACKGROUND:

The 23rd annual City of Laguna Hills Memorial Day Half Marathon, 10K and 5K honoring the USMC Dark Horse Battalion is scheduled for Monday, May 30, 2022. All races will

2022 Memorial Day Half Marathon, 10K, and 5K Event

April 26, 2022

Page 2

start at 7:00 AM, which allows the streets impacted by the event to re-open as early as possible. Staff intends to once again work with The Toll Roads to waive toll road fees in exchange for booth space at the Community Expo. The tolls have been waived between the hours of 7:00 to 9:00 AM during past years' events to minimize the inconvenience for Aliso Viejo residents due to the road closures at Alicia Parkway and Moulton Parkway.

As the City Council may recall, a pledge formula was established by City Council direction, whereby, the City intends to donate \$3 from each paid 5K, 10K, and half marathon registration to Team Darkhorse at the conclusion of the event. The pledge formula for providing continued financial support to Team Darkhorse was established by the City Council at its November 22, 2011, meeting after reviewing several funding options. The donation to Team Darkhorse is formalized with a Community Assistance Funding Resolution each year as a post event action by the City Council. Based on the City Council approved pledge formula, \$3,750 was provided to Team Darkhorse in 2021 by City Council Resolution for Community Assistance Funding. As noted above, members of Team Darkhorse have selected USMC Combat Veteran Raymond Orozco to serve as the Grand Marshall for the 2022 event.

All course maps are attached to this staff report. As a portion of the half marathon is run on AVCA property, a License to Enter and Indemnity Agreement between the City of Laguna Hills and AVCA is required. The Agreement is attached to this staff report. Staff's recommendation is that the City Council approve the Agreement and authorize the City Manager to execute the Agreement.

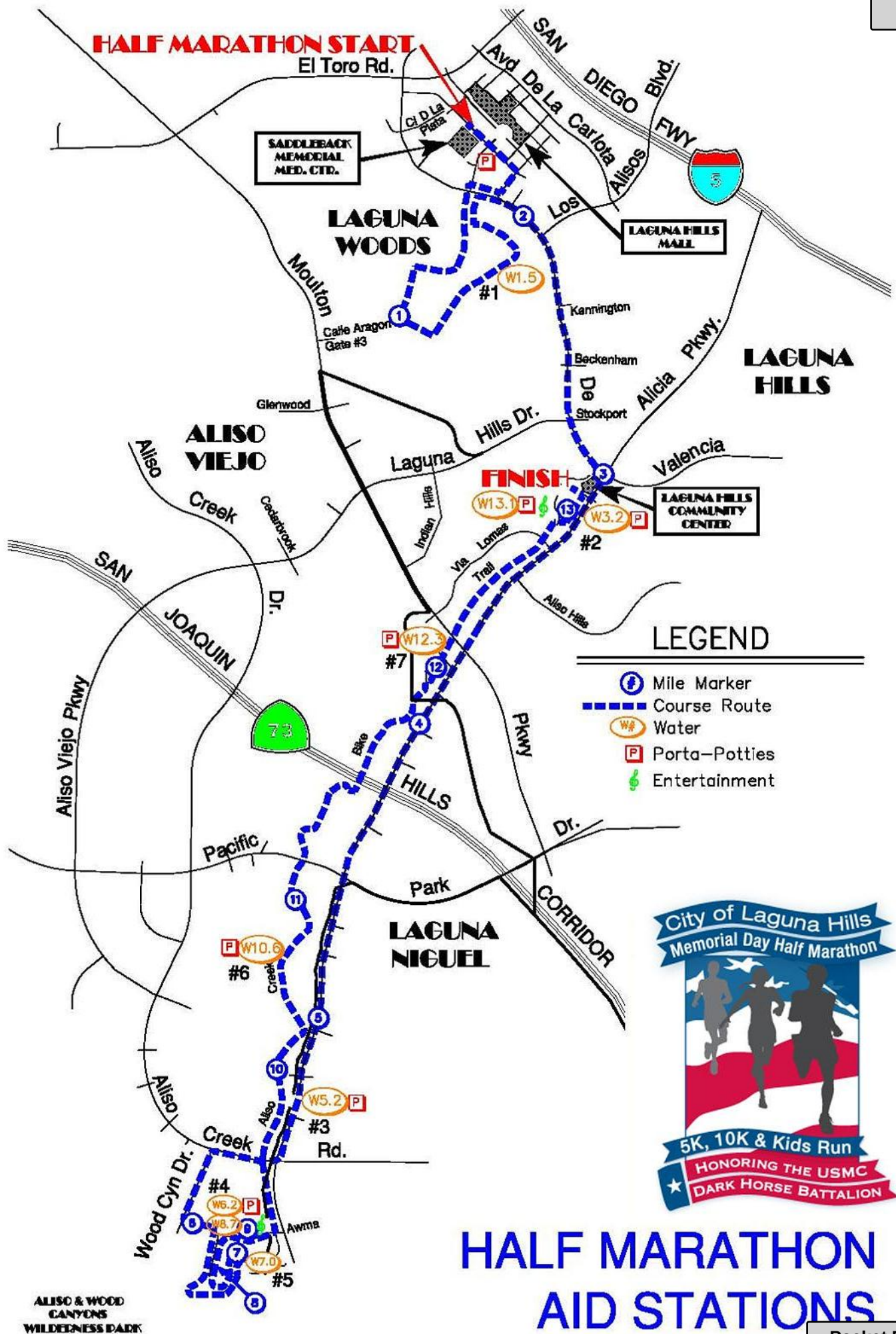
Staff will provide the City Council with a synopsis of the event including the results of the charity outreach activity when the post event report is brought to the City Council in August 2022.

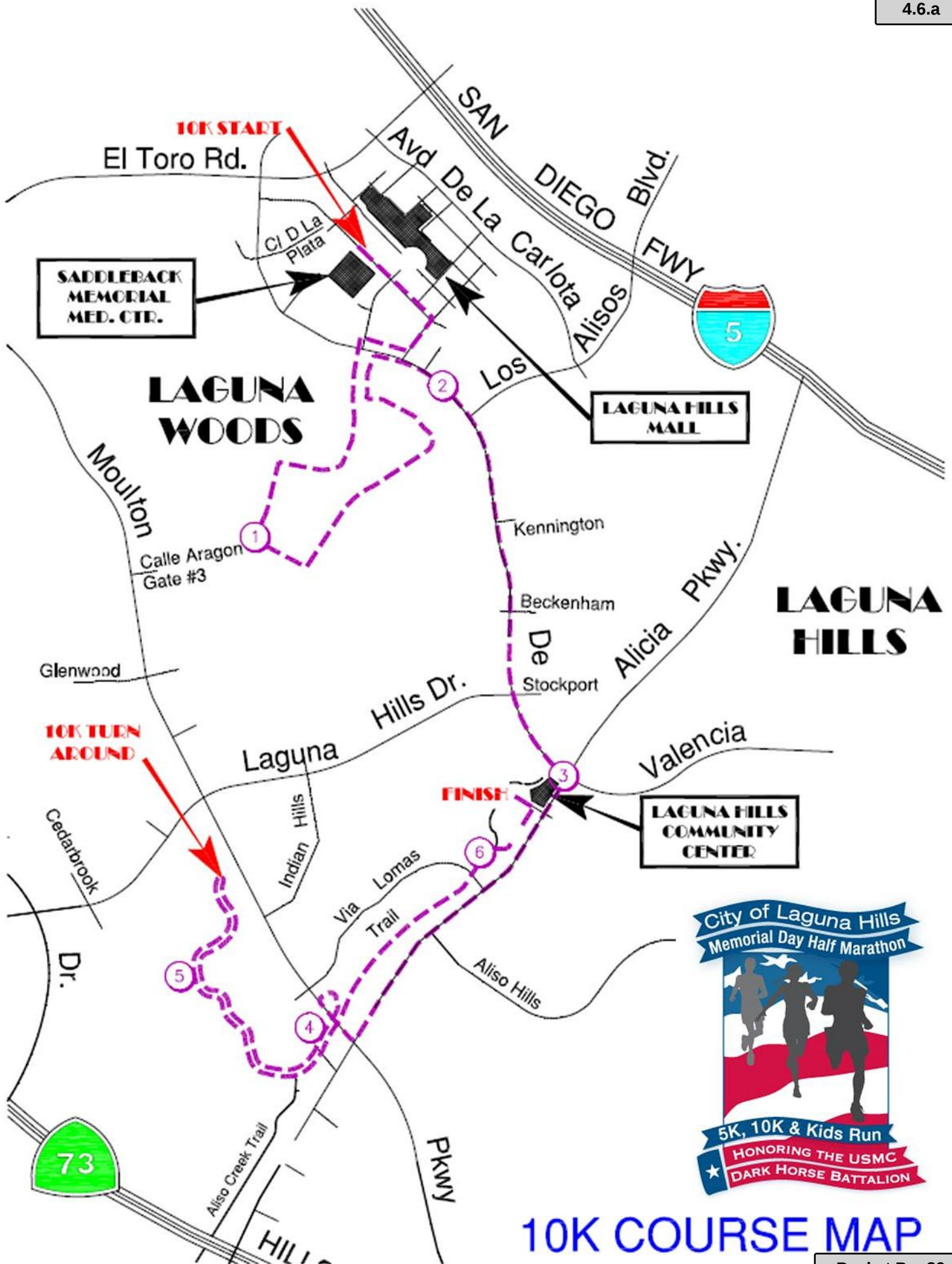
FISCAL IMPACT:

The budget for the 2022 Memorial Day race event is \$194,000 for expenditures and \$203,800 in revenue, including event sponsorship. Event revenue for the 2021 event was \$56,483 and expenditures totaled \$100,258. The expenditure total for 2021 also included the \$3,750 provided to the 3/5 Marine Support Committee.

ATTACHMENTS:

- Attachment 1 - Course Maps
- Attachment 2 2022 AVCA Agreement





5K Course Map

**SADDLEBACK
MEMORIAL
MED. CTR.**

5K START

El Toro Rd.

Avd

De La

DIEGO

Blvd.

FWY

Carlota

Alisos

**LAGUNA HILLS
MALL**

Laguna Woods Village

Calle Aragon
Serrita
Calle Cedar

Moulton

Calle Aragon
Gate #3

Glenwood

**ALISO
VIEJO**

Pkwy

Laguna

Hills

Indian

**LAGUNA
WOODS**

Via

Kennington

Beckenham

De

Stockport

Valencia

Hills Dr.

Stockport

Valencia

Hills Dr.

Stockport

Valencia

Hills Dr.

Stockport

Valencia

Hills Dr.

Stockport

Valencia

Hills Dr.

Stockport

FINISH

W P

Trail

Pkwy.

Aliso Hills

Alicia

Via

Lomas

Trail

Pkwy.

Aliso Hills

Alicia

Via

Lomas

**LAGUNA HILLS
COMMUNITY
CENTER**

**LAGUNA
HILLS**

LEGEND



Mile Marker



Course Route



Water



Porta-Potties



Entertainment



Photographer





LICENSE TO ENTER AND INDEMNITY AGREEMENT

Aliso Viejo Community Association, a California Non-profit Public Benefit Corporation (hereinafter called "Association") hereby grants and conveys to the City of Laguna Hills (hereinafter called "Licensee"), a non-exclusive revocable license and right to enter upon that real property described in Exhibit "A," attached hereto and incorporated herein by this reference (the "Site"), for the sole and exclusive purpose of access to the Association's privately owned road located off of Knollwood/Aliso Canyon Road and the foot path/bike trail connecting from Knollwood to Aliso Creek Road for the purpose of conducting the Laguna Hills Half Marathon, 5K, 10K, Kids ½ Mile Run and Diaper Dash. As consideration of this grant of License, Licensee agrees as follows:

1. Licensee shall not place items on nor utilize any of Association's property other than the road at the Site authorized by this Agreement.
2. Approval is also given to Licensee for the placement of two (2) portable restroom facilities to be located at AWMA Road and Knollwood, and one (1) dedicated ambulance, race day equipment such as cones, etc., and a fluid station with 3 tables/cups/water and trash cans to be located on the Association's private property of Knollwood pending receipt of Certificates of Insurance being received from all vendors utilized for the placement/use of these items, and race day equipment that includes cones.
3. Licensee shall reimburse Association for any damage to the Site caused by licensee's entry and activities upon the Site or for plant material/irrigation damaged as a result of Licensee's use of Association's property. A \$1,000.00 refundable deposit has been waived based on no prior damage being incurred to the Association's property as a result of this activity.
4. Licensee shall cause to be purchased and, at all times prior to the completion of the Licensee's Event, maintain in effect, insurance acceptable to Association. Such policies shall provide coverage against claims which may arise out of or result from Licensee's performance of the Licensee's Event or which may arise in connection with the activities of the Licensee, any contractor or sub-contractor of Licensee, participant, spectator, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. Licensee shall, upon Association's request,

furnish Association with certificates of all insurance required before commencing the Licensee's Event hereunder. If required by the Association, each policy shall provide that it may not be cancelled or reduced in coverage until thirty (30) days after written notice shall have been given to Association of cancellation or reduction in coverage. All insurance required by the Association shall name the Association and its management agent as an additional insured. **Each such policy required by Association shall be primary and non-contributory as to any/all Association policies of insurance.**

5. Licensee shall indemnify and hold free and harmless, Association and its officers, directors, agents and employees from any and all obligations, liability, liens, claims, demands, loss, damage, cost or causes of action whatsoever, (hereinafter referred to as "Liability") to, or brought by any and all persons including employees, contractors, sub-contractors, participants, spectators, or to property, in any way, due to or arising out of exercise of the rights granted herein, however, the Liability may be caused regardless of responsibility for negligence, or the act or omission to act by Licensee, its agents, servants, employees, invitees, regardless of whether the Liability is caused by the conduct or negligence of Association including but not limited to the following:
 - a. Any loss, cost, damage or expense sustained by Association including attorney's fees on account of or through the use or misuse of the License herein created or any part thereof by Licensee or by any other person thereon at the invitation, express or implied, of Licensee or by permission of Licensee.
 - b. Any loss, cost, damage, expense, including attorney fees, liability of damages as a result of bodily injury, including death or property damage sustained at any time by an person or persons arising out of or in consequence of the creating of this License, whether such bodily injury or such property damage is due or claimed to be due to the negligence of Licensee or any other person.

Notwithstanding the foregoing, the Agreement shall not apply to, nor purport to indemnify Association and Affiliates, their officers, directors or employees, against any liability arising from the sole negligence or willful misconduct of Association and Affiliates, for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising under such injury to persons or property.

6. In furtherance of and not as a limitation on the provisions noted above, Licensee shall comply with all applicable provisions, rules and regulations of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) (the "Act") notwithstanding any provision in the Act which would otherwise exempt Licensee on the basis it may have

more than ten (10) employees. Licensee agrees that Licensee, its employees, agents, servants, sub-contractors, participants, spectators and invitees shall not discharge hazardous or toxic chemicals on the Site, shall not engage in cleanup or repair activities on the Site which will result in the discharge of such chemicals, and shall, upon completion of the Licensee's Event, remove all supplies, materials and waste remaining on the Site including those which, if exposed, could result in the discharge of such chemicals.

7. Any notice to be given under this License shall be deemed given upon personal delivery thereof of two (2) days after deposit in the United States Mail, first class postage prepaid and addressed as follows:

If to Association:

Aliso Viejo Community Association
95 Argonaut, Ste 190
Aliso Viejo, CA 92656
Attention: Marilyn Smith

If to Licensee:

City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653
Attention: City Manager

8. Licensee further agrees that should Association transfer its interest in the property subject to this License, the terms and conditions of this Agreement shall inure to any of Association's successors or assigns. This License is personal to the Licensee, its subsidiaries or affiliates and may not be otherwise transferred or assigned by Licensee without Association's written consent.
9. This License shall begin no earlier than May 29, 2022 at 7:00 a.m. for the placement of the portable restrooms, race day course equipment and fluid station; May 30, 2022 at 4:30 a.m. to 2:00 p.m. for the set-up/race and clean-up; and shall terminate on May 31, 2022 at 5:00 p.m. to allow for the pick-up of the portable restrooms, race day course equipment, fluid station and trash cans.

10. Licensee shall agree to contact Association and hold a pre-event meeting with Association and contractor(s) to define the limit of use of Association's property, if requested.
11. Licensee agrees to reimburse the Association, upon completion of the event, for plant material, utility or facility in or adjacent to the limits of the Event that are damaged as part of the Event covered under this License.
12. Licensee shall, upon completion of the Event, restore the Site to its now existing condition and as agreed to by the Association.
13. Licensee assures Association that no mechanics liens or other types of liens shall be placed upon Association's property as a result of Event to be performed under this License.
14. Licensee agrees to secure all necessary permits from the applicable Cities, County or State.

IN WITNESS WHEREOF the parties hereto have executed this agreement
on this 11 day of April, 2022.

It is so agreed:

City of Laguna Hills
(Licensee)

By _____

Its _____

By _____

Its _____

Aliso Viejo Community Association
A California non-profit public benefit corporation
(Association)

By Bill Conley

Its Secretary

By John T. Harris

Its Asst. Sec. / TREAS.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022

TO: Mayor and Council Members

FROM: Larry Longenecker
Community Development Director

ISSUE: Proposed Business Attraction and Retention Contractual Services Agreement with the Laguna Hills Chamber of Commerce for Fiscal Year 2022-2023 and a Related Budget Amendment

RECOMMENDATION: That the City Council: 1) Approve the proposed "Business Attraction and Retention Contractual Services Agreement" between the City of Laguna Hills and the Laguna Hills Chamber of Commerce; 2) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, amending the Fiscal Year 2021-2022 Budget by increasing the General Government Department Operating Budget for Business Attraction and Retention Services"; and 3) Authorize the Mayor to execute the Agreement.

SUMMARY:

At the February 8, 2022, City Council meeting, Council Member Pezold presented her report regarding City support for the Laguna Hills Chamber of Commerce, with the Council voting to direct Staff to work with the Chamber of Commerce to prepare deal points for City Council consideration. On March 24, 2022, City staff met with representatives of the Laguna Hills Chamber of Commerce and discussed potential deal points for a Business Attraction and Retention Contractual Services Agreement (Agreement) to support the City's economic development efforts for Fiscal Year 2022-2023. Subsequently, the City Council considered the Chamber's proposed deal points in support of the agreement at its April 12, 2022, meeting, and directed Staff to prepare the Agreement with the Chamber of Commerce, with compensation to include: \$10,000 in monetary funds; use of the Community Center meeting and event facilities; and kiosk

Proposed Business Attraction and Retention Contractual Services Agreement with
Chamber of Commerce

April 26, 2022

Page 2

space located within the City Hall reception area. In addition, Mayor Wheeler received City Council consensus to direct Staff to notify the Council when Suite 310, or a suite of similar size, becomes available by placing the item on a future regular meeting Agenda.

The City Attorney has prepared a proposed Agreement with the Laguna Hills Chamber of Commerce for Fiscal Year 2022-2023, provided as Attachment 1 to this report. The Scope of Services is provided as Exhibit A to the proposed Agreement, and compensation to be provided by the City is detailed in Section 2 of the proposed Agreement.

The proposed Agreement stipulates the payment of \$10,000 be provided in lump sum to the Chamber within 30 days of the effective date of the Agreement but an appropriation of \$10,000 for business attraction and retention services is not included in the current adopted Fiscal Year 2021-2022 Operating Budget. It is Staff's recommendation that the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, amending the Fiscal Year 2021-2022 Budget by increasing the General Government Department Operating Budget for Business Attraction and Retention Services". The proposed Resolution is provided as Attachment 3 to this report.

Furthermore, the proposed Agreement memorializes the deal points agreed upon by the City Council and the Chamber of Commerce, for Services to be provided during Fiscal Year 2022-2023, with the proposed Agreement including standard contract terms regarding insurance and indemnification, and that the Chamber maintain good standing with their 501(C)(6) tax exempt status. In addition, the proposed Agreement states that City compensation shall not be used for any political activities or purposes.

BACKGROUND:

At the February 8, 2022, City Council meeting, Council Member Pezold presented her report regarding City support for the Laguna Hills Chamber of Commerce. City Council discussed various options for supporting the Chamber of Commerce, including monetary support and/or equivalent services, in return for business attraction and retention services. The City Council voted to direct Staff to work with the Chamber of Commerce to prepare a deal points outline for City Council consideration, consistent with the parameters set forth in the February 8 PowerPoint presented by Council Member Pezold.

Proposed Business Attraction and Retention Contractual Services Agreement with Chamber of Commerce

April 26, 2022

Page 3

On March 24, 2022, City staff met with representatives of the Laguna Hills Chamber of Commerce and discussed deal points for a potential Business Attraction and Retention Services Agreement to support the City's economic development efforts for Fiscal Year 2022-2023. Subsequent to the March 24, 2022, meeting, the Chamber of Commerce submitted to the City a proposed deal points outline, with a Scope of Services to be performed by the Chamber of Commerce and City compensation to the Chamber, including: monetary support; use of the Laguna Hills Community Center meeting and event facilities; office space within the Laguna Hills Civic Center; and kiosk space within the City Hall reception area.

The City Council considered the Chamber's proposed deal points at its April 12, 2022, meeting, and directed Staff to prepare the Agreement with the Chamber of Commerce including the proposed Scope of Services and compensation to include \$10,000 in monetary funds, use of the Community Center meeting and event facilities, and kiosk space located within the City Hall reception area. With regard to Civic Center office space for the Chamber of Commerce, this matter was deferred as Mayor Wheeler received City Council consensus to direct Staff to notify the City Council when Suite 310, or a suite of similar size, becomes available by placing the item on a future regular meeting Agenda. The April 12, 2022, Staff report and attachments are included as Attachment 2 to this report.

DISCUSSION:

Based on City Council direction at its April 12, 2022, meeting, the City Attorney prepared a proposed Business Attraction and Retention Contractual Services Agreement with the Laguna Hills Chamber of Commerce for Fiscal Year 2022-2023, provided as Attachment 1 to this report. The proposed Chamber of Commerce Scope of Services, as discussed at the April 12 meeting, is provided as Exhibit A to the proposed Agreement. The Scope of Services includes outreach to prospective and new businesses to Laguna Hills and marketing the City to attract desired businesses so as to enhance the welfare and wellbeing of the City's residents and existing businesses. Marketing services include use of the City logo in all advertising for City/Chamber events. Chamber of Commerce services include maintenance of a business retention relationship with the Laguna Hills business community, with business outreach to assess and address business needs, concerns, and questions, to improve business conditions and relations within the community, and to communicate these issues to the City as warranted and, at a minimum, in a quarterly report.

Proposed Business Attraction and Retention Contractual Services Agreement with
Chamber of Commerce

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The Scope of Services would be provided at events conducted during Fiscal Year 2022-2023, as listed in Exhibit A of the proposed Agreement, including: National Night Out; State of the City; 4th of July; and Heritage Day (if established) or other City events at which Chamber assistance is requested/provided throughout the year.

Compensation

The proposed Agreement includes three categories of compensation to be provided by the City, summarized below, in return for the Services performed by the Chamber:

- 1) Funding. A total of \$10,000 paid in a lump-sum amount within 30 days of Agreement approval.
- 2) Meeting and Event Space. Meeting and event facilities at the Laguna Hills Community Center made available to the Chamber of Commerce, free of charge, including twice a month in the Tower Room for regular Chamber Board meetings and up to six special events held in the Heritage Room.
- 3) Kiosk Space. A kiosk space will be made available at the City Hall reception desk area for the Chamber to provide business attraction and general Chamber of Commerce information.

Proposed Business Attraction and Retention Contractual Services Agreement

The proposed Business Attraction and Retention Contractual Services Agreement (Attachment 1) memorializes the deal points agreed upon by the City Council and the Chamber of Commerce, to support the City's economic development efforts for Fiscal Year 2022-2023. The proposed Agreement states that the City has determined there is a need to retain business attraction and retention services; that the Chamber of Commerce has special business attraction and retention knowledge, skills, experience, and resources available to promote, support and develop Laguna Hills businesses; that the Chamber has expressed interest in providing business attraction and retention services to the City; and that the City desires to retain the Chamber of Commerce to provide said services for the benefit of the Laguna Hills business community.

The proposed Agreement includes but is not limited to the following standard terms:

- 1) Term. Services to be provided by Chamber of Commerce commencing on April 26, 2022 and ending on June 30, 2023; Fiscal Year 2022-2023.

Proposed Business Attraction and Retention Contractual Services Agreement with
Chamber of Commerce

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- 2) Insurance Requirements. Chamber of Commerce to provide and comply with City-standard insurance requirements for retaining consultant services, including commercial liability, automobile liability, and workers' compensation insurance.
- 3) Indemnification. Chamber of Commerce to comply with City-standard Indemnification requirements for retaining consultant services.
- 4) IRS 501(C)(6) Tax Exempt Status. The Laguna Hills Chamber of Commerce shall at all times during the Term of the proposed Agreement maintain and be in good standing with their 501(C)(6) tax exempt status; City funds and/or City facilities provided by the City to the Chamber, as set forth in the proposed Agreement, shall not be used to benefit one shareholder or for purposes of lobbying that violates their 501(C)(6) tax exempt status.

In addition, Section 10.8 of the proposed Agreement states that City funds and/or City facilities provided by the City to the Chamber, as set forth in the Agreement, shall not be used for any political activities or for any political purposes, and that the Chamber shall not use any portion of the City funds and/or City facilities to advocate for or to oppose any local municipal election issue, ballot measure, campaign, or candidate.

FISCAL IMPACT:

The proposed lump-sum monetary compensation of \$10,000 for the procurement of business attraction and retention services from the Chamber of Commerce is due within 30 days of the effective date of the Agreement and would be funded by the City's General Fund. Given an appropriation of \$10,000 for business attraction and retention services is not included in the current adopted Fiscal Year 2021-2022 Operating Budget, it is Staff's recommendation that the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, amending the Fiscal Year 2021-2022 Budget by increasing the General Government Department Operating Budget for Business Attraction and Retention Services". The proposed Resolution is provided as Attachment 3 to this report.

Use of the Community Center meeting facilities would have a cost equivalent to the lost revenue for any events that would otherwise be scheduled for the dates and times used by the Chamber of Commerce.

Proposed Business Attraction and Retention Contractual Services Agreement with
Chamber of Commerce

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ATTACHMENTS:

- Attachment 1 - Proposed Agreement
- Attachment 2 - April 12, 2022 Staff Report and Attachments
- Attachment 3 - Proposed Resolution

**BUSINESS ATTRACTION AND RETENTION
CONTRACTUAL SERVICES AGREEMENT**

Laguna Hills Chamber of Commerce
Fiscal Year 2022/2023

THIS CONTRACTUAL SERVICES AGREEMENT (hereinafter “Agreement”) is made and entered into, to be effective this 26th day of April 2022, by and between the CITY OF LAGUNA HILLS, a municipal corporation organized and existing under the laws of the State of California (hereinafter referred to as “City”), and the LAGUNA HILLS CHAMBER OF COMMERCE, a California nonprofit corporation, with its principal place of business located at 23016 Lake Forest Drive, Suite D219, Laguna Hills, California (hereinafter referred to as “Chamber”). City and Chamber are sometimes hereinafter individually referred to as “Party” and are hereinafter collectively referred to as the “Parties.”

RECITALS

A. The Chamber is a 501(C)(6) nonprofit corporation that is organized, among other things, for the following purposes: to provide opportunities and benefits for the local Laguna Hills business community to help strengthen such businesses; to promote and assist local businesses in Laguna Hills by creating a local business climate where such commerce can operate in a productive and profitable manner; to cooperate with and support the local business community of Laguna Hills both locally and within the region; to educate, inform, and encourage Laguna Hills residents to shop and dine in Laguna Hills and to patronize such local businesses; and to increase the economic base of Laguna Hills while preserving local historic resources, quality of life, ambiance, and the interests of Laguna Hills businesses.

B. City has determined that there is a need to retain certain business attraction and retention services in order to further promote, support, and develop the Laguna Hills businesses community; toward this end, City desires to retain Chamber to promote the Laguna Hills business community by disseminating business attraction and retention information that the City would otherwise need to produce and provide in order to support and promote the local Laguna Hills business community and to promote economic development opportunities within the City.

C. Chamber has special knowledge, skills, experience, and resources available to provide such services to assist the City in disseminating information that will promote, support, and develop Laguna Hills businesses in furtherance of the City Council's economic development goals and objectives.

D. Chamber has expressed interest in providing such business attraction and retention services to City, pursuant to the terms of this Agreement. Chamber represents and maintains that it is uniquely qualified by virtue of its experience, knowledge, education, reputation, and expertise to provide these services to City and has agreed to provide such services as provided herein. City does not have the personnel, technical expertise, or experience able to perform the work and services contracted for herein.

E. City desires to retain Chamber to provide business attraction and retention services for the benefit of the Laguna Hills business community. The City Council hereby finds and determines that the expenditure of community assistance funding in the Fiscal Year 2022/2023 operating budget to the Laguna Hills Chamber of Commerce for the procurement of certain business attraction and retention services, as authorized herein, fulfills a public purpose and provides a direct public benefit to the City of Laguna Hills.

NOW, THEREFORE, in consideration of the promises and mutual obligations, covenants, and conditions contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in view of the economic development goals and objectives of the City, the Parties agree as follows:

AGREEMENT

1. SERVICES OF CHAMBER

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, Chamber agrees to provide and perform business attraction and retention services as described and as set forth in the Scope of Services, which is attached hereto as Exhibit "A" and is incorporated herein by reference (hereinafter referred to as the "Scope of Services," the "Services" or "Work"). As a material inducement to the City entering into this Agreement, Chamber acknowledges and understands that the Services and Work contracted for under this Agreement require specialized skills, knowledge, experience, and resources and that, consistent with this understanding, Chamber's Services and Work shall be performed in a skillful and competent manner.

1.2 Contract Documents. The Agreement between the Parties shall consist of the following: (1) this Agreement; and, (2) the Scope of Services, which shall be referred to collectively hereinafter as the "Contract Documents." The Scope of Services, attached hereto as Exhibit "A," is hereby incorporated by reference and is made a part of this Agreement. All provisions of the Contract Documents shall be binding on the Parties.

1.3 Compliance with Law. Chamber shall comply at all times during the term of this Agreement with all applicable federal, state, and local laws, statutes, and ordinances and all lawful orders, rules, and regulations promulgated thereunder, including without limitation all applicable fair labor standards and Cal/OSHA requirements. Chamber shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of the Work and Services, including all Cal/OSHA requirements, and shall give all notices required by law. Chamber shall be liable for all violations of such laws and regulations in connection with performing the Work and Services. If Chamber performs any Work or Services in violation of such laws, rules, and regulations, Chamber shall be solely responsible for all penalties and costs arising therefrom. Chamber shall defend, indemnify, and hold City, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules, or regulations.

1.4 Licenses, Permits, Fees, and Assessments. Prior to performing any Services or Work hereunder Chamber shall obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to perform the Work and Services required by this Agreement. Chamber represents and warrants to City that Chamber shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement and any extension, any license, permit, qualification, or approval that is legally required for Chamber to perform the Work and Services under this Agreement. Chamber shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Chamber's performance of the Work and Services required by this Agreement, and shall defend, indemnify, and hold the City, its officials, officers, employees, agents and volunteers, free and harmless from and against any claim or liability arising out of any failure or alleged failure to obtain such license, permits, and approvals of whatever nature that are legally required to perform the Work or Services.

1.5 Familiarity with Work. By executing this Agreement, Chamber represents and warrants that it (a) has thoroughly investigated and considered the Scope of Work or Services to be performed, (b) has carefully considered how the Services should be performed and has carefully examined the location or locations at or with respect to where such Services or Work is to be performed, and (c) fully understands the facilities, difficulties, and restrictions attending performance of the Services under this Agreement.

1.6 Further Responsibilities of Parties. Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement.

1.7 Additional Services. City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services (Exhibit "A") or make changes by altering, adding to, or deducting from such Work. No such extra work may be undertaken unless a written order is first given by the City to the Chamber, incorporating therein any adjustment in (i) the Maximum Contract Amount, as defined below, and/or (ii) the time to perform this Agreement, which adjustments are subject to the written approval of the Chamber.

1.8 Non-Exclusive Agreement. Chamber acknowledges that City may enter into agreements with other contractors, consultants, or vendors for services similar to the services that are the subject of this Agreement. Chamber further acknowledges that City may have its own employees perform services similar to the services that are the subject of this Agreement.

2. COMPENSATION

2.1 Maximum Contract Amount.

A. *Compensation.* For the Services and Work rendered pursuant to this Agreement, Chamber shall be compensated by City for the services to be performed in the total not to exceed amount of Ten Thousand Dollars (\$10,000.00) (hereinafter referred to as the

"Maximum Contract Amount"). The maximum amount of City's payment obligation under this Agreement is the amount specified in this section.

B. *Payment by City.* The Parties understand and agree that the Maximum Contract Amount shall be paid by City to Chamber in a lump sum amount within thirty (30) days of the effective date of this Agreement. Payment shall be made conditioned upon the following: (1) the Chamber is not in default of any material terms of this Agreement; and (2) the Chamber maintains its 501(C)(6) status throughout the term of this Agreement.

C. *Community Center Meeting Room Space.* Meeting room space at the Laguna Hills Community Center will be provided to the Chamber, free of charge, for regular board meetings held twice a month, on the 1st and 3rd Thursdays, between 8:30am and 10:00am in the Tower Room, and for up to six special events held in the Heritage Room, dates and times not to conflict with the City's regular recreation/facility reservation schedule or special events. Chamber to submit Heritage Room reservation requests to City a minimum four weeks prior to any event.

D. *Kiosk Space.* A kiosk space will be made available at the City Hall Reception Desk area for the Chamber to provide business attraction information.

2.2 Changes in Scope. In the event any change or changes in the Scope of Services is requested by the City, the Parties shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to, any additional fees for Services.

2.3 Appropriations. This Agreement is subject to and contingent upon funds being appropriated therefore by the Laguna Hills City Council for each fiscal year covered by the Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the City.

3. SCHEDULE OF PERFORMANCE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement. The time for completion of the services to be performed by Chamber is an essential condition of this Agreement. Chamber shall prosecute regularly and diligently the Work of this Agreement.

3.2 Schedule of Performance. Chamber shall commence the Services pursuant to this Agreement upon its effective date and shall perform all Services in a timely manner.

3.3 Term. Unless earlier terminated as provided elsewhere in this Agreement, this Agreement shall continue in full force and effect for a period of fourteen (14) months, commencing on April 26, 2022, and ending on June 30, 2023, unless extended by mutual written agreement of the Parties.

4. **COORDINATION OF WORK**

4.1 Representative of Chamber. The following principal of Chamber is hereby designated as being the principal and representative of Chamber authorized to act on its behalf with respect to the Services to be performed under this Agreement and to make all decisions in connection therewith: Jake Anderson, CEO/President.

4.2 Contract Officer. The Contract Officer shall be such person as may be designated by the City Manager of City, and is subject to change by the City Manager. It shall be the Chamber's responsibility to ensure that the Contract Officer is kept fully informed of the progress of the performance of the Services, and the Chamber shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.3 Prohibition Against Subcontracting or Assignments. The experience, knowledge, capability, expertise, and reputation of Chamber, its principals and employees, were a substantial inducement for City to enter into this Agreement. Therefore, Chamber shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, voluntarily or by operation of law, without the prior written consent of City. Chamber shall not contract with any other person or entity to perform the Services required without prior written consent of City. If Chamber is permitted to subcontract any part of this Agreement by City, Chamber shall be responsible to City for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and City.

4.4 Independent Contractor.

A. The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Chamber a City employee. During the performance of this Agreement, Chamber and its officers, employees, and agents shall act in an independent capacity and shall not act as City officers or employees. Chamber will determine the means, methods, and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Chamber shall at all times be under Chamber's exclusive direction and control. Neither City nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Chamber or any of its officers, employees, or agents, except as set forth in this Agreement. City shall have no voice in the selection, discharge, supervision, or control of Chamber's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Chamber shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. City shall not in any way or for any purpose be deemed to be a partner of Chamber in its business or otherwise a joint venturer or a member of any joint enterprise with Chamber.

B. Chamber shall not incur or have the power to incur any debt, obligation, or liability against City, or bind City in any manner.

C. No City benefits shall be available to Chamber, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for fees paid to Chamber as provided for in this Agreement, City shall not pay salaries, wages, or other compensation to Chamber for the performance of any Work or Services under this Agreement. City shall not be liable for compensation or indemnification to Chamber, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the City has financial obligations, other than pursuant to Section 2 and Subsection 1.7 herein, of any nature relating to salary, taxes, or benefits of Chamber's officers, employees, representatives, agents, or subconsultants or subcontractors, Chamber shall defend, indemnify, and hold harmless City from and against all such financial obligations.

4.5 PERS Eligibility Indemnification.

A. In the event that Chamber or any employee, agent, or subcontractor of Chamber providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employee Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Chamber shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Chamber or its employees, agents or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of the City.

B. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Chamber and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

5. INSURANCE

5.1 Compliance with Insurance Requirements. Chamber shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to City, all insurance required under this section. Chamber shall not commence any Work or Services under this Agreement unless and until it has provided evidence satisfactory to City that it has secured all insurance required under this section. If Chamber's existing insurance policies do not meet the insurance requirements set forth herein, Chamber agrees to amend, supplement or endorse the policies to do so.

5.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement,

Chamber shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

A. Commercial General Liability Insurance. Chamber shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance written on an occurrence basis with limits of at least one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) in the general aggregate, and one million dollars (\$1,000,000.00) for products and completed operations.

B. Automobile Liability Insurance. Chamber shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury and property damage.

C. Workers' Compensation Insurance. Chamber shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Chamber agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers' compensation insurance policy against the City, its officials, officers, employees, agents and volunteers, and to require each of its subconsultants and subcontractors, if any, to do likewise under their workers' compensation insurance policies.

5.3 Acceptability of Insurers. Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A-VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Lines Insurers (LASLI), by the latest edition of A.M. Best's Key Rating Guide, except that the City will accept workers' compensation insurance from the State Compensation Fund. In the event the City determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Chamber agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City. Chamber shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

6. INDEMNIFICATION

To the fullest extent permitted by law, Chamber shall defend (at Chamber's sole cost and expense with legal counsel reasonably acceptable to City), indemnify, protect, and hold harmless City, its officials, officers, employees, agents and volunteers (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not limited to Claims arising from injuries to or death of persons (Chamber's employees included), for damage to property, including property owned by City, or from any violation of any federal, state, or

local law or ordinance, which Claims arise out of, pertain to, or are related to Chamber's negligent performance under this Agreement. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Chamber's indemnification obligation or other liability hereunder.

7. REPORTS AND RECORDS

7.1 Accounting Records. Chamber shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Chamber shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and to enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

7.2 Ownership of Documents. All drawings, specifications, reports, records, documents, memoranda, correspondence, computations, and other materials prepared by Chamber, its employees, subconsultants, subcontractors, and agents in the performance of this Agreement shall be the property of City and shall be promptly delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Chamber shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of the documents and materials hereunder.

8. ENFORCEMENT OF AGREEMENT

8.1 California Law and Venue. This Agreement shall be construed and interpreted both as to validity and as to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such County, and Chamber covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Interpretation. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties. The terms of this Agreement are contractual and the result of negotiation between the Parties. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting Party, shall not be employed in the interpretation of this Agreement. The caption headings of the various sections and paragraphs of this Agreement are for convenience and identification purposes only and shall not be deemed to limit, expand, or define the contents of the respective sections or paragraphs.

8.3 Termination. City may terminate this Agreement for any reason, with or without cause, upon giving Chamber thirty (30) days written notice. Upon receipt of such notice, Chamber shall immediately cease all work under this Agreement, unless the notice provides otherwise. Thereafter, Chamber shall have no further claims against the City under this Agreement. Upon termination of the Agreement pursuant to this section, Chamber shall submit

to the City an invoice for work and services performed prior to the date of termination. In addition, Chamber reserves the right to terminate this Agreement at any time upon sixty (60) days written notice to the City, except that where termination is due to material default by the City, the period of notice may be such shorter time as the Chamber may determine.

8.4 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. Any waiver by the Parties of any default or breach of any covenant, condition, or term contained in this Agreement, shall not be construed to be a waiver of any subsequent or other default or breach, nor shall failure by the Parties to require exact, full, and complete compliance with any of the covenants, conditions, or terms contained in this Agreement be construed as changing the terms of this Agreement in any manner or preventing the Parties from enforcing the full provisions hereof.

8.5 Attorneys' Fees. In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses, including but not limited to reasonable attorneys' fees, expert witness fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding.

9. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

9.1 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Chamber, or any successor-in-interest, in the event of any default or breach by the City or for any amount which may become due to the Chamber or to its successor, or for breach of any obligation of the terms of this Agreement.

9.2 Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his or her financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of any state statute or regulation. Chamber represents and warrants that it has not paid or given and will not pay or give any third party any money or other consideration in exchange for obtaining this Agreement.

10. MISCELLANEOUS PROVISIONS

10.1 Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by facsimile with attached evidence of completed transmission, and shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) five (5) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by facsimile. Notices or other communications shall be addressed as follows:

To City: City of Laguna Hills
 Attention: City Manager
 24035 El Toro Road
 Laguna Hills, California 92653
 Telephone: (949) 707-2600
 Facsimile: (949) 707-2633

To Chamber: Laguna Hills Chamber of Commerce
 Attention: Jake Anderson, CEO/President
 23016 Lake Forest Drive, Suite D219
 Laguna Hills, California 92653
 Telephone: (949) 542-6016

10.2 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the Parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors, assigns, or grantees.

10.3 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be determined to be invalid by a final judgment or decree of a court of competent jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of that provision, or the remaining provisions of this Agreement unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

10.4 Third Party Beneficiary. Nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party hereto.

10.5 Recitals. The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

10.6 Corporate Authority. Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he/she is signing, (iii) by so executing this Agreement, the Party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he/she is signing is bound.

10.7 IRS 501(C)(6) Tax Exempt Status. The Laguna Hills Chamber of Commerce shall at all times during the term of this Agreement maintain and be in good standing with its 501(C)(6) tax exempt status. City funds and/or City facilities provided by the City to the Chamber, as set forth in this Agreement, shall not be used to benefit one shareholder or for purposes of lobbying that violates its 501(C)(6) tax exempt status; and a quarterly report shall be provided to the City that includes an accounting for how all City funds authorized by this Agreement were spent.

10.8 No Political Activities. City funds and/or City facilities provided by the City to the Chamber, as set forth in this Agreement, shall not be used for political activities or for political purposes. Chamber shall not use any portion of the City funds and/or City facilities provided herein to advocate for or to oppose any local municipal election issue, ballot measure, campaign, or candidate.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have executed and entered into this Agreement as of the date first written above.

“CITY”
City of Laguna Hills,
 a California municipal corporation

 DAVE WHEELER,
 Mayor

ATTEST:

 (SEAL)
 MELISSA AU-YEUNG,
 Deputy City Manager/City Clerk

APPROVED AS TO FORM:

 GREGORY E. SIMONIAN,
 City Attorney

“CHAMBER”
Laguna Hills Chamber of Commerce,
 a California nonprofit corporation

By: _____
 JAKE ANDERSON, CEO/President

By: _____
 BRADY RUNYON, Treasurer

EXHIBIT “A”

SCOPE OF SERVICES

LAGUNA HILLS CHAMBER OF COMMERCE PROPOSAL FOR PROVIDING BUSINESS ATTRACTION AND RETENTION SERVICES TO THE CITY OF LAGUNA HILLS FISCAL YEAR 2022-2023

1. **Services to be Provided.** The Laguna Hills Chamber of Commerce will provide the following Scope of Services for Fiscal Year 2022-2023 to City as part of a Business Attraction and Retention Services Agreement supporting the City Council's economic development goals and objectives:
 - A. Conduct business attraction efforts with prospective and potential new and relocating businesses to the City of Laguna Hills.
 - B. Welcome new businesses to the City, including outreach to new businesses. City to promptly provide Chamber with information on all new issuances of certificates of use and occupancy.
 - C. Diligently advertise and market the City of Laguna Hills in such a manner as to attract worthwhile business enterprises to the City, which will enhance the general welfare and well-being of the City's residents and businesses.
 - D. Maintain a professional business attraction and retention relationship with the local Laguna Hills business community.
 - E. Contact businesses located within the City to assess and address their needs, concerns, and questions to improve business conditions and relations within the community. These assessments will be communicated to the City as warranted and at minimum as part of a quarterly report to the City, as detailed herein below.
 - F. Transmit a written quarterly report to the City which identifies City-related and/or Business Attraction/Retention issues that arise during business contacts.
 - G. Provide access to the Chamber of Commerce website with community news, events, business directory and links to various Chamber partners.
 - H. Include the official City seal in all advertising for joint City/Chamber community events, as identified herein.

- I. Provide a non-voting, board liaison position for City Staff whereby they can observe and participate in addressing the needs and concerns of Laguna Hills businesses and residents.
2. **Events At Which Chamber Services Described Herein Are To Be Performed, But Not Limited To:**
 - A. National Night Out;
 - B. State of the City;
 - C. 4th of July; and
 - D. Heritage Day and/ or any other mutually agreed upon community event at which City requests business attraction and retention service assistance.
3. **Compensation.** The Chamber of Commerce will receive annual compensation from the City of Laguna Hills for the performance of the business attraction and retention services described herein, subject to an annual Budget Allocation, as follows:
 - A. *Compensation.* A total of \$10,000.00 for Chamber Services described in Section 1 and 2 to be paid by City in a lump sum amount within 30-days of Agreement approval.
 - B. *Community Center Meeting Room Space.* Meeting room space at the Laguna Hills Community Center will be provided to the Chamber, free of charge, for regular board meetings held twice a month, on the 1st and 3rd Thursdays, between 8:30am and 10:00am in the Tower Room, and for up to six special events held in the Heritage Room, dates and times not to conflict with the City's regular recreation/facility reservation schedule or special events. Chamber to submit Heritage Room reservation requests to City a minimum four weeks prior to any event.
 - C. *Kiosk Space.* A kiosk space will be made available at the City Hall Reception Desk area for the Chamber to provide business attraction information.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 12, 2022

TO: Mayor and Council Members

FROM: Larry Longenecker
Community Development Director

ISSUE: Proposal for City to Retain Specified Local Business Attraction and Retention Services from the Laguna Hills Chamber of Commerce for Fiscal Year 2022-2023

RECOMMENDATION: That the City Council review and approve proposed "deal points" that will then be used to prepare a proposed "Business Attraction and Retention Services Agreement" between the City of Laguna Hills and the Laguna Hills Chamber of Commerce for Fiscal Year 2022-2023.

SUMMARY:

At its February 8, 2022, meeting, the City Council discussed options for supporting the Laguna Hills Chamber of Commerce, including monetary support and/or equivalent services. At that meeting, the City Council voted to table the item until the anticipated July 2022 Budget amendment discussion, and directed Staff to work with the Chamber of Commerce to prepare deal points for City Council consideration, consistent with parameters set forth in the PowerPoint presented at that meeting by Councilmember Pezold. At the following February 22, 2022, City Council meeting, Mayor Pro Tempore Heft requested an agenda item be scheduled at the next meeting in order to offer a motion for reconsideration of the timing of the City's support of the Laguna Hills Chamber of Commerce. At its March 8, 2022, City Council meeting, the Council approved a motion for reconsideration and also passed a motion directing Staff to work with the Chamber of Commerce to develop funding agreement deal points for City Council consideration at its April 12, 2022, meeting.

After a cooperative meeting between Chamber of Commerce representatives and City

Discussion to Retain Local Business Attraction Services from the LH Chamber of Commerce

April 12, 2022

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Staff, on March 24, 2022, the Chamber of Commerce submitted to the City a proposed deal points outline, provided as Attachment 1. The proposed deal points include a scope of services to be performed by the Chamber of Commerce in return for the compensation to be provided by City. Compensation, as proposed by the Chamber of Commerce, includes a payment of \$10,000 in direct compensation, meeting and event space at the City's Community Center, and potential office space at the City's Civic Center. The use of City space at the Community Center and at the Civic Center are proposed to be provided for no fee. The City Council is requested to provide final direction on these deal points to allow for the preparation of a Business Attraction and Retention Services Agreement between the Chamber of Commerce and the City for Fiscal Year 2022-2023.

BACKGROUND:

At its February 8, 2022, City Council meeting, Councilmember Pezold presented her report regarding City support for the Laguna Hills Chamber of Commerce. City Council discussed various options for supporting the Laguna Hills Chamber of Commerce, including monetary support and/or equivalent services. The City Council voted to table the item until the anticipated July 2022 Budget amendment discussion, and directed Staff, in the meantime, to work cooperatively with the Chamber of Commerce to prepare a deal points outline for City Council consideration in July 2022, consistent with the parameters set forth in the February 8 PowerPoint presented by Councilmember Pezold.

At the following City Council meeting, on February 22, 2022, during the City Council Comments portion of the meeting, Mayor Pro Tempore Heft indicated a desire to discuss a motion to reconsider the timing of the City's consideration of support of the Laguna Hills Chamber of Commerce, with a second by Councilmember Pezold, to place the item on the March 8, 2022, City Council meeting agenda. At the March 8 meeting, the City Council approved a motion for reconsideration and also passed a motion directing Staff to work with the Chamber of Commerce to develop funding agreement deal points and return this matter to the City Council at its April 12, 2022, meeting. The March 8, 2022, Staff report and attachments are included as Attachment 2 to this report.

DISCUSSION:

On March 24, 2022, City Staff met with two representatives of the Laguna Hills Chamber

Discussion to Retain Local Business Attraction Services from the LH Chamber of Commerce

April 12, 2022

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of Commerce, Board of Director members Sheri Feinberg and Jeffrey Halloran, to cooperatively discuss deal points for a potential funding agreement for Fiscal Year 2022-2023, including a scope of services to be performed by the Chamber of Commerce, and specific events during which these services would be provided. Also discussed at the meeting was potential compensation the City may provide to the Chamber of Commerce for the various services provided. Subsequent to the March 24, 2022, meeting, the Chamber of Commerce submitted to the City a proposed deal points outline, provided as Attachment 1.

Scope of Services

The services to be provided to the City of Laguna Hills by the Laguna Hills Chamber of Commerce are proposed as part of a business attraction and retention program to support the City's economic development efforts. Specific work items, as identified, include outreach to prospective and new businesses to Laguna Hills and marketing the City to attract desired businesses so as to enhance the welfare and wellbeing of the City's residents and existing businesses. Marketing services include use of the City logo in all advertising for City/Chamber events. Chamber of Commerce services would also include maintenance of a business retention relationship with the Laguna Hills business community, with business outreach to assess and address business needs, concerns, and questions, to improve business conditions and relations within the community and to communicate these issues to the City.

The scope of services in the proposed deal points outline (Attachment 1) would be provided at events conducted during Fiscal Year 2022-2023, including but not limited to: National Night Out; State of the City; 4th of July; Heritage Day (if created) or other City events at which Chamber assistance is requested throughout the year.

Compensation

The Chamber of Commerce deal points outline proposes four categories of compensation to be provided by the City, summarized below, in return for the services performed by the Chamber:

- 1) Funding. A total one-time payment of \$10,000 is proposed for Chamber of Commerce Business Attraction and Retention Services provided at events, all as detailed in the deal points outline.

Discussion to Retain Local Business Attraction Services from the LH Chamber of Commerce

April 12, 2022

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- 2) Meeting Space. Meeting room facilities at the Laguna Hills Community Center would be made available to the Chamber of Commerce during Fiscal Year 2022-2023, free of charge, including twice a month in the Tower Room for regular Chamber Board meetings and up to six special events held in the Heritage Room.
- 3) Office Space. Vacant office space, as it may become available, at the Laguna Hills Civic Center would be provided to the Chamber of Commerce during Fiscal Year 2022-2023, free of charge, for distribution of materials for general Business Attraction and Retention efforts, for the education of the business community and for the improvement of business conditions and relations. The Chamber of Commerce proposal does not currently include parameters for the size of an office to be provided. However, as a comparison, the City Council office is approximately 670 square feet. It is reasonable to establish that a similarly sized space be considered for Chamber of Commerce use. Please see Fiscal Impact for further discussion of available, and potentially available, office spaces in the Civic Center and their financial impact to the City.
- 4) Kiosk Space. A kiosk space will be made available at the City Hall Reception Desk area for the Chamber to provide Business Attraction and general Chamber of Commerce information.

Proposed Business Attraction and Retention Services Agreement

As the City will be purchasing business attraction and retention services from the Chamber of Commerce, as outlined in the Scope of Work, the City Attorney will prepare a Business Attraction and Retention Services Agreement once the City Council provides final direction on the attached Chamber of Commerce Proposal. The proposed Agreement will memorialize the deal points as agreed upon by the City Council and the Chamber of Commerce, as well as incorporate the following standard agreement terms:

1. Term. Services to be provided by Chamber of Commerce are for one year; May 2022 through June 30, 2023; Fiscal Year 2022-2023.
2. Insurance Requirements. Chamber of Commerce to provide and comply with City-standard Insurance requirements for retaining consultant services.
3. Indemnification. Chamber of Commerce to comply with City-standard

Discussion to Retain Local Business Attraction Services from the LH Chamber of Commerce

April 12, 2022

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Indemnification requirements for retaining consultant services.

4. Miscellaneous. Contract Terms and Provisions. Chamber of Commerce to comply with other applicable City-standard miscellaneous contract terms and provisions for retaining consultant services.
5. IRS 501(C)(6) Tax Exempt Status. The Laguna Hills Chamber of Commerce shall at all times during the Term of this Agreement maintain and be in good standing with their 501(C)(6) tax exempt status; City funds and/or City facilities provided by the City to the Chamber, as set forth in this Agreement, shall not be used to benefit one shareholder or for purposes of lobbying that violates their 501(C)(6) tax exempt status; and a quarterly report shall be provided to the City that includes an accounting for how all City funds authorized by this Agreement were spent.
6. Lease Agreement. To the extent that office space is provided by the City to Chamber of Commerce at the Laguna Hills Civic Center, Chamber of Commerce shall execute a standard Lease Agreement as to terms and conditions of occupancy of the property.

Comparison of Other South Orange County Cities

For the City Council's information, the following compensation is provided by other cities in South Orange County to their Chambers' of Commerce:

City	Sponsor of Chamber	Sponsorship Amount	Lease of City Facilities
Aliso Viejo	Yes	\$4,800	None
Laguna Beach	Yes	\$35,000	None
Laguna Niguel	Yes	\$44,000	Yes/fee charged
Lake Forest	Yes	\$16,000	None
Mission Viejo*			
Rancho Santa Margarita	Yes	\$25,000	None
San Juan Capistrano	Yes	\$25,000	Yes/fee charged

*A response form Mission Viejo had not been received by the time of release of this report.

As shown in the table above, two surrounding cities provide their Chambers of Commerce with City-leased office space in addition to their sponsorship amounts: Laguna Niguel and San Juan Capistrano. The City of Laguna Niguel leases 906 square feet

Discussion to Retain Local Business Attraction Services from the LH Chamber of Commerce

April 12, 2022

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to their Chamber of Commerce at a lease rate of \$1,930 per month. The City of San Juan Capistrano provides City facility space at no charge for the lease rate; however, the Chamber of Commerce does reimburse the City of San Juan Capistrano for landscaping and building maintenance and utility costs totaling \$1,018 per month.

It is noted that when the South Orange County Chamber of Commerce occupied the Laguna Hills Civic Center from 2010 to 2012 and they did pay market lease rates.

FISCAL IMPACT:

Proposed compensation of \$10,000 for the purchase of business attraction and retention services from the Chamber of Commerce would come from the City's General Fund reserves. Use of the Community Center meeting facilities would have a cost equivalent to the lost revenue for any events that would otherwise be scheduled for the dates and times used.

The City currently leases the second and third floor of the Laguna Hills Civic Center to various private businesses and governmental entities at market rate creating an "enterprise" operation. Leasing operation profits, to the extent they materialize, are regularly transferred to the City's General Fund. Provision of office space at the Civic Center to the Chamber of Commerce would result in the loss of lease revenue and Common Area Maintenance (CAM) charges that would otherwise be paid by tenants. The table below lists the currently available, or soon to be available, office suites in the Civic Center.

Available Civic Center Office Suites

Suite Number	Size (sf)	Annual Lease Rate	Estimated Annual CAM Charges	Availability
Suite 200	1,568	\$42,336	\$941	Currently under lease but a change in tenancy is in process. Lease terms with a new tenant have been agreed to and the Lease Agreement is currently being drafted. This Lease Agreement is anticipated to be on the April 26, 2022, City Council meeting.

Discussion to Retain Local Business Attraction Services from the LH Chamber of Commerce

April 12, 2022

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Suite 205	2,343	\$63,261	\$1,406	Currently vacant as unimproved space. Shell space will require a minimum of \$110,000 to an estimated \$150,000 in capital construction expense for tenant improvements.
Suite 250	2,471	\$66,717	\$1,438	Currently vacant.
Suite 310	873	\$23,571	\$524	Currently occupied by OC Clerk Recorder. This suite is expected to be vacated once improvements to Suite 160 are completed and the County consolidates their spaces. Neighboring suite has first right of refusal to lease this space once vacated. There is a possibility that the neighboring suite will not take the space. If this is the case, the suite would become available in an estimated three to six months.

ATTACHMENTS:

- Chamber of Commerce Proposed Deal Points Outline
- March 8, 2022 Staff Report and Attachments

**LAGUNA HILLS CHAMBER OF COMMERCE PROPOSAL FOR
FY22-23 FUNDING AGREEMENT BETWEEN
CITY OF LAGUNA HILLS AND CHAMBER OF COMMERCE**

1. **Services to be Provided.** The Laguna Hills Chamber of Commerce will provide the following scope of services for Fiscal Year 2022-2023 as part of a Business Attraction and Retention program supporting the City's economic development goals:
 - A. Conduct Business Attraction efforts with prospective and potential new and relocating businesses to the City of Laguna Hills.
 - B. Welcome new businesses to the City, including outreach to new businesses. City to provide information on all new issuances of certificates of use and occupancy.
 - C. Diligently advertise and market the City of Laguna Hills in such a manner as to attract worthwhile business enterprises to the City, which will enhance the general welfare and wellbeing of the City's residents and businesses.
 - D. Maintain a Business Retention relationship with the Laguna Hills Business Community.
 - E. Contact businesses located within the City to assess and address their needs, concerns, and questions, to improve business conditions and relations within the community. These assessments will be communicated to the City as warranted and at minimum as part of a quarterly report to the City, as detailed herein below.
 - F. Transmit a written quarterly report to the City which identifies City-related and/or Business Attraction/Retention issues that arise during business contacts.
 - G. Provide access to the Chamber of Commerce website with community news, events, business directory and links to various Chamber partners.
 - H. Include the City logo in all advertising for City/Chamber events, as identified herein.
 - I. Provide a non-voting board position for City Staff whereby they can participate in addressing the needs and concerns of Laguna Hills businesses and residents.
2. **Events at which Chamber Services described herein are to be Performed but not limited to:**
 - A. National Night Out
 - B. State of the City
 - C. 4th of July

- D. Heritage Day and/ or any other mutually agreed upon events at which City requests assistance.
3. **Compensation.** The Chamber of Commerce will receive annual compensation from the City of Laguna Hills, subject to an annual Budget Allocation, as follows:
- A. *Funding.* A total of **\$10,000.00** for Chamber services described in Section 1 and 2 to be paid within 30 days of Agreement approval.
 - B. *Civic Center Office Space.* Existing built out office space, neither requiring tenant improvements nor displacement of current tenants in the Laguna Hills Civic Center, will be made available to the Chamber to be used for distribution of materials for: 1) General Business Attraction and Retention efforts, and 2) the education of the business community and improvement of business conditions and relations. City to absorb the cost of Lease Rates and Common Area Maintenance Charges for said office space.
 - C. *Community Center Meeting Space.* Meeting space at the Laguna Hills Community Center will be provided to the Chamber, free of charge, for regular board meetings held twice a month, on the 1st and 3rd Thursdays, between 8:30am and 10:00am in the Tower Room, and for up to six special events held in the Heritage Room, dates and times not to conflict with the City's regular or special events. Chamber to submit Heritage Room reservation requests to City a minimum four weeks prior to any event.
 - D. *Kiosk Space.* A kiosk space will be made available at the City Hall Reception Desk area for the Chamber to provide Business Attraction information.
4. **No Lobbying or Political Purposes.** The use of City funds and/or City facilities by the Chamber, as set forth in this Agreement, shall not be used for any political purposes.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: March 8, 2022

TO: Mayor and Council Members

FROM: Melissa Au-Yeung
Deputy City Manager

ISSUE: Discussion of Funding, or Equivalent Services, in Support of the Laguna Hills Chamber of Commerce

RECOMMENDATION: Mayor Pro Tempore Heft recommends that the City Council direct Staff to begin work as expeditiously as possible with the Chamber of Commerce to develop funding agreement deal points in support of the Laguna Hills Chamber of Commerce.

SUMMARY:

At its February 8, 2022, City Council meeting, the City Council discussed various options for supporting the Laguna Hills Chamber of Commerce, including monetary support and/or equivalent services. At that meeting, the City Council ultimately tabled the item until the July 2022 budget amendment agenda item, as well as directed staff to work cooperatively with the Chamber of Commerce to establish deal points that can be presented to the City Council for consideration in July 2022. At the following February 22, 2022, City Council meeting, during the City Council Comments portion of the meeting, Mayor Pro Tempore Heft indicated a desire to discuss a motion to reconsider the timing of the City's consideration of support of the Laguna Hills Chamber of Commerce, with a second by Council Member Pezold. Consequently, Staff recommends the City Council direct Staff to work cooperatively and as expeditiously as possible with the Laguna Hills Chamber of Commerce to establish deal points that can be presented to the City Council for consideration.

For reference, the February 8, 2022, staff report and attachments are included as an

Discussion of Laguna Hills Chamber of Commerce Funding

March 8, 2022

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attachment to this report.

FISCAL IMPACT:

The fiscal impact of the deal points will be provided to the City Council upon consideration of the item for approval.

ATTACHMENTS:

- February 8, 2022 Staff Report and Attachments



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: February 8, 2022

TO: Mayor and Council Members

FROM: Erica Pezold
Council Member

ISSUE: Discussion of Funding, or Equivalent Services, in Support of the Laguna Hills Chamber of Commerce

RECOMMENDATION: Council Member Pezold recommends that the City Council discuss options to support the Laguna Hills Chamber of Commerce.

SUMMARY:

Council Member Pezold is requesting the City Council discuss options to support the Laguna Hills Chamber of Commerce. Options may include: sponsorship opportunities, provide space in the Civic Center for the Chamber, etc.

BACKGROUND:

Staff is providing the following background information: The Laguna Hills Chamber of Commerce (Chamber) provides a menu of membership opportunities (Attachment A):

Membership Levels

Business Membership	\$225
Non-Profit Membership	\$165
Community – Non Business	\$125
President’s Circle – Bronze	\$1,295

Discussion of Laguna Hills Chamber of Commerce Funding
 February 8, 2022
 Page 2

President's Circle – Silver	\$2,495
President's Circle – Gold	\$3,995
President's Circle – Platinum	\$5,000
President's Circle – Diamond	\$10,000

Should the City Council decide to join the Chamber, Staff recommends the City join at the Non-Profit Membership level. The current budget does not include membership funding above this level and, as such, a budget amendment would be required for any further economic support of the Chamber.

As an alternate to joining the Chamber as a member and, should the City Council wish to provide financial assistance, it may be more appropriate for the City to provide community assistance funding. At its discretion, the City Council may provide community assistance funding to certain community groups and nonprofit organizations that provide community service, support, and/or programming efforts intended to enhance the quality of life of the City's residents, provided the City Council finds and determines that the expenditure of such community assistance funding fulfills a public purpose and provides a direct public benefit within the City of Laguna Hills. In this instance, the City Council may make the requisite "public purpose findings" for community assistance funding, in a specified amount and for a specific period of time, and approve a formal Resolution of the City Council as a means of providing municipal funding to support the Chamber. Most recently, in FY 2019-2020, the City Council authorized \$7,500 of community assistance funding to the Chamber via a Community Assistance Funding Resolution. Community assistance funding has not been included in the current budget and, as such, would also require the approval of a budget amendment if it is further considered.

It should be noted that, irrespective of the funding support mechanism, Staff does not recommend City officials and/or Staff serve on the Laguna Hills Chamber of Commerce Board of Directors, should the opportunity be provided to the City. In its primary function, the City serves in a regulatory capacity, which includes some forms of regulation of businesses. While the City and the Chamber will most often have compatible views on local and State issues affecting businesses, there will be instances where the City, in its regulatory function, is not able to take a position or might even be required to take an opposing position as expressed by the Chamber of Commerce. This

could very well create a conflict of interest and, as such, should be avoided.

FISCAL IMPACT:

Staff is providing the following information: While not currently budgeted, membership in the Laguna Hills Chamber of Commerce at the Non-Profit Level could be accommodated within the 2021-2023 Biennial Budget. Should the City Council decide to join at a higher membership level or provide financial support by way of community assistance funding, a Budget Amendment would be required. Alternatively, providing valuable services to the Laguna Hills Chamber of Commerce could and should be recognized as equivalent to a financial contribution. These services have and can include providing low-cost or free access to City facilities for meetings and events, advertising Laguna Hills Chamber of Commerce events and/or co-sponsoring an annual State of the City event.

ATTACHMENTS:

- Laguna Hills Chamber of Commerce Membership Levels



Laguna Hills^(/) Chamber of Commerce

f (<https://www.facebook.com/lagunahills.chamber/>)

in (<https://www.linkedin.com/company/laguna-hills-chamber-of-commerce/>)

@ (<https://www.instagram.com/lagunahillschamber/>)

Newsletter Sign-UP (<https://visitor.r20.constantcontact.com/d.jsp?llr=ex8epv5ab&p=oi&m=1132444413668&sit=s8moa4hnb&f=29af7a10-5261-4121-bc06-efff51fe7720>)



JOIN

Instructions

Thank you for joining the Laguna Hills Chamber of Commerce. Please choose your membership level.

Select An Option

☐ **Business Membership**

Business Level \$225

- 70+ Networking/Education/Community Events per year
- Network of Referrals & Leads from Chamber Members
- Opportunities to Meet Community Leaders & Elected Officials
- Ribbon Cuttings, Grand Openings & Milestone Celebrations
- Business Page Listing on LHCC Website
- LHCC logo to add to your own website
- Email Newsletter Recognition/Promotion (at least once per year)
- Social Media & Website Marketing Opportunities
- Sponsorship & Exhibition Opportunities
- Certificate of Origin (\$25 per document, \$50 for non-members)
- Chamber Committee/Ambassador Opportunities

- Classy Chamber Plaque to Post at your Business
- Official LHCC Name Badge

☒ **Non-Profit**

Nonprofit \$165

- 70+ Networking/Education/Community Events per year
- Network of Referrals & Leads from Chamber Members
- Opportunities to Meet Community Leaders & Elected Officials
- Ribbon Cuttings, Grand Openings & Milestone Celebrations
- Business Page Listing on LHCC Website
- LHCC logo to add to your own website
- Email Newsletter Recognition/Promotion (at least once per year)
- Social Media & Website Marketing Opportunities
- Sponsorship & Exhibition Opportunities
- Certificate of Origin (\$25 per document, \$50 for non-members)
- Chamber Committee/Ambassador Opportunities
- Classy Chamber Plaque to Post at your Business
- Official LHCC Name Badge

☐ **Community - Non Business**

Community Membership - Non Business \$125

- 70+ Networking/Education/Community Events per year
- Opportunities to Meet Community Leaders & Elected Officials
- Certificate of Origin (\$25 per document, \$50 for non-members)
- Chamber Committee/Ambassador Opportunities

☐ **President's Circle - Bronze**

President's Circle - Bronze \$1,295

- All Business Level Benefits PLUS
- Verbal Recognition at all Live Chamber Events
- Company Logo Listed in President's Circle on LHCC Website
- Company Logo Listed in all Member Email Blasts
- Space Available for Marketing Display at Networking Meetings
- Spotlight Article Space in Weekly Digital Newsletter – 2x per year
- Member of the Month Website Banner Listing – 1 month per year
- Ad Space in Weekly Digital Newsletter – 4 times per year
- Ad Space on Website - 2 Months per year

☐ **President's Circle - Silver**

President's Circle - Silver \$2,495

- Basic Bronze Medal Level Benefits PLUS
- Spotlight Article Space in Weekly Digital Newsletter – 3x per year
- Member of the Month Website Banner Listing – 2 months per year
- Ad Space in Weekly Digital Newsletter – 6 times per year
- Ad Space on Website - 3 Months per year

☐ **President's Circle - Gold**

President's Circle - Gold \$3,995

- Basic Silver Medal Level Benefits PLUS
- Spotlight Article Space in Weekly Digital Newsletter – 4x per year
- Member of the Month Website Banner Listing – 3 months per year
- Ad Space in Weekly Digital Newsletter – 8 times per year
- Ad Space on Website - 4 Months per year

○ **President's Circle - Platinum**

President's Circle - Platinum \$5,000

- Basic Gold Medal Level Benefits PLUS
- Spotlight Article Space in Weekly Digital Newsletter – 6x per year
- Member of the Month Website Banner Listing – 4 months per year
- Ad Space in Weekly Digital Newsletter – 10 times per year
- Ad Space on Website - 6 Months per year

○ **President's Circle - Diamond**

President's Circle - Diamond \$10,000

- Basic Platinum Medal Level Benefits PLUS
- Spotlight Article Space in Weekly Digital Newsletter – 12x per year
- Ad Space in Weekly Digital Newsletter – 20 times per year
- Ad Space on Website - 12 Months per year
- Exclusive Website Member Page on Navigation Bar Year Round
- This is our Top Tier Premier Membership Level that will receive top recognition and promotion across all our marketing and communication channels.

Enter Contact Information

First Name*

Last Name*

E-mail*

Business Name*

View Membership Terms

☐

I'm not a robot

reCAPTCHA
Privacy - Terms

Next

GET IN TOUCH!

📞 (tel:949-542-6016) (949) 542-6016
(tel:949-542-6016)

📍 (<https://goo.gl/maps/Uiv3KyY9iXtVDTuT6>) 23016 Lake Forest Drive, Ste. D219
Laguna Hills, CA 92653
(<https://goo.gl/maps/Uiv3K>)

✉️ (<mailto:info@lagunahillschamber.com>) Email Us
(<mailto:info@lagunahillschamber.com>)

QUICK LINKS

Member Directory
(<https://business.lagunahillschamber.com/member-directory>)

Member Login
(<https://business.lagunahillschamber.com/a/MIC/Login>)

Events
(<https://business.lagunahillschamber.com/event-calendar>)

Job Postings
(<http://business.lagunahillschamber.com/jobs>)

Hot Deals (Coming Soon)

STAY CONNECTED

Stay up-to-date on our latest developments, program offerings, meeting dates and opportunities.

Newsletter Sign-up (<https://visitor.r20.constantcontact.com/d.jsp?llr=ex8epv5ab&p=oi&m=1132444413668&sit=s8moa4hnb&f=29af7a10-5261-4121-bc06-efff51fe7720>)

RESOLUTION NO. 2022-04-26-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LAGUNA HILLS, CALIFORNIA, AMENDING THE FISCAL
YEAR 2021-2022 BUDGET BY INCREASING THE
GENERAL GOVERNMENT DEPARTMENT OPERATING
BUDGET FOR BUSINESS ATTRACTION AND RETENTION
SERVICES

WHEREAS, the City Council of the City of Laguna Hills approved Resolution No. 2021-06-22-5 on June 22, 2021, adopting the Operating Budget, Capital Improvement Program, and Other Appropriations for the City of Laguna for the Fiscal Years 2021-2022 and 2022-2023 Biennial Budget; and

WHEREAS, the Laguna Hills Chamber of Commerce (hereinafter referred to as "Chamber") is a 501 (C)(6) nonprofit corporation that is organized, among other things, for the following purposes: to provides opportunities and benefits for the local Laguna Hills business community to help strengthen such business to promote and assist local businesses in Laguna Hills by creating a local business climate where such commerce can operate in a productive and profitable manner; to cooperate with and support the local business community of Laguna Hills both locally and within the region; to educate, inform, and encourage Laguna Hills residents to shop and dine in Laguna Hills and to patronize such local businesses; and to increase the economic base of Laguna Hills while preserving local historic resources, quality of life, ambiance, and the interests of Laguna Hills businesses; and

WHEREAS, City Council has determined that there is a need to retain certain business attraction and retention services in order to further promote, support, and develop the Laguna Hills businesses community; toward this end, the City Council desires to retain the Chamber to promote the Laguna Hills business community by disseminating business attraction and retention information that the City would otherwise need to produce and provide in order to support and promote the local Laguna Hills business community and to promote economic development opportunities within the City; and

WHEREAS, the Chamber has special knowledge, skills, experience, and resources available to provide such services to assist the City in disseminating information that will promote, support, and develop Laguna Hills businesses in furtherance of the City Council's economic development goals and objectives; and

WHEREAS, the Chamber has expressed interest in providing such business attraction and retention services to the City of Laguna Hills and maintains that it is uniquely qualified by virtue of its experience, knowledge, education, reputation, and expertise to provide these services to the City and has agreed to provide such services; and

WHEREAS, the City does not have the personnel, technical expertise, or experience able to perform the work and services for business attraction and retention; and

WHEREAS, the City Council desires to retain the Chamber to provide business attraction and retention services for the benefit of the Laguna Hills business community; and

WHEREAS, the City Council finds and determines that the expenditure of \$10,000 for the procurement of certain business attraction and retention services with the Chamber is authorized and the amount is not included in the adopted Fiscal Year 2021-2022 Operating Budget; and

WHEREAS, the adopted Fiscal Year 2021-2022 Operating Budget requires amendment and authorization to adjust appropriations due to the retention of business attraction and retention services with the Chamber.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. Adoption of Recitals. The foregoing recitals set forth above are true and correct and are incorporated by reference herein.

SECTION 2. Approval of Budget Amendments. The City Council hereby approves and adopts the proposed amendment to the Fiscal Year 2021-2022 Operating Budget for Business Attraction and Retention Services, as set forth in Exhibit "A", attached hereto and incorporated herein.

PASSED, APPROVED, AND ADOPTED this 26th day of April 2022.

DAVE WHEELER, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2022-04-26-X adopted by the City Council of the City of Laguna Hills, California, at a
Regular Meeting thereof held on the 26th day of April 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

EXHIBIT A

Proposed Amendments
to the
Fiscal Year 2021-2022 Operating Budget
for
Business Attraction and Retention Services

**CITY OF LAGUNA HILLS
PROPOSED BUDGET AMENDMENT TO THE OPERATING BUDGET
For Fiscal Year 2021-2022**

<u>FUND</u>	<u>DEPARTMENT</u> <u>Description</u>	<u>Current</u> <u>Budget</u>	<u>Proposed</u> <u>Amendment</u>	<u>Amended</u> <u>Budget</u>
GENERAL FUND	GENERAL GOVERNMENT DEPARTMENT			
	Business Attraction & Retention Services	-	10,000	10,000
	Total	-	10,000	10,000



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022

TO: Mayor and Council Members

FROM: Gregory E. Simonian
City Attorney

ISSUE: Appointment of New City Manager and Approval of City Manager Employment Agreement

RECOMMENDATION: That the City Council:

- 1) Receive and file an oral report providing a summary of the Council-designated labor representatives' recommendations concerning proposed salary, benefits, and terms and conditions of employment for Jarad L. Hildenbrand, a local agency executive, to serve as the City's next City Manager;
 - 2) Appoint Jarad L. Hildenbrand as City Manager of the City of Laguna Hills, effective May 16, 2022, to serve at the direction and pleasure of the City Council, pursuant to Laguna Hills Municipal Code Chapter 2-08;
 - 3) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, appointing Jarad L. Hildenbrand as City Manager of the City of Laguna Hills, and approving and authorizing the Mayor / Mayor Pro Tempore to execute a City Manager Employment Agreement";
 - 4) Direct the City Clerk to administer the Oath of Office; and
 - 5) Direct the City Clerk to provide written notice of contract termination to Interim City Manager Kenneth H. Rosenfield, P.E., pursuant to Section 2.0 of the April 2, 2022, Retired Annuitant Employment Agreement, effective May 16, 2022.
-

Appointment of New City Manager and Approval of City Manager Employment Agreement

April 26, 2022

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SUMMARY:

The City Council previously retained the professional executive recruitment services of Bob Hall & Associates on November 23, 2021, and directed the commencement of a formal competitive executive recruitment process for the purpose of filling the permanent city manager position, which position has been vacant since January 22, 2021.

The formal competitive recruitment and selection process has now been completed, which resulted in the City Council identifying and tentatively selecting Jarad L. Hildenbrand as the most qualified candidate for the position. The City Council's designated labor representatives, Mayor Pro Tempore Heft and Council Member Pezold, and the City Attorney have completed final negotiations with Mr. Hildenbrand over proposed salary, benefits, and terms and conditions of employment, and the City Attorney has prepared a proposed city manager employment agreement based on those negotiated terms and conditions for City Council review and approval.

Therefore, it is in order for the City Council to: 1) Receive an oral report providing a summary of the Council-designated labor representatives' recommendations concerning proposed salary, benefits, and terms and conditions of employment for Jarad L. Hildenbrand to serve as City Manager, as required by SB 1436; 2) Appoint Jarad L. Hildenbrand to serve as the City Manager, effective May 16, 2022, with an employment start date of May 16, 2022; 3) Adopt a Resolution appointing Jarad L. Hildenbrand as City Manager and approving and authorizing the Mayor / Mayor Pro Tempore to execute the proposed City Manager Employment Agreement; 4) Direct the City Clerk to administer the Oath of Office; and 5) Direct the City Clerk to provide written notice of contract termination to Interim City Manager Kenneth H. Rosenfield, P.E., pursuant to Section 2.0 of the April 2, 2022 Retired Annuitant Employment Agreement, effective May 16, 2022.

BACKGROUND:

Former City Manager Donald J. White separated from his employment with the City, effective January 22, 2021. The City Council and Mr. White previously entered into a mutual separation agreement. On January 19, 2021, the City Council appointed the Assistant City Manager/Public Services Director Kenneth H. Rosenfield, P.E., to serve as the Acting City Manager, effective January 22, 2021, pending the negotiation and preparation of a proposed interim city manager employment contract. On

Appointment of New City Manager and Approval of City Manager Employment Agreement

April 26, 2022

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February 9, 2021, the City Council appointed Assistant City Manager/Public Services Director Kenneth H. Rosenfield, P.E., to serve as the Interim City Manager and approved an Interim City Manager Employment Agreement with Mr. Rosenfield, effective February 10, 2021.

On March 10, 2022, Interim City Manager Kenneth H. Rosenfield, P.E., submitted a letter of resignation indicating his intent to retire from the City, effective April 1, 2022, after nearly 27-years of dedicated public service. During his tenure with the City, he served as the City's first Public Services Director/City Engineer; most notably serving as the Interim City Manager for the past 15-months. Mr. Rosenfield's letter of resignation was placed on the March 22, 2022 agenda for City Council review and acceptance. Mr. Rosenfield's retirement from the City was made effective April 1, 2022.

Pending the selection of a new city manager, a process that had already been initiated, but not yet completed, on March 22, 2022, the City Council, pursuant to Government Code §§7522.56 and 21221(h), appointed Mr. Rosenfield to the interim position of City Manager on a temporary basis only for a limited duration consistent with the requirements set forth in CalPERS regulations applicable to the employment of retired annuitants. While the City Council was actively engaged in a formal competitive recruitment for a new City Manager, temporary assistance to perform the duties of this interim position was required. CalPERS regulations permit a retired annuitant to be employed by a CalPERS employer, such as the City, so long as specified conditions and findings are met. Therefore, on March 22, 2022, the City Council approved and entered into a Retired Annuitant Employment Agreement, temporarily appointing Kenneth H. Rosenfield to serve as Interim City Manager, effective April 2, 2022, until completion of the ongoing formal competitive city manager recruitment process and until selection and appointment of a new city manager is made by the City Council.

As directed by the City Council, over the past several months the City has engaged in a formal competitive recruitment process for selecting a qualified candidate to fill the City Manager position. The recruitment process has now been completed, which resulted in the City Council identifying and selecting Jarad L. Hildenbrand as the most qualified candidate for the position. A copy of Mr. Hildenbrand's resume is attached hereto as Attachment "A". On April 6, 2022, the City Council unanimously selected Mr. Hildenbrand as the top candidate and finalist to serve as the City's next city manager, subject to the Council-designated labor representatives and City Attorney reaching final agreement with Mr. Hildenbrand regarding proposed salary, benefits, and

Appointment of New City Manager and Approval of City Manager Employment Agreement

April 26, 2022

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terms and conditions of his employment with the City and his appointment by the City Council as City Manager, and subject to preparation by the City Attorney and approval by the City Council of a new city manager employment contract. The City Council previously directed that a proposed new city manager employment agreement with Mr. Hildenbrand be negotiated, drafted, and agendized for final review and approval by the City Council at its regularly scheduled meeting on April 26, 2022.

The City Council's designated labor representatives, Mayor Pro Tempore Heft and Council Member Pezold, and the City Attorney, have completed negotiations with Mr. Hildenbrand, proposed terms and conditions of Mr. Hildenbrand's employment were previously presented to Council for review and consideration, and the City Attorney has prepared a proposed new city manager employment contract based on the negotiated terms and conditions. Mr. Hildenbrand has been given an opportunity to have the proposed employment contract reviewed and approved by his own attorney. Therefore, it is now in order for the Council to formally appoint Jarad L. Hildenbrand to serve as City Manager, effective May 16, 2022, and to approve the proposed City Manager Employment Agreement attached hereto.

Pursuant to Government Code Section 36506, the City Council is required to establish the compensation of the city manager by Resolution, which appointed official holds office at the pleasure of the City Council. A copy of the proposed Resolution appointing Jarad L. Hildenbrand as City Manager is attached hereto as Attachment "B". Pursuant to Laguna Hills Municipal Code Chapter 2-08, the City Council is authorized to appoint a city manager and may provide for such employment by approving the proposed City Manager Employment Agreement, which is attached hereto as Exhibit "1" to Attachment "B".

SB 1436, which took effect on January 1, 2017, requires the governing bodies of local agencies to "orally report a summary of a recommendation" for changes in the salaries, salary schedules, or compensation paid in the form of fringe benefits of local agency executives before taking a final vote on the proposed changes. SB 1436 specifies that the summary of the recommendation must be made "during the open meeting in which the final action is to be taken." In accordance with this state law requirement, prior to the City Council taking final action to approve the proposed employment contract, the City Attorney will make the required oral report in accordance with Government Code Section 54953(c)(3).

Appointment of New City Manager and Approval of City Manager Employment Agreement

April 26, 2022

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CONCLUSION:

As a result of the completion of the formal competitive executive recruitment and selection process, and consistent with prior City Council direction, it is recommended that the City Council adopt a Resolution: a) appointing Jarad L. Hildenbrand as City Manager to serve at the direction and pleasure of the City Council, pursuant to LHMC Chapter 2-08; and b) approving and authorizing the Mayor / Mayor Pro Tempore to execute the proposed City Manager Employment Agreement with Mr. Hildenbrand, attached hereto.

FISCAL IMPACT:

The City Manager will be paid an annual base salary of \$260,000.00 and will receive the same benefits provided to other Executive Management employees pursuant to Resolution No. 2021-07-13-4, as may be amended. These benefits include, but are not limited to, health insurance (medical, dental, and vision), paid fixed and floating holidays, supplemental retirement contribution, retiree health savings plan, group life and disability insurance, short- and long-term disability insurance, sick leave, and bereavement leave. The City Manager will be enrolled in the first-tier pension formula of 2% @ 60 Program, and will be responsible for paying the full employee/member contribution, currently set at 7% of salary.

Additionally, pursuant to the proposed employment contract, Mr. Hildenbrand will accrue vacation at the rate of twenty paid days each fiscal year (in addition to recognized regular and floating City holidays). Effective May 16, 2022, Mr. Hildenbrand will receive a one-time starting vacation balance of ten days. Mr. Hildenbrand is entitled to participate in the International City Managers Association ("ICMA") 457 deferred compensation plan. As part of his annual compensation, the City agrees to provide him with a Section 457 deferred compensation program, which will be administered by ICMA, and to pay ten thousand dollars (\$10,000) per year (effective January 1, 2023) into such deferred compensation program. Beginning January 1, 2023, this amount will be paid in a lump sum in January of each calendar year thereafter during the term of the employment agreement.

Additionally, under the terms of the proposed employment contract, the City will provide Mr. Hildenbrand with a City leased or owned vehicle of a make and model deemed acceptable by the City Council, pursuant to Laguna Hills Municipal Code Section

Appointment of New City Manager and Approval of City Manager Employment Agreement

April 26, 2022

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3-08.130, during the term of the employment agreement. City will be responsible for the following operating costs of such vehicle: insurance; maintenance, and repairs.

The attached City Manager Employment Agreement details all elements of the proposed compensation plan for the City Manager position. Total proposed annual compensation is estimated to be \$354,513. As indicated above, an oral report summarizing the Council-designated labor negotiators' recommended compensation plan for the position will be made by the City Attorney during open session before final action is taken.

ATTACHMENTS:

- Attachment A - Resume of Jarad L. Hildenbrand
- Attachment B - Proposed Resolution
- Exhibit 1 to Attachment B

JARAD L. HILDENBRAND

EDUCATION

California State University, Long Beach
 ■ Master of Public Administration, 2016

California State University, Fullerton
 ■ Bachelor's in Public Administration, 2009

EXPERIENCE

March 2019 – Present
 City Manager

City of Stanton

Orange County

Effectively manage the day-to-day operations in accordance with City Council policy directives. I maintain an open-door policy and interact directly and frequently with the Mayor, City Council, and public taking a proactive approach towards fulfilling the City's vision. Required to be a true generalist capable of making difficult decisions to benefit the City and its taxpayers on a daily basis.

Management and Supervisory Responsibility:

- With an approachable, family-first, and fair management style, increased morale in City Hall to repair organizational culture.
- Manage a full-time and part-time staff of approximately 70 employees with an annual General Fund budget of approximately \$25 million. Approximately \$40 million all funds.
- Recruited and onboarded five department directors – Community Services, Finance, Community and Economic Development, Chief of Police, and Public Works.
- Actively work to recognize and identify workplace tension and defuse conflicts before they arise.
- Significantly expanded the City's capacity to address homelessness through the hiring of Homeless Outreach Coordinators and the execution of the N-SPA Settlement Agreement.

Budgeting and Financial Management:

- Gained compliance with OCTA Measure M MOE eligibility requirements keeping \$3 million of funding locally.
- Spearheaded a plan to pay off PERS Safety UAL resulting in a savings of approximately \$2.9 million over 15 years, and \$600,000 annually.
- Implemented a strategy to reduce CalPERS Misc UAL resulting in an additional savings of \$1.7 million over the next 15 years.
- Submitted and received approval of Last and Final ROPS freeing up 2011 Bond proceeds (\$3.4 million).
- Automated several processes – online building permits, timesheets/HR, budgeting, VOIP, Office 365 – resulting in greater staff efficiencies increasing productivity hours.
- Redesigned the City's CDBG Housing Rehabilitation Program. In 2018/19, Stanton distributed less than \$10,000. In 2020, Stanton distributed the full allocation of \$100,000.
- Initiated an insurance/risk review (first time in 30+ years) that identified a savings of up to \$100,000 annually. Transitioned from PERMA to CJPIA.
- Identified ways to use Development Impact Fees that sat idle for nearly a decade.
- Coordinated a special election for two new voter approved measures: TOT increase from 8% to 12% (\$250,000 additional revenue) and Cannabis Tax rates (\$1,000,000+ additional revenue).
- Implemented reimbursable agreements with developers to ensure cost recovery and protect the General Fund.

- Refinanced one bond (2010). The City's share of the savings is about 13.5%. The annual debt service savings is about \$270,000, so the City's General Fund property tax increased \$30,000.
- Successful solicitation & administration of competitive funding for facilities & programs; FaCT grant- \$900,000 over three years; Senior Mobility Program - \$52,000; FRC Improvements- \$350,000.
- Identified \$30,000 in General Fund budget savings by taking advantage of the 0.25% early payment discount for the OCSL law enforcement contract.
- Secured a grant to update the City's Local Hazard Mitigation Plan.

Community and Economic Development and Infrastructure Projects:

- Orchestrated the successful award of a \$7.69 million SPP Prop 68 grant for the Norm Ross Sports Complex Renovation Project.
- Entitled several significant developments projects: W Power Reliability Center and Battery Storage System, VRV (300 units), Cloud House (321 units), KB Homes (76 single Family homes), Bigsby (79 townhomes), and the Super King market expansion.
- Negotiated several Development/Cooperation Agreements with developers, one of them being the largest in the City's history.
- During COVID, lead Rodeo 39 Public Market to the finish line and grand opening, and negotiated an Economic Development Subsidy Loan. This project should generate \$500,000+ of new sales tax annually.
- Worked with County and Jamboree Housing on Project Homekey bringing \$23 million of grant funding to Stanton converting seedy motels into 132-units of Permanent Supportive Housing.
- Acquired 900+ streetlights from Edison and completed an LED retrofit project resulting in savings to the City's monthly electric bill. Further identified and changed City facilities time of use rates resulting in additional monthly savings.
- Completed annual street, sewer, and other miscellaneous capital projects to keep the City's infrastructure in good order.
- Initiated updates to the City's Parks Master Plan, Sewer Master Plan, and Pavement Management Program.
- Restructured the 161-unit Tina Pacific Affordable Housing Project resulting in a \$15 million swing to the City's benefit. When completed the new project will result in 116 market rate for sale homes and 108 affordable rental units.
- Strategically acquired several properties for public open space and affordable housing projects.

December 2016 – February 2019

City of La Habra Heights

Los Angeles County

City Manager / City Clerk / Community Development Director

Management and Supervisory Responsibility:

- Managed a full-time and part-time staff of approximately 120 employees.
- Held strategic planning sessions with the City Council to identify priorities and key issues to better position the City for the future.
- Managed contract with Los Angeles County Sheriff's Department and implement directed patrol assignments as an intervention method to reduce crime in specific areas of the City.
- Reorganized City personnel and departments to establish appropriate service and staffing needs in relation to City's size.
- Developed a resolution, similar to a MOU, which simply memorializes employment benefits and salary rates for all classes of employment that is reviewed annually by Council during budget process.
- Worked with CalPERS to eliminate benefits of former City employee convicted of a felony.

Budgeting and Financial Management:

- Developed two structurally balanced budgets each with significant surpluses. Total all funds budget of approximately \$6.5 million.
- Successfully guided City through formation of citywide Street Maintenance Assessment District No. 7, which is expected to generate \$396,000 annual revenue for 10 years.
- Secured FEMA reimbursement for damage to City caused by January 2017 winter storms.
- Initiated a Comprehensive User Fee Study and Cost Allocation Plan to ensure that the City has a basis of applying comprehensive overhead rates and is accurately accounting for the true cost of providing services. This resulted in approximately \$500,000 of additional revenue.
- Diversified investment portfolio and increased interest earnings from \$16,000 in FY 15/16 to over \$75,000 in FY 17/18, and over \$100,000 in FY 18/19.
- Received the City's first Certificate of Achievement for Excellence in Financial Reporting Program (CAFR Program) and Distinguished Budget Presentation Award from the GFOA.

Project Management:

- Completed the purchase of City's new fire engine, fire command vehicle, public works truck and City pool vehicle.
- Managed design of FY 17/18 Street Improvement Project with a budget of nearly \$1M - the first major street project in five years. Construction in process.
- Managed design of FY 18/19 Street Improvement Project, with a total project cost of \$894,000.
- Overhauled the City's Weed Abatement/Brush Clearance Program (fire hazard reduction).
- Led the creation of LA County Sheriff's Substation at City Hall resulting in 400+ additional patrol hours annually.
- Developed a plan to transition City Council elections to the statewide general election cycle as required by SB 415.
- As City Clerk, successfully managed the 2016 municipal election, which one ballot measure.
- Launched "ALERTLHH" a mass notification system designed to notify the community over multiple communication paths before, during and after emergency events to keep residents safe and informed. Also, registered as a FEMA approved IPAWS Alerting Authority.
- Launched "Guac Talk" a weekly electronic newsletter for residents.
- Currently assessing the effectiveness and feasibility of Automated License Plate Recognition.
- Oversaw resource extraction business operating in the City to include the installation of a new oil/gas pipeline.
- Initiated an update to the City's Natural Hazard Mitigation Plan.

July 2012–December 2016
City Manager / City Clerk

City of Villa Park

Orange County

December 2008 – June 2012 City of Villa Park
Assistant City Manager / City Clerk

Orange County

January 2006 – December 2008 City of Villa Park
Intern / Assistant to the City Clerk / Management Assistant

Orange County

PERSONAL INFORMATION

Married to my beautiful wife, Jessica, and we have three kids, Ryleigh (8), Jaxon (6) and Teagan (2). I attend Cornerstone Church in Long Beach. My wife works full-time in insurance and my kids attend Valley Christian Elementary School. In my free time, I enjoy hunting, but most importantly being a husband and father. As a family we enjoy boating, camping, and off-roading. Our weeknights and weekends are often eventful with piano, dance, and sports. I am a self-proclaimed master DIYer that is always working around the house thanks to my wife's Pinterest account. Multiple trips to Ganahl Lumber, Home Depot or Lowe's are not uncommon.

RESOLUTION NO. 2022-04-26-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LAGUNA HILLS, CALIFORNIA, APPOINTING
JARAD L. HILDENBRAND AS CITY MANAGER AND
APPROVING AND AUTHORIZING THE MAYOR / MAYOR
PRO TEM TO EXECUTE A CITY MANAGER EMPLOYMENT
AGREEMENT

WHEREAS, after 29 years of service, former City Manager Donald J. White separated from his employment with the City, effective January 22, 2021; the City Council and Mr. White previously entered into a mutual separation agreement; and

WHEREAS, on January 19, 2021, the City Council appointed the Assistant City Manager/Public Services Director Kenneth H. Rosenfield, P.E., to serve as the Acting City Manager, effective January 22, 2021, pending the negotiation and preparation of a proposed interim city manager employment contract; and

WHEREAS, on February 9, 2021, the City Council appointed Assistant City Manager/Public Services Director Kenneth H. Rosenfield, P.E., to serve as the Interim City Manager and approved an Interim City Manager Employment Agreement with Mr. Rosenfield, effective February 10, 2021; and

WHEREAS, on March 10, 2022, Interim City Manager Kenneth H. Rosenfield, P.E., submitted a letter of resignation indicating his intent to retire from the City, effective April 1, 2022, after nearly 27-years of dedicated public service; during his tenure with the City, he served as the City's first Public Services Director/City Engineer, most notably serving as the Interim City Manager for the past 15-months; and

WHEREAS, Mr. Rosenfield's letter of resignation was placed on the March 22, 2022 agenda for City Council review and acceptance, Mr. Rosenfield's retirement from the City was made effective April 1, 2022; and

WHEREAS, pending the selection of a new city manager, a process that had already been initiated, but not yet completed, on March 22, 2022, the City Council, pursuant to Government Code §§7522.56 and 21221(h), appointed Kenneth H. Rosenfield, P.E. to the interim position of City Manager on a temporary basis only for a limited duration consistent with the requirements set forth in CalPERS regulations applicable to the employment of retired annuitants; while the City Council was actively engaged in a recruitment for a new City Manager, temporary assistance to perform the critical duties of this interim position was found and determined to be required; and

WHEREAS, on March 22, 2022, the City Council approved and entered into a Retired Annuitant Employment Agreement, temporarily appointing Kenneth H. Rosenfield, P.E., to serve as Interim City Manager, effective April 2, 2022, until completion of the ongoing formal competitive executive recruitment process and until selection and appointment of a new city manager is made by the City Council; and

WHEREAS, as directed by the City Council, over the past several months the City Council has engaged in a formal competitive executive recruitment process for selecting a qualified candidate to fill the city manager position; the recruitment process has now been completed, which resulted in the City Council identifying and selecting Jarad L. Hildenbrand as the most qualified candidate for the position; and

WHEREAS, pursuant to Laguna Hills Municipal Code Chapter 2-08, the City Council now desires to appoint Jarad L. Hildenbrand as the City Manager of the City of Laguna Hills and to retain Mr. Hildenbrand and establish the terms and conditions for such employment by approving the attached City Manager Employment Agreement; and

WHEREAS, pursuant to Government Code Section 36506, the City Council is required to establish the compensation of the City Manager by Resolution, which appointed public official shall hold office at the direction and pleasure of the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. Jarad L. Hildenbrand is hereby appointed City Manager of the City of Laguna Hills to serve at the direction and pleasure of the City Council, effective May 16, 2022, pursuant to Laguna Hills Municipal Code Chapter 2-08.

SECTION 3. The City Council hereby approves and authorizes the Mayor / Mayor Pro Tem to execute the City Manager Employment Agreement, dated May 16, 2022, which employment agreement is attached hereto as Exhibit "1" and is incorporated herein by reference with an effective date and term of office commencement date of May 16, 2022.

SECTION 4. The City Clerk is hereby directed to administer the Oath of Office.

SECTION 5. The City Clerk is hereby directed to provide written notice of contract termination to Interim City Manager Kenneth H. Rosenfield, P.E., pursuant to Section 2.0 of the April 2, 2022 Retired Annuitant Employment Agreement, effective May 16, 2022.

PASSED, APPROVED, AND ADOPTED this 26th day of April 2022.

DAVE WHEELER, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2022-04-26-X adopted by the City Council of the City of Laguna Hills, California, at a
Regular Meeting thereof held on the 26th day of April 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

EXHIBIT “1”

CITY MANAGER EMPLOYMENT AGREEMENT

DATED: MAY 16, 2022

EMPLOYMENT AGREEMENT CITY MANAGER

THIS EMPLOYMENT AGREEMENT (the "Agreement") is made and entered into, to be effective May 16, 2022 ("Effective Date"), by and between the CITY OF LAGUNA HILLS, a California municipal corporation organized and existing under the laws of the State of California (hereinafter referred to as "City"), and JARAD L. HILDENBRAND, an individual (hereinafter referred to as "Hildenbrand" or "City Manager"). City and Hildenbrand are sometimes hereinafter individually referred to as "party" and are hereinafter collectively referred to as the "parties."

RECITALS

A. In order to ensure that its governmental responsibilities are met at all times, City must attract and retain in its employment executive management personnel who exhibit the highest degree of knowledge, experience, technical ability, professionalism, and leadership qualities.

B. In order to attract and retain in its employment a city manager who possesses those qualities and the experience necessary to continue to fulfill the City's immediate and long-term goals and policy objectives, the City Council of the City has determined that it is advisable to appoint and retain Jarad L. Hildenbrand as City Manager and to enter into this Agreement. All City actions referred to in this Agreement shall mean actions taken by a majority of the City Council.

C. It is the desire of the City Council to retain the professional services of Jarad L. Hildenbrand to serve as City Manager of the City of Laguna Hills and to provide for certain compensation and benefits, establish conditions of employment, and set working conditions for such services.

D. City and Hildenbrand, therefore, desire to enter into this Agreement in order to specify the terms and conditions of Hildenbrand's employment with the City as City Manager.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

Section 1: Appointment and Term

A. City hereby appoints and retains Jarad L. Hildenbrand to serve as City Manager of the City of Laguna Hills and Hildenbrand hereby accepts such employment with City beginning on May 16, 2022, and continuing until City Manager or City Council terminates this Agreement pursuant to Section 7 below. The City Manager is employed by City in an "at-will" capacity serving at the pleasure of the City Council. Either the City Council or City Manager may terminate this Agreement at any time with or without cause and in its or his sole discretion, as set forth in this Agreement.

B. The Term of this Agreement shall be for three years, commencing on May 16, 2022 and ending on May 16, 2025, unless extended or terminated as provided herein. On May 16, 2023, and annually on each succeeding May 16th while this Agreement is effective, the Term of this Agreement shall be automatically extended for one additional year. For example, on May 16, 2023, the Term of this Agreement shall be automatically extended until May 16, 2026; on May 16, 2024, the Term of this Agreement shall be extended until May 16, 2027; and so on, unless prior to such date by a majority vote of the total membership of the City Council in attendance at a lawfully called meeting, the City Council takes formal action to declare its intention to not extend this Agreement for one additional year. Any such decision by the City Council to not extend the Term by one additional year shall modify only Section 1(B) of this Agreement and shall not constitute a termination for purposes of Section 7(A) of this Agreement. The parties make no representation with respect to whether such action by the City Council would amount to an adverse employment action.

Section 2: General Duties

Hildenbrand shall serve as the City Manager of the City of Laguna Hills. In that capacity, Hildenbrand shall perform all of the city manager duties specified by the Laguna Hills Municipal Code, the Government Code, and any other applicable laws of the State of California and shall perform the functions and duties as the administrative head of the government of the City of Laguna Hills. As City Manager, Hildenbrand shall also perform such other functions and duties, not inconsistent with the terms of this Agreement, as the City, by and through its duly elected City Council, may legally and properly assign to that position.

Section 3: Devotion to City's Business and Hours of Work

A. Hildenbrand's position as City Manager is considered a full-time position. City Manager shall devote his time, ability, and attention to the business of the City during the term of this Agreement on a full-time basis.

B. Except as otherwise provided herein, City Manager shall not engage in any other business, educational, or professional pursuits whatsoever, or directly or indirectly render any service of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise (excluding honoraria or the reimbursement of expenses), without the prior consent of the City Council. Notwithstanding the foregoing, Hildenbrand may expend reasonable amounts of time for educational, charitable, personal, or professional activities which shall not be deemed a breach of this Agreement if those activities do not conflict or materially interfere with the professional services required under this Agreement; such limited activities shall not require the prior consent of the City Council.

C. Nothing in this Agreement prohibits City Manager from making passive personal investments or conducting private business affairs, if those activities are not deemed to be a conflict of interest under state law or conflict or materially interfere with the professional management services required under this Agreement.

D. City Manager's duties may involve expenditures of time in excess of the regularly established workday or in excess of a forty-hour workweek and may also include time outside normal office hours, including but not limited to attendance at City Council meetings. City Manager is classified as an exempt employee under the Fair Labor Standards Act ("FLSA") and shall not be entitled to any additional compensation for hours worked in excess of forty in a work week or eight hours per calendar day.

Section 4: Performance Evaluation

The City Council shall review and evaluate the performance of the City Manager annually in October or November during the term of this Agreement. All aspects of this annual review are private personnel matters within the meaning of the Brown Act and are to be conducted in Closed Session of the City Council. Upon execution of this Agreement by both parties, the City Council shall schedule time, and allocate reasonable funds if necessary, to develop mutually agreeable procedures and criteria for these reviews, as well as substantive goals, objectives, and performance standards which will be applied during such annual performance evaluations.

The Mayor, City Council, and the City Manager shall be jointly responsible for the creation of procedural and substantive guidelines for these annual reviews in the first year of this Agreement. After the first annual performance review, the goals, objectives, and performance standards may be modified collaboratively between City Manager and the City Council. Each annual review is to include a written statement of findings which must be provided to the City Manager, who shall be afforded an adequate opportunity to discuss this evaluation with the Mayor and City Council and thereafter to submit a written statement in response.

The City Council may retain, at its sole discretion, the services of a professional facilitator or qualified labor negotiator, or other qualified professional, to assist the City Council in completing this annual performance evaluation process. Failure of the City Council to review and evaluate the performance of the City Manager pursuant to this section shall not affect the right of the City Council to terminate the City Manager's employment and shall not be considered a breach of this Agreement. Following each annual performance evaluation, the City Council may, at its sole discretion, grant the City Manager a performance bonus equal to 0 – 10% of his then-current annual base salary which, if awarded, must be approved by minute action of the City Council and ratified by resolution.

Section 5: Salary

A. As compensation for the professional services to be performed hereunder, effective May 16, 2022, City agrees to pay City Manager an annual base salary of Two Hundred Sixty Thousand Dollar (\$260,000.00), subject to deductions and withholdings of any and all sums required for federal or state income tax, other deductions or withholdings required by then current state, federal or local law, and paid bi-weekly in accordance with the City's established accounting and payroll practices at the same time and in the same manner as other employees of the City are paid. The City shall also deduct from his annual base salary any applicable sums that City Manager

is obligated to pay because of participation in plans or programs described in Section 6 of this Agreement and City Manager hereby authorizes such deductions.

B. Any increases in the annual base salary of City Manager, to the extent provided, may be made effective at any time and shall be made in the sole discretion of the City Council. Increases in City Manager's annual base salary approved by the City Council shall not require an amendment to this Agreement to be effective. Such increases may be set forth in an annual employee salary resolution or minute action approved by the City Council and ratified by resolution at a regularly scheduled meeting of the City Council.

C. City Manager's annual base salary shall not be subject to or affected by any Cost of Living or Consumer Price Index adjustments approved by the City Council to the salaries of other Executive Management employees.

Section 6: Benefits and Leaves of Absence

A. Employee Benefits

Except as expressly provided for in this Agreement, City Manager shall be entitled to receive the same benefits provided to other Executive Management employees pursuant to Resolution No. 2021-07-13-4, as may be amended from time to time by the City Council. These benefits include, but are not limited, to health insurance (medical, dental, vision), paid fixed and floating holidays, supplemental retirement contribution, retiree health savings plan, group life and disability insurance, sick leave, short and long term disability insurance, and bereavement leave.

B. Vacation

City Manager shall accrue vacation at the rate of twenty paid days each fiscal year (in addition to recognized regular and floating City holidays). The parties agree that this benefit includes and may be used for time off due to illness (whether personally or of a family member). During the term of this Agreement, Hildenbrand may not carryover more than forty days of accrued vacation from one fiscal year to the next. At any time during the term of this Agreement, Hildenbrand shall be entitled to cash-out accrued vacation days, provided that at least ten accrued vacation days remain available. The amount paid to Hildenbrand shall be based on Hildenbrand's annual base salary at the time the vacation hours/days are cashed out. Upon separation from employment, Hildenbrand shall be paid for all accrued and unused vacation time available at that time. Effective May 16, 2022, Hildenbrand shall receive a one-time starting vacation balance of ten days.

C. Retirement Benefits

1. City Manager shall receive retirement benefits through the California Public Employment Retirement System ("PERS"). City Manager is a Tier 1 employee as defined in Resolution No. 2021-07-13-4 and shall continue to be enrolled in the 2% at 60 program. City Manager agrees to pay the full cost of the employee's contribution, currently set at 7% of salary.

2. City Manager is entitled to participate in the International City Managers Association ("ICMA") 457 deferred compensation plan. As part of City Manager's annual compensation, City agrees to provide a Section 457 deferred compensation program for City Manager which will be administered by ICMA and to pay Ten Thousand Dollars (\$10,000) per year (effective January 1, 2023) into such program for his benefit. Beginning January 1, 2023, this amount shall be paid in a lump sum in January of each calendar year thereafter during the term of this Agreement.

D. Vehicle

City shall provide City Manager with a City leased or owned vehicle of a make and model deemed acceptable by the City Council, pursuant to Laguna Hills Municipal Code Section 3-08.130, as may be amended, during the Term of this Agreement. City shall be responsible for only the following operating costs of such vehicle: insurance; maintenance; and repair. As part of his annual compensation, City Manager shall be allowed unrestricted personal use of such vehicle when not engaged in City business, subject to appropriate Internal Revenue Service reporting requirements.

E. Professional Development

City acknowledges its interest in the continuing professional development of City Manager and agrees to pay all reasonable and appropriate expenses associated with professional dues and subscriptions and/or attendance at conferences, training opportunities, and meetings of organizations concerned with the city manager and/or the public administration profession. Such expenses must be approved in advance by the City Council during its biennial budget process.

F. General Business Expenses

The City recognizes that City Manager may incur expenses of a non-personal, job-related nature that are reasonably necessary to City Manager's service to the City. The City agrees to either pay such expenses in advance or to reimburse the expenses, so long as the expenses are incurred and submitted according to the City's established expense reimbursement policies and procedures, or such other procedure as may be designated by the City Council. To be eligible for reimbursement, all expenses must be supported by documentation meeting the City's normal requirements and must be submitted within time limits established by the City.

G. Administrative Leave Pending an Investigation

Because City Manager is an "at-will" employee, the City is not obligated to pay City Manager pending an investigation into any alleged misconduct by the City Manager. Notwithstanding the foregoing, in the event that the City Council determines, in its sole discretion, that it is in the best interest of the City for City Manager to be placed on paid administrative leave pending such an investigation, City Manager shall fully reimburse any salary provided for that purpose if the misconduct for which the City Manager was under investigation results in the City

Manager being convicted of a crime involving an abuse of his office or position as defined in Section 7(A)(2) of this Agreement. City Manager shall fully reimburse such salary no later than six months after such conviction.

Section 7: Termination and Separation Pay

A. Termination by City Without Cause or For Reasons Other Than "Cause"

1. If City terminates this Agreement (thereby terminating City Manager's employment) without cause or for reasons other than "cause" as defined in Paragraph B below upon the vote of a majority of the total membership of the City Council in attendance at a lawfully called meeting, and only if City Manager timely executes and delivers to City an original "Separation Agreement and General Release" in the form attached hereto as Attachment 1, and does not thereafter timely exercise his right to revoke said Separation Agreement and General Release, the City shall pay City Manager a lump sum severance benefit equal to the monthly salary of City Manager at the time of separation multiplied by the number of months left on the unexpired term of the employment contract, not to exceed nine months of salary. In addition, City shall continue to pay for nine months the monthly group health and medical insurance benefits as provided under the then applicable salary and benefits resolution (such severance benefits to be referred to collectively as "Separation Pay"), beginning on the date that the revocation period for the Separation Agreement has expired.

2. Such Separation Pay is considered a cash settlement related to the termination of City Manager and shall therefore be fully reimbursed to the City by City Manager if the City Manager is convicted of a crime involving an abuse of his office or position. Abuse of office or position shall have the meaning set forth in Government Code section 53243.4, as may be amended, of either (1) an abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority or (2) a crime against public justice, including, but, not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code. City Manager shall fully reimburse such Separation Pay no later than six months after such conviction.

B. Termination by City For Cause

If the City terminates this Agreement (thereby terminating City Manager's employment) with cause, City Manager shall not be entitled to any Separation Pay. As used in this Agreement, "cause" shall mean any of the following:

1. Conviction of a felony; or
2. Conviction of a misdemeanor arising out of City Manager's duties or performance under this Agreement; or
3. Misappropriation of public funds; or

4. Willful abandonment of duties consisting of the failure to report to work for five consecutive working days (for reasons not medically related) and not notifying staff and the City Council of his leave status; or

5. A willful and intentional failure to carry out materially significant and legally constituted policy decisions of the City Council made by the City Council; or

6. Any other intentional or negligent action or inaction by City Manager that: (a) materially and substantially impedes or disrupts the operations of the City or its organizational units; (b) is detrimental to employees or public safety; (c) violates properly established rules or procedures of the City causing a material and substantial adverse impact on the City; or (d) has a material and substantial adverse effect on the City's interests as clearly defined and delineated by properly established City Council actions, policies, regulations, or City ordinances.

C. Termination by City Before or After an Election for Council Membership

Except as provided otherwise in Section 7(B) above, during the 90-day period immediately preceding and 180-days following the date of a regular or special municipal election for City Council membership, City shall take no action, whether immediate or prospective, to remove, suspend, terminate, or request the resignation City Manager. City acknowledges that this period is longer, and that this provision is broader, than that specified in the Laguna Hills Municipal Code, but provides said period and provision nevertheless as an additional inducement for City Manager to enter into this Agreement.

D. Termination by City Manager

City Manager may resign from his employment as City Manager and terminate this Agreement at any time. City Manager agrees to give the City Council at least forty-five days advance written notice of his decision to resign. City Manager shall not be entitled to any Separation Pay if he resigns. City Council may choose to waive this forty-five day notice period and/or place City Manager on paid administrative leave through the effective date of the resignation. The City Council's waiver of this period shall not change the City Manager's resignation to a termination.

E. Constructive Termination

If at any time during the Term of this Agreement City refuses, following written notice, to comply with any provision benefiting City Manager, or City Manager resigns following a request that he resign made by a majority of the total membership of the City Council in attendance at a lawfully called meeting, then City Manager shall be deemed to be "terminated" as of the date of such refusal or request within the meaning and context of Section 7(A) of this Agreement.

Section 8: Confidentiality

City Manager acknowledges that in the course of his employment contemplated herein, City Manager will be given or will have access to confidential and proprietary documents and information relating to the City, its residents, businesses, employees, and customers ("Confidential Information"). Such Confidential Information may include, but is not limited to, all information given to or otherwise accessible to City Manager that is not public information or would be exempt from public disclosure as confidential, protected, exempt, or privileged information. City Manager shall hold the Confidential Information in trust for the City's benefit and shall not disclose the Confidential Information to others without the express written consent of the City. All Confidential Information shall be promptly returned to the City immediately upon the effective date of any termination or resignation.

Section 9: Indemnification

A. Except for an act of misappropriation of public funds, or an indictment, the filing of an information, a plea of guilty or a plea of nolo contendere for a crime involving moral turpitude, City shall defend, hold harmless and indemnify City Manager against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of his employment as City Manager, using legal counsel of the City's choosing in its sole discretion, in accordance with the provisions of California Government Code Section 825, applicable provisions of the Government Claims Act, and other applicable law. In the event there is a conflict of interest between the City and City Manager in such a case such that qualified independent counsel is required for City Manager, the City shall pay the reasonable fees of such qualified independent counsel, who shall be mutually chosen by the parties. City may compromise and settle any claim or suit against the City Manager and pay the amount of any settlement or judgment rendered therefrom.

B. In the event that the City provides funds for the legal criminal defense of the City Manager, City Manager shall fully reimburse said funds to the City if City Manager is convicted of a crime involving an abuse of his office or position as defined in Section 7(A)(2) of this Agreement. City Manager shall fully reimburse to City such criminal legal defense fees no later than six months after such conviction.

Section 10: Notices

Any notices to be given hereunder by either party to the other shall be in writing and may be transmitted by personal delivery, electronic mail, registered mail or certified mail. Notices delivered personally or by electronic mail shall be deemed communicated as of the date of delivery. Mailed notices shall be deemed communicated as of the date they are postmarked.

Any notices required by this Agreement shall be addressed as follows:

IF TO CITY:

Laguna Hills City Council
Laguna Hills City Attorney
City of Laguna Hills
Attn.: City Clerk
24035 El Toro Road
Laguna Hills, California 92653

IF TO CITY MANAGER:

Jarad L. Hildenbrand
[Address on File with Human Resources
Department]

Section 11: Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of Hildenbrand by City and contains all of the covenants and agreements between the parties with respect to that employment in any manner whatsoever. Each party to this Agreement acknowledges that no representation, inducement, promise, or agreement, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

Section 12: Modifications

Any modification of this Agreement shall be effective only if it is in writing and signed by the parties.

Section 13: Effect of Waiver

The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

Section 14: Partial Invalidity

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in anyway.

Section 15: Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California and all applicable City regulations, resolutions, and ordinances.

Section 16: Bonding

City shall bear the full cost of any fidelity or other bonds required of the City Manager under any law or ordinance, or any insurance policies in lieu thereof.

Section 17: City's Policies and Procedures

The terms and conditions of City Manager's employment, including additional employment benefits of City Manager not specifically provided for in this Agreement, shall be governed by City's personnel policies and procedures, salary and benefits resolutions, and administrative regulations, to the extent not inconsistent with the provisions of this Agreement. In the event of any such inconsistency or conflict, the provisions of this Agreement shall govern.

Section 18: City Manager's Independent Review

Hildenbrand acknowledges that he has had the opportunity and has conducted an independent review of the financial and legal effects of this Agreement. Hildenbrand acknowledges that he has made an independent judgment upon the financial and legal effects of the Agreement and has not relied upon representation of the City, its elected or appointed officers and officials, agents or employees, other than those expressly set forth in this Agreement. Hildenbrand acknowledges that he has been advised to obtain, and has availed himself of, independent legal counsel with respect to the terms, conditions and provisions of this Agreement.

Section 19: Enforcement

The prevailing party in any action brought to enforce this Agreement or to resolve any dispute or controversy arising under the terms and conditions hereof shall be entitled to payment of reasonable attorneys' fees and costs.

Section 20: Authority to Enter Agreement

The Mayor / the Mayor Pro Tempore of the City of Laguna Hills has the express authority to execute this Agreement with Hildenbrand pursuant to City Council Resolution No. 2022-

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date reflected above.

“CITY”
CITY OF LAGUNA HILLS, a California
municipal corporation

By:

DAVE WHEELER,
Mayor

ATTEST:

MELISSA AU-YEUNG,
Deputy City Manager/City Clerk

APPROVED AS TO FORM:



GREGORY E. SIMONIAN,
City Attorney

“CITY MANAGER”



JARAD L. HILDENBRAND

Date: 4-18-22

ATTACHMENT 1**SEPARATION AGREEMENT AND GENERAL RELEASE**

This Separation Agreement and General Release ("Separation Agreement") is entered into by Jarad L. Hildenbrand ("City Manager") and City of Laguna Hills ("Employer"), in light of the following facts:

RECITALS

A. City Manager's employment by Employer, and the Employment Agreement under which he was employed, have been terminated effective _____, 20__.

B. City Manager is hereby informed that he has 21 days from the effective date of the termination when he received this Agreement to consider it. Employer hereby advises City Manager to consult with an attorney before signing this Agreement.

C. City Manager acknowledges that for a period of 7 days following the signing of this Separation Agreement ("Revocation Period"), he may revoke this Separation Agreement. This Separation Agreement shall not become effective or enforceable until the Revocation Period has expired.

D. City Manager acknowledges that the Salary Payment referenced in paragraph 1 of this Separation Agreement represents all compensation due and payable to him through his termination. City Manager also acknowledges that Employer has made this Salary Payment without regard to whether he signs this Separation Agreement. The Salary Payment does not constitute consideration for this Separation Agreement.

E. City Manager acknowledges that the Separation Pay referenced in paragraph 2 of this Separation Agreement is in excess of all amounts that are due and owing to him as a result of his employment by Employer.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **Receipt of Salary Payment.** City Manager hereby acknowledges receipt of a check for all salary and accrued leave owing ("Salary Payment") from Employer as of the effective date of this Separation Agreement (set forth in Recital A, above) pursuant to the Employment Agreement between City Manager and Employer.

2. **Separation Pay.** Following return to Employer of this Separation Agreement signed by City Manager and expiration of the Revocation Period, not having been revoked by City Manager, Employer shall pay the applicable Separation Pay provided for in the Employment

Agreement between City Manager and Employer.

3. General Release. In consideration of the Separation Pay to be given to City Manager, and other good and valuable consideration, City Manager hereby releases and discharges Employer and its past and present elected and appointed officials and officers, employees, representatives, agents and attorneys, from all rights, claims, causes of action, and damages, both known and unknown, in law or in equity, concerning and/or arising out of his employment with Employer which he now has, or ever had, including but not limited to any rights, claims, causes of action, or damages arising under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Fair Labor Standards Act of 1938, the Americans with Disabilities Act, the Meyers-Milias Brown Act, the Vocational Rehabilitation Act of 1973, the Family and Medical Leave Act of 1993, the California Moore-Brown-Roberti Family Rights Act, the California Unruh Civil Rights Act, the California Fair Employment and Housing Act, or the California Labor Code, under any other federal, state, or local employment practice legislation, or under federal or state common law, including wrongful discharge, express or implied contract, breach of public policy, or violation of due process rights.

City Manager hereby waives and relinquishes all rights and benefits afforded by Section 1542 of the Civil Code of California. City Manager understands and acknowledges the significance and consequences of this specific waiver of Section 1542. Section 1542 of the Civil Code of California states as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of Employer and its past and present elected and appointed officials and officers, employees, representatives, agents and attorneys, City Manager expressly acknowledges that this General Release is intended to include in its effect, without limitation, all claims which he does not know or suspect to exist in his favor.

City Manager further acknowledges that he has read this General Release, that he understands that this is a general release, and that he intends to be legally bound by the same.

4. Fees and Costs. City Manager and Employer agree that in the event of litigation relating to this Separation Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

5. Continuation of Certain Provisions of Employment Agreement. Employer acknowledges its continuing duty to indemnify City Manager in accordance with Section 9 of the Employment Agreement notwithstanding this Separation Agreement. Employer further acknowledges its duty with respect to City Manager to comply with any and all provisions of the Laguna Hills Municipal Code conferring benefits on former employees, if any.

6. **Complete Agreement.** Except for the applicable provisions of the parties' Employment Agreement, which are referenced herein, this is the entire agreement between City Manager and Employer with respect to the subject matter hereof and this Separation Agreement supersedes all prior and contemporaneous oral and written agreements and discussions. It may only be amended in writing.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the dates reflected below.

"CITY MANAGER"

DATED: _____

JARAD L. HILDENBRAND

"CITY OF LAGUNA HILLS"

DATED: _____

By: _____



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022

TO: Mayor and Council Members

FROM: David Reynolds
Deputy City Manager/Community Services Director

ISSUE: Authorization to Initiate a Proposition 218 Notification Process to Address State Mandated (SB 1383) Organic Waste Recycling Programs Resulting in a Modification to Solid Waste and Recycling Rates and to Review Proposed Draft Amendment No. 2 to CR&R Franchise Agreement

RECOMMENDATION: That the City Council 1) Direct Staff to proceed with Proposition 218 compliance to establish the requisite new rate schedule for all residential and commercial customers in order to implement a residential food waste recycling program in accordance with SB 1383, setting a public hearing for consideration on June 14, 2022; and 2) Review the draft Amendment No. 2 to the Contract for the Collection, Transportation and Disposal of Municipal Solid Waste and for the Collection and Transportation of Recyclable Materials to Processors for Diversion between the City of Laguna Hills and CR&R Incorporated.

SUMMARY:

The City Council approved the current Contract for the Collection, Transportation and Disposal of Municipal Solid Waste and for the Collection and Transportation of Recyclable Materials to Processors for Diversion between the City of Laguna Hills and CR&R Incorporated ("Franchise Agreement") in September 2005, with collection services beginning on July 1, 2006. The term of the Franchise Agreement was extended for an additional eight years with the approval and execution of Amendment No. 1 to the Franchise Agreement ("Amendment No. 1") by the City Council on August 26, 2014. Amendment No. 1 also established a permanent commercial food waste recycling program, a reduction in rates for all services, a residential Household Hazardous Waste

CR&R Amendment No 2

April 26, 2022

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(HHW) service, support for Sharps Waste recycling programs, and a limitation of using yard waste as an Alternative Daily Cover (ADC) at landfills. The current Franchise Agreement is set to expire on June 30, 2024.

Governor Brown signed into law SB 1383 (Lara, Chapter 395, Statutes of 2016) ("SB 1383") in September 2016. This law required the California Department of Resources Recycling and Recovery ("CalRecycle") to develop regulations for the reduction of organic waste being sent to landfills. The SB 1383 regulations require the City to implement a residential food waste recycling program which requires the City to amend its current Franchise Agreement and will result in rate increases. City staff, working with its recycling consultant, EcoNomics, has negotiated favorable terms with CR&R to introduce a new residential food waste recycling program to begin collection services on July 1, 2022. The negotiated terms and rates, allowing the City to be in compliance with SB 1383 regulations, are reflected in the proposed Amendment No. 2 to the Franchise Agreement ("Amendment No. 2"). See Attachment 1 for the proposed Amendment No. 2. The proposed rates for service are very competitive with surrounding cities as illustrated in the table exhibits within this Staff Report. A mandated "Proposition 218" notification process is required because the rates for service required to be approved by the City under the Franchise Agreement will increase. After a 45-day notice period, a public hearing is to be held, and the City Council may approve Amendment No. 2 and the rates at that time, unless a majority of property owners protest the proposed new rates. In accordance with the Proposition 218 regulations, it is recommended to hold a Public Hearing on June 14, 2022.

BACKGROUND:

SB 1383 establishes methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants (SLCP). Methane emissions resulting from the decomposition of organic waste in landfills have been identified as a significant source of "greenhouse" gases. The methane emissions reduction targets (or goals) under SB 1383 are:

- Achieve a 50 percent reduction in the level of the Statewide disposal of organic waste from the 2014 level by 2020, and a 75 percent reduction by 2025.
- Recover not less than 20 percent of edible food that is currently disposed of for human consumption by 2025.

Assigned the responsibility of adopting regulations necessary to achieve these Statewide goals, the State Agency known as CalRecycle has spent the last several years developing requirements and in November 2020 published its regulations under a document entitled, *Short-lived Climate Pollutants (SLCP): Organic Waste Reductions* (hereafter referred to as “SB 1383 Regulations”). Local governments must comply with the SB 1383 Regulations for the reduction of organic waste being sent to landfills by January 1, 2022. Organic waste (also referred to as organics) includes food waste, green waste, and landscape and pruning waste.

One of the major requirements of the SB 1383 Regulations is for local jurisdictions to adopt an enforceable ordinance requiring compliance by businesses, residents, haulers, and other entities. On November 23, 2021, the City Council adopted Ordinance No. 2021-1, amending and restating Chapter 5-32 (Solid Waste and Recycling) of Title 5 (Health and Sanitation) of the City of Laguna Hills Municipal Code, implementing local SB 1383 organic recycling regulations. Additionally, the City Council approved a resolution, on November 9, 2021, amending and restating the Administrative Citation Program Fines and Penalties Schedule to incorporate the required SB 1383 Regulation fines and penalties for noncompliance.

Another major requirement of SB 1383 Regulations is to implement organic waste recycling programs for the commercial and residential sectors; and consequently, the City needs to implement a new residential food waste collection and processing program at this time. Residential green waste collection and processing services have been in place for quite some time. It is noted that the City first introduced a pilot commercial food scraps recycling program in the City in 2009. This commercial food waste recycling program became a permanent service, available to all businesses within the City, with the City Council’s approval and execution of Amendment No. 1 to CR&R’s Franchise Agreement on August 26, 2014. Shortly thereafter, Governor Brown signed into law the mandatory commercial organic recycling requirements of AB 1826¹ in October 2014.

¹ AB 1826 Chesbro (Chapter 727, Statutes of 2014) requires businesses to recycle their organic waste on and after April 1, 2016, depending on the amount of waste generated per week. This law also requires that on and after January 1, 2016, local jurisdictions across the state implement an organic waste recycling program to divert organic waste generated by businesses. The law phased in the requirements for businesses over time based on waste generation thresholds. In September of 2020, CalRecycle reduced the waste generation threshold to 2 cubic yards of solid waste (solid waste is the total of trash, recycling, and organics) per week generated by businesses. AB 1826 requires local jurisdiction to enforce these requirements including monitoring recycling activities and education and outreach.

Draft Amendment No. 2 to Franchise Agreement

In order to implement a residential food waste recycling program, and to be compliant with SB 1383 Regulations, the Franchise Agreement requires an amendment. Noncompliance with SB 1383 Regulations would expose the City to potential fines by CalRecycle ranging from \$500 per violation for minor infractions, to as much as \$10,000 per day for major violations. Attached to this report as Attachment 1 is Amendment No. 2. City staff worked with EcoNomics (the City's recycling consultant) to negotiate the terms of Amendment No. 2 and a summary of the key terms are as follows.

- No change to Franchise Agreement termination date of June 30, 2024.
- Introduce a new residential food waste collection service to be commingled with green waste (yard waste) in the green container. Collection service to begin on July 1, 2022. Increase in residential rates.
- Distribution of kitchen pales to residents for collection of food waste and to market the new program.
- Distribution of green carts to residential customers that currently do not have this service. In accordance to SB 1383 Regulations, all generators are required to recycle Organic Waste.
- Processing of residential organic material at CR&R composting facility.
- One inflation adjustment of rates for the remainder of the term of the Franchise Agreement scheduled for October 1, 2023.
- One-time reimbursement of \$30,000 to the City to cover the cost of negotiating Amendment No. 2 and costs related to the Prop 218 Notification process.
- Annual fee of \$150,000 to assist the City with support and third-party recycling services.
- Increase of one CR&R Recycling Coordinator from part-time to full-time in Laguna Hills.
- SB 1383 requirements for inspections, reporting, and audits.

CR&R Amendment No 2

April 26, 2022

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- Removal of Ligated Damages of 50% Diversion Requirement and replaced with Ligated Damage if Contractor fails to implement SB 1383 programs.
- Repeal of requirement of CR&R to fund the City's sharps waste program for \$2,000 annually.

Amendment No. 2 Proposed Rates & Comparison to Other Jurisdictions

The proposed rate increases would be effective July 1, 2022, and account for inflation adjustments and SB 1383 related costs. An inflation adjustment, per Amendment No. 2, is scheduled for October 1, 2023. The entire proposed rate schedule can be viewed in summary against current rates for service on Attachment 3. A detailed rate schedule, with the three components (Collection, Processing, Disposal) of each service rate, can be referenced in Attachment 1, Exhibit 1 of this Staff report.

Other local jurisdictions rates are included in the following tables for comparative purposes to the City of Laguna Hills's proposed rates. All of the comparative jurisdictions' rates listed in the following tables will be adjusted for inflation, or increased as stipulated in their respective franchise agreements, on July 1, 2022. Staff estimated these rate increases for the other jurisdictions and are reflected in the following tables.

It is important to note that CR&R's proposed trash and recycling rates for Laguna Hills are very competitive and are on the lower tier when compared to other surrounding cities' rates (see Tables 1, 2, 3 & 4 below). Further, in all the cases, the rates for Laguna Hills as proposed in Amendment No. 2, are well below the comparative averages as noted in the following tables.

Single-family service:

The proposed monthly rates for single-family residential 3-container collection service is provided in Table 1. The City's current rate is \$15.55 per month and is proposed to increase on July 1, 2022, to \$20.05 per month for inclusion of the residential food waste recycling program. Included in Table 1 is also a comparison of what other local jurisdictions are paying per month for a similar 3-container collection service with organic waste recycling (both yard waste and food waste).

Commercial and Multi-family service:

Tables 2, 3 and 4 below provide rates for commercial and multi-family bin services. As mentioned above, the City of Laguna Hills already implemented a commercial organic recycling program in 2014, with the execution of Amendment No. 1. Consequently, the percentage rate increases effective July 1, 2022, for the commercial and multi-family customers are not as significant as the residential sector.

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Table 1. Residential Rate: Local Jurisdiction Monthly Rate Comparison (3-Cart Collection Service including food waste).
Rates effective July 1, 2022.

Jurisdiction	Rate/month
San Juan Capistrano	\$25.61
Laguna Niguel	\$24.95
San Clemente	\$24.69
Mission Viejo	\$22.87
Rancho Santa Margarita	\$22.14
Dana Point	\$21.67
Aliso Viejo	\$21.21
Laguna Hills ¹	\$20.05
Lake Forest	\$19.27

Rates above include estimates of other jurisdiction's rate increase adjustments.

The average of all rates above is \$22.50.

1. Laguna Hills current rate is \$15.55

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Table 2. Commercial/Multi-Family Trash: Local Jurisdiction Monthly Rate Comparison (3 cubic-yard trash bin/1 pickup per week). Rates effective July 1, 2022.	Table 3. Commercial/Multi-Family Recycling: Local Jurisdiction Monthly Rate Comparison (3 cubic-yard Recycling bin/1 pickup per week). Rates effective July 1, 2022.																																								
<table> <tr> <th>Jurisdiction</th><th>Rate/month</th></tr> <tr><td>San Clemente</td><td>\$173.73</td></tr> <tr><td>Dana Point</td><td>\$163.53</td></tr> <tr><td>San Juan Capistrano</td><td>\$162.26</td></tr> <tr><td>Mission Viejo</td><td>\$161.01</td></tr> <tr><td>Laguna Niguel</td><td>\$152.46</td></tr> <tr><td>Rancho Santa Margarita</td><td>\$148.07</td></tr> <tr><td>Aliso Viejo ²</td><td>\$133.15</td></tr> <tr><td>Laguna Hills ¹</td><td>\$129.29</td></tr> <tr><td>Lake Forest</td><td>\$102.59</td></tr> </table>	Jurisdiction	Rate/month	San Clemente	\$173.73	Dana Point	\$163.53	San Juan Capistrano	\$162.26	Mission Viejo	\$161.01	Laguna Niguel	\$152.46	Rancho Santa Margarita	\$148.07	Aliso Viejo ²	\$133.15	Laguna Hills ¹	\$129.29	Lake Forest	\$102.59	<table> <tr> <th>Jurisdiction</th><th>Rate/month</th></tr> <tr><td>Dana Point</td><td>\$98.12</td></tr> <tr><td>San Juan Capistrano</td><td>\$97.36</td></tr> <tr><td>San Clemente</td><td>\$77.51</td></tr> <tr><td>Laguna Niguel</td><td>\$77.06</td></tr> <tr><td>Rancho Santa Margarita</td><td>\$76.97</td></tr> <tr><td>Mission Viejo</td><td>\$76.88</td></tr> <tr><td>Aliso Viejo</td><td>\$74.88</td></tr> <tr><td>Laguna Hills</td><td>\$54.39</td></tr> <tr><td>Lake Forest</td><td>\$51.52</td></tr> </table>	Jurisdiction	Rate/month	Dana Point	\$98.12	San Juan Capistrano	\$97.36	San Clemente	\$77.51	Laguna Niguel	\$77.06	Rancho Santa Margarita	\$76.97	Mission Viejo	\$76.88	Aliso Viejo	\$74.88	Laguna Hills	\$54.39	Lake Forest	\$51.52
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Table 4. Commercial/Multi-Family Organics: Local Jurisdiction Monthly Rate Comparison (2 cubic-yard Food Waste bin/1 pickup per week). Rates effective July 1, 2022.	
Jurisdiction	Rate/month
Aliso Viejo	\$320.09
San Clemente	\$313.00
Dana Point	\$130.83
San Juan Capistrano ²	\$85.28
Rancho Santa Margarita	\$71.12
Mission Viejo	\$62.01
Laguna Hills ¹	\$46.07
Laguna Niguel	\$44.44
Lake Forest	\$40.62
Rates effective July 1, 2022, including estimates of other jurisdiction's rate increases. The average of all rates above is \$123.72. 1. Laguna Hills current rate is \$44.34. 2. SJC green waste recycling rate is \$129.80/mo.	

Proposition 218 Notice

To implement the new rates and rate structure as discussed herein, the City must conduct a public hearing in compliance with Proposition 218. This process involves mailing a notice to all affected property owners with the proposed maximum rates and justification for the rates. After a 45-day period, a public hearing is held and the City Council may approve Amendment No. 2 including the new rates unless a majority of property owners protest the proposed new rates. Staff recommends that the public hearing be set for June 14, 2022.

Notices will be mailed on April 27, 2022, to meet the 45-day notice period. If Amendment No. 2 and its respective rates for service are approved, the new rates would go into effect on July 1, 2022. The notice is attached to this report as Attachment No. 2.

Explanation of Attachments

Attached to this report are the following items described in further detail.

- Attachment 1: Proposed Amendment No. 2 to Franchise Agreement with the following exhibits to revise Franchise Agreement attachments and to add a new attachment (Attachment U) to the Franchise Agreement:

<u>Exhibit 1</u>	Attachment D ("Proposed Rates to be Charged")
<u>Exhibit 2</u>	Attachment A ("Definitions")
<u>Exhibit 3</u>	Attachment B ("Scope of Work for Collection Operations")
<u>Exhibit 4</u>	Attachment I ("Contractor Furnished Personnel")
<u>Exhibit 5</u>	Attachment K ("Reports to be Submitted to City")
<u>Exhibit 6</u>	Attachment N ("Proposed Protocol for Conducting Quarterly Diversion Allocation Audits")
<u>Exhibit 7</u>	Attachment Q ("Processing Facilities")
<u>Exhibit 8</u>	Attachment R ("Compost Processing Facilities")
<u>Exhibit 9</u>	Attachment S ("Construction and Demolition Debris Processing Facility")
<u>Exhibit 10</u>	Attachment U ("Kitchen Pails")

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- Attachment 2: Notice Concerning Proposed Solid Waste & Recycling Rate Adjustments and Public Hearing. (*Notice that will be sent to property owners in regard to Amendment No. 2 to the Franchise Agreement and increased rates.*)
 - Attachment 3: CR&R Rate Schedule Summary (*will be posted to website as part of Public Hearing process for reference. Compares City's current rate with Amendment No. 2 proposed rate effective July 1, 2022*).

The Franchise Agreement and Amendment No. 1 are voluminous, but they are available upon request.

FISCAL IMPACT:

The costs to conduct the required Proposition 218 notification process are covered through a one-time reimbursement by CR&R upon approval of the draft Amendment No. 2.

The residential rates for the 3-cart collection service are proposed to increase on July 1, 2022, from \$15.55/mo. to \$20.05/mo. This is required to implement a new food waste collection service for compliance with SB 1383 Regulations and includes an inflation adjustment to the existing base rates. Such compliance avoids costly penalties that the State could levy on the City as of July 1, 2022.

Commercial and Multi-Family rates for service will be adjusted for inflation on July 1, 2022, and the proposed rates are summarized in Attachment 3 to this staff report.

All residential and commercial rates for service will be adjusted for inflation on October 1, 2023.

ATTACHMENTS:

- Attachment 1 - Proposed Amendment No 2
- Attachment 2 - Prop 218 Public Notice
- Attachment 3 - CR&R Rate Schedule Summary

**AMENDMENT NO. 2
TO CONTRACT FOR THE COLLECTION, TRANSPORTATION AND
DISPOSAL OF MUNICIPAL SOLID WASTE AND FOR THE COLLECTION,
AND TRANSPORTATION OF RECYCLABLE MATERIAL TO PROCESSORS
FOR DIVERSION
(CR&R Incorporated)**

THIS SECOND AMENDMENT to the September 28, 2005 Contract for the Collection, Transportation and Disposal of Municipal Solid Waste and for the Collection, and Transportation of Recyclable Materials to Processors for Diversion (the "Amendment") is hereby made and entered into to be effective this 14th day of June, 2022, by and between the CITY OF LAGUNA HILLS, a California municipal corporation organized and existing under the laws of the State of California (hereinafter referred to as the "City"), and CR&R Incorporated, a California corporation (hereinafter referred to as "Contractor") (collectively, the Parties).

RECITALS

A. City and Contractor previously entered into that certain Contract for the Collection, Transportation and Disposal of Municipal Solid Waste and for the Collection, and Transportation of Recyclable Materials to Processors for Diversion (the "Contract"), which was made and entered into on September 28, 2005, for the collection and processing of solid waste and recyclable materials, which services are to be provided for a term of ten years, commencing on July 1, 2006 through June 30, 2016.

B. City and Contractor entered into Amendment No. 1 to the Contract, which was made and entered into on October 1, 2014 ("Amendment No. 1"), to reduce base rates, expand services, establish a permanent commercial food waste recycling program, and extend the Contract term for an additional eight-years through June 30, 2024.

C. In September 2016, Governor Brown signed into law SB 1383 (Lara, Chapter 395, Statutes of 2016) ("SB 1383"), establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants (SLCP).

D. CalRecycle developed SB 1383 regulations and published them in November 2020 in a document entitled, *Short-lived Climate Pollutants (SLCP): Organic Waste Reductions* ("SB 1383 Regulations"), to achieve the Statewide SB 1383 goals.

E. A requirement under the SB 1383 Regulations is for all jurisdictions to implement organic waste recycling programs including a residential food waste recycling program.

F. City has already implemented a commercial food waste recycling program and now must implement a residential food waste recycling program to be in compliance with SB 1383 Regulations which requires certain rates for service to be increased.

G. Noncompliance with SB 1383 Regulations would subject the City to potential fines ranging from \$500 per violation for minor infractions, to as much as \$10,000 per day for major violations.

H. Section 15.10 (Amendment) of the Contract provides that the Contract may only be modified or amended by a writing signed by the Parties.

I. The Parties recently negotiated certain revised terms and conditions of the Contract, to implement the requirements of the SB 1383 Regulations, including the implementation of a residential food waste recycling program.

J. The Parties now wish to amend the Contract by authorizing the implementation of a residential food waste recycling program, which will result in an increase in Contractor's rates for service, and impact other existing contractual terms, conditions, and requirements as set forth in the Contract.

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

AGREEMENT

1. Term. Section 3.02 ("Term") of the Contract is hereby amended to read as provided in Amendment No. 1 follows:

"3.02 Term. The Term of this Contract shall commence on the Effective Date and shall end at midnight on June 30, 2024, unless earlier terminated. Contractor's obligation to collect Municipal Solid Waste and Recyclable Materials shall begin on July 1, 2006 at 12:01 a.m."

2. Revised Base Rates. Attachment D of the Contract pertaining to Contractor's rates for services shall be replaced with the rates identified in **Exhibit 1 (revised Attachment D)** attached to this Amendment and made a part hereof by reference, said rates to become effective July 1, 2022. Contractor shall be solely responsible for the cost of adjusting Customers' bills to implement the rates and other adjustments stipulated in this Amendment and the Contract.
3. Attachment E ("Proposed Rates to be Charged for City Directed 'As Needed' Services"). Attachment E of the Contract is hereby deleted and of no further force or effect upon execution of this Amendment.
4. City Facilities/Events MSW Collection. Section 4.05 ("City Facilities/Events MSW Collection") of the Contract is hereby amended to read as follows:

"4.05 City Facility/Events MSW Collection. Contractor shall collect all MSW generated at Premises owned and/or operated by the City at no charge, and at up to

- twenty (20) City-sponsored events at no charge to the City. The facilities to be provided service and the type and frequency of service are listed on Attachment B, Section 3.9.”
5. Diversion Programs. Section 4.06 (“Diversion Programs”) of the Contract is hereby amended to read as follows:

“4.06 Diversion Programs.

 - A. Residential Recycling. The Contractor shall collect all Divertable Materials generated at Residential Premises, placed for Collection in Contractor authorized Containers at the curbside. Contractor shall also Collect Divertable Materials generated at Residential Premises, placed for Collection at curbside and backyard or sideyard locations by occupants who are eligible for backyard or sideyard Collection under Section 2.02.1 of Attachment B.
 - B. Commercial/Business Recycling. Contractor shall Collect Divertable Materials from participating Commercial and Business Establishments at the frequencies and in the manner described in Attachment B, Section 3.”
 6. Transportation and Delivery for Processing of Recyclable Materials. Section 5.02 (“Transportation and Delivery for Processing of Recyclable Materials”) of the Contract is hereby amended to read as follows:

“5.02 Transportation and Delivery for Processing of Divertable Materials. Contractor shall either: (1) transport to and deliver for processing Divertable Materials at Contractor’s facilities, or (2) transport to and arrange for the processing of these materials at facilities designated by City in Sections 5.03 and 5.04 herein.”
 7. Transportation of Recyclable Materials. Section 5.03 (“Transportation of Recyclable Materials”) of the Contract is hereby amended to read as follows:

“5.03 Transportation of Divertable Materials. Contractor shall transport and deliver for processing Divertable Materials to Contractor’s facilities identified in Attachment Q. City Manager or his/her designee may designate different MRF facility(ies) in the future. Contractor shall transport and deliver all Food Scraps and Yard Trimmings and all Stable Bedding and Manure to the Compost Facility(ies) designated in Attachment R as of July 1, 2006. The City Manager or his/her designee may designate a different Compost Facility(ies) in the future.”
 8. Permits. Section 6.02 (“Permits”) of the Contract is hereby amended to read as follows:

“6.02 Permits. Contractor shall utilize only Processing Facilities that are fully licensed and permitted under all applicable federal, state, regional and local laws and regulations. On or before May 1, 2006 Contractor shall deliver to City copies

- of all of the permits for the Materials Recovery Facilities (Clean MRF), the Compost Facility, the Construction and Demolition Debris Processing Facility and for any other Processing Facility that Contractor will use to process Divertable Materials Collected within City. Contractor shall simultaneously submit original signed contracts with each Processing Facility (unless owned by Contractor) evidencing the terms and conditions under which Contractor is entitled to utilize said facilities for processing of City's materials."
9. Delivery of Residue to Landfill. Section 6.03 ("Delivery of Residue to Landfill") of the Contract is hereby amended to read as follows:

"6.03 Delivery of Residue to Landfill. Contractor shall deliver, or arrange to be delivered, all nonrecyclable Residue from the operations at the Materials Recovery Facility (Clean MRF), the Compost Facility, and the Construction and Demolition Debris Processing Facility to the City designated landfill."

10. MRF, Compost and C/D Facility Operating Requirements. Section 6.04 ("MRF, Compost and C/D Facility Operating Requirements") of the Contract is hereby amended to read as follows:

"6.04 MRF, Compost and C/D Facility Operating Requirements. Contractor shall operate the Materials Recovery Facility, Compost Facility and Construction and Demolition Debris Processing Facility it owns in compliance with all applicable federal, state, regional and local laws and regulations and shall adhere to the requirements of all permits for each facility. If Contractor is using facilities it does not own, it shall be Contractor's responsibility to investigate and determine that said facilities are operating in compliance with all applicable laws, regulations and permit requirements. If, at any time during the Term, said facilities are not operating in compliance with all legal requirements, it shall be the duty of Contractor to immediately report the situation to the City. Upon receipt of such information, City may conduct an independent investigation of the situation, may require Contractor to utilize a different facility while City is conducting its investigation, or may take other actions City deems reasonable and necessary to protect the interest of the City, its customers, public health and safety and the environment.

The Clean MRF must include processing lines for cleanup of Recyclable Materials and sorting of Commingled Recyclables.

The Composting Facility must be capable of processing residential and commercial Food Scraps and Yard Trimmings as well as Stable Bedding and Manure. The Construction and Demolition Debris Processing Facility must be capable of processing all of the Construction and Demolition Debris that is Collected by the Contractor in the City."

11. Processing Requirements and Removal of Annual Diversion Requirement. Sections 6.05, 6.06, 6.07, 6.08 and 6.09 of Contract are hereby deleted from Contract and of no further force or effect upon execution of this Amendment. Attachment O (“Annual Diversion Rate Percentage Calculation”) and Attachment P (“Calculation of Liquidated Damages for Failure to Achieve 50% Annual Diversion”) of the Contract are hereby deleted from Contract and of no further force or effect upon execution of this Amendment.

12. MSW and Divertable Materials Containers. Section 7.03 (MSW and Recyclable Materials Container), Subdivision A (“General”) of the Contract is hereby amended to read as follows:

“A. General. Contractor shall use existing Carts for storage of (i) MSW, (ii) Divertable Materials, (iii) Food Scraps and Yard Trimmings, and (iv) Stable Bedding and Manure for Residential Premises Collection service as stated in Attachment B, Section 1.4. Contractor shall provide Residential Premises with Bins for Stable Bedding and Manure as described in Attachment B.

Contractor shall provide Containers for the storage and collection of (i) MSW, (ii) Recyclable Materials, and (iii) Food Scraps and Yard Trimmings for Commercial and Business Establishments Collection service as stated in Attachment B, Section 1.4. All Containers provided by the Contractor shall conform to the specifications in Attachment G. In addition to the Containers provided by Contractor, as identified in Attachment H, Contractor shall provide Containers as identified in Attachment B, Section 1.4. The type, size and number of Containers shall be sufficient to contain, with the lid closed, all MSW, Divertable Materials, Food Scraps and Yard Trimmings, and Stable Bedding and Manure generated between Collections.”

13. Increase of Contractor Recycling Coordinator to Full-time. Section 7.04 (Personnel), Subdivision G (“Provision of Recycling/Public Education Coordinator”) of the Contract is hereby amended to read as follows:

“G. Provision of Recycling/Public Education Coordinator. Contractor shall designate one qualified employee as the Recycling and Public Education Coordinator. The coordinator will devote 100% of his or her time (the equivalent of 2,000 work hours per calendar year) to these activities exclusively for City. The designated Coordinator, as identified in Attachment I, shall have a minimum of two (2) years experience in the design, implementation and operation of Recycling, Composting and Diversion Programs, interaction with the public, and detailed knowledge of the requirements of the Act. Contractor shall notify City, in writing, of the name, education, background and experience and a list of three (3) references for the coordinator prior to commencing operations and whenever there is a change in the staffing of the position. Upon City request, Contractor shall designate a different coordinator if the coordinator does not meet the requirements enumerated herein and/or if the City is otherwise dissatisfied with the performance of the

designated coordinator. The coordinator's duties shall include, but not be limited to, (i) implementing all SB 1383 required programs as contained in Attachment B for Divertable Materials and utilize the procedures and steps described in Attachment B Sections 2.02.9, 3.03.4 and (ii) conducting waste audits at Commercial and Business Establishments, (iii) routinely auditing each of the Diversion Programs and reporting requirements described in Articles 4 and 9, including photographing said programs and reporting to City on the results of each program, (iv) preparing public education materials as required in this Contract and described in Attachment B as well as other public education materials required by SB 1383 and those that may be requested by City, (v) attending all City-sponsored special events (e.g. Earth Day, Chamber of Commerce events) where Recycling and the environment are the theme or topic, (vi) coordinating Recycling programs at all City-sponsored special events as described in Article 4 and Attachment B for the Diversion of Food Scraps, Yard Trimmings and all other Divertable Materials that are generated by the event, (vii) implementing and maintaining the Recycling program at City Hall and all other City facilities as described in Attachment B including responding to questions about the program, (viii) speaking to community groups, schools and other organizations about the City's Diversion Programs, (ix) acting as a community resource with regard to Recycling and Diversion Programs, and (x) such other duties as may be assigned by City. City reserves the right to re-direct the work efforts of the coordinator and to prioritize the tasks to be completed as needed throughout the Term of the Contract.

14. Billing. Section 8.01 (Billing), Subdivision A ("General") of the Contract is hereby amended to read as follows:

"A. General. Contractor shall: (i) bill Customers for MSW and Divertable Materials Collection at the Contractor's rates as established in Attachment D, as adjusted for inflation per the Contract; (ii) maintain accurate billing and payment records; and (iii) bill Customers on a monthly, bimonthly or quarterly schedule as approved by City. Customer's bills shall be itemized showing the charges for each classification of services but shall not designate that portion of a Customer's bill attributable to the City franchise fee."

15. Reporting. Section 9.03 ("Reporting") of the Contract is hereby amended to read as follows:

"9.03 Reporting. Contractor shall compile and submit complete and accurate reports required by this Contract, including all SB 1383 reporting as described in Attachment B and Attachment K, in the format and at the frequencies specified."

16. Compliance Reporting. Section 9.05 ("Compliance Reporting") of the Contract is hereby amended to read as follows:

"9.05 Compliance Reporting. Contractor shall submit monthly, quarterly and annual reports to the City documenting the disposition of MSW and the status of

- all SB 1383 Diversion Programs implementation and shall format such reports so that they may be used by the City for City's compliance with the reporting requirements of the Act or any other subsequently enacted federal, state or local laws or regulations governing integrated waste management. All Contractor's reports are subject to audit by City, or by a third-party designated by City, and if material discrepancies are discovered during audit of Contractor's reporting, the Contractor shall pay the City the sum of seventy-five thousand dollars (\$75,000) for its costs associated with the investigation of the discrepancies. Contractor shall be assessed liquated damages as listed in Section 13.09(I) for late payment to City for audit in the event that material discrepancies are discovered."
17. Annual Route Audit. Section 9.06 ("Annual Route Audit") of the Contract is hereby amended to read as follows:
- "9.06 Annual Route Audit. Contractor shall conduct an annual audit, during the month of April for each year of this Agreement, of all Collection routes for MSW and Divertable Materials including Food Scraps, Co-Collected Food Scraps and Yard Trimmings, and Yard Trimmings and Stable Bedding and Manure. The audit shall include, at a minimum: (i) the route number, (ii) identification number of vehicles servicing each route, (iii) number and type of accounts serviced by route and by truck, (iv) number and sizes of Containers Collected together with the frequency of Collection by route and by truck, (v) weight of MSW Collected, (vi) weights of Single-Material Recyclables, Single Stream Recyclable Materials, Co-Collected Food Scraps and Yard Trimmings, Yard Trimmings, Food Scraps, by route and by truck, and (vii) any pertinent operational details. Results of the route audit shall be delivered to City in their entirety, including, but not limited to, maps of routes with each route numbered, survey sheets, logs, route lists, forms used to gather information, and other similar documents, within ten (10) working days of completion of the audit, and in no event later than May 20 of each year of the Term. The initial audit shall be performed in April 2015 with the report due by May 20, 2015. Said audit may be undertaken directly by Contractor or on behalf of Contractor by another party, but in either event shall be completed at Contractor's sole expense."
18. Quarterly Contamination Audits. Section 9.07 ("Quarterly Audits of Residential and Commercial Waste and Recyclables Streams") of the Contract is hereby amended to read as follows:
- "9.07 Quarterly On-Site MSW and Divertable Materials Contamination Audits. Contractor shall conduct quarterly on-site field Contamination audits to determine the levels of Contamination in the Commercial and Multi-Family and Residential MSW Containers. The on-site field Contamination audits are of Containers on routes Collecting MSW and to ensure compliance with SB 1383 Regulations, 14 CCR Section 18984.5, for container Contamination minimization. The specific protocols that shall be used to conduct on-site field Contamination audits of MSW,

Recyclable Materials, and Single Stream and Co-Collected Food Scraps and Yard Trimmings materials in Collection routes are described in Attachment N.

The City or its representative may be present to observe any field Contamination audit described in Attachment N. Contractor shall provide no less than fourteen (14) calendar days advance notice to the City of when each audit is scheduled.”

19. Annual Contamination Audit. Section 9.08 (“Annual City Review of Allocation Audit Procedures and Results”) of the Contract is hereby amended to read as follows:

“9.08 Annual City Review of SB 1383 Contamination Audit Procedures and Results. Each year of the Term, City shall have the right, but not the obligation, to conduct a review of the procedures used by Contractor to perform the Contamination audits described in Section 9.07 and the results of said audits. If City desires to review the audit results and/or procedures, City will contact Contractor to schedule a meeting or series of meetings to discuss the procedures and results. At City’s sole discretion, Contractor shall change the audit protocol, timing and frequency as directed by City and shall put such changes into effect with the next audit. City’s review of audit procedures may include review of Contractor and processing facility records and on site visits to Contractors facilities and processing facilities.”

20. Revision of Liquidated Damages from Failure to Achieve Annual Diversion Requirements to Failure to implement Diversion Program Requirements. Section 13.09 (Liquidated Damages), Subdivision H (“Diversion Requirements”) of the Contract is hereby amended to read as follows:

“H. Diversion Program Implementation Requirements. For each Premises that Contractor fails to Fully Implement SB 1383 Diversion Programs by January 1, 2023 (including steps (i) through (xiii) of Attachment B Sections 2.02.9 and 3.03.4).....\$1,000.00 per failure to implement”

21. (3rd) Third Party Recycling Consulting Services. Section 12.07 (Third-Party Recycling Consulting Services) is hereby added back to the Contract to read as follows:

“12.07 (3rd) Third Party Recycling Consulting Services. Contractor shall pay City \$150,000 by July 1, 2022, and an additional \$150,000 by July 1, 2023, for (3rd) third party Recycling consulting services as selected by City and under contract with City.”

22. Contract Negotiation and Public Notice Process Fee. Contractor shall pay \$30,000 to City by July 1, 2022, to defray the City's costs of processing this Amendment and conducting the Prop. 218 notification process.

23. Annual Rate Adjustment. Section 12.03 (“Annual Rate Adjustments”) of the Contract is hereby amended to read as follows:

 “12.03 Annual Rate Adjustment. The rates for service as set forth in Attachment D shall be adjusted as of October 1, 2023, in accordance with Attachment J.”
24. Remaining Balance of Household Sharps Waste Program Reimbursements. Upon the repeal of Amendment No. 1 and the Household Sharps Waste Program as provided for below, any remaining balance of funds paid by Contractor to City for support of Household Sharps Waste Collection programs may be used toward other Diversion Program support as determined by City.
25. Attachment A (“Definitions”). Attachment A of the Contract is hereby amended as set forth in the attached **Exhibit 2**, incorporated by this reference.
26. Attachment B (“Scope of Work for Collection Operations”). Attachment B of the Contract is hereby amended as set forth in the attached **Exhibit 3**, incorporated by this reference.
27. Attachment I (“Contractor Furnished Personnel”). Attachment I of the Contract is hereby amended as set forth in the attached **Exhibit 4**, incorporated by this reference.
28. Attachment K (“Reports to be Submitted to City”). Attachment K of the Contract is hereby amended as set forth in the attached **Exhibit 5**, incorporated by this reference.
29. Attachment N (“Proposed Protocol For Conducting Quarterly Diversion Allocation Audits”). Attachment N of the Contract is hereby amended as set forth in the attached **Exhibit 6**, incorporated by this reference.
30. Attachment Q (“Processing Facilities”). Attachment Q of the Contract is hereby amended in read in full as set forth in the attached **Exhibit 7**, incorporated by this reference.
31. Attachment R (“Compost Processing Facilities”). Attachment R of the Contract is hereby amended as set forth in the attached **Exhibit 8**, incorporated by this reference.
32. Attachment S (“Construction and Demolition Debris Processing Facility”). Attachment S of the Contract is hereby amended as set forth in the attached **Exhibit 9**, incorporated by this reference.
33. Attachment U (“Kitchen Pails”). Attachment U is added to the Contract full as set forth in the attached **Exhibit 10**, incorporated by this reference.

34. Amendment No. 1 Repealed. Amendment No. 1 is hereby repealed upon the execution of this Amendment.
35. Full Force and Effect. This modifying Amendment is supplemental to the Contract and is by reference made a part of the Contract. All of the terms, conditions, and provisions, thereof, unless specifically modified herein, shall continue in full force and effect. In the event of any conflict or inconsistency between the provisions of this, the provision of this Amendment shall in all respects govern and control.
36. Corporate Authority. The persons executing this Amendment on behalf of the Parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment on behalf of said party, (iii) by so executing this Amendment, such party is formally bound to the provisions of this Amendment, and (iv) the entering into this Amendment does not violate any provision of any other agreement to which said party is bound.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed and entered into this Amendment to the Contract as of the date first written above.

"CITY"
CITY OF LAGUNA HILLS

By: _____
 Dave Wheeler, Mayor

ATTEST:

By: _____
 Melissa Au-Yeung,
 City Clerk

APPROVED AS TO FORM:

By: _____
 Gregory E. Simonian,
 City Attorney

"CONTRACTOR"
CR&R INCORPORATED

Date: _____

By : _____
 President

Date: _____

By : _____
 Secretary

Attachment: Attachment 1 - Proposed Amendment No 2 (2828 : CR&R Amendment No 2)

EXHIBIT 1
Revised ATTACHMENT D

					<u>Collection</u>	<u>Processing</u>	<u>Disposal</u>	<u>Total</u>
<u>Residential Service</u>								
1a.	Residential Basic Level	Recyclable Materials	35, 60, 90 gallon (1st Cart)	per month	1.13	2.98	0.16	4.27
1a.	Residential Basic Level	Recyclable Materials	Additional Cart*	per month	1.13	2.98	0.16	4.27
1b.	Residential Basic Level	Organic Waste	35, 60, 90 gallon (1st Cart)	per month	3.58	-	2.89	6.47
1b.	Residential Basic Level	Organic Waste	Additional Cart*	per month	3.58	-	2.89	6.47
1c.	Residential Basic Level	MSW	35, 60, 90 gallon (1st Cart)	per month	5.42	-	3.89	9.31
1c.	Residential Basic Level	MSW	Additional Cart	per month	5.42	-	3.89	9.31

* (This charge applies only after a resident has received 2 additional Carts free of charge (i.e. upon the request for a 4th Cart).

** (Organic Waste Carts shall be used for Stable Bedding and Manure at the rates provided in 1b above).

2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	1 pick-up per week	per month	73.06	39.75	-	112.81
2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	2 pick-ups per week	per month	105.70	78.48	-	184.18
2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	3 pick-ups per week	per month	126.53	115.22	-	241.75
2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	4 pick-ups per week	per month	158.23	152.59	-	310.82
2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	5 pick-ups per week	per month	178.50	178.38	-	356.88
2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	6 pick-ups per week	per month	199.05	203.89	-	402.94

HOA Stable Bedding and Manure Recycling Service

3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	1 pick-up per week	per month	16.27	6.73	-	23.00
3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	2 pick-ups per week	per month	32.46	13.45	-	45.91
3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	3 pick-ups per week	per month	48.75	20.15	-	68.90
3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	4 pick-ups per week	per month	64.98	26.87	-	91.85
3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	5 pick-ups per week	per month	81.22	33.60	-	114.82
3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	6 pick-ups per week	per month	97.45	40.34	-	137.79
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	1 pick-up per week	per month	63.31	22.96	-	86.27
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	2 pick-ups per week	per month	115.41	57.14	-	172.55
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	3 pick-ups per week	per month	136.10	82.60	-	218.70
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	4 pick-ups per week	per month	175.20	112.59	-	287.79
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	5 pick-ups per week	per month	200.33	133.48	-	333.81
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	6 pick-ups per week	per month	225.73	154.13	-	379.86
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	1 pick-up per week	per month	73.06	39.75	-	112.81
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	2 pick-ups per week	per month	105.70	78.48	-	184.18
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	3 pick-ups per week	per month	126.53	115.22	-	241.75
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	4 pick-ups per week	per month	158.23	152.59	-	310.82
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	5 pick-ups per week	per month	178.50	178.38	-	356.88
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	6 pick-ups per week	per month	199.05	203.89	-	402.94
3d.	HOA Stable Bedding and Manure Recycling	10 Cubic Yard Roll-off	per pull	per pull	126.96	132.04	-	259.00
3e.	HOA Stable Bedding and Manure Recycling	20 Cu. Yard Roll-Off	per pull	per pull	126.96	132.04	-	259.00
3f.	HOA Stable Bedding and Manure Recycling	30 Cu. Yard Roll-Off	per pull	per pull	126.96	132.04	-	259.00

EXHIBIT 1
Revised ATTACHMENT D

					<u>Collection</u>	<u>Processing</u>	<u>Disposal</u>	<u>Total</u>
3g.	HOA Stable Bedding and Manure Recycling	40 Cubic Yard Roll-off	per pull	per pull	126.96	132.04	-	259.00
<u>Commercial and Multi-family Recyclable Materials Service</u>								
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	1 pick-up per week	per month	14.83	4.25	0.22	19.30
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	2 pick-ups per week	per month	29.71	8.47	0.47	38.65
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	3 pick-ups per week	per month	44.54	12.71	0.71	57.96
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	4 pick-ups per week	per month	59.42	16.96	0.94	77.32
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	5 pick-ups per week	per month	74.22	21.22	1.17	96.61
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	6 pick-ups per week	per month	89.11	25.44	1.40	115.95
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	1 pick-up per week	per month	14.83	5.67	0.34	20.84
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	2 pick-ups per week	per month	29.72	11.34	0.65	41.71
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	3 pick-ups per week	per month	44.57	17.01	0.98	62.56
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	4 pick-ups per week	per month	59.47	22.69	1.26	83.42
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	5 pick-ups per week	per month	74.30	28.35	1.62	104.27
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	6 pick-ups per week	per month	89.17	34.04	1.91	125.12
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	1 pick-up per week	per month	14.85	7.09	0.41	22.35
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	2 pick-ups per week	per month	29.73	14.16	0.79	44.68
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	3 pick-ups per week	per month	44.60	21.29	1.20	67.09
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	4 pick-ups per week	per month	59.50	28.36	1.63	89.49
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	5 pick-ups per week	per month	74.34	35.46	2.02	111.82
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	6 pick-ups per week	per month	89.24	42.54	2.40	134.18
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	1 pick-up per week	per month	32.90	12.31	0.86	46.07
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	2 pick-ups per week	per month	49.43	27.15	1.91	78.49
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	3 pick-ups per week	per month	76.82	42.21	2.99	122.02
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	4 pick-ups per week	per month	97.15	53.40	3.79	154.34
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	5 pick-ups per week	per month	117.54	64.59	4.56	186.69
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	6 pick-ups per week	per month	137.87	75.76	5.39	219.02
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	1 pick-up per week	per month	33.98	19.06	1.35	54.39
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	2 pick-ups per week	per month	46.40	38.28	2.72	87.40
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	3 pick-ups per week	per month	66.08	54.51	3.87	124.46
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	4 pick-ups per week	per month	93.44	77.06	5.48	175.98
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	5 pick-ups per week	per month	113.15	93.31	6.64	213.10
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	6 pick-ups per week	per month	138.09	113.79	8.11	259.99
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	1 pick-up per week	per month	41.76	23.46	1.67	66.89
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	2 pick-ups per week	per month	59.55	49.10	3.51	112.16
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	3 pick-ups per week	per month	86.65	71.47	5.07	163.19
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	4 pick-ups per week	per month	112.21	92.56	6.58	211.35
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	5 pick-ups per week	per month	137.76	113.61	8.09	259.46
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	6 pick-ups per week	per month	163.33	134.72	9.60	307.65

EXHIBIT 1
Revised ATTACHMENT D

					<u>Collection</u>	<u>Processing</u>	<u>Disposal</u>	<u>Total</u>
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	1 pick-up per week	per month	41.72	35.79	2.55	80.06
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	2 pick-ups per week	per month	60.79	81.71	5.83	148.33
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	3 pick-ups per week	per month	83.56	119.64	8.53	211.73
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	4 pick-ups per week	per month	99.66	147.60	10.54	257.80
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	5 pick-ups per week	per month	118.20	178.70	12.76	309.66
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	6 pick-ups per week	per month	143.34	219.76	15.67	378.77

Commercial and Multi-Family MSW Service

5a.	Commercial/Multi-family MSW	35 Gallon Cart	1 pick-up per week	per month	24.94	2.28	3.99	31.21
5a.	Commercial/Multi-family MSW	35 Gallon Cart	2 pick-ups per week	per month	49.81	4.53	7.99	62.33
5a.	Commercial/Multi-family MSW	35 Gallon Cart	3 pick-ups per week	per month	74.75	6.80	11.98	93.53
5a.	Commercial/Multi-family MSW	35 Gallon Cart	4 pick-ups per week	per month	99.64	9.04	15.99	124.67
5a.	Commercial/Multi-family MSW	35 Gallon Cart	5 pick-ups per week	per month	124.56	11.33	19.95	155.84
5a.	Commercial/Multi-family MSW	35 Gallon Cart	6 pick-ups per week	per month	149.47	13.59	23.96	187.02
5b.	Commercial/Multi-family MSW	60 Gallon Cart	1 pick-up per week	per month	27.56	2.71	4.81	35.08
5b.	Commercial/Multi-family MSW	60 Gallon Cart	2 pick-ups per week	per month	55.08	5.42	9.59	70.09
5b.	Commercial/Multi-family MSW	60 Gallon Cart	3 pick-ups per week	per month	82.63	8.13	14.39	105.15
5b.	Commercial/Multi-family MSW	60 Gallon Cart	4 pick-ups per week	per month	110.16	10.84	19.22	140.22
5b.	Commercial/Multi-family MSW	60 Gallon Cart	5 pick-ups per week	per month	137.72	13.54	23.99	175.25
5b.	Commercial/Multi-family MSW	60 Gallon Cart	6 pick-ups per week	per month	165.21	16.25	28.81	210.29
5c.	Commercial/Multi-family MSW	90 Gallon Cart	1 pick-up per week	per month	30.17	3.17	5.57	38.91
5c.	Commercial/Multi-family MSW	90 Gallon Cart	2 pick-ups per week	per month	60.30	6.34	11.19	77.83
5c.	Commercial/Multi-family MSW	90 Gallon Cart	3 pick-ups per week	per month	90.51	9.50	16.76	116.77
5c.	Commercial/Multi-family MSW	90 Gallon Cart	4 pick-ups per week	per month	120.68	12.68	22.36	155.72
5c.	Commercial/Multi-family MSW	90 Gallon Cart	5 pick-ups per week	per month	150.85	15.84	27.93	194.62
5c.	Commercial/Multi-family MSW	90 Gallon Cart	6 pick-ups per week	per month	181.01	18.56	33.55	233.12
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	1 pick-up per week	per month	90.24	9.05	16.03	115.32
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	2 pick-ups per week	per month	138.08	18.96	33.42	190.46
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	3 pick-ups per week	per month	169.46	28.48	50.33	248.27
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	4 pick-ups per week	per month	212.78	37.88	66.91	317.57
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	5 pick-ups per week	per month	256.19	47.28	83.47	386.94
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	6 pick-ups per week	per month	299.53	56.67	100.05	456.25
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	1 pick-up per week	per month	91.25	13.75	24.29	129.29
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	2 pick-ups per week	per month	136.22	28.01	49.47	213.70
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	3 pick-ups per week	per month	166.87	42.06	74.29	283.22
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	4 pick-ups per week	per month	209.48	55.91	98.79	364.18
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	5 pick-ups per week	per month	252.16	69.77	123.23	445.16
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	6 pick-ups per week	per month	301.29	85.44	150.91	537.64

EXHIBIT 1
Revised ATTACHMENT D

					<u>Collection</u>	<u>Processing</u>	<u>Disposal</u>	<u>Total</u>
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	1 pick-up per week	per month	118.15	17.80	31.46	167.41
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	2 pick-ups per week	per month	145.59	37.20	65.73	248.52
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	3 pick-ups per week	per month	201.82	54.51	96.28	352.61
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	4 pick-ups per week	per month	243.34	72.97	128.93	445.24
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	5 pick-ups per week	per month	284.83	91.47	161.56	537.86
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	6 pick-ups per week	per month	326.33	109.94	194.21	630.48
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	1 pick-up per week	per month	106.76	28.29	49.95	185.00
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	2 pick-ups per week	per month	150.28	56.51	99.86	306.65
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	3 pick-ups per week	per month	184.11	86.23	152.32	422.66
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	4 pick-ups per week	per month	225.09	113.28	200.17	538.54
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	5 pick-ups per week	per month	266.28	140.31	247.85	654.44
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	6 pick-ups per week	per month	316.84	172.27	304.42	793.53
<u>Commercial/Multi-family Split Bin Service</u>								
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	1 pick-up per week	per month	90.24	5.10	0.65	95.99
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	2 pick-ups per week	per month	138.08	10.66	1.44	150.18
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	3 pick-ups per week	per month	169.45	16.02	2.25	187.72
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	4 pick-ups per week	per month	212.78	21.32	2.84	236.94
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	5 pick-ups per week	per month	256.19	26.59	3.41	286.19
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	6 pick-ups per week	per month	299.53	31.88	3.63	335.04
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	1 pick-up per week	per month	32.90	6.92	0.65	40.47
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	2 pick-ups per week	per month	49.43	15.27	1.44	66.14
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	3 pick-ups per week	per month	76.81	23.74	2.25	102.80
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	4 pick-ups per week	per month	97.16	30.04	2.84	130.04
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	5 pick-ups per week	per month	117.54	36.33	3.41	157.28
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	6 pick-ups per week	per month	137.87	42.61	4.05	184.53
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	1 pick-up per week	per month	90.24	9.05	16.03	115.32
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	2 pick-ups per week	per month	138.08	18.96	33.42	190.46
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	3 pick-ups per week	per month	169.46	28.48	50.33	248.27
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	4 pick-ups per week	per month	212.78	37.88	66.91	317.57
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	5 pick-ups per week	per month	256.19	47.28	83.47	386.94
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	6 pick-ups per week	per month	299.53	56.67	100.05	456.25
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	1 pick-up per week	per month	32.90	12.31	0.86	46.07
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	2 pick-ups per week	per month	49.43	27.15	1.91	78.49
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	3 pick-ups per week	per month	76.82	42.21	2.99	122.02
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	4 pick-ups per week	per month	97.15	53.40	3.79	154.34
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	5 pick-ups per week	per month	117.54	64.59	4.56	186.69
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	6 pick-ups per week	per month	137.87	75.76	5.39	219.02

EXHIBIT 1
Revised ATTACHMENT D

					<u>Collection</u>	<u>Processing</u>	<u>Disposal</u>	<u>Total</u>
<u>Commercial/Multi-family Organic Waste Service</u>								
7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	1 pick-up per week		14.83	4.25	0.22	19.30
7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	2 pick-ups per week		29.71	8.47	0.47	38.65
7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	3 pick-ups per week		44.54	12.71	0.71	57.96
7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	4 pick-ups per week		59.42	16.96	0.94	77.32
7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	5 pick-ups per week		74.22	21.22	1.17	96.61
7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	6 pick-ups per week		89.11	25.44	1.40	115.95
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	1 pick-up per week		14.83	5.67	0.34	20.84
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	2 pick-ups per week		29.72	11.34	0.65	41.71
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	3 pick-ups per week		44.57	17.01	0.98	62.56
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	4 pick-ups per week		59.47	22.69	1.26	83.42
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	5 pick-ups per week		74.30	28.35	1.62	104.27
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	6 pick-ups per week		89.17	34.04	1.91	125.12
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	1 pick-up per week		32.90	12.31	0.86	46.07
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	2 pick-ups per week		49.43	27.15	1.91	78.49
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	3 pick-ups per week		76.82	42.21	2.99	122.02
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	4 pick-ups per week		97.15	53.40	3.79	154.34
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	5 pick-ups per week		117.54	64.59	4.56	186.69
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	6 pick-ups per week		137.87	75.76	5.39	219.02
<u>Source-Separated (Type-Separated) Recycling Service</u>								
8c.	Source-Separated Recycling	35 Gallon Cart	1 pick-up per week	per month	15.12	-	-	15.12
8c.	Source-Separated Recycling	35 Gallon Cart	2 pick-ups per week	per month	30.18	-	-	30.18
8c.	Source-Separated Recycling	35 Gallon Cart	3 pick-ups per week	per month	45.28	-	-	45.28
8c.	Source-Separated Recycling	35 Gallon Cart	4 pick-ups per week	per month	60.37	-	-	60.37
8c.	Source-Separated Recycling	35 Gallon Cart	5 pick-ups per week	per month	75.47	-	-	75.47
8c.	Source-Separated Recycling	35 Gallon Cart	6 pick-ups per week	per month	90.57	-	-	90.57
8b.	Source-Separated Recycling	60 Gallon Cart	1 pick-up per week	per month	16.92	-	-	16.92
8b.	Source-Separated Recycling	60 Gallon Cart	2 pick-ups per week	per month	33.85	-	-	33.85
8b.	Source-Separated Recycling	60 Gallon Cart	3 pick-ups per week	per month	50.77	-	-	50.77
8b.	Source-Separated Recycling	60 Gallon Cart	4 pick-ups per week	per month	67.70	-	-	67.70
8b.	Source-Separated Recycling	60 Gallon Cart	5 pick-ups per week	per month	84.58	-	-	84.58
8b.	Source-Separated Recycling	60 Gallon Cart	6 pick-ups per week	per month	101.53	-	-	101.53
8c.	Source-Separated Recycling	90 Gallon Cart	1 pick-up per week	per month	18.71	-	-	18.71
8c.	Source-Separated Recycling	90 Gallon Cart	2 pick-ups per week	per month	37.36	-	-	37.36
8c.	Source-Separated Recycling	90 Gallon Cart	3 pick-ups per week	per month	56.06	-	-	56.06
8c.	Source-Separated Recycling	90 Gallon Cart	4 pick-ups per week	per month	74.75	-	-	74.75
8c.	Source-Separated Recycling	90 Gallon Cart	5 pick-ups per week	per month	93.42	-	-	93.42
8c.	Source-Separated Recycling	90 Gallon Cart	6 pick-ups per week	per month	112.13	-	-	112.13

EXHIBIT 1
Revised ATTACHMENT D

					<u>Collection</u>	<u>Processing</u>	<u>Disposal</u>	<u>Total</u>
8d.	Source-Separated Recycling	2 Cubic Yard Bin	1 pick-up per week	per month	35.85	-	-	35.85
8d.	Source-Separated Recycling	2 Cubic Yard Bin	2 pick-ups per week	per month	58.80	-	-	58.80
8d.	Source-Separated Recycling	2 Cubic Yard Bin	3 pick-ups per week	per month	85.27	-	-	85.27
8d.	Source-Separated Recycling	2 Cubic Yard Bin	4 pick-ups per week	per month	106.82	-	-	106.82
8d.	Source-Separated Recycling	2 Cubic Yard Bin	5 pick-ups per week	per month	128.38	-	-	128.38
8d.	Source-Separated Recycling	2 Cubic Yard Bin	6 pick-ups per week	per month	149.55	-	-	149.55
8e.	Source-Separated Recycling	3 Cubic Yard Bin	1 pick-up per week	per month	45.39	-	-	45.39
8e.	Source-Separated Recycling	3 Cubic Yard Bin	2 pick-ups per week	per month	68.11	-	-	68.11
8e.	Source-Separated Recycling	3 Cubic Yard Bin	3 pick-ups per week	per month	113.48	-	-	113.48
8e.	Source-Separated Recycling	3 Cubic Yard Bin	4 pick-ups per week	per month	138.08	-	-	138.08
8e.	Source-Separated Recycling	3 Cubic Yard Bin	5 pick-ups per week	per month	143.64	-	-	143.64
8e.	Source-Separated Recycling	3 Cubic Yard Bin	6 pick-ups per week	per month	172.58	-	-	172.58
8f.	Source-Separated Recycling	4 Cubic Yard Bin	1 pick-up per week	per month	50.19	-	-	50.19
8f.	Source-Separated Recycling	4 Cubic Yard Bin	2 pick-ups per week	per month	100.35	-	-	100.35
8f.	Source-Separated Recycling	4 Cubic Yard Bin	3 pick-ups per week	per month	150.55	-	-	150.55
8f.	Source-Separated Recycling	4 Cubic Yard Bin	4 pick-ups per week	per month	200.73	-	-	200.73
8f.	Source-Separated Recycling	4 Cubic Yard Bin	5 pick-ups per week	per month	250.91	-	-	250.91
8f.	Source-Separated Recycling	4 Cubic Yard Bin	6 pick-ups per week	per month	299.16	-	-	299.16
8g.	Source-Separated Recycling	6 Cubic Yard Bin	1 pick-up per week	per month	67.88	-	-	67.88
8g.	Source-Separated Recycling	6 Cubic Yard Bin	2 pick-ups per week	per month	143.83	-	-	143.83
8g.	Source-Separated Recycling	6 Cubic Yard Bin	3 pick-ups per week	per month	212.85	-	-	212.85
8g.	Source-Separated Recycling	6 Cubic Yard Bin	4 pick-ups per week	per month	235.88	-	-	235.88
8g.	Source-Separated Recycling	6 Cubic Yard Bin	5 pick-ups per week	per month	281.86	-	-	281.86
8g.	Source-Separated Recycling	6 Cubic Yard Bin	6 pick-ups per week	per month	362.43	-	-	362.43
								219.7+
8h.	Source-Separated Recycling	10 Cubic Yard Roll-Off	1 pick-up per week	per pull	219.70	50.77	-	50.77/ ton
								219.7+
8i.	Source-Separated Recycling	40 Cubic Yard Roll-Off	1 pick-up per week	per pull	219.70	50.77	-	50.77/ ton
<u>Permanent Container Service</u>								
								245.69+
9a.	Permanent Compactor and Roll Off Box	10 Cu. Yd. Compactor	On-call or Scheduled Service	per pull	245.69	50.77	-	50.77/ ton
								245.69+
9b.	Permanent Compactor and Roll Off Box	40 Cu. Yd. Compactor	On-call or Scheduled Service	per pull	245.69	50.77	-	50.77/ ton
								219.7+
9c.	Permanent Compactor and Roll Off Box	10 Cu. Yd. Roll Off Box	On-call or Scheduled Service	per pull	219.70	50.77	-	50.77/ ton
								219.7+
9d.	Permanent Compactor and Roll Off Box	40 Cu. Yd. Roll Off Box	On-call or Scheduled Service	per pull	219.70	50.77	-	50.77/ ton

Attachment: Attachment 1 - Proposed Amendment No 2 (2828 : CR&R Amendment No 2)

EXHIBIT 1
Revised ATTACHMENT D

				<u>Collection</u>	<u>Processing</u>	<u>Disposal</u>	<u>Total</u>
<u>Temporary Container Service</u>							
10a.	Temporary Bin and Roll-Off Box	2 Cubic Yard Bin	per pull	104.78	5.59	9.82	120.19
10b.	Temporary Bin and Roll-Off Box	3 Cu. Yard Cub	per pull	104.86	8.38	14.77	128.01
10c.	Temporary Bin and Roll-Off Box	6 Cubic Yard Bin	per pull	105.09	16.78	29.58	151.45
							219.7+
10d.	Temporary Bin and Roll-Off Box	10 Cu. Yd. Roll Off	per pull	219.70	50.77	-	50.77/ ton
							219.7+
10e.	Temporary Bin and Roll-Off Box	20 Cubic Yard Roll-Off	per pull	219.70	25.40	-	25.4/ ton
							219.7+
10f.	Temporary Bin and Roll-Off Box	30 Cubic Yard Roll-Off	per pull	219.70	38.07	-	38.07/ ton
							219.7+
10g.	Temporary Bin and Roll-Off Box	40 Cu. Yd. Roll Off	per pull	219.70	50.77	-	50.77/ ton
<u>COD Service</u>							
11a.	COD Roll-Off - up to 6 tons (over 6 tons billed @\$38/ton)	40 cubic yard bin	per pull	225.69	303.91	-	529.60
11b.	COD Roll-Off - up to 8 tons (over 8 tons billed @\$38/ton)	10 cubic yard bin	per pull	221.47	397.67	-	619.14
<u>Special Event Service</u>							
12a.	Special Event	MSW Cart (60 gallon)	per container	6.62	2.72	4.84	14.18
12b.	Special Event	MSW Cart (90 gallon)	per container	6.61	3.18	5.62	15.41
12c.	Special Event	Recyclable Materials or Organic Waste Cart (60 gallon	per container	6.59	5.69	0.33	12.61
12d.	Special Event	Recyclable Materials or Organic Waste Cart (90 gallon	per container	6.60	7.12	0.41	14.13
12e.	Special Event	MSW 3 Cu. Yard Bin	per container	95.70	14.42	25.45	135.57
12f.	Special Event	Recycling 3 Cu. Yard Bin	per container	42.41	23.82	1.69	67.92
							219.7+
12g.	Special Event	MSW 10 Cu.Yd. Roll-off	per pull	219.70	50.77	-	50.77/ ton
							219.7+
12h.	Special Event	Recycling 10 Cu.Yd. Roll-off	per pull	219.70	50.77	-	50.77/ ton
							219.7+
12i.	Special Event	MSW 40 Cu.Yd. Roll-off	per pull	219.70	50.77	-	50.77/ ton
							219.7+
12j.	Special Event	Recycling 40 Cu.Yd. Roll-off	per pull	219.70	50.77	-	50.77/ ton
<u>Emergency Services</u>							
13a.	90 Gallon Cart		per container	36.20	3.17	5.57	44.94
13b.	3 Cu. Yard Bin		per container	114.72	14.41	25.44	154.57
							263.64+
13c.	10 Cu. Yard Roll-off		per pull	263.64	50.77	-	50.77/ ton
							263.64+
13d.	40 Cu. Yard Roll-off		per pull	263.64	50.77	-	50.77/ ton

EXHIBIT 1
Revised ATTACHMENT D

			<u>Collection</u>	<u>Processing</u>	<u>Disposal</u>	<u>Total</u>
<u>Other Services & Special Services</u>						
14a.	Residential Bulky Goods Collection Service (4 items per pick-up: 2 free bulky Goods pick-ups/yr)	per pick-up	-	33.03	-	33.03
14b.	Commercial Bulky Goods Collection Service (4 items per pick-up)	per pick-up	-	59.45	-	59.45
14c.	Residential Bulky Goods Collection for items containing Freon.	per item	-	-	-	-
14d.	Commercial Bulky Good Collection for items containing Freon.	per item	-	59.45	-	59.45
14e.	Residential Electronic Waste Collection	per item	-	-	-	-
14f.	Commercial Electronic Waste Collection	per item	-	33.03	-	33.03
14g.	Repair and Maintenance of Compactor	per hour	-	97.69	-	97.69
14h.	Cart Exchange	per cart	-	-	-	-
14i.	Bin Locking Lids	per month	-	19.81	-	19.81
14j.	Commercial Bin Wheel-out Service (25' - 50')	per month	-	33.03	-	33.03
14k.	Commercial Bin Wheel-out Service (51' - 75')	per month	-	66.07	-	66.07
14l.	Additional Bin pick-up Request (For Bin services listed under numbers: 2, 3, 4, 5, 6, 7)	per bin	-	51.52	-	51.52
14m.	Additional Cart pick-up Request (For Cart services listed under numbers: 2, 3, 4, 5, 6, 7)	per cart	-	19.81	-	19.81
14n.	Residential Backyard Wheel-Out Service for customers providing a physician's note.		-	-	-	-
14o.	Commercial Glass Recycling (35,60,90 gallon Carts)		-	-	-	-
14p.	Commercial Bin Wheel-Out Service for a distance less than 25 feet.		-	-	-	-
14q.	Residential HHW Door Side Collection Service (2 pick-ups/yr)		-	-	-	-
14r.	Residential UW Door Side Collection Service (2 pick-ups/yr)		-	-	-	-

Compactor (Clean MRF Processing Recyclables) Service

15a.	Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	1 pick-up per week	per month	109.16	36.11	63.82	209.09
15a.	Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	2 pick-ups per week	per month	154.00	72.32	127.81	354.13
15a.	Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	3 pick-ups per week	per month	185.63	108.59	191.86	486.08
15a.	Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	4 pick-ups per week	per month	230.40	144.83	255.93	631.16
15a.	Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	5 pick-ups per week	per month	275.18	181.05	319.97	776.20
15a.	Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	6 pick-ups per week	per month	319.95	217.32	384.00	921.27
15b.	Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	1 pick-up per week	per month	109.30	47.15	83.31	239.76
15b.	Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	2 pick-ups per week	per month	154.15	94.43	166.82	415.40
15b.	Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	3 pick-ups per week	per month	185.82	141.77	250.47	578.06
15b.	Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	4 pick-ups per week	per month	230.64	189.04	334.00	753.68
15b.	Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	5 pick-ups per week	per month	275.45	236.35	417.61	929.41
15b.	Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	6 pick-ups per week	per month	320.28	283.67	501.17	1,105.12
								219.7+
15c.	Compactor (Clean MRF Processing Recyclables)	10 Cu. Yard Compactor	per pull	219.70	25.40	-	25.4/ ton	219.7+
15d.	Compactor (Clean MRF Processing Recyclables)	20 Cu. Yard Compactor	per pull	219.70	31.73	-	31.73/ ton	219.7+
15e.	Compactor (Clean MRF Processing Recyclables)	30 Cu. Yard Compactor	per pull	219.70	38.07	-	38.07/ ton	219.7+
15f.	Compactor (Clean MRF Processing Recyclables)	40 Cu. Yard Compactor	per pull	219.70	50.77	-	50.77/ ton	

Attachment: Attachment 1 - Proposed Amendment No 2 (2828 : CR&R Amendment No 2)

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Attachment A Definitions

“AB 939” or “Act” means the California Integrated Waste Management Act of 1989, codified in part at Public Resources Code Section 40000 et seq., as it may be amended from time to time and as implemented by the regulations of the California Department of Resources Recycling and Recovery, or its successor.

“Affiliate” means any Person which is related to the Contractor by virtue of a direct or indirect ownership interest or common management. Affiliates include (1) a Person in which the Contractor has a direct or indirect ownership interest, (2) a Person which has a direct or indirect ownership interest in Contractor, and (3) a Person which is owned or controlled by any person which has a direct or indirect ownership interest in Contractor.

For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of the Internal Revenue Code, in effect as of the Effective Date, shall apply except that “ten percent (10%)” shall be substituted for “fifty percent (50%)” in Section 318(a)(2)(C) and Section 318(a)(3)(C).

“Alternative Fuel Vehicle” means a vehicle whose engine uses a fuel other than gasoline or diesel fuel, such as compressed natural gas (CNG) or other fuel with comparably low emissions of air pollutants regulated under the federal Clean Air Act, 42 U.S.C. Section 7401 et seq. or the California Clean Air Act, Health and Safety Code Section 39000 et seq.

“Anaerobic Digestion Facility” (“AD Facility”) means a facility that uses a biological process that decomposes organic matter in an environment with little or no oxygen resulting in a biogas and a liquid/solid stream called anaerobic digestate. The decomposition occurs in a four-step process: hydrolysis, acidogenesis, acetogenesis, and methanogenesis to break down organic matter into methane, carbon dioxide, water and anaerobic digestate/residuals.

“Authorized Recycling Agent” has the meaning set forth in Public Resources Code Section 40105.

“Bioengineered Feedstock” means a mixture of materials utilized in wastewater treatment plants (WWTP’s) or publicly owned treatment works (POTW’s) to produce biogas. (This process is also referred to as “wet anaerobic digestion”.) Bioengineered Feedstock may include primary and/or secondary sludge, greases from the WWTP grease trap, and organic materials such as Food Scraps from households or other organic materials from industries that have been pre-treated and liquefied to the required consistency.

“Bioengineered Feedstock Facility” means a Processing Facility that accepts Food Scraps and other Bioengineered Feedstock, chops, macerates or otherwise size-reduces the incoming materials, mixes the material with liquid and produces a slurry which is

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then transported or otherwise delivered to a wastewater treatment plant or similar facility for use as a Bioengineered Feedstock to produce methane.

“Biomass Conversion Facility” (Biomass) means a facility which uses the controlled combustion of the following materials (when separated from MSW) to produce electricity or heat: (1) agricultural crop residues; (2) bark, lawn, yard and garden clippings; (3) leaves, silviculture residue, tree and brush prunings; (4) Wood, Wood chips and Wood waste; or (5) non-recyclable pulp or non-recyclable paper.

“Bin” or “Bins” means open top rectangular metal Containers with wheels, with or without plastic or metal lids, used for storage of MSW or Divertable Materials Collected by Contractor. Typical sizes of Bins include 1.5 cubic yards, 2 cubic yards, 3 cubic yards, 4 cubic yards and 6 cubic yards. Bins are Collected by a front load vehicle equipped with metal forks that are inserted into metal channels on either side of the Bin in order to lift the Bin, empty the contents into the body of the vehicle, and return the Bin to the ground.

“Bulky Goods” means furniture, household or industrial appliances, mattresses, shipping crates and containers, oversized yard waste such as tree trunks and large branches if no larger than two feet (2’) in diameter and four feet (4’) in length, and other large, bulky or heavy objects not normally discarded on a regular basis at Residential Premises and Commercial and Business Establishments.

“Cart” means a Container with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity of 35 gallons, 60-67 gallons, and 90-100 gallons.

“Cathode Ray Tubes” or “CRTs” means a computer or television monitor with the yoke still attached that has been separated from an electronic device.

“City” means the City of Laguna Hills, a municipal corporation, and all of the territory lying within the municipal boundaries of the City as presently existing or as such boundaries may be modified during the Term.

“Clean Materials Recovery Facility” or “Clean MRF” means a MRF, or that portion of a MRF that processes Recyclable Materials such as Single-Material Recyclables and Single Stream Recyclable Materials, containing no more than the maximum residue allowed by CalRecycle permit regulations (10% residue).

“Clean Up Bin” or “CUB” means a 3 cubic yard open top metal Container without wheels for temporary service to store and transport MSW or Divertable Materials. CUBs are Collected using roll-off trucks.

“Co-Collection” or “Co-Collected” means the Collection of more than one waste stream in one Container. For example, the Collection of Food Scraps and Yard Trimmings in one green Container.

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“Collection” or **“Collect”** means the taking of physical possession of MSW, Divertable Materials, Recyclable Materials, Yard Trimmings, Food Scraps, Construction and Demolition Debris or other materials from Customers, and their transport to a Processing Facility, transfer station or landfill. Collect also means “Collected” or “Collecting.”

“Commercial and Business Establishments” means all hotels, motor courts, restaurants, offices or office buildings, federal, state and local government offices (excluding schools) stores, warehouses, factories, and all other Premises used for other than dwelling houses.

“Commercial Premises” means any premises occupied by stores, offices, and other commercial facilities providing goods or services and, solely for purposes of this Contract, dwelling units in residential developments wherein such dwelling units are not provided individual Collection service nor individually billed by Contractor but are instead serviced through central Collection by Containers and billed by a Homeowners Association or Property Manager.

“Commingled Recyclables” or **“Commingled Recyclable Materials”** means the storage and Collection of Recyclable Materials in one Container.

“Compactor” means an enclosed rectangular or square metal container containing a ram rod to condense and compress the contents and are typically used to store MSW or Divertable Materials. Compactors may be small (3 cubic yards and 4 cubic yards) for use on Commercial Premises, or large (10 cubic yards, 20 cubic yards, 30 cubic yards and 40 cubic yards) for use at large commercial businesses, construction sites, hotels, supermarkets and other large retail stores. Compactors are transported by a special vehicle equipped with hooks and a winch to pull the Compactor on to the flat bed of the vehicle.

“Compost” is the product resulting from the controlled biological decomposition of organic material that are Source Separated from the MSW stream and that has been sanitized through the generation of heat and processed to further reduce pathogens’ (PFRP), as defined by the U.S. EPA (Code of Federal Regulations Title 40, Part 503, Appendix B, Section B), and stabilized to the point that it is beneficial to plant growth. Compost bears little physical resemblance to the raw material from which it originated. Compost is an organic matter source that has the unique ability to improve the chemical, physical, and biological characteristics of soils or growing media. It contains plant nutrients but is typically not characterized as a fertilizer.

“Composting” means the creation of Compost.

“Compost Facility” means a facility that processes one or more of the following that have been Source Separated from MSW, Food Scraps, Yard Trimmings, Wood, and Food-Soiled Paper such as paper napkins and paper towels by means of outdoor windrow Composting, aerated static pile Composting, covered Composting, vermiculture, or other

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outdoor Composting methods or covered Composting with use of either finished Compost or fabric, synthetic or other type(s) of cover(s) applied to the Composting piles.

“Construction and Demolition Debris” or **“C&D”** includes building materials such as Wood, sheetrock, metals, concrete, asphalt, dirt, Yard Trimmings from grubbing, packaging and rubble resulting from Construction, remodeling, repair or Demolition operations on pavements, houses, commercial and industrial buildings, and other structures and improvements.

“Construction and Demolition (C&D) Processing Facility” means a facility that accepts waste building materials, packaging, and rubble for separation. Materials separated may be further processed to prepare them for sale or re-use (e.g. removing nails from Wood, grinding of concrete and asphalt). The facility then markets the materials for re-use.

“Containers” means any object designed and used to hold MSW or Divertable Materials to be Collected by the Contractor. Containers include Carts, Bins, clean-up Bins (CUBs), open-top Roll Off Boxes, and Compactors.

“Contamination” means materials which are not specified for Collection in particular Containers and Receptacles or for processing at any Processing Facility and which would either interfere with such processing or reduce the quality and value of the Recovered Materials. For example, metals and plastics constitute “Contamination” if placed in a Food Scraps and Yard Trimmings Container (or green Container). Tree trimmings or Food Scraps constitute “Contamination” if placed in a Recyclable Materials Container (or brown/blue Container). Contamination of MSW means the presence of Divertable Materials in the MSW Container (or gray Container) such as Recyclable Materials, Food Scraps, Construction and Demolition Debris, and/or Yard Trimmings.

Food Scraps placed in a brown Container does not constitute “Contamination” if the City directs for further segregation of Multi-Family and Commercial and Business Establishment’s Organic Waste in accordance to the City’s Mandatory Recycling Ordinance.

“Contaminate” means the act of “Contamination.”

“Contract” means this Contract between the City and Contractor dated as of September 28, 2005, including all attachments, and any amendments hereto.

“Contractor” means CR&R, Incorporated. The Contractor is the City’s authorized recycling agent.

“Construction” means the building, rehabilitation, remodeling, renovation or repair of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.

“County” means the County of Orange.

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“Customer” see “Generator.”

“Demolition” means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

“Disposal” means the burying of MSW at a permitted Disposal Site.

“Disposal Site” means the City-designated Landfill(s), transfer station(s) or other facility(ies) used for the disposal of MSW.

“Diversion” or **“Divert”** means any combination of Recycling, sorting, Composting, and/or other processing activities conducted at a Clean MRF, a Compost Facility, an Anaerobic Digestion Facility, a Bioengineered Feedstock Facility, a Construction and Demolition Debris Processing Facility or another City-approved Processing Facility in order to prepare, use and/or market the materials for reuse, remanufacture, reconstitution or to otherwise return the materials to the economic marketplace and to prevent the materials from being disposed in a landfill.

“Divertable Materials” or **“Divertable”** means Recyclable Materials, Food Scraps, Yard Trimmings, Wood, Construction and Demolition Debris, Special Collection Services materials, and all other materials that can be diverted from disposal. Divertable Materials includes, but is not limited to, all materials required to be Diverted from disposal by the City, CalRecycle or any state or federal agency. Divertable Materials includes Food Soiled Paper only when directed by the City.

“Diversion Programs” means Collection of Recyclable Materials, Yard Trimmings, Food Scraps, Wood, Construction and Demolition Debris, and processing of said materials at a Clean MRF, a Compost Facility, a Construction and Demolition Debris processing facility or other Processing Facility. Diversion Programs include all City Special Collection Services and other programs; and programs supported by residents, Commercial and Business Establishments, or other Persons that have the effect of diverting materials from landfill. Diversion Programs includes all of the programs included in the Contract.

“Edible Food” means food intended for human consumption. Edible Food is not MSW if it is recovered and not discarded. Nothing in this Contract requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

“Effective Date” means the date identified in Section 3.01.

“Electronic Waste” or **“E-Waste”** includes discarded video display devices such as a television screen, computer monitor, plasma television screen, computer CPU’s, LED screens and monitors, computer keyboards, computer mouse, printers, desk copiers, multi-function desktop machines (such as a combination printer/fax/copier), LED bulbs,

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VCR's, DVD/CD/tape players, cellular telephones, microwave ovens, toasters, irons, stereos and speakers, cables, scanners and all other corded appliances and corded devices.

“Environmental Laws” means all federal and state statutes, county and city ordinances concerning public health, safety and the environment including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*; the Federal Clean Air Act, 42 U.S.C. Section 7401 *et seq.*; the Federal Clean Water Act, 33 U.S.C. Section 1251 *et seq.*; the Emergency Planning and Community Right to Know Act, 42 U.S.C. Section 11001 *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. Section 651 *et seq.*; the California Integrated Waste Management Act, California Public Resources Code Section 40000 *et seq.*; the California Hazardous Waste Control Act, California Health and Safety Code Section 25100 *et seq.*; the California Toxic Substances Account Act, California Health and Safety Code Section 25300 *et seq.*; the Porter-Cologne Water Quality Control Act, California Water Code Section 13000 *et seq.*; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code Section 25249.5 *et seq.*; the California Clean Air Act, Health and Safety Code Sections 39000 *et seq.*; the California Hazardous Materials Response Plan and Inventory Act, Health and Safety Code Sections 25500 *et seq.*, as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

“Food Scraps” or **“Food waste”** means material resulting from the production, processing, preparation or cooking of food for human consumption that is separated from MSW. Food Scraps include surplus or unsold Edible Food, raw food left over after food preparation, leftover cooked food, as well as spoiled food such as vegetables and culls, and plate scrapings. Food Scraps includes, without limitation, Food Scraps from food facilities as defined in California Health and Safety Code Section 113789, food processing establishments (as defined in California Health and Safety Code Section 111955), Grocery Stores, farmer's markets, institutional cafeterias (such as schools, hospitals and assisted living facilities), Restaurants, and Residential Food Scraps. Food Scraps does not include Food Soiled Paper.

“Food Soiled Paper” means material that has come in contact with food or liquid, such as, but not limited to, paper towels, tissue products, paper napkins, paper plates and cups, coffee filters, tea bags, waxed paper, butcher paper, paper take-out boxes and food containers, greasy pizza boxes, paper bags, cardboard and wax-coated cardboard produce boxes. Food Soiled Paper does not include polystyrene, diapers, aluminum foil or foil-lined food wrap.

“Food Waste Processing Facility” means the City approved Compost Facility used to process Food Scraps Collected by Contractor in the City.

“Franchisee” means as defined in Chapter 5-32 of the Laguna Hills Municipal Code.

“Fully Implemented” or **“Fully Implement”** means that Contractor has performed (1) all implementation steps (i) through (xii) as described in Sections 2.02.9 and 3.03.4 of

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Attachment B for a Customer and (2) the Diversion Program is operating at the Customer's Premises as required by Attachment B and SB 1383.

“Gate Fee” means the amount charged for delivery of materials to the City designated Disposal Site and Processing Facility.

“Generate” means to bring into existence or create, or to use, maintain or possess an item, material or product, the result of which such creation, bringing into existence, use, maintenance or possession is that the item, material or product first becomes, or is converted, transformed, evolved to, or deemed as MSW or Divertable Materials.

“Generator” means the owner, occupant or user of Premises at which MSW or Divertable Materials is Generated and Collected by Contractor.

“Green Waste”: See “Yard Trimmings.”

“Hazardous Waste” means as defined in Section 11.05 of the Contract.

“Holiday Greenery” means clean organic green materials that are typically used for decorating during holidays, such as trees or wreaths.

“Homeowners Association” or “HOA” means a mandatory membership organization comprised of two or more homeowners for the maintenance of commonly owned real estate and improvements associated with Multi-Family developments comprised of detached homes, condominiums or townhouses.

“Household Hazardous Waste” or “HHW” means any Hazardous Waste generated incidental to owning or maintaining a place of residence. Household Hazardous Waste does not include any waste generated in the course of operating a business or commercial activity at a residence or at any Commercial and Business Establishment. Typical Household Hazardous Wastes include used motor oil and oil filters, antifreeze and other vehicle fluids, paints and varnishes, pesticides, herbicides, pool chemicals and cleaning supplies.

“Households Sharps Waste” means home-generated sharps, as defined in Section 117671 of the California Health & Safety Code, including hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications, which are generated by a Single-Family or Multi-Family residence. “Household Sharps Waste” does not include any waste generated in the course of operating a business concern at a residence, business generated waste, or medical waste not described herein.

“Including” means including but not limited to.

“Indemnitees” means the City, members of the City Council and other officers, employees, and agents.

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“Inspection” means a site visit where the City reviews records, Containers, receptacles, and an entity’s Collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with SB 1383 requirements.

“Kitchen Pail” means a plastic receptacle with the specifications described in Attachment U, having a hinged closeable lid, suitable for use for temporary storage of Food Scraps that will later be placed into a Container for Collection.

“Mandatory Recycling Ordinance” means Chapter 5-32 (Solid Waste and Recycling) of the City of Laguna Hills Municipal Code.

“Materials Recovery Facility” or **“MRF”** means a permitted facility that accepts and sorts Divertable Materials in order to segregate individual commodities for sale to end markets. A MRF typically provides additional processing of the segregated commodities to enhance their value to end users (e.g. color sorting of glass, baling of plastics, paper and cardboard, sorting lower paper grades from computer paper to enhance the value of the computer paper) and markets the commodities to end users.

“Mobile Home Park” means any site, lot, field or tract of land upon which mobile homes, manufactured homes, or modular homes or a combination of any of these homes are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

“Multi-Family” means a building, dwelling unit or complex containing multiple dwelling units that house more than three residences. Apartment complexes, condominiums, townhouses and similar configured housing complexes are included. Multi-Family does not include Single-Family residences, duplexes or tri-plexes.

“Municipal Solid Waste” or **“MSW”** means the variable portion of all non-hazardous discarded materials that is left over after all Diversion Programs are utilized by the owners and/or occupants of all Premises in the City. The owners and/or occupants of all Premises within the City are provided with separate, designated Containers for MSW, Recyclable Materials, Yard Trimmings and Food Scraps ((with the exception of non-food generating Commercial and Business Establishments) and Construction and Demolition Debris (where applicable)). The owners and occupants of all Premises separate and place discarded materials in the appropriate Container provided to their Premises. City provides Special Collection Services and third parties provide Diversion Programs for Diversion of household appliances, E-Waste, grease, fats, oils and other Divertable Materials. MSW is the material placed by owners and/or occupants in the MSW Container and does not include materials placed in the other Containers designated for Divertable Materials or Diverted via other Diversion Programs.

MSW does not include (1) Hazardous Waste, (2) low-level radioactive waste regulated under California Health and Safety Code Sections 25800, et seq., or (3) untreated medical waste which is regulated pursuant to the Medical Waste Management Act, California Health and Safety Code Sections 25015, et seq.

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“Organic Waste” or “Organic Materials” means Food Scraps and Yard Trimmings.

“Producer’s Price Index” or “PPI” means the Producer Price Index for Finished Goods Less Food and Energy, not seasonally adjusted, issued by the United States Department of Labor, Bureau of Labor Statistics.

“Person” includes any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County, municipality or special purpose district or any other entity whatsoever.

“Plastic containers” means all plastics of resin numbers 1-7, specifically excluding styrofoam.

“Premises” means any land or building in the City where MSW or Divertable Materials is generated or accumulated.

“Processing Facilities” means facilities where the following activities are conducted: sorting, cleaning, treating, Composting, and reconstituting Collected materials and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products which meet the quality standards of the market place. Processing Facilities include Clean Materials Recovery Facility, Composting Facilities, Anaerobic Digestion Facilities, Bioengineered Feedstock Facilities, wastewater treatment plants, C&D sorting facilities, and concrete and asphalt grinding facilities. Processing Facilities do not include waste-to-energy, Biomass, thermal destruction, or any type of Transformation facilities.

“Property Manager” means any person that manages and/or oversees the activities at, and services provided to, Premises that generate MSW and Divertable Materials.

“Proposal” means the Proposal submitted by Contractor to City under cover of a letter dated August 26, 2005, presented in one (1) binders entitled: Proposal for Integrated Waste Management Services for the City of Laguna Hills.

“Red/Green Tracking Spreadsheet” means the document used to track program implementation progress.

“Recovered Materials” means those materials that are processed at a Clean MRF, Compost Facility, Anaerobic Digestion Facility, Bioengineered Feedstock Facility, Construction and Demolition Debris processing facility or any other Processing Facility and thus Diverted from landfill disposal.

“Recyclable Materials” or “Recyclables” means material which otherwise would become, or be treated as, MSW but which, by means of a process of Collecting, sorting, cleansing, treating and reconstructing, may be returned to the economic mainstream in the form of finished or source material for new, reused or reconstituted products, which may be used in the marketplace. Recyclable Materials includes, but is not limited to, paper, books, magazines, cardboard, boxes, plastics, metals, glass, and other similar

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materials authorized by the City for Collection by the Contractor. Recyclable Materials does not include Food Scraps, Yard Trimmings, or Construction and Demolition Debris.

“Recycle” and “Recycling” mean the process of Collecting, sorting, cleaning, treating and reconstituting materials that would otherwise become MSW and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products which meet the quality standards to be used in the marketplace.

“Residential Premises” includes Single-Family dwellings, Multi-Family dwellings (such as townhouses, apartments, and condominiums) and Mobile Home Parks that are provided individual Collection service at each dwelling unit, whether by means of walk-in or curbside Collection, and which may be individually billed by Contractor or billed, as part of a central billing process, by the HOA or Property Manager.

“Residue” means the MSW destined for Disposal which remains after processing at a Processing Facility. The percent of residue is calculated by dividing the weight of the residue by the weight of the total materials delivered for processing at the facility.

“Roll Off Boxes” means large open top rectangular metal Containers used to store and transport MSW or Divertable Materials. Roll Off Boxes are Collected using a special vehicle equipped with hooks and a winch to pull the box onto the flat bed of the truck for transport. Roll Off Boxes typically come in 10, 20, 30 and 40 cubic yard sizes.

“Route Review” means a visual Inspection of Containers along a hauler’s Collection route for the purpose of determining Container Contamination and may include mechanical Inspection methods such as the use of cameras.

“SB 1066 Programs” or “1066 Programs” means those Diversion Programs that City is required to implement and maintain at specified operating levels by the California Department of Resources Recycling and Recovery under its Source Reduction and Recycling Element.

“SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

“Self-Haul” means the hauling of MSW or Divertable Materials to a Processing Facility or Disposal Site or other type of facility by a Generator, owner, or occupant of any Premises.

“Scout Service” means moving individual Containers of MSW, Recyclable Materials, Yard Trimmings and/or Food Scraps to a centralized location on the property where the Containers can be emptied by a Collection vehicle (i.e. frontloader) and then returned to their original locations. The Containers are moved by a pickup truck, motorized utility cart or other similar lightweight vehicle. Scout Service is used to save wear and tear on

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pavement in parking lots and driveways and to save Collection time. Instead of traveling to the location of each individual Container to empty the Container, the Collection vehicle (i.e. frontloader) only travels to one centralized location where the scout brings the full individual Collection Containers for pickup.

“Single-Family” means Single-Family residences, duplexes, tri-plexes, four-plexes or any residences that have individual Cart Collection service.

“Single-Material Recyclables” means those Recyclable Materials which satisfy each of the following requirements: (1) have been segregated from MSW for handling different from that of MSW by or for the Generator thereof; (2) have been further segregated so that various types of Recyclable Materials, such as glass, metals, paper, cardboard, etc., are not commingled; and (3) after such segregation, contain no more than ten percent (10%) Contamination by weight.

“Single Stream Recyclable Materials” or **“Single Stream Recyclables”** means those Recyclable Materials collected as separated from MSW by the Generator and consisting of a mixture of metals, glass, plastics #1-7, and all paper grades from Single-Family Premises, Commercial Business Establishments and Multi-Family. Single Stream Recyclable Materials are distinguished from Single-Material Recyclables, which consist of only a single type of material, such as glass, separated from other Recyclables.

“Source Separated” or **“Source-Separated”** means materials that have been separated or kept separate from the MSW stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this Chapter, Source Separated shall include separation of materials by the Generator, property owner, property owner’s employee, property manager, or property manager’s employee into different Container and/or receptacles for the purpose of Collection such that Source Separated materials are separated from MSW for the purposes of Collection and processing.

“Source and Type-Separated Recyclable Materials” means those Recyclable Materials which satisfy each of the following requirements: (1) have been segregated from MSW for handling different from that of MSW by or for the generator thereof; (2) have been further segregated so that various types of Recyclable Materials, such as glass, metals, paper, cardboard, etc., are not commingled; and (3) after such segregation, contain no more than ten percent (10%) by weight (measured by each load being transported, Collected and/or disposed) of any residual or contaminant material which cannot be Recycled, Composted or similarly utilized, and which instead must be disposed of as garbage or otherwise.

“Source Reduction” means any action that causes a net reduction in the generation of MSW. Source Reduction includes, but is not limited to, reducing the use of nonrecyclable materials, replacing disposable materials and products with reusable materials and

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products, reducing packaging, reducing the amount of Organic Waste generated, establishing MSW Collection rate structures with incentives to reduce waste tonnage generated, and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials.

“Source-Separated C&D Processing” means Source Separated streams of Construction and Demolition Debris, e.g. Wood, concrete, and soil from commercial accounts, self-haul, and government agencies.

“Special Collection Service” means programs, offered by the Contractor, for the Collection of Universal Waste, Household Hazardous Waste, Electronic Waste, Bulky Goods, Holiday Greenery, and other Diversion Programs.

“Stable Bedding and Manure” means straw, paper, hay, Wood shavings or other materials and excrement or droppings from horses, goats and other livestock that is removed from livestock pens, stalls and other facilities.

“Term” means the term of this Contract as specified in Section 3.02, unless extended by City pursuant to Section 3.03.

“Ton” means a short ton of 2,000 pounds avoirdupois.

“Transformation” means incineration, pyrolysis, distillation, or biological conversion other than composting as defined in PRC section 40201 and does not include Composting, gasification, or biomass conversion. Transformation does not constitute Recycling for purposes of this Contract.

Universal Waste. “Universal Waste” means those hazardous wastes identified as universal wastes in Section 66261.9 of Title 22 of the California Code of Regulations, including but not limited to: fluorescent bulbs and tubes; household batteries (e.g. D, AA, button-type, etc.); non-empty aerosol cans; and mercury containing devices (e.g. thermometers, thermostats, gauges, etc), and generated by a single family or multi-family residence. "Universal Waste" does not include any waste generated in the course of operating a business concern at a residence or business generated waste. "Universal Waste" may include electronic devices, which are subject to the unlimited curbside pickup specified in Section 4.5 (Electronic Waste Collection) of Attachment B of the Contract.

“Will” means **“shall”** whenever the context requires.

“Wood” means all non-hazardous Wood material that is not painted with lead-based or other paints containing materials identified as Hazardous Waste, or treated with creosote or other hazardous materials. Wood includes, but not limited to, tree branches and other Wood trimmings, dimensional lumber and other pieces of Wood generated during the manufacture or processing of Wood products, Wood generated as part of the harvesting or processing of raw woody crops, and the Wood debris from Construction and Demolition activities.

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“Yard Trimmings” or **“Yard Waste”** means tree and shrub trimmings, grass cuttings, leaves, branches, and similar materials.

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ATTACHMENT B

SCOPE OF WORK FOR COLLECTION AND DIVERSION OPERATIONS**SECTION 1 - GENERAL REQUIREMENTS****1.1 General Requirements for Collection and Billing**

The Contractor shall Collect, transport, and dispose of all Municipal Solid Waste (MSW) and shall Collect and Recycle all Divertable Materials which are placed for Collection at Residential, Commercial and Business Establishments and at City Facilities and events at which the MSW or Divertable Materials are generated.

Contractor shall prepare bills for all Customers that clearly and accurately list rates in effect at the time services were provided or for the time period in which services will be provided. Bills shall fully explain and display all calculations of each charge except that portion of a Customer's bill attributable to the City franchise fee. Such charges shall be at Contractor's rates as established in Attachment D, as adjusted for inflation per the Contract. Any disputes related to charges to Customers shall be resolved by Contractor. Contractor shall submit to City, sixty (60) days prior to its use, a draft of bill format(s) and a line-item description for each charge, together with an example of a completed bill for an individually-serviced Residential Premises, a centrally-billed Multi-Family Premises, a Commercial and Business Establishment with Recycling Collection services, and a temporary Roll Off Box service for review and approval. Contractor shall also, at the same time as submittal of the draft above, submit a draft of a conveniently-sized listing of services and maximum rates in effect that may be distributed to, and retained for reference by, all Customers.

1.2 Changes in Collection Services.

Contractor shall be responsible for: (A) establishing services for new Customers; (B) stopping services and preparing a final billing on a pro rata basis for a Customer permanently discontinuing service; (C) suspending services at an individually-billed Residential Premises or Commercial and Business Establishments one time in a calendar year for a period of 60 calendar days for temporary vacation stops. [During temporary vacation stops, the Customer shall incur no charges for Collection services not provided and, if Customer is due refund and/or credit, timely

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refunding/crediting of payment made in advance of temporary vacation stops. If a temporary vacation stop request exceeds 60 calendar days, Contractor may arrange to pick-up the Containers from the Customer and require them to restart service as the account will be considered discontinued]; (D) accommodating modifications in the weekly frequency of Collection services for Commercial and Business Establishments on an as-needed basis.

Contractor shall, for approval of City, develop a procedure and confirmation form to document requests for commencement and termination of, and changes in, service. Customers shall be provided a copy of confirmation form noting effective date of start-up, change, suspension or termination in Collection services and other pertinent details, such as data of issuance of refund for services not provided but for which Customer has paid.

1.3 Changes in Scheduled Days of Collection.

Once a schedule of Collection days for MSW and/or Divertable Materials has been established for Residential Premises, the schedule shall not be changed without the prior written approval of City. Contractor shall request approval from City ninety (90) days prior to planned change in a scheduled day of Collection for Residential Premises. As a condition of approval of such a change, City may require Contractor, at Contractor's sole expense, to notify residents of the change by first-class postage. All details and scheduling of such notice shall be subject to approval by the City.

Scheduled Collection days for MSW and/or Divertable Materials may be changed at the request of the occupant or Property Manager of any Commercial and Business Establishment, or Multi-Family Premises, without the approval of City. The City will determine the final schedule of Collection days, in the event a disagreement arises between Contractor and a Customer or MSW and/or Divertable Materials Generator at Commercial and Business Establishments or Multi-Family Premises.

1.4 Containers for the Collection of MSW and Diveratable Materials.

Contractor shall be responsible for furnishing all Containers as detailed in Sections 1.04.1, 1.04.2, and 1.04.3. All Containers will be consistently color-coded.

The color-coding scheme shall be black for MSW, green for Yard Trimmings, Food Scraps, and Stable Bedding and Manure, and brown for Recyclable Materials for Residential Premises Carts.

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During the Term if a Recyclable Materials Cart is replaced, or a new Cart is distributed, Contractor shall provide a blue Cart to a Residential Premises.

The color-coding scheme shall be black for MSW, green for Yard Trimmings, Food Scraps, and Stable Bedding and Manure, and brown for Recyclable Materials for Commercial and Business Establishment and Multi-Family Premises Carts. During the Term if a Recyclable Materials Cart is replaced, or a new Cart is distributed, Contractor shall provide a blue Cart to a Commercial and Business Establishment and Multi-Family Premises.

All new Containers shall have messages/graphics on the exterior (or the underside of the lid on Carts and Bins) designed to remind Customers of what can or cannot be discarded into each type of Container (i.e., grass clippings and branches discarded into a green Cart are acceptable; aluminum cans and Plastic Containers discarded into a brown Commingled Recycling Cart are acceptable; Food Scraps discarded into a brown Cart is not acceptable—unless directed by City in accordance to the City's Mandatory Recycling Ordinance). The text/graphics shall be approved by City.

The color-coding scheme for Bins, CUBs, Roll Off Boxes, and Compactors shall be approved by City.

1.04.1 Container Color Coding and Labeling.

Beginning with the implementation of residential SB 1383 Diversion Programs all Containers will be consistently color-coded with the proper signage and decals in accordance with SB 1383 requirements. Decals shall be affixed and Carts shall be distributed starting July 1, 2022 and completed by December 31, 2022.

1.04.2 Containers for Residential Premises.

Contractor will provide each Customer with three (3) Carts for Residential Premises basic level of service: one (1) black MSW Cart, one (1) brown Recyclable Materials Cart, and one (1) green Cart for Co-Collected Food Scraps and Yard Trimmings and/or Stable Bedding and Manure for the rates set forth in Attachment D. Customers will be allowed to specify the size of each Cart for basic level of service from thirty (35) gallon, sixty (60) gallon, or ninety (90) gallon Carts.

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Contractor shall provide up to two (2) additional brown Recyclable Materials Carts and up to (2) additional green Carts for Co-Collected Food Scraps and Yard Trimmings and/or Stable Bedding and Manure free of charge. Contractor shall charge a fee, as established in Attachment D, upon the fourth (4th) additional Cart request for a brown Recyclable Materials Cart and upon the fourth (4th) additional Cart request for a green Cart for Co-Collected Food Scraps and Yard Trimmings and/or Stable Bedding and Manure.

If additional black MSW Carts are requested by Customer, Contractor shall provide such additional Carts at the rate set forth in Attachment D.

Contractor shall provide 3 cubic yard Bins for storage and Collection services of Stable Bedding and Manure for Residential Premises at the rates established in Attachment D.

Distribution of Food Scraps/Green Waste Carts and Kitchen Pails for Food Scraps storage, and associated public education materials is described in Section 2.02.4 of this Attachment B.

Contractor will provide a choice of a thirty (35) gallon, sixty (60) gallon, or ninety (90) gallon Cart size to Customer upon any request for an additional Cart or a Cart replacement. At any time a Cart is distributed to a Residential Premises, Contractor shall also deliver to the Residential Premises an informational brochure, describing the Commingled Recyclables curbside Recycling program, Co-Collected Food Scraps and Yard Trimmings Recycling program, and the Stable Bedding and Manure Recycling Program. The brochure shall include a listing in detail of all types of Divertable Materials that will be Collected and how they are to be prepared, items to include and exclude for each SB 1383 Diversion Program, days of Collection and other pertinent information. This brochure shall be submitted to City for approval sixty (60) days prior to the initial delivery of the Containers. City may direct that the brochure be periodically updated as needed, but not more often than once annually. All costs associated with the preparation of a professional, well-formatted and designed brochure, including photographic examples of Co-Collected Food Scraps and Yard Trimmings and Recyclable Materials and Containers. The costs of printing, labeling, and mailing (first class postage) shall be borne by Contractor.

Residential Customers not being serviced for Yard Waste as of July 1, 2022 are required to receive a green Cart for the Co-Collection of Food Scraps and Yard Trimmings by December 31, 2022. As of July 1, 2022, the default size Cart for Customers, who previously were not being

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served for Yard Waste, shall be one (1) thirty-five (35) gallon Cart. Beginning with the implementation of Co-Collected Yard Trimmings and Food Scraps, all Residential Premises, without exception, shall be provided with a decaled green Cart for the Co-Collection of Yard Trimmings and Food Scraps prior to December 31, 2022.

1.04.3 Containers for Multi-Family Complexes, Commercial and Business Establishments, and City Facilities

Contractor shall furnish ninety (90) gallon, sixty (60) gallon and thirty-five (35) gallon wheeled Carts with lids for MSW, Recyclable Materials, Food Scraps, and Yard Trimmings to Multi-Family complexes, Commercial and Business Establishments, and at City facilities. The Carts shall meet the specifications listed in Attachment G and shall be color-coded per the regulatory requirements of SB 1383. Food Scraps Carts shall have a granite base with a lime-green lid and contain signage/decals in accordance with SB 1383. For storage of MSW, Recyclable Materials, Yard Trimmings, and Food Scraps, Contractor shall also furnish, in SB 1383 compliant colors, two (2) cubic yard, three (3) cubic yard, four (4) cubic yard, six (6) cubic yard Bins; split two (2) cubic yard Bins, split three (3) cubic yard Bins, split four (4) cubic yard Bins; three (3) yard bin compactors, and four (4) yard bin compactors; ten (10) cubic yard, twenty (20) cubic yard, thirty (30) cubic yard and forty (40) cubic yard Roll Off Boxes; and shall provide Compactor pull service for Commercial and Business Establishments and City facilities, except that Customers located at any of the above Premises may, at their sole discretion, lease and/or purchase Compactors from any Person, company, manufacturer, or distributor, including, but not limited to, Contractor for use at their Premises. Contractor shall provide repair and maintenance services at rates in Attachment D, to any Customer requesting such services for a Compactor whether or not said Compactor is owned by Contractor.

SECTION 2 - RESIDENTIAL COLLECTION SERVICES

2.1 Basic Level of Service

The basic level of service for a Residential Premises that is individually-served includes once weekly curbside Collection of: (A) MSW provided by automated Collection; (B) Commingled Recyclable Materials provided by automated Collection, (C) Stable Bedding and Manure provided by automated Collection, and (D) Co-Collected Food Scraps and Yard Trimmings provided by automated Collection. City will allow exceptions to automated Collection, upon City's verification

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of the reason for exemption, if required due to space constraints, safety issues or other unusual circumstances. Contractor shall Collect Commingled Recyclable Materials in a vehicle Collecting solely Commingled Recyclable Materials to prevent Contamination of said materials. Contractor shall process Commingled Recyclable Materials at a Clean MRF identified in Attachment Q, and arrange for sale of the Recyclable Materials. Contractor shall Collect Food Scraps and Yard Trimmings and Stable Bedding and Manure in a vehicle collecting solely Food Scraps and Yard Trimmings and Stable Bedding and Manure to prevent Contamination of said materials. Contractor shall process Co-Collected Food Scraps and Yard Trimmings and Stable Bedding and Manure at a Compost Facility identified in Attachment R and arrange for sale of the Compost and other saleable materials resulting from the Composting process.

2.2 Other Levels of Service to be Provided

Contractor shall provide other levels of service for Residential Premises Collection of MSW and Divertable Materials, as specified in Sections 2.02.1 to 2.02.9.

2.02.1 Back Yard/Wheel Out Service

All basic Residential Premises services identified in Section 2.1 shall be offered with back yard/wheel-out service in the following instances. The Contractor shall go into backyards/sideyards at no charge for accounts that have a letter on file with Contractor from a physician confirming there is a medical reason that prevents the resident from moving MSW, Recyclable Materials, Co-Collected Food Scraps and Yard Trimmings, and Stable Bedding and Manure Carts and other materials to the curb and that there are no other capable persons in the household to provide this service. Annually Contractor shall request a new letter from a physician in order for the account to maintain backyard service at no charge.

2.02.2 MSW Collection

The basic level of service for a Residential Premises that is individually-serviced is once weekly curbside Collection of MSW provided by automated Collection. Contractor shall also provide MSW Collection services to all Multi-Family complexes, gated communities and Mobile Home Parks.

2.02.3 Single-Family Services

Contractor shall Collect Single Stream Recyclable Materials in a vehicle collecting solely Single Stream Recyclable Materials to prevent Contamination of said materials. Contractor shall provide and use the Containers described in Section 1.4. Contractor shall process Single Stream

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Recyclable Materials at a Clean MRF approved by City as prescribed in Attachment Q and arrange for sale of the Recyclable Materials. Contractor shall collect Co-Collected Food Scraps and Yard Trimmings in a vehicle collecting solely Co-Collected Food Scraps and Yard Trimmings to prevent Contamination of said materials. Contractor shall process Co-Collected Food Scraps and Yard Trimmings at a Compost Facility as prescribed in Attachment R.

2.02.4 Establish Single-Family Food Scraps Recycling

Contractor shall provide the weekly Co-Collection of Food Scraps and Yard Trimmings from all Residential Customers starting July 1, 2022 for existing Yard Waste service areas and by October 31, 2022 for non-Yard Waste Residential service areas. All Single-Family Customers will have a Fully Implemented Co-Collected Food Scraps and Yard Trimmings program by December 31, 2022. The Co-Collected materials of Food Scraps and Yard Trimmings shall be delivered to the City-designated Processing Facility in Yuma, Arizona as described in Attachment R for Composting. Customers shall be charged the rates for the Co-Collected Food Scraps and Yard Trimmings Collection and Processing service as set forth in Attachment D.

Contractor shall Collect all Co-Collected Food Scraps and Yard Trimmings from Residential Premises once per week on the same day as MSW. Contractor shall Collect all Co-Collected Food Scraps and Yard Trimmings in a Collection vehicle that Co-Collects Food Scraps and Yard Trimmings and shall process the Collected material at the City-approved Co-Collected Yard Trimmings and Food Scraps Processing Facility described in Attachment R and Article 5 of the Contract.

Distribution of Kitchen Pails, as illustrated in Attachment U, will be provided to all Single-Family Premises. Contractor shall have distribution completed by December 31, 2022 for Customers that have not already received a food scrap pail as part of the Co-Collected Food Scraps and Yard Trimmings Program implementation.

Within fourteen (14) calendar days after delivery of the Food Scraps/Green Waste Cart to a Residential Premises, which did not have Yard Trimmings service on or before July 2022, Contractor shall provide the Residential Premises, at no additional charge, with a Kitchen Pail for storage of Food Scraps in the kitchen as described in Attachment U.

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As part of the Food Scraps and Trimmings program implementation, Contractor shall prepare a sample of labeling to be placed on existing Residential Yard Trimmings Carts to clearly indicate that both Food Scraps materials and Yard Trimmings will be placed in the newly labeled Carts. Labels shall comply with SB 1383 CalRecycle regulatory requirements [Article 3 Section 18984.5.(b)] for labeling/signage for Food Scraps/Yard Trimmings Co-Collection programs. Contractor shall submit the draft labels to the City for approval no less than thirty (30) days before distribution. City shall review, provide comments, and, if acceptable, approve the labels within five (5) working days of receipt. Upon receipt of the labels and approval by the City, and after distributing the outreach material approved by City, Contractor shall arrange to attach the labels starting July 1, 2022 to all existing Residential Yard Trimmings Carts to attain 100% distribution by December 31, 2022.

Starting June 1, 2022 Contractor shall prepare and distribute Food Scraps and Yard Trimmings public education materials, customized to all Residential Premises as described in Section 5 of this Attachment B, to all Residential Premises. All initial education material distribution will be completed by August 31, 2022. Any additional ongoing annual public education material requirements are described in Sections 5.2, 5.3 and 5.4.

During the Term, additional Single-Family homes may be constructed and occupied within the City. Newly constructed Single-Family homes shall be designed to adequately address spacing and Collection areas to accommodate a three-Cart system within thirty (30) days of issuance of the City's Certificate of Occupancy or upon request by any Person or HOA that includes: A) MSW Collection; B) Commingled Recyclables program and C) a Co-Collected Food Scraps and Yard Trimmings Collection program at each new Residential Premises.

Contractor shall continuously monitor the residential automated Single Stream Recycling Program and the residential Co-Collected Food Scraps and Yard Trimmings Program for both participation and Contamination such that over each twelve (12) month period of the Term, Contractor has randomly observed a minimum of two percent (2%) of all Single-Family households in the City to note Contamination levels in the Single Stream and Co-Collected Food Scraps and Yard Trimmings materials in the automated Collection routes, as described in Attachment N. This protocol is consistent with SB 1383 route review requirements. On July 1, 2023 Contractor shall continue to record Contamination on an annual basis by conducting a Route Review audit for prohibited Container contaminants in a manner that results in all hauler

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automated Collection routes being reviewed annually to meet the minimum 2% of all Single-Family households. Containers shall be randomly selected along a hauler route as described in Attachment N.

When Contractor finds a household that is not participating, Contractor shall leave, or direct mail, the household education materials describing the programs and how to participate. When Contractor finds Contamination (as listed in Section 5.8 of this Attachment B) Contractor shall alert the Customer by leaving a hang-tag and by leaving public education materials concerning the acceptable materials for the program.

Contractor shall submit a written audit report on both participation and Contamination to the City quarterly October, 2022 and every quarter thereafter throughout the Term. The report will summarize the results of the monitoring program, the number of households monitored, and the number of non-participants and Contamination incidents for each 12-month period. Per the regulatory requirements of SB 1383, Contractor shall provide a list of contaminated accounts as recorded during the annual Route Review where Contractor has randomly observed a minimum of two percent (2%) of all Single-Family households in the City and noted Contamination levels in the MSW, Single Stream Recyclables, and Co-Collected Food Scraps and Yard Trimming materials in the automated Collection routes as described in Attachment N.

2.02.5 Gated Developments

The Contractor shall provide the basic level of services as described in Section 2.1 to gated developments as directed by the Homeowners Association (HOA) or Property Manager, provided that MSW is Collected at a minimum of once per week, unless the MSW frequency of Collection is adjusted by the SB 1383 Regulations. The HOA or Property Manager may change, once in a twelve-month period, the location and/or frequency of Collection of the basic level of services as described in Section 2.1, and/or the method of billing.

Residential Customers that are included in a central or master-billing arrangement by a HOA or Property Manager may not suspend service for any period of time.

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2.02.6 Mobile Home Parks

The Contractor shall provide the same MSW, Recyclable Materials and Food Scraps and Yard Trimmings Collection services to Mobile Home Parks as those provided to Single-Family Customers as described in Section 2.1.

If a Mobile Home Park Homeowners Association (HOA) or Property Manager requests commercial Bin service instead of individual wheeled Cart services at each mobile home, Contractor shall provide the same sizes of Containers and the same levels of service as those for Multi-Family Premises as described in Section 2.02.8.

Customers that are included in a central or master-billing arrangement by an HOA or Property Manager may not suspend service for any period of time.

2.02.7 Stable Bedding and Manure

The Contractor shall provide weekly Collection of Co-Collected Food Scraps and Yard Trimmings and Stable Bedding and Manure placed in green (Yard Trimmings) ninety (90) gallon Carts at Residential Premises at no additional charge. Carts for Co-Collected Food Scraps and Yard Trimmings and Stable Bedding and Manure shall count as part of the three (3) Carts that residents will be provided for Food Scraps and Yard Trimmings and Stable Bedding and Manure at no additional charge as described in Section 1.04.1. If requested by a Residential Customer, Contractor shall provide additional Cart(s) (above and beyond the three (3) Carts described in this Section) as needed and shall provide weekly Collection of Co-Collected Food Scraps and Yard Trimmings and Stable Bedding and Manure at the fees listed in Attachment D.

Contractor will provide weekly Collection of Stable Bedding and Manure placed in three (3) cubic yard Bins at the rates and frequencies as established in D.

All of Co-Collected Food Scraps and Yard Trimmings and Stable Bedding and Manure shall be Collected and delivered to the City-designated Compost Facility for Composting as described in Attachment R.

Contractor shall maintain a list of all Customers that have subscribed to (1) Co-Collected Food Scraps and Yard Trimmings and Stable Bedding and Manure Collection service and (2) three (3) cubic yard Bin service, including Customer name, address, number and type of Containers

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provided and frequency of service. Contractor shall submit the list to the City on a monthly basis as described in Attachment K.

2.02.8 Multi-Family MSW, Recyclable Materials and Food Scraps and Yard Trimmings Service

Contractor shall provide the Carts and Bins specified in Section 1.04.3 to Multi-Family complexes for storage and Collection of MSW at the rates established in Attachment D.

In addition, Contractor shall provide Collection of Commingled Recyclable Materials to one hundred percent (100%) of such units, Contractor shall provide separate Bin(s) or wheeled Carts (as identified in Section 1.04.3 and in Attachment D) for Collection of Commingled Recyclables.

Contractor shall Collect Commingled Recyclable Materials in a vehicle collecting solely Commingled Recyclable Materials to prevent Contamination of said materials. Contractor shall process Commingled Recyclable Materials at a Clean MRF, as identified in Attachment Q, and arrange for sale of the Recyclable Materials. The cost for Collection of Commingled Recyclables shall be less than the rate for MSW Multi-Family Collection service. If the Customer refuses Commingled Recycling service, Contractor shall send a brief questionnaire to the Property Manager and/or property owner. The questionnaire shall include at a minimum: property name, property address, contact name, contact phone number, current levels of MSW Collection service, brief description of City Recycling requirements and compliance with SB 1383. City shall approve questionnaire prior to distribution. Contractor shall keep a copy of the completed questionnaires on file and send a copy to the City. The City and/or the Recycling Coordinator will contact the Property Manager or owner who refused Recycling service to determine if the objections of the manager or owner can be resolved. If the Customer continues to refuse the required SB 1383 program the Contractor will notify the City through Attachment K and the City shall utilize its Mandatory Recycling Ordinance procedures.

State law requires the City to provide a Food Scraps program to Collect Food Scraps from all Multi-Family complexes on or before January 1, 2022. On July 1, 2022 Contractor shall begin implementing the Source Separated Food Scraps Collection program at Multi-Family complexes in City and be completed by December 31, 2022. Contractor shall charge the rates for the Multi-Family Food Scraps program set forth in Attachment D.

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Section 2.02.9, of this Attachment B, lists the implementation steps required of the Contractor to have a “Fully Implemented” Source Separated Multi-Family Food Scraps Collection program. Contractor shall implement the Source Separated Food Scraps Collection program at all Multi-Family complexes in City. Contractor shall provide the appropriate number of appropriately-sized Containers, as listed in Section 1.04.3 of this Attachment B, to each Multi-Family complex for Collection and storage of all Food Scraps. Customers who refuse service will be referred to the City through Attachment K and the City shall utilize its Mandatory Recycling Ordinance procedures.

Contractor shall prepare and distribute public education materials, customized to Multi-Family tenants and complexes. When a property requests or accepts a Food Scraps Recycling program, Contractor shall go door-to-door to provide each unit with public education materials and discuss the new Food Scraps program with each tenant. Contractor shall make every effort to schedule such visits to tenants on days and at times when tenants are most likely to be home and not at work (e.g., weekends and early on weekday evenings). Public education materials shall include a diagram showing the location(s) of Food Scraps Containers where tenants will deposit Food Scraps. Public Education materials shall be submitted to City for approval a minimum of thirty (30) days prior to printing and distribution. Contractor shall provide answers to tenant and Multi-Family complex managers’ questions and shall also provide a method for tenants and Multi-Family complex owners, managers and staff to ask and receive answers to follow-up questions about the program via telephone, e-mail or text, social media and Contractor’s web site.

Contractor shall Collect all Food Scraps from Multi-Family complexes at least once per week, and more frequently as required to prevent odor, overflow of Food Scraps from Containers, and lack of available space for Food Scraps in Containers at each complex. Contractor shall Collect all Food Scraps in a separate Collection vehicle that Collects only Source Separated Food Scraps and shall process the Collected material at the City-approved Food Scraps Processing Facility listed in Attachment R and Article 5 of the Contract.

Contractor shall make available Containers for Food Scraps in the types and sizes as specified in Section 1.03.4. which shall be used for the storage and Collection of Food Scraps in the solid waste and Recycling enclosure(s) or other area designated by the owner/manager of the Multi-Family complex.

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During the Term, if additional Multi-Family complexes are constructed and occupied within City, Contractor shall Fully Implement a Source Separated Food Scraps Collection Program at each new complex within thirty days of issuance of the Certificate of Occupancy by the City.

Annually, beginning January 1, 2023, Contractor's Recycling Coordinator shall develop and submit service proposals, as described in Section 2.02.9, to all Multi-Family properties that do not have Food Scraps Recycling Service.

2.02.9 Implementation of SB 1383 Compliant Multi-Family Diversion Programs for Recyclable Materials and Food Scraps.

Contractor shall provide the Collection of Recyclable Materials and Food Scraps and Yard Trimmings to all Multi-Family Premises subject to SB 1383 Regulations. At the direction of the City, Contractor shall include Food Soiled Paper products such as paper napkins and paper towels.

Contractor shall provide participating Customers with the Carts and Bins specified in Section 1.04.3 for the segregation and storage and Collection of Food Scraps at the rates in Attachment D.

Contractor shall deliver the Collected Food Scraps to the City-designated Processing Facility for composting identified in Attachment R. Customers shall be charged the rates as set forth in Attachment D for the Food Scraps Collection and Processing service.

A Food Scraps Diversion Program at a Multi-Family Premises will be considered Fully Implemented if Contractor has completed all the tasks described in this Section 2.02.9 items "i" through "x" of this Attachment B, and if the Fully Implemented program is observed to be in full and successful operation during the audit by City. At the one-year anniversary of the program implementation, Contractor shall perform task listed in this Section 2.02.9, item "xi". City will monitor program results and will also perform audits to determine Contractor's compliance with the requirements of this Section.

In the event that a Multi-Family Premise(s) refuses the Diversion Program, Contractor shall refer the non-compliant Customer to the City as described in item "xii". If the Customer agrees to implement the required program(s) as required by the City's Mandatory Recycling Ordinance, City

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will refer the Customer back to Contractor for implementation of the program(s). Contractor shall perform all tasks “i” through “xi” to Fully Implement a Diversion Program at the Premise(s).

In the event that Contractor fails to report to City that a Multi-Family Premises has not been Fully Implemented, or the City finds in its audit of Fully Implemented Diversion Programs a non-Fully Compliant Premises, then the City will provide Contractor thirty (30) days to Fully Implement the Premises as described in item “xiii”.

Contractor shall be found to have Fully Implemented SB 1383 Diversion Program, including but not limited to Food Scraps and Yard Trimmings Collection at a Multi-Family complex, only if all of the following have been completed by Contractor:

- (i) Contractor has contacted the Authorized Customer Representative (for purposes of this section the “Authorized Customer Representative” is the owner or on-site manager if that Person has decision-making authority; or if Customer is a corporation with multiple locations and centralized decision-making, the management Person with decision-making authority. In the case of a broker or waste arranger, the Authorized Customer Representative is the Person who has the decision-making authority) and explained the requirements in the Act for the Customer to have in place specified Recycling and Diversion Program(s) as of the date(s) applicable to that Customer. Contractor has also explained the requirements of City’s Municipal Code and Mandatory Recycling Ordinance. Contractor contact includes calls, emails and at a minimum, one in person site-visit. If the Authorized Customer Representative refuses to implement a program Contractor shall immediately notify City. Upon receiving the Contractor’s written notification of refusal, City will send a letter to the Authorized Customer Representative explaining the mandatory requirement of program implementation.
- (ii) Contractor has estimated the quantities of MSW, Recyclable Materials, and Food Scraps and any other Divertable Materials generated by the Customer; has calculated the appropriate size of Containers required for storage; has calculated the recommended frequency of service to optimize

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cost for the Customer; has prepared a written plan containing estimated costs and recommended levels of service; and has submitted the plan to the Customer. Contractor has discussed the plan with the Customer and obtained the Customer's approval to implement a finalized Diversion Program plan. If Customer refuses to implement Contractor's written plan Contractor shall document the refusal and report the Customer to the City as a non-compliant Customer.

- (iii) If the Customer is already Diverting materials using an in-house program, backhauling, on site processing or use of another vendor, Contractor has notified City so City can obtain a completed and signed "Self-Certification Form" for that program. Contractor shall record the information on the "Red/Green Tracking Spreadsheet." If the Customer is using a landscaping company to haul away Yard Trimmings/Wood, Contractor has notified City so City can obtain a completed and signed "Landscaper Self-Certification Diversion Form for Yard Trimmings/Wood" at that Premises. At the direction of City, Contractor has recorded the information on the "Red/Green Tracking Spreadsheet." If such program(s) only Divert(s) some materials and other Divertable Materials are not covered by the Customer's own program(s) or third-party program(s), Contractor has developed a plan for Diversion of the remaining materials in accordance with the requirements of this Attachment B.
- (iv) Contractor has provided the appropriate type(s) and size(s) of Containers for storage and Collection of Food Scraps.
- (v) Contractor is Collecting the Food Scraps from the Customer's Containers at the frequency of Collection needed to adequately service the Customer and, at a minimum, is performing Collection of Recyclable Materials at least once each week. Contractor is Collecting the Food Scraps one (1) to six (6) times each week as needed to adequately provide service to the Customer.
- (vi) Contractor has evaluated the level of the Customer's MSW Collection service and adjusted as necessary to maximize customer savings, to complement the separate Collection of Food Scraps. Contractor has

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checked back with the Customer and made at least two (2) on-site visits to determine if the initial sizing of the Containers and frequency of service is optimal for the Customer. Contractor has recommended appropriate adjustments as needed to the Customer and has implemented all adjustments agreed to by the Customer.

- (vii) Contractor has provided employee education and training materials to the Customer (and in the case of Multi-Family complexes, gated communities, HOA's and Mobile Home Parks, to all management and residents) explaining (a) the requirements of the Act, (b) the operation of each Diversion program and (c) specifically what materials may be placed in the Food Scraps Containers and what materials are to be placed in the MSW Container(s). Employee/resident training shall include at least one on-site training for all employees/tenants/residents of Customer. In the case of the Food Scraps program at Multi-Family complexes, Contractor shall provide at least one on-site training for residents for complexes of over fifteen (15) units and for smaller complexes if requested by the owner/manager. Contractor shall provide training materials to use both inside and outside, showing what materials are accepted in the program. Contractor shall provide training and training materials in both English and Spanish and another language as requested by Customer and if necessary, to support program implementation. Where a Customer has employees involved in tasks that are handling MSW and/or Divertable Materials, that speak a language other than English and more than 20% of the residents speak a language other than English, Contractor shall provide or utilize other resources available such as City or contractor's personnel or instructional videos to conduct a training session for those employees and residents in the language they speak and provide program signage and training handouts in that language as necessary to support program implementation.
- (viii) Contractor has made at least two (2) follow-up site visits to confirm the program is operating optimally within the first two weeks after program initiation. (These site visits are in addition to the site checks to confirm MSW quantities and optimization of MSW service described in item vii above).

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Contractor has responded to and successfully resolved the Customer's questions and any complaints.

- (ix) The Diversion Program(s) at the Premises of the Customer has been in place and operating continuously for a minimum of three (3) months from the inception date of the program implementation. (For example, a program that was implemented in December 2022, would need a verification of continuous operation no later than April 1, 2023.)
- (x) Within ninety (90) days after implementation of each Diversion Program (For example, a program that was implemented in December 2022, would need a visual inspection Contamination levels no later than April 1, 2023) at the Premises of the Customer, Contractor shall ensure that the program is operating effectively such that upon visual observation, the MSW Container(s) at the Premises contain no more than estimated twenty percent (20%) Recyclable Materials and Food Scraps (combined), and the Recyclable Materials Container(s) contain no more than estimated ten percent (10%) MSW and Food Scraps, combined (if the Customer generates Food Scraps). If the Premises is participating in the Source Separated Commercial Food Scraps Collection program, the Food Scraps Container(s) shall contain no more than estimated ten percent (10%) of any non-food item(s). If these performance standards are not being achieved, Contractor shall work with the Multi-Family owner(s), manager(s) and employees as needed to re-train, troubleshoot and otherwise provide technical assistance to ensure the standards are being met. If customer continually produces Recyclable Materials that are Contaminated, or if MSW containers are continually contaminated with Recyclables or Organic Materials, Contractor shall report to the City through Attachment K. City shall conduct rotating audits throughout the Term to confirm that these performance standards are achieved and maintained.
- (xi) Contractor has conducted a minimum of one (1) annual on-site review of the Recycling plan and of each Diversion Program at each Multi-Family Customer, and has conducted a re-training for all employees, residents, and tenants (that meets all of the requirements listed for the initial training required under item viii above). Contractor has conducted troubleshooting

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for each Diversion Program and each Diversion Program is successfully Diverting the targeted materials within the Contamination limits identified in item “x” above.

- (xii) In the event Contractor has taken all required actions and completed all required tasks in subparts “i” through “xi”, and the program(s) is still not meeting the participation and Contamination performance standards, the non-compliant Customer shall be reported to City on the “Red/Green Tracking Spreadsheet” and on the list described in Attachment K, Monthly Reports. City will work with the Multi-Family Customer to the full extent of state and local law. City will, in its sole discretion, enforce its Mandatory Recycling Ordinance, which may include warnings to the Customer and ultimately imposition of fine(s). If the Customer agrees to implement the required program(s) as required by the City’s Mandatory Recycling Ordinance, City will refer the Customer back to Contractor for implementation of the program(s) and Customer shall be removed from list of “Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance” in Attachment K, Monthly Reports. If the Customer continues to refuse to implement one or more of the required programs after City action, the Customer remains on the list and Contractor is relieved of the responsibility to implement program(s) at that Customer.

In the event that Contractor fails to report to City that a Multi-Family Premises, has not been Fully Implemented then the City will provide Contractor thirty (30) days to Fully Implement the Premises. City shall conduct rotating audits throughout the Term to confirm that these performance standards are achieved and maintained. After thirty (30) days from City notification, if Contractor has not Fully Implemented the Premise the City will assess the Liquidated Damage contained in Article 13.09(H) of the Contract.

SECTION 3 - COMMERCIAL AND BUSINESS ESTABLISHMENT SERVICES

3.1 Basic Level of Service

The basic level of service for Commercial and Business Establishments that shall be provided includes once weekly Collection of: (A) MSW provided by a vehicle designed for commercial

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Collection and (B) Collection of Single Stream Recyclable Materials, and (C) Collection of Food Scraps, and (D) Collection of Yard Trimmings as required by SB 1383. Contractor shall provide each of the service options for Collection of MSW, Recyclable Materials, and Food Scraps and Yard Trimmings as outlined in sections 3.2 – 3.9. Collection shall be accomplished in such a manner that the flow of traffic shall not be impeded nor a threat to the public health or safety created.

Contractor shall provide the following Collection services for Commercial and Business Establishments:

3.2 MSW Collection

Contractor shall provide MSW Collection services as follows: (i) regularly scheduled weekly routine MSW Collection service; and (ii) as-needed on-call Collection for Roll Off Boxes and Compactors and (iii) additional pick-ups. On-call and additional pick-up requests may be made by Customer, authorized agent or representative of Customer, or, in the case of Compactors so equipped, by automatic dial-up, other automated methods or electronic device that signals Contractor. Contractor shall provide service within 24 hours of receiving a request and shall charge the rates as established in Attachment D for on-call pickups and additional pickups.

Contractor shall provide the Carts and Bins specified in Section 1.04.3 to Commercial and Business Establishments for storage and Collection of MSW at the rates in Attachment D.

Customers may, at any time, adjust the frequency of Collections and/or the number of Containers for all types of Containers for the storage and Collection of MSW.

3.3 Recyclable Materials Collection.

3.03.1 Commingled Recyclable Materials

Contractor shall provide Collection of all the Commingled Divertable Materials as listed in this Attachment's Table 1 Section 5.8 to all Commercial and Business Establishments. Contractor shall provide the Carts and Bins specified in Section 1.04.3 to said establishments for storage and Collection of Recyclable Materials at the rates in Attachment D.

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Contractor shall Collect Commingled Divertable Materials in a vehicle Collecting solely Commingled Divertable Materials to prevent Contamination of said materials. Contractor shall process Commingled Recyclable Materials at a Clean MRF and arrange for sale of the Recyclable Materials. The rate for Collection of Commingled Recyclable Materials shall be less than the rate for MSW Collection.

If the Customer refuses Commingled Recycling services, Contractor shall follow the procedures described in Section 3.03.4 below.

3.03.2 Source Separated Recyclable Materials (Single-Material Recyclables)

Contractor shall offer, as directed by the City, Source Separated Collection for cardboard, office paper, metal, Wood, concrete, containers only, pallets, glass and baled Recyclable Materials. Source Separated Recyclable Materials will be Collected by the Contractor at the rates set forth in Attachment D. Contractor shall deliver all Source Separated Recyclable Materials to a Clean MRF for processing and sale. The rate for Collection of Source Separated Recyclable Materials shall be less than the rate for MSW Collection.

3.03.3 Glass Recycling Program

Contractor shall Collect Source Separated glass from Commercial and Business Establishments free of charge to existing Customers and to new Customers. Contractor will continue to provide this service to Commercial and Business Establishments with current glass Recycling Carts upon inception of Contract operations. This includes glass that is separated from MSW and from other Recyclable Materials. The glass need not be color-sorted by the business; the glass colors may be mixed together and placed for Collection in brown thirty-five (35) gallon, and/or sixty (60) gallon, and/or ninety (90) gallon Carts. Contractor shall transport the glass to a Clean MRF for processing and sale.

Contractor shall maintain a list of all Customers that have subscribed to glass Recycling service, including Customer name, address, number, and type of Containers provided and frequency of service. Contractor shall submit the list on a monthly basis as stated in Attachment K.

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3.03.4 Implementation of SB 1383 Compliant Commercial Diversion Programs for Recyclable Materials and Food Scraps.

Contractor shall provide the Collection of Recyclable Materials and Food Scraps to all Commercial and Business Premises subject to SB 1383 Regulations. At the direction of the City, Contractor shall include Food Soiled Paper products such as paper napkins and paper towels.

Contractor shall provide participating Customers with the Carts and Bins specified in Section 1.04.3 for the segregation and storage and Collection of Food Scraps at the rates in Attachment D.

Contractor shall deliver the Collected Food Scraps to the City-designated Processing Facility for composting identified in Attachment R. Customers shall be charged the rates as set forth in Attachment D for the Food Scraps Collection and processing service.

A Food Scraps Collection Diversion Program at Commercial and Business Establishments will be considered Fully Implemented if Contractor has completed all the tasks described in this Section 3.03.4 items “i” through “x” of this Attachment B, and if the Fully Implemented program is observed to be in full and successful operation during the audit by City. At the one-year anniversary of the program implementation, Contractor shall perform task listed in this Section 3.03.4, item “xi”. City will monitor program results and will also perform audits to determine Contractor’s compliance with the requirements of this Section.

In the event that a Commercial Premise(s) refuses the Diversion Program, Contractor shall refer the non-compliant Customer to the City as described in item “xii”. If the Customer agrees to implement the required program(s) as required by the City’s Mandatory Recycling Ordinance, City will refer the Customer back to Contractor for implementation of the program(s). Contractor shall perform all tasks “i” though “xi” to Fully Implement a Diversion Program at the Premise(s).

In the event that Contractor fails to report to City that a Commercial and Business Establishment Premises, has not been Fully Implemented, or the City finds in its audits of Fully Implemented Diversion Programs a non-Fully Compliant Premises, then the City will provide Contractor thirty (30) days to Fully Implement the Premises as described in item “xiii”.

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Contractor shall be found to have Fully Implemented SB 1383 Diversion Programs, including but not limited to Food Scraps Collection at a Commercial Premises and Business Establishment Customer, only if all of the following have been completed by Contractor:

- (i) Contractor has contacted the Authorized Customer Representative (for purposes of this section the “Authorized Customer Representative” is the owner or on-site manager if that Person has decision-making authority; or if Customer is a corporation with multiple locations and centralized decision-making, the management Person with decision-making authority. In the case of a broker or waste arranger, the Authorized Customer Representative is the Person who has the decision-making authority) and explained the requirements in the Act for the Customer to have in place specified Recycling and Diversion Program(s) as of the date(s) applicable to that Customer. Contractor has also explained the requirements of City’s Municipal Code and Mandatory Recycling Ordinance. Contractor contact includes calls, emails and at a minimum, one in person site-visit. If the Authorized Customer Representative refuses to implement a program Contractor shall immediately notify City. Upon receiving the Contractor’s written notification of refusal, City will send a letter to the Authorized Customer Representative explaining the mandatory requirement of program implementation.
- (ii) Contractor has estimated the quantities of MSW, Recyclable Materials, and Food Scraps and any other Divertable Materials generated by the Customer; has calculated the appropriate size of Containers required for storage; has calculated the recommended frequency of service to optimize cost for the Customer; has prepared a written plan containing estimated costs and recommended levels of service; and has submitted the plan to the Customer. Contractor has discussed the plan with the Customer and obtained the Customer’s approval to implement a finalized Diversion Program plan. If Customer refuses to implement Contractor’s written plan Contractor shall document the refusal and report the Customer to the City as a non-compliant Customer.

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- (iii) If the Customer is already Diverting materials using an in-house program, backhauling, on site processing or use of another vendor, Contractor has notified City so City can obtain a completed and signed "Self-Certification Form" for that program. Contractor shall record the information on the "Red/Green Tracking Spreadsheet." If the Customer is using a landscaping company to haul away Yard Trimmings/Wood, Contractor has notified City so City can obtain a completed and signed "Landscaper Self-Certification Diversion Form for Yard Trimmings/Wood" at that Premises. At the direction of City, Contractor has recorded the information on the "Red/Green Tracking Spreadsheet." If such program(s) only Divert(s) some materials and other Divertable Materials are not covered by the Customer's own program(s) or third-party program(s), Contractor has developed a plan for Diversion of the remaining materials in accordance with the requirements of this Attachment B.
- (iv) Contractor has provided the appropriate type(s) and size(s) of Containers for storage and Collection of Food Scraps.
- (v) Contractor is Collecting the Food Scraps from the Customer's Containers at the frequency of Collection needed to adequately service the Customer and, at a minimum, is performing Collection of Recyclable Materials at least once each week. Contractor is Collecting the Food Scraps one (1) to six (6) times each week as needed to adequately provide service to the Customer.
- (vi) Contractor has evaluated the level of the Customer's MSW Collection service and adjusted as necessary to maximize customer savings, to complement the separate Collection of Food Scraps. Contractor has checked back with the Customer and made at least two (2) on-site visits to determine if the initial sizing of the Containers and frequency of service is optimal for the Customer. Contractor has recommended appropriate adjustments as needed to the Customer and has implemented all adjustments agreed to by the Customer.
- (vii) Contractor has provided employee education and training materials to the Customer explaining (a) the requirements of the Act, (b) the operation of

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each Diversion program and (c) specifically what materials may be placed in the Food Scraps Containers and what materials are to be placed in the MSW Container(s). Employee/resident training shall include at least one on-site training for all employees of Customer. Contractor shall provide training materials to use both inside and outside, showing what materials are accepted in the program. Contractor shall provide training and training materials in both English and Spanish and another language as requested by Customer and if necessary, to support program implementation. Where a Customer has employees involved in tasks that are handling MSW and/or Divertable Materials, that speak a language other than English and more than 20% of the residents speak a language other than English, Contractor shall provide or utilize other resources available such as City or contractor's personnel or instructional videos to conduct a training session for those employees and residents in the language they speak and provide program signage and training handouts in that language as necessary to support program implementation.

- (viii) Contractor has made at least two (2) follow-up site visits to confirm the program is operating optimally within the first two weeks after program initiation. (These site visits are in addition to the site checks to confirm MSW quantities and optimization of MSW service described in item vii above). Contractor has responded to and successfully resolved the Customer's questions and any complaints.
- (ix) The Diversion Program(s) at the Premises of the Customer has been in place and operating continuously for a minimum of three (3) months from the inception date of the program implementation. (For example, a program that was implemented in December 2022, would need a verification of continuous operation no later than April 1, 2023.)
- (x) Within ninety (90) days after implementation of each Diversion Program at the Premises of the Customer, Contractor shall ensure that the program is operating effectively such that upon visual observation, the MSW Container(s) at the Premises contain no more than estimated twenty percent (20%) Recyclable Materials and Food Scraps (combined), and the Recyclable Materials Container(s) contain no more than estimated ten

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percent (10%) MSW and Food Scraps, combined (if the Customer generates Food Scraps). If the Premises is participating in the Source Separated Commercial Food Scraps Collection program, the Food Scraps Container(s) shall contain no more than estimated ten percent (10%) of any non-food item(s). If these performance standards are not being achieved, Contractor shall work with the Customer's owner(s), manager(s) and employees as needed to re-train, troubleshoot, and otherwise provide technical assistance to ensure the standards are being met. If Customer continually produces Recyclable Materials that are Contaminated, or if MSW containers are continually contaminated with Recyclables or Organic Materials, Contractor shall report to the City through Attachment K. City shall conduct rotating audits throughout the Term to confirm that these performance standards are achieved and maintained. (For example, a program that was implemented in December 2022, would need a verification of continuous operation no later than April 1, 2023.)

- (xi) Contractor has conducted a minimum of one (1) annual on-site review of the Recycling plan and of each Diversion Program at each Commercial Premises Customer, and has conducted a re-training for all employees, residents, and tenants (that meets all of the requirements listed for the initial training required under item viii above). Contractor has conducted troubleshooting for each Diversion Program and each Diversion Program is successfully Diverting the targeted materials within the Contamination limits identified in item "x" above.
- (xii) In the event Contractor has taken all required actions and completed all required tasks in subparts "i" through "xi", and the program(s) is still not meeting the performance standards, the non-compliant Customer shall be reported to City on the "Red/Green Tracking Spreadsheet" and on the list described in Attachment K, Monthly Reports. City will work with the Customer to the full extent of state and local law. City will, in its sole discretion, enforce its Mandatory Recycling Ordinance, which may include warnings to the Customer and ultimately imposition of fine(s). If the Customer agrees to implement the required program(s) as required by the City's ordinance, City will refer the Customer back to Contractor for

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implementation of the program(s) and Customer shall be removed from list of “Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance” in Attachment K, Monthly Reports. If the Customer continues to refuse to implement one or more of the required programs after City action, the Customer remains on the list and Contractor is relieved of the responsibility to implement program(s) at that Customer.

- (xiii) In the event that Contractor fails to report to City that a Commercial and Business Establishments Premises has not been Fully Implemented then the City will provide Contractor thirty (30) days to Fully Implement the Premises. City shall conduct rotating audits throughout the Term to confirm that these performance standards are achieved and maintained. After thirty (30) days from City notification, if Contractor has not Fully Implemented the Premise the City will assess the Liquidated Damage contained in Article 13.09H.

3.03.5 Stable Bedding and Manure

Contractor shall provide Collection of Stable Bedding and Manure to Commercial and Business Establishments and HOA stables. Contractor shall provide wheeled ninety (90) gallon Cart(s); three (3) cubic yard and four (4) cubic yard Bin(s); and ten (10) and forty (40) Roll Off Box(es) as needed and shall provide weekly Collection of Stable Bedding and Manure at the rates and pick-up schedules as set forth in Attachment D. Contractor shall provide for additional pick-up requests, above Customer’s weekly pick-up frequency, and Contractor shall charge Customer for additional pick-up(s) as established in Attachment D. All Stable Bedding and Manure for Commercial and Business Establishments and HOA stables shall be Collected and delivered to the City-designated Compost Facility for Composting.

3.4 Changes in Collection Services

Customers may, at any time, decrease the frequency of Collections and/or the number of Containers or Compactors for MSW commensurate with the amount of Recyclable Materials and Food Scraps diverted by any SB 1383 Diversion Programs, and any projects or activities undertaken by Customer that are consistent with the SB 1383 Regulations.

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Customers may, at any time, adjust the frequency of Collections and/or the number of Containers for all types of Containers for the storage and Collection of Divertable Materials.

3.5 Elective and Required Waste, Contamination, Participation and Diversion Studies

Section 9.06 of the Contract requires an annual Route Audit to be performed during April of each year. Contractor shall perform the audits in Contract Section 9.07 (Quarterly On-Site MSW and Divertable Materials Contamination Audits). These audits are required by SB 1383 regulations to monitor Contamination in all Residential Premises, Multi-Family Premises, and Commercial and Business Establishment routes for MSW and all Divertable Materials including Food Scraps, Co-collected Food Scraps and Yard Trimmings Yard Trimmings, and Stable Bedding and Manure. The methodology which shall be followed in the SB 1383 audits and the reporting process is described in Attachment N. Article 9.08 provides for a review of quarterly Contamination audit results. Contractor shall cooperate fully with City and its agents while all audits and any study is being conducted, including, but not limited to, allowing site visits and detailed observations of all Processing Facility operations; site visits during regular hours of operation, access to all Collection, transport and materials processing operations, responding in a timely manner to questions and requests for data and information; and making Contractor's personnel available to respond to questions from the City. Any site visit must be requested at least twenty-four (24) hours in advance through the Contractor's City liaison. All requests will be allowed by Contractor unless there can be determined to be a safety issue for visitors or employees of the facility; as an example when a visit may be interrupting construction or some unique situation beyond the control of the Contractor.

3.6 Temporary CUB and Roll-Off Services

Contractor shall provide on a temporary basis three (3) cubic yard CUBs and ten (10) and forty (40) cubic yard Roll Off Boxes for the purposes of Collection of MSW, Source Separated Recyclable Materials, Commingled Recyclable Materials, Yard Trimmings, and Construction and Demolition Debris at the request of Customers. Service shall be provided at the rates set forth in Attachment D. Such temporary service shall be provided, by way of example but not limitation, to sites where construction and/or demolition activity, replacement of roofs or paved areas, or replacement or maintenance of landscape materials is occurring. Collection shall occur on an as-

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needed, on-call basis, within twenty-four (24) hours of a request, or may be regularly scheduled, as determined by Customer.

All such temporary CUBs and roll-off Containers shall be Collected, transported, and processed at the City-designated Compost Facility, and/or Construction and Demolition Debris Processing Facility, and/or Clean MRF per the direction of Attachments Q, R, and S.

All temporary CUBs and roll-off Containers containing Source-Separated Recyclable Materials and Commingled Recyclable Materials shall be Collected and the materials transported to the City-designated Facility for processing and sale.

3.7 Construction and Demolition Debris Recycling

Contractor shall provide all services necessary to support Customer compliance with, and City's enforcement of, the City's Construction and Demolition Debris Diversion ordinance and Laguna Hills Municipal Code Chapters 5-48 and 10-68, including all goals and requirements of these ordinances. Such services shall include but not be limited to: (A) informing all Customers requesting temporary CUBs, Roll Off Boxes and Compactor services of the requirements of the ordinances, (B) providing CUBs, Roll Off Boxes, and Compactors as needed for storage and transport of Source Separated Construction and Demolition Debris, and commingled Construction and Demolition Debris, as well as appropriate size Containers for MSW, (C) providing Collection service of all Containers on a timely basis and (D) working and coordinating with Customer's job site Superintendent to ensure a smooth and effective Recycling program. Contractor shall inform Customers utilizing CUBs and Roll Off Boxes on a temporary basis, that materials being Generated must be Recycled pursuant to the requirements of City's ordinances. Contractor shall develop and distribute to such Customers a color brochure highlighting the requirements of the ordinances and describing methods of Diversion that will fulfill the requirements of the ordinance. All commingled Construction and Demolition Debris Collected by Contractor shall be transported to the City designated Construction and Demolition Debris Processing Facility for processing and sale or reuse.

3.8 Other Services.

Contractor shall provide the following additional services at the rates set forth in Attachment D:

(i) Bin wheel out service, (ii) additional Container pick-up, (iii) locking lids for Bins, (iv) use of a key to open a locked gate or enclosure to access Containers.

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3.9 City Facilities and Events Collection Services.

Contractor shall provide the following additional services at the rates set forth in Attachment D:

(i) Collection Services at City Facilities, (ii) Collection Services for City operations and at City events, (iii) Collection of permanent MSW and Divertable Materials in public areas.

3.09.1 Collection Services at City Facilities

Contractor shall provide Collection of all MSW, Recyclable Materials, Food Scraps, Co-Collected Food Scraps and Yard Trimmings, E-waste, Bulky Goods, and metals generated at Premises owned and/or operated by the City, in the locations identified below, at no charge to City. Collection shall be provided at the frequencies directed by the City, and at times convenient for City, but in no event less than once per week. At any time, City may direct Contractor to change frequency of Collection, number and/or size or type of Containers provided, or method of Collection. The City shall receive all the Collection and Recycling services as well as Self-Haul opportunities, provided to Commercial and Businesses Establishment accounts. This includes by way of example, but not limitation, providing a three (3) cubic yard Bin on an on-call basis for the City's beverage container Recycling program.

Laguna Hills Civic Center
24035 El Toro Road
Laguna Hills, California 92653

Laguna Hills Community Center and Sports Complex
25555 Alicia Parkway
Laguna Hills, California 92653

3.09.2 Collection Services for City Operations and at City Events

Each year the City may conduct litter cleanups at any location in City, trail cleanups in the open space areas and other special cleanup events. In addition, each year the City may sponsor or co-sponsor, host or otherwise organize a special event, such as a parade, public building dedication, conference of public officials, art show, cultural event or organized recreational activities at any of the City's parks or other venues. Contractor shall provide Containers for Collection service for up to and including twenty (20) special events per calendar year. The (20) special events include the City's July Fourth Event and ½ Marathon Event, and the specific events may be changed and/or increased up to 20 per year at no charge. Contractor shall provide MSW and Divertable

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Materials Collection services for such events, including Containers for the general public to dispose of MSW and Divertable Materials, as well as larger size Bins.

Contractor shall provide up to six (6) forty cubic yard Roll Off Boxes free of charge for City authorized code enforcement cleanups annually.

3.09.3 Collection of Permanent Solid Waste Containers in Public Areas

Public Collection Containers are located along arterial streets throughout the City. These Containers are owned by the City. Contractor shall Collect MSW and Divertable Materials from these Containers a minimum of one time per week at no cost to the City. The location of the existing arterial street Containers is listed in Attachment T as of February 2022. Said list may be modified by City from time to time. In addition to Collecting MSW and Divertable Materials in the Containers, Contractor shall Collect all litter in the area within ten (10) feet of each Container. Upon notification from City that litter is within ten (10) feet of a City arterial street Container, Contractor shall Collect said street within twenty-four (24) hours of notification. In the event the City arterial street Containers become overfull on a regular basis, City may require Contractor to Collect from the Containers on a more frequent basis.

SECTION 4 - SPECIAL SERVICES

4.1 Bulky Goods Collection Services.

Contractor shall provide Collection services for Bulky Goods at Residential Premises and Commercial and Business Establishments in City. Customer or City may request Collection of Bulky Goods forty-eight (48) hours in advance and Collection shall occur on or before the Customer's next regularly scheduled MSW Collection day. Bulky Goods at Residential Premises shall be Collected at, or reasonably near curbside, giving due consideration to circumstances of access points, vehicular and pedestrian safety and the like, in accordance with the scheduled appointment time established by Contractor, which shall in no case be earlier than 7:00 a.m. local time. Bulky Goods at Commercial and Business Establishments shall be Collected from the MSW enclosure area no earlier than 6:00 a.m. local time.

Contractor shall provide two residential Bulky Goods Collections per year of the Term of up to four (4) bulky items per Collection, at no charge to the resident. For additional Collections of Bulky Goods from Residential Premises and for all Collections of Bulky Goods from Commercial and

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Business Establishments, Contractor shall charge the fees set forth in Attachment D. Appliances containing Freon shall not be eligible for the complementary Bulky Goods Collection service but shall be Collected by Contractor as provided in Section 4.2. Contractor shall maintain records of the Customers requesting Bulky Goods Collections, the number of Collections requested by each Customer, and the number provided by Contractor. Contractor shall submit such records to the City upon request.

As part of a Bulky Goods Collection, Contractor shall Collect unusually large amounts of cardboard, such as moving boxes, and any other Commingled Recyclables at no additional charge.

Bulky Goods include furniture (such as a sofa, chair, desk, table, mattress, box springs, patio furniture); appliances (such as a stove, dishwasher, washer or dryer, water heater, microwave oven, air conditioner); toilets, sinks, other porcelain products; shipping crates, containers, bicycles, suitcases, barbeques, swing sets, tires, tools, toys; or other items the size or weight of which precludes Collection during regularly scheduled MSW Collection.

4.2 Collection of Appliances Containing Freon

Contractor shall provide Collection services for Appliances containing Freon (such as refrigerators) at Residential Premises and Commercial and Business Establishments in City. Customer or City may request Collection of said appliances forty-eight (48) hours in advance and Collection shall occur on or before the Customer's next regularly scheduled MSW Collection day. Appliances containing Freon shall be Collected at, or reasonably near curbside, giving due consideration to circumstances of access points, vehicular and pedestrian safety and the like, and in accordance with the scheduled appointment time established by Contractor, which shall in no case be earlier than 7:00 a.m. local time. Appliances containing Freon shall be Collected from the MSW enclosure area at Commercial and Business Establishments no earlier than 6:00 a.m. local time. Contractor shall be responsible for the proper removal of the Freon from said appliances in a manner consistent with federal, state and local laws and regulations, and for Recycling the metal from said appliances. Contractor may perform this service itself or deliver the Collected appliances to a fully permitted third party for removal of the Freon and Recycling of the metal. Contractor shall charge the fees in Attachment D for this service.

4.3 Special Events

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From time to time, the occupant of a Premises or the coordinator, manager or sponsor of a special event, such as a wine tasting, marathon or bike race, golf tournament, tennis tournament or other sporting event, a grand opening of a Commercial and Business Establishment, concerts, art shows, trade fairs, conventions, and the like, may require the services of Contractor in Collecting, and handling the MSW, Recyclable Materials, and Co-Collected Food Scraps and Yard Trimmings generated at the events. The Contractor shall assist each event in designing and implementing services to provide for the containment, storage, Collection, and handling of the MSW, Recyclable Materials, and Co-Collected Food Scraps and Yard Trimmings generated at the events throughout all phases including: A) the planning and set-up of the event; and B) during the event and C) the tear down process after the special event. The Contractor shall work with Customer to ensure that the Diversion of all Recyclable Materials, Food Scraps, and Yard Trimmings is maximized at these events consistent with SB 1383 Regulations. Contractor shall charge the occupant, coordinator, manager, or sponsor of a special event at the rate set forth in Attachment D.

Within thirty (30) days of the end of the event, Contractor shall provide a written report to occupant, coordinator, manager, or sponsor of the event with a copy to City, listing total tons of MSW, Recyclable Materials, and Food Scraps and Yard Trimmings by each individual category Collected, as well as the facilities to which the MSW, Recyclable Materials, and Food Scraps and Yard Trimmings were delivered, together with copies of weight tickets and other pertinent supporting cost documents.

4.4 Holiday Greenery Collection and Recycling

Contractor shall Collect at curbside Christmas trees and other Holiday Greenery on regular days of service for Residential Premises for two full weeks after the date of Christmas following the Christmas Holiday. Notices of this program, including instructions on how to prepare Holiday Greenery for Recycling may be included in Customer's bills as described under Section 5.4 of Attachment B. Holiday Greenery shall be delivered by Contractor to the City designated Compost Facility. Trees and greenery that have been flocked or contaminated by tinsel shall be delivered to the City designated Disposal Facility.

Contractor shall provide City a written report by February 1 showing tons of Holiday Greenery Collected at curbside and the tons delivered to the Compost Facility and the Disposal Facility.

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Contractor shall provide City with copies of weight tickets from the Compost Facility and the Disposal Facility as documentation of the tons diverted.

4.5 Electronic Waste Collection

Contractor shall Collect Electronic Waste that cannot legally be disposed of in a landfill (currently cathode ray tubes (CRTs) and liquid crystal displays (LCDs)) at Residential Premises and Commercial and Business Establishments in City. Customer or City may request Collection of CRT/LCD forty-eight (48) hours in advance and Collection shall occur on or before the Customer's next regularly scheduled MSW Collection day. CRTs/LCDs from Residential Premises shall be Collected at curbside, in accordance with the scheduled appointment time established by Contractor, which shall in no case be earlier than 7:00 a.m. local time. CRTs/LCDs from Commercial and Business Establishments shall be Collected in the area of the MSW enclosure, in accordance with the scheduled time established by the Contractor, which shall in no case be earlier than 6:00 a.m. local time. Contractor shall charge the fee set forth in Attachment D for this service. All Electronic Waste that is Collected by Contractor shall be delivered to a fully permitted processing facility for Recycling and reuse.

4.6 Emergency Services.

In the event of a natural disaster or other unforeseen emergency situation (e.g., earthquake, riot, or flood) Contractor shall, to the best of Contractor's ability, provide emergency services to City within four (4) hours of notification by the City. Emergency services may include, but are not limited to, loading, Collecting and hauling MSW, Construction and Demolition Debris, and large items to processing facilities, landfills or stockpiles as directed by City. Contractor shall provide Collection vehicles, drivers and other personnel to City and shall be compensated directly by City for these services at the rates set forth in Attachment D.

In the event that Contractor is unable to provide emergency services or is unable to provide sufficient or timely emergency services to City, City reserves the right to contract with another solid waste enterprise on a temporary basis to Collect and transport MSW, Construction and Demolition Debris and all other materials as needed for City to protect the public health, safety, and welfare.

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4.7 Universal Waste and HHW Collection Services.

Contractor shall provide Residential Premises Generators with Universal Waste and HHW Collection services with two (2) pickups per year free of charge for on-call doorstep Collection.

SECTION 5 - PUBLIC INFORMATION AND CONSUMER EDUCATION.**5.1 General.**

Contractor acknowledges that comprehensive, accurate information and consumer education are essential elements of the City's efforts to comply with the requirements of the Act. Contractor shall implement a public information and consumer education program that is consistent with City's goals and the requirements of Article 4 of the SB 1383 regulations. Contractor shall, at every reasonable opportunity, work to: familiarize residents, businesses, Property Managers, institutional representatives and other Persons with essential Source Reduction and Recycling concepts and activities; explain benefits of Recycling, Source Reduction, Composting and other forms of diverting MSW; provide data on Diversion activities in City which are coordinated or provided by Contractor; fully and clearly explain services and programs available to residents, businesses and institutions; publicize materials to be Collected for Recycling; diligently pursue expanding markets such that new items, formerly disposed at landfills, become Recyclable Materials and respond to questions or requests for information from residents, businesses, Property Manager, institutional representatives and other Persons. The content of all written materials to be distributed shall be subject to review and approval of City in advance of dissemination.

5.2 Notice to Residents and Development of Hang Tags.

Contractor shall, beginning in July of 2022, and during the month of July of each year thereafter, notify each Residential Premises Customer of the opportunity to participate, at no additional charge, in the curbside Recyclable Materials and the Food Scraps and Yard Trimmings program. The notice shall include: how to obtain a Container or additional Containers if already participating, how to replace a lost, stolen or damaged Container, the benefits of Recycling to the community, the Contaminants that have been identified during the SB 1383 Route Audit and other information as may be appropriate or required. Contractor shall submit to City by May 1 of each year a notice to City for review and approval. All costs associated with the preparation of a

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professional, well formatted and designed notice, as a pamphlet or brochure, costs of printing, labeling and mailing (first class postage) shall be borne by Contractor.

Prior to the July 1, 2022 implementation of the Food Scraps and Yard Trimmings program, Contractor shall design a one-page glossy bill insert, hand tags, and a post card for City review. The hand-tags and postcard will be developed for: i.) program initiation for non-existing green waste areas and ii.) as a method of notification of Contamination.

Single-Family residents, who as of July 1, 2022 do not have a Yard Trimmings Cart and are billed directly for services, shall receive, no later than September 15, 2022, a postcard that informs them of the implementation of the Co-Collection of Food Scraps and Yard Trimmings and the need for participation. The postcard will inform the resident that a thirty-five (35) gallon Cart will be the default size delivered and the resident will have the option to exchange the size following the rollout period. Contractor shall provide the City draft copies of educational materials for review and approval thirty (30) days prior to distribution. The City shall review and return comments no later than five (5) business days.

For Residential Customers who are not receiving Yard Trimmings service prior to July 2022, Contractor shall provide out-dial reminders, two post card mailers and an instructional pamphlet delivered to educate Customers on the details of the Co-Collected Food Scraps and Yard Trimmings Residential Diversion Program throughout the time period of July 2022 through October 1, 2022.

5.3 Notice to HOAs and Property Managers

Contractor shall, beginning on October 2022, and during the month of October of each year thereafter, notify each HOA and Property Manager of any Multi-Family Premises or Mobile Home Park of each alternative method of Recycling available to its residents. This notice shall include the following: (A) Collection from backyard, side-yard, closet or other place of enclosure; (B) provision of a Bin or Bins in a central location, such as a work yard, for drop-off of Recyclable Materials and Food Scraps; (C) community drop-offs available for use by residents; (D) provision of Carts and Bins for Food Scraps and Yard Trimmings for use by residents; and (E) other methods available for ease of participation as needed.

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Contractor shall submit by August 1 of each year throughout the Term of the Contract a draft notice to City for review and approval. All costs associated with the preparation of a professional, well formatted and designed notice, as a pamphlet or brochure, costs of printing, labeling and mailing (first class postage) shall be borne by the Contractor.

Contractor shall utilize the one-page glossy brochure developed for the Single-Family and Multi-Family residents to inform residential Customers of the implementation of the Co-Collected Food Scraps and Yard Trimmings program for distribution to Property Managers and HOA representatives prior to, and no later than October 1, 2022 and every October thereafter.

Contractor's Recycling Coordinator will meet with every Property Manager of Multi-Family Premises at least twice per year and attend Multi-Family related community meetings as requested by Property Managers. The Contractor shall develop and provide the City with the Collection plan for all new Multi-Family complexes prior to commencement of service as detailed in this Attachment B Section 2.02.9. Contractor shall provide literature and educational materials and communicate directly and in-person with participating complexes, and alert property or on-site managers where Contamination issues arise. Annually, beginning July 1, 2022, Contractor shall contact each Multi-Family property that does not have a Food Scraps Recycling program and provide a service proposal to incorporate Food Scraps Recycling into the property's Food Scraps and Yard Trimmings Diversion Program.

5.4 Billing Inserts, Coupons, Website.

Contractor shall use bill inserts to advertise Recycling programs, special services, and special Recycling-related events. Contractor shall make public education materials available to City for placement on the City website, and for distribution at City designated special events, such as the July Fourth booth. Contractor shall pay for advertising, development and printing of education materials for the programs as defined by City.

Contractor shall on July 1, 2022 develop, and distribute a bill insert fully explaining the implementation of Co-Collected Food Scraps and Yard Trimmings at Single-Family Premises and Food Scraps Collection at Multi-Family complexes. The billing insert shall again be distributed October 1, 2022, and January 2023 and annually thereafter throughout the Term of the Contract. The insert will consist of a 1-page glossy bill-insert that shall describe each of the Single-Family programs in detail. The bill insert for the annual requirement will use Contractor's standard insert

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paper used with billing statement. The insert shall clearly describe what Food Scraps and Yard Trimmings materials are acceptable in the program and what materials are classified as Contamination. Public education materials shall be submitted to City for approval prior to printing and distribution. Such materials shall include, a list of frequently asked questions, and contact information for Contractor for residents to ask further questions. City shall review, provide comments, and, if acceptable, approve the outreach materials within 5 business days of receipt. Contractor shall provide answers to residents' questions and shall also provide a method for residents to ask and receive answers to follow-up questions about the program via telephone, e-mail, text, as well as Contractor's web site.

5.5 Brochure for Commercial and Business Establishments

Annually, at Contractor's sole expense, the Contractor shall prepare a professional, well-formatted and designed brochure for Commercial and Business Establishments that describes, at a minimum, the services available, benefits and cost savings that may result from participation in Diversion Programs, availability of technical assistance from Contractor or other Recycling companies and Persons. Contractor shall submit to City for review and approval the brochure not later than ninety (90) days after the beginning of the Term. (i.e., on or before October 1, 2006) and on or before October 1 of each year of the Term. Contractor shall distribute the brochure by a first-class postage mailing or in-person. The Contractor is responsible for reporting to City the results of phone and in-person contacts on an annual basis.

5.6 Non-Bill Mailing Lists

The Contractor shall create and maintain a mailing list of all accounts that are not directly billed, so called "non-bill" Customers. The Contractor may elect to utilize the services of a direct mailing service for these "non-bill" Customers. Examples of non-bill Customers are apartments, mobile homes, condominiums, assisted living facilities, and other lease term/tenant situations such as a business park or strip mall. The mailing list shall be updated on an annual basis at a minimum and shall identify the number of non-bill Customers who are "on service" through a central billing or property owner/Property Manager. The programs requiring an annual mailing to non-bill Customers will include all Diversion Programs plus special Recycling services such as Collection of Holiday Greenery.

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5.7 Planning Review at Request of City

At request of City, Contractor shall provide review of plans and specifications for new residential, commercial, Multi-Family and all other type of developments within City. Contractor's representatives shall attend meetings, upon request of City, with City staff, the developer, the Planning Commission and such other meetings as may be required by City. Contractor shall provide skilled, knowledgeable personnel to assist in the planning of space, configuration, and layout of MSW and Divertable Materials storage and Collection at new developments in City.

5.8 Contamination Notices

If Contamination exceeds ten percent (10%) in Recyclable Materials Containers for all Commercial - Premises and Multi-family complexes, the Contractor shall work with the City, the Recycling Coordinator and the on-site Property Manager to reduce Contamination. For Contamination in Single-Family Collection routes, in addition to the actions described below for Commercial Premises and Multi-Family, the driver will place a hand tag on the Cart which contains: (a) details of the program and (b) the material(s) that were Contaminating the Cart. As of July 1, 2022, Contractor shall cooperate with City to support regulatory actions addressing Contamination that are required by SB 1383.

Drivers of Collection trucks shall have cameras and shall take pictures of loads exceeding the ten percent (10%) Contamination limit. Contractor shall record Contamination incidents on Customer accounts to include date of incident, record of picture taken, and type of Contamination. Contractor shall send the Customer a letter stating the date and nature of the Contamination and shall include a copy of the picture(s). Contractor shall send a copy of said letter and picture(s) to the City at the same time the letter is sent or delivered to the Customer. The City and the Recycling Coordinator will work with the Contractor to educate the Customer regarding the Contamination issue.

Unless and until the City, working with Contractor and the Generator, has resolved the Contamination issue, Contractor shall continue to Collect the Commingled Recyclable Materials and Yard Trimming Containers containing any Contamination noted in the letter and photographs, and Contractor shall continue to process said materials at the Clean MRF designated by the City. In the event Contractor has taken all required actions to Fully Implement a Diversions Program and completed all required tasks in described in this Attachment B Sections 2.02.9 and 3.03.4

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subparts “i” through “xi”, and the program(s) is still not meeting the performance standards, the non-compliant Customer shall be reported to City on the “Red/Green Tracking Spreadsheet” and on the list described in Attachment K, Monthly Reports. City will work with the Commercial and Business Establishment or Multi-Family Customer to the full extent of state and local law as described in Sections 2.02.9 and 3.03.4.

After working with the City, if the Customer agrees to implement the required program(s) as required by the City’s Mandatory Recycling Ordinance, City will refer the Customer back to Contractor for implementation of the program(s) and Customer shall be removed from list of “Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance” in Attachment K, Monthly Reports. If the Customer continues to refuse to implement one or more of the required programs after City action, the Customer remains on the list and Contractor is relieved of the responsibility to implement program(s) at that Customer.

The following table lists various Divertable Material streams to be Collected. This list includes items to be accepted in the Divertable Material stream and items that are considered Contamination in each of the Divertable Material streams. This list may be modified by the City at any time during the Term of the Contract.

Table 1. Divertable Material Streams and Contaminates

Recycling Material Stream	Acceptable Materials	Unacceptable Materials (Contamination)
Commingled Recyclables	Newspaper, phone books, catalogs, magazines, brown paper bags, packaging, egg Cartons, white paper, colored paper, envelopes (windows are not Contamination), junk mail, glossy paper, shredded paper, carbonless, paper, chipboard/boxboard, cardboard, wrapping paper, empty aluminum cans, empty tin cans, juice containers, beer	Paper tissues, paper towels, paper with plastic coating (i.e., photographs, label paper), paper with food, wax paper, foil lined paper, Tyvex (non-tearing) envelopes, non-paper bags, plastic liners (i.e., cereal bags), windows, mirrors, dishware, ceramics, light bulbs, florescent tubes, toys, irrigation pipe, furniture, Styrofoam, MSW, Hazardous Waste, hard cover books/manuals, pyrex

EXHIBIT 3

	containers, sauce containers, soda cans, tuna cans, soup cans, loose jar lids, empty aerosol, empty glass beverage containers, empty glass food containers, all glass colors, empty CRV Plastic Containers and bottles #1 through #7, soft cover books/manuals, milk/juice Cartons	materials, fiberglass materials
Co-Collected Food Scraps and Yard Trimmings	Food Scraps and loose green material from the yard, grass clippings, leaves, weeds, tree trimmings, bush pruning's, plant material, vineyard clippings, tree trunks/stumps/branches 6" or less in diameter	Rocks, dirt, plastic bags, MSW, Single-Stream Recyclables, pet waste, Hazardous Waste, tree trunks/stumps/branches greater than 6" in diameter
Food Scraps	"Food Scraps" means material resulting from the production, processing, preparation or cooking of food for human consumption that is separated from MSW. Food Scraps include surplus or unsold Edible Food, raw food left over after food preparation, leftover cooked food, as well as spoiled food such as vegetables and culls, and plate scrapings. Food Scraps includes, without limitation, Food Scraps from food facilities as defined in California Health and Safety	Paper tissues, paper towels, paper with plastic coating (i.e., photographs, label paper), wax paper, foil lined paper, Tyvek (non-tearing) envelopes, non-paper bags, plastic liners (i.e., cereal bags), windows, mirrors, dishware, ceramics, light bulbs, fluorescent tubes, toys, irrigation pipe, furniture, Styrofoam, MSW, Hazardous Waste, hard cover books/manuals, Pyrex materials, fiberglass materials

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	Code Section 113789, food processing establishments (as defined in California Health and Safety Code Section 111955), grocery stores, farmer's markets, institutional cafeterias (such as schools, hospitals and assisted living facilities), restaurants, and Residential Food Scraps. Food Scraps does not include Food Soiled Paper	
Wood	Non-treated wood, stained wood, wood with nails, wood with small metal items, tree trunks/stumps/branches (free from leaf and brush material)	Painted wood, lacquered wood, creosote treated wood, railroad ties, telephone poles, excessive nails, large metal items, Hazardous Waste
Concrete	Clean concrete, concrete with rebar, asphalt not exceeding 5% of incoming load by weight	All MSW, all other non-concrete materials, Hazardous Waste, asphalt exceeding 5% of incoming load by weight
Metal	Ferrous metal, non-ferrous metal	Items less than 90% metal, fluids, Hazardous Waste, all MSW
Cardboard	Clean cardboard, chipboard	Wax cardboard, all MSW, all non-cardboard items, Hazardous Waste
Commingled Construction and Demolition Debris	All concrete materials, all metal materials, all wood materials, all cardboard materials, all Yard Trimmings materials, drywall, dirt, soil, asphalt	MSW, all Food Waste, Hazardous Waste

5.9 Website.

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Contractor shall create and maintain a website with information on all of the City's solid waste and Recycling programs. The Website shall clearly identify the representative of Contractor (e.g., the Recycling Coordinator or other Person(s)) that Customers can call for additional information or to subscribe to any of the Recycling services. The telephone numbers and e-mail addresses for said Persons shall be clearly displayed on the Website. Contractor shall permit the City to establish a link from the City's website to the Contractor's website for the above listed information.

5.10 Seminars, Workshops, Presentations, Meetings.

Contractor shall ensure the attendance of qualified and knowledgeable employees of Contractor, on an as-requested basis, at local seminars, workshops, presentations, meetings and the like, to provide information or discuss matters related to solid waste management and Recycling.

5.11 Proposals for New Diversion Programs

Contractor shall, at no additional cost, within forty-five (45) days of a request by City, submit a written proposal on providing additional or expanded Diversion services. The proposal shall contain a complete description of the following: (A) Collection methodology to be employed; (B) equipment to be used and staffing requirements by number and classification; (C) type of Container(s) to be used; (D) informational/promotional campaign; (E) projection of annual operating costs, including documentation of and support for key assumptions underlying projections.

Exhibit 4

ATTACHMENT I**CONTRACTOR FURNISHED PERSONNEL****Office and Management Headcount (Number of FTE)**

Operations Manager	James Laliberte
Route Manager	Rob Allen
Route Manager	Kraig King
Route Manager	Anthony Lopez
Recycling Coordinator	Craig Dibley (full-time)
Compliance-Contract	Chrystal Denning
Recycling/Community Manager	Maria Lazaruk

Collection and Transportation Headcount:

<u>Labor Category</u>	<u>Number of FTE</u>
Residential Collection:	
MSW	2
Recycling	2
Yardwaste	2
Commercial Collection:	
MSW Driver	1
SB 1383 Route Drivers	2
Recycling Driver	1
Multi-family Driver	1
Yardwaste/Manure	0.5
Roll Off Collection:	
MSW/Recycling/C&D	1
Relief Drivers & Spares:	1.5
Transfer Drivers	1
Total	15
<u>Maintenance</u>	
Mechanics	1.5
Supervisor	1
Containers - Delivery	1
Mechanics Helpers	1
Other	1
Total	5.5

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ATTACHMENT K**REPORTS TO BE SUBMITTED TO CITY**

These reports are required at a minimum. The City has the discretion to request additional reports, to direct Contractor to modify format and layout, and to require that Contractor use existing City report formats and, beginning on January 1, 2022, to provide City with information on operations and programs as City requires to report under the provisions of SB 1383. All report formats shall be approved by City and should be submitted by email and, at City request, one (1) printed copy. A reporting year for the City will be a Calendar Year: January 1 through December 31. Reporting requirements for SB 1383 Regulations shall be included as required, and as may be amended.

Contractor shall provide, for all monthly, quarterly, and annual reports a certification statement, under penalty of perjury, by the responsible corporate official, that the reports are true and correct.

Monthly Reports

Monthly reports shall include a Year-to-Date summary. Monthly reports shall be submitted within twenty-five (25) calendar days after the end of each month for information on the preceding month. The information listed may be combined into one or several reports and shall be the minimum reported:

1. Diversion Program(s) tonnage and goal summary.
2. All reports required by Attachment B and Article 9 of the Contract
3. Contractor to provide an accounting of all Multi-Family Food Scraps outreach and education efforts focused on Multi-Family Food Scraps in a monthly Red/Green Tracking Spreadsheet document.
4. Contractor to provide monthly Container count updates for all Multi-Family Food Scraps Carts and Bins deployed in the City (addition to PROGRAM SUMMARY report 'Container Count' tab).
5. Contractor to note all new Multi-Family Food Scraps Bin deliveries and removals in monthly reports
6. Contractor to provide Multi-Family Food Scraps collection tonnages in its monthly, quarterly, and annual reports to the City (volume-based allocation-based reporting between commercial and Multi-Family)
7. Contractor to provide listing of non-compliant accounts referred to the City for refusal of state-mandated Food Scraps Recycling program on a monthly basis with monthly reports. At the time of refusal, Contractor shall notify City via email and a phone call for verification of receipt of email.

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8. Report instances of monthly Contamination for Residential Premises programs of Co-collected Food Scraps and Yardwaste routes.
9. Report instances of monthly Contamination for Commercial Premises programs of Food Scraps and Yardwaste routes.
10. Recycling Coordinators' activity, showing individual interactions with residences, Multi-Family Premises, and Commercial Premises including the date, a description of, and the nature of each outreach/contact effort; status of program implementation or educational efforts; issues with Diversion such as Contamination, lack of participation, or overflow; objections to implementing Diversion programs; and other information as directed by the City. The results from most recent on-site field Container Contamination audits, as described in Attachment N, shall also be included in the Red/Green Tracking Spreadsheet for each account and for each line of service used by each account.
11. Total tons of MSW and all other materials collected and recycled within the City including the diversion rate. Tons Collected and Recycled should be grouped by the specific type of waste generator and program (e.g. Residential MSW, Residential Commingled Recyclables, Residential Co-collected Food Scraps and Yard Trimmings, Residential Stable Bedding and Manure, Residential Bulky Goods, Residential E-Waste, Commercial MSW, Commercial Commingled Recyclables, Commercial Food Scraps and Yard Trimmings, Commercial Stable Bedding and Manure, Commercial Bulky Goods and E-Waste Collected, Multi-family Commingled Recyclables Collection, Multi-family Food Scraps and Yard Trimmings Collection, Construction and Demolition Debris tons, and if authorized by City, any tons delivered to Biomass and Transformation facilities. Report should also exhibit how many tons were collected and Diverted at the Compost Facility, Clean MRF and each Construction and Demolition Debris Processing Facility including the respective diversion rate at each.
12. Tons Collected and Diverted by Sector: Tons Collected and the Tons Diverted in the City shall be grouped by each type of Collection service for each class of Customer, as described below:
 - MSW Tons Collected from Residential Customers
 - Recyclable Materials Tons Collected and Diverted from residential and commercial Customers
 - Co-collected Food Scraps and Green Waste Tons Collected and Diverted from residential Customers, HOA, Multi-Family, and commercial Customers
13. Tons Delivered to, and Diverted by, Processing Facilities: Report shall list the number of Tons that were delivered to, and Diverted by, each Compost Facility, Clean MRF, and all other Processing Facilities used. Diversion rates shall be based upon the results of the audits described in Attachment N.
14. A listing of all accounts, in Excel format, including:
 - a. Customer number
 - b. Customer name
 - c. Street address
 - d. Billing address
 - e. All service information, including

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- i. Line of service (i.e., MSW, Food Scraps, Co-Collected Food Scraps and Yard Trimmings, Divertable Materials)
 - ii. Container inventory
 - iii. Container size
 - f. Service Contact name
 - g. Service Contact number
 - h. Billing Contact Name
 - i. Billing Contact Number
15. Number of Customers NOT participating in Diversion programs provided by Contractor (i.e., Single Stream Recyclable Materials Collection Program, Co-Collected Green Waste and Food Scraps Diversion Program Divertable Materials). This section of the report must also include the total number of Containers in use for Single Stream Recyclables (Divertable Materials), Co-Collected Green Waste and Food Scrap Diversion, Food Scrap Diversion, and MSW Collection/Disposal service.
16. The number of Kitchen Pails distributed during the reporting period
17. The number of Residential and Multifamily Premises without Kitchen Pails
18. Narrative summary of problems encountered and actions taken with recommendations for the City, as appropriate.
19. Summary of service complaints.
20. Summary of recently added SB 1383 commercial accounts
21. Number of cancelled commercial account service. The reasons for cancelled service must be provided with report.
22. Number of commercial Contamination notices issued with addresses and account observations.
23. Warning notices issues for contaminated loads.
24. Number of businesses and residential accounts with E-waste pick-ups.
25. Number of business and residential accounts with Bulky Goods pick-ups including items that contain Freon.
26. Number of residential accounts and Containers participating in the horse manure and stable bedding program.
27. Number of businesses and/or residents participating in Source Separated Recyclable Material program(s) (e.g., glass recycling). Information should include name of business, business address or residential address, number of Carts or Bins, size of Carts or Bins, and the type of Source Separated Recyclable Material collected.
28. Number of residential accounts participating in backyard wheel-out service.
29. Number of residential pickups of Universal Waste and HHW.

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Quarterly Reports

Within 25 days after the completion of each quarter of the Calendar Year, Contractor shall submit a Quarterly Report. The report shall provide a quarterly summary of the monthly reports in addition to the following at a minimum:

1. Copies of promotional and public education materials sent during the quarter.
2. A narrative description of problems encountered, and actions taken, including efforts to document, and engage with Customers. The narrative is to include a description of tons rejected for sale after processing (type of material, tonnage), reason for rejection and Contractor's disposal method for the rejected materials.
3. Recycling sales revenue by type of material marketed on a gross and net basis.
4. Quarterly SB 1383 route review Contamination audits
5. Quarterly Diversion allocation audits

Annual Reports

On or before March 15, 2008, and on or before the same date in all subsequent years of the Term, Contractor shall submit to the City Manager a written year-end Annual Report, in a form approved by the City. The annual report shall include information as to timely compliance with Contractor's Diversion program implementation obligations and MSW and Divertable Materials Collection and the following information for the Calendar Year then ending:

1. General information about Contractor, including a list of Contractor's officers and members of its board of directors. A copy of Contractor's most recent annual and other periodic public financial reports and those of each of its subsidiaries and affiliated corporations and other entities if any, performing services under this Contract, as the City, following consultation with Contractor, may request.
2. A report of the previous year's Calendar Year activities in the City, including a cumulative summary of the Quarterly Reports, and information and statistics with respect to City's compliance with the Act.
3. A complete inventory of equipment used to provide all services (such as vehicles and Containers by size and waste stream type).
4. Results of the Annual Route Review on participation and Contamination as required in Attachment B and Attachment N in Contract.
5. Number of account information and Cart and Bin information as requested in the Monthly reports.
6. Changes in solid waste management and Recycling efforts, including projections and proposed implementation dates and costs, recommended by Contractor and recommended amendments to the City's SB 1383 Diversion Programs, or this Contract, based on developments in the law or technology. Contractor's recommendations with

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respect to compliance with the Act and other Diversion requirements shall state the specific requirement that the implementation of the recommendation(s) is intended to satisfy.

7. SB 1383 reporting items
 - a. The number of total generators receiving Food Scraps/Green Waste Collection service
 - b. Number of route reviews conducted
 - c. Number of waste characterizations conducted
 - d. Number of field Container Contamination audits conducted
 - e. Number of times notices or targeted education materials were issued by Contractor
 - f. The number of notifications received from a solid waste facility operator regarding materials Contamination
 - g. Number of households that do not have Food Scraps/Green Waste Cart
 - h. Number of households that do not have Recyclable Materials Cart

EXHIBIT 6

Attachment N
Methodology for SB 1383 MSW and Recyclable Materials Audits

Per Section 9.07, Contractor shall conduct periodic on-site field Contamination audits to determine the levels of Contamination in the Commercial/Multi-family and Residential MSW Containers. The on-site field Contamination audits are of Containers on routes Collecting MSW.

The purposes of the audits are as follows:

- (i) City compliance with 14 CCR Section 18984.5 for container Contamination minimization;
- (ii) Determining the quantities and types of Contamination in Divertible Materials and MSW being Collected in the City in order to identify sources of the Contamination and to reduce the levels of Contamination through additional public outreach, training, and enforcement of local, state and federal laws and regulations regarding Contamination.

The specific protocols that shall be used to conduct audits are also included in this Attachment N. The City or its representative may be present to observe any field Contamination audit described in this Attachment N. Contractor shall provide no less than thirty (30) calendar days advance notice to the City of when each audit is scheduled.

1. Residential On-site Field Cart Contamination Audits

The following methodology shall be used to conduct on-site field Contamination audits of MSW, Recyclable Materials, and Single Stream and Co-Collected Food Scraps and Yard Trimmings materials in the automated Collection routes as noted in Attachment B, 2.02.4.

Timing:

On-site field Contamination audits shall be conducted during the fiscal year, preferably during two distinct seasons of the year.

Methodology:

Each on-site field Contamination audit shall target a minimum of two percent (2%) of the Residences served by the Contractor in the City. The Contractor shall conduct the audit over the year by sampling 45 households per quarter. Each route day (M,T,W,Th,F) a total of 9 samples shall randomly be collected. Contractor has developed an audit application tool to select the nine random samples (households). Contractor shall allocate adequate staffing to complete the methodology herein in a diligent and workmanlike fashion. Per Section 18984.5(b) of the SB 1383 Regulations, audits shall be conducted in a manner that results in Carts along all Contractor routes being audited annually. The audits shall be

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conducted on Carts placed at curbside by the Customer for Collection by Contractor (e.g. MSW, Recyclable Materials, and Co-Collected Food Scraps/Green Waste) before the Carts are Collected on the regular service day, in order to observe full Carts. The specific methodology for conducting the audit of each Cart shall be as follows:

1. Upon arrival at a Residential Premises, the recycling coordinator will note the address, the size of the Cart, and number of carts set out for service.
2. Observe fullness of each Cart. Using a tool, prod to reposition materials to visually assess maximum amount of the contents of the Cart. Open bags if most of the contents in the Cart are bagged. Note and photograph any Contamination observed in any Cart audited. Note photo numbers on audit sheet and if materials are bagged. Estimate percentage, by volume, of specific Contamination materials observed (e.g. aluminum cans in MSW Cart) and note them on audit sheet
3. If Contaminants are observed, place a 'hang tag' on the Contaminated Cart noting the unacceptable material that was found in the Cart and provide public education materials reminding the Customer of what materials are acceptable in which Carts (as further described below).

During the audits, the Contractor shall note all the following attributes:

- Fullness of each of the Carts set out for Collection (percent full – by volume)
- Percentage, by volume, of observed Contamination in the MSW Carts set out for Collection (i.e. Food Scraps, and/or Green Waste in MSW Cart)
- Descriptions of specific Contaminants found in each Cart
- Participation of Residents in Co-collection program (i.e., the presence of Co-Collected Green Waste/Food Scrap Cart set out for Collection)
- Curbside placement rates (i.e., the absence of a Recyclable Materials or Food Scraps/Green Waste Cart when an MSW Cart is present at the curb or in the alley)

If there is any observable Contamination in the MSW Cart, the Contractor shall place a 'hang tag' on the Cart notifying the Customer of the Contamination incident and how to correct it. The 'hang tag' shall indicate 1) the type of Contaminant(s) observed by Contractor's staff during the audit and 2) the appropriate Cart in which the prohibited Contaminant(s) should be placed. The notification shall include information regarding the Resident's requirement to properly separate materials into the appropriate Carts. The City shall approve of the 'hang tag' before it is placed into use. The Contamination items and quantities shall be noted and photographed. The photo number and Contamination item(s) shall be noted in the field data collection sheet.

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Reporting:

Contractor shall submit a written report to the City at the conclusion of each quarterly audit following the requirements of Attachment B of the Agreement. The report shall summarize the results of the auditing program, the number of households audited, the number of non-participants for each Diversion program (Recyclable Materials and Food Scraps/Green Waste), Contamination incidents for each seasonal audit, the average fullness levels of the MSW Carts, the average observed Contamination levels for MSW Carts, locations where on-site Contamination audits were conducted, addresses of Residential Premises where prohibited Contaminants were observed, addresses where Recyclable Materials and/or Food Scraps/Green Waste program non-participation was observed, descriptions of specific Contaminants found in the MSW Cart, photos supporting the findings.

- Average MSW Bin/Cart capacity utilization
- Average MSW Contamination percentage levels, by volume, by component and by Contamination types
- Any disparities between field observations and service discrepancies
- Photos and descriptions of common Contaminants encountered
- If Contamination exceeds fifteen percent (15%), submit an action plan to reduce Contamination
- Actions taken to reduce Contamination during the reporting period
- Other notable data

If the audit data shows that the observed Contamination levels, by volume, for any stream exceed 15%, Contractor shall submit an action plan to reduce Contamination as part of its report. The Contamination Reduction Action Plans submitted by the Contractor shall include a detailed plan to reduce Contamination for the neighborhoods where high levels of Contamination were observed during the audits. The plan may include presentations at neighborhood association meetings, door-to-door canvassing by Recycling Coordinators, the distribution of written materials to all households on the route where high levels of contamination were encountered, targeted social media posts, etc. Final Action Plan will be as directed by City.

2. Commercial/Multi-family In-Field Container Contamination Audits

The following methodology shall be used to conduct on-site field Contamination audits of Commercial and Multi-Family MSW containers.

Purpose:

To quantify the volume of Divertable materials (i.e. Recyclable Materials, Yard Trimmings and Food Scraps) in Commercial and Multi-family MSW Containers in order to measure the efficacy of Source-Separated Recycling and Food Scrap

EXHIBIT 6

Collection programs. The data gathered from the on-site field Container Contamination audits will help the City to determine the following:

- 1) If there are Divertable materials still being deposited in the Commercial and/or Multi-family MSW Bins/Carts after a Single Stream and/or Single Material Recycling program and a Food Scrap Collection program have been implemented.
- 2) The types, weights, volumes, and densities of materials being placed into the Commercial and/or Multi-family MSW Bin/Cart after a Single Stream and/or Single Material Recycling program and a Food Scrap Collection program have been implemented.
- 3) Identify specific Commercial and/or Multi-family Customers where additional outreach, education and training is needed.

Timing:

On-site field Contamination audits shall be conducted on an on-going basis and incorporated into the Recycling Coordinators' daily site work so that annually all Commercial and Multi-Family Customers in the City will receive at least one (1) field Contamination audits of all the above listed components. Audits shall commence on the effective date of the Agreement and continue throughout the Term.

Methodology:

Using a field data sheet collaboratively developed and approved of by the City, Contractor shall note the following attributes for all MSW Bins and/or Carts present at each Customer:

- Capacity utilization (i.e. Bin/Cart percent full by volume)
- Percentage, by volume, of Divertable Food Scraps and of Recyclable Materials found in the MSW Bin/Cart (percentage of each material)
- Percent fullness of each MSW Bin/Cart associated with the account
- Serial numbers or bar code numbers on the MSW Bins/Carts
- Date of site visit
- Photo number(s)
- Discrepancies between field inventories and account service database (i.e. what equipment the Customer has compared to what that Customer is being billed for)
- Any other notable observations.

The on-site field Contamination audits shall be conducted as close as possible to the regular Collection day and time for the Bins/Carts in order to obtain an accurate assessment of the Bin/Cart contents at the time of routine Collection. All field observations shall be photo-documented and photo numbers tracked on the field data collection sheet.

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Reporting: Contamination field audit data shall be reported as described in Attachment K beginning in October 2022 and submitted quarterly in January 2023, April 2023, and Jul 2023 and every quarter thereafter. The Contractor shall submit a summary report with all year-to-date data aggregated and analyzed. Key metrics in the report shall include:

- Average MSW Bin/Cart capacity utilization
- Average MSW Contamination percentage levels, by volume, by component and by Contamination types
- Material densities by stream and by component, accounting for capacity utilization
- Any disparities between field observations and service discrepancies
- Photos and descriptions of common Contaminants encountered
- If Contamination exceeds fifteen percent (15%), submit an action plan to reduce Contamination
- Actions taken to reduce Contamination during the reporting period
- Other notable data

3. Protocol for Conducting Quarterly Diversion Allocation Audits at City-Designated MRF's

Contractor shall conduct quarterly audits, during the months of February, May, August, and November of each year during the term of this Agreement to establish an allocation method for calculating diversion of Divertable Materials from the waste stream that are processed at Processing Facilities. The final audit report shall be submitted to City no later than the 15th day of the month following the month of the audit (e.g. by March 15 for the February audit). The first quarterly audit shall be conducted in August 2022. The quarterly audits and the reports on same shall be prepared at Contractor's sole expense. The results of the allocation audit shall be put into use as of the first day of the month following submittal of the report to the City and approval of the report and allocation method by City, and shall be used at all applicable Processing Facilities to allocate City's materials for diversion reporting.

Divertable Material Streams and Audit Schedule:

Stream	Sector	Audit Month
Single Stream Recyclable Materials	Residential Commercial / Multi-family	February, August
Co-Collected Organic Materials, Food Scraps	Residential, Commercial / Multi-family	May, November

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Methodology:

For each characterization study, loads shall be sampled only from the specified stream (sector of origin). Each characterization shall be done by hand (i.e. a manual sort not a mechanized sort) and total load weights shall be established for each load sampled. A five-day sampling for each component of each stream shall be conducted to account for changes in the specified stream's component over a week's time.

Exhibit 7

ATTACHMENT Q

CLEAN MRF PROCESSING FACILITY

Processing facility proposed to be utilized for the following materials:

1. Recyclables.

Name & Location of Facility

CR&R Intermediate Processing Center (Western)
11292 Western Avenue
Stanton, California

Relationship of facility to CR&R

Owned and operated by CR&R Incorporated

Material to be processed

All source separated and commingled recyclables

Waste Stream Origination

Residential and Commercial waste streams

Available, uncommitted processing capacity in Tons per day and Facilities total permitted capacity in tons per day

Unlimited volume by regulations

Contact Information

Mr. Bob Williams, Recycling Manager
714-890-6300, ext. 2267

EXHIBIT 8

ATTACHMENT R

COMPOST PROCESSING FACILITY

Name & Location of Facility:

The following facilities are owned and operated by CR&R Incorporated:

South Yuma County Landfill

19536 South Avenue 1E

Yuma, AZ. 85365

Contact: William Hunter, Manager, 928 341-9300

This is a fully permitted 30-acre site on the South Yuma County Landfill. This facility currently composts organics collected in the Yuma County, Arizona, Imperial County and Orange County of California.

Capacity in tons per day: Unlimited capacity. No tonnage restriction on Laguna Hills amounts.

Material to Be Processed:

Co-collected yard trimmings and food scraps

Food scrap

Current capacity reserved for Laguna Hills: Unlimited capacity. No tonnage restriction on Laguna Hills amounts

Equipment: Wheel loaders Caterpillar, 966 Vermeer- windrow turner, Vermeer trommel

EXHIBIT 9

ATTACHMENT S

CONSTRUCTION AND DEMOLITION DEBRIS PROCESSING FACILITY

Construction and Demolition debris diversionName & Location of Facility

Stanton Material Recovery Facility (CRTransfer)
11232 Knott Avenue
Stanton, California

Relationship of facility to CR&R

Owned and operated by CR&R Incorporated

Material to be processed

All construction and demolition utilizing roll-off boxes and temporary drop bodies.

Waste Stream Origination

Residential, Commercial and Industrial

Available, uncommitted processing capacity in Tons per day and Facilities total permitted capacity in tons per day

Permitted to 1,800 tons per day

Uncommitted and non-contracted up to 800 tons (of the 1,800 tons) per day

Alternate Construction and Demolition debris diversionName & Location of Facility

CR&R South County C&D Processing Facility
31641 Ortega Highway
San Juan Capistrano, California

Relationship of facility to CR&R

Owned and operated by CR&R Incorporated

Material to be processed

All construction and demolition utilizing roll-off boxes and temporary drop bodies.

Waste Stream Origination

Residential, Commercial and Industrial

EXHIBIT 10

ATTACHMENT U

Kitchen Pail
Sure Close Food Scraps Container

Photo of Sure Close Container



Specifications of Sure Close Container

Volume	1.9 gallons (7.1 liters)
Weight	1.1 lbs. (0.5 kg)
Dimensions	Width 11" Height 9.5" Depth 8.5"
Lid	Hinged, stay open, odor seal, and fly and insect seal
Dishwasher safe	Yes



NOTICE CONCERNING PROPOSED SOLID WASTE & RECYCLING RATE ADJUSTMENTS AND PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Tuesday, June 14, 2022, at 7:00 p.m.**, a public hearing will be held at the City of Laguna Hills City Council Chambers located at 24035 El Toro Rd., Laguna Hills, CA 92653 to consider proposed adjustments to the City's solid waste rates and charges. If approved by the City Council, the proposed rate adjustments will go into effect on July 1, 2022, and will be subject to annual adjustments for inflation.

WHY RATE ADJUSTMENTS ARE NECESSARY

All cities in the State, including Laguna Hills, face the most stringent solid waste legislation in California history under State Senate Bill 1383 (SB 1383). For City residents and businesses to remain in compliance with this State Law, new organic waste services are necessary, none of which are funded by the State. Therefore, these services must be funded through the solid waste rates charged by the City's franchised waste hauler.

SB 1383 mandates that California reduce organic waste disposal in landfills by 50% by January 1, 2020, and 75% by January 1, 2025. Organic waste is defined to include green/yard waste and food waste. As a result, green/yard waste and food waste will no longer be able to be disposed of in landfills. It should be noted that the City has already implemented a residential green/yard waste recycling program and a commercial food waste recycling program under the current franchise agreement with CR&R and these services are currently in place.

The SB 1383 unfunded mandate will increase the costs of collection and processing of the waste stream in the City, which requires an increase in collection rates charged by the City's franchised waste hauler as shown in Table 1 on page 2. The City is fortunate to have very competitive rates among solid waste collection rates in the County.

PROPOSED SOLID WASTE RATES

The proposed initial maximum rates (Rates) for solid waste collection services will be considered by the City as part of an amendment to the Contract for the Collection and Transportation of Recyclable Materials to Processors for Diversion between the City of Laguna Hills and CR&R Incorporated (the Amended Agreement). The Amended Agreement will ensure the City will be in compliance with the State's SB 1383 requirements to implement organic waste recycling programs that includes a residential food waste recycling program.

The Rates include charges for automated curbside, bin collection, and roll-off box service. The Rates represent the estimated maximum amount CR&R may charge Rate payers as compensation due pursuant to the Amended Agreement for all labor, equipment, materials and supplies, taxes, insurance, bonds, letters of credit, overhead, disposal, transfer, processing, profit, and all other things necessary to perform all the services required by the Amended Agreement.

Single-Family dwellings with cart service will be charged a base rate, which includes a trash cart, a recycling cart, and an organics recycling cart. Commercial and Multi-Family customers with container (cart and/or bin) service are charged a monthly rate based on the number and size of containers, and the number of weekly pickups.

The Amended Agreement includes a clearly defined formula for adjusting the rates for inflation in labor, fuel, vehicle, insurance, and other operating costs as well as adopted increases in the wholesale cost of disposal. If approved, the initial rates will go into effect July 1, 2022. The residential and commercial rates are proposed to be automatically adjusted on October 1, 2023, pursuant to Section 53756 of the Government Code.

Table 1 on page 2 compares the current rates for typical residential and commercial services with those proposed for July 1, 2022. The entire rate schedule and rate adjustment formula can be viewed on the City's website at <https://www.ci.laguna-hills.ca.us/206/Trash-Recycling-Services>. For more information regarding the State's SB 1383 unfunded mandate please visit CalRecycle's website at <https://www.calrecycle.ca.gov/organics/slcp>.

Table 1. Proposed Solid Waste & Recycling Rates (per month)

	Residential: Cart	Commercial: Trash Bin *	Commercial: Recycling Bin *	Commercial: Food Waste Bin **
Current Rate	\$15.55	\$124.10	\$52.39	\$44.34
July 1, 2022	\$20.05	\$129.29	\$54.39	\$46.07
October 1, 2023	Adjusted for inflation in accordance to Amended Agreement			
*	Commercial and Multi-Family 3 Cubic Yard Bin serviced with 1 pickup per week.			
**	Commercial and Multi-Family 2 Cubic Yard Bin serviced with 1 pickup per week. Food waste recycling service already established.			

PUBLIC HEARING AND PROTEST PROCEEDINGS

Property owners, as defined under Proposition 218, may protest the proposed rate adjustment in writing prior to or during the public hearing. Consistent with the provisions of Proposition 218 and Government Code Section 53755, this notice has been mailed to all record owners of the affected properties at the addresses as they appear on the latest equalized assessment roll. If you are a property owner as defined under Proposition 218 and object to the proposed rates as described in this Notice, you may file a written protest with the City at or before the time set for the public hearing. Original written protests can be mailed or personally delivered to the City Clerk as follows:

City Clerk
City of Laguna Hills
24035 El Toro Rd.
Laguna Hills, CA 92653

A valid written protest must include:

1. The name of the record owner or owners of the property; and
2. Identification of the property by either assessor's parcel number or street address; and
3. A statement of protest ("I/we protest" will suffice); and
4. The original signature of the protesting owner or owners (photocopies, electronic mail, electronic copies, e-comments, or facsimiles will not be accepted).

Please note that each property owner will be counted as a single vote, regardless of the number of owners. If there are two record owners, both must sign the written protest. If there are more than two owners, the protest must be signed by a majority of the owners. Multiple protests returned for a single property will be disallowed and the City Clerk will only accept one protest per property.

The City Clerk will determine the validity of all protests submitted and exclude any invalid protests from the final tabulation. The City Clerk may confer with the City Attorney in determining the validity of written protests. As part of this process, the City Attorney may view contested or suspect protest forms. The City Clerk's decision shall be final and binding.

If you have any questions regarding this Notice or the proposed rate adjustments, or would like even more detailed information, please call contact David Reynolds at (949) 707-2685.

CR&R RATE SCHEDULE SUMMARY

				<u>Current</u>	<u>Proposed</u>
<u>Residential Service</u>					
1a.	Residential Basic Level	Recyclable Materials	35, 60, 90 gallon (1st Cart) per month	3.33	4.27
1a.	Residential Basic Level	Recyclable Materials	Additional Cart* per month	3.33	4.27
1b.	Residential Basic Level	Organic Waste	35, 60, 90 gallon (1st Cart) per month	5.01	6.47
1b.	Residential Basic Level	Organic Waste	Additional Cart* per month	5.01	6.47
1c.	Residential Basic Level	MSW	35, 60, 90 gallon (1st Cart) per month	7.21	9.31
1c.	Residential Basic Level	MSW	Additional Cart per month	7.21	9.31
1d.	Residential Basic Level	35, 60, 90 gallon (3 Cart Set)	per month	15.55	20.05

* (This charge applies only after a resident has received 2 additional Carts free of charge (i.e. upon the request for a 4th Cart).

** (Organic Waste Carts shall be used for Stable Bedding and Manure at the rates provided in 1b above).

2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	1 pick-up per week per month	108.68	112.81
2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	2 pick-ups per week per month	177.56	184.18
2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	3 pick-ups per week per month	233.17	241.75
2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	4 pick-ups per week per month	299.82	310.82
2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	5 pick-ups per week per month	344.28	356.88
2a.	Residential Stable Bedding and Manure	3 Cubic Yard Bin	6 pick-ups per week per month	388.73	402.94

HOA Stable Bedding and Manure Recycling Service

3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	1 pick-up per week per month	22.15	23.00
3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	2 pick-ups per week per month	44.21	45.91
3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	3 pick-ups per week per month	66.34	68.90
3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	4 pick-ups per week per month	88.44	91.85
3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	5 pick-ups per week per month	110.56	114.82
3a.	HOA Stable Bedding and Manure Recycling	90 Gallon Cart	6 pick-ups per week per month	132.68	137.79
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	1 pick-up per week per month	83.05	86.27
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	2 pick-ups per week per month	166.21	172.55
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	3 pick-ups per week per month	210.75	218.70
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	4 pick-ups per week per month	277.36	287.79
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	5 pick-ups per week per month	321.74	333.81
3b.	HOA Stable Bedding and Manure Recycling	2 Cubic Yard Bin	6 pick-ups per week per month	366.14	379.86
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	1 pick-up per week per month	108.68	112.81
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	2 pick-ups per week per month	177.56	184.18
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	3 pick-ups per week per month	233.17	241.75
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	4 pick-ups per week per month	299.82	310.82

Attachment 3

					<u>Current</u>	<u>Proposed</u>
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	5 pick-ups per week	per month	344.28	356.88
3c.	HOA Stable Bedding and Manure Recycling	3 Cubic Yard Bin	6 pick-ups per week	per month	388.73	402.94
3d.	HOA Stable Bedding and Manure Recycling	10 Cubic Yard Roll-off	per pull	per pull	249.88	259.00
3e.	HOA Stable Bedding and Manure Recycling	20 Cu. Yard Roll-Off	per pull	per pull	249.88	259.00
3f.	HOA Stable Bedding and Manure Recycling	30 Cu. Yard Roll-Off	per pull	per pull	249.88	259.00
3g.	HOA Stable Bedding and Manure Recycling	40 Cubic Yard Roll-off	per pull	per pull	249.88	259.00
<u>Commercial and Multi-family Recyclable Materials Service</u>						
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	1 pick-up per week	per month	18.57	19.30
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	2 pick-ups per week	per month	37.19	38.65
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	3 pick-ups per week	per month	55.77	57.96
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	4 pick-ups per week	per month	74.40	77.32
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	5 pick-ups per week	per month	92.96	96.61
4a.	Commercial/Multi-family Recyclable Materials	35 Gallon Cart	6 pick-ups per week	per month	111.57	115.95
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	1 pick-up per week	per month	20.06	20.84
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	2 pick-ups per week	per month	40.15	41.71
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	3 pick-ups per week	per month	60.22	62.56
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	4 pick-ups per week	per month	80.30	83.42
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	5 pick-ups per week	per month	100.37	104.27
4b.	Commercial/Multi-family Recyclable Materials	60 Gallon Cart	6 pick-ups per week	per month	120.44	125.12
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	1 pick-up per week	per month	21.52	22.35
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	2 pick-ups per week	per month	43.03	44.68
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	3 pick-ups per week	per month	64.61	67.09
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	4 pick-ups per week	per month	86.18	89.49
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	5 pick-ups per week	per month	107.68	111.82
4c.	Commercial/Multi-family Recyclable Materials	90 Gallon Cart	6 pick-ups per week	per month	129.21	134.18
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	1 pick-up per week	per month	44.34	46.07
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	2 pick-ups per week	per month	75.60	78.49
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	3 pick-ups per week	per month	117.53	122.02
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	4 pick-ups per week	per month	148.66	154.34
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	5 pick-ups per week	per month	179.82	186.69
4d.	Commercial/Multi-family Recyclable Materials	2 Cubic Yard Bin	6 pick-ups per week	per month	210.96	219.02
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	1 pick-up per week	per month	52.39	54.39
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	2 pick-ups per week	per month	84.25	87.40
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	3 pick-ups per week	per month	119.97	124.46
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	4 pick-ups per week	per month	169.63	175.98
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	5 pick-ups per week	per month	205.41	213.10

Attachment 3

					<u>Current</u>	<u>Proposed</u>
4e.	Commercial/Multi-family Recyclable Materials	3 Cubic Yard Bin	6 pick-ups per week	per month	250.61	259.99
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	1 pick-up per week	per month	64.43	66.89
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	2 pick-ups per week	per month	108.11	112.16
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	3 pick-ups per week	per month	157.30	163.19
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	4 pick-ups per week	per month	203.72	211.35
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	5 pick-ups per week	per month	250.10	259.46
4f.	Commercial/Multi-family Recyclable Materials	4 Cubic Yard Bin	6 pick-ups per week	per month	296.55	307.65
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	1 pick-up per week	per month	77.18	80.06
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	2 pick-ups per week	per month	143.11	148.33
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	3 pick-ups per week	per month	204.31	211.73
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	4 pick-ups per week	per month	248.78	257.80
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	5 pick-ups per week	per month	298.83	309.66
4g.	Commercial/Multi-family Recyclable Materials	6 Cubic Yard Bin	6 pick-ups per week	per month	365.54	378.77
<u>Commercial and Multi-Family MSW Service</u>						
5a.	Commercial/Multi-family MSW	35 Gallon Cart	1 pick-up per week	per month	29.96	31.21
5a.	Commercial/Multi-family MSW	35 Gallon Cart	2 pick-ups per week	per month	59.84	62.33
5a.	Commercial/Multi-family MSW	35 Gallon Cart	3 pick-ups per week	per month	89.79	93.53
5a.	Commercial/Multi-family MSW	35 Gallon Cart	4 pick-ups per week	per month	119.69	124.67
5a.	Commercial/Multi-family MSW	35 Gallon Cart	5 pick-ups per week	per month	149.61	155.84
5a.	Commercial/Multi-family MSW	35 Gallon Cart	6 pick-ups per week	per month	179.55	187.02
5b.	Commercial/Multi-family MSW	60 Gallon Cart	1 pick-up per week	per month	33.68	35.08
5b.	Commercial/Multi-family MSW	60 Gallon Cart	2 pick-ups per week	per month	67.29	70.09
5b.	Commercial/Multi-family MSW	60 Gallon Cart	3 pick-ups per week	per month	100.95	105.15
5b.	Commercial/Multi-family MSW	60 Gallon Cart	4 pick-ups per week	per month	134.61	140.22
5b.	Commercial/Multi-family MSW	60 Gallon Cart	5 pick-ups per week	per month	168.24	175.25
5b.	Commercial/Multi-family MSW	60 Gallon Cart	6 pick-ups per week	per month	201.88	210.29
5c.	Commercial/Multi-family MSW	90 Gallon Cart	1 pick-up per week	per month	37.35	38.91
5c.	Commercial/Multi-family MSW	90 Gallon Cart	2 pick-ups per week	per month	74.72	77.83
5c.	Commercial/Multi-family MSW	90 Gallon Cart	3 pick-ups per week	per month	112.10	116.77
5c.	Commercial/Multi-family MSW	90 Gallon Cart	4 pick-ups per week	per month	149.49	155.72
5c.	Commercial/Multi-family MSW	90 Gallon Cart	5 pick-ups per week	per month	186.83	194.62
5c.	Commercial/Multi-family MSW	90 Gallon Cart	6 pick-ups per week	per month	223.79	233.12
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	1 pick-up per week	per month	110.71	115.32
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	2 pick-ups per week	per month	182.82	190.46
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	3 pick-ups per week	per month	238.30	248.27
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	4 pick-ups per week	per month	304.81	317.57

Attachment 3

					<u>Current</u>	<u>Proposed</u>
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	5 pick-ups per week	per month	371.38	386.94
5d.	Commercial/Multi-family MSW	2 Cubic Yard Bin	6 pick-ups per week	per month	437.90	456.25
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	1 pick-up per week	per month	124.10	129.29
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	2 pick-ups per week	per month	205.10	213.70
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	3 pick-ups per week	per month	271.80	283.22
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	4 pick-ups per week	per month	349.48	364.18
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	5 pick-ups per week	per month	427.19	445.16
5e.	Commercial/Multi-family MSW	3 Cubic Yard Bin	6 pick-ups per week	per month	515.93	537.64
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	1 pick-up per week	per month	160.69	167.41
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	2 pick-ups per week	per month	238.49	248.52
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	3 pick-ups per week	per month	338.38	352.61
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	4 pick-ups per week	per month	427.25	445.24
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	5 pick-ups per week	per month	516.11	537.86
5f.	Commercial/Multi-family MSW	4 Cubic Yard Bin	6 pick-ups per week	per month	604.97	630.48
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	1 pick-up per week	per month	177.53	185.00
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	2 pick-ups per week	per month	294.23	306.65
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	3 pick-ups per week	per month	405.50	422.66
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	4 pick-ups per week	per month	516.65	538.54
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	5 pick-ups per week	per month	627.83	654.44
5g.	Commercial/Multi-family MSW	6 Cubic Yard Bin	6 pick-ups per week	per month	761.25	793.53
<u>Commercial/Multi-family Split Bin Service</u>						
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	1 pick-up per week	per month	92.23	95.99
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	2 pick-ups per week	per month	144.31	150.18
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	3 pick-ups per week	per month	180.41	187.72
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	4 pick-ups per week	per month	227.72	236.94
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	5 pick-ups per week	per month	275.06	286.19
6a.	Commercial/Multi-family MSW	1.5 Yard (3-yard split)	6 pick-ups per week	per month	322.02	335.04
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	1 pick-up per week	per month	38.92	40.47
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	2 pick-ups per week	per month	63.64	66.14
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	3 pick-ups per week	per month	98.92	102.80
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	4 pick-ups per week	per month	125.13	130.04
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	5 pick-ups per week	per month	151.34	157.28
6b.	Commercial/Multi-family Recyclable Materials	1.5 Yard (3-yard split)	6 pick-ups per week	per month	177.56	184.53
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	1 pick-up per week	per month	110.71	115.32
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	2 pick-ups per week	per month	182.82	190.46
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	3 pick-ups per week	per month	238.30	248.27

Attachment 3

					Current	Proposed
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	4 pick-ups per week	per month	304.81	317.57
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	5 pick-ups per week	per month	371.38	386.94
6c.	Commercial/Multi-family MSW	2 Yard (4-yard split)	6 pick-ups per week	per month	437.90	456.25
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	1 pick-up per week	per month	44.34	46.07
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	2 pick-ups per week	per month	75.60	78.49
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	3 pick-ups per week	per month	117.53	122.02
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	4 pick-ups per week	per month	148.66	154.34
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	5 pick-ups per week	per month	179.82	186.69
6d.	Commercial/Multi-family Recyclable Materials	2 Yard (4-yard split)	6 pick-ups per week	per month	210.88	219.02

Commercial/Multi-family Organic Waste Service

7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	1 pick-up per week		18.57	19.30
7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	2 pick-ups per week		37.19	38.65
7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	3 pick-ups per week		55.77	57.96
7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	4 pick-ups per week		74.40	77.32
7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	5 pick-ups per week		92.96	96.61
7a.	Commercial/Multi-family Organic Waste	35 Gallon Cart	6 pick-ups per week		111.57	115.95
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	1 pick-up per week		20.06	20.84
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	2 pick-ups per week		40.15	41.71
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	3 pick-ups per week		60.22	62.56
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	4 pick-ups per week		80.30	83.42
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	5 pick-ups per week		100.37	104.27
7b.	Commercial/Multi-family Organic Waste	60 Gallon Cart	6 pick-ups per week		120.44	125.12
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	1 pick-up per week		44.34	46.07
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	2 pick-ups per week		75.60	78.49
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	3 pick-ups per week		117.53	122.02
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	4 pick-ups per week		148.66	154.34
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	5 pick-ups per week		179.82	186.69
7c.	Commercial/Multi-family Organic Waste	2 Cubic Yard Bin	6 pick-ups per week		210.96	219.02

Source-Separated (Type-Separated) Recycling Service

8c.	Source-Separated Recycling	35 Gallon Cart	1 pick-up per week	per month	14.52	15.12
8c.	Source-Separated Recycling	35 Gallon Cart	2 pick-ups per week	per month	28.98	30.18
8c.	Source-Separated Recycling	35 Gallon Cart	3 pick-ups per week	per month	43.49	45.28
8c.	Source-Separated Recycling	35 Gallon Cart	4 pick-ups per week	per month	57.98	60.37
8c.	Source-Separated Recycling	35 Gallon Cart	5 pick-ups per week	per month	72.48	75.47
8c.	Source-Separated Recycling	35 Gallon Cart	6 pick-ups per week	per month	86.98	90.57

					<u>Current</u>	<u>Proposed</u>
8b.	Source-Separated Recycling	60 Gallon Cart	1 pick-up per week	per month	16.25	16.92
8b.	Source-Separated Recycling	60 Gallon Cart	2 pick-ups per week	per month	32.51	33.85
8b.	Source-Separated Recycling	60 Gallon Cart	3 pick-ups per week	per month	48.76	50.77
8b.	Source-Separated Recycling	60 Gallon Cart	4 pick-ups per week	per month	65.02	67.70
8b.	Source-Separated Recycling	60 Gallon Cart	5 pick-ups per week	per month	81.23	84.58
8b.	Source-Separated Recycling	60 Gallon Cart	6 pick-ups per week	per month	97.51	101.53
8c.	Source-Separated Recycling	90 Gallon Cart	1 pick-up per week	per month	17.97	18.71
8c.	Source-Separated Recycling	90 Gallon Cart	2 pick-ups per week	per month	35.88	37.36
8c.	Source-Separated Recycling	90 Gallon Cart	3 pick-ups per week	per month	53.84	56.06
8c.	Source-Separated Recycling	90 Gallon Cart	4 pick-ups per week	per month	71.79	74.75
8c.	Source-Separated Recycling	90 Gallon Cart	5 pick-ups per week	per month	89.72	93.42
8c.	Source-Separated Recycling	90 Gallon Cart	6 pick-ups per week	per month	107.69	112.13
8d.	Source-Separated Recycling	2 Cubic Yard Bin	1 pick-up per week	per month	34.43	35.85
8d.	Source-Separated Recycling	2 Cubic Yard Bin	2 pick-ups per week	per month	56.47	58.80
8d.	Source-Separated Recycling	2 Cubic Yard Bin	3 pick-ups per week	per month	81.89	85.27
8d.	Source-Separated Recycling	2 Cubic Yard Bin	4 pick-ups per week	per month	102.59	106.82
8d.	Source-Separated Recycling	2 Cubic Yard Bin	5 pick-ups per week	per month	123.30	128.38
8d.	Source-Separated Recycling	2 Cubic Yard Bin	6 pick-ups per week	per month	143.63	149.55
8e.	Source-Separated Recycling	3 Cubic Yard Bin	1 pick-up per week	per month	43.59	45.39
8e.	Source-Separated Recycling	3 Cubic Yard Bin	2 pick-ups per week	per month	65.41	68.11
8e.	Source-Separated Recycling	3 Cubic Yard Bin	3 pick-ups per week	per month	108.99	113.48
8e.	Source-Separated Recycling	3 Cubic Yard Bin	4 pick-ups per week	per month	132.61	138.08
8e.	Source-Separated Recycling	3 Cubic Yard Bin	5 pick-ups per week	per month	137.95	143.64
8e.	Source-Separated Recycling	3 Cubic Yard Bin	6 pick-ups per week	per month	165.74	172.58
8f.	Source-Separated Recycling	4 Cubic Yard Bin	1 pick-up per week	per month	48.20	50.19
8f.	Source-Separated Recycling	4 Cubic Yard Bin	2 pick-ups per week	per month	96.38	100.35
8f.	Source-Separated Recycling	4 Cubic Yard Bin	3 pick-ups per week	per month	144.59	150.55
8f.	Source-Separated Recycling	4 Cubic Yard Bin	4 pick-ups per week	per month	192.78	200.73
8f.	Source-Separated Recycling	4 Cubic Yard Bin	5 pick-ups per week	per month	240.97	250.91
8f.	Source-Separated Recycling	4 Cubic Yard Bin	6 pick-ups per week	per month	287.31	299.16
8g.	Source-Separated Recycling	6 Cubic Yard Bin	1 pick-up per week	per month	65.19	67.88
8g.	Source-Separated Recycling	6 Cubic Yard Bin	2 pick-ups per week	per month	138.13	143.83
8g.	Source-Separated Recycling	6 Cubic Yard Bin	3 pick-ups per week	per month	204.42	212.85
8g.	Source-Separated Recycling	6 Cubic Yard Bin	4 pick-ups per week	per month	226.54	235.88
8g.	Source-Separated Recycling	6 Cubic Yard Bin	5 pick-ups per week	per month	270.70	281.86
8g.	Source-Separated Recycling	6 Cubic Yard Bin	6 pick-ups per week	per month	348.08	362.43

					<u>Current</u>	<u>Proposed</u>
8h.	Source-Separated Recycling	10 Cubic Yard Roll-Off	1 pick-up per week	per pull	211.00 + 49.20/ton	219.7+ 50.77/ ton
8i.	Source-Separated Recycling	40 Cubic Yard Roll-Off	1 pick-up per week	per pull	211.00 + 49.20/ton	219.7+ 50.77/ ton

Permanent Container Service

9a.	Permanent Compactor and Roll Off Box	10 Cu. Yd. Compactor	On-call or Scheduled Service	per pull	235.96+ 49.20/ton	245.69+ 50.77/ ton
9b.	Permanent Compactor and Roll Off Box	40 Cu. Yd. Compactor	On-call or Scheduled Service	per pull	235.96+ 49.20/ton	245.69+ 50.77/ ton
9c.	Permanent Compactor and Roll Off Box	10 Cu. Yd. Roll Off Box	On-call or Scheduled Service	per pull	211.00+ 49.20/ton	219.7+ 50.77/ ton
9d.	Permanent Compactor and Roll Off Box	40 Cu. Yd. Roll Off Box	On-call or Scheduled Service	per pull	211.00+ 49.20/ton	219.7+ 50.77/ ton

Temporary Container Service

10a.	Temporary Bin and Roll-Off Box	2 Cubic Yard Bin		per pull	115.40	120.19
10b.	Temporary Bin and Roll-Off Box	3 Cu. Yard Cub		per pull	122.90	128.01
10c.	Temporary Bin and Roll-Off Box	6 Cubic Yard Bin		per pull	145.37	151.45
10d.	Temporary Bin and Roll-Off Box	10 Cu. Yd. Roll Off		per pull	211.00 + 49.20/ton	219.7+ 50.77/ ton
10e.	Temporary Bin and Roll-Off Box	20 Cubic Yard Roll-Off		per pull	211.00 + 49.20/ton	219.7+ 25.4/ ton
10f.	Temporary Bin and Roll-Off Box	30 Cubic Yard Roll-Off		per pull	211.00 + 49.20/ton	219.7+ 38.07/ ton
10g.	Temporary Bin and Roll-Off Box	40 Cu. Yd. Roll Off		per pull	211.00 + 49.20/ton	219.7+ 50.77/ ton

COD Service

11a.	COD Roll-Off - up to 6 tons (over 6 tons billed @\$38/ton)	40 cubic yard bin	per pull	511.24	529.60
11b.	COD Roll-Off - up to 8 tons (over 8 tons billed @\$38/ton)	10 cubic yard bin	per pull	598.04	619.14

Special Event Service

12a.	Special Event	MSW Cart (60 gallon)	per container	13.60	14.18
12b.	Special Event	MSW Cart (90 gallon)	per container	14.78	15.41
12c.	Special Event	Recyclable Materials or Organic Waste Cart (60 gallon)	per container	12.16	12.61
12d.	Special Event	Recyclable Materials or Organic Waste Cart (90 gallon)	per container	13.63	14.13
12e.	Special Event	MSW 3 Cu. Yard Bin	per container	130.13	135.57

				<u>Current</u>	<u>Proposed</u>
12f.	Special Event	Recycling 3 Cu. Yard Bin	per container	65.42	67.92
				211.00 +	219.7+
12g.	Special Event	MSW 10 Cu.Yd. Roll-off	per pull	49.20/ton	50.77/ ton
				211.00 +	219.7+
12h.	Special Event	Recycling 10 Cu.Yd. Roll-off	per pull	49.20/ton	50.77/ ton
				211.00 +	219.7+
12i.	Special Event	MSW 40 Cu.Yd. Roll-off	per pull	49.20/ton	50.77/ ton
				211.00 +	219.7+
12j.	Special Event	Recycling 40 Cu.Yd. Roll-off	per pull	49.20/ton	50.77/ ton

Emergency Services

13a.	90 Gallon Cart		per container	43.14	44.94
13b.	3 Cu. Yard Bin		per container	148.38	154.57
				253.20+	263.64+
13c.	10 Cu. Yard Roll-off		per pull	49.20/ton	50.77/ ton
				253.20+	263.64+
13d.	40 Cu. Yard Roll-off		per pull	49.20/ton	50.77/ ton

Other Services & Special Services

14a.	Residential Bulky Goods Collection Service (4 items per pick-up: 2 free bulky Goods pick-ups/yr)		per pick-up	32.01	33.03
14b.	Commercial Bulky Goods Collection Service (4 items per pick-up)		per pick-up	57.61	59.45
14c.	Residential Bulky Goods Collection for items containing Freon.		per item	-	-
14d.	Commercial Bulky Good Collection for items containing Freon.		per item	57.61	59.45
14e.	Residential Electronic Waste Collection		per item	-	-
14f.	Commercial Electronic Waste Collection		per item	32.01	33.03
14g.	Repair and Maintenance of Compactor		per hour	94.66	97.69
14h.	Cart Exchange		per cart	-	-
14i.	Bin Locking Lids		per month	19.20	19.81
14j.	Commercial Bin Wheel-out Service (25' - 50')		per month	32.01	33.03
14k.	Commercial Bin Wheel-out Service (51' - 75')		per month	64.02	66.07
14l.	Additional Bin pick-up Request (For Bin services listed under numbers: 2, 3, 4, 5, 6, 7)		per bin	49.92	51.52
14m.	Additional Cart pick-up Request (For Cart services listed under numbers: 2, 3, 4, 5, 6, 7)		per cart	19.20	19.81
14n.	Residential Backyard Wheel-Out Service for customers providing a physician's note.			-	-
14o.	Commercial Glass Recycling (35,60,90 gallon Carts)			-	-
14p.	Commercial Bin Wheel-Out Service for a distance less than 25 feet.			-	-
14q.	Residential HHW Door Side Collection Service (2 pick-ups/yr)			-	-
14r.	Residential UW Door Side Collection Service (2 pick-ups/yr)			-	-

Compactor (Clean MRF Processing Recyclables) Service

				<u>Current</u>	<u>Proposed</u>
15a. Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	1 pick-up per week	per month	200.63	209.09
15a. Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	2 pick-ups per week	per month	339.75	354.13
15a. Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	3 pick-ups per week	per month	466.29	486.08
15a. Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	4 pick-ups per week	per month	605.45	631.16
15a. Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	5 pick-ups per week	per month	744.57	776.20
15a. Compactor (Clean MRF Processing Recyclables)	3 Cu.Yard Compactor	6 pick-ups per week	per month	883.71	921.27
15b. Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	1 pick-up per week	per month	230.03	239.76
15b. Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	2 pick-ups per week	per month	398.48	415.40
15b. Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	3 pick-ups per week	per month	554.47	578.06
15b. Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	4 pick-ups per week	per month	722.90	753.68
15b. Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	5 pick-ups per week	per month	891.44	929.41
15b. Compactor (Clean MRF Processing Recyclables)	4 Cu.Yard Compactor	6 pick-ups per week	per month	1,059.96	1,105.12
				211.00+	219.7+
15c. Compactor (Clean MRF Processing Recyclables)	10 Cu. Yard Compactor		per pull	24.61/ton	25.4/ ton
				211.00+	219.7+
15d. Compactor (Clean MRF Processing Recyclables)	20 Cu. Yard Compactor		per pull	30.75/ton	31.73/ ton
				211.00+	219.7+
15e. Compactor (Clean MRF Processing Recyclables)	30 Cu. Yard Compactor		per pull	36.89/ton	38.07/ ton
				211.00+	219.7+
15f. Compactor (Clean MRF Processing Recyclables)	40 Cu. Yard Compactor		per pull	49.20/ton	50.77/ ton



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022

TO: Mayor and Council Members

FROM: David Reynolds
Deputy City Manager/Community Services Director

ISSUE: Establishment of City Council Ad-Hoc Committee for Preparation of the Upcoming 10-Year Solid Waste and Recycling Franchise Procurement

RECOMMENDATION: That the City Council appoint two Council Members to serve on a Solid Waste and Recycling Franchise Procurement Ad-Hoc Committee to assist in the work efforts of establishing procurement documents for the upcoming 10-Year Franchise Agreement effective July 1, 2024.

SUMMARY:

City staff members of Laguna Hills and Lake Forest have begun work efforts to develop the bid documents and a draft franchise agreement template ("Procurement Documents") for the upcoming 10-year franchise agreement which commences on July 1, 2024. This is a separate work effort from the Amendment No. 2 to the current CR&R Franchise Agreement which addresses SB 1383 organic recycling requirements. The current Franchise Agreement with CR&R expires on June 30, 2024. On September 28, 2021, the City Council approved the Memorandum of Understanding Regarding Solid Waste Procurement Services by and between the City of Laguna Hills and the City of Lake Forest ("MOU"). The MOU is attached to this report for reference. In accordance to this MOU, the procurement team consists of staff from both agencies working jointly with a solid waste and recycling consultant, EcoNomics, in the development of the Procurement Documents. To assist the team with this assignment, Staff is recommending the establishment of a City Council Solid Waste and Recycling Franchise Procurement Ad-Hoc Committee consisting of two City Council members from each City and staff support. The Solid Waste and Recycling Franchise Procurement Ad-

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Hoc Committee would support the team for a period of approximately ten months in the creation of the Procurement Documents. At its April 19, 2022, meeting, the City Council of Lake Forest appointed two Council Members to serve on the ad-hoc committee. Staff is recommending that the City Council appoint two Council members to also serve on this ad-hoc committee.

BACKGROUND:

The City of Laguna Hills' current solid waste and recycling franchise agreement ("Agreement") was awarded to CR&R on September 27, 2005, with collection services commencing on June 1, 2006. Amendment No. 1 to the Agreement was approved and executed by the City Council on August 26, 2014, which extended the Agreement for an additional eight years, revising the expiration date from June 30, 2016, to June 30, 2024. Amendment No. 2 to the Agreement, which will be presented to the City Council for its review on April 26, 2022, addresses the SB 1383 requirements of implementing organic waste recycling programs under the current Agreement which is set to expire on June 30, 2024. Another work effort is underway for the procurement of the upcoming 10-year solid waste and recycling franchise as further described below. This work effort is separate from the Amendment No. 2 work efforts.

On September 28, 2021, the City Council approved the MOU with the City of Lake Forest as an opportunity to work together, considering the facts that both jurisdictions' current franchise agreements expire on June 30, 2024; and both cities need to begin the procurement process to establish new ten-year franchise agreement terms commencing on July 1, 2024. The cities of Lake Forest and Laguna Hills each independently arrange for solid waste and recycling collection, processing, and disposal services through separate franchise agreements granted to CR&R.

The process to procure a new solid waste and recycling hauler under a new 10-year franchise agreement term requires an extraordinary amount of effort, which includes hiring a specialized solid waste and recycling consultant, preparing procurement documents for new services, preparing the franchise agreement, conducting contract negotiations, and administering an orderly transition process—especially if a new solid waste hauler is selected. Typically, the entire process takes more than two years to complete. Given the geographic proximity and similar nature of the solid waste and recycling services needed for both Lake Forest and Laguna Hills, and the fact that both jurisdictions need to produce bid documents and draft franchise agreement templates ("Procurement Documents") for their respective procurements, both jurisdictions can

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reduce expenses by sharing costs for a third-party recycling consultant to assist in the production of the Procurement Documents. Further, there exists the potential to also reduce costs and resources through the pursuit of a joint procurement process for the selection of a hauler for the next franchise term which is referred to as the “Procurement Process” in the MOU. The Procurement Process would also be a collaborative work effort, with consultant cost sharing, to facilitate the procurement and contract negotiation with a hauler(s). Both parties (the cities of Laguna Hills and Lake Forest) are currently involved with the production of Procurement Documents and potentially a joint Procurement Process if elected by both parties.

In the interest to collaborate these works efforts and to share costs for third-party consulting services, the MOU sets the expectations and guidelines by and between Lake Forest and Laguna Hills. Both parties participated in the selection of a solid waste and recycling consultant to serve as the consulting firm for this project, and on February 1, 2022, the City of Lake Forest, acting as the lead agency under the MOU, awarded a consulting services agreement to EcoNomics. In accordance with the MOU, each jurisdiction will be responsible for their specific consultant costs and one-half of shared or joint costs. An example of joint costs would be the consultants work efforts to prepare the Procurement Documents that each jurisdiction would use in their respective procurement work efforts. Direct costs would include work performed solely at the direction of one jurisdiction, such as gathering specific residential data or work that is specific to that jurisdiction.

Under the terms of the MOU, there is no commitment required by either jurisdiction to proceed beyond the development of the Procurement Documents. Further, the MOU can be terminated at any time by either party upon 30 days written notice. At a later date, each party would determine if a joint Procurement Process is in the best interest of both parties which would require mutual written notice of intent to continue into this phase of work.

Ad-Hoc Committee

Staff is requesting the City Council to appoint two City Council members to serve on the Solid Waste and Recycling Franchise Procurement Ad-Hoc Committee (“Committee”). The City Council of Lake Forest appointed two Council Members to serve on the Committee at its City Council meeting on April 19, 2022.

City of Laguna Hills and City of Lake Forest staff envision the Committee would include two City Council members from each agency to participate and provide support during

Solid Waste Ad-Hoc

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the creation of the Procurement Documents. The Committee would serve in an advisory capacity only, and Staff will return to the City Council with recommendations from the Committee for final direction.

Staff anticipates the Committee would meet monthly, or as needed, for a period of nine to ten months. Following appointments to the Committee, it is anticipated that the first Committee meeting would be scheduled in May 2022. A proposed timeline, prepared by the City of Lake Forest is attached to this staff report as Attachment 2. During the meetings, the appointed City Council members to the Committee will provide policy direction to Staff on the scope of work of collection services, franchise fees, diversion programs, types of collection vehicles, enforcement standards, and other requirements as mandated by the State.

Upon completion of the Procurement Documents, the Committee would be disbanded.

FISCAL IMPACT:

It is estimated that the City of Laguna Hills third-party recycling consulting costs under the MOU for this work effort is \$50K to \$60K. By sharing costs for this work effort with the City of Lake Forest in accordance to the MOU, the total costs for recycling consulting services will be reduced by 40% - 50%.

Costs for third-party recycling services are paid through the City's recycling funds.

ATTACHMENTS:

- Attachment 1 - Memorandum of Understanding
- Attachment 2 - Anticipated Milestones

Attachment 1

MEMORANDUM OF UNDERSTANDING REGARDING SOLID WASTE PROCUREMENT SERVICES

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into this 20 day of Sept, 2021 by and between the City of Laguna Hills (“**Laguna Hills**”) and the City of Lake Forest (“**Lake Forest**”) (each individually a “**Party**” and collectively the “**Parties**”).

RECITALS

A. Lake Forest and Laguna Hills arrange for solid waste, recycling, organic waste, and similar collection, processing, and disposal services (collectively “**Services**”) through a franchise granted to a private company (“a “**Hauler**”). The Parties’ current franchises for the Services will both expire on June 30, 2024.

B. In anticipation of these expirations, the Parties may determine at a later date to undertake a joint solid waste procurement process (“**Procurement**”) which may result in the award of a single franchise for both Parties to one Hauler, two franchises for each Party to one Hauler, separate franchises for each Party to different Haulers, or some other possible arrangement for the Services.

C. A Procurement will require the development of a draft franchise agreement(s) and request for proposal document(s) (“**Procurement Documents**”) and the Parties are interested in a joint work effort to prepare the Procurement Documents.

D. The production of the Procurement Documents will be managed by staff by each Party and a joint Consultant.

E. The Procurement will be managed by staff by each Party and a joint Consultant if it is determined that a joint Procurement is in the best interest of each Party.

F. Costs for a joint Consultant for the preparation of the Procurement Documents and for a joint Procurement work effort will be shared between the Parties.

G. The Parties desire to enter into this MOU to outline their respective participation in the development of the Procurement Documents and Procurement.

TERMS

NOW, THEREFORE, the Parties, in consideration of the mutual promises set forth in this MOU, agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are true, correct, and incorporated herein.

2. Purpose of Memorandum of Understanding. The purpose of this MOU is for the Parties to develop Procurement Documents for Services and to outline their respective interests and participation in a potential joint Procurement for Services.

3. Description of the Procurement Documents. The Parties will contract with Consultant with relevant experience to conduct and assist in the preparation of a request for proposal(s) and similar documents and a franchise agreement(s) for the Services.

4. Description of the Procurement. The Parties will contract with a Consultant with relevant experience to conduct and assist in the Procurement. The Procurement may include, but is not limited to, the following elements:

- 3.1 Assessment of current Haulers and Services provided to each Party;
- 3.2 Potential cost savings or obstacles to jointly contracting for Services or for other possible models for delivery of the Services;
- 3.3 The negotiation of franchise agreement(s) with the chosen proposer(s) for the Services.

5. Sharing of Costs. Costs for the Procurement Documents and Procurement shall be divided into three categories: (1) shared costs benefitting both Parties ("**Joint Costs**"), (2) costs solely attributable to Laguna Hills ("**LH Costs**"), and (3) costs solely attributable to Lake Forest ("**LF Costs**"). Laguna Hills shall be responsible for all LH Costs and one-half of the Joint Costs. Lake Forest shall be responsible for all LF Costs and one-half of the Joint Costs. The Consultant will indicate on each invoice costs attributable to Joint Costs, LF Costs, and LH Costs. Lake Forest shall verify the respective share of costs of the Procurement Documents and Procurement on a monthly basis using the invoices submitted to Lake Forest by the Consultant. Following this verification, Lake Forest shall submit on a monthly basis a reimbursement request to Laguna Hills for its share of the Procurement Documents and Procurement costs, including a copy of the original invoice submitted to Lake Forest by Consultant. Laguna Hills shall reimburse Lake Forest for such costs within 30 days of the date of the invoice.

6. Selection of Consultant.

- 6.1 Selection of Procurement Documents and Procurement Consultant. Subject to the provisions of Sections 3, 4, and 5, Lake Forest shall issue the request for proposals and award any agreement with a consultant or team of consultants for the Procurement Documents and Procurement ("**Consultant**"). Lake Forest shall follow and comply with applicable laws and regulations when doing so. City staff from both Parties will participate in the selection process of Consultant(s). Lake Forest shall provide Laguna Hills with a draft request for proposals and Consultant(s) agreement and reasonably endeavor to incorporate and address any comments or proposed edits. Lake Forest will include the City of Laguna Hills, its officers, employees, agents, and representatives as additional insured and in any indemnification protection language in Consultant's agreement.
- 6.2 Procurement Documents Process. Subject to the provisions of Section 3, each Party shall be provided an opportunity to review and comment on all work product provided by the Consultant. Both Parties shall have a right to

receive and use all reports, documents, and records created as part of the Proposal Documents development pursuant to this MOU.

- 6.3 Procurement Process. Subject to the provisions of Section 4, each Party shall be provided an opportunity to review and comment on all work product provided by the Consultant. Both Parties shall have a right to receive and use all reports, documents, and records created as part of the Procurement pursuant to this MOU.

7. Not a Commitment to Proceed with Procurement. Nothing in this MOU shall be construed or interpreted to constitute a commitment by any Party beyond the completion of the Procurement Documents. The Parties may continue with the Procurement by providing mutual written notice of intent to continue with Procurement.

8. Future Coordination of Efforts. Upon completion of the Procurement as mutually agreed in Section 7, the Parties may wish to establish continuing shared duties with respect to the Services. The relationship of the Parties with respect to these future efforts will be documented as amendments to this MOU or in separate agreements, and the Parties anticipate continued collaboration and cost-sharing activities as appropriate depending on the nature of the endeavor as it progresses.

9. Term and Termination. This MOU shall become effective as of the date it is executed by the last of the Parties and shall continue in full force and effect until the Procurement Documents are completed or it is terminated as provided herein, unless extended pursuant to Section 7. Either Party may terminate this MOU by giving written notice of intent to terminate thirty (30) calendar days prior to the date of proposed termination. If either Party terminates before completion of the Procurement Documents, or before the completion of the Procurement pursuant to Section 7, the Parties shall each be responsible for their proportionate share of the consultant costs expended up to the date the notice of intent to terminate is received, including such future costs as cannot be reasonably canceled upon receipt of the notice of intent to terminate. Termination by either Party shall not terminate the Party's right to access any Consultant's work product or records as provided in Sections 6.2 and 6.3, or the defense and indemnification obligations set forth in Paragraph 10.

10. Mutual Indemnification. Each Party hereby agrees to indemnify, defend, assume all liability for, and hold harmless the other Party and their officers, employees, agents, and representatives, to the maximum extent allowed by law, from all actions, claims, suits, penalties, obligations, liabilities, damages to property, costs, and expenses (including without limitation any fines, penalties, judgments, actual litigation expenses, and attorneys' fees), and/or personal injuries or death to any persons (collectively, "**Claims**"), arising out of or in any way connected to the willful misconduct or the proportionate share of negligence of that Party or its officers, agents, or employees in connection with or arising from any of the activities under this MOU. This section incorporates a comparative negligence standard.

11. No Waiver. The waiver by any Party of any breach or violation of any requirement of this MOU shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this MOU.

12. Notices. Any notice or other communication (“**Notice**”) which any Party may desire to give to the other Party under this MOU must be in writing and may be given by any commercially acceptable means, including via first class certified mail, personal delivery, or overnight courier, to the Party to whom the Notice is directed, at the address of the Party as set forth below, or at any other address as that Party may later designate by Notice. Any Notice shall be deemed received immediately if delivered by hand, on the third day from the date it is postmarked if delivered by first-class mail, certified and postage prepaid, return receipt requested, and on the next business day if sent via nationally recognized overnight courier.

Lake Forest: City of Lake Forest
100 Civic Center Drive
Lake Forest, CA 92630
ATTN: City Clerk

Laguna Hills: City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653
ATTN: City Clerk

13. Interpretation: Venue.

13.1 Interpretation. The headings used herein are for reference only. The terms of the MOU are set out in the text under the headings. This MOU shall be governed by the laws of the State of California without regard to the choice of law or conflicts.

13.2 Venue. This MOU is made in Orange County, California. The venue for any legal action in state court filed by any Party to this MOU for the purpose of interpreting or enforcing any provision of this MOU shall be in the Superior Court of California, County of Placer. The venue for any legal action in federal court filed by any Party to this MOU for the purpose of interpreting or enforcing any provision of this MOU lying within the jurisdiction of the federal courts shall be the Central District of California.

14. Third-Party Beneficiaries. Nothing contained in this MOU shall be construed to create any rights in third parties and the Parties do not intend to create such rights.

15. Severability. If any provision of this MOU, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this MOU.

16. Amendment of MOU. This MOU may be amended at any time by mutual agreement of the Parties. Any amendment shall be in writing and signed by all Parties.

17. Entirety of Contract. This MOU constitutes the entire agreement between the Parties relating to the subject of this MOU and supersedes all previous agreements, promises,

representations, understandings and negotiations, whether written or oral, among the Parties with respect to the subject matter hereof.

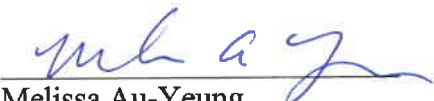
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this MOU was executed by the parties hereto as of the date first above written.

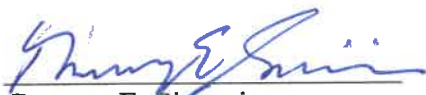
CITY OF LAGUNA HILLS

By: 
Kenneth H. Rosenfield
Interim City Manager

ATTEST:

By: 
Melissa Au-Yeung
Deputy City Manager/City Clerk

APPROVED AS TO FORM:

By: 
Gregory E. Simonian
City Attorney

CITY OF LAKE FOREST

By: 
Debra Rose
City Manager

ATTEST:

By: 
Lisa Berglund
City Clerk

APPROVED AS TO FORM:


By: _____
Matthew Richardson
City Attorney

Attachment 2

SOLID WASTE FRANCHISE RFP ANTICIPATED MILESTONES

DATE	ACTIVITY
FEB 2022 - APR 2022	Project kick-off with the City of Laguna Hills to review current contractual provisions of each agency and develop RFP timeline
MAY 2022 - FEB 2023	Ad Hoc Committee monthly meetings begin to discuss specific scope of work such as organics collection, construction and demolition roll-off exclusivity, recycling coordinators, diversion programs, the use of alternative fuel vehicles, other available services
MAY 2022 - FEB 2023	Consultant concurrently uses Ad Hoc committee discussions to develop draft contract, scope of work, RFP, and forms
FEB - MAR 2023	City Attorney reviews draft documents
MAY 2023	RFP package presented to City Council for approval
MAY 2023	RFP released and mandatory pre-proposal meeting held for prospective proposers
JUL 2023	Proposals due
JUL - SEP 2023	Procurement team evaluates proposals and conducts interviews as needed
SEP - NOV 2023	Consultant prepares final contract documents
NOV 2023	Award recommendation presented to City Council



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: April 26, 2022

TO: Mayor and Council Members

FROM: Captain Matthew Stiverson
Chief of Police Services

ISSUE: Laguna Hills Police Services Public Safety Quarterly Report

RECOMMENDATION: That the City Council receive and file the Laguna Hills Police Services Public Safety Quarterly Report for the First Quarter 2022.

SUMMARY:

In 2021, City Council requested Police Services provide regularly scheduled update reports regarding public safety in the community. Overall, local issues continue to reflect regional, state, and national trends. The City's local police services, as provided by the Orange County Sheriff's Department, continues to ensure the City is a safe community. The 2022 First Quarter Public Safety Report and attached 2022 Monthly Statistical Data report (Attachment A) provides an overview of Police Services operations during the months of January, February, and March.

BACKGROUND:

For the last thirty years, the City of Laguna Hills has contracted with the Orange County Sheriff's Department for its law enforcement needs. Laguna Hills Police Services is responsible for public safety and general law enforcement within the City, which includes patrol services, traffic enforcement, and criminal investigations.

The greater Orange County Sheriff's Department works hard to mitigate crime and ensure public safety in our City, as well. Many divisions and specialty details work closely with Laguna Hills patrol deputies to prevent, deter, and effectively respond to criminal activity. They provide a wide array of law enforcement resources that help

Laguna Hills Police Services Public Safety Quarterly Report

April 26, 2022

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protect our residents and ensure safety within our community. An undeniable benefit of the current contracting model for Police Services is the vast number of resources that can be made available to the City on an emergency or scheduled basis.

Under normal circumstances, all communities experience some level of criminal activity, which is the primary focus of law enforcement. Over the last year, there have been shifts in crime trends throughout southern California. These trends have continued during the first quarter of 2022. Noticeably, increases in automobile thefts, catalytic converter thefts, mail theft, identity theft, family violence, assaults, narcotics violations, and gang related activity. Our City has also experienced these fluctuations in crime trends throughout our community. From January 1, 2022, through March 31, 2022, deputies responded to a total of **3,187** calls for service, a slight decrease from the same time frame in 2021, when deputies responded to **3,277** calls for service.

Other notable statistics include the total number of arrests made this calendar year by patrol deputies as of March 31, 2022. These include: **43** Street Arrests; **40** Citation Arrests; and **24** Warrant Arrests, for a total of **109** arrests to date. We continue to experience a significant amount of Citation Arrests throughout the community, most of which are related to narcotics violations.

During the first quarter, we continued to see gang activity primarily related to vandalism, graffiti, narcotics violations, and assaults, such as fighting between rival gang members. In response to this activities, Laguna Hills Police Services, in collaboration with OC Sheriff's Investigations and a variety of specialty enforcement units, has increased patrol checks, enforcement activities, and surveillance in the affected areas. This includes both uniformed deputies in marked patrol vehicles and undercover deputies in unmarked vehicles. The Gang Enforcement Team (GET) has been fully engaged in our operations and has been conducting saturation patrols in and around the Community Center and Sports Complex and adjacent residential communities, specifically targeting gang related criminal activity. These increased proactive enforcement operations have yielded positive results. During the last three months, GET gang suppression operations have resulted in **2** arrests in the City. GET arrests in Laguna Hills during the first quarter of 2021 were **8**. Police Services intends to continue these operations into the foreseeable future to ensure public safety throughout the City.

Automated License Plate Reader (ALPR) Program

In 2021, the City of Laguna Hills contracted with Flock Safety Incorporated to provide Automated License Plate Reader (ALPR) services as part of its overall public safety

Laguna Hills Police Services Public Safety Quarterly Report

April 26, 2022

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strategy. The ALPR system connects with other public and private Flock ALPR systems throughout the region to provide an integrated public safety network. The interconnectivity of this broader network of ALPR systems gives Police Services an enhanced investigative capability to respond to and deter criminal activity throughout the City of Laguna Hills.

The City's ALPR system is being used by a variety of units within the Sheriff's Department. Some of these include, but are not limited to: Laguna Hills Police Services, Lake Forest Police Services, the Directed Enforcement Team (DET), the Gang Enforcement Team (GET), Sheriff's Investigations, the Regional Auto Theft Detail, the Traffic Enforcement Bureau, the Special Victim's Unit (SVU), and the Sheriff's Crime Analysis Bureau.

Prior to this system being added to our City, Police Services had very little success in locating stolen vehicles. However, in the last six months, our staff has used this system to successfully locate nine occupied stolen vehicles, which resulted in thirteen arrests. Some of these stolen vehicles were occupied by multiple subjects, who were in possession of evidence linking them to multiple crimes in multiple jurisdictions. These arrests were directly related to criminal activity which occurred in our community. These are examples of how this system has enabled us to remove sophisticated criminals from our streets and prevent them from victimizing our residents.

During the first quarter of 2022, the Laguna Hills ALPR system (20 ALPRs) registered a total of **11,151,689** Plate Reads, of which **5,795,291** were categorized as Unique Reads. The "Unique Reads" total represents the number of unique vehicles that passed through the ALPR gateways. "Plate Reads" include all system reads by all ALPRs, including multiple reads of the same unique vehicle license plate. Additionally, during the first quarter the system was used by law enforcement to conduct **5,949** investigative searches related to criminal activity.

These numbers illustrate the value this type of technology brings to our operations. By investing in this system, the City has provided a significant public safety resource which has increased Police Services ability to respond to and investigate criminal activity directly impacting our City. This system has been an excellent addition to our community, and we anticipate continued positive results in the future.

Public Safety Reminder

"If you see something, say something." Always report suspicious activity in the

Laguna Hills Police Services Public Safety Quarterly Report

April 26, 2022

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community to law enforcement. In the event of an emergency, always dial 911. For non-emergencies, contact Sheriff's Dispatch at (949) 770-6011. To contact Laguna Hills Police Services reference NON-emergency items, call (949) 707-2640. Anonymous tips can be submitted by phone or text to 1-855-TIP-OCCS or online at occrimestoppers.org.

FISCAL IMPACT:

This public safety update is for informational purposes only. There are no fiscal impacts related to this report.

ATTACHMENTS:

- Attachment A – 2022 Monthly Statistical Data Report

LAGUNA HILLS POLICE SERVICES

7.4.1.a

2022 MONTHLY STATISTICAL DATA

UCR (SRS/NIBRS) DATA	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
Animal Cruelty	0	0	0										0
Arson	0	0	0										0
Assault (Aggravated)	8	1	7										16
Assault (Simple)	2	4	3										9
Assault (Intimidation)	0	0	4										4
Bribery	0	0	0										0
Burglary B&E	10	8	9										27
Counterfeit/Forgery	2	3	1										6
Destruction/Vandalism	13	7	6										26
Drug/Narcotic Violations	9	14	1										24
Drug Equipment	8	15	7										30
Embezzlement	0	0	0										0
Extortion/Blackmail	0	0	0										0
Fraud (False Pretense)	2	4	3										9
Fraud (Credit Card)	0	0	0										0
Fraud (Impersonation)	1	1	0										2
Fraud (Welfare)	0	0	0										0
Fraud (Wire)	0	0	0										0
Fraud (ID Theft)	0	6	3										9
Fraud (Hacking/Computer)	0	0	0										0
Gambling (Betting)	0	0	0										0
Gambling (Operating)	0	0	0										0
Gambling (Equipment)	0	0	0										0
Gambling (Sports)	0	0	0										0
Homicide (Murder)	0	0	0										0
Homicide (Negligent Man.)	0	0	0										0
Homicide (Justifiable)	0	0	0										0
Human Trafficking (Sex)	0	0	0										0
Human Trafficking (Servitude)	0	0	0										0
Kidnapping	0	0	0										0
Theft (Pick Pocket)	0	0	0										0

Attachment: Attachment A – 2022 Monthly Statistical Data Report (2831 : Laguna Hills Police Services

LAGUNA HILLS POLICE SERVICES

7.4.1.a

2022 MONTHLY STATISTICAL DATA

UCR (SRS/NIBRS) DATA	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
Theft (Purse Snatching)	0	0	0										0
Theft (Shoplifting)	2	2	2										6
Theft (From Building)	3	0	1										4
Theft (Coin Op Machine)	0	0	0										0
Theft (From Motor Veh.)	5	5	9										19
Theft (Veh. Parts/Accessories)	0	2	4										6
Theft (All Other Larceny)	5	6	3										14
Motor Vehicle Theft	4	7	6										17
Pornography/Obscene Material	0	0	0										0
Prostitution	0	0	1										1
Prostitution (Assist/Promote)	0	0	0										0
Prostitution (Purchasing)	0	0	0										0
Robbery	2	1	1										4
Sex (Forcible Rape)	0	0	1										1
Sex (Forcible Sodomy)	0	0	0										0
Sex Assault W/An Object	0	0	0										0
Sex (Forcible Fondling)	0	0	0										0
Sex (Incest)	0	0	0										0
Sex (Statutory Rape)	0	0	0										0
Stolen Property Offenses	4	4	0										8
Weapons Law Violations	0	0	5										5
TOTAL	80	90	77	0	0	0	0	0	0	0	0	0	247

RESPONSE TIMES (H:M:S)	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	AVE
PRIORITY 1 CALLS	0:05:37	0:04:56	0:03:45										0:04:46
PRIORITY 2 CALLS	0:14:45	0:17:17	0:17:30										0:16:31
PRIORITY 3 CALLS	0:29:01	0:26:34	0:28:41										0:28:05
PRIORITY 4 CALLS	0:41:27	0:41:47	1:10:49										0:51:21

Attachment: Attachment A – 2022 Monthly Statistical Data Report (2831 : Laguna Hills Police Services

LAGUNA HILLS POLICE SERVICES

7.4.1.a

2022 MONTHLY STATISTICAL DATA

CALLS FOR SERVICE	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
OBSERVED	302	328	374										1004
ASSIGNED	699	740	744										2183
TOTAL	1,001	1,068	1,118	0	0	0	0	0	0	0	0	0	3,187

CALLS BY RESPONSE	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
PRIORITY 1	24	16	19										59
PRIORITY 2	318	339	326										983
PRIORITY 3	593	637	696										1926
PRIORITY 4	66	76	77										219
TOTAL	1,001	1,068	1,118	0	0	0	0	0	0	0	0	0	3,187

ARREST STATS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
FELONY BOOKING	11	3	3										17
MISDEMEANOR BOOKING	12	7	7										26
WARRANT BOOKING	8	9	7										24
DUI ARRESTS	0	0	0										0
MISDEMEANOR CITATIONS	12	15	13										40
G.E.T. ARRESTS	0	0	2										2
TOTAL	43	34	32	0	0	0	0	0	0	0	0	0	109

HOMELESS STATS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
HOMELESS CONTACTS	12	12	11										35

TRAFFIC STATS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
TRAFFIC CITATIONS	55	159	146										360
PARKING CITATIONS	176	185	142										503
TRAFFIC ENFORCEMENT INDEX	10.8%	65.0%	39.7%										38.5%

CONSUME TIME (%)	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
TOTAL	57.19%	51.25%	52.21%										53.55%

Attachment: Attachment A – 2022 Monthly Statistical Data Report (2831 : Laguna Hills Police Services

LAGUNA HILLS POLICE SERVICES

7.4.1.a

2022 MONTHLY STATISTICAL DATA

ALPR ANALYTICS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
PLATE READS	3,495,631	3,807,693	3,848,365										11,151,689
UNIQUE PLATE READS	1,799,535	1,954,072	2,041,684										5,795,291
INVESTIGATIVE SEARCHES	2,076	1,256	2,617										5,949

DISCLAIMER

This product was produced using raw crime reporting data. This report is intended to provide a general overview of monthly statistical data. Statistical values represented are likely not consistent with the Uniform Crime Reporting (UCR) Program of the Federal Bureau of Investigation (FBI) under the Summary Reporting System (SRS) requirements.

As of June 2021, the Orange County Sheriff's Department (OCSD) is in the process of transitioning from the UCR SRS reporting to the new UCR National Incident-Based Reporting System (NIBRS) requirements. Official statistical data will not be available until OCSD is NIBRS certified by the Department of Justice (DOJ).

The data reflected in this report is preliminary and is not representative of UCR NIBRS requirements. Crime statistics are based on the date the crime or arrest occurred. All information and data listed in this report is considered preliminary and subject to further update/revision.