



**AGENDA**  
**CITY COUNCIL/SUCCESSOR AGENCY/STANTON HOUSING AUTHORITY**  
**JOINT REGULAR MEETING**  
**STANTON CITY HALL, 7800 KATELLA AVENUE, STANTON, CA**  
**TUESDAY, AUGUST 11, 2020 - 6:30 P.M.**

**SAFETY ALERT – NOTICE REGARDING COVID-19**

The President, Governor, and the City of Stanton have declared a State of Emergency as a result of the threat of COVID-19 (aka the “Coronavirus”). The Governor also issued Executive Order N-25-20 that directs Californians to follow public health directives including cancelling all large gatherings. Governor Newsom also issued Executive Order N-29-20 which lifts the strict adherence to the Brown Act regarding teleconferencing requirements and allows local legislative bodies to hold their meetings without complying with the normal requirements of in-person public participation. Pursuant to the provisions of the Governor’s Executive Orders N-25-20 and N-29-20 the August 11, 2020, Joint Regular City Council Meeting will be held telephonically.

The health and well-being of our residents is the top priority for the City of Stanton and you are urged to take all appropriate health safety precautions. To that end, out of an abundance of caution the City of Stanton is eliminating in-person public participation. Members of the public wishing to access the meeting will be able to do so telephonically.

**In order to join the meeting via telephone please follow the steps below:**

1. Dial the following phone number +1 (669) 900-9128 US (San Jose).
2. Dial in the following **Meeting ID: (819 2883 4763)** to be connected to the meeting.

**ANY MEMBER OF THE PUBLIC WISHING TO PROVIDE PUBLIC COMMENT FOR ANY ITEM ON THE AGENDA MAY DO SO AS FOLLOWS:**

E-Mail your comments to [pvazquez@ci.stanton.ca.us](mailto:pvazquez@ci.stanton.ca.us) with the subject line “PUBLIC COMMENT ITEM #” (*insert the item number relevant to your comment*). Comments received no later than 5:00 p.m. before the meeting (*Tuesday, August 11, 2020*) will be compiled, provided to the City Council, and made available to the public before the start of the meeting. Staff will not read e-mailed comments at the meeting. However, the official record will include all e-mailed comments received until the close of the meeting.

The Stanton City Council and staff thank you for your continued patience and cooperation during these unprecedented times. Should you have any questions related to participation in the City Council Meeting, please contact the City Clerk’s Office at (714) 890-4245.

***In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (714) 890-4245. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.***

*The City Council agenda and supporting documentation is made available for public review and inspection during normal business hours in the Office of the City Clerk, 7800 Katella Avenue, Stanton California 90680 immediately following distribution of the agenda packet to a majority of the City Council. Packet delivery typically takes place on Thursday afternoons prior to the regularly scheduled meeting on Tuesday. The agenda packet is also available for review and inspection on the city's website at [www.ci.stanton.ca.us](http://www.ci.stanton.ca.us).*

**1. CLOSED SESSION(6:00 PM)**

- 2. ROLL CALL** Council / Agency / Authority Member Ramirez  
Council / Agency / Authority Member Taylor  
Council / Agency / Authority Member Van  
Mayor Pro Tem / Vice Chairperson Warren  
Mayor / Chairman Shawver

**3. PUBLIC COMMENT ON CLOSED SESSION ITEMS**

*Closed Session may convene to consider matters of purchase / sale of real property (G.C. §54956.8), pending litigation (G.C. §54956.9(a)), potential litigation (G.C. §54956.9(b)) or personnel items (G.C. §54957.6). Records not available for public inspection.*

**4. CLOSED SESSION**

**4A. CONFERENCE WITH COUNSEL - THREAT TO PUBLIC SERVICES OR FACILITIES**

Pursuant to Government Code Section 54957

Consultation with: City Attorney

**4B. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION**

Initiation of litigation pursuant to Government Code Section 54956.9 (d) (4)

Number of Potential Cases: 2

**4C. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)

Number of potential cases: 2

**4D. CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
(Pursuant to Government Code Section 54956.8)**

Property: 8830 Tina Way, Anaheim, CA (APN 126-481-01)  
8840 Tina Way, Anaheim, CA (APN 126-481-02)  
8850 Tina Way, Anaheim, CA (APN 126-481-03)  
8860 Tina Way, Anaheim, CA (APN 126-481-04)  
8870 Tina Way, Anaheim, CA (APN 126-481-05)  
8880 Tina Way, Anaheim, CA (APN 126-481-06)  
8890 Tina Way, Anaheim, CA (APN 126-481-07)  
8900 Tina Way, Anaheim, CA (APN 126-481-08)  
8910 Tina Way, Anaheim, CA (APN 126-481-09)  
8920 Tina Way, Anaheim, CA (APN 126-481-10)  
8930 Tina Way, Anaheim, CA (APN 126-481-11)  
8940 Tina Way, Anaheim, CA (APN 126-481-12)  
8950 Tina Way, Anaheim, CA (APN 126-481-13)  
8960 Tina Way, Anaheim, CA (APN 126-481-14)  
8970 Tina Way, Anaheim, CA (APN 126-481-15)  
8841 Pacific Avenue, Anaheim, CA (APN 126-481-29)  
8851 Pacific Avenue, Anaheim, CA (APN 126-481-28)  
8861 Pacific Avenue, Anaheim, CA (APN 126-481-27)  
8870 Pacific Avenue, Anaheim, CA (APN 126-482-05)  
8871 Pacific Avenue, Anaheim, CA (APN 126-481-26)  
8880 Pacific Avenue, Anaheim, CA (APN 126-482-06)  
8881 Pacific Avenue, Anaheim, CA (APN 126-481-25)  
8890 Pacific Avenue, Anaheim, CA (APN 126-482-07)  
8891 Pacific Avenue, Anaheim, CA (APN 126-481-24)  
8900 Pacific Avenue, Anaheim, CA (APN 126-482-08)  
8901 Pacific Avenue, Anaheim, CA (APN 126-481-23)  
8910 Pacific Avenue, Anaheim, CA (APN 126-482-09)  
8911 Pacific Avenue, Anaheim, CA (APN 126-481-22)  
8920 Pacific Avenue, Anaheim, CA (APN 126-482-10)  
8921 Pacific Avenue, Anaheim, CA (APN 126-481-21)  
8930 Pacific Avenue, Anaheim, CA (APN 126-482-11)  
8931 Pacific Avenue, Anaheim, CA (APN 126-481-20)  
8940 Pacific Avenue, Anaheim, CA (APN 126-482-12)  
8941 Pacific Avenue, Anaheim, CA (APN 126-481-19)  
8950 Pacific Avenue, Anaheim, CA (APN 126-482-13)  
8951 Pacific Avenue, Anaheim, CA (APN 126-481-18)  
8960 Pacific Avenue, Anaheim, CA (APN 126-482-14)  
8961 Pacific Avenue, Anaheim, CA (APN 126-481-17)

8970 Pacific Avenue, Anaheim, CA (APN 126-482-15)  
8971 Pacific Avenue, Anaheim, CA (APN 126-481-16)

Negotiating Parties: Jarad L. Hildenbrand, City Manager, City of Stanton  
Jarad L. Hildenbrand, Executive Director, Housing Authority  
Jarad L. Hildenbrand, Executive Director, Successor Agency  
Trachy Family Trust, Owner  
Steven W. Reiss Trust, Owner  
Jennie Trust, Owner  
Trang Trust, Owner  
Triple Star Company, LLC, Owner  
Sky Nguyen / SN Living Trust, Owner  
Steven W. Reiss Trust, Owner  
Ngoc Trieu and Andy Pham, Owner  
David M. Cook and Daphne Chakran, Owner

Under Negotiation: Instruction to negotiator will concern price and terms of payment.

**5. CALL TO ORDER / SUCCESSOR AGENCY / STANTON HOUSING AUTHORITY MEETING**

**6. ROLL CALL** Council / Agency / Authority Member Ramirez  
Council / Agency / Authority Member Taylor  
Council / Agency / Authority Member Van  
Mayor Pro Tem / Vice Chairperson Warren  
Mayor / Chairman Shawver

**7. PLEDGE OF ALLEGIANCE**

**8. SPECIAL PRESENTATIONS AND AWARDS**

- Recognition of outgoing Planning Commissioner Mr. Sou Moua.

**9. CONSENT CALENDAR**

All items on the Consent Calendar may be acted on simultaneously, unless a Council/Board Member requests separate discussion and/or action.



## **CONSENT CALENDAR**

- 9A. MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED**

**RECOMMENDED ACTION:**

City Council/Agency Board/Authority Board waive reading of Ordinances and Resolutions.

- 9B. APPROVAL OF WARRANTS**

City Council approve demand warrants dated July 17 – July 30, 2020, in the amount of \$495,429.06.

- 9C. APPROVAL OF MINUTES**

City Council/Agency/Authority Board approve Minutes of Regular Joint Meeting – July 28, 2020.

**9D. AWARD OF CONSTRUCTION CONTRACT FOR THE FY 20/21 CITYWIDE SLURRY SEAL PROJECT BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA**

The four bids for the FY 20/21 Citywide Slurry Seal Project were opened on July 20, 2020. Based on the post-bid analysis of the bids received, staff recommends the bid submitted by Roy Allan Slurry Seal, Inc. to be the lowest responsible and responsive bid. The construction cost is estimated at \$563,695.92, which includes a contingency.

**RECOMMENDED ACTION:**

1. City Council approve the plans and specifications for the FY 20/21 Citywide Slurry Seal Project; and
2. Award a construction contract for FY 20/21 Citywide Slurry Seal Project to the lowest responsible and responsive bidder, Roy Allan Slurry Seal, Inc., for the amount of \$512,450.84; and
3. Authorize the City Manager to bind the City of Stanton and Roy Allan Slurry Seal, Inc. in a contract for the construction of the FY 20/21 Citywide Slurry Seal Project; and
4. Declare this project to be categorically exempt under the California Environmental Quality Act, Class 1, Section 15301c; and
5. Authorize the City Manager to approve contract changes, not to exceed 10-percent.

**9E. BIENNIAL REVIEW THE CITY'S CONFLICT OF INTEREST CODE**

The proposed action is pursuant to the requirements set forth in section 87306.5 of the Political Reform Act and placed upon the City Council as the City's code-reviewing body.

**RECOMMENDED ACTION:**

1. It is recommended that the City Council direct the review of the City's Conflict of Interest Code and the filing of a Biennial Notice with the City Clerk regarding such review, as required by the Political Reform Act; and
2. Find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment).

**END OF CONSENT CALENDAR**

**10. PUBLIC HEARINGS**                      **None.**

**11. UNFINISHED BUSINESS**              **None.**

**12. NEW BUSINESS**

**12A. AWARD OF A PROFESSIONAL SERVICES AGREEMENT TO REVIZE SOFTWARE SYSTEMS TO ASSIST IN THE REDESIGN OF THE CITY'S OFFICIAL WEBSITE AND APPROPRIATION OF FUNDS**

The City Manager directed staff to solicit a qualified vendor to provide design and support services for the City's website. Staff requests that the City Council authorize the City Manager to enter into an agreement with ReviZe Software Systems to provide these services through August 2024 in the amount not to exceed \$34,800. Consequently, staff is requesting an appropriation of \$10,470 from the General Fund's available fund balance to fund the Fiscal Year 2020/21 costs for this agreement.

**RECOMMENDED ACTION:**

1. City Council declare this project to be categorically exempt under the California Environmental Quality Act, Section 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Approve a Professional Services Agreement with ReviZe to assist in the redesign of the City's official website for the maximum contract sum of \$34,800; and
3. Authorize the City Manager to bind the City of Stanton and ReviZe in a contract to provide these services; and
4. Authorize the appropriation of \$10,470 from the General Fund's available fund balance to fund the Fiscal Year 2020/21 costs for this agreement.

**12B. APPROVING THE FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT WITH KB HOME COASTAL INC. (HOUSING AUTHORITY)**

The Redevelopment Agency (RDA) for the City of Stanton owned certain real property located at 7455 Katella Avenue, Stanton, CA 90680. The Housing Authority (SHA) is the successor entity to the RDA and, pursuant to the Dissolution Act, upon the RDA's dissolution the Property automatically transferred to the SHA. If approved, this First Amended and Restated Disposition and Development Agreement will provide the developer KB Home Coastal Inc. to acquire the property from the SHA and is intended to be developed to be part of a larger residential community.

**RECOMMENDED ACTION:**

1. Housing Authority declare that the action is not a project and is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3); and
2. Approve the First Amended and Restated Disposition and Development Agreement with KB Home Coastal Inc.; and
3. Authorize the City Manager/Executive Director to execute any necessary documents to facilitate this project.

**13. ORAL COMMUNICATIONS - PUBLIC**

At this time members of the public may address the City Council/Successor Agency/Stanton Housing Authority regarding any items within the subject matter jurisdiction of the City Council/Successor Agency/Stanton Housing Authority, provided that NO action may be taken on non-agenda items.

- Members of the public wishing to address the Council/Agency/Authority during Oral Communications or on a particular item may do so by submitting their comments via E-Mail to [pvazquez@ci.stanton.ca.us](mailto:pvazquez@ci.stanton.ca.us) with the subject line "PUBLIC COMMENT ITEM #" (*insert the item number relevant to your comment*) or "PUBLIC COMMENT NON-AGENDA ITEM #". Comments received by 5:00 p.m. will be compiled, provided to the City Council, and made available to the public before the start of the meeting. Staff will not read e-mailed comments at the meeting. However, the official record will include all e-mailed comments received until the close of the meeting.

**14. WRITTEN COMMUNICATIONS                      None.**

**15. MAYOR/CHAIRMAN COUNCIL/AGENCY/AUTHORITY INITIATED BUSINESS**

**15A. COMMITTEE REPORTS/ COUNCIL/AGENCY/AUTHORITY ANNOUNCEMENTS**

At this time Council/Agency/Authority Members may report on items not specifically described on the agenda which are of interest to the community provided no discussion or action may be taken except to provide staff direction to report back or to place the item on a future agenda.

**15B. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE MEETING**

At this time Council/Agency/Authority Members may place an item on a future agenda.

**15C. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE STUDY SESSION**

At this time Council/Agency/Authority Members may place an item on a future study session agenda.

Currently Scheduled:       None.

**16. ITEMS FROM CITY ATTORNEY/AGENCY COUNSEL/AUTHORITY COUNSEL**

**17. ITEMS FROM CITY MANAGER/EXECUTIVE DIRECTOR**

**17A. ORANGE COUNTY FIRE AUTHORITY**

At this time the Orange County Fire Authority will provide the City Council with an update on their current operations.

**18. ADJOURNMENT**

I hereby certify under penalty of perjury under the laws of the State of California, the foregoing agenda was posted at the Post Office, Stanton Community Services Center and City Hall, not less than 72 hours prior to the meeting. Dated this 6<sup>th</sup> day of August, 2020.

s/ Patricia A. Vazquez, City Clerk/Secretary

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## CITY OF STANTON ACCOUNTS PAYABLE REGISTER

July 17, 2020 - July 30, 2020

Electronic Transaction Nos.	1086 - 1099	\$136,366.90
Check Nos.	132531 - 132600	\$359,062.16

TOTAL	<b>\$495,429.06</b>
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**Demands listed on the attached registers  
conform to the City of Stanton Annual  
Budget as approved by the City Council.**

s/ Jarad L. Hildenbrand

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**City Manager**

**Demands listed on the attached  
registers are accurate and funds  
are available for payment thereof.**

s/ Michelle Bannigan

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**Finance Director**

**DRAFT**

MINUTES OF THE CITY COUNCIL / SUCCESSOR AGENCY / HOUSING AUTHORITY  
OF THE CITY OF STANTON  
JOINT REGULAR MEETING JULY 28, 2020

**1. CALL TO ORDER / CLOSED SESSION**

The City Council / Successor Agency / Housing Authority meeting was called to order at 6:00 p.m. by Mayor / Chairman Shawver.

**2. ROLL CALL**

Present: Council/Agency/Authority Member Ramirez, Council/Agency/Authority Member Taylor, Council/Agency/Authority Member Van, Mayor Pro Tem/Vice Chairperson Warren, and Mayor/Chairman Shawver.

Absent: None.

Excused: None.

**3. PUBLIC COMMENT ON CLOSED SESSION ITEMS** None.**4. CLOSED SESSION**

The members of the Stanton City Council/Stanton Housing Authority of the City of Stanton proceeded to closed session at 6:02 p.m. for discussion regarding:

**4A. CONFERENCE WITH COUNSEL - THREAT TO PUBLIC SERVICES OR FACILITIES**

Pursuant to Government Code Section 54957

Consultation with: City Attorney

**4B. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION**

Initiation of litigation pursuant to Government Code Section 54956.9 (d) (4)

Number of Potential Cases: 2

**4C. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)

Number of potential cases: 2

## **DRAFT**

### **5. CALL TO ORDER / SUCCESSOR AGENCY / STANTON HOUSING AUTHORITY MEETING**

The meetings were called to order at 6:33 p.m. by Mayor / Chairman Shawver.

The City Attorney / Agency Counsel reported that the Stanton City Council / Successor Agency / Housing Authority met in closed session from 6:02 to 6:30 p.m.

The City Attorney / Agency Counsel reported that there was no reportable action.

### **6. ROLL CALL**

Present: Council/Agency/Authority Member Ramirez, Council/Agency/Authority Member Taylor, Council/Agency/Authority Member Van, Mayor Pro Tem/Vice Chairperson Warren, and Mayor/Chairman Shawver.

Absent: None.

Excused: None.

### **7. PLEDGE OF ALLEGIANCE**

Led by City Attorney Matthew E. Richardson.

### **8. SPECIAL PRESENTATIONS AND AWARDS**                      None.

### **9. CONSENT CALENDAR**

Motion/Second: Ramirez/Van

ROLL CALL VOTE:	Council/Agency/Authority Member Ramirez	AYE
	Council/Agency/Authority Member Taylor	AYE
	Council/Agency/Authority Member Van	AYE
	Mayor Pro Tem/Vice Chairperson Warren	AYE
	Mayor/Chairman Shawver	AYE

Motion unanimously carried:



# DRAFT

## CONSENT CALENDAR

**9A. MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED**

The City Council/Agency Board/Authority Board waived reading of Ordinances and Resolutions.

**9B. APPROVAL OF WARRANTS**

The City Council approved demand warrants dated June 19 – July 16, 2020, in the amount of \$4,351,816.83.

**9C. APPROVAL OF MINUTES**

1. The City Council approved Minutes of Special Meeting – July 1, 2020; and
2. The City Council approved Minutes of Special Joint Meeting – July 14, 2020; and
3. The City Council/Agency/Authority Board approved Minutes of Regular Joint Meeting – July 14, 2020.

**9D. JUNE 2020 GENERAL FUND REVENUE AND EXPENDITURE REPORT**

The monthly General Fund Revenue and Expenditure Report for the month ended June 30, 2020, has been provided to the City Manager in accordance with Stanton Municipal Code Section 2.20.080 (D) and is being provided to City Council.

1. The City Council finds that this item is not subject to California Environmental Quality Act (“CEQA”) pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Received and filed the General Fund Revenue and Expenditure Report for the month ended June 30, 2020.

# **DRAFT**

## **9E. JUNE 2020 INVESTMENT REPORT**

The Investment Report as of June 30, 2020, has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

1. The City Council finds that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Received and filed the Investment Report for the month of June 2020.

## **9F. JUNE 2020 INVESTMENT REPORT (SUCCESSOR AGENCY)**

The Investment Report as of June 30, 2020, has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

1. The Successor Agency finds that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Received and filed the Investment Report for the month of June 2020.

## **END OF CONSENT CALENDAR**

**10. PUBLIC HEARINGS**                      None.

**11. UNFINISHED BUSINESS**                      None.

# DRAFT

## 12. NEW BUSINESS

### 12A. AGREEMENT FOR CONSULTING SERVICES WITH KTGy FOR THE PREPARATION OF THE 2020 TOWN CENTER SPECIFIC PLAN

On March 31, 2020, the Community Development Department invited qualified firms to submit proposals to assist the City in preparing the 2020 Town Center Specific Plan and CEQA review and documentation. Staff requests the City Council authorize the City Manager to enter into an agreement for consulting services with KTGy in the amount not to exceed \$300,000.

Staff report by Ms. Jennifer Lilley, Community & Economic Development Director.

- Mr. Cesar Covarrubias, The Kennedy Commission, submitted an e-comment, urging the City Council to prioritize meeting its Regional Housing Needs Allocation (RHNA) and address the City's unmet housing needs within the Town Center Specific Plan.

The City Council questioned staff regarding the request for proposal process, max exposure amount, recouped costs, updating the development fee study, future cost savings, timeline for adoption / implementation, City process once adopted, opportunity zone, and supporting current goals.

Motion/Second: Van/Ramirez

ROLL CALL VOTE:	Council Member Ramirez	AYE
	Council Member Taylor	AYE
	Council Member Van	AYE
	Mayor Pro Tem Warren	AYE
	Mayor Shawver	AYE

Motion unanimously carried:

1. The City Council declared the project is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060 (c)(3), the activity, as defined in Section 15378 of the Guidelines, California Code of Regulations, Title 14, Chapter 3, has no potential for resulting in physical change to the environment direction or indirectly; and
2. Approved the contract for KTGy; and
3. Authorized the City Manager to enter into an agreement for consulting services in the amount not to exceed \$300,000 for the preparation of the 2020 Town Center Specific Plan and CEQA review and documentation; and

## **DRAFT**

4. Appropriated \$300,000 from the City's General Fund to cover the Specific Plan work effort, the CEQA review and optional tasks with an offsetting revenue adjustment of \$100,000 for the balance funded through the SB-2 grant.

**13. ORAL COMMUNICATIONS – PUBLIC** None.

**14. WRITTEN COMMUNICATIONS** None.

**15. MAYOR/CHAIRMAN/COUNCIL/AGENCY/AUTHORITY INITIATED BUSINESS**

**15A. COMMITTEE REPORTS/COUNCIL/AGENCY/AUTHORITY ANNOUNCEMENTS**

- Council Member Van reported on her participation in the Census Caravan Event, which was held on July 24, 2020 and encouraged residents to complete the 2020 census.
- Mayor Pro Tem Warren reported on a peaceful demonstration that was held within the City of Stanton on July 25, 2020 and expressed her gratitude to those in attendance and to the Orange County Sheriff's Department.

**15B. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE COUNCIL MEETING**

None.

**15C. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE STUDY SESSION**

None.

**16. ITEMS FROM CITY ATTORNEY/AGENCY COUNSEL/AUTHORITY COUNSEL**

None.

**17. ITEMS FROM CITY MANAGER/EXECUTIVE DIRECTOR**

None.

**17A. ORANGE COUNTY SHERIFF'S DEPARTMENT**

At this time the Orange County Sheriff's Department will provide the City Council with an update on their current operations.

- Lieutenant Nate L. Wilson provided the City Council with an update on their current operations.

## DRAFT

18. **ADJOURNMENT** Motion/Second: Shawver/  
Motion carried at 7:02 p.m.

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MAYOR/CHAIRMAN

ATTEST:

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CITY CLERK/SECRETARY

## CITY OF STANTON

### REPORT TO CITY COUNCIL

**TO:** Honorable Mayor and Members of the City Council

**DATE:** August 11, 2020

**SUBJECT: AWARD OF CONSTRUCTION CONTRACT FOR THE FY 20/21 CITYWIDE SLURRY SEAL PROJECT BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA**

#### **REPORT IN BRIEF:**

The four bids for the FY 20/21 Citywide Slurry Seal Project were opened on July 20, 2020. Based on the post-bid analysis of the bids received, staff recommends the bid submitted by Roy Allan Slurry Seal, Inc. to be the lowest responsible and responsive bid. The construction cost is estimated at \$563,695.92, which includes a contingency.

#### **RECOMMENDED ACTION:**

1. City Council approve the plans and specifications for the FY 20/21 Citywide Slurry Seal Project; and
2. Award a construction contract for FY 20/21 Citywide Slurry Seal Project to the lowest responsible and responsive bidder, Roy Allan Slurry Seal, Inc., for the amount of \$512,450.84; and
3. Authorize the City Manager to bind the City of Stanton and Roy Allan Slurry Seal, Inc. in a contract for the construction of the FY 20/21 Citywide Slurry Seal Project; and
4. Declare this project to be categorically exempt under the California Environmental Quality Act, Class 1, Section 15301c; and
5. Authorize the City Manager to approve contract changes, not to exceed 10-percent.

# Item: 9D

## BACKGROUND:

The area within the project limits has experienced numerous street failures in the past several years. The estimated project cost of \$645,975.92 is as follows:

Base Bid (Roy Allan Slurry Seal, Inc.)	\$	512,450.84
Construction Contingency (10%)	\$	51,245.00
<hr/>		
Total Estimated Project Cost (rounded up to nearest hundred)	\$	563,695.92

## ANALYSIS/JUSTIFICATION:

The project was advertised for bids on June 29, 2020. On July 20, 2020, four (4) proposals were received. The lowest bid was for \$512,450.84.

Notices announcing the solicitation of bids for this project were posted local on F.W. Dodge publication known as the "Green Sheets" and on Bid America. Staff also sent the notice inviting bids to local contracting companies familiar with the City that have bid on similar projects locally.

The bids were publicly opened on July 20, 2020 at 2:00 p.m. Four (4) bids were received:

Rank	Company	Bid
1	Roy Allan Slurry Seal, Inc.	\$ 512,450.84
2	American Asphalt South, Inc.	\$ 530,755.20
3	Pavement Coating Co.	\$ 544,548.00
4	All American Asphalt	\$ 639,352.00

Staff has reviewed the submitted bid documents and found Roy Allan Slurry Seal, Inc. in compliance with the contract documents. A check of the references submitted indicates that the bidder has successfully completed similar projects within Southern California. Upon successful execution of the contract documents, the project is expected to begin construction in October. The contractor will have approximately thirteen (13) weeks to complete the project.

The FY 20/21 Citywide Slurry Seal Project will address the following streets:

- Amy Avenue from Santa Rosalia to End
- Arrowhead Street from Winterwood to City Limit
- Ashdale Street from Cerritos Ave to CDS
- Ashdale Street from Winston Rd to End

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- Auburn Avenue from Lambert Way to Grant Way
- Augusta Wy, Autumn Ln, Bell St, Bock Ave, Carla St
- Catherine Avenue from Beach Blvd to Briarwood St
- Cedar St, College Dr, Courson Dr
- Court Avenue from Acacia to Stanford
- Custer Wy, Date St, Eileen St, Fillmore St
- Flower Street from Pacific Ave to Cerritos Ave
- Garret Rd, Georgian St, Grandoaks Dr, Grant Way
- Hickock St, Iona St, Joel Ave, Laguna Ct, Laurelton Ave
- Lexington Dr from Grandoaks Dr to End
- Lola Avenue from Dale Ave to Magnolia Ave
- Lullaby Ln, Macduff St, Marshall Wy, Napa Wy, Oak St
- Oakheaven St from Grandoaks DR to Cerritos Ave
- Pacific Ave Street from Rose St to Beach Blvd.
- Palais Rd., Rose St, Ruthann Ave, Santa Cruz
- Santa Maria, Santa Paula, Santa Rita, Standustrial St
- Sylvan St, Syracuse Ave, Tina Wy, Via Jardin
- Vinevale St, Wasco Rd, Westchester Rd, Winterwood Ave

## **FISCAL IMPACT:**

This project was budgeted for the FY 20/21 Street Improvement Program. Funds for the project are available in the Measure M Fund account number, the Gas Tax Fund account, and the RMRA account. This project will not have any impact on the General Fund.

## **ENVIRONMENTAL IMPACT:**

This project is categorically exempt under the California Environmental Quality Act, Class 1, and Section 15301c as replacement of existing facilities.

## **LEGAL REVIEW:**

None.

## **PUBLIC NOTIFICATION:**

Notifications and advertisement were performed as prescribed by law.



# Item: 9D

## STRATEGIC PLAN OBJECTIVE ADDRESSED:

3 - Provide a quality infrastructure.

Prepared by:

Concur:

s/ Allan Rigg

s/ Michelle Bannigan

---

Allan Rigg, P.E. AICP  
Public Works Director/City Engineer

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Michelle Bannigan, CPA  
Finance Director

Approved by:

s/ Jarad L. Hildenbrand

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Jarad L. Hildenbrand  
City Manager

## Attachments:

- 1) FY 20/21 Citywide Slurry Seal Project Contract
- 2) Copy of Bid

# Attachment A

## CITY OF STANTON CONTRACT

FY 20/21 Citywide Slurry Seal Project

### I.

This Contract is made and entered into on the 11<sup>th</sup> Day of August, 2020 by and between the City of **Stanton**, a California General Law Municipal Corporation ("City") and Roy Allan Slurry Seal, Inc. ("Contractor"). City and Contractor, based upon their mutual promises contained herein and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows:

The complete Contract includes all of the Contract Documents, to wit:

- A. Advertisement for Bids
- B. Information for Bidders
- C. Bid, dated
- D. Payment Bond
- E. Contract Performance Bond
- F. Certificates of Insurance, Certified Copies of Insurance Policies, and Endorsements
- G. Certified Copy of the record of action of the City Council of City of Stanton, Stanton, California.
- H. Latest Edition, Standard Specifications for Public Works Construction.

Each of such documents in their entirety are incorporated herein by this reference as if set forth in full.

### II. BID AMOUNTS

The Contractor agrees to perform the work set forth and particularly described in the aforementioned documents, incorporated herein by reference, in consideration of the amount of the BASE BID, to wit: \$512,450.84.

### III. BONDS

Contractor shall furnish a Labor and Material Bond in an amount equal to one-hundred percent (100%) of the Contract Price, and a Faithful Performance Bond in an amount equal to one-hundred percent (100%) of the Contract Price, said bonds to be secured from a surety company admitted and authorized to do business in California as such.

# Attachment A

## IV. INDEMNITY

Contractor and City agree that City, its employees, agents and officials should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys fees, litigation costs, defense costs, court costs, or any other cost arising out of or in any way related to the performance of this agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the City. Contractor acknowledges that City would not enter into this agreement in the absence of the commitment of Contractor to indemnify and protect City as set forth here.

To the full extent permitted by law, Contractor shall defend, indemnify and hold harmless City, its employees, agents, and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, or costs of any kind, whether actual, alleged or threaten, actual attorney fees incurred by City, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of or arising out of or in any way attributable actually or impliedly, in whole or in part to the performance of this agreement. All obligations under this provision are to be paid by Contractor as they are incurred by the City.

Without affecting the rights of City under any provision of this agreement or this section, Contractor shall not be required to indemnify and hold harmless City as set forth above for liability attributable to the sole fault of City, provided such sole fault is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the City is shown to have been solely at fault and not in instances where Contractor is solely or partially at fault or in instances where City's fault accounts for only a percentage of the liability involved. In those instances, the obligation of Contractor will be all-inclusive and City will be indemnified for all liability incurred, even though a percentage of the liability is attributable to conduct of the City.

**Contractor acknowledges that its obligation pursuant to this section extends to liability attributable to City, if that liability is less than the sole fault of City.** Contractor has no obligation under this agreement for liability proven in a court of competent jurisdiction or by written agreement between the parties to be the sole fault of City.

The obligations of Contractor under this or any other provision of this agreement will not be limited by the provisions of any workers compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its employees and officials.

# Attachment A

Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor, subtier contractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance or subject matter of this agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section.

Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this agreement or this section.

## V. INSURANCE

The Contractor shall secure and maintain throughout the term of the Contract the following types of insurance with limits as shown:

Workers Compensation - A program of Workers Compensation Insurance or a State-approved self Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with One-Million Dollars (\$1,000,000.00) limits, covering all persons providing services on behalf of the Contractor and all risks to such persons under this Contract.

General Liability - Such general liability insurance shall be written with a limit of liability of not less than Two-Million Dollars (\$2,000,000.00) combined single limits for damages arising out of bodily-injury, including sickness and death, injury to or destruction of property of others, arising directly or indirectly out of or in connection with the performance of the Work under the Contract Documents including explosion, collapse, and underground exposure.

Vehicle Liability - Such vehicle liability insurance shall be written with a limit of liability of not less than One-Million Dollars (\$1,000,000.00) combined single limits for all bodily injury, including sickness and death or injury to or destruction of property of others, arising directly or indirectly out of or in connection with the performance of the Work under the Contract Documents including explosion, collapse, and underground exposure.

If the City determines to require the Contractor to procure such insurance, such insurance shall cover as insureds under all policies excepting workers compensation the City, its officers, employees, and agents. The policy or policies for such insurance may provide for a deductible amount not to exceed five percent (5%) of the Contract Price. As provided in Section 7105 of the California Public Contract Code, the Contractor is

# Attachment A

responsible for the cost of repairing or restoring work up to five percent (5%) of the contract amount.

All insurers shall be admitted and authorized to do business in California as insurance carriers.

Contractor shall immediately furnish certificates of insurance and the Contractor shall provide certified copies of all policies and endorsements to the City evidencing the insurance coverage above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the City, and shall maintain such insurance from the time Contractor commences performances of services hereunder until the completion of such services. Within thirty (30) days of award of the contract, Contractor shall provide City with certified copies of all insurance policies required hereunder.

All policies, with respect to the insurance coverage above required, except for the Workers' Compensation Insurance coverage and liability coverage, if applicable, shall obtain additional endorsements covering the City and its officers, employees, and agents, as insureds with respect to liabilities arising out of the performance of services hereunder.

The Contractor shall require the carriers of the above required coverage's to waive all rights of subrogation against the City, its officers, employees, contractors, agents, and subcontractors.

All policies required above are to be primary and noncontributing with any insurance or self-insurance programs carried or administered by the City.

## VI. CONTRACT PRICE

The City agrees to pay, and the Contractor agrees to accept in full payment for the work outlined, in the Contract Documents, the sum of five hundred twelve thousand and four hundred fifty dollars and eighty-four cents (\$ 512,450.84) subject to additions and deductions, if any, in accordance with said documents. Payment shall not be made more often than once each thirty (30) days, nor shall amount paid be in excess of ninety percent (90%) of the Contract at time of completion. Final payment to be made thirty-five (35) days subsequent to filing of Notice of Completion. Contractor may, upon Contractor's written request, and approved by the City Council, at Contractor's expense, deposit eligible substitute securities, as described in Government Code Section 16430, and as authorized by Public Contract Code, Section 22300, in lieu of retention monies withheld to insure performance.

# Attachment A

## VII. COMMENCEMENT AND COMPLETION OF WORK

The Contractor shall commence the work required by this Contract within ten (10) days of the date specified in the Notice to Proceed and shall complete the Work within **Sixty (60)** working days. City and Contractor have discussed the provisions of Government Code Section 53069.85 and the damages which may be incurred by City if the Work is not completed within the time specified in this Contract. The City and Contractor hereby represent that at the time of signing this Contract, it is impracticable and extremely difficult to fix the actual damage which will be incurred by City if the Work is not completed within the number of calendar days allowed. Accordingly, City and Contractor agree that the sum of One Thousand Dollars (\$1,000.00) per day is a reasonable sum to assess as damages to City by reason of the failure of Contractor to complete the Work within the time specified.

## VIII. MISCELLANEOUS

The Contractor acknowledges that, in accordance with Section 1777.5 of the State Labor Code, he/she will be held responsible for compliance with the provisions of this Section for all apprenticeable occupations.

The Contractor hereby waives for himself/herself and for Contractor's Subcontractors any right Contractor may now or in the future possess in relation to this Contract and these Contract Documents and the work thereunder, to utilize the provisions of Civil Code Section 47(b) in any action, proceeding, or prosecution pursuant to California False Claims Act, Government Code Section 12650 et seq.

### IX.

Contractor acknowledges and agrees that Contractor must have all appropriate contractor's licenses. Contractor further warrants and represents that he/she/they has/have the appropriate contractor's license to perform the work hereunder. Contractor's failure to have or maintain all appropriate licenses during the entire term of this contract, or any period thereof, shall be cause for the immediate and summary termination of this Contract by City. Contractor shall be liable for all City's costs to complete the work and this Contract.

### X.

The person or persons executing this Contract on behalf of Contractor warrants and represents he/she/they has/have the authority to execute this Contract on behalf of his/her/their corporation, partnership, or business entity and warrant and represents that he/she/they has/have the authority to bind Contractor to the performance of its obligations hereunder.

### XI.

This Contract contains the completely final, entire, and exclusive agreement between the parties with respect to the subject matter hereof, and no waiver, alteration, or

# Attachment A

modification of any of the provisions hereof or rights to act hereunder shall be binding unless in writing. Any attempted modification, amendment, or alteration in violation hereof shall be void.

IN WITNESS WHEREOF, each of the parties hereto has caused the Contract to be executed in its name on its behalf by a duly authorized officer as of this day and year first above written.

**CITY OF STANTON:**

**[CONTRACTOR]:**

By: \_\_\_\_\_  
CITY MANAGER

By: \_\_\_\_\_  
(Corporate Officer)

Title: \_\_\_\_\_

**ATTEST:**

Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
CITY CLERK

By: \_\_\_\_\_  
(Corporate Officer)

**APPROVED AS TO FORM:**

Title: \_\_\_\_\_

Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
CITY ATTORNEY

NOTARY REQUIRED

# Attachment A

Bond No. \_\_\_\_\_ Bond Premium \_\_\_\_\_

## PERFORMANCE BOND

**KNOW ALL PERSONS BY THESE PRESENTS** that:

THAT WHEREAS, the City of Stanton (sometimes referred to hereinafter as "Obligee") has awarded Roy Allan Slurry Seal, Inc. (hereinafter designated as the "Contractor"), a Contract for the work described as follows:

The work to be constructed hereunder is located in the **City of Stanton**. The work to be done consists of furnishing all materials, equipment, tools, labor, and incidentals as required by the Plans, Specifications and Contract Documents for the above stated project. The general items of work to be done shall consist of the paving of citywide streets, and other items of work required to complete the scope of work detailed in the plans and specifications complete and in place.

WHEREAS, the work to be performed by the Contractor is more particularly set forth in that certain contract for the said Public Work dated August 11, 2020 (hereinafter referred to as the "Public Work Contract"), which Public Work Contract is incorporated herein by this reference; and

WHEREAS, the Contractor is required by said Public Work Contract to perform the terms thereof and to provide a bond both for the performance and guaranty thereof.

NOW, THEREFORE, we, \_\_\_\_\_, the undersigned Contractor, as Principal, and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the City of Stanton in the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) said sum being not less than one-hundred percent (100%) of the total amount payable by the said obligee under the terms of the said Public Work's Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors, and assigns, jointly and severally, firmly by these presents.



# Attachment A

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the said Principal, his/her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in the said Public Work Contract and any alteration thereof made as therein provided, on his/her or its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill the one-year guarantee of all materials and workmanship; and indemnify and save harmless the Oblige, its officers and agents, as stipulated in said Public Work Contract, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect. In case suit is brought upon this bond, the said Surety will pay to Oblige a reasonable attorneys fee to be fixed by the Court.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Public Work Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligations on this bond and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work or to the Specifications.

No final settlement between the Oblige and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this day \_\_\_\_\_ of \_\_\_\_\_ 20 \_\_\_\_ .

PRINCIPAL:

By: \_\_\_\_\_

SURETY:

By: \_\_\_\_\_  
Attorney-in-Fact

The rate of premium on this bond is \$ \_\_\_\_\_ per thousand.

The total amount of premium charged, \$ \_\_\_\_\_. (The above must be filled in by corporate surety.)

**IMPORTANT:** Surety companies executing Bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in Section 105 of the California Insurance Code, and if the work or project is financed, in whole or in part, with federal grant or loan funds, must also appear on the Treasury Departments most current list (Circular 570 as amended). **THIS IS A REQUIRED FORM.**

# Attachment A

[illegible]

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument as the Attorney-in-Fact \_\_\_\_\_ of the \_\_\_\_\_ (Surety) and acknowledged to me that he/she subscribed the name of the \_\_\_\_\_ (Surety) thereto and his/her own name as Attorney-in-Fact.

Notary Public in and for said State

(SEAL)

Commission expires: \_\_\_\_\_

NOTE: A copy of the power of attorney to local representatives of the bonding company must be attached hereto.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that I am the secretary of the corporation named as Principal to the within bond; that \_\_\_\_\_ who signed the said bond on behalf of the principal was then of said corporation; that I know his/her signature, and his/her signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing bond.

# Attachment A

Signature

(CORPORATE SEAL)

# Attachment A

Bond No. \_\_\_\_\_ Bond Premium \_\_\_\_\_

## **PAYMENT BOND (LABOR AND MATERIALS)**

**KNOW ALL PERSONS BY THESE PRESENTS** that:

THAT WHEREAS, the City of Stanton (referred to hereinafter as "Obligee") has Roy Allan Slurry Seal, Inc. (hereinafter designated as the "Contractor"), a contract dated August 11, 2020, for work described as follows:

The work to be constructed hereunder is located in the **City of Stanton**. The work to be done consists of furnishing all materials, equipment, tools, labor, and incidentals as required by the Plans, Specifications and Contract Documents for the above stated project. The general items of work to be done shall consist of the paving of city streets, and other items of work required to complete the scope of work detailed in the plans and specifications complete and in place.

WHEREAS said Contractor is required to furnish a bond in connection with said Public Works Contract, and pursuant to Section 3247 of the California Civil Code;

NOW, THEREFORE, we, \_\_\_\_\_, the undersigned Contractor, as Principal and, a corporation organized and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the \_\_\_\_\_ to any and all persons, companies or corporations entitled to file stop notices under Section 3181 of the California Civil Code in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), said sum being not less than one-hundred percent (100%) of the total amount payable by the said Obligees under the terms of the said Public Work Contract, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if said Contractor, his/her or its heirs, executors, administrators, successors or assigns, or Subcontractors, shall fail to pay for any materials, provisions, provender or other supplies or teams, implements or machinery used in, upon, for or about the performance of the Public Work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to such work or labor, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of said Contractor and his/her Subcontractors pursuant to Section 18806 of the Revenue and Taxation Code with respect to such work and labor as required by the provisions of Section 3247 through 3252 of the Civil Code, the Surety or Sureties hereon will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, the said Surety or Sureties will pay a reasonable attorneys fee to be fixed by the Court. In addition to the provisions hereinabove, it is agreed that this bond will inure to the benefit of any and all persons, companies and corporations entitled to serve stop notices under Section 3181 of the Code, so as to give a right of action to them or their assigns any suit brought upon this bond.

# Attachment A

The Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Public Work Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work or to the Specifications.

No final settlement between the Obligee and the Contractor hereunder shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

PRINCIPAL:

By: \_\_\_\_\_

SURETY: \_\_\_\_\_

By: \_\_\_\_\_  
Attorney-in-Fact

IMPORTANT: Surety companies executing Bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in Section 105 of the California Insurance Code, and if the work or project is financed, in whole or in part, with federal grant or loan funds, must also appear on the Treasury Department's most current list (Circular 570 as amended). THIS IS A REQUIRED FORM.

# Attachment A

[illegible]

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument as the Attorney-in-Fact of the \_\_\_\_\_ (Surety) and acknowledged to me that he/she subscribed the name of the \_\_\_\_\_ (Surety) thereto and his/her own name as Attorney-in-Fact.

Notary Public in and for said State

(SEAL)

Commission expires: \_\_\_\_\_

NOTE: A copy of the power of attorney to local representatives of the bonding company must be attached hereto.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that I am the secretary of the corporation named as Principal to the within bond; that \_\_\_\_\_ who signed the said bond on behalf of the principal was then \_\_\_\_\_ of said corporation; that I know his/her signature, and his/her signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing bond.

Signature

(CORPORATE SEAL)

# Attachment A

## AGREEMENT TO COMPLY WITH CALIFORNIA LABOR LAW REQUIREMENTS

[Labor Code §§ 1720, 1773.8, 1775, 1776, 1777.5, 1813, 1860, 1861, 3700]

The undersigned Contractor certifies that it is aware of and hereby agrees to fully comply with the following provisions of California law:

1. Contractor acknowledges that this contract is subject to the provisions of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works and the awarding public agency ("Agency") and agrees to be bound by all the provisions thereof as though set forth in full herein.
2. Contractor agrees to comply with the provisions of California Labor Code Section 1773.8 which requires the payment of travel and subsistence payments to each worker needed to execute the work to the extent required by law.
3. Contractor agrees to comply with the provisions of California Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to the Agency, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any public work done under the contract by Contractor or by any subcontractor.
4. Contractor agrees to comply with the provisions of California Labor Code Section 1776 which require Contractor and each subcontractor to (1) keep accurate payroll records, (2) certify and make such payroll records available for inspection as provided by Section 1776, and (3) inform the Agency of the location of the records. The Contractor is responsible for compliance with Section 1776 by itself and all of its subcontractors.
5. Contractor agrees to comply with the provisions of California Labor Code Section 1777.5 concerning the employment of apprentices on public works projects, and further agrees that Contractor is responsible for compliance with Section 1777.5 by itself and all of its subcontractors.
6. Contractor agrees to comply with the provisions of California Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to the Agency, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the California Labor Code.
7. California Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Date \_\_\_\_\_

Signature \_\_\_\_\_

# Attachment A



# Attachment A

## STATEMENT ACKNOWLEDGING PENAL AND CIVIL PENALTIES CONCERNING THE CONTRACTORS' LICENSING LAWS

[Business & Professions Code § 7028.15]

[Public Contract Code § 20103.5]

I, the undersigned, certify that I am aware of the following provisions of California law and that I, or the entity on whose behalf this certification is given, hold a currently valid California contractor's license as set forth below (required at time of award):

Business & Professions Code § 7028.15:

(a) It is a misdemeanor for any person to submit a bid to a public agency in order to engage in the business or act in the capacity of a contractor within this state without having a license therefor, except in any of the following cases:

(1) The person is particularly exempted from this chapter.

(2) The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local agency project governed by Section 20104 [now § 20103.5] of the Public Contract Code.

(b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his or her individual licensure.

(d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their respective practices.

(e) Unless one of the foregoing exceptions applies, a bid submitted to a public agency by a contractor who is not licensed in accordance with this chapter shall be considered non-responsive and shall be rejected by the public agency. Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the bid. Notwithstanding any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such citations shall be subject to Sections 7028.7 to 7028.13, inclusive. Any contract awarded to, or any purchase order issued to, a contractor who is not licensed pursuant to this chapter is void.

(f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public agency during which time that subdivision was in effect.

# Attachment A

(g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing agency made an inquiry to the board for the purposes of verifying the license status of any person or contractor and the board failed to respond to the inquiry within three business days. For purposes of this section, a telephone response by the board shall be deemed sufficient.

Public Contract Code § 20103.5:

In all contracts subject to this part where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the agency that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board. The agency shall include a statement to that effect in the standard form of pre-qualification questionnaire and financial statement.

**Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.**

License no.: \_\_\_\_\_ Class: \_\_\_\_\_ Expiration date: \_\_\_\_\_

Date \_\_\_\_\_ Signature \_\_\_\_\_

# Attachment A

## INSURANCE REQUIREMENTS

The Contractor shall at all times during the terms of the Contract carry, maintain, and keep in full force and effect a policy or policies of comprehensive general liability insurance in which the City, along with its City Council and each member thereof, and every officer, official, agent, attorney, employee or volunteer of the City, is the named insured or is named as an additional insured with the Contractor in accordance with the General Provisions. The insurance company issuing such policy(ies) must be acceptable to, and approved by, the City Engineer and City Attorney. Contractor shall maintain limits of no less than Two Million Dollars (\$2,000,000) combined single limit coverage per occurrence for personal injury or death or property loss or damage which may arise from or relate directly or indirectly to the acts, operations or omissions of the performance of the Contractor and/or its subcontractors and/or the employees, agents, officers, officials or volunteers of either, in the performance of this Public Works Contract. Such insurance shall include coverage of no less than One Million Dollars (\$1,000,000) for all automobiles utilized by Contractor's or any subcontractor's employees or agents in the performance of the Contract. Contractor shall also provide an endorsement in the forms included in Book II.

# Attachment A

## WORKER'S COMPENSATION CERTIFICATE OF INSURANCE

**WHEREAS**, the CITY OF STANTON has required certain insurance to be provided by

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**NOW THEREFORE**, the undersigned insurance company does hereby certify that it has issued the policy or policies described below to the following named insureds and that the same are in force at this time.

1. This certificate is issued to: CITY OF STANTON, City Hall, 7800 Katella Avenue, STANTON, CA 90680-3162.

2. The insureds under such policy or policies are: \_\_\_\_\_

3. Worker's Compensation Policy or Policies in a form approved by the Insurance Commissioner of California covering all operations of the named insureds, as follows:

POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
---------------	----------------	-----------------

_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Said policy or policies shall not be canceled, voided or reduced in coverage or limits of liability, unless and until thirty days' advance written notice thereof has been served upon the City Clerk of the CITY OF STANTON.

By: \_\_\_\_\_  
Its Authorized Representative

# Attachment A

## ADDITIONAL INSURED ENDORSEMENT COMPREHENSIVE GENERAL LIABILITY

---

Name and address of named insured ("Named Insured"):

---

Name and address of Insurance Company ("Company"):

**OFFICIAL TITLE OF PROJECT:** \_\_\_\_\_

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached (the "Policy") or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The City of Stanton, its elected officials, officers, attorneys, agents, employees, and volunteers are additional insureds (the above named additional insureds are hereafter referred to as the "Additional Insureds") under the Policy in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured. The Additional Insureds have no liability for the payment of any premiums or assessments under the Policy.
2. The insurance coverages afforded the Additional Insureds under the Policy shall be primary insurance, and no other insurance maintained by the Additional Insureds shall be called upon to contribute with the insurance coverages provided by the Policy.
3. Each insurance coverage under the Policy shall apply separately to each Additional Insured against whom claim is made or suit is brought except with respect to the limits of the Company's liability.
4. Nothing in this contract of insurance shall be construed to preclude coverage of a claim by one insured under the policy against another insured under the policy. All such claims shall covered as third-party claims, i.e., in the same manner as if separate policies had been issued to each insured. Nothing contained in this provision shall operate to increase or replicate the Company's limits of liability as provided under the policy.
5. The insurance afforded by the Policy for contractual liability insurance (subject to the terms, conditions and exclusions applicable to such insurance) includes liability assumed by the Named Insured under the indemnification and/or hold harmless provision(s) contained in or executed in conjunction with the written agreement(s) or permit(s) designated above, between the Named Insured and the Additional Insureds.
6. The policy to which this endorsement is attached shall not be subject to cancellation, change in coverage, reduction of limits (except as the result of the payment of claims), or non-renewal except after written notice to Public Agency, by certified mail, return receipt requested, not less than thirty (30) days prior to the effective date thereof. In the event of Company's failure to comply with this notice provision, the policy as initially drafted will continue in full force and effect until compliance with this notice requirement.
7. Company hereby waives all rights of subrogation and contribution against the Additional Insureds, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to the perils insured against in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured regardless of any prior, concurrent, or subsequent active or passive negligence by the Additional Insureds.

# Attachment A

8. It is hereby agreed that the laws of the State of California shall apply to and govern the validity, construction, interpretation, and enforcement of this contract of insurance.

9. This endorsement and all notices given hereunder shall be sent to Public Agency at:

Director of Public Works  
City of Stanton  
7800 Katella Avenue  
Stanton CA 90680-3162

10. Except as stated above and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements, or exclusions of the policy to which this endorsement is attached.

TYPE OF COVERAGES TO WHICH THIS ENDORSEMENT ATTACHES	POLICY PERIOD FROM/TO	LIMITS OF LIABILITY
---	--------------------------	------------------------

11. Scheduled items or locations are to be identified on an attached sheet. The following inclusions relate to the above coverages. Includes:

- |  |  |
|--|--|
| <input type="checkbox"/> Contractual Liability         | <input type="checkbox"/> Explosion Hazard            |
| <input type="checkbox"/> Owners/Landlords/Tenants      | <input type="checkbox"/> Collapse Hazard             |
| <input type="checkbox"/> Manufacturers/Contractors     | <input type="checkbox"/> Underground Property Damage |
| <input type="checkbox"/> Products/Completed Operations | <input type="checkbox"/> Pollution Liability         |
| <input type="checkbox"/> Broad Form Property Damage    | <input type="checkbox"/> Liquor Liability            |
| <input type="checkbox"/> Extended Bodily Injury        | <input type="checkbox"/>                             |
| <input type="checkbox"/> Broad Form Comprehensive      | <input type="checkbox"/>                             |
| <input type="checkbox"/> General Liability Endorsement |  |

12. A ☐ deductible or ☐ self-insured retention (check one) of \$ \_\_\_\_\_ applies to all coverage(s) except: \_\_\_\_\_ (if none, so state). The deductible is applicable ☐ per claim or ☐ per occurrence (check one).

13. This is an ☐ occurrence or ☐ claims made policy (check one).

14. This endorsement is effective on \_\_\_\_\_ at 12:01 A.M. and forms a part of Policy Number \_\_\_\_\_.

I, \_\_\_\_\_ (print name), hereby declare under penalty of perjury under the laws of the State of California, that I have the authority to bind the Company to this endorsement and that by my execution hereof, I do so bind the Company.

Executed \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Representative

# Attachment A

**(Original signature only; no facsimile signature or initialed signature accepted)**

Phone No.: (        ) \_\_\_\_\_

## **ADDITIONAL INSURED ENDORSEMENT AUTOMOBILE LIABILITY**

\_\_\_\_\_  
Name and address of named insured ("Named Insured"):

\_\_\_\_\_  
Name and address of Insurance Company ("Company"):

**OFFICIAL TITLE OF PROJECT:** \_\_\_\_\_

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached (the "Policy") or in any endorsement now or hereafter attached thereto, it is agreed as follows: The City of Stanton, its elected officials, officers, attorneys, agents, employees, and volunteers are additional insureds (the above named additional insureds are hereafter referred to as the "Additional Insureds") under the Policy in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured. The Additional Insureds have no liability for the payment of any premiums or assessments under the Policy.

1. The insurance coverages afforded the Additional Insureds under the Policy shall be primary insurance, and no other insurance maintained by the Additional Insureds shall be called upon to contribute with the insurance coverages provided by the Policy.
2. Each insurance coverage under the Policy shall apply separately to each Additional Insured against whom claim is made or suit is brought except with respect to the limits of the Company's liability.
3. Nothing in this contract of insurance shall be construed to preclude coverage of a claim by one insured under the policy against another insured under the policy. All such claims shall be covered as third-party claims, i.e., in the same manner as if separate policies had been issued to each insured. Nothing contained in this provision shall operate to increase or replicate the Company's limits of liability as provided under the policy.
4. The insurance afforded by the Policy for contractual liability insurance (subject to the terms, conditions and exclusions applicable to such insurance) includes liability assumed by the Named Insured under the indemnification and/or hold harmless provision(s) contained or executed in conjunction with the written agreement(s) or permit(s) designated above, between the Named Insured and the Additional Insureds.
5. The policy to which this endorsement is attached shall not be subject to cancellation, change in coverage, reduction of limits (except as the result of the payment of claims), or non-renewal except after written notice to Public Agency, by certified mail, return receipt requested, not less than thirty (30) days prior to the effective date thereto. In the event of Company's failure to comply with this notice provision, the policy as initially drafted will continue in full force and effect until compliance with this notice requirement.
6. Company hereby waives all rights of subrogation and contribution against the Additional Insureds, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to the perils insured against in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured regardless of any prior, concurrent, or subsequent active or passive negligence by the Additional Insureds.

# Attachment A

It is hereby agreed that the laws of the State of California shall apply to and govern the validity, construction, interpretation, and enforcement of this contract of insurance.

This endorsement and all notices given hereunder shall be sent to Public Agency at:

Director of Public Works  
City of Stanton  
7800 Katella Avenue  
Stanton, CA 90680-3162

7. Except as stated above and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements, or exclusions of the policy to which this endorsement is attached.

TYPE OF COVERAGES TO WHICH LIMITS OF THIS ENDORSEMENT ATTACHES LIABILITY	POLICY PERIOD FROM/ TO
---	---------------------------

Scheduled items or locations are to be identified on an attached sheet. The following inclusions relate to the above coverages. Includes:

- |  |  |
|--|--|
| <input type="checkbox"/> Any Automobiles       | <input type="checkbox"/> Truckers Coverage         |
| <input type="checkbox"/> All Owned Automobiles | <input type="checkbox"/> Motor Carrier Act         |
| <input type="checkbox"/> Non-owned Automobiles | <input type="checkbox"/> Bus Regulatory Reform Act |
| <input type="checkbox"/> Hired Automobiles     | <input type="checkbox"/> Public Livery Coverage    |
| <input type="checkbox"/> Scheduled Automobiles | <input type="checkbox"/>                           |
| <input type="checkbox"/> Garage Coverage       | <input type="checkbox"/>                           |

11. A ☐ deductible or ☐ self-insured retention (check one) of \$ \_\_\_\_\_ applies to all coverage(s) except: \_\_\_\_\_  
(if none, so state). The deductible is applicable ☐ per claim or ☐ per occurrence (check one).

12. This is an ☐ occurrence or ☐ claims made policy (check one).

13. This endorsement is effective on \_\_\_\_\_ at 12:01 A.M. and forms a part of Policy Number \_\_\_\_\_.

I, \_\_\_\_\_ (print name),  
hereby declare under penalty of perjury under the laws of the State of California, that I have the authority to bind the Company to this endorsement and that by my execution hereof, I do so bind the Company.

Executed \_\_\_\_\_, 20\_\_\_\_\_

Signature of Authorized Representative



# Attachment A

**(Original signature only; no facsimile signature or initialed signature accepted)**

Phone No.: (       ) \_\_\_\_\_

# Attachment A

## ADDITIONAL INSURED ENDORSEMENT EXCESS LIABILITY

---

Name and address of named insured ("Named Insured"):

---

Name and address of Insurance Company ("Company"):

**OFFICIAL TITLE OF PROJECT:** \_\_\_\_\_

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached (the "Policy") or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The City of Stanton, its elected officials, officers, attorneys, agents, employees, and volunteers are additional insureds (the above named additional insureds are hereafter referred to as the "Additional Insureds") under the Policy in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured. The Additional Insureds have no liability for the payment of any premiums or assessments under the Policy.

2. The insurance coverages afforded the Additional Insureds under the Policy shall be primary insurance, and no other insurance maintained by the Additional Insureds shall be called upon to contribute with the insurance coverages provided by the Policy.

3. Each insurance coverage under the Policy shall apply separately to each Additional Insured against whom claim is made or suit is brought except with respect to the limits of the Company's liability.

4. Nothing in this contract of insurance shall be construed to preclude coverage of a claim by one insured under the policy against another insured under the policy. All such claims shall covered as third-party claims, i.e., in the same manner as if separate policies had been issued to each insured. Nothing contained in this provision shall operate to increase or replicate the Company's limits of liability as provided under the policy.

5. The insurance afforded by the Policy for contractual liability insurance (subject to the terms, conditions and exclusions applicable to such insurance) includes liability assumed by the Named Insured under the indemnification and/or hold harmless provision(s) contained in or executed in conjunction with the written agreement(s) or permit(s) designated above, between the Named Insured and the Additional Insureds.

6. The policy to which this endorsement is attached shall not be subject to cancellation, change in coverage, reduction of limits (except as the result of the payment of claims), or non-renewal except after written notice to Public Agency, by certified mail, return receipt requested, not less than thirty (30) days prior to the effective date thereto. In the event of Company's failure to comply with this notice provision, the policy as initially drafted will continue in full force and effect until compliance with this notice requirement.

7. Company hereby waives all rights of subrogation and contribution against the Additional Insureds, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to the perils insured against in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured regardless of any prior, concurrent, or subsequent active or passive negligence by the Additional Insureds.

# Attachment A

8. It is hereby agreed that the laws of the State of California shall apply to and govern the validity, construction, interpretation, and enforcement of this contract of insurance.

9. This endorsement and all notices given hereunder shall be sent to Public Agency at:

Director of Public Works  
City of Stanton  
7800 Katella Avenue  
Stanton, CA 90680-3162

10. Except as stated above and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements, or exclusions of the policy to which this endorsement is attached.

TYPE OF COVERAGES TO WHICH  
LIMITS OF  
THIS ENDORSEMENT ATTACHES  
LIABILITY

POLICY PERIOD  
FROM/TO

- ☐ Following Form  
☐ Umbrella Liability  
☐

10. Applicable underlying coverages:  
INSURANCE COMPANY  
AMOUNT

POLICY NO.

11. The following inclusions, exclusions, extensions or specific provisions relate to the above coverages:

12. A ☐ deductible or ☐ self-insured retention (check one) of \$ \_\_\_\_\_  
applies to all coverage(s) except: \_\_\_\_\_  
(if none, so state). The deductible is applicable ☐ per claim or ☐ per occurrence (check one).

13. This is an ☐ occurrence or ☐ claims made policy (check one).

14. This endorsement is effective on \_\_\_\_\_ at 12:01 A.M. and forms a part of Policy Number \_\_\_\_\_.

I, \_\_\_\_\_ (print name), hereby declare under penalty of perjury under the laws of the State of California, that I have the authority to bind the Company to this endorsement and that by my execution hereof, I do so bind the Company.

Executed \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Representative

**(Original signature only; no facsimile signature or initialed signature accepted)**

# Attachment A

Phone No.: (        ) \_\_\_\_\_  
**PREVAILING WAGES**

NOTICE IS FURTHER GIVEN that the City Council has obtained the general prevailing rate of per diem wages in accordance with law to be paid for the construction of the above Work and Improvements. The schedule has been obtained from the Director of the Department of Industrial Relations, pursuant to the provisions of Section 1773 of the Labor Code of the State of California, and reference is hereby made to copies thereof on file in the City's Office, which said copies are available to any interested party upon request. Further, a copy shall be posted at each job site during the course of construction. If prevailing wages change within 10 days of the bid opening date, new prevailing wages will be used.

## **WAGE RATES AND LABOR CODE REQUIREMENTS**

### **Apprentices**

Section 1777.5 requires the Contractor or Subcontractor employing tradesmen in any apprenticeable occupation to apply to the Joint Apprenticeship Committee nearest the site of the public works project which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen to be used in the performance of the contract.

The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in any apprenticeship trade and if other contractors on the public works site are making such contributions.

Information relative to apprenticeship standards, contributions, wage schedules and other requirements may be obtained from the State Director of Industrial Relations or from the Division of Apprenticeship Standards.

# Attachment A

## LEGAL RELATIONS AND RESPONSIBILITY

The Contractor shall keep himself/herself fully informed of all existing and future State and Federal laws and all county and city ordinances and regulations which in any manner affect the conduct of the Work, and all of such orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency is discovered in the Contract Documents or the Contract for the Work in relation to any such law, ordinance, regulation, order, or decree, he/she shall forthwith report the same to the Engineer in writing. He/she shall at all times observe and comply with and shall cause all his/her agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall indemnify, protect, defend, and hold harmless the City, the Engineer, and all of their officers, employees, and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by himself/herself or his/her employees, agents, or representatives.

The Contractor's attention is directed to Division 2, Part 7, Chapter 1 of the Labor Code of California and especially to Article 2 (Wages); and Article 3 (Working Hours).

- a. The Director of the Department of Industrial Relations has found and determined the general prevailing rates of wages in the locality in which the public work is to be performed, copies of which are maintained at the City's principal office, and are available to any interested party on request. Contractor shall post a copy of said document at each job site. The Contractor shall forfeit to the City a penalty of twenty-five dollars (\$25.00) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing rate, and shall in addition pay to each worker for each such day the difference between the prevailing rate and the actual wage paid.
- b. In accordance with Sections 1173.1 and 1773.8 of the Labor Code, the Contractor shall pay travel and subsistence payments to each worker needed to execute the Work as such travel and subsistence payments are defined in the applicable collective bargaining assurances filed with the Department of Industrial Relations.
- c. Pursuant to Labor Code Section 1810 et seq., it is stipulated hereby that eight (8) hours labor constitutes a legal day's work hereunder.
- d. Pursuant to Labor Code Section 1813, it is stipulated hereby that the Contractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25.00) for each worker employed in the execution of this Contract by the Contractor or by any Subcontractor hereunder for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, unless such worker receives compensation for all hours worked in excess of eight (8) hours at not less than one and one-half (1 1/2) times the base rate of pay, in violation of the provisions of Article 3 (commencing with Section 1810), Chapter 1, Part 7, Division 2, of the Labor Code.

# Attachment A

- e. The Contractor is aware of and will comply with the provisions of Labor Code Sections 1777.5 and 1777.6, as amended effective January 1, 1977, with respect to the employment of apprentices. Pursuant to Section 1777.5, it is hereby stipulated that the Contractor will be responsible for obtaining compliance therewith on the part of any and all Subcontractors employed by him/her in connection with this Contract.

In accordance with Section 1777.3 of said Labor Code, the City will file with the Department of Industrial Relations, Division of Apprenticeship Standards, on "Extract of Public Works Contract Award" upon issuing the Notice of Award in the form appended hereto and made a part hereof as page 1-9.3.

- f. Attention is directed to the provisions in Section 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any Subcontractor under him/her.

The Contractor and any Subcontractor under him/her shall comply with the requirements of Section 1777.5 and 1777.6 of the Labor Code in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch office .

Willful violations of Section 1777.5 will result in a forfeiture of fifty dollars (\$50.00) for each calendar day of noncompliance which shall be withheld from progress payments by City upon notice from the Department of Industrial Relations. (Labor Code 1777.7).

# Attachment A

## WAGE RATES AND LABOR CODE REQUIREMENTS

### **Wage Rates:**

This is a Federally assisted project and Davis-Bacon will be enforced. Federal and State wage rates are applicable to both the prime Contractor and subcontractors. The higher wage rate between the Federal and State wage determinations will be enforced. The Federal Labor Standards Provisions (Form HUD-4010) and the Federal Wage Determination are incorporated into these Provisions. They are considered a physical part of the Contract Agreement and full compliance will be enforced. The same Federal language and wage determinations will be included in an Agreement resulting for the original Agreement.

### **Apprentices**

Section 1777.5 requires the Contractor or Subcontractor employing tradesmen in any apprenticeable occupation to apply to the Joint Apprenticeship Committee nearest the site of the public works project which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen to be used in the performance of the contract.

The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in any apprenticeship trade and if other contractors on the public works site are making such contributions.

Information relative to apprenticeship standards, contributions, wage schedules and other requirements may be obtained from the State Director of Industrial Relations or from the Division of Apprenticeship Standards.

CITY OF STANTON  
PUBLIC WORKS DEPARTMENT



ADDENDUM NO. 1

FY 20/21 Citywide Slurry Seal Project

DATE: July 9, 2020

BY: \_\_\_\_\_

A handwritten signature in black ink, appearing to be "A. L. [unclear]", written over a horizontal line.

Public Works Director/City Engineer

TO: ALL PLAN HOLDERS

1. Notice Inviting Bids:

This Addendum is issued to update the bidding process and how to submit a bid for Monday, **July 20<sup>th</sup>, 2020 at 2:00 p.m.** Bids must be submitted by a scheduled drop-off time. Please call our Public Works Department at (714-890-4204). Bids will be opened through a Zoom meeting.

- City of Stanton is inviting you to a scheduled Zoom meeting.  
Topic: Bid Opening: FY 20/21 Citywide Slurry Seal Project  
Time: July 20, 2020 02:00 PM Pacific Time (US and Canada)  
Join Zoom Bid Opening Via Phone:  
+1 (669) 900-9128  
Meeting ID: 841 9406 1209

END



**ADDENDUM No. 1**

Bidders must sign this Addendum No. 1 and submit with bid. No bid will be considered unless this signed Addendum No. 1 is attached.

I have carefully examined this Addendum  
and have included full payment in my  
Proposal.

Ray Allan Slurry Seal Inc  
Bidder's Name (Please Print)

7/20/20  
Date

James — President  
Authorized Signature & Title

# BID PROPOSAL

Bidders Name Roy Allan Slaney Seal, Inc.

## TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF STANTON:

The undersigned, as bidder, declares that: (1)-this proposal is made without collusion with any other person, firm or corporation, and that the only persons or parties interested as principals are those named herein as sworn in the attached Non-Collusion Affidavit; (2)-bidder has carefully examined the project Plans, Specifications, Instructions To Bidders, Proposal, Notice Inviting Sealed Bids and all other contract documents and information furnished therefore and the site of the proposed work; and (3)-bidder has investigated and is satisfied as to the conditions to be encountered, the character, quality and quantities of work to be performed and materials to be furnished. Furthermore, bidder agrees that submission of this proposal shall be conclusive evidence that such examination and investigation have been made and agrees, in the event this contract be awarded to bidder, to enter into a contract with the City Council of the CITY OF STANTON, to perform said proposed work in accordance with the Plans, if any, and the terms of the Specifications, in the time and manner therein prescribed, and to furnish or provide all materials, labor, tools, equipment, apparatus and other means necessary so to do, except such thereof as may otherwise be furnished or provided under the terms of said Specifications, for the following stated unit prices or lump sum price as submitted on the Bid Sheet herein.

The bidder shall submit as part of this proposal a completed copy of the Contractor's Industrial Safety Record. This Safety Record must include all construction work undertaken in the State of California by the bidder and any partnership, joint venture or corporation that any principal of the bidder participated in as a principal or owner for the last five calendar years and the current calendar year prior to the date of bid submittal. Separate information shall be submitted for each such partnership, joint venture, or corporate or individual bidder. The bidder may attach any additional information or explanation of data which he would like to be taken into consideration in evaluating the safety record. An explanation of the circumstances surrounding any and all fatalities must be attached.

Accompanying this proposal is ~~Bidder's Bond~~ Insert "cash", "a Cashier's Check", "a certified check", or "a Bidder's Bond in the form furnished by the City", as the case may be) in the amount of \$ 10,000.00, an amount equal to at least ten percent (10%) of the total aggregate bid price based on the quantities shown and the unit prices quoted. The undersigned bidder agrees that should bidder be awarded the Contract on the basis hereof and thereafter fail or refuse to enter into a Contract and provide the required evidence of insurance and bonds within fourteen (14) calendar days after written notice of the award, the cash, check or bond shall be forfeited to the city in accordance with Public Contract Code section -20172, except as otherwise provided in Public Contract Code section -20174. The undersigned agrees that in the event of such failure, the actual amount of damages to the City would be impractical and extremely difficult to determine.

In compliance with the Notice Inviting Sealed Bids, the undersigned hereby agrees to enter into a contract to furnish all labor, materials and supplies for this project in accordance with the Specifications, Plans other Contract Documents which are on file in the office of the City Engineer of the CITY OF STANTON, to the satisfaction and under the direction of the Director of Public Works, at the following prices:

# **BID SHEET** **2020 CITYWIDE SLURRY SEAL PROJECT**

**BIDDERS NAME:** Roy Allen Slurry Seal, Inc  
PRINT or Type

## **BID SCHEDULE A** **2020 CITYWIDE SLURRY SEAL PROJECT**

Item	DESCRIPTION	QUANTITY	UNIT OR	BID PRICE (Numbers)	ITEM COST (Numbers)
A-1	Project Mobilization, Demobilization, and Cleanup (Not to Exceed 5% of Construction Costs)	1	LS	\$25,000.00	\$25,000.00
A-2	Surveying & Monument Preservation	1	LS	\$3,900.00	\$3,900.00
A-3	Traffic Control & Noticing	1	LS	\$31,400.00	\$31,400.00
A-4	Weed Abate & Crack Seal	1	LS	\$54,600.00	\$54,600.00
A-5	Apply Type II RAP Slurry Seal with 3% Latex	1,352	ELT	\$204.62	\$276,713.84
A-6	Locate Distressed Areas, Sawcut and Remove 6" of Existing Pavement/Base and Construct New 6" Deep Lift AC Pavement	15,200	SF	\$6.55	\$99,560.00
A-7	Traffic Signing, Striping, Markings and Legends	1	LS	\$21,277.00	\$21,277.00

**Total Base Bid Schedule A in NUMBERS:**

\$512,450.84

**Total Base Bid Schedule A in WORDS:**

Five hundred twelve thousand four hundred fifty and eighty four Cents Dollars

**ADDITIVE ALTERNATE BID SCHEDULE B**  
**2020 CITYWIDE SLURRY SEAL PROJECT**

#	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
			(Qty)	(Numbers)	(Numbers)
B-1	Additional Locate Distressed Areas, Sawcut and Remove 6" of Existing Pavement/Base and Construct New 6" Deep Lift AC Pavement	10,000	SF	\$7.48	\$74,800.00

**Total Alt. Bid Schedule B in NUMBERS:**

\$ 74,800.00

**Total Alt. Bid Schedule B in WORDS:**

Seventy four thousand eight hundred Dollars  
 and 200 Cents

**Total Base Bid Schedule A + Alternate Bid Schedule B in NUMBERS:**

\$ 587,250.84

**Total Base Bid Schedule A + Alternate Bid Schedule B in WORDS:**

Five hundred eighty seven thousand two hundred fifty Dollars  
 and eighty four Cents

NOTE. The City reserves the right to award a contract in parts or in its entirety or for various alternates and reserves the right to reject all bids and re-advertise, as appears to be in its best interests of the City. A bid is required for this entire work, the estimated quantities set forth in this Bid Sheet being solely for the purpose of comparing bids, and final compensation under the Contract will be based upon the actual quantities of work satisfactorily completed. The unit and/or lump sum prices bid shall include all appurtenant expenses, taxes, royalties, and fees. In the case of discrepancies in the amounts bid, unit prices shall govern over extended amounts, and words shall govern over figures. The City reserves the right to increase or decrease the amount of any quantity shown and to delete any item from the Contract.

The undersigned bidder agrees that, if awarded the Contract, bidder will complete all work according to the contract documents.

The undersigned bidder is licensed in accordance with the requirements of the Business and Professions Code, California Contractor's License No. - 372798, Class A (REQUIRED AT TIME OF AWARD).

Legal Business Name of Bidder	<u>Roy Allan Sherry Seal Inc.</u>
Business Address	<u>1922 Bleanfield Ave, Santa Fe Springs Ca. 90670</u>
Business Tel. No.	<u>562-864-3363</u>

<u>[Signature]</u>	<u>7/20/20</u>	<u>President</u>
Signature	Date	Title

Signature	Date	Title
-----------	------	-------

Signature	Date	Title
-----------	------	-------

If bidder is an individual, name and signature of individual must be provided, and, if he is doing business under a fictitious name, the fictitious name must be set forth. If bidder is a partnership or joint venture, legal name of partnership/joint venture must be provided, followed by signatures of all of the partners/joint ventures or of fewer than all of the partners/joint ventures if submitted with evidence of authority to act on behalf of the partnership/joint venture. If bidder is a corporation, legal name of corporation must be provided, followed by signatures of the corporation President or Vice President and Secretary or Assistant Secretary, and the corporate seal. Signatures of partners, joint ventures, or corporation officers must be acknowledged before a Notary Public, who must certify that such partners, joint ventures, or officers are known to him or her to be such, and, in the case of a corporation, that such corporation executed the instrument pursuant to its bylaws or a resolution of its Board of Directors.

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Orange

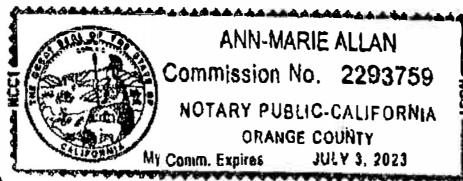
On July 20, 2020 before me, Ann-Marie Allan, Notary Public  
(insert name and title of the officer)

personally appeared Lawrence Allan  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within Instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Ann Marie Allan (Seal)



## INFORMATION REQUIRED OF BIDDER

Bidder certifies under penalty of perjury under the laws of the State of California that the following information is true and correct:

Name of individual Contractor, Company or Corporation:

Business Address: 11922 Bloomfield Ave Santa Fe Springs, Ca. 90670  
Telephone and Fax Number: 562-864-3363 Fax 562-864-6612

California State Contractor's License No. and Class: 372798 A  
(REQUIRED AT TIME OF AWARD)

Original Date Issued: \_\_\_\_\_ Expiration Date: 4/30/21

List the name and title/position of the person(s) who inspected for your firm the site of the work proposed in these contract documents:

Lawrence Allan

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint ventures, and company or corporate officers having a principal interest in this proposal:

Name	Title	Address	Telephone
<u>Lawrence Allan</u>	<u>President, Vice President, &amp; Secretary</u>	<u>562-864-3363</u>	

Corporation organized under the laws of the State of California

The dates of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this proposal are as follows:

None

All current and prior D.B.A.'s, aliases, and fictitious business names for any principal having interest in this proposal are as follows:

None

For all arbitrations, lawsuits, settlements or the like (in or out of court) you have been involved in with project owners (public agencies, private companies, etc...) in the past five years (Attach additional Sheets if necessary) provide:

Provide the names, addresses and telephone numbers of the parties;

None

Briefly summarize the parties' claims and defenses;

State the tribunal (i.e., Superior Court, American Arbitration Association, etc.) the matter number and outcome.

Have you ever had a contract terminated by the owner/agency? If so, explain.

No

Have you ever failed to complete a project? If so, explain.

No

Have you ever been terminated for cause and then had it converted to a "termination of convenience"? If so, explain.

No

For any projects you have been involved with in the last 5 years did you have any claims or actions:

Circle One

1. By you against the owner?  
Yes / No
2. By the owner against you?  
Yes / No
3. By any outside agency or individual for labor compliance (i.e. failure to pay prevailing wage, falsifying certified payrolls, etc.)  
Yes / No
4. By Subcontractors (Stop Notices, etc.)  
Yes / No



5. Are any claims or actions unresolved or outstanding? Yes (No)

If yes to any of the above, explain. (Attach additional sheets, if necessary)

\_\_\_\_\_

\_\_\_\_\_

Failure of the bidder to provide ALL requested information in a complete and accurate manner may be considered non-responsive.

Subscribed and sworn to before me By

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Republic)

(SEAL)

\* See attached  
Jurat notary

(print name of Owner or  
President of Corporation/Company)

Lawrence Allan

(Signature)

President

(Title)

(Date)

Lawrence Allan

7/20/20

(Signature of Secretary of Corporation)

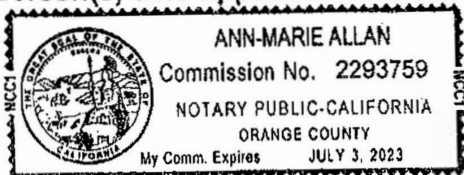
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State of California

County of Orange

Subscribed and sworn to (or affirmed) before me on this 20<sup>th</sup>  
day of July, 2020, by Lawrence Allan

proved to me on the basis of satisfactory evidence to be the  
person(s) who appeared before me.



(Seal)

Signature Ann Marie Allan

## REFERENCES

(Contractor must use this form!!! Please print or type).

Bidders Name Bay Area Slurry Seal Inc.

**FAILURE OF THE BIDDER TO PROVIDE ALL REQUIRED INFORMATION IN A COMPLETE AND ACCURATE MANNER MAY BE CONSIDERED NON-RESPONSIVE.**

For all public agency projects you have worked on (or are currently working on) in the past 2 years in excess of \$15,000, provide the following information:

1  
Project Name/Number Slurry Seal #4 2019-20  
Project Description Crack Seal, Slurry Seal, Chip Seal & Striping  
Approximate Construction Dates From to 4/20/20  
Agency Name County of Riverside  
Contact Person Tim Barnhouse Telephone (esp) 850-6061  
Original Contract Amount \$ 3031,600.00 Final Contract Amount \$ \_\_\_\_\_  
If final amount is different from original, please explain (change orders, extra work, etc.)  
\_\_\_\_\_  
\_\_\_\_\_

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

No

2  
Project Name/Number ~~20-01~~ 20-01 Arteria Road Repurfacing  
Project Description Slurry Seal  
Approximate Construction Dates From 4/13/20 to 4/27/20  
Agency Name City of Menifee  
Contact Person Don Sharpe Telephone 858-829-7538  
Original Contract Amount \$ 963,497.00 Final Contract Amount \$ 985,871.00

If final amount is different from original, please explain (change orders, extra work, etc.)

Added paving ..

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

No

3

Project Name/Number Wasco Airport

Project Description Shurry Seal, Crack Seal & Striping

Approximate Construction Dates From 5/1/20 to 5/4/20

Agency Name Kern County

Contact Person Alex Bedolla Telephone ( ) (661) 421-0063

Original Contract Amount \$ 199,626.00 Final Contract Amount \$ 198,927.00

If final amount is different from original, please explain (change orders, extra work, etc.)

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

No

4

Project Name/Number Sky Valley Shurry Seal

Project Description Shurry Seal, Crack Seal, & Striping

Approximate Construction Dates From 2/24/20 to 2/28/20

Agency Name County of Riverside

Contact Person David Alvarez Telephone ( ) (951) 955-3313

Original Contract Amount \$ 137,046.00 Final Contract Amount \$ 137,046.00

If final amount is different from original, please explain (change orders, extra work, etc.)

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

No

5

Project Name/Number FY 19-20 Crack Seal

Project Description Crack Sealing

Approximate Construction Dates From 2/10/20 to 3/4/20

Agency Name City of Visalia

Contact Person Chartha Chap Telephone ( ) (559) 713-4418

Original Contract Amount \$ 229,000.00 Final Contract Amount \$ 229,000.00

If final amount is different from original, please explain (change orders, extra work, etc.)

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

No

6

Project Name/Number Slurry Seal, Striping, and Signing

Project Description Slurry Seal, Crack Seal & Striping

Approximate Construction Dates From 11/4/19 to 12/13/19

Agency Name City of Visalia

Contact Person Wari Wolfe Telephone ( ) (714) 402-9645

Original Contract Amount \$ 235,779.00 Final Contract Amount \$ 235,779.00

If final amount is different from original, please explain (change orders, extra work, etc.)

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

No

Attach additional sheets if necessary.

Upon request, the Contractor may be required to attach a financial statement and other information sufficiently comprehensive to permit an appraisal of the Contractor's current financial conditions.

**Attach to this Bid the experience resume of the person who will be designated as General Construction Superintendent or on-site Construction Manager for the Contractor.**

## DESIGNATION OF SURETIES

Bidders name Ray Allen Shumy Seal, Inc.

Provide the names, addresses, and phone numbers for all brokers and sureties from whom Bidder intends to procure insurance and bonds (list by insurance/bond type):

1. Coats Surety Services  
23046 Avd. de la Carlota Suite 600, Laguna Hills, Ca. 92653  
949-457-1060
2. C.R.I.C.  
111 Pacifica, Ste 350, Irvine, Ca. 92618  
949-341-9115
3. Patriot Risk & Insurance Services  
2415 Campus Dr. Suite 200 Irvine, Ca. 92612  
949-486-7900

## ACKNOWLEDGEMENT OF ADDENDA

Bidders name Ray Allen Shroy Seal Inc

The bidder shall signify receipt of all Addenda here, if any:

[illegible]



# CONTRACTOR'S INDUSTRIAL SAFETY RECORD

Bidders Name Ray Allen Sherry Seal Inc.

Record Last Five (5) Full Years  
Current Year of Record

	Current Year of Record	2019	2018	2017	2016	2015	Total	Year
No. of contracts	10	35	65	53	45	88	296	
Total dollar Amount of Contracts (in Thousands of \$)	5,144	2,788	11,666	7,449	7,364	9,225	50,836	
No. of fatalities	0	0	0	0	0	0	0	<del>X</del>
No. of lost Workday Cases	0	2	1	0	<del>2</del>	0	5	<del>X</del>
No. of lost workday cases involving permanent transfer to another job or termination of employment	0	0	0	0	1	0	1	X

The information required for these items is the same as required for columns 3 to 6, Code 10, Occupational Injuries, Summary--Occupational Injuries and Illnesses, OSHA No. 102.

Legal Business Name of Bidder

Business Address:

Business Tel. No.:

State Contractor's License No. and Classification:

Title

Ray Allen Sherry Seal Inc.  
11922 Bloomfield Ave, S.F.S. Ca. 90670  
561-864-9913  
372298 A  
President

The above information was compiled from the records that are available to me at this time and I declare under penalty of perjury that the information is true and accurate within the limitations of those records.

Signature of bidder *[Signature]*  
 Date 7/20/20  
 Title President  
 Signature of bidder \_\_\_\_\_  
 Date \_\_\_\_\_  
 Title \_\_\_\_\_  
 Signature of bidder \_\_\_\_\_  
 Date \_\_\_\_\_  
 Title \_\_\_\_\_  
 Signature of bidder \_\_\_\_\_  
 Date \_\_\_\_\_  
 Title \_\_\_\_\_

If bidder is an individual, name and signature of individual must be provided, and, if he is doing business under a fictitious name, the fictitious name must be set forth. If bidder is a partnership or joint venture, legal name of partnership/joint venture must be provided, followed by signatures of all of the partners/joint ventures or of fewer than all of the partners/joint ventures if submitted with evidence of authority to act on behalf of the partnership/joint venture. If bidder is a corporation, legal name of corporation must be provided, followed by notarized signatures of the corporation President or Vice President or President and Secretary or Assistant Secretary, and the corporate seal. Signatures of partners, joint ventures, or corporation officers must be acknowledged before a Notary Public, who must certify that such partners/joint ventures, or officers are known to him or her to be such, and, in the case of a corporation, that such corporation executed the instrument pursuant to its bylaws or a resolution of its Board of Directors.

## ACKNOWLEDGMENT

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State of California  
County of Orange

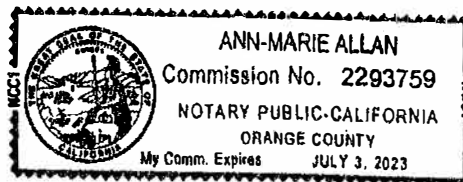
On July 20, 2020 before me, Ann-Marie Allan, Notary Public  
(insert name and title of the officer)

personally appeared Lawrence Allan  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Ann Marie Allan (Seal)



**NON-COLLUSION AFFIDAVIT**  
( TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID )

State of California )SS.

County of Orange )

Lawrence Allen, being first duly sworn, deposes and says that he or she is President of Ray Allen Sherry Seal Inc. the party making the foregoing bid, in accordance with Public Contracts Code Section 7106, declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Project Name: 2020 Citywide Sherry Seal Project

Legal Business Name of Bidder Ray Allen Sherry Seal Inc.

Business Address 11922 Bloomfield Ave S.F.S. Ca. 90670

Business Tel. No. 562-864-3363

Signature of bidder Lawrence

Title President

Date:

Signature of bidder

Title

Date:

Subscribed and Sworn to before me on

(Notary Seal)

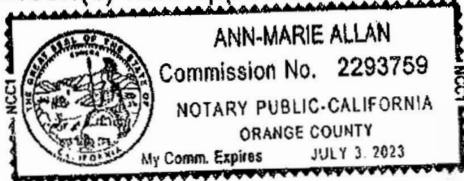
Signature \_\_\_\_\_  
Notary Public

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State of California  
County of Orange

Subscribed and sworn to (or affirmed) before me on this 20<sup>th</sup>  
day of July, 20 20, by Lawrence Allan

proved to me on the basis of satisfactory evidence to be the  
person(s) who appeared before me.



(Seal)

Signature Ann Marie Allan

## LIST OF SUBCONTRACTORS TO ACCOMPANY PROPOSAL

In compliance with the provisions of Public Contract Code Section-4104, the undersigned bidder submitting this bid proposal sets forth the name, place of business and the portion of the work to be performed by: (1)-each subcontractor who will perform work or labor or render service to the bidder (as general contractor) in or about the construction of the work or improvement; and (2)-each subcontractor licensed by the State of California who, under subcontract to the bidder, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent of the bidder's total bid or, in the case of bids or offers for the construction of streets, highways or bridges, in excess of one-half of one percent of the bidder's total bid.

Subcontractor's Name, Address, Telephone #	Bid Item Number	Percent Of Total Bid	Description of Work	Percent of Total Bid
Chrisp Company 2280 S. Hilac Ave Bloomington 92816 909-746-0356	A-7	3%	stripping & Marking	3%
Pavement Rehab Company (ON) 238-1444 1181 Princess Ct. Costa Mesa, Ca. 92626	A-6 B-1	30%	AC Repair	30%

Bond No. Bid Bond Bond Premium N/A

## **BID BOND TO ACCOMPANY PROPOSAL**

**KNOW ALL PERSONS BY THESE PRESENTS that:**

**WHEREAS** the City of Stanton, has issued an invitation for bids for the work described as follows:  
2020 Citywide Slurry Seal Project

**WHEREAS** Roy Allan Slurry Seal, Inc. - 11922 Bloomfield Ave., Santa Fe Springs, CA 90670

(Name and address of Bidder)

("Principal"), desires to submit a bid to Public Agency for the work.

**WHEREAS**, bidders are required under the provisions of the California Public Contract Code to furnish a form of bidder's security with their bid.

**NOW, THEREFORE**, we, the undersigned Principal, and  
Contractors Bonding and Insurance Company - 111 Pacifica, Suite 350, Irvine, CA 92618

(Name and address of Surety)

("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the Public Agency in the penal sum of Ten percent of the total amount of the bid

Dollars (\$ 10%), being not less than ten percent (10%) of the total bid price, in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH THAT**, if the hereby bounded Principal is awarded a contract for the work by the Public Agency and, within the time and in the manner required by the bidding specifications, enters into the written form of contract included with bidding specifications, furnishes the required bonds, one to guarantee faithful performance and the other to guarantee payment for labor and materials, and furnishes the required insurance coverage, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

In case suit is brought upon this bond, Surety further agrees to pay all court costs incurred by the Public Agency in the suit and reasonable attorneys' fees in an amount fixed by the court. Surety hereby waives the provisions of California Civil Code § 2845.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each corporate party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: July 16, 2020

"Principal"

Roy Allan Slurry Seal, Inc.

"Surety"

Contractors Bonding and Insurance Company

By: [Signature] By: \_\_\_\_\_  
Its President  
By: \_\_\_\_\_  
Its \_\_\_\_\_

[Signature]  
Its Attorney-in-Fact, Linda D. Coats  
By: \_\_\_\_\_  
Its \_\_\_\_\_

(Seal)

(Seal)

Note: This bond must be dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached.



## ACKNOWLEDGMENT

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State of California  
County of Orange )

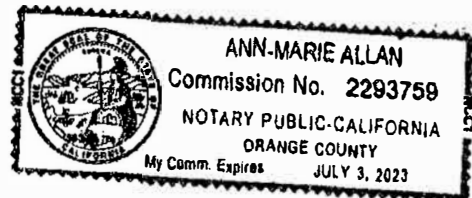
On July 20, 2020 before me, Ann-Marie Allan, Notary Public  
(insert name and title of the officer)

personally appeared Lawrence Allan  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Ann Marie Allan (Seal)



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

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State of California )

County of Orange )

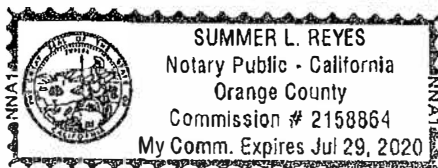
On July 16, 2020 before me, Summer L. Reyes, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Linda D. Coats  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

# POWER OF ATTORNEY

## RLI Insurance Company Contractors Bonding and Insurance Company

9025 N. Lindbergh Dr. Peoria, IL 61615  
Phone: 800-645-2402

Know All Men by These Presents:

That this Power of Attorney is not valid or in effect unless attached to the bond which it authorizes executed, but may be detached by the approving officer if desired.

That RLI Insurance Company and/or Contractors Bonding and Insurance Company, each an Illinois corporation, (separately and together, the "Company") do hereby make, constitute and appoint:

Linda D. Coats, Matthew J. Coats, Summer Reyes, jointly or severally

in the City of Laguna Niguel, State of California, its true and lawful Agent(s) and Attorney(s) in Fact, with full power and authority hereby conferred, to sign, execute, acknowledge and deliver for and on its behalf as Surety, in general, any and all bonds and undertakings in an amount not to exceed Twenty Five Million Dollars (\$25,000,000.00) for any single obligation.

The acknowledgment and execution of such bond by the said Attorney in Fact shall be as binding upon the Company as if such bond had been executed and acknowledged by the regularly elected officers of the Company.

RLI Insurance Company and/or Contractors Bonding and Insurance Company, as applicable, have each further certified that the following is a true and exact copy of a Resolution adopted by the Board of Directors of each such corporation, and is now in force, to-wit:

"All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

IN WITNESS WHEREOF, the RLI Insurance Company and/or Contractors Bonding and Insurance Company, as applicable, have caused these presents to be executed by its respective Vice President with its corporate seal affixed this 20th day of May, 2020.



RLI Insurance Company  
Contractors Bonding and Insurance Company

By:

Barton W. Davis

Vice President

State of Illinois

County of Peoria

} SS

On this 20th day of May, 2020, before me, a Notary Public, personally appeared Barton W. Davis, who being by me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of the RLI Insurance Company and/or Contractors Bonding and Insurance Company and acknowledged said instrument to be the voluntary act and deed of said corporation.

By:

Catherine D. Glover

Notary Public



### CERTIFICATE

I, the undersigned officer of RLI Insurance Company and/or Contractors Bonding and Insurance Company, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable; and furthermore, that the Resolution of the Company as set forth in the Power of Attorney, is now in force. In testimony whereof, I have hereunto set my hand and the seal of the RLI Insurance Company and/or Contractors Bonding and Insurance Company this 16th day of July, 2020.

RLI Insurance Company  
Contractors Bonding and Insurance Company

By:

Jeffrey D. Fick

Corporate Secretary

Re: Experience Resume

To Whom It May Concern:

Jerry Heredia, General Construction Manager, has been employed with Roy Allan Slurry Seal, Inc. for 15 years. He is very skilled in each position of a slurry seal crew as well as running a slurry seal operation. Along with Jerry's experience we have two field Forman and well-trained personnel for the slurry seal placement.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lawrence Allan", with a long horizontal flourish extending to the right.

Lawrence Allan  
Roy Allan Slurry Seal, Inc.

SPECIAL RESOLUTION OF  
THE SHAREHOLDERS OF  
ROY ALLAN SLURRY SEAL, INC.

This is a special resolution unanimously approved by all of the shareholders holding shares in ROY ALLAN SLURRY SEAL, INC. This resolution was approved at the meeting of the shareholders held on April 29<sup>th</sup>, 2018 at 11922 Bloomfield Ave, Santa Fe Springs, California 90670. Roy Allan and Gay D. Allan, being the only shareholders of the corporation, were in attendance and unanimously approved the following resolution:

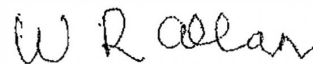
WHEREAS it is deemed to be in the best interest of this corporation to provide for continuity of activity and for the convenience of the officers of this corporation, to provide authority so that either the President or the Vice President of this corporation shall have authority to sign documents separately, and thereby bind the corporation.

IT IS THEREFORE RESOLVED that either the President or the Vice President of ROY ALLAN SLURRY SEAL, INC., shall hereafter have the authority, when acting alone, to bind this corporation to the terms of any document to which the President or Vice President shall affix his signature. The individual presently acting in the capacity of President, Vice President, and Secretary is WYATT LAWRENCE ALLAN.

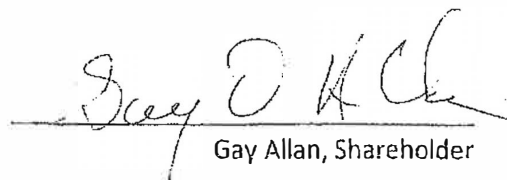
It is respectfully requested by the shareholders of this corporation, that any part with whom this corporation has dealings, will recognize this resolution and accept the signature of either the President or the Vice President of this corporation, acting alone, on any document intended to bind this corporation legally.

By their signatures hereto, the shareholders of this corporation hereby waive notice of the above-described meeting and consent to the resolution set forth above.

Dated April 29th, 2018



Roy Allan, Shareholder



Gay Allan, Shareholder

# CITY OF STANTON

## REPORT TO THE CITY COUNCIL

**TO:** Honorable Mayor and Members of the City Council

**DATE:** August 11, 2020

**SUBJECT: BIENNIAL REVIEW THE CITY'S CONFLICT OF INTEREST CODE**

### **REPORT IN BRIEF:**

The proposed action is pursuant to the requirements set forth in section 87306.5 of the Political Reform Act and placed upon the City Council as the City's code-reviewing body.

### **RECOMMENDED ACTION:**

1. It is recommended that the City Council direct the review of the City's Conflict of Interest Code and the filing of a Biennial Notice with the City Clerk regarding such review, as required by the Political Reform Act; and
2. Find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment).

### **BACKGROUND:**

The Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), requires all public agencies to adopt and maintain a conflict of interest code. The primary effect of the code is to establish disclosure requirements for various government positions involved in the requisite level of decision-making as set forth in the Act. The Act requires each city to adopt a local conflict of interest code designating city positions not otherwise designated in the Act itself, that are involved in making or participating in the making of city decisions at all levels of city government

The Act further requires that agencies, including cities, regularly review and update their codes as necessary as directed by their code-reviewing bodies or when change is necessitated by changed circumstances. (Gov. Code §§ 87306, 87306.5.)

The Act provides that each even-numbered year, code-reviewing bodies shall direct the review of all agency codes under their jurisdiction and requires that the agency head, no later than October 1, shall file a statement regarding the results of that review. The City Council is the code-reviewing body for the City's Code and it must direct the biennial review of the City's Conflict of Interest Code ("Code"). (Gov. Code § 82011(c), 87306.5)

The Act also requires that the City Manager file a statement regarding the results of the review no later than October 1 of the same year. If a change in the Code is necessitated by this review, it must be submitted to the City Council for approval within ninety (90) days of the filing of the Local Agency Biennial Notice with the City Clerk. (Gov. Code § 87303, 87306.5)

**LEGAL REVIEW:**

The City Attorney has reviewed and approved the report as to form.

**PUBLIC NOTIFICATION:**

Through the regular agenda process.

**STRATEGIC PLAN OBJECTIVE ADDRESSED:**

Objective 6: Maintain and Promote a Responsive, High Quality and Transparent Government.

Prepared by:

Approved by:

s/ Patricia A. Vazquez

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Patricia A. Vazquez  
City Clerk

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Jarad L. Hildenbrand  
City Manager

# **CITY OF STANTON**

## **REPORT TO THE CITY COUNCIL**

**TO:** Honorable Mayor and Members of the City Council

**DATE:** August 11, 2020

**SUBJECT: AWARD OF A PROFESSIONAL SERVICES AGREEMENT TO REVIZE SOFTWARE SYSTEMS TO ASSIST IN THE REDESIGN OF THE CITY'S OFFICIAL WEBSITE AND APPROPRIATION OF FUNDS**

### **REPORT IN BRIEF:**

The City Manager directed staff to solicit a qualified vendor to provide design and support services for the City's website. Staff requests that the City Council authorize the City Manager to enter into an agreement with ReviZe Software Systems to provide these services through August 2024 in the amount not to exceed \$34,800. Consequently, staff is requesting an appropriation of \$10,470 from the General Fund's available fund balance to fund the Fiscal Year 2020/21 costs for this agreement.

### **RECOMMENDED ACTION:**

1. City Council declare this project to be categorically exempt under the California Environmental Quality Act, Section 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Approve a Professional Services Agreement with ReviZe to assist in the redesign of the City's official website for the maximum contract sum of \$34,800; and
3. Authorize the City Manager to bind the City of Stanton and ReviZe in a contract to provide these services; and
4. Authorize the appropriation of \$10,470 from the General Fund's available fund balance to fund the Fiscal Year 2020/21 costs for this agreement.

### **BACKGROUND:**

In 2015, the City contracted with Brea IT to provide a redesign and hosting of the City website. While the current site is functional, the design is outdated and the content management system requires updates for optimal user experience. The City also intends to improve the website's responsiveness, which is the ability to translate from a



# Item: 12A

desktop or PC format to functionality across a wide-range of devices including mobile phones and tablets.

Given that in recent months, websites have become the central location for the public to receive information or conduct business, now is the ideal time for an upgrade. A more intuitive, responsive design will allow residents, visitors and business owners to access City staff and information with ease. ReviZe Software Systems has provided competitive pricing for the redesign of the site as well as high-quality product samples. The sales agreement in the amount of \$34,800 includes several upgrades, hosting and support with an additional redesign in four years.

## **ANALYSIS/JUSTIFICATION:**

On June 2, 2020 the City requested proposals from qualified web design firms to complete a redesign of the City's website and provide hosting and support services. Proposals were due to the City on July 9, 2020. Seven proposals were received and reviewed by a panel of City staff members represented by the Community Services Department, City Clerk, IT Specialist and City Manager. Of the seven proposals, two firms were invited to an interview conducted by staff.

After thorough review of proposals, reference checks and interviews, staff found that ReviZe Software Systems had the superior scope and experience required of this project. ReviZe has an extensive record of designing government websites to effectively engage residents and demonstrated expertise in building unique features to meet the needs of all departments.

## **FISCAL IMPACT:**

Funds for these professional services are not included in the City's Fiscal Year 202/21 Adopted Budget. Staff is requesting an appropriation of \$10,470 from the General Fund's available fund balance to fund the Fiscal Year 2020/21 costs associated with this agreement. Funding for the subsequent years of service under this agreement will be requested in the City's future years' budgets.

## **ENVIRONMENTAL IMPACT:**

None.

## **LEGAL REVIEW:**

The City Attorney has reviewed the contract.

## **STRATEGIC PLAN OBJECTIVE ADDRESSED:**

Objective 6: Maintain and Promote a Responsive, High Quality and Transparent Government.

# Item: 12A

## **PUBLIC NOTIFICATION:**

Notifications and advertisement were performed as prescribed by law.

Prepared by:

s/ Ashley Cain

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Ashley Cain  
Community Services Supervisor

Reviewed by:

s/ Zenia Bobadilla

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Zenia Bobadilla  
Community Services Director

Reviewed by:

s/ Michelle Bannigan

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Michelle Bannigan  
Finance Director

Approved by:

s/ Jarad L. Hildenbrand

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Jarad L. Hildenbrand  
City Manager

## **Attachment:**

A. Professional Services Agreement



**CITY OF STANTON**  
*Professional Services Agreement  
for Website Redesign, Hosting and Support*

## 1. PARTIES AND DATE

This Agreement is made and entered into this 5<sup>th</sup> day of August, 2020, by and between the City of Stanton, a municipal organization organized under the laws of the State of California with its principal place of business at 7800 Katella Avenue, Stanton, California 90680 ("City") and **REVIZE SOFTWARE SYSTEMS** a corporation, with its principal place of business at **150 Kirts Blvd Suite B, Troy, MI 48084** ("Consultant"). City and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

## 2. RECITALS

### 2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of professional **WEBSITE REDESIGN, HOSTING AND SUPPORT** consultant services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing professional **WEBSITE REDESIGN, HOSTING AND SUPPORT** consultant services to public clients, is licensed in the State of California, and is familiar with the plans of City.

### 2.2 Project.

City desires to engage Consultant to render such services for the **WEBSITE REDESIGN, HOSTING AND SUPPORT** project ("Project") as set forth in this Agreement.

## 3. TERMS

### 3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional **WEBSITE REDESIGN, HOSTING AND SUPPORT** consultant services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from **AUGUST 11, 2020** to **AUGUST 11, 2024**, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines.

### **3.2 Responsibilities of Consultant.**

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Consultant shall complete, execute, and submit to City a Request for Taxpayer Identification Number and Certification (IRS Form W-9) prior to commencement of any Services under this Agreement. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, City shall respond to Consultant's submittals in a timely manner. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the City. The key personnel for performance of this Agreement are as follows: **THOMAS JEAN, PROJECT MANAGER.**

3.2.5 City's Representative. The City hereby designates the City Manager, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Contract. The City Manager hereby designates **COMMUNITY SERVICES DIRECTOR, ZENIA BOBADILLA,** or his or her designee, as the City's contact for the implementation of the Services hereunder. Consultant shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates **PROJECT MANAGER, THOMAS JEAN,** or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this

Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant 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 Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. Consultant shall not commence Work under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the City that the subconsultant has secured all insurance required under this section.

3.2.10.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder and without limiting the indemnity provisions of the Agreement, the Consultant in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement, the following policies of insurance. If the existing policies do not meet the Insurance

Requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

- (a) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office “occurrence” form CG 0001, with minimum limits of at least \$1,000,000 per occurrence, and if written with an aggregate, the aggregate shall be double the per 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 the Agreement.

- (b) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering “Any Auto” (Symbol 1) with minimum limits of \$1,000,000 each accident.
- (c) Professional Liability: Professional Liability insurance with minimum limits of \$1,000,000. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusions that may potentially affect the work to be performed (for example, any exclusions relating to lead, asbestos, pollution, testing, underground storage tanks, laboratory analysis, soil work, etc.).

If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this Agreement.

- (d) Workers’ Compensation: Workers’ Compensation Insurance, as required by the State of California and Employer’s Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury and disease.

3.2.10.3 Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval.

- (a) The policy or policies of insurance required by Section 3.2.10.2 (a) Commercial General Liability and (c) Contractor’s Pollution Liability shall be endorsed to provide the following:
  - (1) Additional Insured: The City, its officials, officers, employees, agents, and volunteers shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement.

Additional Insured Endorsements shall not (1) be restricted to “ongoing operations”; (2) exclude “contractual liability”; (3) restrict

coverage to “sole” liability of Consultant; or (4) contain any other exclusions contrary to the Agreement.

- (2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.
- (b) The policy or policies of insurance required by Section 3.2.10.2 (b) Automobile Liability and (d) Professional Liability shall be endorsed to provide the following:
  - (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.
- (c) The policy or policies of insurance required by Section 3.2.10.2 (e) Workers’ Compensation shall be endorsed to provide the following:
  - (1) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.
  - (2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

3.2.10.4 Primary and Non-Contributing Insurance. All insurance coverages shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.2.10.5 Waiver of Subrogation. Required insurance coverages shall not prohibit Consultant from waiving the right of subrogation prior to a loss. Consultant shall waive all subrogation rights against the indemnified parties. Policies shall contain or be endorsed to contain such provisions.

3.2.10.6 Deductible. Any deductible or self-insured retention must be approved in writing by the City and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.2.10.7 Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates and endorsements on forms approved by the City. The certificates and 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 the City. If such coverage is cancelled or reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the

required insurance has been reinstated or has been provided through another insurance company or companies.

3.2.10.8 Failure to Maintain Coverage. Consultant agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Consultant until Consultant has fully complied with the insurance provisions of this Agreement.

In the event that the Consultant's operations are suspended for failure to maintain required insurance coverage, the Consultant shall not be entitled to an extension of time for completion of the Services because of production lost during suspension.

3.2.10.9 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

3.2.10.10 Insurance for Subconsultants. All Subconsultants shall be included as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing Subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding the City as an Additional Insured to the Subconsultant's policies.

3.2.11 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subconsultants, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

### **3.3 Fees and Payments.**

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed **THIRTY-FOUR THOUSAND AND EIGHT HUNDRED DOLLARS (\$34,800)** ("Total Compensation") without written approval of City's **FINANCE DIRECTOR**. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

#### 3.3.2 Payment of Compensation.

Consultant shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall,



within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the City.

3.3.5 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

### **3.4 Accounting Records.**

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

### **3.5 General Provisions.**

#### 3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of

Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**Consultant:**

ReviZe Software Systems  
150 Kirts Blvd Suite B  
Troy, MI 48084  
Attn: Thomas Jean, Project Manager

**City:**

City of Stanton  
7800 Katella Avenue  
Stanton, CA 90680  
Attn: Zenia Bobadilla, Community Services Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require all subconsultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any

person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.5.3.3 Confidential Information. The City shall refrain from releasing Consultant's proprietary information ("Proprietary Information") unless the City's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent jurisdiction, in which case the City shall notify Consultant of its intention to release Proprietary Information. Consultant shall have five (5) working days after receipt of the Release Notice to give City written notice of Consultant's objection to the City's release of Proprietary Information. Consultant shall indemnify, defend and hold harmless the City, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. City shall not release the Proprietary Information after receipt of the Objection Notice unless either: (1) Consultant fails to fully indemnify, defend (with City's choice of legal counsel), and hold City harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that City release such information.

3.5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.5 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

#### 3.5.6 Indemnification.

To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorneys fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Consultant or the City, its officials, officers, employees, agents or volunteers.

If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

3.5.7 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Orange County.

3.5.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

**3.6 City's Right to Employ Other Consultants.** City reserves right to employ other consultants in connection with this Project.

**3.7 Successors and Assigns.** This Agreement shall be binding on the successors and assigns of the parties.

**3.8 Assignment or Transfer.** Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

**3.9 Construction; References; Captions.** Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

**3.10 Amendment; Modification.** No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

**3.11 Waiver.** No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

**3.12 No Third Party Beneficiaries.** There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

**3.13 Invalidity; Severability.** If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

**3.14 Prohibited Interests.** Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely

for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising there from.

**3.15 Equal Opportunity Employment.** Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

**3.16 Labor Certification.** By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

**3.17 Authority to Enter Agreement.** Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

**3.18 Counterparts.** This Agreement may be signed in counterparts, each of which shall constitute an original.

**3.19 Declaration of Political Contributions.** Consultant shall, throughout the term of this Agreement, submit to City an annual statement in writing declaring any political contributions of money, in-kind services, or loan made to any member of the City Council within the previous twelve-month period by the Consultant and all of Consultant's employees, including any employee(s) that Consultant intends to assign to perform the Services described in this Agreement.

**3.20 Subcontracting.**

3.20.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

***[Signatures on following page.]***

IN WITNESS WHEREOF, the parties have executed this Professional Services Agreement on this 5<sup>th</sup> day of August, 2020.

**CITY OF STANTON**

**REVIZE SOFTWARE SYSTEMS**

By: \_\_\_\_\_  
Jarad Hildenbrand  
City Manager

By: \_\_\_\_\_

Name: Thomas Jean

Title: Project Manager

**ATTEST:**

By: \_\_\_\_\_  
Patricia Vazquez  
City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Best Best & Krieger LLP  
City Attorney

## **EXHIBIT “A”**

### *Scope of Services*

#### **I. PROJECT GOALS**

The overall goal of the project is to design and construct a website that is user-friendly and supports our value of being a responsive government.

- a. Site design must be visually appealing, simple to navigate and meet ADA requirements. These parameters shall apply to all user groups (residents, businesses, visitors, etc.) and on all platforms (desktops, phones, tablets).
- b. Provide intuitive, easy-to-use interface for content contributors to create/update web content.
- c. Replacement of current DNN environment with an alternative database-driven web content management system functional, appealing, service-based, and responsive website design that allows easy access from all devices, including smart phones.
- d. Strong search capabilities.
- e. Have the site be hosted with failover redundancy.

#### **II. ASSUMPTIONS**

- a. City staff will be accessible and active participants throughout the project and able to make the necessary decisions to move the project forward in accordance with predefined timelines;
- b. The City will have overall project management responsibility; the vendor will provide a project manager for its staff and deliverables. The City desires to partner with the consultant to work as a team during the project rather than the consultant working independently.
- c. The City will retain ownership of all existing content in DNN CMS and also retain ownership of content migrated to replacement CMS, if applicable;
- d. The redesigned website will be hosted by the vendor.
- e. Prior to the start of services, the City and vendor will agree upon a Gantt chart that shows the major phases, their durations, and the total number of consulting hours (per phase) that are included in the cost estimate.
- f. All deliverables will be developed with input from the City and will not be considered accepted until City staff reviews and approves the deliverables as to their accuracy and quality. When practical and as determined by the City, the vendor shall submit all deliverables in both electronic and hardcopy media.

#### **III. DESIGN REQUIREMENTS**

The vendor will work with the City team to develop design themes that incorporate the City's branding elements with updated colors, typography, layouts and other such elements. A focus of the updated design will be to support improvements to user experience. The new design should incorporate today's design elements used by progressive and technology friendly agencies also utilizing navigational trends that model the mobile user's needs.

The entry point for the site must represent the quality, character, and embodiment of the City allowing users easy access to information with minimal clicks.

#### **IV. TECHNICAL REQUIREMENTS**

- a. Open source database engine.
- b. Assist with installation and configuration of all the necessary environments (e.g., Dev, Test, Staging, Production, etc.)

- c. Create mechanisms to automatically migrate data from Staging to Production or from Production to Staging.
- d. Create ability to refresh environments from Production, when necessary.
- e. Design should utilize HTML5.
- f. Ability to install and utilize plug-ins for additional features and functionality.
- g. Support for Google Analytics.

## **V. FUNCTIONAL REQUIREMENTS**

### CALENDAR/EVENTS

- Calendaring system that provides for multiple individual calendars that can also be rolled up into one calendar.
- Calendars should have options for different views.
- Calendars have classification that can be used for personalization.

### EDITING

- Provide necessary templates to allow content contributors to easily create the various content types required for the City site.
- Content contributors should have the option of a WYSIWYG or HTML editor for editing web pages, articles, posts, or newsletters.
- Ability to version pages and revert to prior versions.
- Ability to stage and expire content by date and time.
- Content contributors have the ability to add new pages and add to website navigation.
- Ability to classify any object with categories, tags, meta data to improve search results.
- Ability to easily attach and work with images and photos in the editor.
- Ability to easily embed video images into web pages.
- Ability to easily post emergency notices to the homepage.

### EMAIL LIST MANAGEMENT

- Website should provide visitor with the ability to subscribe to, and unsubscribe from, a variety of opt-in email lists, such as email newsletters, announcement lists, or discussion groups.
- Integration should exist to integrate lists with marketing services such as MailChimp.

### FORMS

- Provide the ability to create data entry forms that allow public users to: send email notifications to staff, ask questions, report problems and respond to surveys.

### IMAGES AND VIDEO

- Centralized image and photo libraries for managing website assets.
- The ability to have the system automatically resize images and photos into web-friendly sizes – Preferably during the upload process.
- The ability to create thumbnail images of photos and images automatically without using its full size.
- The ability to create photo albums/galleries that can be embedded into website.
- Ability to upload and store video files.
- Ability to display streaming video feeds.

### INTEGRATION

- Ability to embed other sites/applications into website (iFrame).



- Ability to communicate with other City systems and applications to exchange data, if desired.

#### MULTIPLE LANGUAGES

- Provide the ability to easily display the entire site in English, Spanish, and Vietnamese. Provide the ability to have alternate versions of pages for multiple languages and display those pages if that is the visitor's preference.

#### NEWS

- Provide tools for creating and managing news items and press releases. Items may be specific to department for departmental pages or rolled up for the home page.
- News items may or may not contain an image or picture.
- Ability to sync department-specific items on departmental pages with the home page.
- Ability to provide an RSS feed of news items.

#### OPEN DATA PORTAL

- Must meet California Open Data requirements.
- Integrate portal with primary website and provide consistent navigation, look, and feel.

#### PERSONALIZATION

- Allow content contributors to classify content in a way that facilitates personalization preferences.

#### SEARCH

- Provide powerful integrated search engine that can index managed content.
- Allow ranking or prioritizing of search results.
- Searches should be across all content types (e.g. News, webpages, images, video, etc.)

#### SECURITY AND WORKFLOW

- In all submitted proposals, vendors shall be able to provide an overview of security, encryption, and other website protections to ensure that the City's website and content management systems are safe and secure. Should a breach occur, the vendor shall assist the City of Stanton in restoring data at no cost. Additional security features shall include:
  - Provide role-based security that limits access and functionality based on user's credentials.
  - Provide workflow for approvals of content changes.
  - Must use the latest security techniques to prevent hacking.
  - Must have tools for users to use self-service for registration and for reminders/resetting of forgotten IDs and passwords.

#### SOCIAL MEDIA

- Provide controls for the public to share website content on various social media platforms.
- Provide tools to embed social media feeds and links into website pages.

#### STATISTICS

- Provide ability to capture and report on website visitor information/statistics.

## TRAINING

- Provide manual for technical administration of the CMS.
- Provide appropriate training program (approx. 10 users) and a manual for content contributors.
- Assist in developing content publishing standards and a visual style guide with graphic design standards, font/color and digital images.
- Identify and provide web information management tools to comply with the State of California Public Records retention guidelines.

## **VI. MIGRATION**

The vendor's work plan must include a comprehensive implementation plan complete with a description of all activities, activity schedule and resources proposed for a successful product implementation. The City is seeking a single phase rollout with a new website design running on a full function CMS. The migration plan will include:

- Initiate and assist in website cleanup.
- Migrate website data.
- Perform quality assurance of data migration.
- Hands-on migration from DNN.
- Auditing/quality control process and measures.
- Testing procedures of design, development, and deployment stages.
- Provide source code and supporting documentation.

## **VII. MAINTENANCE & SUPPORT**

The vendor must commit to and provide pricing for regular maintenance and updating of the CMS and associated applications for the purpose of keeping the existing software up-to-date as well as introducing new functionality and applications.

The vendor should anticipate ongoing maintenance/support and development for two years with a minimum 20 hours per month retainer with a month-to-month roll over plan. Content creators of the CMS should have access to live support via email or phone during the City of Stanton's normal business hours.

## EXHIBIT “B”

### *Schedule of Services*

Project Timeline		
Phase	When	Duration
Phase 1: Initial Meeting, Communication Strategy, SOW	Weeks 1 thru 3	3 Weeks
Phase 2: Discovery & Design	Weeks 4 thru 8	5 Weeks
Phase 3: Template Development, CMS Integration	Weeks 9 thru 11	3 Weeks
Phase 4: Module Setup	Weeks 12 thru 14	3 Weeks
Phase 5: Custom Development	Weeks 15 thru 16	2 Weeks
Phase 6: Quality Assurance Testing	Week 17	1 Weeks
Phase 7: Sitemap Development / Content Migration	Weeks 18 thru 20	3 Weeks
Phase 8: Content Editor and Web Administrator Training on your new website, final content changes and Go Live preparation	Week 21	1 Weeks
Go-Live (Average)		16-21 Weeks

## EXHIBIT “C”

### *Compensation*

Phase 1: Project Planning and Analysis, SOW
Phase 2: Discovery & Design from scratch - One concept, three rounds of changes, home page template and inner page design. Includes RWD
Phase 3 & 4: Revize Template Development - Set-up all CMS modules listed on the following page with linking to any additional 3rd party web application. You also receive all updates to all CMS modules for the life of your Revize relationship. And you own the technology, design and content!
Phase 5: QA Testing
Phase 6: Sitemap Development and Migration Up to 1,500 Pages and Documents
Phase 7: Content editing and site administration training
Phase 8: Go live!
Annual tech support, CMS software updates (unlimited users), and website health checks. website hosting Included free of charge (Unlimited storage space) 50GB monthly bandwidth limit:

<b>Year 1:</b>	<b>\$ 10,468.00</b>	1/3 <sup>rd</sup> of project costs + Annual Hosting, Support, Maintenance
<b>Year 2:</b>	<b>\$ 10,466.00</b>	1/3 <sup>rd</sup> of project costs + Annual Hosting, Support, Maintenance
<b>Year 3:</b>	<b>\$ 10,466.00</b>	1/3 <sup>rd</sup> of project costs + Annual Hosting, Support, Maintenance
<b>Year 4:</b>	<b>\$ 3,400.00</b>	Annual Hosting, Support, Maintenance (Optional) Includes Free Redesign

**FIRST AMENDED AND RESTATED  
DISPOSITION AND DEVELOPMENT AGREEMENT  
(7455 Katella Avenue)**

**by and between the**

**STANTON HOUSING AUTHORITY,  
a joint exercise of powers authority,**

**and**

**KB HOME COASTAL INC.,  
a California corporation**

**[Dated as of [TO BE DETERMINED], for reference purposes only]**

**FIRST AMENDED AND RESTATED  
DISPOSITION AND DEVELOPMENT AGREEMENT  
(7455 Katella Avenue)**

This FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT (7455 Katella Avenue) (“**Agreement**”) is dated as of **[TO BE DETERMINED]**, for reference purposes only, and is entered into by and between the HOUSING AUTHORITY OF THE CITY OF STANTON, a public body, corporate and politic (“**HA**”), and KB HOME COASTAL INC., a California corporation (“**Developer**”). HA and Developer enter into this Agreement with reference to the following recitals of fact (each, a “**Recital**”):

**RECITALS**

A. The Redevelopment Agency for the City of Stanton (“**RDA**”) owned certain real property located at 7455 Katella Avenue, Stanton, California (APN 079-371-09) consisting of approximately forty-six hundredths (.46) of an acre (“**Property**”), as more particularly defined in Section 1.1.70 of this Agreement.

B. Assembly Bill 1X 26, enacted as part of the 2011-2012 State of California budget bill, and as modified by the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861 dissolved and set out procedures for the wind-down of all redevelopment agencies throughout the State effective February 1, 2012, and in June 2012, the California Legislature adopted Assembly Bill 1484 (Assembly Bill 1X 26 and Assembly Bill 1484 are collectively referred to herein as the “**Dissolution Act**”) further modifying some of the procedures set forth in Assembly Bill 1X 26, and adding certain other procedures and requirements for the dissolution and wind-down of redevelopment agencies.

C. HA is the successor entity to the RDA and, pursuant to the Dissolution Act, upon the RDA’s dissolution the Property automatically transferred to the HA.

D. Pursuant to Health and Safety Code section 34177(e), HA is responsible for disposing of the assets and properties of the former RDA, as directed by the Oversight Board to the HA, expeditiously and in a manner aimed at maximizing value.

E. In order to dispose of the Property expeditiously and in a manner aimed at maximizing value, HA and Developer entered into that certain Disposition and Development Agreement dated October 22, 2019 (“**Original DDA**”) which provided for Developer to acquire the Property from HA and develop the Property as the Project (defined in Section 1.1.69 below). It is intended that the Project will be part of a larger residential community referred to herein as the “Community”, which is more particularly described in Section 1.1.13 below.

F. Developer was unable to proceed with the Community and Project as originally anticipated and now requests the Original DDA be amended to reflect current terms and conditions.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION AND THE PROMISES AND COVENANTS OF HA AND DEVELOPER SET FORTH IN THIS AGREEMENT, HA AND DEVELOPER AGREE, AS FOLLOWS:

## **TERMS AND CONDITIONS**

### **1. DEFINITIONS**

1.1 **Definitions.** The following words, terms and phrases are used in this Agreement with the following meanings, unless the particular context or usage of a word, term or phrase requires another interpretation:

1.1.1 **Affiliate.** Any other Person, directly or indirectly, Controlling or Controlled by or under common Control with the specified Person.

1.1.2 **Agreement.** This First Amended and Restated Disposition and Development Agreement (7455 Katella Avenue) by and between HA and Developer, including all of the exhibits attached to this Agreement.

1.1.3 **ALTA Survey.** A survey of the Community, inclusive of the Property, prepared by a State licensed civil engineer or surveyor selected by Developer in accordance with current ALTA/ASCM standards and sufficient for the Title Company to issue the Developer Title Policy.

1.1.4 **Application.** Any agreement, application, certificate, document or submission (or amendment of any of the foregoing): (a) necessary or appropriate for the Project, including any application for any building permit, utility service or hookup, easement, covenant, condition, restriction, subdivision or such other instrument as Developer may reasonably request for the Project; or (b) to enable Developer to seek any Approval or to use and operate the Project in accordance with this Agreement.

1.1.5 **Approval.** Any license, permit, approval, consent, certificate, ruling, variance, authorization, conditional use permit, Land Use Entitlements or amendment to any of the foregoing, as shall be necessary or appropriate under any Law to commence, perform or complete the construction of the Project on the Property, including any associated CEQA Document.

1.1.6 **Bankruptcy Proceeding.** Any proceeding, whether voluntary or involuntary, under Title 11, United States Code, and any other or successor State or Federal statute relating to assignment for the benefit of creditors, appointment of a receiver or trustee, bankruptcy, composition, insolvency, moratorium, reorganization, or similar matters.

1.1.7 **Business Day.** Any weekday on which HA is open to conduct regular business functions with HA personnel.

1.1.8 **CEQA.** The California Environmental Quality Act, Public Resources Code Section 21000 *et seq.*

1.1.9 **CEQA Documents.** Any exemption determination, any Negative Declaration (mitigated or otherwise) or any Environmental Impact Report (including any addendum or amendment to, or subsequent or supplemental Environmental Impact Report) required or permitted by any Government, pursuant to CEQA, to issue any Approvals for the Community, inclusive of the Project.

1.1.10 **City.** The City of Stanton, a California municipal corporation.

1.1.11 **Claim.** Any claim, loss, cost, damage, expense, liability, lien, action, cause of action (whether in tort, contract, under statute, at law, in equity or otherwise), charge, award, assessment, fine or penalty of any kind (including consultant and expert fees and expenses and investigation costs of whatever kind or nature, and if an Indemnitor improperly fails to provide a defense for an Indemnitee, then Legal Costs) and any judgment. Claims include but are not limited to claims for: (i) injury to any Person (including death at any time resulting from that injury); (ii) loss of, injury or damage to, or destruction of property (including all loss of use resulting from that loss, injury, damage, or destruction) regardless of where located; (iii) any worker's compensation claim or determination; (iv) any Prevailing Wage Action; or (v) any Environmental Claim.

1.1.12 **Close of Escrow.** The first date on which the Escrow Agent has filed all of the documents set forth in Section 3.9.1 with the County for recording in the official records of the County in accordance with Section 3.9.1.

1.1.13 **Community.** That certain proposed residential community of approximately thirty-six (36) residential units, including the approximately seven (7) residential units within the Project, and associated common areas, as depicted on Exhibit B attached hereto.

1.1.14 **Control.** Possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether by ownership of Equity Interests, by contract or otherwise.

1.1.15 **County.** The County of Orange, California.

1.1.16 **Default.** An Escrow Default, Monetary Default or Non-Monetary Default.



1.1.17 **Default Interest.** Interest at an annual rate equal to the lesser of: (a) eight percent (8%) per annum; or (b) the highest rate of interest, if any, that Law allows under the circumstances.

1.1.18 **Deposit.** Ten Thousand Dollars (\$10,000) in cash or immediately available funds to be deposited into Escrow within five (5) Business Days after Escrow opening (“**First Deposit**”). An additional Ten Thousand Dollars (\$10,000) shall be deposited into Escrow within three (3) Business Days after expiration of the Due Diligence Period (“**Second Deposit**”) unless this Agreement has been terminated pursuant to the provisions hereof. Collectively the First Deposit and Second Deposit shall be referred to as the “Deposit.”

1.1.19 **Developer.** KB HOME COASTAL INC., a California corporation, and any successors or assigns of KB HOME COASTAL INC. permitted under the terms and conditions of this Agreement.

1.1.20 **Developer Parties.** Collectively, Developer and the directors, officers, employees, agents, shareholders, members, managers and partners of Developer.

1.1.21 **Developer Title Policy.** An ALTA extended coverage owners’ policy of title insurance issued by the Title Company, with coverage in the amount of the Purchase Price, showing title to the Property vested in Developer.

1.1.22 **Development Agreement.** That certain Development Agreement to be agreed upon between the City and Developer, if at all, prior to the expiration of the Due Diligence Period and to be entered into and recorded in the official records of the County at or before the Close of Escrow.

1.1.23 **Documents.** Documents means those Documents delivered by HA to Developer pursuant to Section 2.4.4 below.

1.1.24 **Due Diligence Completion Notice.** A written notice from Developer delivered to HA prior to the end of the Due Diligence Period stating Developer’s unconditional acceptance of the condition of the Property, including the terms and provisions of the Development Agreement, or stating Developer’s rejection of the condition of the Property or the terms and provisions of the Development Agreement and its refusal accept a conveyance of title to the Property.

1.1.25 **Due Diligence Investigations.** Developer’s due diligence investigations of the Property to determine the suitability of the Property for development of the Project for market rate for-sale housing, including, without limitation, any governmental land regulations, zoning ordinances, development costs, financial and market feasibility, all covenants, conditions and restrictions and other contracts, agreements or documents affecting the Property, proposed or existing assessment districts affecting the Property, the status of the entitlement or

development condition of the Property, the physical condition of the Property, including soil and geological assessments, a Phase I environmental audit and, if recommended in the Phase I environmental audit, soil sampling and analysis, as deemed appropriate in the reasonable discretion of Developer, all at the sole cost and expense of Developer.

1.1.26 **Due Diligence Period.** The time period of forty-five (45) continuous calendar days commencing on the day immediately following the Escrow Opening Date.

1.1.27 **Effective Date.** The first date on which all of the following have occurred: (a) HA has received three (3) counterpart originals of this Agreement signed by the authorized representative(s) of Developer; (b) HA has received a certified copy of the official action taken by the Developer approving this Agreement signed by the authorized representative(s) of Developer, in a form attached to this Agreement as Exhibit D, (c) this Agreement is approved by the governing body of HA and duly executed on behalf of HA; and (d) Developer has received from HA a fully executed counterpart original of the of this Agreement and a Notice of the Effective Date. Developer shall insert in such Notice the date received by Developer and shall sign and return a copy of such Notice to HA within seven (7) calendar days after receipt of such Notice. HA's failure to send the Notice or Developer's failure to return shall not invalidate or modify the Effective Date The Effective shall be no later than thirty (30) days following the date this Agreement is approved by the governing body of the HA.

1.1.28 **Environmental Claim.** Any and all claims, demands, damages, losses, liabilities, obligations, penalties, fines, actions, causes of action, judgments, suits, proceedings, costs, disbursements and expenses, including Legal Costs and fees and costs of environmental consultants and other experts, and all foreseeable and unforeseeable damages or costs of any kind or of any nature whatsoever, directly or indirectly, relating to or arising from any actual or alleged violation of any Environmental Laws or Hazardous Material Discharge.

1.1.29 **Environmental Laws.** All Federal, State, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any government authority regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Material (as later defined), or pertaining to occupational health or industrial hygiene (and only to the extent that the occupational health or industrial hygiene laws, ordinances, or regulations relate to hazardous substances on, under, or about the Property), occupational or environmental conditions on, under, or about the Property, as now or may at any later time be in effect, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") [42 USC Section 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 ("RCRA") [42 USC Section 6901 et seq.]; the Clean Water Act, also known as the Federal Water

Pollution Control Act (“FWPCA”) [33 USC Section 1251 et seq.]; the Toxic Substances Control Act (“TSCA”) [15 USC Section 2601 et seq.]; the Hazardous Materials Transportation Act (“HMTA”) [49 USC Section 1801 et seq.]; the Insecticide, Fungicide, Rodenticide Act [7 USC Section 6901 et seq.] the Clean Air Act [42 USC Section 7401 et seq.]; the Safe Drinking Water Act [42 USC Section 300f et seq.]; the Solid Waste Disposal Act [42 USC Section 6901 et seq.]; the Surface Mining Control and Reclamation Act [30 USC Section 101 et seq.] the Emergency Planning and Community Right to Know Act [42 USC Section 11001 et seq.]; the Occupational Safety and Health Act [29 USC Section 655 and 657]; the California Underground Storage of Hazardous Substances Act [California Health & Safety Code Section 25288 et seq.]; the California Hazardous Substances Account Act [California Health & Safety Code Section 25300 et seq.]; the California Safe Drinking Water and Toxic Enforcement Act [California Health & Safety Code Section 24249.5 et seq.]; the Porter-Cologne Water Quality Act [California Water Code Section 13000 et seq.]; together with any amendments of or regulations promulgated under the statutes cited above or any other Federal, State, or local law, statute, ordinance, or regulation now in effect or later enacted that pertains to occupational health or industrial hygiene (to the extent the occupational health or industrial hygiene laws, ordinances, or regulations relate to Hazardous Materials on, under, or about the Property) or the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or land use.

1.1.30 **Equity Interest.** All or any part of any direct equity or ownership interest(s) (whether stock, partnership interest, beneficial interest in a trust, membership interest in a limited liability company, or other interest of an ownership or equity nature) in any entity, at any tier of ownership, that directly owns or holds any ownership or equity interest in a Person.

1.1.31 **Escrow.** An escrow, as defined in Civil Code Section 1057 and Financial Code Section 17003(a), that is conducted by the Escrow Agent with respect to the conveyance of the Property from HA to Developer pursuant to this Agreement.

1.1.32 **Escrow Agent.** First American Title Company, through its office located at 18500 Von Karman Avenue, Suite 600, Irvine, CA 92612, Attention: Jeanne Gould, Email: jagould@firstam.com, or such other Person mutually agreed upon in writing by both HA and Developer.

1.1.33 **Escrow Closing Statement.** A statement prepared by the Escrow Agent indicating among other things, the Escrow Agent’s estimate of all funds to be deposited or received by HA or Developer, respectively, and all charges to be paid by HA or Developer, respectively, through the Escrow.

1.1.34 **Escrow Default.** The unexcused failure to submit any document or funds to the Escrow Agent as reasonably necessary to close the Escrow,

pursuant to the terms and conditions of this Agreement, after all other conditions precedent to the Close of Escrow for the benefit of such Party are satisfied or waived by such Party.

1.1.35 **Escrow Opening Date.** The first date on which a copy of this Agreement signed by both HA and Developer is deposited with the Escrow Agent which shall occur within five (5) Business Days after the Effective Date. If Escrow is not opened within five (5) Business Days after the Effective Date, this Agreement shall be null and void.

1.1.36 **Event of Default.** The occurrence of any one or more of the following:

(a) *Monetary Default.* A Monetary Default that continues for seven (7) calendar days after Notice from the non-defaulting Party, specifying in reasonable detail the amount of money not paid and the nature and calculation of each such payment;

(b) *Escrow Default.* An Escrow Default that continues for seven (7) calendar days after Notice from the non-defaulting Party, specifying in reasonable detail the document or funds not submitted;

(c) *Bankruptcy or Insolvency.* Developer admits in writing that Developer is unable to pay its debts as they become due or becomes subject to any Bankruptcy Proceeding (except an involuntary Bankruptcy Proceeding dismissed within ninety (90) calendar days after commencement), or a custodian or trustee is appointed to take possession of, or an attachment, execution or other judicial seizure is made with respect to, substantially all of Developer's assets or Developer's interest in this Agreement, the Property or the Project (unless such appointment, attachment, execution, or other seizure was involuntary, and is contested with diligence and continuity and vacated and discharged within ninety (90) calendar days); or

(d) *Non-Monetary Default.* Any Non-Monetary Default other than those specifically addressed in the preceding subsection (c) that is not cured within thirty (30) calendar days after Notice to the Party alleged to be in Default describing the Non-Monetary Default in reasonable detail, or, in the case of a Non-Monetary Default that cannot with reasonable diligence be cured within thirty (30) calendar days after the effective date of such Notice, if the Party alleged to be in Default does not do all of the following: (a) within thirty (30) calendar days after the initial Notice of such Non-Monetary Default, advise the other Party of the intention of the Party alleged to be in Default to take all reasonable steps to cure such Non-Monetary Default; (b) duly commence such cure within such period; and (c) diligently prosecute such cure to completion within a reasonable time under the circumstances.

1.1.37 **Executive Director.** The Executive Director of HA or his or her designee or successor in function.

1.1.38 **Federal.** The federal government of the United States of America.

1.1.39 **Final Approval.** An Approval shall be a Final Approval when such Approval has been approved by the applicable Government agency on terms and conditions acceptable to Developer in its reasonable discretion and all time periods for initiating a legal challenge (appeal, writ, referendum, or otherwise, including, without limitation) to such Approval have passed without such a legal challenge having been initiated, or if a legal challenge has been initiated, it has been resolved on terms and conditions satisfactory to Developer in its sole and absolute discretion and, in the case of Third Person easements, licenses and permits, such documents have been prepared and signed by all applicable Third Persons in form and content acceptable to Buyer in its sole and absolute discretion.

1.1.40 **Form 593.** A California Franchise Tax Board Form 593-C.

1.1.41 **Government.** Any and all courts, boards, agencies, commissions, offices, or authorities of any nature whatsoever for any governmental unit (Federal, State, County, district, municipal, City, HA or otherwise) whether now or later in existence.

1.1.42 **HA.** The Housing Authority of the City of Stanton, a public body, corporate and politic.

1.1.43 **HA Deed.** A grant deed conveying the Property from HA to Developer, at the Close of Escrow, substantially in the form of Exhibit E attached to this Agreement.

1.1.44 **HA Parties.** Collectively, HA and the officials, officers, employees, agents and volunteers of HA.

1.1.45 **Hazardous Material.** Any flammable substances, explosives, radioactive materials, asbestos, asbestos-containing materials, polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, medical wastes, toxic substances or related materials, explosives, petroleum, petroleum products and any “hazardous” or “toxic” material, substance or waste that is defined by those or similar terms or is regulated as such under any Law, including any material, substance or waste that is: (a) defined as a “hazardous substance” under Section 311 of the Water Pollution Control Act (33 U.S.C. § 1317), as amended; (b) designated as “hazardous substances” pursuant to 33 U.S.C. § 1321; (c) defined as a “hazardous waste” under Section 1004 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., as amended; (d) defined as a “hazardous substance” or “hazardous waste” under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund

Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq., or any so-called “superfund” or “superlien” law; (e) defined as a “pollutant” or “contaminant” under 42 U.S.C. § 9601(33); (f) defined as “hazardous waste” under 40 C.F.R. Part 260; (g) defined as a “hazardous chemical” under 29 C.F.R. Part 1910; (h) any matter within the definition of “hazardous substance” set forth in 15 U.S.C. § 1262; (i) any matter, waste or substance regulated under the Toxic Substances Control Act (“TSCA”) [15 U.S.C. Sections 2601 et seq.]; (j) any matter, waste or substance regulated under the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801 et seq.; (k) those substances listed in the United States Department of Transportation (DOT) Table [49 C.F.R. 172.101]; (l) any matter, waste or substances designated by the EPA, or any successor authority, as a hazardous substance [40 C.F.R. Part 302]; (m) any matter, waste or substances defined as “hazardous waste” in Section 25117 of the California Health and Safety Code; (n) any substance defined as a “hazardous substance” in Section 25316 of the California Health and Safety Code; (o) subject to any other Law regulating, relating to or imposing obligations, liability or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor or any form of energy from whatever source; or (p) other substances, materials, or wastes that are, or become, regulated or classified as hazardous or toxic under Law or in the regulations adopted pursuant to said Law, including manure, asbestos, polychlorinated biphenyl, flammable explosives and radioactive material.

1.1.46 **Hazardous Material Discharge.** Any deposit, discharge, generation, release, or spill of a Hazardous Material that occurs at, on, under, into or from the Property, or during transportation of any Hazardous Material to or from the Property, or that arises at any time from the construction, installation, use or operation of the Project or any activities conducted at, on, under or from the Property, whether or not caused by a Party.

1.1.47 **Indemnify.** Where this Agreement states that any Indemnitor shall “indemnify” any Indemnatee from, against, or for a particular Claim, that the Indemnitor shall indemnify the Indemnatee and defend and hold the Indemnatee harmless from and against such Claim (alleged or otherwise). “**Indemnified**” shall have the correlative meaning.

1.1.48 **Indemnatee.** Any Person entitled to be Indemnified under the terms of this Agreement.

1.1.49 **Indemnitor.** A Party that agrees to Indemnify any other Person under the terms of this Agreement.

1.1.50 **Independent Contract Consideration.** Defined in Section 2.2.

1.1.51 **Land Use Entitlements.** All land use entitlements required in connection with the development of the Community, including, without limitation, a tentative subdivision map, final map, a zone change, conditional use permit, general and/or specific plan amendment, necessary or appropriate for the use and development of the Property for the Project and all easements, licenses, and permits required from any Government or Third Person to construct improvements to service the Project and/or to grade and develop the Project (including without limitation an unrestricted grading permit per the grading plan approved by the City and a demolition permit for any existing structures on the Property, both in ready-to-issue condition subject only to payment of applicable permit fees and posting of applicable bonds), in form and content satisfactory to Developer in its sole and absolute discretion.

1.1.52 **Law.** Every law, ordinance, requirement, order, proclamation, directive, rule, or regulation of any Government applicable to the Property or the Project, in any way, including any development, use, maintenance, taxation, operation, or occupancy of, or environmental conditions affecting the Property or the Project, or relating to any taxes, or otherwise relating to this Agreement or any Party's rights, obligations or remedies under this Agreement, whether in force on the Effective Date or passed, enacted, modified, amended or imposed at some later time, subject in all cases, however, to any applicable waiver, variance, or exemption.

1.1.53 **Legal Costs.** In reference to any Party, all reasonable costs and expenses such Party incurs in any legal proceeding (or other matter for which such Party is entitled to be reimbursed for its Legal Costs), including reasonable attorneys' fees, court costs and expenses and consultant and expert witness fees and expenses.

1.1.54 **Liability Insurance.** Commercial general liability insurance against claims for bodily injury, personal injury, death, or property damage occurring upon, in, or about the Property, the Project or adjoining streets or passageways, with a minimum liability limit of Two Million Dollars (\$2,000,000) for any one occurrence and which may be provided through a combination of primary insurance in the amount of One Million Dollars (\$1,000,000), and excess or self-insurance for the balance.

1.1.55 **Monetary Default.** Any failure by either Party to pay or deposit, when and as this Agreement requires, any amount of money, any bond or surety or evidence of any insurance coverage required to be provided under this Agreement, whether to or with a Party or a Third Person, except to the extent constituting an Escrow Default.

1.1.56 **Non-Monetary Default.** The occurrence of any of the following, except to the extent constituting a Monetary Default or an Escrow Default:

(a) any failure of a Party to perform any of its obligations under this Agreement; (b) any failure of a Party to comply with any material restriction or prohibition in this Agreement; or (c) any other event or circumstance that, with passage of time or giving of Notice, or both, or neither, would constitute a breach of this Agreement by a Party.

1.1.57 **Notice.** Any consent, demand, designation, election, notice, or request relating to this Agreement, including any Notice of Default. All Notices must be in writing.

1.1.58 **Notice of Default.** Any Notice claiming or giving Notice of a Default or alleged Default.

1.1.59 **Notify.** To give a Notice.

1.1.60 **Outside Closing Date.** The date that is Fourteen (14) months following the expiration of the Due Diligence Period; provided, however, the Outside Closing Date shall be extended for up to two (2) consecutive one (1) month extensions in order to satisfy any unsatisfied conditions precedent to the Close of Escrow set forth in Sections 3.4 or 3.5 below which are not the result of a default of a Party. All references herein to “Outside Closing Date” shall include any extensions agreed upon, in writing, by the Parties.

1.1.61 **Parties.** Collectively, HA and Developer.

1.1.62 **Party.** Individually, either HA or Developer, as applicable.

1.1.63 **Permitted Exception.** All exceptions appearing on the Preliminary Report that are: (i) standard printed exceptions in the Title Policy issued by Title Company; (ii) general and special real property taxes and assessments, a lien not yet due and payable; and (iii) any other easements, rights of way, covenants, conditions and restrictions of record, other than Prohibited Exceptions.

1.1.64 **Person.** Any association, corporation, governmental entity or agency, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization, or other entity of any kind.

1.1.65 **Preliminary Report.** The preliminary report issued by the Title Company in contemplation of issuance of the Developer Title Policy, accompanied by the best available copies of all documents listed in Schedule B of the report as exceptions to coverage under the proposed policy of title insurance.

1.1.66 **Prevailing Wage Action.** Any of the following: (a) any determination by the State Department of Industrial Relations that prevailing wage rates should have been paid, but were not; (b) any determination by the State Department of Industrial Relations that higher prevailing wage rates than those paid should have been paid; (c) any administrative or legal action or proceeding arising



from any failure to comply with any of California Labor Code Sections 1720 through 1781, as amended from time to time, or any Federal Law regarding prevailing wages, including maintaining certified payroll records pursuant to California Labor Code Section 1776; or (d) any administrative or legal action or proceeding to recover wage amounts at law or in equity, including pursuant to California Labor Code Section 1781 or applicable Federal Law.

1.1.67 **Prohibited Encumbrance.** Any Security Instrument, mechanic's lien, easement or other encumbrance recorded or asserted against the Property or the Project that is not a Permitted Encumbrance.

1.1.68 **Prohibited Exception.** Any monetary liens or encumbrances, claims to fee title or leasehold or other possessory interests in the Property or other exceptions to title set forth in the Preliminary Report or any supplement thereto which unless expressly waived in a Title Waiver Notice, are not unconditionally approved by Developer in Developer's Title Notice or, if conditionally approved, the conditions to approval are not satisfied.

1.1.69 **Project.** The planning, design, construction and sale by Developer of seven (7) private residential, market-rate for-sale homes on the Property, including associated common areas and off-site infrastructure improvements necessary to serve the homes on the Property, all as specifically described in the Scope of Development, described in Exhibit F attached to this Agreement, and all to be developed in accordance with plans and specifications approved by the City and any conditions imposed by City in its consideration of Developer's development Application related to the Project.

1.1.70 **Property.** The property located at 7455 Katella Avenue, Stanton, California (APN 079-371-09), as more particularly described in Exhibit A attached to this Agreement.

1.1.71 **Purchase Price.** Eight Hundred Ten Thousand Dollars (\$810,000), which amount represents the fair market value for the Property according to that certain Appraisal Report dated October 30, 2017.

1.1.72 **State.** The State of California.

1.1.73 **Third Person.** Any Person that is not a Party, an Affiliate of a Party or an elected official, officer, director, manager, shareholder, member, principal, partner, employee or agent of a Party.

1.1.74 **Title Company.** First American Title Company, Attn. Hugo Tello, or such other Person mutually agreed upon in writing by both HA and Developer.

1.1.75 **Title Notice.** A written notice from Developer to HA stating Developer's acceptance of the state of the title to the Property or specified exceptions to the state of title to the Property, as described in the Preliminary Report for the Developer Title Policy, or Developer's disapproval or conditional approval of specific matters shown in such Preliminary Report as exceptions to coverage under the proposed Developer Title Policy, describing in reasonable detail the actions that Developer reasonably believes are indicated to obtain Developer's unconditional approval of the state of the title to the Property.

1.1.76 **Title Notice Response.** The written response of HA to the Title Notice, in which HA either elects to: (a) cause the removal from the Preliminary Report for the Developer Title Policy of any matters disapproved or conditionally approved in the Title Notice; (b) obtain title or other insurance or endorsement in a form satisfactory to Developer in its sole and absolute discretion insuring against any matters disapproved or conditionally approved in the Title Notice; or (c) not take either action described in clause "(a)" or "(b)" of this Section 1.1.76.

1.1.77 **Title Notice Waiver.** A written notice from Developer to HA waiving Developer's previous disapproval or conditional approval in the Title Notice of specific matters shown in Schedule B of the Preliminary Report for the Developer Title Policy as exceptions to coverage under the proposed Developer Title Policy.

1.1.78 **Unavoidable Delay.** A delay in either Party performing any obligation under this Agreement arising from or on account of any cause whatsoever beyond the Party's reasonable control, including strikes, labor troubles or other union activities, casualty, war, acts of terrorism, riots, litigation, governmental action or inaction, regional natural disasters, inclement weather or inability to obtain materials. Unavoidable Delay shall not include delay caused by a Party's financial condition or insolvency.

1.1.79 **Waiver of Subrogation.** A provision in, or endorsement to, any insurance policy, by which the carrier agrees to waive rights of recovery by way of subrogation against either Party to this Agreement for any loss such policy covers.

1.1.80 **Worker's Compensation Insurance.** Worker's compensation insurance complying with the provisions of State law and an employer's liability insurance policy or endorsement to a liability insurance policy, with a minimum liability limit in accordance with the provisions of California law covering all employees of Developer.

## 2. **PROPERTY PURCHASE AND SALE**

### 2.1 Purchase and Sale.

2.1.1 **Opening of Escrow.** Subject to all of the terms and conditions of this Agreement, HA shall convey title to the Property to Developer in consideration of Developer paying the Purchase Price to HA and Developer's performance of Developer's promises and covenants set forth in this Agreement. Developer shall accept conveyance of title to the Property from HA, subject to the Permitted Exceptions, pursuant to the terms, conditions, covenants, and agreements set forth in this Agreement or the HA Deed. For the purposes of exchanging documents to complete the conveyance of title to the Property from HA to Developer and the acquisition of title to the Property by Developer from HA, pursuant to the terms and conditions of this Agreement, HA and Developer agree to open the Escrow with the Escrow Agent. The provisions of Section 3 of this Agreement are the joint escrow instructions of the Parties to the Escrow Agent for conducting the Escrow.

2.1.2 **Deposit.** Within five (5) Business Days after the opening of the Escrow, Developer shall deliver the First Deposit to the Escrow Agent. Within three (3) Business Days following the expiration of the Due Diligence Period and provided that Developer has timely delivered to HA a Due Diligence Completion Notice wherein Developer has accepted the condition of the Property and Developer and City have agreed, in writing, upon the terms and provisions of the Development Agreement, Developer shall deliver the Second Deposit to the Escrow Agent. Upon the Close of Escrow, the Deposit shall be credited to Developer towards the Purchase Price.

2.2 Independent Contract Consideration. Upon receipt of the First Deposit, Escrow Agent shall deliver to HA the sum of one hundred dollars (\$100.00) from the First Deposit ("**Independent Contract Consideration**"), which amount has been bargained for and agreed to as adequate consideration for Developer's right to purchase the Property with the right to terminate this Agreement during the Due Diligence Period and for HA's execution, delivery and performance of this Agreement. The Independent Contract Consideration is independent of all other consideration provided in this Agreement and is nonrefundable to Developer in all events.

### 2.3 Developer Approval of Title to Property.

2.3.1 **Title Notice.** After the Escrow Opening Date, Developer shall request that Title Company prepare and deliver the Preliminary Report to both HA and Developer. Within thirty (30) calendar days following Developer's receipt of the Preliminary Report, but in all cases before the end of the Due Diligence Period, Developer shall send the Title Notice to HA.

2.3.2 **Failure to Deliver Title Notice.** If Developer fails to send the Title Notice to HA within the time period provided in Section 2.3.1, Developer will be deemed to disapprove the status of title to the Property and refuse to accept

conveyance of title to the Property, Developer shall be deemed to have terminated this Agreement and the Parties and Escrow Agent shall proceed with the cancellation of Escrow pursuant to Section 3.13.

**2.3.3 Title Notice Response.** Within fifteen (15) calendar days following HA's receipt of the Title Notice (if any), HA shall send the Title Notice Response to Developer. If the Title Notice does not disapprove or conditionally approve any matter in the Preliminary Report or Developer fails to deliver the Title Notice, HA shall not be required to send the Title Notice Response. If HA does not send the Title Notice Response, if necessary, within the time period provided in this Section 2.3.3, HA shall be deemed to elect not to take any action in reference to the Title Notice. If HA elects in the Title Notice Response to take any action in reference to the Title Notice, HA shall complete such action, prior to the Close of Escrow or as otherwise specified in the Title Notice Response.

**2.3.4 Title Notice Waiver.** If HA elects or is deemed to have elected not to address one or more matters set forth in the Title Notice to Developer's reasonable satisfaction, then within ten (10) calendar days after the earlier of: (a) Developer's receipt of HA's Title Notice Response; or (b) the last date for HA to deliver its Title Notice Response pursuant to Section 2.3.3, Developer shall either: (i) refuse to accept the title to and conveyance of the Property, or (ii) waive its disapproval or conditional approval of all such matters set forth in the Title Notice by sending the Title Notice Waiver to HA. Failure by Developer to timely send the Title Notice Waiver, where the Title Notice Response or HA's failure to deliver the Title Notice Response results in HA's election not to address one or more matters set forth in the Title Notice to Developer's reasonable satisfaction, will be deemed Developer's continued refusal to accept the title to and conveyance of the Property, in which case Developer shall be deemed to have terminated this Agreement and the Parties and Escrow Agent shall proceed with the cancellation of Escrow pursuant to Section 3.13.

**2.3.5 No Termination Liability.** Any termination of this Agreement and cancellation of the Escrow pursuant to a right provided in this Section 2.3 shall be without liability to the other Party or any other Person. Termination shall be automatic if Developer does not deliver the Title Notice and the Title Notice Waiver in a timely manner pursuant to the terms of this Section 2.3. Developer may also terminate this Agreement by delivery of a Notice of termination to both HA and the Escrow Agent. Upon termination of this Agreement, the Parties and the Escrow Agent shall proceed with the cancellation of Escrow pursuant to Section 3.13. Once a Notice of termination is given pursuant to this Section 2.3, delivery of a Title Notice or Title Notice Waiver shall have no force or effect and this Agreement shall terminate in accordance with the Notice of termination.

## 2.4 Developer Due Diligence Investigations.

2.4.1 **Time and Expense.** Developer shall complete all Due Diligence Investigations that Developer deems appropriate in its sole and absolute discretion, within the Due Diligence Period and shall conduct all Due Diligence Investigations at Developer's sole cost and expense.

2.4.2 **Right to Enter.** HA licenses Developer to enter the Property for the sole purpose of conducting the Due Diligence Investigations, subject to all of the terms and conditions of this Agreement. The license given in this Section 2.4.2 shall terminate with the termination of the Due Diligence Period unless Developer has delivered to HA the Due Diligence Completion Notice stating Developer's unconditional acceptance of the condition of the Property and delivered to Escrow Agent the Second Deposit, in which event, Developer may, thereafter, continue to enter the Property for purposes of conducting such other Due Diligence Investigations as Developer deems reasonably necessary subject to all requirements and indemnities of this Agreement. Any Due Diligence Investigations by Developer shall not unreasonably disrupt any then existing use or occupancy of the Property. Developer shall provide HA forty-eight (48) hours advance written notice of Developer's intent to enter the Property.

2.4.3 **Limitations.** Developer shall not conduct any intrusive or destructive testing on any portion of the Property, other than low volume soil samples, or other testing required to prepare necessary environmental documents for the development of the Project, without HA's prior written consent, which shall not be unreasonably withheld or delayed. Developer shall pay all of Developer's vendors, inspectors, surveyors, consultants or agents engaged in any inspection or testing of the Property, such that no mechanics liens or similar liens for work performed are imposed upon the Property by any such Person. Following the conduct of any Due Diligence Investigations on the Property, Developer shall restore the Property to substantially its condition prior to the conduct of such Due Diligence Investigations.

2.4.4 **HA Delivery of Documents.** HA shall deliver to Developer for its review all data, correspondence, documents, agreements, waivers, notices, reports, and other records regarding the Property in the HA's or its agents' possession within ten (10) calendar days following the Effective Date. This paragraph only requires the HA to disclose those documents which would be required to be disclosed in any commercial arm's length transaction involving the sale of land.

2.4.5 **Indemnification of HA.** The activities of Developer or Developer's agents directly or indirectly related to the Due Diligence Investigations shall be subject to Developer's Indemnity obligations pursuant to Section 5.5.2.

2.4.6 **Due Diligence Completion Notice.** Developer shall deliver a Due Diligence Completion Notice to HA prior to the end of the Due

Diligence Period. If Developer does not unconditionally accept the condition of the Property and the terms and provisions of a Development Agreement by delivery of its Due Diligence Completion Notice stating such unconditional acceptance, prior to the end of the Due Diligence Period, Developer shall be deemed to have rejected the condition of the Property and refused to accept conveyance of title to the Property, this Agreement shall automatically terminate, and Escrow Agent shall proceed with the cancellation of Escrow pursuant to Section 3.13.

2.4.7 **ALTA Survey.** Developer shall obtain an ALTA Survey at Developer's sole cost and expense prior to the end of the Due Diligence Period or, thereafter, in the event that Developer has delivered to HA the Due Diligence Completion Notice stating Developer's unconditional acceptance of the condition of the Property and has delivered to Escrow Agent the Second Deposit. In the event that Developer obtains an ALTA Survey, Developer shall deliver a copy of the same to HA within five (5) Business Days after Developer's receipt thereof.

2.4.8 **Insurance.** Prior to any entry on the Property by Developer before the Close of Escrow, Developer shall secure and maintain Liability Insurance that will cover the activities of Developer and its agents and consultants on the Property and shall name HA an additional insured thereunder, and (b) workers' compensation insurance. Not less than 24 hours prior to entering the Property, Developer shall provide a certificate of insurance to HA evidencing the insurance required herein.

2.4.9 **Development Agreement.** Developer and City shall, during the Due Diligence Period, endeavor to negotiate a mutually acceptable Development Agreement wherein Developer agrees to certain obligations and requirements regarding the development of the Project on the Property after the Close of Escrow. In the event that Developer and City agree, in writing, to the terms and provisions of a Development Agreement, the Development Agreement shall be executed by the Developer and City at the Close of Escrow and shall be recorded in the official records of the County upon the Close of Escrow. In the event that Developer and City fail to agree, in writing and in the sole and absolute discretion of each, to the terms and provisions of a Development Agreement prior to the expiration of the Due Diligence Period, this Agreement shall automatically terminate without further action by either Party and Escrow Agent shall proceed with the cancellation of Escrow pursuant to Section 3.13 below. While the Development Agreement shall be applicable to the Project being developed on the Property, it shall not be applicable to the remainder of the Community.

2.4.10 The HA's approval of this Agreement does not constitute approval by the HA or City of any development of the Property or of other activity on the Property that would have a direct or reasonably foreseeable indirect environmental impact pursuant to CEQA. (See 14 C.C.R. §§ 15060(c); 15378(b).) Moreover, Developer's future use or development of the Property is expressly

conditioned on CEQA compliance. City shall conduct an environmental review in accordance with CEQA prior to taking any discretionary action with regard to any proposed development of the Property. Nothing in this Agreement shall be construed to limit the City's discretion to consider and adopt any mitigation measure or project alternative, including the alternative of rejecting any proposed development of the Property, as provided in Public Resources Code section 21002. Following completion of the City's environmental review of any proposed development of the Property, the City shall file a notice of such approval as provided in Public Resources Code section 21152. The Parties agree and acknowledge that any proposed development of the Property might change as a result of various environmental factors. On or before the Close of Escrow, the scope and location of proposed development and the design of the anticipated improvements might well change to account for needs of Developer, including changes required by the CEQA process.


2.5 “AS-IS” Acquisition. The Close of Escrow shall evidence Developer's unconditional and irrevocable acceptance of the Property in the Property's AS IS, WHERE IS, SUBJECT TO ALL FAULTS CONDITION AS OF THE CLOSE OF ESCROW, WITHOUT WARRANTY as to character, quality, performance, condition, title, physical condition, soil conditions, the presence or absence of fill, ocean or tidal impacts, shoring or bluff stability or support, subsurface support, zoning, land use restrictions, the availability or location of utilities or services, the location of any public infrastructure on or off of the Property (active, inactive or abandoned), the suitability of the Property for the Project or other use or the existence or absence of Hazardous Materials and with full knowledge of the physical condition of the Property, the nature of HA's interest in and use of the Property, all laws applicable to the Property and any and all conditions, covenants, restrictions, encumbrances and all matters of record relating to the Property. The Close of Escrow shall also constitute Developer's representation and warranty to HA that: (a) Developer has had ample opportunity to inspect and evaluate the Property and the feasibility of the uses and activities Developer is entitled to conduct on the Property in accordance with this Agreement; (b) Developer is experienced in real estate development; (c) Developer is relying entirely on Developer's experience, expertise and its own inspection of the Property in its current state in proceeding with acquisition of the Property; (d) Developer accepts the Property in its present condition; (e) to the extent that Developer's own expertise with respect to any matter regarding the Property is insufficient to enable Developer to reach an informed conclusion regarding such matter, Developer has engaged the services of Persons qualified to advise Developer with respect to such matters; (f) Developer has received assurances acceptable to Developer by means independent of HA or HA's agents of the truth of all facts material to Developer's acquisition of the Property pursuant to this Agreement; and (g) the Property is being acquired by Developer as a result of Developer's own knowledge, inspection and investigation of the Property and not as a result of any representation made by HA or HA's agents relating to the condition of the Property. HA hereby expressly and specifically disclaims any express or implied warranties regarding the Property.

2.6 Release of HA.

2.6.1 **Developer Waiver and Release of Claims.** AT THE CLOSE OF ESCROW, DEVELOPER WAIVES AND RELEASES HA AND ITS REPRESENTATIVES FROM ALL CLAIMS RELATING TO THE PHYSICAL OR TITLE CONDITION OF THE PROPERTY AS OF THE CLOSE OF ESCROW, WHETHER KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 2.6.2. WITH RESPECT TO THE WAIVERS AND RELEASES CONTAINED IN THIS SECTION 2.6.1, DEVELOPER WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 AND ALL SIMILAR STATUTES, PROVISIONS OR PRINCIPLES OF LAW. CALIFORNIA CIVIL CODE SECTION 1542 PROVIDES:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

2.6.2 **Specific Obligations Excluded.** THE FOREGOING GENERAL RELEASE NOTWITHSTANDING, DEVELOPER IS NOT RELEASING HA FROM: (a) HA'S EXPRESS COVENANTS UNDER THIS AGREEMENT; (b) HA'S OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING THOSE THAT SURVIVE THE CLOSE OF ESCROW; (c) THIRD PERSON CONTRACT CLAIMS AGAINST HA ARISING OUT OF CONTRACTS TO WHICH HA IS A PARTY; (d) LIABILITY FOR A HAZARDOUS MATERIAL DISCHARGE BY HA; (e) BREACH OF ANY EXPRESS WARRANTY OR REPRESENTATION MADE BY HA HEREIN AND/OR (f) HA'S WILLFUL MISCONDUCT OR FRAUD (WITHOUT WAIVING ANY AVAILABLE DEFENSES OR IMMUNITIES OF HA UNDER APPLICABLE LAW).

  
\_\_\_\_\_  
Initials of Authorized  
Developer's Representative

3. **JOINT ESCROW INSTRUCTIONS**

3.1 Opening of Escrow; Escrow Instructions. The conveyance of title to the Property from HA to Developer shall take place through the Escrow to be administered by Escrow Agent. Developer shall cause the Escrow to be opened within five (5) Business Days following Developer's receipt of Notice of the occurrence of the Effective Date. Escrow Agent shall promptly confirm the Escrow Opening Date in writing to each of the Parties.

3.2 Escrow Instructions. This Section 3 constitutes the joint escrow instructions of the Parties to Escrow Agent for conduct of the Escrow for the conveyance of title to the Property, as contemplated by this Agreement. Developer and HA shall sign such further escrow instructions



consistent with the provisions of this Agreement as may be reasonably requested by Escrow Agent. In the event of any conflict between the provisions of this Agreement and any further escrow instructions requested by Escrow Agent, the provisions of this Agreement shall control. Escrow Agent shall only proceed to close the Escrow after Escrow Agent receives approved Escrow Closing Statements from both HA and Developer.

3.3 Escrow Agent Authority. HA and Developer authorize Escrow Agent to:

3.3.1 **Charges.** Pay and charge HA and Developer for their respective shares of the applicable fees, taxes, charges and costs payable by either HA or Developer regarding the Escrow;

3.3.2 **Settlement/Closing Statements.** Release each Party's Escrow Closing Statement to the other Party;

3.3.3 **Document Recording.** File any documents delivered for recording through the Escrow with the office of the Recorder of the County for recordation in the official records of the County, pursuant to the joint instructions of the Parties; and

3.3.4 **Counterpart Documents.** Utilize documents signed by HA or Developer in counterparts, including attaching separate signature pages to one version of the same document.

3.4 Developer's Conditions Precedent to Close of Escrow. Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by Developer, Developer's obligation to proceed with the Close of Escrow and accept conveyance of title to the Property from HA through the Escrow shall be conditioned upon the satisfaction or waiver (waivers must be in writing and signed by Developer) of each of the following conditions precedent prior to the Outside Closing Date:

3.4.1 **Title Policy.** Title Company is committed to issue to Developer, as of the Close of Escrow, the Developer Title Policy covering the Property, subject only to the Permitted Exceptions, upon payment of Title Company's premium for such policy;

3.4.2 **Approvals.** Final Approval and issuance of all discretionary Approvals required from each and every Government and Third Person for the development and construction of the Community as a market rate for-sale residential subdivision, inclusive of the of the Project on the Property, including, without limitation the Land Use Entitlements and CEQA Documents;

i. **Land Use Approvals.** Nothing in the approval of this Agreement by HA shall be binding on HA, the City Council or any other commission, committee, board or body of City regarding any Approvals required from such bodies regarding Developer's use or development of the Property. Nothing in this Agreement, nor any action by

HA with reference to this Agreement or any related documents is intended to be nor shall be deemed to constitute issuance or waiver of any required Approval regarding the Property or waiver or exercise of any legislative discretion regarding any Application, Approval or other matter relating to the Project.

3.4.3 **Due Diligence.** Developer and City shall have agreed, in writing, to the terms and provisions of the Development Agreement to be effective upon the Close of Escrow and Developer shall have timely delivered its Due Diligence Completion Notice to HA stating Developer's unconditional acceptance of the condition of the Property, in accordance with Section 2.4.6 above;

3.4.4 **HA Escrow Deposits.** HA deposits all of the items into Escrow required by Section 3.8;

3.4.5 **HA Pre-Closing Obligations.** HA performs all of its material obligations required to be performed by HA pursuant to this Agreement prior to the Close of Escrow;

3.4.6 **Paet Property Acquisition.** As of the Close of Escrow, the Escrow Agent shall be prepared to close, simultaneously with the Close of Escrow hereunder, and the Escrow Agent shall be duly authorized to close by Developer in accordance with that certain Purchase and Sale Agreement and Joint Escrow Instructions between Brill C. Paet and Maria C. Paet, as Co-Trustees of the Amuer Trust, U/A Dated February 4, 2019, as Seller and Developer, as Buyer (the "**Paet Adjacent Parcel Contract**") provided that all conditions to closing under the Paet Adjacent Parcel Contract have been satisfied or waived in writing by Developer, Developer's purchase of the parcel under the Paet Adjacent Parcel Contract, identified as 10941 and 10921 Western Avenue (APN Nos. 079-371-13 and 079-371-12) (the "**Paet Adjacent Parcel**"). In the event that the Paet Adjacent Parcel Contract is terminated prior to closing for any reason, then Developer shall in its sole discretion have the right to terminate this Agreement, and if Developer so elects, then the Parties and Escrow Agent shall proceed with the cancellation of Escrow pursuant to Section 3.13;

3.4.7 **Quiet Title to Private Water Well Rights.** The private water well on Property, together with all rights relating thereto, including, without limitation, water rights and associated easements for pipelines, access and the like on, in, over, about or otherwise pertaining to the Property relating thereto ("**Private Water Well Rights**") shall have been duly abandoned and quitclaimed by the owners of such Private Water Well Rights or a final, non-appealable judgment quieting title in HA to such Water Well Rights shall have been entered by the Superior Court of Orange County, California, such that the Developer Title Policy may be issued without exception for such Private Water Well Rights or the private water well currently located on the Property;

3.4.8 **Wallace Property Acquisition.** As of the Close of Escrow, the Escrow Agent shall be prepared to close, simultaneously with the Close of Escrow hereunder, and the Escrow Agent shall be duly authorized to close by Developer in accordance with that certain Purchase and Sale Agreement and Joint Escrow Instructions between Melinda Gail Wallace, Trustee of the Jerome Brent Wallace Trust Dated September 6, 2013, as Seller and Developer, as Buyer (the “**Wallace Adjacent Parcel Contract**”) provided that all conditions to closing under the Wallace Adjacent Parcel Contract have been satisfied or waived in writing by Developer, Developer’s purchase of the parcel under the Wallace Adjacent Parcel Contract, identified as 7401 and 7421 Katella Avenue (APN Nos. 079-371-15, 079-371-26 and 079-371-27) (the “**Wallace Adjacent Parcel**”). In the event that the Wallace Adjacent Parcel Contract is terminated prior to closing for any reason, then Developer shall in its sole discretion have the right to terminate this Agreement, and if Developer so elects, then the Parties and Escrow Agent shall proceed with the cancellation of Escrow pursuant to Section 3.13; The Paet Adjacent Parcel and Wallace Adjacent Parcel shall collectively be known as the “Adjacent Parcel.”

3.4.9 **Performance by HA.** HA shall have timely performed all obligations to be performed by HA pursuant to this Agreement;

3.4.10 **Truth of HA’s Representations and Warranties.** HA’s representations, warranties and covenants set forth herein shall be true as of the Close of Escrow;

3.4.11 **No Material Adverse Change.** There shall be no material adverse change in the physical condition of the Property or any improvements serving the Property from the condition in which they existed as of the date of this Agreement that would render the Property unsuitable for Developer’s intended development of the Project;

3.4.12 **No Leases or Tenancies.** There shall be no leases, tenancies or other rights of occupancy relating to the Property and all persons and entities shall have vacated the Property such that exclusive possession of the Property can be delivered to Developer at the Close of Escrow;

3.4.13 **Easements.** All easements, rights-of-ways, licenses, permits and agreements required from any Third Person to access the Property, construct improvements to service the Community and to grade and develop the Community shall have been obtained in form and content satisfactory to Developer in Developer’s reasonable discretion;

3.4.14 **Moratoria.** There shall be no enacted or proposed building or utility hook-up moratoria, ordinances, laws or regulations that were not existing and enforced as of the date of this Agreement, and that would prohibit or materially delay or hinder the issuance of building permits or certificates of occupancy for the Community and the residences to be constructed in the Community;

3.4.15 **Affordable Housing.** If HA or City requires any affordable housing in the Project or any fee in lieu of affordable housing in the Project, Developer may terminate this Agreement within 10 business days of receiving notice of the requirement; and

3.4.16 **Assessment Districts.** There shall be no formed or City proposed financing or other assessment district with respect to the Property, other than as shown on the Preliminary Report;

3.5 **HA Conditions Precedent to Close of Escrow.** Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by HA, HA's obligation to convey title to the Property to Developer through the Escrow shall be conditioned upon the satisfaction or waiver (waivers must be in writing and signed by HA) of each of the following conditions precedent prior to the Outside Closing Date:

3.5.1 **Title.** Developer accepts the state of the title to the Property, in accordance with Section 2.3;

3.5.2 **Due Diligence.** Developer and HA shall have agreed, in writing, to the terms and provisions of the Development Agreement, in which event it shall have been attached to this Agreement as Exhibit C and incorporated herein and Developer shall have timely delivered its Due Diligence Completion Notice to HA stating Developer's unconditional acceptance of the condition of the Property, in accordance with Section 2.4.6;

3.5.3 **Developer Escrow Deposits.** Developer deposits all of the items into Escrow required by Section 3.7;

3.5.4 **Developer Pre-Closing Obligations.** Developer performs all of its material obligations required to be performed by Developer pursuant to this Agreement prior to Close of Escrow;

3.5.5 **Development Agreement.** City and Developer have entered into a Development Agreement governing the future development of the Project and that Development Agreement is in a position to be recorded at or prior to the close of this escrow.

3.5.6 **CEQA Documents.** Final Approval, adoption, and certification of the CEQA Documents, if any.

3.5.7 **Land Use Entitlements.** Developer has received Final Approval of all Land Use Entitlements for development of the Project.

3.5.8 **Adjacent Parcel Acquisition.** Developer has closed on or is closing on the Wallace Adjacent Parcel and the Paet Adjacent Parcel simultaneously.

3.6 Failure of Conditions Not Default. HA's failure to satisfy Developer's condition set forth in Section 3.4.2 shall not constitute an Escrow Default (or any other type of Default or Event of Default) by HA under this Agreement, unless HA fails to exercise reasonable efforts to satisfy the condition (which, as it relates to Section 3.4.2, reasonable efforts shall not include litigation or other dispute resolution process); provided, however, HA retains its sole and absolute discretion with respect to any legislative act or approval by HA. Failure to satisfy the condition set forth in Section 3.4.7 regarding the abandonment or quieting title to the Private Water Well Rights shall not constitute an Escrow Default or any other type of Default or Event of Default under this Agreement. The failure of City and Developer to enter into a Development Agreement shall not constitute a Default or Event of Default by HA or Developer.

3.7 Developer's Escrow Deposits. Developer shall deposit the following items into Escrow and, concurrently, provide a copy of each document deposited into Escrow to HA, at least one (1) Business Day prior to the Close of Escrow:

3.7.1 **Closing Funds.** All monetary amounts required to be deposited into Escrow by Developer under the terms of this Agreement to close the Escrow, including the Purchase Price, less the Deposit, all in immediately available funds;

3.7.2 **Certificate of Acceptance.** The Certificate of Acceptance attached to the HA Deed signed by the authorized representative(s) of Developer in recordable form;

3.7.3 **Development Agreement.** Executed counterpart originals of the Development Agreement in recordable form;

3.7.4 **Escrow Closing Statement.** Developer's Escrow Closing Statement signed by the authorized representative(s) of Developer;

3.7.5 **Notice of Agreement.** The Notice of Agreement signed by the authorized representative(s) of Developer in recordable form; and

3.7.6 **Holdback Agreement.** Triplicate executed counterpart originals of the Holdback Agreement (defined in Section 7.2 below).

3.7.7 **Other Reasonable Items.** Any other documents or funds required to be delivered by Developer under the terms of this Agreement or as otherwise reasonably requested by Escrow Agent or Title Company in order to close the Escrow that have not previously been delivered by Developer.

3.8 HA's Escrow Deposits. HA shall deposit the following items into Escrow and, concurrently, provide a copy of each document deposited into Escrow to Developer, at least one (1) Business Day prior to the Close of Escrow:

3.8.1 **Closing Funds.** All monetary amounts required to be deposited into Escrow by HA under the terms of this Agreement to close the Escrow, all in immediately available funds;

3.8.2 **HA Deed.** The HA Deed signed by the authorized representative(s) of HA in recordable form;

3.8.3 **Notice of Agreement.** The Notice of Agreement signed by the authorized representative(s) of HA in recordable form;

3.8.4 **Assignment.** A Blanket Assignment and Bill of Sale in substantially the form attached hereto as Exhibit G (the “**Assignment**”);

3.8.5 **Development Agreement.** Executed counterpart originals of the Development Agreement in recordable form;

3.8.6 **Escrow Closing Statement.** HA’s Escrow Closing Statement signed by the authorized representative(s) of HA;

3.8.7 **FIRPTA Affidavit.** A FIRPTA affidavit signed by the authorized representative(s) of HA, in the customary form used by the Escrow Agent;

3.8.8 **Form 593.** A Form 593 signed by the authorized representative(s) of HA; and

3.8.9 **Holdback Agreement.** Triplicate executed counterpart originals of the Holdback Agreement.

3.8.10 **Other Reasonable Items.** Any other documents or funds required to be delivered by HA under the terms of this Agreement or as otherwise reasonably requested by Escrow Agent or Title Company in order to close the Escrow that have not been previously delivered by HA.

3.9 **Closing Procedure.** When each of Developer’s Escrow deposits, as set forth in Section 3.7, and each of HA’s Escrow deposits, as set forth in Section 3.8, are deposited into Escrow, Escrow Agent shall request confirmation in writing from both Developer and HA that each of their respective conditions precedent to the Close of Escrow, as set forth in Sections 3.4 and 3.5, respectively, are satisfied or waived. Within three (3) Business Days after Escrow Agent receives written confirmation from both HA and Developer that each of their respective conditions precedent to the Close of Escrow are satisfied or waived, Escrow Agent shall close the Escrow by doing all of the following:

3.9.1 **Recordation and Distribution of Documents.** Escrow Agent shall cause the HA Deed, with Developer’s Certificate of Acceptance attached, the Notice of Agreement, the Development Agreement and any other documents to be recorded through Escrow upon the written joint instructions of the Parties to be

filed with the office of the Recorder of the County for recording in the official records of the County. At Close of Escrow, Escrow Agent shall deliver conformed copies of all documents filed for recording in the official records of the County through the Escrow to HA, Developer and any other Person designated in the written joint escrow instructions of the Parties to receive an original or conformed copy of each such document. Each conformed copy of a document filed for recording shall show all recording information. The Parties intend and agree that this Section 3.9.1 shall establish the relative priorities of the documents to be recorded in the official records of the County through the Escrow, by providing for recordation of senior interests prior in order and time to junior interests, in the order provided in this Section 3.9.1;

3.9.2      **Execution and Distribution of Holdback Agreement.** At Close of Escrow, Escrow Agent shall execute triplicate counterpart originals of the Holdback Agreement and distribute one fully executed counterpart original each to HA and Developer and shall retain one.

3.9.3      **Distribution of Other Documents.** Escrow Agent shall deliver copies of all documents to be delivered through the Escrow that are not filed for recording to the Parties and any other Person designated in the written joint escrow instructions of the Parties to receive an original or copy of each such document.

3.9.4      **Funds.** Deposit into the Holdback Account (defined in Section 7.2 below) the Holdback Amount (also defined in Section 7.2 below) and distribute all other funds held by the Escrow Agent pursuant to the Escrow Closing Statements approved in writing by HA and Developer;

3.9.5      **Assignment.** Deliver to Developer the conformed copies of the Assignment;

3.9.6      **FIRPTA Affidavit.** File the FIRPTA Affidavit with the United States Internal Revenue Service and deliver a copy thereof to Developer;

3.9.7      **Form 593.** File the Form 593 with the California Franchise Tax Board and deliver a copy thereof to Developer; and

3.9.8      **Title Policy.** Obtain and deliver to Developer the Developer Title Policy issued by the Title Company.

3.10      **Close of Escrow.** The Close of Escrow shall occur on or before the Outside Closing Date. In addition to the two (2) one (1) month extensions referred to in Section 1.1.61, the Parties may mutually agree to change the Outside Closing Date by joint written instruction to Escrow Agent. If for any reason (other than a Default or Event of Default by such Party) the Close of Escrow has not occurred on or before the Outside Closing Date, then any Party not then in Default under this Agreement may cancel the Escrow and terminate this Agreement upon seven (7) calendar days advance Notice, in their respective sole and absolute discretion, without liability to

the other Party or any other Person for such cancellation and termination, by delivering Notice of termination to both the other Party and Escrow Agent. Following any such Notice of termination of this Agreement and cancellation of the Escrow, the Parties and Escrow Agent shall proceed with the cancellation of Escrow pursuant to Section 3.13. Without limiting the right of either Party to cancel the Escrow and terminate this Agreement, pursuant to this Section 3.10, if the Escrow does not close on or before the Outside Closing Date and neither Party has exercised its contractual right to cancel the Escrow and terminate this Agreement under this Section 3.10 before the first date on which Escrow Agent Notifies both Parties that Escrow is in a position to close in accordance with the terms and conditions of this Agreement, then the Escrow shall close as soon as reasonably possible following the first date on which Escrow Agent Notifies both Parties that Escrow is in a position to close in accordance with the terms and conditions of this Agreement.

3.11 Escrow Costs. Escrow Agent shall notify Developer and HA of the costs to be borne by each of them at the Close of Escrow by delivering an Escrow Closing Statement to each HA and Developer at least two (2) Business Days prior to the Close of Escrow. HA shall pay the premium charged by the Title Company for the Developer Title Policy. Developer shall be solely responsible for all costs of or premiums for issuance of any endorsements or other supplements to the coverage of the Developer Title Policy that may be requested by Developer. HA and Developer shall each pay one-half (1/2) of the fees and other costs that the Escrow Agent may charge for conducting the Escrow. HA shall pay any and all recording fees, documentary transfer taxes and any and all other charges, fees and taxes levied by a Government relative to the conveyance of the Property through the Escrow.

3.12 Escrow Cancellation Charges. If the Escrow fails to close due to HA's Default under this Agreement, HA shall pay all ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively. If the Escrow fails to close due to Developer's Default under this Agreement, Developer shall pay all ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively. If the Escrow fails to close for any reason other than the Default of either Developer or HA, Developer and HA shall each pay one-half (1/2) of any ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively.

3.13 Escrow Cancellation. If this Agreement is terminated pursuant to a contractual right granted to a Party in this Agreement to terminate this Agreement (other than due to an Event of Default by the other Party), the Parties shall do all of the following:

3.13.1 **Cancellation Instructions.** The Parties shall, within three (3) Business Days following Escrow Agent's written request, sign any reasonable Escrow cancellation instructions requested by Escrow Agent and deliver such signed Escrow cancellation instructions to Escrow Agent;

3.13.2 **Return of Funds and Documents.** Within ten (10) Business Days following receipt by the Parties of a settlement statement of Escrow and title order cancellation charges (if any) from Escrow Agent or within twenty (20) calendar days following Notice of Termination, whichever is earlier: (a) Developer



or Escrow Agent, respectively, shall return to HA all documents previously delivered by HA to Developer or Escrow Agent regarding the Escrow; (b) HA or Escrow Agent, respectively, shall return to Developer all documents previously delivered by Developer to HA or Escrow Agent regarding the Escrow; (c) Escrow Agent shall, except as otherwise provided for in this Agreement, return to Developer all funds deposited in Escrow by Developer, including the Deposit but less the Independent Contract Consideration (which shall be disbursed to HA) and Developer's share of customary and reasonable Escrow and title order cancellation charges (if any) in accordance with Section 3.12; and (d) Escrow Agent shall, except as otherwise provided in this Agreement, return to HA all funds deposited in Escrow by HA, less HA's share of customary and reasonable Escrow and title order cancellation charges (if any) in accordance with Section 3.12.

3.14 Report to IRS. After the Close of Escrow and prior to the last date on which such report is required to be filed with the Internal Revenue Service under applicable Federal law, if such report is required pursuant to Internal Revenue Code Section 6045(e), Escrow Agent shall report the gross proceeds of the conveyance of the Property pursuant to this Agreement to the Internal Revenue Service on Form 1099-B, W-9 or such other form(s) as may be specified by the Internal Revenue Service pursuant to Internal Revenue Code Section 6045(e). Concurrently with the filing of such reporting form with Internal Revenue Service, Escrow Agent shall deliver a copy of the filed form to both HA and Developer.

3.15 Condemnation. If HA receives written notice that all or any portion of the Property or any interest in any portion of the Property becomes the subject of any eminent domain proceeding after the Effective Date and prior to Close of Escrow, including the filing of any notice of intended condemnation or proceedings in the nature of eminent domain commenced by any Government, HA shall give Notice to Developer of such occurrence. Developer shall have the option to either: (a) proceed with the Close of Escrow, in which case this Agreement shall continue in full force and effect in accordance with its terms and at the Close of Escrow, HA shall pay to Developer any condemnation award attributable to the Property that is paid to HA after the Effective Date and prior to the Close of Escrow or assign to Developer any and all rights of HA to receive any condemnation award attributable to the Property that is to be paid after the Close of Escrow; or (b) Developer may terminate this Agreement by Notice to HA thirty (30) calendar days in advance of the effective date of such termination, in which event the provisions of Section 3.13 shall apply.

#### **4. REPRESENTATIONS AND WARRANTIES OF DEVELOPER**

4.1 Representations and Warranties by Developer. Developer makes the following representations, covenants and warranties as of the Effective Date and acknowledges that the execution of this Agreement by HA is made in material reliance by HA on such covenants, representations and warranties of Developer:

4.1.1 **Valid and Enforceable Agreement.** Developer has taken all requisite action and obtained all requisite consents in connection with entering

into this Agreement, such that this Agreement is valid and enforceable against Developer in accordance with its terms and each instrument to be executed by Developer pursuant to or in connection with this Agreement will, when executed, be valid and enforceable against Developer in accordance with its terms. No approval, consent, order or authorization of, or designation or declaration of any other person, is required in connection with the valid execution, delivery or performance of this Agreement by Developer.

4.1.2 **Change of Fact or Circumstance.** If Developer becomes aware of any act or circumstance that would change or render incorrect, in whole or in part, any representation or warranty made by Developer under this Agreement, whether as of the date given or any time thereafter, whether or not such representation or warranty was based upon Developer's knowledge and/or belief as of a certain date, Developer will give immediate written notice of such changed fact or circumstance to HA.

#### 4.2 Prevailing Wages

4.2.1 **RESPONSIBILITY.** DEVELOPER AGREES WITH HA THAT DEVELOPER SHALL ASSUME ANY AND ALL RESPONSIBILITY AND BE SOLELY RESPONSIBLE FOR DETERMINING WHETHER OR NOT LABORERS EMPLOYED RELATIVE TO THE CONSTRUCTION OF THE PROJECT MUST BE PAID THE PREVAILING PER DIEM WAGE RATE FOR THEIR LABOR CLASSIFICATION, AS DETERMINED BY THE STATE, PURSUANT TO LABOR CODE SECTIONS 1720 ET SEQ., OR PURSUANT TO APPLICABLE FEDERAL LAW.

4.2.2 **WAIVERS AND RELEASES.** DEVELOPER ON BEHALF OF ITSELF, ITS SUCCESSORS AND ASSIGNS, WAIVES AND RELEASE HA FROM ANY RIGHT OF ACTION THAT MAY BE AVAILABLE TO ANY OF THEM PURSUANT TO STATE LABOR CODE SECTION 1781 OR OTHER STATE OR FEDERAL LAW REGARDING PAYMENT OF MINIMUM OR PREVAILING WAGE AMOUNTS. RELATED TO THE WAIVERS AND RELEASES CONTAINED IN THIS SECTION 4.2.2, DEVELOPER ACKNOWLEDGES THAT PROTECTIONS OF CIVIL CODE SECTION 1542, WHICH READ AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTIVE THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

4.2.3 **INITIALS.** BY INITIALING BELOW, DEVELOPER KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF

SECTION 1542 SOLELY IN CONNECTION WITH THE WAIVERS AND  
RELEASES CONTAINED IN SECTION 4.2.2.


  
DEVELOPER INITIALS

**5. REMEDIES, INDEMNITY AND TERMINATION**

5.1 PRE-CLOSING LIQUIDATED DAMAGES TO HA. UPON THE OCCURRENCE OF AN EVENT OF DEFAULT BY DEVELOPER UNDER THIS AGREEMENT PRIOR TO THE CLOSE OF ESCROW, HA MAY CANCEL THE ESCROW, PURSUANT TO SECTION 3.13, AND TERMINATE THIS AGREEMENT. UPON CANCELLATION OF THE ESCROW AND TERMINATION OF THIS AGREEMENT, HA SHALL BE RELIEVED OF ANY OBLIGATION OF HA UNDER THIS AGREEMENT TO SELL OR CONVEY THE PROPERTY TO DEVELOPER. ANY SUCH ESCROW CANCELLATION AND TERMINATION OF THIS AGREEMENT SHALL BE WITHOUT ANY LIABILITY OF HA TO DEVELOPER OR ANY OTHER PERSON ARISING FROM SUCH ACTION. HA AND DEVELOPER ACKNOWLEDGE THAT IT IS EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN THE AMOUNT OF DAMAGES THAT WOULD BE SUFFERED BY HA IN THE EVENT OF A CANCELLATION OF THE ESCROW AND TERMINATION OF THIS AGREEMENT DUE TO THE OCCURRENCE OF AN EVENT OF DEFAULT BY DEVELOPER UNDER THIS AGREEMENT PRIOR TO THE CLOSE OF ESCROW. HAVING MADE DILIGENT BUT UNSUCCESSFUL ATTEMPTS TO ASCERTAIN THE ACTUAL DAMAGES HA WOULD SUFFER, IN THE EVENT OF A CANCELLATION OF THE ESCROW AND TERMINATION OF THIS AGREEMENT DUE TO THE OCCURRENCE OF AN EVENT OF DEFAULT BY DEVELOPER UNDER THIS AGREEMENT PRIOR TO THE CLOSE OF ESCROW, HA AND DEVELOPER AGREE THAT A REASONABLE ESTIMATE OF HA'S DAMAGES IN SUCH EVENT, INCLUDING, WITHOUT LIMITATION, COSTS OF NEGOTIATING AND DRAFTING THIS AGREEMENT, COSTS OF COOPERATING IN SATISFYING CONDITIONS TO CLOSING, COSTS OF SEEKING ANOTHER BUYER, OPPORTUNITY COSTS IN KEEPING THE PROPERTY OUT OF THE MARKETPLACE, AND OTHER COSTS INCURRED IN CONNECTION HERewith, IS THE AMOUNT OF THE DEPOSIT (\$20,000). THEREFORE, UPON THE CANCELLATION OF THE ESCROW AND TERMINATION OF THIS AGREEMENT BY HA DUE TO THE OCCURRENCE OF AN EVENT OF DEFAULT BY DEVELOPER UNDER THIS AGREEMENT PRIOR TO THE CLOSE OF ESCROW, THE ESCROW AGENT SHALL IMMEDIATELY CANCEL THE ESCROW AND PROMPTLY DELIVER THE DEPOSIT TO HA. RECEIPT OF THE DEPOSIT SHALL BE HA'S SOLE AND EXCLUSIVE REMEDY AGAINST DEVELOPER UPON THE CANCELLATION OF THE ESCROW AND TERMINATION OF THIS AGREEMENT DUE TO THE OCCURRENCE OF AN EVENT OF DEFAULT BY DEVELOPER UNDER THIS AGREEMENT PRIOR TO THE CLOSE OF ESCROW AND HA WAIVES ANY AND ALL RIGHT TO SEEK OTHER RIGHTS OR REMEDIES AGAINST DEVELOPER, INCLUDING, WITHOUT LIMITATION, SPECIFIC PERFORMANCE. THE PAYMENT AND RETENTION OF THE DEPOSIT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN



THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO HA PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. HA WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTIONS 1680 AND 3389. UPON ANY SUCH DEFAULT BY DEVELOPER HEREUNDER, THIS AGREEMENT SHALL BE TERMINATED AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO THE OTHER, EXCEPT FOR THE RIGHT OF HA TO RETAIN THE DEPOSIT.

_____ Initials of Authorized HA Representative	 _____ Initials of Authorized Developer Representative
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5.2 Developer's Remedies Prior To Close Of Escrow.

5.2.1 **HA's Default.** If HA materially defaults under this Agreement prior to the Close of Escrow, then Developer may:

a) Terminate this Agreement, provided such termination shall be effective only upon delivery of written Notice of termination from Developer to Escrow Agent and HA, in which event, (i) Escrow Agent shall automatically return to Developer the Deposit, any interest thereon and any other sums deposited by Developer then held by Escrow Agent, and (ii) Developer shall be entitled to reimbursement of its out-of-pocket costs of this transaction by HA not to exceed Twenty Thousand Dollars (\$20,000); or

b) Keep this Agreement in effect and pursue any and all other remedies available to it against HA including the specific performance of this Agreement, and Developer may record a notice of pendency of action against the Property.

5.3 Legal Actions. Either Party may institute legal action, at law or in equity, to enforce or interpret the rights or obligations of the Parties under this Agreement or recover damages, subject to the provisions of Sections 5.1 or 5.2.

5.4 Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties set forth in this Agreement are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by such Party, at the same or different times, of any other rights or remedies for the same Default or the same rights or remedies for any other Default by the other Party.

## 5.5 Indemnification.

5.5.1 **HA Indemnity Obligations.** HA shall Indemnify Developer Parties against any Claim to the extent such Claim arises from (a) any wrongful intentional act or gross negligence of HA Parties but only to the extent that the HA may be held liable under applicable law for such acts or negligence, (b) any agreements that HA (or anyone claiming by or through HA) makes or has made with a Third Person regarding the Property or the Project, which is not disclosed to Developer in writing, (c) any worker's compensation claim or determination relating to any employee of HA, its agents or their contractors (d) any breach of representation or warranty of HA herein. Nothing in this Agreement is intended nor shall be interpreted to waive any limitation on HA's liability, any exemption from liability in favor of HA, any claim presentment requirement for bringing an action regarding any liability of HA or any limitations period applicable to liability of HA, all as set forth in California Government Code Sections 800 *et seq.*, Sections 900 *et seq.*, or in any other Law, or require HA to Indemnify any Person beyond such limitations on HA's liability. Such obligation to Indemnify shall include all Legal Costs, monetary awards, sanctions, attorney fee awards, expert witness and consulting fees, and the expenses of any and all financial or performance obligations resulting from the disposition of the legal action .

### 5.5.2 **Developer Indemnity Obligations.**

(a) Developer shall Indemnify HA Parties against any Claim to the extent such Claim arises from:

(1) any wrongful intentional act or negligence of Developer Parties relating to the Project, Property or this Agreement;

(2) any Claims relating to Due Diligence Investigations except for (i) any loss, liability, cost, claim, damage, injury or expense to the extent arising from or related to the gross negligence or intentional misconduct of HA, its officers, managers, employees or agents, (ii) any diminution in value in the Property arising from or relating to any condition discovered during the Due Diligence Investigations, including, without limitation, Hazardous Materials except to the extent that such condition is exacerbated due to the negligence or willful misconduct of Developer or its Agents and (iii) any latent defects in the Property;

(3) any Application relating to the Project made by or at Developer's request;

(4) any agreement that Developer (or anyone claiming by or through Developer) makes with a Third Person regarding the Property or the Project;

(5) any worker's compensation claim or determination relating to any employee of Developer Parties or their contractors;

(6) any Prevailing Wage action pertaining to this Agreement or the Project; or

(b) Such obligation to Indemnify shall include all Legal Costs, monetary awards, sanctions, attorney fee awards, expert witness and consulting fees, and the expenses of any and all financial or performance obligations resulting from the disposition of the legal action .

**5.5.3 Independent of Insurance Obligations.** Developer's indemnification obligations under this Agreement shall not be construed or interpreted as in any way restricting, limiting, or modifying Developer's insurance or other obligations under this Agreement. Developer's obligation to Indemnify HA Parties under this Agreement is independent of Developer's insurance and other obligations under this Agreement. Developer's compliance with Developer's insurance obligations and other obligations under this Agreement shall not in any way restrict, limit, or modify Developer's indemnification obligations under this Agreement and are independent of Developer's indemnification and other obligations under this Agreement.

**5.5.4 Survival of Indemnification and Defense Obligations.** The indemnity and defense obligations of the Parties under this Agreement shall survive the expiration or earlier termination of this Agreement, until any and all actual or prospective Claims regarding any matter subject to an indemnity obligation under this Agreement are fully, finally, absolutely and completely barred by applicable statutes of limitations.

**5.5.5 Indemnification Procedures.** Wherever this Agreement requires any Indemnitor to Indemnify any Indemnitee:

(a) *Prompt Notice.* The Indemnitee shall promptly Notify the Indemnitor of any Claim.

(b) *Selection of Counsel.* The Indemnitor shall select counsel reasonably acceptable to the Indemnitee. Counsel to Indemnitor's insurance carrier that is providing coverage for a Claim shall be deemed reasonably satisfactory, except in the event of a potential or actual conflict of interest for such counsel regarding such representation or such counsel proves to be incompetent regarding such representation. Even though the Indemnitor shall defend the Claim, Indemnitee may, at Indemnitee's option and expense (except in a situation where the Indemnitor is defending Indemnitee under a reservation of rights, in which situation the Indemnitor shall pay for such separate counsel), engage separate counsel to advise it regarding the Claim and its defense. The Indemnitee's separate counsel may attend all proceedings and meetings. The Indemnitor's counsel shall actively consult with the Indemnitee's separate counsel.

(c) *Cooperation.* The Indemnitee shall reasonably cooperate with the Indemnitor's defense of the Indemnitee.

(d) *Settlement.* The Indemnitor may only settle a Claim with the consent of the Indemnitee, which shall not be unreasonably withheld or delayed. Any settlement shall procure a release of the Indemnitee from the subject Claims, shall not require the Indemnitee to make any payment to the claimant and shall provide that neither the Indemnitee nor the Indemnitor on behalf of Indemnitee admits any liability.

(e) *Insurance Proceeds.* The Indemnitor's obligations shall be reduced by net insurance proceeds the Indemnitee actually receives for the matter giving rise to indemnification obligation.

## 6. HA'S REPRESENTATIONS, WARRANTIES AND COVENANTS

6.1 In addition to the representations, warranties and covenants of HA contained in other Sections of this Agreement, HA represents, warrants and covenants to Developer as follows, all of which shall survive the Close of Escrow:

6.1.1 **Valid and Enforceable Agreement.** HA is a public body, corporate and politic, validly existing and in good standing under the laws of the State of California and is duly authorized to do business in the State of California. HA is the sole owner in fee simple of the Property and has the full right, capacity, power, and authority to enter into and carry out the terms of this Agreement and that no consent from any Third Person is required to convey the Property to Developer. This Agreement has been duly authorized and entered into by HA and the parties signing on behalf of HA, and upon delivery to and execution by Developer, shall be a valid and binding agreement of HA.

6.1.2 **No Violation of Prior Agreement.** Except as identified in the Preliminary Report, HA has not alienated, encumbered, transferred, assigned or otherwise conveyed its interest in the Property or any portion thereof, nor entered into any agreement to do so, nor shall HA do so. By entering into and performing the transactions contemplated by this Agreement, HA will not violate or breach any agreement, covenant or obligation binding on HA.

6.1.3 **Hazardous Materials.** Except as may be disclosed in the Documents delivered by HA to Developer pursuant to Section 2.4.4 above, to the best of HA's actual knowledge (with no duty or obligation of investigation or inquiry), neither HA nor any Third Person has used, generated, transported, discharged, released, manufactured, stored, or disposed any Hazardous Material from, into, at, on, under, or about the Property in violation of any Environmental Law. Additionally, to the best of HA's actual knowledge (with no duty or obligation of investigation or inquiry), except as may be disclosed in the Documents, (a) the Property is not in violation, nor has been or is currently under investigation for violation of any Environmental Law (b) there has been no migration of any

Hazardous Material from, into, at, on, under or about the Property in violation of any Environmental Law; and (c) there is not now, nor has there ever been on or in the Property underground storage tanks or surface or below-grade impoundments used to store, treat or handle Hazardous Materials or debris or refuse buried in, on or under the Property.

6.1.4 **No Violations or Actions.** To the best of HA's actual knowledge (with no duty or obligation of investigation or inquiry) there is no suit, action or arbitration, or legal, administrative, or other proceeding or governmental investigation, formal or informal, including but not limited to eminent domain, condemnation, notice of violation, assessment district or zoning change proceeding, pending or served on HA or threatened in writing. Further, to the best of HA's actual knowledge (with no duty or obligation of investigation or inquiry), there is no judgment or moratorium involving the Property that affects Developer's anticipated development of the Property or that adversely affects HA's ability to perform hereunder.

6.1.5 **Leases.** There are no leases, rental agreements or other contracts of any kind or nature affecting the Property and HA shall not enter into any contracts affecting the Property during the term of this Agreement without the prior written consent of Developer.

6.1.6 **Not a Public Park.** The Property is not a public park which is subject to California Government Code Sections 38501 *et. seq.*

Each of the representations and warranties made by HA in this Agreement, or in any Exhibit, or on any document or instrument delivered pursuant hereto shall be continuing representations and warranties that shall be true and correct in all material respects on the date hereof, and shall be deemed to be made again as and at the date of the Close of Escrow and shall then be true and correct in all material respects. The truth and accuracy of each of the representations and warranties, and the performance of all covenants of HA contained in this Agreement, are conditions precedent to the Close of Escrow. HA shall notify Developer immediately of any facts or circumstances that would make untrue any of the foregoing representations and warranties contained in this Section.

## 7. **OIL WELL HOLDBACK**

7.1 **Oil Well.** During its investigations of the Property prior to the Effective Date, Developer discovered that there may exist an oil well on the Property which has yet to be located with certainty ("**Oil Well**") and which, prior to development of the Property for residential uses as contemplated by the Agreement, if determined to exist on the Property, would have to be plugged and abandoned in conformance with the requirements of the California Department of Conservation, Division of Oil, Gas and Geothermal Resources ("**DOGGR**") and applicable Environmental Laws ("**Abandonment**").



7.2 Holdback. Based upon the potential costs associated with an Abandonment of the Oil Well, the existence of which will likely not be confirmed until the grading of the Property after the Close of Escrow, Escrow Agent shall hold back from the funds to be distributed to HA at the Close of Escrow the amount of One Hundred Fifty Thousand Dollars (\$150,000) (“**Holdback Amount**”). If the Oil Well is determined to be on the Property, the Holdback Amount shall fund the Abandonment of the Oil Well as more particularly described in the Holdback Agreement in the form attached hereto as Exhibit I (“**Holdback Agreement**”) to be entered into by HA and Developer at the Close of Escrow. Escrow Agent shall establish, deposit the Holdback Amount into and maintain an interest-bearing account (“**Holdback Account**”) at a reputable financial institution selected by Developer and reasonably approved by HA. on the terms and conditions specified in the Holdback Agreement. After the Close of Escrow, the Holdback Amount shall be disbursed by Escrow Agent pursuant to the terms and provisions of the Holdback Agreement.

7.3 Scope of Work for Abandonment. HA and Developer agree that in the event that the Oil Well is determined to be located on the Property, the Scope of Work for the Abandonment of the Oil Well attached hereto as Exhibit J (“**Scope of Work**”) constitutes a good faith effort to identify the work that will be necessary to complete the Abandonment of the Oil Well, however, based upon the actual condition of the Oil Well and the surrounding soil and/or any additional or different requirements imposed by DOGGR, such Scope of Work is subject to revision. Any revisions to the Scope of Work not mandated by DOGGR shall be reviewed and agreed to by HA before the revised Scope of Work shall be implemented. Developer shall contract with a third party contractor to have the Abandonment performed pursuant to the Scope of Work, as revised from time to time to address the actual condition of the Oil Well and the surrounding soil.

## 8. GENERAL PROVISIONS

8.1 Incorporation of Recitals. The Recitals of fact set forth preceding this Agreement are true and correct and are incorporated into this Agreement in their entirety by this reference.

8.2 Notices, Demands and Communications Between the Parties. Any and all Notices submitted by any Party to the other Party pursuant to or as required by this Agreement shall be proper, if in writing and sent by electronic mail, by messenger for immediate personal delivery, nationally recognized overnight (one Business Day) courier (i.e., United Parcel Service, Federal Express, etc.) or by registered or certified United States mail, postage prepaid, return receipt requested, to the address or email address of the recipient Party, as designated below in this Section 8.2. Notices may be sent in the same manner to such other addresses as either Party may from time to time designate by Notice in accordance with this Section 8.2. Notice shall be deemed received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that the Notice is successfully transmitted via email or delivered to the recipient by messenger, one Business Day after delivery to a nationally recognized overnight carrier or two (2) calendar days after the Notice is placed in the United States mail in accordance with this Section 8.2. Any attorney representing a Party may give any Notice on behalf of such Party. The Notice addresses for the Parties, as of the Effective

Date, are as follows:

To Developer:

KB Home Coastal Inc.  
36310 Inland Valley Drive  
Wildomar, California 92595  
Attn: Steve Ruffner and Lori Schmid  
Email: sruffner@kbhome.com;  
lschmid@kbhome.com

With Copy To:

KB Home  
10990 Wilshire Blvd., 7<sup>th</sup> Floor  
Los Angeles, California 90024  
Attn: Phil Darrow and Deb Smith  
Email: pdarrow@kbhome.com;  
dksmith@kbhome.com

and

Green Steel & Albrecht, LLP  
19800 MacArthur Blvd., Suite 1000  
Irvine, CA 92612-2433  
Attn: Joseph M. Manisco, Esq.  
Email: [jmanisco@gsaattorneys.com](mailto:jmanisco@gsaattorneys.com)

To HA:

Housing Authority of the City of Stanton  
City of Stanton  
7800 Katella Ave  
Stanton, CA 90680  
Attention: Executive Director  
Email: [JHildenbrand@ci.stanton.ca.us](mailto:JHildenbrand@ci.stanton.ca.us)

With Copy to:

Best Best & Krieger LLP  
18101 Van Karman Avenue, Suite 1000  
Irvine, CA 92614  
Attention: Elizabeth W. Hull, Esq.  
Email: [elizabeth.hull@bbklaw.com](mailto:elizabeth.hull@bbklaw.com)

8.3 Relationship of Parties. The Parties each intend and agree that HA and Developer are independent contracting entities and do not intend by this Agreement to create any partnership, joint venture, or similar business arrangement, relationship or association between them.

#### 8.4 Brokers.

8.4.1 HA and Developer each represents and warrants to the other that they have not dealt with or been represented by any brokers or finders in connection with the purchase and sale of the Property, except that Jerry Ristrom of Inco Commercial (“**HA’s Broker**”) is the listing broker for HA and has represented HA in this transaction and that HA shall be responsible for HA’s Broker’s commission pursuant to a separate agreement between HA and HA’s Broker.

8.4.2 HA shall indemnify, defend and hold harmless Developer against any loss, liability, damage, cost, claim or expense (including reasonable attorneys’ fees) incurred by reason of any brokerage fee, commission or finder’s fee that is payable or alleged to be payable to any broker or finder (including without limitation HA’s Broker) by HA.

8.4.3 Developer shall indemnify, defend and hold harmless HA against any loss, liability, damage, cost, claim or expense (including reasonable attorneys’ fees) incurred by reason of any brokerage fee, commission or finder’s fee that is payable or alleged to be payable to any broker or finder by Developer.

8.4.4 Developer represents and warrants that no gratuities, in the form of entertainment, gifts or otherwise have been or will be given by Developer or any of Developer’s agents, employees or representatives to any elected or appointed official or employee of HA in an attempt to secure this Agreement or favorable terms or conditions for this Agreement.

8.4.5 Breach of the representations or warranties of this Section 8.4 shall entitle the non-breaching party to terminate this Agreement or cancel the Escrow (or both) upon seven (7) calendar days’ Notice to breaching party and, if during the pendency of the Escrow, also to Escrow Agent.

8.4.6 Notwithstanding anything to the contrary contained herein, the representations, warranties, indemnities, and agreements contained in this Section 8 shall survive the Close of Escrow or earlier termination of this Agreement.

8.5 Calculation of Time Periods. All periods of time referred to in this Agreement shall include all Saturdays, Sundays, and state or national holidays, unless the period of time specifies Business Days, in which event Saturdays, Sundays, days the City of Stanton offices are closed and local, state or national holidays shall be excluded.. If the date to perform any act or give any notice with respect to this Agreement falls on a Saturday, Sunday, day the City of Stanton offices are closed, or local, state or national holiday, the act or notice may be timely performed or given on the next succeeding Business Day.

8.6 Principles of Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Agreement. The Parties have both participated substantially in the negotiation, drafting and revision of this Agreement, with advice

from legal and other counsel and advisers of their own selection. A word, term or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words “include” and “including” in this Agreement shall be construed to be followed by the words: “without limitation.” Each collective noun in this Agreement shall be interpreted as if followed by the words “(or any part of it),” except where the context clearly requires otherwise. Every reference to any document, including this Agreement, refers to such document, as modified from time to time (excepting any modification that violates this Agreement), and includes all exhibits, schedules, addenda and riders to such document. The word “or” in this Agreement includes the word “and.” Every reference to a law, statute, regulation, order, form or similar governmental requirement refers to each such requirement as amended, modified, renumbered, superseded or succeeded, from time to time.

8.7 Governing Law. The procedural and substantive laws of the State shall govern the interpretation and enforcement of this Agreement, without application of conflicts of laws principles. The Parties acknowledge and agree that this Agreement is entered into, is to be fully performed in and relates to real property located in the County. All legal actions arising from this Agreement shall be filed in the Superior Court of the State in and for the County or in the United States District Court with jurisdiction in the County.

8.8 Parties to the Agreement. The Parties to this Agreement are HA and Developer. The City is not a Party to this Agreement.

8.9 Unavoidable Delay; Extension of Time of Performance.


8.9.1 **Notice.** Subject to any specific provisions of this Agreement stating that they are not subject to Unavoidable Delay or otherwise limiting or restricting the effects of an Unavoidable Delay (if any), performance by either Party under this Agreement shall not be deemed or considered to be in Default, where any such Default is due to the occurrence of an Unavoidable Delay. Any Party claiming an Unavoidable Delay shall Notify the other Party: (a) within twenty (20) calendar days after such Party knows of any such Unavoidable Delay; and (b) within ten (10) calendar days after such Unavoidable Delay ceases to exist. To be effective, any Notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The Party claiming an extension of time to perform due to an Unavoidable Delay shall exercise reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time.

8.9.2 **Assumption of Economic Risks.** EACH PARTY EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, OF EITHER PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMAND OR CHANGES IN THE ECONOMIC ASSUMPTIONS OF EITHER PARTY THAT MAY HAVE PROVIDED A BASIS FOR ENTERING INTO THIS AGREEMENT SHALL NOT OPERATE TO EXCUSE OR DELAY THE PERFORMANCE OF

EACH AND EVERY ONE OF EACH PARTY'S OBLIGATIONS AND COVENANTS ARISING UNDER THIS AGREEMENT. ANYTHING IN THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, THE PARTIES EXPRESSLY ASSUME THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES OR MARKET DEMAND OR CONDITIONS AND WAIVE, TO THE GREATEST EXTENT ALLOWED BY LAW, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, CHANGED ECONOMIC CIRCUMSTANCES, FRUSTRATION OF PURPOSE, OR SIMILAR THEORIES. THE PARTIES AGREE THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF THE PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY ONE OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS AGREEMENT. THE PARTIES EXPRESSLY ASSUME THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF THE EFFECTIVE DATE.

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Initials of Authorized  
HA Representative



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Initials of Authorized  
Developer Representative

8.10 Tax Consequences. Developer acknowledges and agrees that Developer shall bear any and all responsibility, liability, costs or expenses connected in any way with any tax consequences experienced by Developer related to this Agreement.

8.11 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any Person other than the Parties and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any Third Person to any Party or give any Third Person any right of subrogation or action over or against any Party.

8.12 Developer Assumption of Risks of Legal Challenges. Except in connection with any breach of representation, warranty or covenant of HA set forth in this Agreement, including, without limitation, its representations and warranties set forth in Section 6.1 and its obligation to Indemnify as set forth in Section 5.5.1, Developer assumes the risk of delays or damages that may result to Developer from any Third Person legal actions related to HA's approval of this Agreement or any associated Approvals relating to the Project, even in the event that an error, omission or abuse of discretion by HA is determined to have occurred. If a Third Person files a legal action regarding HA's approval of this Agreement or any associated Approval relating to the Project (exclusive of legal actions alleging violation of California Government Code Section 1090 by elected officials of HA), Developer shall have the option to either: (a) cancel the Escrow and terminate this Agreement, in which case the Parties and the Escrow Agent shall proceed in accordance with Section 3.13; or (b) Indemnify HA against such Third Person legal action,

including all Legal Costs, monetary awards, sanctions, attorney fee awards, expert witness and consulting fees, and the expenses of any and all financial or performance obligations resulting from the disposition of the legal action; provided, however, that option “(a)” under this Section shall only be available to Developer prior to the Close of Escrow. Should Developer fail to Notify HA of Developer’s election pursuant to this Section 8.12 at least fifteen (15) calendar days before response to the legal action is required by HA, Developer shall be deemed to have elected to cancel the Escrow and terminate this Agreement pursuant to this Section 8.12. If Developer is deemed to have elected to cancel the Escrow and terminate this Agreement pursuant to this Section 8.12 and Developer does not send Notice of cancellation of the Escrow to Escrow Agent and HA and Notice of termination of this Agreement to HA within ten (10) calendar days following such event, then HA shall have the right to terminate this Agreement and cancel the Escrow by sending Notice of cancellation of the Escrow to Escrow Agent and Developer and Notice of termination of this Agreement to Developer, without liability to Developer or any other Person. HA shall reasonably cooperate with Developer in defense of HA in any legal action subject to this Section 8.12, subject to Developer performing Developer’s indemnity obligations for such legal action. Nothing contained in this Section 8.12 is intended to be nor shall be deemed or construed to be an express or implied admission that HA may be liable to Developer or any other Person for damages or other relief regarding any alleged or established failure of HA to comply with any Law. Any legal action that is subject to this Section 8.12 (including any appeal periods and the pendency of any appeals) shall constitute an Unavoidable Delay and the time periods for performance by either Party under this Agreement may be extended pursuant to the provisions of this Agreement regarding Unavoidable Delay.

8.13 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

8.14 Time Declared to be of the Essence. As to the performance of any obligation under this Agreement of which time is a component, the performance of such obligation within the time specified is of the essence.

8.15 Entire Agreement. This Agreement integrates all of the terms, conditions and exhibits mentioned in this Agreement or incidental to this Agreement, and supersedes all negotiations or previous agreements between the Parties with respect to all or any portion of the Property or the development of the Project.

8.16 Waivers and Amendments. All waivers of the provisions of this Agreement must be in writing and signed by the authorized representative(s) of the Party making the waiver. All amendments to this Agreement must be in writing and signed by the authorized representative(s) of both HA and Developer. Failure to insist on any one occasion upon strict compliance with any term, covenant, condition, restriction or agreement contained in this Agreement shall not be deemed a waiver of such term, covenant, condition, restriction or agreement, nor shall any waiver or relinquishment of any rights or powers under this Agreement, at any one time or more times, be deemed a waiver or relinquishment of such right or power at any other time or times.

8.17 Executive Director Implementation. HA shall implement this Agreement through the Executive Director. The Executive Director is hereby authorized by HA to enter into agreements referenced in this Agreement or reasonably required to implement this Agreement on behalf of HA, issue approvals, interpretations or waivers and enter into amendments to this Agreement on behalf of HA, to the extent that any such action(s) does/do not materially or substantially change the Project or increase the monetary obligations of HA by more than Fifty Thousand Dollars (\$50,000) in the aggregate. All other actions shall require the consideration and approval of HA, unless expressly provided otherwise by action of HA. Nothing in this Section 8.17 shall restrict the submission to HA of any matter within the Executive Director's authority under this Section 8.17, in the Executive Director's sole and absolute discretion, to obtain HA authorization on such matter. The specific intent of this Section 8.17 is to authorize certain actions on behalf of HA by the Executive Director, but not to require that such actions be taken by the Executive Director, without consideration by HA.

8.18 Survival of Agreement. All of the provisions of this Agreement shall be applicable to any dispute between the Parties arising from this Agreement, whether prior to or following expiration or termination of this Agreement, until any such dispute is finally and completely resolved between the Parties, either by written settlement, entry of a non-appealable judgment or expiration of all applicable statutory limitations periods and all terms and conditions of this Agreement relating to dispute resolution and limitations on damages or remedies shall survive any expiration or termination of this Agreement.

8.19 Counterparts. This Agreement shall be signed in three (3) counterpart originals, each of which is deemed to be an original. This Agreement includes forty-one (41) pages and seven exhibits (*i.e.*, Exhibits A through G, inclusive, with each exhibit incorporated into this Agreement by reference) that constitute the entire understanding and Agreement of the Parties regarding the subject matter of this Agreement.

8.20 Facsimile or Electronic Signatures. Signatures delivered by facsimile or electronic means shall be binding as originals upon the Party so signing and delivering; provided, however, that original signature(s) of each Party shall be required for each document to be recorded.

8.21 Offer. When executed by Developer and submitted to HA, this Agreement shall not be effective or binding on Developer until fully executed by HA and a counterpart original delivered to Developer, but shall be interpreted as an offer under control of the Developer prior to such acceptance.

**[Signatures on following page]**



**SIGNATURE PAGE  
TO  
FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT  
AGREEMENT  
(7455 Katella Avenue)**

IN WITNESS WHEREOF, the Parties have signed and entered into this Agreement by and through the signatures of their respective authorized representative(s) as follow:

**HA:**

HOUSING AUTHORITY OF THE CITY OF  
STANTON, a public body, corporate and  
politic

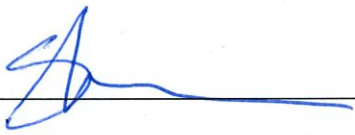
By: \_\_\_\_\_  
Executive Director

**ATTEST:**

By: \_\_\_\_\_  
Authority Secretary

**DEVELOPER:**

KB HOME COASTAL INC., a California  
corporation

By:  \_\_\_\_\_  
Stephen J. Ruffner, President,

**APPROVED AS TO FORM:**

**BEST BEST & KRIEGER LLP**

By: \_\_\_\_\_  
General Counsel



**EXHIBIT A  
TO  
FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT  
AGREEMENT  
(7455 Katella Avenue)**

**LEGAL DESCRIPTION OF THE PROPERTY**

**[Attached behind this cover page]**

Exhibit A

**EXHIBIT A  
TO  
DISPOSITION AND DEVELOPMENT AGREEMENT  
(7455 Katella Avenue)  
LEGAL DESCRIPTION OF THE PROPERTY**

Real property in the City of Stanton, County of Orange, State of California, described as follows:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 4 SOUTH, RANGE 11 WEST, IN THE RANCHO LOS ALAMITOS, AS SHOWN ON MAP NO. 2 ATTACHED TO THE FINAL DECREE OF PARTITION OF SAID RANCHO, A CERTIFIED COPY OF WHICH WAS RECORDED FEBRUARY 2, 1891, IN [BOOK 14, PAGE 31](#) OF DEEDS, RECORDS OF ORANGE COUNTY, AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF THE EAST HALF OF THE SOUTH HALF OF THE EAST 10.00 ACRES OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 23, TOWNSHIP 4 SOUTH, RANGE 11 WEST, SAID POINT BEING DISTANT S89°36'33"W, 185.00 FEET ALONG SAID NORTH LINE FROM THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 23; THENCE, S00°09'58"E, PARALLEL TO SAID EAST LINE OF SECTION 23, DISTANT 330.18 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 23; THENCE, S89°37'28"W, DISTANT 73.22 FEET ALONG SAID SOUTH LINE; THENCE, N00°10'48"W, DISTANT 330.16 FEET TO A POINT IN THE NORTH LINE OF THE EAST HALF OF THE SOUTH HALF OF THE EAST 10.00 ACRES OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 23; THENCE, N89°36'33"E, DISTANT 73.30 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM AN UNDIVIDED 8/9 INTEREST IN AND TO THE NORTH 20.00 FEET OF THE EAST 20.00 FEET THEREOF.

ALSO EXCEPTING THEREFROM SOUTH 40 FEET OF LAND DEDICATED FOR HIGHWAY AND INCIDENTAL PURPOSES RECORDED JULY 31, 1952 IN [BOOK 2363, PAGE 603](#) OF OFFICIAL RECORDS, AND ALSO RECORDED FEBRUARY 11, 1954 IN [BOOK 2677, PAGE 433](#) OF OFFICIAL RECORDS, ALL OF RECORDS OF ORANGE COUNTY.

APN: 079-371-09

**EXHIBIT B  
TO  
FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT  
AGREEMENT  
(7455 Katella Avenue)**

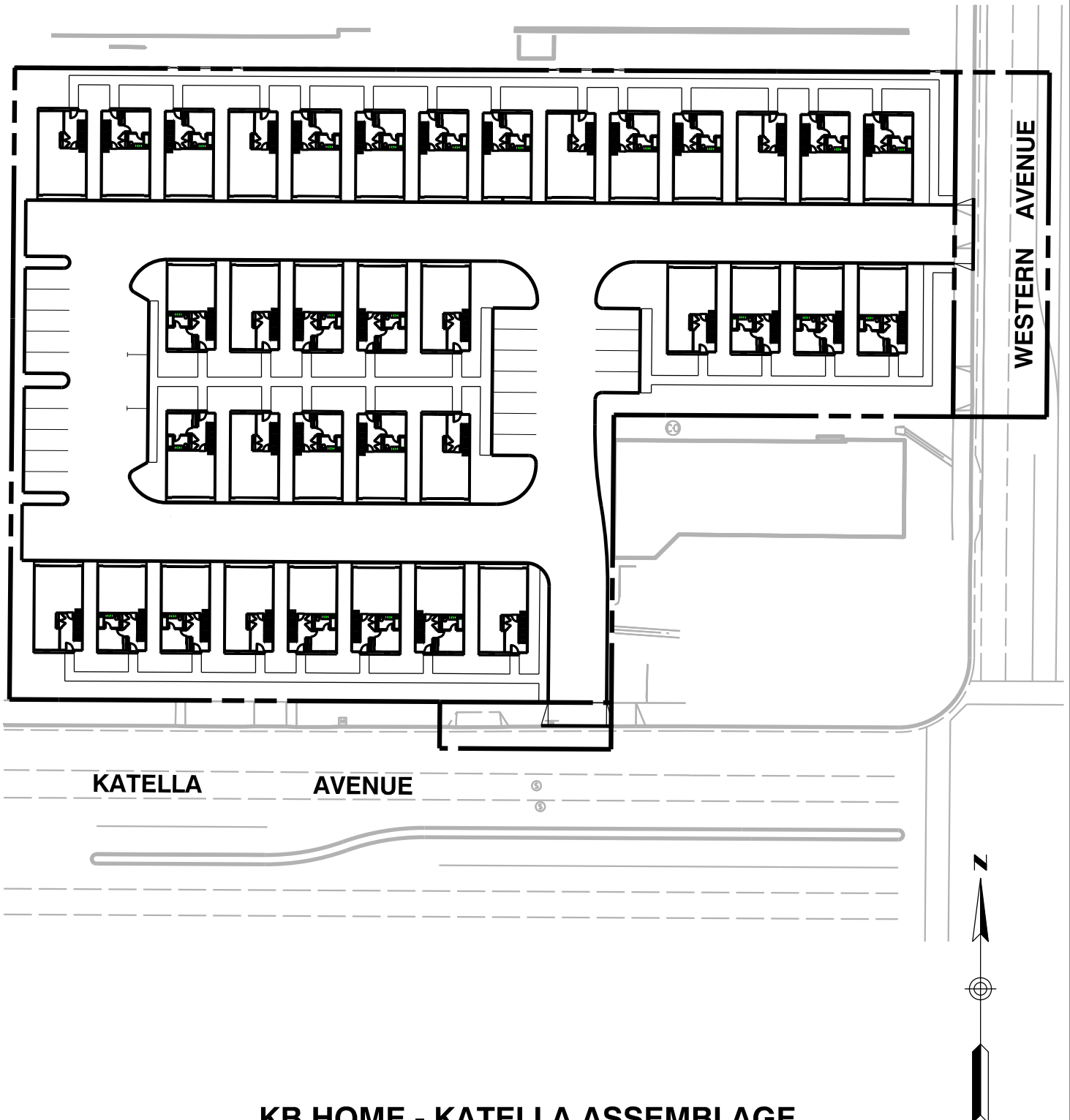
**DEPICTION OF THE COMMUNITY**

**[Attached behind this cover page]**

Exhibit B

## EXHIBIT "B"

### DEPICTION OF THE COMMUNITY



**KB HOME - KATELLA ASSEMBLAGE  
STANTON, CA**

RICK ENGINEERING  
JN 18554A

SCALE: 1" = 60'  
DATE: 08-05-20

**EXHIBIT C  
TO  
FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT  
AGREEMENT  
(7455 Katella Avenue)**

**COPY OF DEVELOPMENT AGREEMENT**

**[To be attached behind this cover page prior to expiration of Due Diligence Period.]**

Exhibit C

**EXHIBIT D  
TO  
FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT  
AGREEMENT  
(7455 Katella Avenue)**

**COPY OF OFFICIAL ACTION OF DEVELOPER APPROVING AGREEMENT**

**[Attached behind this cover page]**

Exhibit D



**CERTIFICATE OF SECRETARY  
KB HOME COASTAL INC.**

I, Tony Richelieu, do hereby certify that I am the duly elected, qualified and acting Secretary of KB HOME Coastal Inc., a California corporation (this "Corporation").

I do further certify that the resolutions attached hereto as Exhibit "A" are a true and complete representation of such resolutions that were duly adopted by the unanimous written consent of the Board of Directors of this Corporation as of August 4, 2020, and that said resolutions have not been rescinded, modified or revoked, and are in full force and effect.

WITNESS MY HAND this 4<sup>th</sup> day of August, 2020.

By: Tony Richelieu  
Tony Richelieu  
Secretary

EXHIBIT "A"  
KB HOME COASTAL INC.  
RESOLUTIONS ADOPTED AS OF AUGUST 4, 2020

Authority to Enter Into First Amended and Restated Disposition and Development Agreement

WHEREAS, the Corporation is considering entering into that certain First Amended and Restated Disposition and Development Agreement (7455 Katella Avenue) ("Agreement"), with the STANTON HOUSING AUTHORITY, a joint exercise of powers authority ("Agency"), to acquire that certain real property owned by the Agency and located in the City of Stanton, County of Orange, State of California, as more specifically described in the Agreement; and

WHEREAS, the Board of Directors has reviewed with management the Agreement and the documents executed or to be executed in connection with the Agreement ("Ancillary Documents"), and considers the transaction to be in the best interest of the Corporation.

NOW, THEREFORE, BE IT RESOLVED, that the Corporation is hereby authorized and approved to enter into the Agreement and the Ancillary Documents.

RESOLVED, FURTHER, that the following officers of the Corporation, acting alone, be, and they hereby are, authorized, empowered, and directed for and on behalf of and in the name of the Corporation to sign, enter into, make and deliver the Agreement and the Ancillary Documents, in such form and with such terms therein and changes or amendments thereto as such officers, or any of them, shall determine to be advisable, necessary or appropriate, such approval to be conclusively evidenced by the execution and delivery thereof by any such officer:

Stephen J. Ruffner	President
Robert V. McGibney	Executive Vice President (Regional President)

RESOLVED FURTHER, that the following officers of the Corporation, without any additional or further consent of any person, are authorized and empowered for and on behalf of and in the name of the Corporation to take all actions on behalf of the Corporation that may be considered necessary and appropriate to carry out the purpose and intent of these resolutions:

Stephen J. Ruffner	President
Robert V. McGibney	Executive Vice President (Regional President)
Michael J. Gartlan	Senior Vice President, Finance
John Abboud	Vice President, Land Acquisition
Tony Richelieu	Secretary
Cory F. Cohen	Assistant Secretary
Philip Darrow	Assistant Secretary
David B. Simons	Assistant Secretary
William Son	Assistant Secretary

RESOLVED, FURTHER, that the authority conferred by these resolutions shall be considered retroactive, and any and all acts authorized in these resolutions that were performed before the passage of these resolutions are approved and ratified. The authority conferred by these resolutions shall continue in full force and effect until the Agency shall have received notice in writing, certified by the Secretary of the Corporation, of the revocation of such authority by a resolution duly adopted by the Board of Directors of the Corporation.

RESOLVED, FURTHER, that the activities covered by the authorities conferred in these resolutions constitute duly authorized activities of the Corporation; these authorities are now in full force and effect; and there is no provision in any document under which the Corporation is organized and/or that governs the Corporation's continued existence limiting the power of the Board of Directors of the Corporation to grant such authority, and the activities covered by the authorities conferred in these resolutions are in conformity with the provisions of all such documents.



**EXHIBIT E  
TO  
FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT  
AGREEMENT  
(7455 Katella Avenue)**

**HA DEED**

**[Attached behind this cover page]**

Exhibit E

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

[REDACTED]  
[REDACTED]  
[REDACTED]  
Attn: [REDACTED]

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT DEED**

**(7455 Katella Avenue)**

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**HOUSING AUTHORITY OF THE CITY OF STANTON**, a public body, corporate and politic ("**Grantor**"),

does hereby grant to

**KB HOME COASTAL INC.**, a California corporation ("**Grantee**"),

that certain real property in the City of Stanton, County of Orange, State of California, specifically described in Exhibit "1" attached to this Grant Deed ("**Property**") and made a part of this Grant Deed by this reference,

**TOGETHER WITH:**

1. All tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof; and

2. All rights, title, and interests of Grantor in and under all covenants, conditions, restrictions, reservations, easements, and other matters of record.

**SUBJECT TO** the following covenants running with the land of the Property in favor of Grantor, as set forth in that certain FIRST AMENDED AND RESTATED DISPOSITION AND

Exhibit E

DEVELOPMENT AGREEMENT (7455 Katella Avenue), dated as of [TO BE DETERMINED],  
by and between Grantor and Grantee (the “DDA”) (all section references are to the DDA):

[COVENANTS SHALL CONFORM TO THOSE AGREED UPON IN THE  
DEVELOPMENT AGREEMENT]

Dated: \_\_\_\_\_

HOUSING AUTHORITY OF THE CITY  
OF STANTON, a public body, corporate and  
politic

By: \_\_\_\_\_

\_\_\_\_\_  
Executive Director

Exhibit E

**CERTIFICATE OF ACCEPTANCE OF GRANT DEED**

This is to certify that the interest in real property conveyed by the foregoing Grant Deed from the **HOUSING AUTHORITY OF THE CITY OF STANTON**, a public body, corporate and politic, to **KB HOME COASTAL INC.**, a California corporation, is hereby accepted by the undersigned, who consents to the recordation of such Grant Deed in the official records of the County of Orange, California.

**KB HOME COASTAL INC.**,  
a California corporation

By:\_\_\_\_\_

Stephen J. Ruffner, President

Exhibit E

**EXHIBIT F  
TO  
FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT  
AGREEMENT  
(7455 Katella Avenue)**

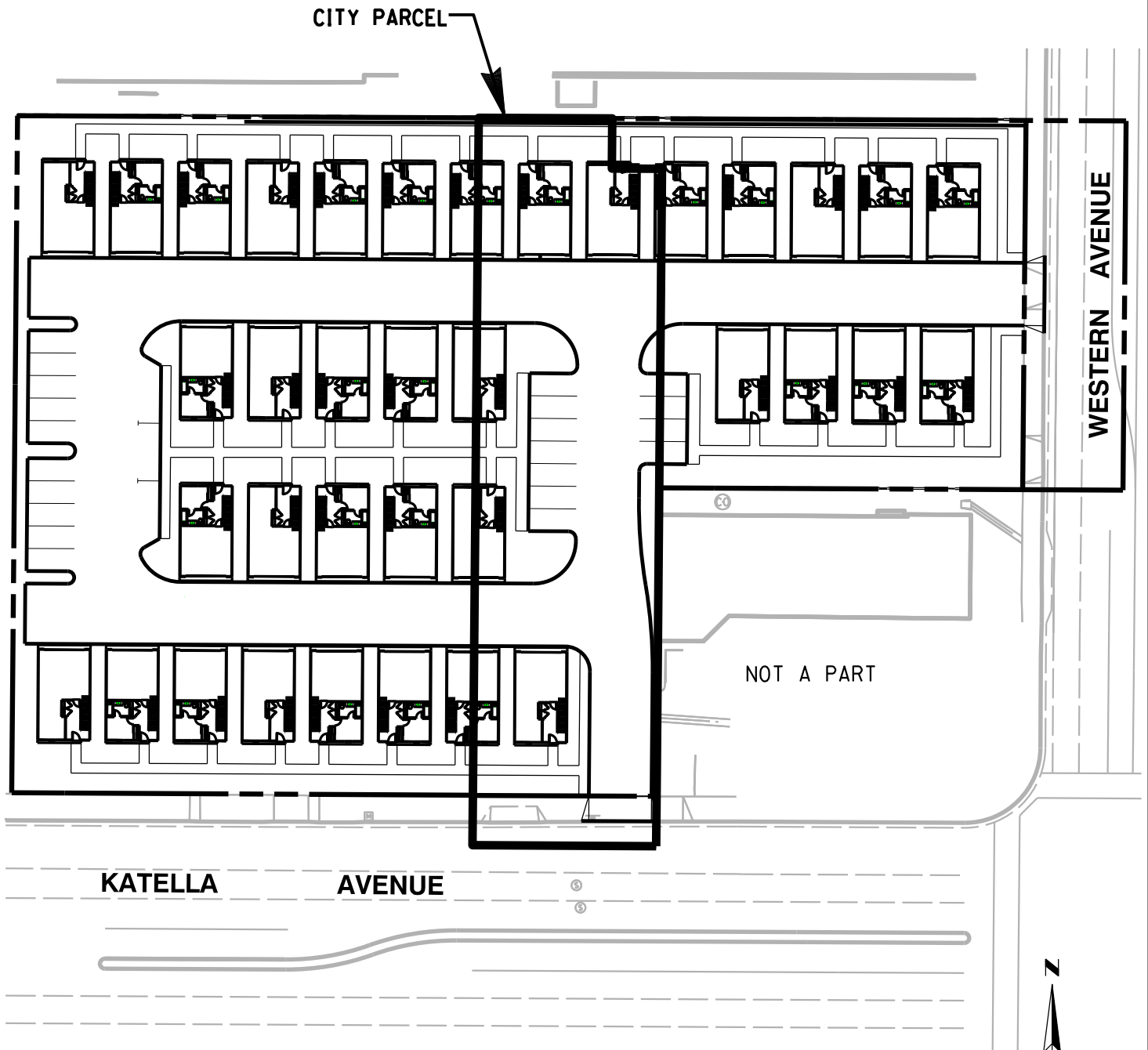
**SCOPE OF DEVELOPMENT FOR PROJECT**

**[THE SCOPE OF DEVELOPMENT SHOULD INCLUDE A SITE PLAN OR OTHER  
DEPICTION OF THE PROJECT AS A PORTION OF AND IN RELATION TO THE  
REMAINDER OF THE COMMUNITY]**

**[Attached behind this cover page]**

# EXHIBIT "F"

## SCOPE OF DEVELOPMENT



KATELLA AVENUE

WESTERN AVENUE

NOT A PART

**KB HOME - KATELLA ASSEMBLAGE  
STANTON, CA**

RICK ENGINEERING  
JN 18554A

SCALE: 1"=60'  
DATE: 08-05-20

**EXHIBIT G  
TO  
FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT  
AGREEMENT  
(7455 Katella Avenue)**

**COPY OF ASSIGNMENT**

**[Attached behind this cover page]**

Exhibit G

## BLANKET ASSIGNMENT AND BILL OF SALE

Reference is made to that certain property located in the City of Stanton, the County of Orange, State of California and described in more detail on Exhibit A attached hereto and made a part hereof and the improvements located thereon and the rights, privileges and entitlements incident thereto (the “**Property**”).

For good and valuable consideration, receipt of which is acknowledged, the undersigned, the HOUSING AUTHORITY OF THE CITY OF STANTON, a public body, corporate and politic (“**HA**”), sells, transfers, assigns, conveys and delivers to KB HOME Coastal Inc., a California corporation (“**Developer**”), all of HA’s right, title and interest in all assets, rights, materials, reimbursements, refunds and/or claims owned, used or held in connection with the ownership, use, management, development or enjoyment of the Property, including, without limitation: (i) all entitlements, permits, subdivision agreements and other agreements relating to the development of Property; (ii) all plans, specifications, maps, drawings and other renderings relating to the Property; (iii) all warranties, claims, indemnities and any similar rights relating to and benefiting the Property or the assets transferred hereby; (iv) all intangible rights, goodwill and similar rights benefiting the Property; (v) all development rights benefiting the Property; (vi) all rights, refunds, claims and awards benefiting or appurtenant to the Property; (vii) all rights to receive a reimbursement, credit or refund from the applicable agency or entity of any deposits or fees paid in connection with the development of the Property; and (viii) all claims, counterclaims, defenses or actions, whether at common law or pursuant to federal, state, or local laws or regulations, against third parties relating to the existence of any Hazardous Materials in, at, on or under the Property.

HA shall, at any time and from time to time upon written request therefor, execute and deliver to Developer, its nominees, successors and/or assigns, any new or confirmatory instruments and do and perform any other acts that Developer, its nominees, successors and/or assigns, may request in order to fully transfer possession and control of, and protect the rights of Developer, its nominees, successors and/or assigns in, all the assets of HA intended to be transferred and assigned hereby.

Dated: \_\_\_\_\_

HOUSING AUTHORITY OF THE CITY  
OF STANTON, a public body, corporate and  
politic

By: \_\_\_\_\_

\_\_\_\_\_  
Executive Director

Exhibit G



**EXHIBIT A**  
**TO BLANKET ASSIGNMENT AND BILL OF SALE**  
**LEGAL DESCRIPTION OF THE PROPERTY**

Exhibit G

**EXHIBIT H  
TO  
FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT  
AGREEMENT  
(7455 Katella Avenue)**

**NOTICE OF AGREEMENT**

**[Attached behind this cover page]**

Exhibit H

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Housing Authority of the City of Stanton

City of Stanton

7800 Katella Ave

Stanton, CA 90680

Attention: Executive Director

SPACE ABOVE FOR RECORDER'S USE ONLY  
EXEMPT FROM RECORDING FEES – GOVT. CODE § 27383

**HOUSING AUTHORITY OF THE CITY OF STANTON**

**Notice of Agreement**

**FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT**

(7455 Katella Avenue)

**TO ALL INTERESTED PERSONS PLEASE TAKE NOTICE** that as of [REDACTED], 20[REDACTED], **KB HOME COASTAL INC.**, a California corporation (“Developer”), and the Housing Authority of the City of Stanton, a public body, corporate and politic (“HA”), entered into an agreement entitled “FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT (7455 Katella Avenue)” (“Agreement”). A copy of the Agreement is available for inspection and copying by interested persons as a public record of HA at the City of Stanton’s offices located 7800 Katella Avenue, Stanton, California, during the regular business hours of the City.

The Agreement affects the real property described in Exhibit “1” attached to this Notice of Agreement (“Property”). The meaning of defined terms, indicated by initial capitalization, used in this Notice of Agreement shall be the same as the meaning ascribed to such terms, respectively, in the Agreement.

Exhibit H

PLEASE TAKE FURTHER NOTICE that the Agreement contains certain covenants running with the land of the Property and other agreements between Developer and HA affecting the Property, including, without limitation (all section references are to the Agreement):

[COVENANTS TO BE AGREED UPON PRIOR TO EXPIRATION OF DUE DILIGENCE PERIOD AND CONSISTENT WITH DEVELOPMENT AGREEMENT]

**HA:**

HOUSING AUTHORITY OF THE CITY OF STANTON, a public body, corporate and politic

By: \_\_\_\_\_  
Executive Director

**DEVELOPER:**

KB HOME COASTAL INC., a California corporation

ATTEST:

By: \_\_\_\_\_  
Authority Secretary

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

By: \_\_\_\_\_  
General Counsel

Exhibit H

EXHIBIT “1”  
TO  
NOTICE OF AGREEMENT

**Property Legal Description**

Exhibit H

**EXHIBIT I  
TO  
FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT  
AGREEMENT  
(7455 Katella Avenue)  
FORM OF HOLDBACK AGREEMENT  
[Attached behind this cover page]**

Exhibit I

## HOLDBACK AGREEMENT

THIS HOLDBACK AGREEMENT (this "**Holdback Agreement**") is entered into as of \_\_\_\_\_, 2021 by and among the HOUSING AUTHORITY OF THE CITY OF STANTON, a public body, corporate and politic ("**HA**"), KB HOME COASTAL INC., a California corporation ("**Developer**"), and FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation ("**Escrow Agent**") with reference to the following recitals:

### RECITALS

A. HA and Developer are parties to that certain FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT dated \_\_\_\_\_, 2020 ("**DDA**"), concerning the sale of the real property therein described (the "**Property**") by HA to Developer. Escrow Agent is the "Escrow Agent" under the DDA.

B. This Holdback Agreement is being entered into concurrently with the Close of Escrow for Developer's acquisition of the Property pursuant to the DDA.

C. The DDA requires that at the time of the Close of Escrow, the Holdback Amount (*i.e.*, One Hundred Fifty Thousand Dollars (\$150,000)) be retained by Escrow Agent and that Escrow Agent deposit the Holdback Amount into an Escrow holdback account ("**Holdback Account**") which shall fund Developer's Abandonment of the Oil Well.

D. HA and Developer desire to enter into this Holdback Agreement to provide instructions for the deposit, administration, investment and disbursement of the Holdback Amount to Escrow Agent for the purposes herein described, and Escrow Agent has agreed to hold, administer, invest and disburse the Holdback Amount, all on the terms and conditions herein set forth.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, and for other good and valuable consideration, which each of the parties acknowledges is sufficient, the parties hereto agree as follows:

1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meaning given to them in the DDA, unless the context clearly requires otherwise.

2. Escrow Agent. HA and Developer hereby appoint and designate First American Title Insurance Company as "**Escrow Agent**" for the purposes set forth herein, and Escrow Agent accepts said appointment subject to the terms of this Holdback Agreement.

3. Establishment of Escrow Holdback Account. Escrow Agent shall establish and maintain the interest-bearing Holdback Account at a reputable financial institution selected by

Exhibit I

Developer and reasonably approved by HA on the terms and conditions specified in this Holdback Agreement.

4. Deposit of Holdback Amount. At the Close of Escrow, Escrow Agent shall retain from the proceeds due to HA and shall deposit the Holdback Amount into the Holdback Account.

5. Investment.

(a) General Provisions. The Holdback Amount shall be deposited in an interest bearing account without penalty for withdrawal in favor of Escrow Agent. All investment of the Holdback Amount shall be made by Escrow Agent, in accordance with written directions from Developer and subject to HA's approval, which approval shall not be unreasonably withheld. In any event, Escrow Agent shall not be liable for any loss from said investments.

(b) Costs. All costs incurred to make or redeem each investment of the Holdback Amount shall be split 50-50 by Developer and HA.

6. Interest. Interest, dividends and other amounts, if any, earned on the Holdback Amount shall accrue to the sole benefit of Developer. Any such interest shall be either held in the Holdback Account and invested by Escrow Agent pursuant to Developer's instructions or disbursed to Developer at Developer's request. In the absence of any such instructions or requests by Developer, interest on the Holdback Amount shall be paid over to Developer at the time of the disbursement of the remainder of the Holdback Amount to Developer.

7. Oil Well Location Determination. In the event Developer determines, and HA confirms, that the Oil Well does not exist on the Property, Developer and HA shall provide written confirmation to Escrow Agency within ten (10) days of making that determination and, notwithstanding any other provision of this Agreement, Escrow Agent shall release the Holdback Amount to the City within five (5) days of receiving the written confirmation and this Agreement shall be terminated.

8. Disbursement to Developer of Holdback Amount. In the event that Developer determines, and HA confirms, that the Oil Well exists on the Property, to the extent that, from time to time, Developer incurs costs in connection with the Abandonment of the Oil Well, Developer may submit to Escrow Agent and HA a written request to withdraw a corresponding amount of such costs from the Holdback Amount ("**Disbursement Request**"). Notwithstanding any other provision of this Holdback Agreement or the DDA, HA shall not be responsible for any costs associated with the Oil Well or its abandonment in excess of the Holdback Amount. Developer's Disbursement Request to HA shall be accompanied by invoices or other written documentation that reasonably evidences Developer's costs incurred in connection with the Abandonment. HA shall, within fourteen (14) days after receipt of such Disbursement Request, either deliver written notice to Escrow Agent and Developer approving such Disbursement Request or deliver written notice to Escrow Agent and Developer disapproving such Disbursement Request ("**HA's Response**"). Failure of HA to timely deliver HA's Response shall be deemed to constitute HA's

Exhibit I



approval of Developer's Disbursement Request. In the event of a HA's Response which approves a Disbursement Request, Escrow Agent shall immediately disburse the amount of the Disbursement Request to Developer. In the event of HA's failure to timely deliver a HA's Response which disapproves a Disbursement Request, Escrow Agent shall disburse the amount of Developer's Disbursement Request to Developer on the first business day after the date that HA's Response is due. HA may not disapprove of any Disbursement Request so long as the work and/or materials which are the subject of the Disbursement Request have, in fact, been performed or provided, as applicable, in a manner consistent with the Scope of Work for the Abandonment attached to the Agreement, as revised from time to time, at a reasonable rate. In the event that there is a dispute between Developer and HA with respect to a Disbursement Request and, notwithstanding the good-faith efforts of Developer and HA to agree, they fail to do so within ten (10) days after HA's delivery of HA's Response, then the issue of whether the portion of the Holdback Amount should be disbursed to Developer pursuant to Developer's Disbursement Request shall be determined based upon the decision of an independent third party with expertise in oil well abandonment agreed upon, in writing, by Developer and HA ("**Third Party Arbitrator**") pursuant to the following process. Within fifteen (15) days after the expiration of the ten (10) day period described above, Developer and HA shall submit to each other, in writing, such evidence to support its position as to whether the work on or materials supplied for the Abandonment for which Developer has delivered a Disbursement Request have been performed or provided at a reasonable rate and Developer is or is not entitled to the disbursement. If the parties are still not in agreement as to whether Developer is or is not entitled to the disbursement within seven (7) days thereafter, Developer and HA shall cooperatively provide the same evidence previously provided to each other to the Third Party Arbitrator, who will then render a decision as to whether Developer's Disbursement Request should be honored within fifteen (15) days thereafter. No evidence not previously provided to the other party may be submitted to the Third Party Arbitrator. The entire cost of such Third Party Arbitrator shall be paid by the party whose position is rejected by the Third Party Arbitrator.

9. Excess Funds. In the event that on the Termination Date (defined in Section 13 below), there exist excess funds in the Holdback Account, such excess funds shall be distributed to HA within ten (10) calendar days after delivery of written notice by HA to Developer and Escrow Agent requesting disbursement of such excess funds and without additional action or instruction from the HA or Developer.

10. Escrow Agent's Reliance on Disbursement Requests. Escrow Agent shall not be required to review any document submitted with any Disbursement Request or make any other inquiry with respect to any Disbursement Request, but instead may rely, without any investigation or inquiry, on the Developer's assertion that the Developer is entitled to the portion of the Holdback Amount requested in its Disbursement Request (subject to Escrow Agent's obligation to comply in the event of a timely written objection from HA). Nevertheless, upon receipt by Escrow Agent of each Disbursement Request, Escrow Agent shall immediately forward a copy of such notice (with attachments, if any) to the other party.

## Exhibit I

11. Expenses. Subject to Section 24 of this Holdback Agreement below, HA and Developer shall split equally all charges of Escrow Agent and such attorneys' fees, expenses and other costs as may be incurred by Escrow Agent in connection with the administration of this Holdback Agreement.

12. Accounting. Escrow Agent shall provide HA and Developer with quarterly statements detailing the status of the Holdback Account, including a record of all disbursements from the Holdback Account.

13. Termination. This Agreement shall be terminated and, thereafter, of no further force or effect on the date which is the first to occur of (i) the date of the completion of the Abandonment, as certified and approved by DOGGR, (ii) the date twelve (12) months after the issuance of a grading permit for the Property, (iii) the date two (2) years from the date of the Close of Escrow for Developer's acquisition of the Property or (iv) the date when the entire amount of the Holdback Amount held in the Holdback Account has been disbursed under this Holdback Agreement ("**Termination Date**"). Within ten (10) calendar days after the Termination Date, Escrow Agent shall provide HA and Developer with a final accounting and this Holdback Agreement shall terminate.

14. Indemnity. Developer shall indemnify and hold HA and the City of Stanton, their officers, agents, employees and independent contractors free and harmless from any liability whatsoever, based or asserted upon any act or omission of Developer, its officers, agents, employees, subcontractors and independent contractors, for property damage, bodily injury, or death (Developer's employees included) or any other element of damage of any kind or nature, relating to or in any way connected with this Agreement or arising from the activities contemplated under this Agreement, save and except claims for damages arising through the active negligence or willful misconduct of HA. Developer shall defend, at its expense, including reasonable attorneys' fees, HA, City, their officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. City and HA may in its discretion participate, with counsel of its choosing, in the defense of any such legal action at Developer's expense and shall cooperate in good faith with Developer in the defense.

15. Reservation of Rights. With respect to Section 14, HA and City reserve the right to either (1) approve the attorney(s) which Developer selects, hires or otherwise engages to defend HA and City hereunder, which approval shall not be unreasonably withheld, or (2) conduct its own defense, provided, however, that Developer shall reimburse HA and City forthwith for any and all reasonable expenses incurred for such defense, including reasonable attorneys' fees, upon billing and accounting therefor.

16. Survival. The provisions of Sections 14 and 15, inclusive, shall survive the termination of this Agreement.

## Exhibit I

18. Liability of Escrow Agent.

(a) Escrow Agent shall hold possession of and solely keep the Holdback Amount subject to the terms and conditions of this Holdback Agreement, and shall deliver and dispose of the same according to the terms and conditions hereof, and shall deal with the parties hereto in relation to the sums escrowed fairly and impartially according to the intent of the parties as herein expressed; provided, however, that Escrow Agent shall not be deemed to be a party to any document other than this Holdback Agreement, and shall not be responsible or liable in any manner whatsoever for the sufficiency, manner of execution or validity of any written instructions, certificates or any other documents received by it, or as to the identity, authority or rights of any persons executing the same. Escrow Agent shall be entitled to rely at all times on instructions given by HA and/or Developer, as the case may be and as required hereunder, without any necessity of verifying the authority therefor.

(b) Escrow Agent shall not at any time be held liable for actions taken or omitted to be taken in good faith, without negligence or willful misconduct and not in breach of this Holdback Agreement. HA and Developer agree to indemnify, protect, save and hold harmless Escrow Agent, its successors and assigns, from any and all liabilities, obligations, losses, damages, claims, actions, suits, costs or expenses (including attorneys' fees and court costs) of whatever kind or nature imposed on, incurred by or asserted against Escrow Agent which in any way relate to or arise out of the execution and delivery of this Holdback Agreement and any action taken hereunder; provided, however, that HA and Developer shall have no such obligation to indemnify, save and hold harmless Escrow Agent from any claim or liability incurred by, imposed upon or asserted against Escrow Agent for its own negligence or any breach of this Holdback Agreement.

19. Escrow Agent's Resignation. Escrow Agent may resign upon thirty (30) days written notice to HA and Developer, whereupon HA and Developer shall appoint a successor Escrow Agent reasonably acceptable to each party. Upon receipt of written acceptance by a successor escrow agent, Escrow Agent shall promptly transfer all funds and assets held to the successor Escrow Agent.

20. Notices. Any and all Notices submitted by any party to the other party pursuant to or as required by this Holdback Agreement shall be proper, if in writing and sent by electronic mail, by messenger for immediate personal delivery, nationally recognized overnight (one Business Day) courier (*i.e.*, United Parcel Service, Federal Express, *etc.*) or by registered or certified United States mail, postage prepaid, return receipt requested, to the address or email address of the recipient party, as designated below in this section. Notices may be sent in the same manner to such other addresses as either party may from time to time designate by Notice in accordance with this section. Notice shall be deemed received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that the Notice is successfully delivered to the recipient by messenger, one Business Day after delivery to a nationally recognized overnight carrier or two (2) calendar days after the Notice is placed in the United States mail in accordance with this section. A party may send a courtesy copy of a Notice by email as well as by one of the approved methods listed in the

Exhibit I

preceding sentence, but only the approved method is valid for binding Notice. Any attorney representing a party may give any Notice on behalf of such party. The Notice addresses for the parties, as of the Effective Date, are as follows:

To Developer: KB Home Coastal Inc.  
36310 Inland Valley Drive  
Wildomar, California 92595  
Attn: Steve Ruffner and Lori Schmid  
Email: [sruffner@kbhome.com](mailto:sruffner@kbhome.com);  
[lschmid@kbhome.com](mailto:lschmid@kbhome.com)

With Copy To: KB Home  
10990 Wilshire Blvd., 7<sup>th</sup> Floor  
Los Angeles, California 90024  
Attn: Phil Darrow  
Email: [pdarrow@kbhome.com](mailto:pdarrow@kbhome.com)

and

Green Steel & Albrecht, LLP  
19800 MacArthur Blvd., Suite 1000  
Irvine, CA 92612-2433  
Attn: Joseph M. Manisco, Esq.  
Email: [jmanisco@gsaattorneys.com](mailto:jmanisco@gsaattorneys.com)

To HA: Housing Authority of the City of Stanton  
City of Stanton  
7800 Katella Ave  
Stanton, CA 90680  
Attention: Executive Director  
Email: [JHildenbrand@ci.stanton.ca.us](mailto:JHildenbrand@ci.stanton.ca.us)

With Copy to: Best Best & Krieger LLP  
18101 Van Karman Avenue, Suite 1000  
Irvine, CA 92614  
Attention: Elizabeth W. Hull, Esq.  
Email: [elizabeth.hull@bbklaw.com](mailto:elizabeth.hull@bbklaw.com)

21. Governing Law. This Holdback Agreement shall be governed by and interpreted in accordance with the laws of the State of California.

Exhibit I

22. Headings and Sections. The headings used herein are for convenience only and are not to be used in interpreting this Holdback Agreement. References to Sections are to Sections in this Holdback Agreement, unless expressly stated otherwise.

23. Amendments. This Holdback Agreement is irrevocable and may only be amended by a written amendment executed by all the parties hereto.

24. No Third Parties Benefited. The execution and delivery of this Holdback Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties to this Holdback Agreement, to any person or entity other than the parties hereto, and no other persons or entities shall have any right to any of the Holdback Amount or other monies in the Streets Escrow Holdback Account.

25. Severability. If any term or provision of this Holdback Agreement, or its application to any party or set of circumstances, shall be held, to any extent, invalid or unenforceable, the remainder of this Holdback Agreement, or the application of the term or provision to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and each shall be valid and enforceable to the fullest extent permitted by law.

26. Counterparts. This Holdback Agreement may be signed in multiple counterparts which shall, when signed by all parties, constitute a binding agreement.

27. Further Assurances. After the execution and delivery hereof, HA and Developer shall from time to time at the reasonable request of the other and at the cost and expense of the requesting party, execute and deliver such other instruments and take such other actions as the requesting party may reasonably request in order to fully consummate the transactions contemplated by this Holdback Agreement.

28. Attorneys' Fees and/or Costs. In any action or proceeding between the parties to enforce or interpret any of the terms of provisions of this Holdback Agreement, the prevailing party in the action or proceeding shall be entitled to, in addition to damages, injunctive relief, its reasonable costs and expenses, including, without limitation, costs and reasonable attorneys' fees, both at trial and on appeal.

29. Assignment. This Holdback Agreement may not be assigned by HA, Developer or Escrow Agent without the written consent of the other parties hereto, which consent shall not be unreasonably withheld. Should an assignment be permitted hereunder, this Holdback Agreement shall be binding upon and shall inure to the benefit of HA and Developer and their respective successors and assigns.

SIGNATURE PAGE FOLLOWS

Exhibit I

IN WITNESS WHEREOF, Developer and HA have executed this Holdback Agreement as of the day and year first above written.

**HA:**

HOUSING AUTHORITY OF THE CITY OF  
STANTON, a public body, corporate and politic

By: \_\_\_\_\_  
Executive Director

ATTEST:

By: \_\_\_\_\_  
Authority Secretary

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: \_\_\_\_\_  
General Counsel

**DEVELOPER:**

KB HOME COASTAL INC.,  
a California corporation

By: \_\_\_\_\_  
Stephen J. Ruffner, President,

**ESCROW AGENT:**

FIRST AMERICAN TITLE INSURANCE  
COMPANY, a Nebraska corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Exhibit I

**EXHIBIT J  
TO  
FIRST AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT  
AGREEMENT  
(7455 Katella Avenue)**

**SCOPE OF WORK**

**[ATTACHED BEHIND THIS COVER PAGE]EXHIBIT J**

Exhibit J

## **SCOPE OF WORK**

### **Pre Construction**

1. Prepare DOGGR Construction Site Well Review Documents
2. Complete transfer of well operator. Provide \$25,000 performance bond to DOGGR (released upon issuance of DOGGR approval letter). Sign up for Wellstar, DOGGR's electronic submission site.
3. Prepare Notice of Intent and Abandonment Permit through Wellstar. City of Stanton to provide necessary CEQA documentation.

### **Re-abandonment Procedure**

1. Dig out 13" casing stub and located 13", 65# csg, confirm cement to surface 13" csg x 16" OH annulus. Pump top job annulus cmt plug(s) as necessary.
2. MIRU and install Class II 2M BOPE with hydraulic controls, during abandonment operations with 15' - 2" kill line rated to 3000 psi. Blowout prevention equipment will be as defined by DOOGR publication No. M07. It will be maintained in operating condition and meet the following minimum guidelines:
  - a. Class II 2M with hydraulic controls during abandonment operations
  - b. A 2M lubricator for wireline operations
  - c. BOPE prevention drills are conducted at least weekly and recorded on the tour sheet.
  - d. Hole fluid of a quality and in sufficient quantity to control subsurface conditions.

### **Clean out Operations**

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3. Confirm ID of 13", 65# casing. Run in hole with bit for 13", 65# csg on work string as necessary and clean out surface cement plug in 13" casing. The records indicate that a surface plug was installed.
4. Continue in well, tag cement plug at 183'. Clean out cement plug across 13" csg seat to 225'.
5. Mud up hole, circulate and condition mud as necessary, prepare to begin clean-out operations F/225' – T/3221'.
6. Pull out of hole with bit and work string. Prep to change out to 11" bit.

Exhibit J



7. Run in hole with 11" bit on work string to +/- 200', begin to clean out 11" open hole from 200' to 3221', circulate and condition mud.
8. Pull out hole with work string and 11" bit. Run in hole with work string open ended, tag TD at 3221'. Circulate and condition mud.
9. Notify DOGGR to witness TD tag. Continue to circulate and condition mud and prepare to begin abandonment cementing operations.

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#### **Cementing Operation**

10. Place a 2071' cement plug F/3221' (open hole TD) – T/1150 in stages with 1367 ft<sup>3</sup> of cement. Pull out of the hole to 750', WOC as necessary, tag TOC and make arrangements for DOGGR inspectors to witness the tag. (cement calculations **do not** include excess).

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#### **Isolate USDW Cementing Operations at 1070'**

11. Run in hole with open ended work string to +/-1150'. Place 130' cement plug F/ +/- 1150' – T/1020' with 94 ft<sup>3</sup> of cement. Pull out of the hole to 600'. WOC as necessary, tag TOC and make arrangements for DOGGR inspectors to witness the tag. (cement calculations for cement plug include 10% excess).

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#### **Place cement plug across 13" surface casing shoe at 200'**

12. Run in hole with open ended work string to +/-1020'. Place a 770' cement plug F/+/- 1020' - T/250' in stages with 508 ft<sup>3</sup> of cement. Pull out of the hole to 200', WOC as necessary, tag TOC and make arrangements for DOGGR inspectors to witness the tag. (cement calculations **do not** include excess).
13. Run in hole with open ended work string to +/-250'. Place a 100' cement plug F/+/- 250' - T/150' with 82ft<sup>3</sup> of cement. Pull out of the hole to 200', WOC as necessary, tag TOC and make arrangements for DOGGR inspectors to witness the tag. (cement calculations include 10% excess).

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#### **Surface Plug Cementing Operations**

14. Spot 150' surface cement plug from 150' to surface in 13", 65#/ft casing with 126 ft<sup>3</sup> of cement. Verify that 13" casing x 16" OH annulus is cemented to surface.
15. Cut casing off 5' below surface and weld on steel plate.
16. Rig down and move out workover rig.
17. OFRS will demo cellar, perform leak test, install vent cone, install PVC piping to surface.

Exhibit J

**Post Construction**

1. Conduct final well abandonment inspections with DOGGR.
2. Prepare and submit final abandonment documentation to DOGGR for approval.
3. Coordinate with DOGGR on issuance of Final Release/Approval Letter.
4. Receive Final Release/Approval Letter from DOGGR

Exhibit J