CITY OF PITTSBURG
AGENDA

OCTOBER 03, 2022

******* AMENDED AGENDA *******

CITY HALL COUNCIL CHAMBER
65 CIVIC AVENUE, PITTSBURG, CA

CLOSED SESSION
5:00 P.M.

REGULAR MEETINGS
7:00 P.M.

CITY COUNCIL
PITTSBURG ARTS AND COMMUNITY FOUNDATION
PITTSBURG POWER COMPANY
SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II
SUCCESSOR AGENCY

PRESIDING

Holland Barrett White, Mayor/Chair
Shanelle Scales-Preston, Vice- Mayor/Chair
Juan Antonio Banales, Council Member/Board Member
Jelani Killings, Council Member/Board Member
Marilyn "Merl" Craft, Council Member/Board Member

FOR HOUSING AUTHORITY:
S.L. Floyd, Housing Authority Member
Annie Hill Herring, Housing Authority Member

Pittsburg City Council meetings are held the first and third Mondays of each month at 7:00 p.m. The Housing Authority meets in conjunction with the City Council on the third Monday of each month. The Pittsburg City Council meets regularly in the Council Chamber at 65 Civic Avenue, unless otherwise noted above. The City Council also sits as the Board of Directors of several other City agencies. The stipends for all agency members conform to state statutes governing compensation amounts. All other Agencies meet on an as needed basis and will be listed above if applicable. Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except from noon to 1:00 p.m. and City holidays). The agenda and reports are also located on the City's website at www.pittsburgca.gov. Additionally, if any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports and documents will also be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

AUDIENCE REMARKS

The Audience Remarks period is for the public to comment on any items scheduled to be heard during the Closed Session portion of the meeting, if applicable.

5:00 P.M. - CONVENE IN CLOSED SESSION

1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Section 54956.8:

Property: 590 W. 10th Street (APN 085-270-019); Pittsburg Power Company negotiators: Garrett Evans, Maria Aliotti; Negotiating parties: Trans Bay Cable; Under negotiation: Price and terms of payment

2 CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION Initiation of litigation pursuant to Section 54956.9(d)(4)

Number of cases: one

3 CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Section 54957.6

City designated representatives: Mary Egan, MRG, LLC; Jennifer Brizel

Unrepresented employees: City Manager and City Attorney

7:00 P.M. - CONVENE IN OPEN SESSION FOR REGULAR MEETING

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

PRESENTATIONS

4 Contra Costa Transportation Authority Programs, Projects and Visions for the Future

5 Civicorps

PROCLAMATIONS

6 Clean Air Day

7 National Breast Cancer Awareness Month

8 National Arts and Humanities Month

9 National Filipino American History Month

10 National Italian American Heritage Month

11 National Immigrants Day

CITY MANAGER REPORTS/REMARKS

The City Manager may make brief announcements or informal comments at this time and brief the Council on items of interest. (No Action Required)

PUBLIC COMMENTS

Members of the audience who wish to address the City Council or Agency Boards on issues that are not scheduled for the agenda and on any items listed as part of the Consent Calendar should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given three minutes to address the Council unless additional time is allowed as provided for spokespersons. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. (No Action Required)

COMMITTEE REPORTS

Council Members may make a report on their committee assignments at this time. (see attached list of adhoc committees and other public agencies in which Council members particiapte). (No Action Required)

CITY COUNCIL MEETING

CONSIDERATION

12 By Minute Order, Select Commission Appointments to Vacancies on the Community Advisory, Planning Commission and Youth Advisory Commission

Openings exist on the Community Advisory Commission (CAC), Planning Commission, and Youth Advisory Commission. The City has advertised for all openings and received applications for all Commissions. All applicants were invited to interview with the City Council on September 12 and 5 applicants total were interviewed at that time. Two applicants for the Planning Commission had interviewed previously and were also considered at this time.

13 Adoption of a City Council Resolution Authorizing the City Manager to Negotiate and Execute a Consultant Service Agreements with 4LEAF, Inc. for On-Call Code Enforcement Officer Services

The proposed item would authorize the City Manager to execute a consultant service agreement with 4LEAF, Inc. in an amount not to exceed $100,000, and would allocate $100,000 to the consultant budget for contract code enforcement officer services.

14 Adoption of a City Council Resolution Authorizing the City Manager to Negotiate and Execute the Seventh Amendment to the Amended and Restated Purchase and Sale Agreement by and Between the City of Pittsburg and Stay Cal Pittsburg LLC and Authorizing the City Manager to Negotiate and Execute Amendments and Agreements to Carry Out the Seventh Amendment

On December 5, 2018, the City and Stay Cal Pittsburg LLC (“Stay Cal”) entered into an Amended and Restated Purchase and Sale Agreement (“Agreement”) regarding Stay Cal’s acquisition of real property located at the southwest corner of

Center Drive and Railroad Avenue (APN: 086-100-047) for construction of a hotel ("Project"). This Seventh Amendment to the Agreement would modify and update the total amount of the City-provided loan, including the rate, term, repayment schedule, and City contribution; and modify certain dates within the Schedule of Performance.

15 Consideration of a City Council Request for a Future Agenda Item Related to Creating a Community Volunteer Database

At the September 19, 2022, City Council meeting, Council Member Craft requested a future agenda item related to creating a Community Volunteer Database that would provide information to residents regarding community volunteering opportunities.

16 Consideration of a City Council Request for a Future Agenda Item Related to Creating a Culture and Diversity Initiative

At the September 19, 2022, City Council meeting, Council Member Craft requested a future agenda item related to creating a Culture and Diversity Initiative that would provide criteria and process for local organizations to seek assistance and funding for events.

CONFLICT OF INTEREST STATEMENT

City Council/Agency Members may make any conflict of interest declarations pertaining to Consent Calendar items at this time.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY, SUCCESSOR AGENCY AND SOUTHWEST PITTSBURG GHAD II CONSENT CALENDAR

17 Minutes of September 19, 2022

18 Adoption of a City Council Resolution to Authorize the City Manager to Execute Agreements with the California Department of Transportation for the Living Green Pittsburg – Trail and Community Outreach Project

The city was awarded the Clean California Grant for the design and construction of the Living Green Pittsburg – Trail and Community Outreach Project (the "Project"). On August 1, 2022, the City Council accepted the grant and allocated matching funds. The City Council must designate an authorized signatory to execute an agreement with Caltrans. This resolution will authorize the City Manager to execute the restricted grant agreement and amendments thereto with the California Department of Transportation.

19 Adoption of a City Council Resolution Approving the Re-allocation of Funds from Project 5209 to Project 5003 and Approving a Consultant Agreement for the Design of Project 5003 West Santa Fe Avenue Sewer and Water Rehabilitation Project

Project 5003, West Santa Fe Avenue Sewer and Water Rehabilitation Project (the "Project") is for the removal, abandonment and replacement of sewer and water

mains in three different locations in the city. This resolution will authorize the re-allocation of funds from project 5209, Sewer Replacement/Rehabilitation Program to Project 5003, West Santa Fe Avenue Sewer and Water Rehabilitation Project, and approve a Consultant Agreement with Hydroscience Engineers, Inc. in the amount of $703,845 for the design of the Project.

20 Adoption of a City Council Resolution to Designate City Agents Authorized to Apply for State and Federal Disaster Relief Assistance

The California Governor's Office of Emergency Services (Cal OES) has oversight for public financial assistance request due to State and Federal declared disasters. Cal OES requires the Council to designate positions within the City every three years to be eligible for financial disaster assistance. The resolution will authorize the City Manager, Finance Director, and City Engineer as designated agents to provide for all matters pertaining to State and Federal Emergency Management Agency (FEMA) financial assistance.

21 Adoption of City Council Resolution Authorizing the City Manager to Execute a Contract for the Purchase of a New E60 Excavator

The City maintains a fleet of vehicles and equipment necessary for police operations and for maintenance of the City's infrastructure, including an excavator that needs replacement. If approved, this resolution will authorize a purchase contract with Clark Equipment Company dba Bobcat Company ("Bobcat") for a new E60 R2-Series Bobcat Compact Excavator.

22 Adoption of a City Council Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement for a Wharf Asset Evaluation

The City of Pittsburg is owner of a former industrial wharf once used for movement of materials in association with an upland power plant. Due to factors including but not limited to the wharf's historical use and time of construction, the City is interested in evaluation of the wharf to identify disposition options for the structure and develop a reuse plan.

23 Adoption of a City Council Ordinance Approving a Zoning Map Amendment for Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)

On September 19, 2022, the City Council held a public hearing on a request for approval of a 17-lot, single-family residential, subdivision on a 1.8-acre site located at 360 Central Avenue in the RS-5 (Single-Family Residential) District. Assessor Parcel Number 086-151-002. After closing the public hearing, the Council adopted Resolution No. 22-14162 approving a General Plan Map amendment, a Vesting Tentative Map for a Major Subdivision and Design Review of landscape and architectural plans. The City Council also introduced and waived further reading of an ordinance approving a Zoning Map amendment for the project. The ordinance is now ready for City Council adoption.

24 Adoption of a City Council Resolution Approving the Installation of Speed Humps on Manville Avenue

The City's Traffic Calming Policy includes specific criteria to be used when considering the use of speed humps to calm traffic on local streets. If the City Council approves the proposed speed humps on Manville Avenue between Madoline Street and Riverview Drive, installation can be scheduled this year.

25 Adoption of City Council Resolution Authorizing City Manager to Execute a Contract for New Chevrolet Vehicles

The City maintains a fleet of vehicles and equipment necessary for police operations and for maintenance of the City's infrastructure. Purchasing new vehicles is necessary to replace vehicles that have lower reliability and are requiring more maintenance. If approved, the resolution authorizes the purchase of 2 new Chevrolet Tahoe vehicles from California Automotive Retailing Group, Inc. dba Dublin Chevrolet, "piggybacking" off a competitive bid process undertaken by County of Alameda.

26 Adoption of a City Council Resolution Approving an Agreement with Metropolitan Transportation Commission for Traffic Signal Synchronization on Buchanan Road, Railroad Avenue, and West Leland Road Corridors

The Metropolitan Transportation Commission (MTC) recently approved $111,900 grant award to the City through its Program for Arterial System Synchronization (PASS), to improve travel time along the Buchanan Road, Railroad Avenue, and West Leland Road corridors. The attached resolution approves an agreement between MTC and the City, which is required for the grant.

27 Adoption of a City Council Resolution Approving Agreements between California Department of Transportation (Caltrans) and City of Pittsburg for the BART Pedestrian and Bicycle Connectivity Project

Authorize the City Manager, upon recommendation of the City Engineer, to enter into a Project Specific Pedestrian and Bicycle Maintenance Agreement, Amendment No.1 of Freeway Maintenance Agreement, and State Highway Relinquishment Agreement between Caltrans and the City of Pittsburg for the BART Pedestrian and Bicycle Connectivity Project.

COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

Council Members may request items to be considered for future agendas. An item will only be brought forward with a majority vote and will appear on a future agenda with staff recommendations for further Council consideration.

COUNCIL MEMBER REMARKS

Council Members may make brief announcements or informal comments at this time. (No Action Required)

ADJOURNMENT to October 17, 2022

NOTICE TO PUBLIC

GENERAL INFORMATION

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SPEAKER'S CARD

Members of the audience who wish to address the City Council on issues that are not scheduled for the agenda and on any items listed as part of the agenda should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given up to three minutes to address the Council unless additional time is allowed as provided for spokespersons. Speakers are not permitted to yield their time to another speaker. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. Pursuant to the Brown Act, no action may be taken by the City Council on items not already scheduled on the agenda; however, the City Council may refer your comments/concerns to staff or request that the item be placed on a future agenda.

PUBLIC HEARINGS

Persons who wish to speak on Public Hearings listed on the agenda will be heard when the Public Hearing is opened, except on Public Hearing items previously heard and closed to public comment. After the public has commented, the item is closed to public comment and brought to the Council/Agency level for discussion and action. Further comment from the audience will not be received unless requested by the Council/Agency.

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge an action taken by the City Council in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting.

NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the City of Pittsburg will provide special assistance for disabled citizens. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Council meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at 925-252-4850. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

DISRUPTIVE CONDUCT

The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones and electronic devices, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

LIVE MEDIA BROADCASTING ADVISEMENT

City Council meetings are webcast live on the City's website at www.pittsburgca.gov on the Streaming Media page. Past meetings are also archived on that webpage. Watch the live meeting via the City's webcast (www.pittsburgca.gov), or on Delta TV Comcast Channel 32, or Delta TV AT&T U-Verse Channel 99. For more information, please contact the City Clerk's office at 252-4850.

City Council Outside Agency / Liaison / Sub-Committees Assignments - 2022

Updated September 19, 2022

OUTSIDE AGENCY BOARDS	COUNCIL MEMBER(S)	TYPE	MEETS	STAFF
ABAG	Shanelle Scales-Preston / Holland White Alt.	Standing	Annual	G. Evans
Delta Diablo**	Juan Banales / Shanelle Scales-Preston Alt.	Standing	2nd Wednesday	R. Abono
East Co. Co. County Habitat Conservancy	Juan Banales / Jelani Killings Alternate	Standing	Monthly	J. Davis
East County Water Management	Juan Banales / Jelani Killings Alternate	Standing	Annual	R. Abono
MCE Clean Energy Board	Shanelle Scales-Preston / Holland White Alt.	Standing	4 Per Year	D. Buchanan
TRANSPLAN / ECCRFFA	Holland White / Juan Banales Alternate	Standing	2nd Thursday	R. Abono
Tri-Delta Transit (2 reps)***	S. Scales-Preston & Merl Craft / Jelani Killings Alt.	Standing	Last Wednesday	R. Abono

LIAISON TO	COUNCIL MEMBER(S)	TYPE	MEETS	STAFF
East Bay League of Calif. Cities	Shanelle Scales-Preston / Merl Craft Alt.	Standing	3rd Thursday	*Rotational
Mayor's Conference	Holland White / Shanelle Scales-Preston Alt.	Standing	1st Thursday	G. Evans
School Districts Committee (2x2)	Shanelle Scales-Preston & Merl Craft / Jelani Killings Alt.	Standing	2nd Thursday even months	G. Evans

SUBCOMMITTEES	COUNCIL MEMBER(S)	TYPE	MEETS	STAFF
American Rescue Plan Act (ARPA)	Holland White / S. Scales-Preston / Juan Banales Alt.	Ad Hoc	As needed	G. Evans
CAC CDBG Subcommittee	S. Scales-Preston & Jelani Killings / Holland White Alt.	Standing	As needed	M. Aliotti
City Council Policy and Procedures Review	Juan Banales & Merl Craft	Ad Hoc	As needed	G. Evans
City Infrastructure and Transportation	S. Scales-Preston & Juan Banales / Holland White Alt.	Standing	As needed	R. Abono
Community Services Subcommittee	Merl Craft & Shanelle Scales-Preston / Juan Banales Alt.	Standing	As needed	M. Aliotti
Constituent Management Services	S. Scales-Preston & Juan Banales / Holland White Alt.	Ad Hoc	As needed	G. Evans
Economic Develop/Waterfront Subcommittee	Jelani Killings & Holland White / S. Scales-Preston Alt.	Standing	As needed	J. Davis
Finance Subcommittee	Juan Banales & Holland White / S. Scales-Preston Alt.	Standing	As needed	P. Rodrigues
Government Performance Subcommittee	Holland White & Jelani Killings	Ad Hoc	As needed	G. Evans
Hills Committee	Juan Banales & Jelani Killings / Merl Craft Alt.	Ad Hoc	As needed	G. Evans
Land Use Subcommittee	Juan Banales & Holland White / S. Scales-Preston Alt.	Standing	As needed	J. Davis
Los Medanos Health Advisory Committee	S. Scales-Preston & Jelani Killings	Ad Hoc	As needed	G. Evans
My Brothers Keeper Subcommittee	S. Scales-Preston & Jelani Killings	Ad Hoc	As needed	G. Evans
Pittsburg Arts & Community Foundation	Merl Craft & S. Scales-Preston / Jelani Killings Alt.	Standing	As needed	G. Evans
Pittsburg Police Activities League (PAL)	Holland White & S. Scales-Preston / Jelani Killings Alt.	Standing	Monthly	B. Addington
Pittsburg Recognition Committee	Holland White / Shanelle Scales-Preston Alt.	Standing	As needed	K. Simonton
Power Company Advisory	Holland White & S. Scales-Preston / Juan Banales Alt.	Standing	As needed	D. Buchanan
Public Safety Subcommittee	Holland White & Shanelle Scales-Preston	Standing	As needed	B. Addington
Sister City Committee	Jelani Killings & Holland White / Merl Craft Alt.	Standing	As needed	K. Simonton
Tobacco, Cannabis, Alcohol Policy Review	Shanelle Scales-Preston & Jelani Killings	Ad Hoc	As needed	G. Evans

*Rotational Staff as assigned by City Manager
**Stipend of $170 per month
***Stipend of $100 per month

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

CLEAN AIR DAY
OCTOBER 5, 2022

WHEREAS, air pollution contributes to higher rates of cancer and heart and lung diseases, which adversely affect health; and

WHEREAS, California has some of the most polluted regions in the United States; and

WHEREAS, it is vital that we protect the health and well-being of our residents, visitors, and workforce; and

WHEREAS, emissions from vehicles, industry, and even household sources significantly affects the natural environment, air quality and well-being of residents, employees, and visitors of the City of Pittsburg; and

WHEREAS, individual actions such as not idling vehicles, walking or biking to work and school, carpooling, and conserving energy can directly improve air quality in our region; and

WHEREAS, education about air quality can raise community awareness, encourage our communities to develop environmentally healthier habits, and improve our communities' well-being; and

WHEREAS, Californians will be joining together across the state to clean the air on October 5, 2022; and

WHEREAS, the City of Pittsburg is committed to the health of our residents, workforce, visitors, and community at large; and

NOW, THEREFORE, I, Holland Barrett White, Mayor, on behalf of the City Council of the City of Pittsburg, do hereby proclaim October 5, 2022, as "California Clean Air Day" in the City of Pittsburg and encourage all residents to participate in California Clean Air Day and help clean the air for all Californians.

CITY OF PITTSBURG CONTRA COSTA CO. CAL.

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

NATIONAL BREAST CANCER AWARENESS MONTH
OCTOBER 2022

WHEREAS, October is National Breast Cancer Awareness Month; and

WHEREAS, breast cancer is the second most commonly diagnosed form of cancer for women in the United States and remains the second leading cause of cancer death among American women; and

WHEREAS, Mammography, an "xray of the breast," is recognized as the single most effective method of detecting breast changes long before physical symptoms can be seen or felt; and

WHEREAS, early detection and improved treatment is believed to have significantly reduced the number of deaths caused by breast cancer; and

WHEREAS, researchers, scientists, and numerous nonprofit organizations are dedicated to discovering the cure for breast cancer and during the month of October we acknowledge the extraordinary commitment and effort invested in this cause; and

WHEREAS, we recognize that over two and a half million Americans are breast cancer survivors that give us hope of a better future.

NOW, THEREFORE, I, Holland Barrett White, Mayor of the City of Pittsburg, on behalf of the entire City Council, do hereby proclaim the month of October 2022 as National Breast Cancer Awareness Month in the City of Pittsburg.

CITY OF PITTSBURG CONTRA COSTA CO., CAL.

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk

October 3, 2022

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

NATIONAL ARTS AND HUMANITIES MONTH
OCTOBER 2022

WHEREAS, the coronavirus has had a devastating impact on America's arts sector, with 99% of producing and presenting organizations having canceled events and artists being among the most severely affected segment of the nation's workforce; yet notwithstanding this fact, the arts have helped collectively lead us throughout the darkest times of the pandemic—lifting our spirits, unifying communities, and jump-starting the economy; and

WHEREAS, the nation's 120,000 nonprofit arts organizations, the National Endowment for the Arts, the National Endowment for the Humanities, the nation's 4,500 local arts agencies, and the arts and humanities councils of the 50 states and the six U.S. jurisdictions and districts have regularly issued official proclamations on an annual basis designating October as National Arts and Humanities Month; and

WHEREAS, the arts and humanities embody much of the accumulated wisdom, intellect, and imagination of humankind, enhance and enrich the lives of every American and play a unique role in the lives of our families, our communities, and our country; and

WHEREAS, cities and states, through their local and state arts agencies representing thousands of cultural organizations, have celebrated the value and importance of culture in the lives of Americans and the health of thriving communities during National Arts and Humanities Month for several years; and

WHEREAS, the humanities help diverse communities across the United States explore their history and culture with the support and partnership of the National Endowment for the Humanities, the 50 state and 6 territorial and district humanities councils, and local educational and cultural institutions; and

WHEREAS, the nation's arts and culture sector, nonprofit, commercial, education, is a $919.7 billion industry that supports 5.2 million jobs, 4.3% of the nation's economy, and boasts a $33 billion international trade surplus; and

WHEREAS, the nonprofit arts industry alone generates $166.3 billion in economic activity annually, spending by organizations and their audiences, which supports 4.6 million jobs and generates $27.5 billion in government revenue; and

WHEREAS, every attendee to an arts event spends $31.47 per person, per event, beyond the cost of admission on items such as meals, parking, and lodging - a vital income source for local businesses.

NOW, THEREFORE, BE IT RESOLVED, I, Holland Barrett White, Mayor of the City of Pittsburg on behalf of the entire City Council do hereby proclaim October as National Arts and Humanities Month in Pittsburg and call upon our community members to celebrate and promote the arts and culture in our nation and to specifically encourage the greater participation by those said community members in taking action for the arts and humanities in their towns and cities.

CITY OF PITTSBURG CONTRA COSTA CO., CAL.

Holland Barrett White, Mayor

Alice E. Evenson, City Clerk
ATTEST: October 3, 2022

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

NATIONAL FILIPINO-AMERICAN HISTORY MONTH
OCTOBER 2022

WHEREAS, the City of Pittsburg celebrates the diversity and history of our City; and

WHEREAS, the earliest documented Filipino presence in the continental United States was on October 18, 1587, when the first "Luzones Indios" set foot in Morro Bay, California, on board the Manila-built galleon ship Nuestra Senora de Esperanza; and

WHEREAS, the Filipino American National Historical Society recognizes the year of 1763 as the date of the first permanent Filipino settlement in the United States in St. Malo, Louisiana, which set in motion the focus on the story of our Nation's past from a new perspective by concentrating on the economic, cultural, social, and other notable contributions that Filipino-Americans have made in countless ways toward the development of the history of the United States; and

WHEREAS, the Filipino-American community is the second largest Asian-American group in the United States, with a population of approximately 3,100,000 people; and

WHEREAS, Filipino-American servicemen and servicewomen have a longstanding history serving in the Armed Services, from the Civil War to the Iraq and Afghanistan conflicts, including the 250,000 Filipinos who fought under the United States flag during World War II to protect and defend this country. Nine Filipino-Americans have received the Congressional Medal of Honor, the highest award for valor in action against an enemy force that can be bestowed upon an individual serving in the United States Armed Forces; and

WHEREAS, Filipino-Americans are an integral part of the United States health care system as nurses, doctors, and other medical professionals and have contributed greatly to the fine arts, music, dance, literature, education, business, literature, journalism, sports, fashion, politics, government, science, technology, and other fields in the United States that enrich the landscape of the country; and

WHEREAS, efforts should continue to promote the study of Filipino-American history and culture, as mandated in the mission statement of the Filipino-American National Historical Society, because the roles of Filipino Americans and other people of color have been overlooked in the writing, teaching, and learning of United States history; and

NOW, THEREFORE, I, Holland Barrett White, Mayor of the City of Pittsburg, on behalf of the entire City Council, do hereby proclaim the month of October 2022 as National Filipino-American History Month in the City of Pittsburg.

CITY OF PITTSBURG CONTRA COSTA CO., CAL.

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk
October 3, 2022

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

NATIONAL ITALIAN-AMERICAN HERITAGE MONTH
OCTOBER 2022

WHEREAS, the City of Pittsburg celebrates the diversity and history of our City; and

WHEREAS, between 1880 and 1914, nearly four million people left the familiar comfort and sweep of Italy to make a new life for themselves and their families in the unknown land of America. Young and old, rich and poor, Italian immigrants saw in the shores of the United States a symbol of hope and opportunity. Many came with little money and few possessions. Many carried only a love of freedom, a belief in hard work, and an abiding faith in the importance of family; and

WHEREAS, bound together by a shared heritage and by a common experience as newcomers in a new culture, the Italian-American community drew its strength from within. During work days that often began before dawn and ended well after dusk, Italian-Americans relied on the knowledge and determination that continue to drive our economy today. Working side by side when times were tight, family members depended on one another to survive and, ultimately, to prosper. And their success was apparent in the bright faces of the countless sons and daughters who followed their example and went on to raise families of their own. Today, third and fourth generations of Italian-Americans maintain that tradition of community, looking back on the courage of their ancestors with heartfelt gratitude and unparalleled pride; and

WHEREAS, Italian-Americans have indeed worked hard to build upon their rich heritage over the last century, and the fruits of their labors are evident in every aspect of our national life. From politics to business to academia, their diverse talents and skills have sustained our society and enriched our daily lives; and

WHEREAS, this month, we pause to recognize their many extraordinary accomplishments. More than that, we reflect on the unique cultural heritage that, a hundred years ago, helped to turn the dream of a distant land into the reality of an American home.

NOW, THEREFORE, I, Holland Barrett White, Mayor of the City of Pittsburg, on behalf of the entire City Council, do hereby proclaim the month of October 2022 as National Italian-American Heritage Month in the City of Pittsburg.

CITY OF PITTSBURG CONTRA COSTA CO., CAL.

Holland Barrett White

Holland Barrett White, Mayor

ATTEST: Alice E. Evenson

Alice E. Evenson, City Clerk

October 3, 2022

City of Pittsburg
65 Civic Avenue • Pittsburg, California 94565

Proclamation

NATIONAL IMMIGRANTS DAY
October 28, 2022

WHEREAS, for centuries, people throughout the world have come to our great nation with the hope that they would be able to secure a better life for themselves and their families; and

WHEREAS, the United States is truly a country of great ethnic diversity and multicultural character which has provided our nation with boundless energy and strength and contributed significantly to our growth, progress, and prosperity; and

WHEREAS, millions of immigrants settled throughout the vast territory of the United States, supported the ideals of independence and liberty, and demonstrated the dedication and perseverance that enabled them to make their dreams come true; and

WHEREAS, the City of Pittsburg is proud of our immigrants throughout history and today that have made a home here in the City.

NOW, THEREFORE, BE IT RESOLVED, I, Holland Barrett White, Mayor of the City of Pittsburg, California, on behalf of the entire City Council, hereby proclaim October 28, 2022 as National Immigrants Day and urge all residents to celebrate this day with proper celebrations and activities.

CITY OF PITTSBURG CONTRA COSTA CO. CAL.

Holland Barrett White

Holland Barrett White, Mayor

Alice E. Evenson

Alice E. Evenson, City Clerk

ATTEST: October 3, 2022

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: By Minute Order, Select Commission Appointments to Vacancies on the Community Advisory, Planning Commission and Youth Advisory Commission

MEETING DATE:

EXECUTIVE SUMMARY

Openings exist on the Community Advisory Commission (CAC), Planning Commission, and Youth Advisory Commission. The City has advertised for all openings and received applications for all Commissions. All applicants were invited to interview with the City Council on September 12, 2022 and five applicants total were interviewed at that time. Two applicants for the Planning Commission had interviewed previously and were also considered at this time.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

Staff recommends appointment of eligible candidates to the CAC, Planning Commission and Youth Advisory Commission.

BACKGROUND

There is one vacancy on the Planning Commission. This is a seat vacated in July and the term ends on February 28, 2023.

There is one vacancy on the Community Advisory Commission (CAC). This is a seat vacated earlier this year and the term ends on February 28, 2024.

There are ongoing vacancies on the Youth Commission.
2 each Junior High
1 each any age
2 each college

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

On September 12, 2022, the City Council reviewed four applications for appointment to the Planning Commission. On that date candidate interviews were held. Two candidates were interviewed prior to this meeting. Two candidates were not in attendance. There is one vacancy. The candidates are:

Eric Christiansen (did not interview)
Dori Jones (previously interviewed)
Sarah Miller (did not interview)
Bernadette Silva (previously interviewed)

On September 12, the City Council reviewed four applications for appointment to the CAC. On that date candidate interviews were held. All candidates were in attendance. There is one vacancy. The candidates are:

Steven Davi-Fowler
Isabel Romena
Jennifer Rubio
Shavaun Tolliver (also interviewed for Planning Commission)

On September 12, 2022, the City Council reviewed three applications for appointment to the Youth Advisory Commission. On that date candidate interviews were held. One candidate was in attendance. There are continuing vacancies on the Youth Commission:

2 each Junior High
1 each any age
2 each college

Candidates are:
Ariana Barakzai (Junior at LMC)
Lieli Barakzai (High School Senior) (did not interview)
Xorren Lewis (High School Junior) (did not interview)

ATTACHMENTS:
Applications

Report Prepared By:
Alice E. Evenson, City Clerk

PLANNING

COMMISSION

PITTSBURG
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APPLICATION FOR PUBLIC PARTICIPATION ON A COMMISSION

Name of Commission: Planning Commission (Age 18+)

First and Last Name: Eric Christiansen

Address: _____ City: Pittsburg

Email Address. _____

Telephone: (Primary) _____ Alternate: _____

Emergency Contact: _____ Phone: _____

Youth Commission ONLY: Current School: _____ Current Grade/Year: _____

Provide any Professional or Technical Experience:

Academic:
+ BS in Computer Science.
+ MS in Information Technology.
+ Some additional doctorate level coursework.

Professional:
+ 10+ years as technologist in defense industry.
+ 20+ years as engineer and engineering manager in finance/investments.
+ 2.8 years as a university instructional professor....

Why are you interested in serving on this commission?

I am a recently retired long-time homeowner in Pittsburg looking for service opportunities in the community, especially those that can leverage my problem solving and organizational experience.

Please list and briefly describe any other community activities or organizations in which you participate:

+ Mount Diablo Amateur Radio Club: Ham radio activities.
+ IEEE Computer Society: Professional engineering group.
+ Association for Computing Machinery. Software organization.
+ Black Rock Ranger. Volunteer safety ranger at large events.

Are you available for: Evening Meetings (◎) Yes ( ) No Daytime Meetings (◎) Yes ( ) No

****

Applicant Signature: Signed at: 2022-08-17 13:05:05 Date: 08/17/2022

Youth Commission ONLY: If applicant is under 18 years, I understand the commitment involved with the Pittsburg Youth Commission and approve of my son/daughter applying.

Parent Signature: _____ Date: _____

Parent Name: _____ Relationship: _____ Phone: _____

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APPLICATION FOR PUBLIC PARTICIPATION ON A COMMISSION

Name of Commission: Planning Commission (Age 18+)

First and Last Name: Dori Jones

Address _____ City: Pittsburg, CA 94565

Email Addres _____

Telephone: (Primary) _____ Alternate: _____

Emergency Contact _____ Phone: (_____

Youth Commission ONLY: Current School: _____ Current Grade/Year: _____

Provide any Professional or Technical Experience:

I am a working Professional and a Leader amongst my peers. I have Managed for most of my work life and currently Manage 16 Supervisor's and 1,200 others in the work group. I schedule and run weekly and quarterly meetings, run assessments and address issues accordingly. I am most known to everyone as a great motivator. I was born and raised in Pittsburg and I love and support my City. I am hoping to be considered to be a chair for Planning Commissioner.

Why are you interested in serving on this commission?

As mentioned above, I love my city, and I want to be a more essential part of the growth of the city, to be able to support those who support the city and the communities they live in.

Please list and briefly describe any other community activities or organizations in which you participate:

I am a working Leader and Professional within my work life including the community I live in. I've been involved in activities with the Pittsburg Unified School District for over 25 years. I've attended meetings, scheduled meetings and participated in Senior Scholarship Night. I also participated in coaching youth baseball for 6 years. I organize fundraising events for Pittsburg High School Football and contribute my time to feeding oand supporting the youth. I love the City of Pittsburg, the City that my Grandparents, Parents, Me and my Children have lived and grew up in.

Are you available for: Evening Meetings (O) Yes ( ) No Daytime Meetings (O) Yes ( ) No

****

Applicant Signature: Signed at: 2022-04-22 10:58:30 Date: 04/22/2022

Youth Commission ONLY: If applicant is under 18 years, I understand the commitment involved with the Pittsburg Youth Commission and approve of my son/daughter applying.

Parent Signature: _____ Date: _____

Parent Name: _____ Relationship: _____ Phone: _____

Dear Hiring Committee,

I am writing to express my interest as a candidate for the City of Pittsburg Planning Commission.

In the time that I have been in my current Leadership role I have consistently demonstrated Team work, compassion for our people and dedication to my work. I am a strategic thinker who believes in effective communication and building trusting relationships.

Over the years I have developed into a conscientious Leader who is dedicated to positive change, impact productivity and inspire commitment. In conjunction with my strong work ethic coupled with integrity, courage and commitment, my passion has always been with the people and city that I grew up in and its rich traditions and diverse community and culture.

As an Assistant Manager and a Leader in my current employment one of my main responsibilities is accountability which often requires holding a fact finding meeting where discipline may be issued. Best approach is to identify how best to convey verbal constructive guidance, and support my work group. I support our people with compassion and understanding, keeping an open mind at all times, as I will support the people in the city serving them as a chair member in the Pittsburg Planning commission in the community I love that I support.

I am a self-starter, independent thinker, who is highly motivated and well organized. I take pride in my work, I will lead by example and provide timely and clear communication. With my motivation and enthusiasm I believe that I will be a definite asset to the Pittsburg Planning Commission. If given the opportunity, I will continue to provide high quality of communication and Customer service to our people.

Regards,

Dori Jones

DORI JONES

Profile Summary- High performing professional who possesses the ability to multi-task under pressure. A compassionate Team Leader with great interpersonal and organizational skills with excellence in strategic planning, critical thinking, analytical and business acumen skills.

Work History

Southwest Airlines-Inflight Operations-Assistant Base Manager (OAK) Jan 2018-Present

- Set expectations for staff, schedule and perform monthly staff meetings, quarter performance appraisals
- Presentations on developmental tools for Mobile employees to enhance communication throughout the Company system
- Project management for employees repositioning
- Contract negotiations with company Union
- Coordinate, manage and conduct research for Fact Finding meetings
- Facilitate meetings with the Union regarding grievances including rendering decisions in Flight Attendant disciplinary issues
- Ensure compliance with all company policies, work rules and regulations
- Represent Company interest in Unemployment hearing and Arbitrations when applicable
- Provide guidance and support for mobile Supervisors
- Coach, develop and provide guidance to staff and to attain expected performance levels
- Perform special projects as needed by Senior Leaders

Southwest Airlines-Inflight Operations Supervisor (OAK) July 2014-Jan 2018

- Support Flight Attendants in the daily operation, assist Manager of In-flight in coaching and counseling crewmembers on their performance, appearance and conduct consistent with Company policies and procedures
- Research flight delays, conduct fact finding meetings, investigate complaints and job performance discrepancies
- Special projects as assigned or required
- Mobile United States and International Assessments

Southwest Airlines-Customer Service (OAK) June 2008-July 2014

- Proficient in demonstrating Southwest LUV, Provided compassion to all Customers, creating an exceptional Customer experience, Provide flight, gate and ticket information, managed changes to itineraries, support agents in training including integration of Air Tran
- Efficiently assisted Customers with concerns
- Excellent written and Efficiently maintained over sold flights and sword flights

Professional Experience & Skills- Created Supervisor Mobility Tool in Quickbase, Lean Six Sigma Certification, Skilled in writing and presenting Performance Appraisals, Coaching Skills, Strategic Thinking, Strong written and communication skills, Leadership Multiple computer abilities: Word , Excel, Citrix, Quickbase app, Ops Suite, Teams and Docuware

Achievements- Southwest Airlines-OAK Inflight Operations Team Member of Quarter 2-2015, Quarter 3-2016, Quarter 3-2017 Quarter 2-2019. Perfect Attendance for 15 years. Presence in Alameda Co. food Bank, Ronald McDonald House. President of Pittsburg High School Football Committee 21 years.

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APPLICATION FOR PUBLIC PARTICIPATION ON A COMMISSION

Name of Commission: Planning Commission (Age 18+)

First and Last Name: Sarah Miller

Address: _____ City: Pittsburg, Ca 94565

Email Address: _____

Telephone: (Primary) _____ Alternate: (

Emergency Contact: (_____ Phone: _____

Youth Commission ONLY: Current School: _____ Current Grade/Year: _____

Provide any Professional or Technical Experience:

I am a property manager and I have worked in the Bay Area my whole life. I currently manage a property of nine staff members and 392 units. With this I coordinate projects, vendors, schedules and deliver excellent customer service.

Why are you interested in serving on this commission?

As a lifelong resident of Pittsburg I have watched this town develop over the last 30 years. It's my home and I'd like to do my part in making it all that it can be. I have experience in managing and project planning and supporting team members and I think all of these can assist in serving on this commission.

Please list and briefly describe any other community activities or organizations in which you participate:

In my personal life Me and my sons have passed out food to the homeless and have adopted families through the holidays. I would love to take it to the next level In giving back to my community.

Are you available for: Evening Meetings (O) Yes ( ) No Daytime Meetings ( ) Yes (O) No

****

Applicant Signature: Signed at: 2022-08-24 20:33:49 Date: 08/23/2022

Youth Commission ONLY: If applicant is under 18 years, I understand the commitment involved with the Pittsburg Youth Commission and approve of my son/daughter applying.

Parent Signature: _____ Date: _____

Parent Name: _____ Relationship: _____ Phone: _____

PITTSBURG
CALIFORNIA
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APPLICATION FOR PUBLIC PARTICIPATION ON A COMMISSION

Name of Commission: Planning Commission (Age 18+)

First and Last Name: Bernadette Silva

Addres _____ City: Pittsburg

Email Address: [redacted]

Telephone: (Primary) _____ Alternate: _____

Emergency Contact: _____ Phone. _____

Youth Commission ONLY: Current School: _____ Current Grade/Year: _____

Provide any Professional or Technical Experience:

I have over 30 yrs working in the corporate world as a Administrative Assistant for hospitals, banks, social security, software, property management, and banks.

Why are you interested in serving on this commission?

I would like Pittsburg to hear what the residents want and I feel that listening to the residents of Pittsburg is very important.

Please list and briefly describe any other community activities or organizations in which you participate:

My daughter graduated from Pittsburg High in June 2020 and unfortunately the Class of 2020 never got a a traditional graduation and I came up with the Senior Car Cruise around Pittsburg as a "congratulations" to the Senior Class of Pittsburg High and Black Diamond High. In May 2022 will be the 3rd Annual Senior Car Cruise; this has become a new Pittsburg tradition.

Are you available for: Evening Meetings (O) Yes ( ) No Daytime Meetings (O) Yes ( ) No

****

Applicant Signature: [redacted] Signed at: 2022-04-02 22:35:30 Date: 04/02/2022

Youth Commission ONLY: If applicant is under 18 years, I understand the commitment involved with the Pittsburg Youth Commission and approve of my son/daughter applying.

Parent Signature: _____ Date: _____

Parent Name: _____ Relationship: _____ Phone: _____

COMMUNITY ADVISORY COMMISSION

PITTSBURG
CALIFORNIA
www.pittsburgca.gov

APPLICATION FOR PUBLIC PARTICIPATION ON A COMMISSION

Name of Commission: Community Advisory Commission (Age 18+)

First and Last Name: Steven Davi-Fowler

Address: _____ City: Pittsburg

Email Address: _____

Telephone: (Primary) _____ Alternate: _____

Emergency Contact: _____ Phone: _____

Youth Commission ONLY: Current School: _____ Current Grade/Year: _____

Provide any Professional or Technical Experience:

- Pittsburg Business Owner (Redds Barbershop)
- Former employee of city of Pittsburg

Why are you interested in serving on this commission?

As an owner of a business, I'm interested in helping the city council with their goals. I also feel that I could be a conduit for the citizens of Pittsburg to the city council.

Please list and briefly describe any other community activities or organizations in which you participate:

A member of the board of Branches of Community Service

Member of Masonic Lodge #175

Are you available for: Evening Meetings (◉) Yes ( ) No Daytime Meetings ( ) Yes (◉) No

****

Applicant Signature: Signed at: 2022-07-21 11:09:44 Date: 07/21/2022

Youth Commission ONLY: If applicant is under 18 years, I understand the commitment involved with the Pittsburg Youth Commission and approve of my son/daughter applying.

Parent Signature: _____ Date: _____

Parent Name: _____ Relationship: _____ Phone: _____

CITY OF PITTSBURG
APPLICATION FOR CITIZEN PARTICIPATION ON COMMISSION

Name of Commission: Community Advisory Commission

Name: Jennifer Rubio

Address: [redacted]

Email: [redacted]

Telephone: Residential [redacted] Business: [redacted]

Professional or Technical Experience: Contra Costa Public Health Clinic Registered Nurse BSN RN

Why are you interested in serving on this commission: I have been a Pittsburg resident my whole life, I attended Pittsburg schools and taken part in many of the community events in Pittsburg. As a parent, my children now go to Pittsburg and are involved in many youth activities offered in Pittsburg. In a professional aspect, I work on the Mobile Health Vans that go to our schools. The health vans aid Pittsburg's most vulnerable populations by providing vaccinations, well child checks, sick visit and much more to those who may not get it anywhere else. I am a big believer that community involvement is key for Pittsburg to prosper and thrive for all that live here. Pittsburg Pride is not only a saying but an idealism that people really believe in and I want to be a part of making that true. It is important to have people on the committee that live, serve, and support Pittsburg. It is important to have community members on the committee that really care about the future of Pittsburg. I feel that I can give good insight on future ideas and plans for our city. I would be a good representation of what Pittsburg residents would like to see improved in Pittsburg. I look forward to being a part of the Community Advisory Committee.

Other Community Activities or Organizations in which you participate: Heights School site council

RETURN TO:
City Clerk's Office
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

ARE YOU AVAILABLE FOR:
Evening Meetings Yes X No ___
Daytime Meetings Yes ___ No X

Jennifer Rubio
SIGNATURE

Jennifer Rubio
PLEASE PRINT NAME

01/12/2021
DATE

PITTSBURG
CALIFORNIA
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APPLICATION FOR PUBLIC PARTICIPATION ON A COMMISSION

Name of Commission: Community Advisory Commission (Age 18+)

First and Last Name: Isabel Romena

Address: _____ City: Pittsburg

Email Address _____

Telephone: (Primary _____ Alternate: _____

Emergency Contact: _____ Phone: _____

Youth Commission ONLY: Current School: _____ Current Grade/Year: _____

Provide any Professional or Technical Experience:

Recently retired Registered Nurse with clinical and educational experience. Currently on the Board of Directors for Bay Harbor Park association.

Why are you interested in serving on this commission?

Moved to Pittsburg July 2019 and I am fascinated with the beauty and history of the city. I also want to use my educational preparation and experience to serve this city, the best possible way. Thank you

Please list and briefly describe any other community activities or organizations in which you participate:

Bay Park Harbor Homeowners Association

New member of the Filipino-American Church Community

Are you available for: Evening Meetings (O) Yes ( ) No Daytime Meetings (O) Yes ( ) No

****

Applicant Signature: Signed at: 2022-07-19 17:22:35 Date: 07/19/2022

Youth Commission ONLY: If applicant is under 18 years, I understand the commitment involved with the Pittsburg Youth Commission and approve of my son/daughter applying.

Parent Signature: _____ Date: _____

Parent Name: _____ Relationship: _____ Phone: _____

PITTSBURG
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APPLICATION FOR PUBLIC PARTICIPATION ON A COMMISSION

Name of Commission: Community Advisory Commission (Age 18+)

First and Last Name: Shavaun Tolliver

Address: _____ City: Pittsburg

Email Addres _____

Telephone: (Primary) _____ Alternate: _____

Emergency Contact _____ Phone: _____

Youth Commission ONLY: Current School: _____ Current Grade/Year: _____

Provide any Professional or Technical Experience:

I am an experienced Human Resources Professional with a demonstrated history of working in human resources across both private and public sector industries. Skilled in Coaching, Conflict Resolution, Team Building, and HR Policies. My experience spans over 15 years working strategically with executive level leadership to gain a competitive advantage and business results.
Currently, I work for the City and County of San Francisco in the District Attorney's Office where I advise the Appointing Office and various levels of leadership, their Representatives, and others on the interpretation and application of various local, State, and Federal employment provisions, CCSF policies and procedures, and departmental policies and procedures.
Additionally, I am responsible managing day-to-day requests from employees and management for guidance on Employee and Labor Relations, Worker's Compensation, Payroll, Benefits, FMLA, ADA, EEO, and other areas of HR.

Why are you interested in serving on this commission?

I have lived in Pittsburg since 2018 in the San Marco area and since moving here I have learned a lot more about the city and have wanted to become more involved. I have an interest in serving on this commission because I believe my background and experience as a consult on policies and procedures in my HR profession would be beneficial to serving my community. I have always led with inclusion in mind and would leverage my consultation experience to advise City Council members on the concerns and issues in the community.

Please list and briefly describe any other community activities or organizations in which you participate:

Society for Human Resources Management (SHRM)

International Public Management Association for HR (IPMA-HR)

Are you available for: Evening Meetings (O) Yes ( ) No Daytime Meetings ( ) Yes (O) No

****

Applicant Signature: Signed at: 2022-06-27 17:35:17 Date: 06/27/2022

Youth Commission ONLY: If applicant is under 18 years, I understand the commitment involved with the Pittsburg Youth Commission and approve of my son/daughter applying.

Parent Signature: _____ Date: _____

Parent Name: _____ Relationship: _____ Phone: _____

YOUTH

ADVISORY

COMMISSION

PITTSBURG
CALIFORNIA
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APPLICATION FOR PUBLIC PARTICIPATION ON A COMMISSION

Name of Commission: Youth Advisory Commission (Age 13-20)

First and Last Name: Ariana Barakzai

Address. _____ City: Pittsburg

Email Address. _____

Telephone: (Primary) _____ Alternate: _____

Emergency Contact: _____ Phone: _____

Youth Commission ONLY: Current School: Los Medanos College Current Grade/Year: Junior

Provide any Professional or Technical Experience:

I have been a Customer Service Representative at Nordstrom for more than a year. I am also a Political Science major at LMC where I have taken various classes relating to politics.

Why are you interested in serving on this commission?

I am interested in serving on this commission because I love being involved in my community. I moved to Pittsburg in my sophomore year of high school and have taken pride in living in this city.

Please list and briefly describe any other community activities or organizations in which you participate:

I have been a volunteer at the Martinez SPCA for 5+ years, and worked to train new members on how to properly clean the cages of cats who were spayed and neutered.

Are you available for: Evening Meetings (O) Yes ( ) No Daytime Meetings (O) Yes ( ) No

****

Applicant Signature: Signed at: 2022-08-24 18:43:01 Date: 08/24/2022

Youth Commission ONLY: If applicant is under 18 years, I understand the commitment involved with the Pittsburg Youth Commission and approve of my son/daughter applying.

Parent Signature: _____ Date: _____

Parent Name: _____ Relationship: _____ Phone: _____

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APPLICATION FOR PUBLIC PARTICIPATION ON A COMMISSION

Name of Commission: Youth Advisory Commission (Age 13-20)

First and Last Name: Lieli Barakzai

Address: [redacted] City: Pittsburg

Email Address: [redacted]

Telephone: (Primary) [redacted] Alternate: [redacted]

Emergency Contact: [redacted] Phone: [redacted]

Youth Commission ONLY: Current School: Visions in Education Current Grade/Year: 12

Provide any Professional or Technical Experience:

I volunteered at the SPCA for three years.

Why are you interested in serving on this commission?

I want to help my community.

Please list and briefly describe any other community activities or organizations in which you participate:

I participated in helping reduce the cat population in my neighborhood by trapping and spaying and neutering cats. I also helped with babysitting in my community.

Are you available for: Evening Meetings (O) Yes ( ) No Daytime Meetings (O) Yes ( ) No

****

Applicant Signature: Signed at: 2022-08-25 12:43:57 Date: 03/22/2005

Youth Commission ONLY: If applicant is under 18 years, I understand the commitment involved with the Pittsburg Youth Commission and approve of my son/daughter applying.

Parent Signature: Signed at: 2022-08-25 12:43:57 Date: 01-18-1972

Parent Name: [redacted] Relationship: Mother Phone: [redacted]

PITTSBURG
CALIFORNIA
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APPLICATION FOR PUBLIC PARTICIPATION ON A COMMISSION

Name of Commission: Youth Advisory Commission (Age 13-20)

First and Last Name: Xorren Lewis

Address: _____ City: Pittsburg

Email Address: _____

Telephone: (Primary) _____ Alternate: _____

Emergency Contact _____ Phone: _____

Youth Commission ONLY: Current School: Northgate High School Current Grade/Year: 11th/Junior

Provide any Professional or Technical Experience:

Proficient in Microsoft Suite and the iWork productivity suite.

Why are you interested in serving on this commission?

As I've gotten older, I've learned how necessary it is to be engaged in your community both civically and personally. Serving on this commission will teach me more about my community and it's needs so that I can be a better citizen.

Please list and briefly describe any other community activities or organizations in which you participate:

Before the pandemic, I was involved with The Urban Farmers. They are a non-profit group whose goal is to build a community-based, cost-effective, and environmentally sustainable model of hunger relief through harvesting fruit trees in local neighborhoods and orchards.

Are you available for: Evening Meetings (◉) Yes ( ) No Daytime Meetings ( ) Yes (◉) No

****

Applicant Signature: Signed at: 2022-07-23 22:41:03 Date: 07/23/2022

Youth Commission ONLY: **If applicant is under 18 years, I understand the commitment involved with the Pittsburg Youth Commission and approve of my son/daughter applying.**

Parent Signature: Signed at: 2022-07-23 22:41:03 Date: 07-23-2022

Parent Name: _____ Relationship: Mother Phone: _____

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Authorizing the City Manager to Negotiate and Execute a Consultant Service Agreements with 4LEAF, Inc. for On-Call Code Enforcement Officer Services

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

The proposed item would authorize the City Manager to execute a consultant service agreement with 4LEAF, Inc. in an amount not to exceed $100,000, and would allocate $100,000 to the consultant budget for contract code enforcement officer services.

FISCAL IMPACT

The funds for this contract have been allocated as part of the adopted Fiscal Year 2022-23 Code Enforcement budget for contractual services. Staff is requesting authorization to enter into an agreement to expend these funds.

RECOMMENDATION

City Council adopt the attached resolution authorizing the City Manager to negotiate and execute a consultant service agreement with 4LEAF, Inc. for on-call code enforcement officer services.

BACKGROUND

Staff is inundated with new service requests. A budget of $100,000 was allocated to Code Enforcement for additional on call services. 4LEAF, Inc. has provided sufficient qualifications of consultants available for services to the City.

SUBCOMMITTEE FINDINGS

In March 2022, the Economic Development Subcommittee, as part of its discussion on potential uses of American Rescue Plan Act (ARPA) funds, considered the use of up to $300,000 for contract code enforcement services. While ARPA funds were not ultimately allocated, the Subcommittee generally supported the use of funding to allow for contract code enforcement.

On May 9, 2022, the City Council held a budget workshop, which included a discussion on the use of up to $300,000 over the current and next two fiscal years ($100,000 annually) for contract code enforcement services.

STAFF ANALYSIS

In March 2022, staff requested proposals for contract code enforcement services from three consultants; two of the consultants for which a proposal was solicited responded to the request.

Due to the qualifications and availability of consultants, staff recommends the City utilize 4LEAF, Inc. for on call code enforcement officer services. 4LEAF currently provides outside plan check services for the City's Building Division, as well as contract Chief Building Official and building inspection services. 4LEAF has an extensive staff that is well-equipped to address municipal code violations, as well as assist with building code violations as well.

The primary focus of the contract code enforcement officer(s) provided by 4LEAF will be commercial properties in order to address property maintenance, illegal signage, and businesses operating outside of their approvals. Staff believes the requested amount will allow 4LEAF to conduct inspections, multiple reinspections, and write citations for a minimum of five commercial shopping centers within the City.

Staff views addressing code enforcement issues within commercial centers as a significant economic and community development activity, as addressing these issues will improve the shopping experience for residents, help businesses thrive, and improve quality of life.

It should be note that increased Code Enforcement presence within commercial and industrial areas is supported by Economic Strategic Plan Policies 2.1 and 2.2.

ATTACHMENTS:

1. Proposed Resolution
2. Contract and Services Agreement 4LEAF, Inc.

Report Prepared By: Myla Rivers, Code Enforcement Supervisor

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Authorizing the City Manager to Negotiate and Execute a Consultant Service Agreement with 4LEAF, Inc. for On-Call Code Enforcement Officer Services	))))	RESOLUTION NO. 22-

WHEREAS, the City of Pittsburg has a need for additional code enforcement services to assist with inspections and enforcement to ensure commercial property compliance with the model codes adopted in the City's municipal code on an on-call basis; and

WHEREAS, staff views addressing code enforcement issues within commercial centers as a significant economic and community development activity, as addressing these issues will improve the shopping experience for residents, help businesses thrive, and improve quality of life; and

WHEREAS, the funds for this contract have been allocated as part of the adopted Fiscal Year 2022-23 Code Enforcement budget for contractual services; and

WHEREAS, staff requested qualifications from 4LEAF, Inc.; and

WHEREAS, staff reviewed the qualifications submitted and has confirmed said firm has qualified staffing available for on-call code enforcement officer services for use during the current fiscal year.

NOW THEREFORE BE IT RESOLVED that the City Council hereby approves the attached qualified code enforcement officer services firm for use on an on-call basis and authorizes the City Manager to negotiate and enter into agreements with said firm. The maximum amount shall set at $100,000 for fiscal year 2022-2023.

BE IT FURTHER RESOLVED that the attached firm shall be valid for a period of two years from the date of this resolution and may be extended by the City Manager for an additional year.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of October 2022, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF PITTSBURG AND 4LEAF, INC.

THIS Agreement ("Agreement") for on call code enforcement officer services is made by and between the City of Pittsburg, a California municipal corporation ("City"), and 4LEAF, Inc., a California corporation ("Consultant") (together referred to as the "Parties") as of October 4, 2022 (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A, and incorporated herein, at the time and place and in the manner specified therein.

1.1 Term of Services. The term of this Agreement shall begin on the Effective Date and shall end on June 30, 2023, or the date the total compensation set forth in Section 2 of this Agreement is fully expended, whichever occurs first, unless the term of the Agreement is otherwise terminated or extended, as referenced herein.

1.2 Standard of Performance. Consultant shall perform all services required pursuant to this Agreement according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, requests in writing the reassignment of any such persons to ensure Consultant performs services in accordance with the Standard of Performance, Consultant shall, immediately upon receiving City's request, reassign such persons.

1.4 Time. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided herein above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed One Hundred Thousand Dollars ($100,000), as set forth in Exhibit A, attached hereto and incorporated herein for services to be performed and reimbursable expenses incurred under this Agreement. This dollar amount is not a guarantee that the City will pay that full amount to the Consultant but is merely a limit of potential City expenditures under this Agreement.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information, unless waived by the City Manager, or his or her designee:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder.
- The Consultant's signature.

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall pay undisputed

invoices that comply with the above requirements within 30 days from the receipt of the invoice.

2.3 Final Payment. Consultant shall submit its final invoice within 60 days of completing its services. Consultant's failure to submit its final invoice within this 60-day period shall constitute Consultant's waiver of any further billings to, or payments from, City.

2.4 Reimbursable Expenses. Reimbursable expenses, if any, are specified in Exhibit A and included in the total compensation referenced in Section 2. Expenses not listed in Exhibit A are not chargeable to, or reimbursable by, City.

2.5 Payment of Taxes. Consultant is solely responsible for the payment of all federal, state, and local taxes, including employment taxes, incurred under this Agreement.

2.6 Authorization to Perform Services. The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of a written authorization from the City Manager, or his or her designee.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement

Section 4. INSURANCE REQUIREMENTS. Before beginning any services under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance specified herein and maintain that insurance throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid or proposal. Consultant shall be fully responsible for the acts and omissions of its subcontractors or other agents.

4.1 Workers' Compensation. Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant in the amount required by applicable law. The requirement to maintain Statutory Workers' Compensation and Employer's Liability Insurance may be waived by the City upon written verification that Consultant is a sole proprietor and does not have any employees and will not have any employees during the term of this Agreement.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than $2,000,000 per occurrence and $4,000,000 aggregate, combined single limit coverage for risks associated with the work contemplated by this Agreement.

4.2.2 Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition) covering any auto (Code 1), or if Consultant has no owned autos, hired (code 8) and non-owned autos (Code 9). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

a. The Commercial General and Automobile Liability Insurance shall cover on an occurrence basis.

b. City, its officers, officials, employees, agents, and volunteers shall be covered as additional insureds for liability arising out of work or operations on behalf of the Consultant, including materials, parts, or equipment furnished in connection with such work or operations; or automobiles owned, leased, hired, or borrowed by the Consultant. Coverage can be provided in the form of an endorsement to the Consultant's insurance at least as broad as CG 20 10 11 85, or both CG 20 10 10 01 and CG 20 37 10 01.

c. For any claims related to this Agreement or the work hereunder, the Consultant's insurance covered shall be primary insurance as respects the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its

officers, officials, employees, agents, or volunteers shall be excess of the Consultant's insurance and non-contributing.

d. The policy shall cover inter-insured suits and include a "separation of Insureds" or "severability" clause which treats each insured separately.

e. Consultant agrees to give at least 30 days prior written notice to City before coverage is canceled or modified as to scope or amount.

4.3 Professional Liability Insurance.

4.3.1 General requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than $1,000,000 per occurrence or claim covering the Consultant's errors and omissions.

4.3.2 Claims-made limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

a. The retroactive date of the policy must be shown and must be before the date of the Agreement.

b. Insurance must be maintained, and evidence of insurance must be provided, for at least five (5) years after completion of the Agreement or the work.

c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must purchase an extended period coverage for a minimum of five (5) years after completion of work under this Agreement.

d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

4.4 All Policies Requirements.

4.4.1 Submittal Requirements. Consultant shall submit the following to City prior to beginning services:

a. Certificate of Liability Insurance in the amounts specified in this Agreement; and

b. Additional Insured Endorsement as required for the General Commercial and Automobile Liability Polices.

4.4.2 Acceptability of Insurers. All insurance required by this Agreement is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.3 Deductibles and Self-Insured Retentions. Insurance obtained by the Consultant shall have a self-insured retention or deductible of no more than $100,000.

4.4.4 Wasting Policies. No policy required herein shall include a "wasting" policy limit (i.e., limit that is eroded by the cost of defense).

4.4.5 Waiver of Subrogation. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agents, and subcontractors.

4.4.6 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein, and Consultant shall ensure that City, its officers, officials, employees, agents, and volunteers are covered as additional insured on all coverages.

4.4.7 Excess Insurance. If Consultant maintains higher insurance limits than the minimums specified herein, City shall be entitled to coverage for the higher limits maintained by the Consultant.

4.5 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option: 1) obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; 2) order Consultant to stop work under this Agreement and withhold any payment that becomes due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof; and/or 3) terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

5.1 General Indemnification. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold 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, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged negligent acts, omissions or willful misconduct of Contractor, its officials, officers, employees, agents, subcontractors and subcontractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages, attorneys' fees and other related costs and expenses. Contractor shall defend, at Contractor's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against City, its directors, officials, officers, employees, agents or volunteers. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, agents, or volunteers, in any such suit, action or other legal proceeding. Contractor shall reimburse City and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs, including reasonable attorneys' fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by City or its directors, officials, officers, employees, agents or volunteers. Notwithstanding the foregoing, to the extent Contractor's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain

to, or relate to the negligence, recklessness, or willful misconduct of the Contractor. This Section **5.1** shall survive any expiration or termination of this Agreement.

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

Section 6. STATUS OF CONSULTANT.

6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City.

6.2 **Consultant Not an Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder. Consultant shall also, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates as determined by the California Department of Industrial Relations.

7.3 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have, and will maintain at their sole cost and expense, all licenses, permits, qualifications, and approvals of whatsoever nature that are

legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

7.4 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, genetic information, marital status, sex, sexual orientation, gender, or gender identity, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

7.5 **Registration and Monitoring.** Consultant shall be currently registered with the Department of Industrial Relations and qualified to perform public work consistent with Labor Code section 1725.5, except in limited circumstances as referenced in Labor Code section 1771.1(a). Additionally, Consultant is hereby notified that this Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

7.6 **Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the services described in Exhibit A are to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the services described in Exhibit A. In accordance with California Labor Code Section 1773.2, the City has obtained the general prevailing wages in the locality in which the services described in Exhibit A are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City's General Services Department and shall be made available on request. Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the services described in Exhibit A.

Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by any worker, governmental agency or other third party with regard thereto.

The Consultant and any subcontractors engaged in performance of the services described in Exhibit A shall comply with Labor Code Section 1775, which establishes a penalty per day for each worker engaged in the performance of the services described in Exhibit A that the Consultant or any subcontractor pays less than the specified prevailing wage.

In accordance with Labor Code Section 1776, the Consultant and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services described in Exhibit A. Such records shall be in kept, maintained, and made available in accordance with the requirements of Labor Code Section 1776.

Section 8. TERMINATION AND MODIFICATION.

8.1 Termination. Upon ten days' prior written notice, City may cancel this Agreement at any time and without cause upon such written notification to Consultant. In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

8.2 Amendments. The parties may amend this Agreement only by a writing signed by the parties hereto.

8.3 Assignment and Subcontracting. City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and

competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the City Manager, or his or her designee. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the City Manager, or his or her designee.

8.4 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant, including but not limited to the provisions of Section 5, shall survive the termination of this Agreement.

8.5 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:

8.5.1 Immediately terminate the Agreement.

8.5.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement.

8.5.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or

8.5.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

8.5.5 The remedies mentioned in this Agreement are not exclusive of any other right, power or remedy permitted by law. The City's failure or delay in exercising any remedy shall not constitute a waiver of such remedy or preclude the further exercise of City's rights.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 **Records Created as Part of Consultant's Performance.** All final versions of reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and

that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement, and the City may use, reuse or otherwise dispose of the documents without Consultant's permission. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports, and other documents are confidential drafts and will not be released to third parties by Consultant without prior written approval of City.

9.2 **Consultant's Books and Records.** Consultant shall maintain any and all records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement. All such records shall be maintained in accordance with generally accepted accounting principles and shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Pursuant to Government Code Section 8546.7, the Agreement may be subject to the examination and audit of the State Auditor for a period of 3 years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in Contra Costa County or in the United States District Court for the Northern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the

provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 **No Implied Waiver of Breach**. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.

10.6 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

10.7 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.8 **Notices.** Any notice, demand, request, consent or approval that either party is required to give the other pursuant to this Agreement, shall be in writing and may be given by either (i) personal service, or (ii) certified United States mail, postage prepaid, return receipt requested. Notice shall be effective upon personal delivery or delivery to the addresses specified below, as reflected on the receipt of delivery or return receipt, as applicable.

Consultant : 4LEAF, Inc.
2126 Rheem Dr.
Pleasanton, CA 94588
Attn: Mike Leontiades

City: City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
ATTN: City Manager

10.9 Professional Seal. Where applicable in the determination of the City Manager, or his or her designee, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility."

10.10 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A and B represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. To the extent there are any inconsistences between this Agreement, the Exhibits, and Consultant's proposal, the Agreement shall control. To the extent there are any inconsistences between the Exhibits and the Consultant's Proposal, the Exhibits shall control.

Exhibit A Scope of Services and Compensation Schedule

10.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.12 Construction of Agreement. Each party hereto has had an equivalent opportunity to participate in the drafting of the agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.13 No Third-Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any third parties.

The Parties have executed this Agreement as of the Effective Date.

CITY OF PITTSBURG

_____
Garrett Evans, City Manager

Attest:

_____
Alice Evenson, City Clerk

Approved as to Form:

_____
Donna Mooney, City Attorney

CONSULTANT: 4LEAF, Inc

_____
Kevin Duggan, President

EXHIBIT A

Duties to be performed by Consultant
For the City's Code Enforcement Division

SCOPE OF DUTIES:

At the request of, and as directed by the City's Code Enforcement Supervisor, Myla Rivers, Consultant shall provide on-call code enforcement services. Code Enforcement services shall be provided on an as-needed basis as determined by the Code Enforcement Supervisor. City will provide a vehicle for Code Enforcement inspection services.

COMPENSATION SCHEDULE:

City shall be billed hourly at the following rates:

Schedule of Hourly Rates	
Description	Hourly Rate
Senior Code Enforcement Officer	$130
Code Enforcement Officer	$110

REIMBURSABLE EXPENSES:

CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' 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.

CONSULTANT : 4LEAF, Inc.

By: _____

Title: Kevin Duggan, President

2784987.1

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Authorizing the City Manager to Negotiate and Execute the Seventh Amendment to the Amended and Restated Purchase and Sale Agreement by and Between the City of Pittsburg and Stay Cal Pittsburg LLC and Authorizing the City Manager to Negotiate and Execute Amendments and Agreements to Carry Out the Seventh Amendment

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

On December 5, 2018, the City and Stay Cal Pittsburg LLC ("Stay Cal") entered into an Amended and Restated Purchase and Sale Agreement ("Agreement") regarding Stay Cal's acquisition and development of real property located at the southwest corner of Center Drive and Railroad Avenue (APN: 086-100-047) for construction of a hotel ("Project"). This Seventh Amendment to the Agreement would modify and update the total amount of the City-provided loan, including the rate, term, repayment schedule, and City contribution; and modify certain dates within the Schedule of Performance.

FISCAL IMPACT

As part of the proposed Seventh Amendment to the Agreement, the City would provide Stay Cal with a loan in an amount not to exceed $4,300,000. The funds would be paid back at a current market interest rate, which would increase over the term of the loan from 3% to 6%.

It should be noted that the City has previously agreed to provide Stay Cal with a contribution equal to the maximum $599,999, so long as it is less than 2% of the total cost of the Project. This contribution would not be altered as part of this Seventh Amendment.

Staff anticipates the Project, once operational, would generate approximately $500,000 annually in transit occupancy tax ("TOT"), which would support the City's general fund.

RECOMMENDATION

Staff recommends that the City Council take public testimony, then move to adopt the attached resolution authorizing the City Manager to negotiate and execute the Seventh

Amendment to the Amended and Restated Purchase and Sale Agreement as well as amendments to the Deed of Trust, Promissory Note, and other agreements consistent with the term of the Seventh Amendment to the Amended and Restated Purchase and Sale Agreement.

BACKGROUND

On December 5, 2018, the City and Stay Cal entered into the Agreement in order to facilitate the development of a hotel on City-owned property. The Agreement outlines the responsibilities of both the City and Stay Cal, including the purchase price and sale of the property, schedule of performance, fee deferrals, payment of TOT, annexation into community facility districts (CFDs) and the light and landscaping district (LLD), and transfer of the property or a portion thereof to a third party.

Between June 2019 and April 2022, the City and Stay Cal executed six amendments to the Agreement in order to extended certain dates in the Schedule of Performance and extended the close of escrow date, as well as to modify the payment of fees and repayment provisions of the Agreement, allow for the sale of a portion of the property to a third party, and memorialize a potential City contribution of up to $599,000. Pursuant to the requirements of Government Code Section 53083, the City Council adopted an Economic Development Subsidy Report, which has not been impacted by this Seventh Amendment.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

Revisions to the Buyer's proposed project funding and construction plans and the impacts of COVID-19 and the construction market have necessitated that Stay Cal seek additional financing opportunities for the Project. Stay Cal and the City agree that a loan from the City to cover certain costs related to site work and development fees would be a mutually beneficial solution to ensure development of the Project, which will have significant monetary and aesthetic impacts for the City.

This Seventh Amendment to the Agreement would authorize a City-backed loan not-to-exceed $4,300,000. The previous loan on the land sale ($1,678,110) and deferred fees ($463,000) carried an interest rate of 2.5%; the interest rate on the additional amount (approximately $2,158,890) would grow from 3.49% to 9.41% over the course of the 30-plus year term. The previous loan and deferred fees would be rolled into the new loan, creating an effective "blended" interest rate growing from 3% in years 0-2 to 6% in years 16-30. The loan would be secured by a promissory note and deed of trust.

As part of the Agreement, Stay Cal would be required to begin construction no later than October 17, 2022. Stay Cal would also be required to: 1) secure a completion bond to the satisfaction of the City; and 2) provide a personal guarantee to the satisfaction of the City until operation of the hotel commences. Further, Stay Cal shall be required to place a covenant on the Property limiting allowed uses to hotels. Funds provided by the City would be disbursed directly to payees (potentially through an escrow account) and the City shall reserve the right to review all financial information related to construction of the Project as well as final loan documents, including conditions to fund. Developer shall satisfy conditions to fund other than City funding and transfer of property.

Approval of this Amendment would also necessitate the amendment of the Deed of Trust and Promissory Note, and potentially other documentation, to ensure consistency with the amended agreement. Staff is requesting City Manager authorization to approve amendments as applicable and necessary provided they are consistent with the Seventh Amendment.

Staff notes that prior to recommending approval of this Seventh Amendment, the City has engaged two financial consultants (NHA Advisors and Kosmont Companies) to review the financial and loan documents provided by Stay Cal and the proposed amendment. The City will continue to utilize the expertise of these two firms to review financial disclosures and other documentation as necessary throughout the construction period.

ATTACHMENTS:

1. Resolution
2. Proposed Seventh Amendment to the Amended and Restated Purchase and Sale Agreement
3. Amended and Restated Purchase and Sale Agreement (including amendments 1-6)

Report Prepared By: Jordan Davis, Director of Community and Economic Development

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Authorizing the City Manager to Negotiate and Execute the Seventh Amendment to the Amended and Restated Purchase and Sale Agreement by and between the City of Pittsburg and Stay Cal Pittsburg LLC, and Authorizing the City Manager to Negotiate and Execute Further Amendments to Agreements to Carry Out the Seventh Amendment	)	RESOLUTION NO. 22-

WHEREAS, the City of Pittsburg wishes to further the economic development within the City; and

WHEREAS, City and Stay Cal Pittsburg LLC ("Stay Cal") entered into that certain Amended and Restated Purchase and Sale Agreement with an effective date of December 5, 2018 ("Agreement") regarding Stay Cal's acquisition of real property located at southwest corner of Center Drive and Railroad Avenue, also known as Assessor's Parcel Number (APN) 086-100-047 (formerly APN: 086-100-045) ("Property"); and

WHEREAS, City and Stay Cal entered into that First Amendment to Amended and Restated Purchase and Sale Agreement on June 18, 2019 ("First Amendment") which extended certain dates on Exhibit C of the Agreement, "Schedule of Performance," and extended the close of escrow date; and

WHEREAS, City and Stay Cal entered into that Second Amendment to Amended and Restated Purchase and Sale Agreement on September 27, 2019 ("Second Amendment") which extended certain dates on Exhibit C of the Agreement, "Schedule of Performance," and extended the close of escrow date; and

WHEREAS, City and Stay Cal entered into that Third Amendment to Amended and Restated Purchase and Sale Agreement on November 14, 2019 ("Third Amendment") which extended certain dates on Exhibit C of the Agreement, "Schedule of Performance"; and

WHEREAS, the sale of the Property closed escrow on December 24, 2019; and

WHEREAS, City and Stay Cal entered into that Fourth Amendment to Amended and Restated Purchase and Sale Agreement on September 14, 2020 ("Fourth Amendment") which extended certain dates on Exhibit C of the Agreement, "Schedule of Performance," and modified the payment of fees and repayment provisions of the Agreement; and

WHEREAS, City and Stay Cal entered into that Fifth Amendment to Amended and Restated Purchase and Sale Agreement on January 14, 2021 ("Fifth Amendment") which extended certain dates on Exhibit C of the Agreement, "Schedule of Performance"; and

WHEREAS, City and Stay Cal entered into that Sixth Amendment to Amended and Restated Purchase and Sale Agreement on April 13, 2022 ("Sixth Amendment") to include the following notable changes: 1) extend certain dates within the "Schedule of Performance" (Exhibit C of Agreement); 2) extend the term of the loan for purchase of the property to 25 years; 3) modify the dates for commencement of repayment on the principal and interest of the property sale; 4) update the amount of fees subject to the fee deferral in order to reflect fee increases in the past two years, as well as to require interest be paid on the deferred amount; 5) establish a City contribution equal to the maximum $599,999, so long as it is less than 2% of the total cost of the Project; 6) eliminate the portion of the Agreement authorizing the additional 2% TOT charge for repayment of deferred fees, while establishing a required payment should the Project be utilized in any way in which TOT is not collected; 7) permitted transfers to facilitate the pad development 8) requiring 75% of the proceeds from the sale of a portion of the property be held in escrow and distributed upon completion of certain construction tasks by Stay Cal; and 9) amendment to section 9.6 to ensure that potential proceeds from sale of the property be shared equally by Stay Cal and the City; and

WHEREAS, revisions to the Buyer's proposed project funding and construction plans and the impacts of COVID-19 and the construction market have necessitated that Stay Cal seek additional financing opportunities for the Project. Stay Cal and the City agree that a loan from the City to cover certain costs related to site work and development fees would be a mutually beneficial solution to ensure development of the Project, which will have significant monetary and aesthetic impacts for the City; and

WHEREAS, the Seventh Amendment to the Amended and Restated Purchase and Sale Agreement ("Seventh Amendment") would authorize a City-backed loan not-to-exceed $4,300,000; and

WHEREAS, the loan would be secured by a promissory note and deed of trust; and

WHEREAS, as part of the Agreement, Stay Cal would be required to begin construction no later than October 17, 2022; and

WHEREAS, Stay Cal would also be required to: 1) secure a completion bond to the satisfaction of the City; and 2) provide a personal guarantee to the satisfaction of the City until operation of the hotel commences; and

WHEREAS, Stay Cal shall be required to place a covenant on the Property limiting allowed uses to hotels; and

WHEREAS, funds provided by the City would be disbursed directly to payees (potentially through an escrow account) and the City shall reserve the right to review all financial information related to construction of the Project as well as final loan documents, including conditions to fund; and

WHEREAS, approval of the Seventh Amendment would also necessitate the amendment of the Deed of Trust and Promissory Note, and potentially other documentation, to ensure consistency with the amended agreement.

WHEREAS, on October 3, 2022, during its regularly scheduled meeting, the City Council took public testimony prior to considering this item.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburg hereby authorizes the City Manager to negotiate and execute the Seventh Amendment to the Amended and Restated Purchase and Sale Agreement, as substantially presented to the City Council; and

BE IT FURTHER RESOLVED that the City Council of the City of Pittsburg authorizes the City Manager to negotiate and execute amendments to the Deed of Trust, Promissory Note, and other subsequent agreements necessary to carry out the obligations of this Seventh Amendment.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of October 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

SEVENTH AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE CITY OF PITTSBURG AND STAY CAL PITTSBURG LLC

APN: 086-100-047 (formerly APN: 086-100-045)

THIS SEVENTH AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT ("**Seventh Amendment**"), dated for reference as October 4, 2022, is entered into by and between the City of Pittsburg, a California municipal corporation ("**Seller or City**"), and Stay Cal Pittsburg LLC, a California limited liability company ("**Buyer or Stay Cal**"). City and Stay Cal are collectively referred to herein as the "**Parties**."

RECITALS

A. Seller and Buyer entered into that certain Amended and Restated Purchase and Sale Agreement with an effective date of December 5, 2018 ("**Agreement**") regarding Buyer's acquisition of real property located at southwest corner of Center Drive and Railroad Avenue, also known as APN: 086-100-045 ("**Property**"), as more particularly described in Exhibit A to the Agreement.

B. Seller and Buyer entered into that First Amendment to Amended and Restated Purchase and Sale Agreement on June 18, 2019 ("First Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and extended the close of escrow date.

C. Seller and Buyer entered into that Second Amendment to Amended and Restated Purchase and Sale Agreement on September 27, 2019 ("Second Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and extended the close of escrow date.

D. Seller and Buyer entered into that Third Amendment to Amended and Restated Purchase and Sale Agreement on November 14, 2019 ("Third Amendment") which extended certain dates on Exhibit C of the Agreement and Schedule of Performance.

E. The sale of the Property closed escrow on December 24, 2019.

F. Seller and Buyer entered into that Fourth Amendment to Amended and Restated Purchase and Sale Agreement on September 14, 2020 ("Fourth Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and modified the payment of fees and repayment provisions of the Agreement.

G. Seller and Buyer entered into that Fifth Amendment to Amended and Restated Purchase and Sale Agreement on January 14, 2021 ("Fifth Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance.

H. Seller and Buyer entered into that Sixth Amendment to Amended and Restated Purchase and Sale Agreement on April 13, 2022 ("Sixth Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and modified the payment of fees and repayment provisions of the Agreement. As part of the Sixth Amendment, the City further agreed to provide Stay Cal with a contribution equal to the maximum of Five Hundred Ninety-Nine Thousand Nine Hundred and Ninety-Nine Dollars ($599,999), so long as it is less than two percent (2%) of the total cost of the Project (the "**Contribution**") and authorized the creation and sale of a second parcel for development of a quick serve restaurant with drive-thru service.

I. Revisions to the Buyer's proposed project funding and construction plans has necessitated further evaluation by the City and has required that certain dates in Exhibit C of the Agreement, Schedule of Performance be extended.

J. The Buyer is seeking additional financing, and Buyer and City agree that a loan from the City to cover certain costs related to site work and development fees would be a mutually beneficial solution to ensure development of the Project.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. Recital G. Recital G is hereby amended to read as follows: Stay Cal intends to purchase the Property and construct a Courtyard by Marriott or equivalent hotel brand rated STR chain upscale or better on the Property with at least 117 rooms (the "**Project**").

2. Recital I. Recital I is hereby amended to read as follows: Stay Cal has requested, and City has agreed to provide a loan to the Buyer in a total amount not to exceed Four Million Three Hundred Thousand Dollars ($4,300,000) to be used for payment of City and other agency development fees; completion of site improvements and construction activities such as but not limited to grading, utility installation, building construction, landscaping installation, paving, and frontage improvements; purchase of a completion bond; and the purchase of the property by Stay Cal from City. Loan shall be repaid by Stay Cal in monthly payments until fully repaid, pursuant to a recorded Promissory Note (the "**Promissory Note**") or as applicable, an Amended Promissory Note (the "**Amended Promissory Note**") substantially in the form attached as Exhibit E of Agreement.

3. Section 2.3.6 Payment of Fees. Section 2.3.6 is hereby amended to read as follows: Payment of Fees. Stay Cal shall be required to pay, when due, all customary and reasonable fees and charges in connection with the processing of permits and approvals.

4. Article V City Financial Assistance. Article V is hereby amended to read as follows:

ARTICLE V
CITY FINANCIAL ASSISTANCE

5.1 Loan and Note. To assist in the acquisition of the property and construction of the project, City shall provide a Loan in the total amount of Four Million Three Hundred Thousand Dollars ($4,300,000) (the **"Loan"**). The Loan shall be evidenced by a secured promissory note dated as of the Closing Date, or a later date, if amended, and executed by Stay Cal substantially in the form attached hereto as Exhibit E (the "Note") and shall be secured by the Deed of Trust (the "Deed of Trust") or Amended and Restated Deed of Trust ("the **"Amended and Restated Deed of Trust**") which shall be recorded against the Property subject only to City's Permitted Exceptions.

Commencing on the date of fund disbursement for this portion of the Loan and continuing through the date that all indebtedness and other amounts payable under this Agreement and the Note are paid in full, interest on the Loan shall accrue at a commercially reasonable interest rate identified in Section 5.2 of this SEVENTH Amendment.

5.2 Interest. Commencing on the date of fund disbursement for the Loan and continuing through the date that all indebtedness and other amounts payable under this Agreement and the Note are paid in full, interest shall accrue at commercially reasonable interest rates (noted below) calculated as simple interest per annum on the unpaid principal outstanding from time to time, computed on a basis of a 365-day year. Interest is due and payable upon an event of default under Article IX hereof. The interest rates noted above shall be applied to the entire principal amount then outstanding, with year zero ("0") occurring at the initial disbursement of principal (each new disbursement shall not "restart" the period interest increases).

The interest rate shall be as follows:

- Years 0-2: 3.00%
- Years 3-5: 3.75%
- Years 6-10: 4.5%
- Years 10-15: 5.25%
- Years 16-30: 6.00%

5.3. Term; Extension of Term. The term of the Loan shall commence on October 4, 2022, and shall end 30 years following commencement of repayment (the "**Maturity Date**"). Notwithstanding the foregoing, the City shall have the right to accelerate the maturity date and declare all sums payable under the Note immediately due and payable upon the occurrence of an Event of Default. Accrued interest during construction will be added to the Loan amount in which principal and interest payments shall commence as set forth in Section 5.5 Repayment below.

5.4 (Reserved)

5.5 Repayment. Stay Cal shall make monthly principal and interest payments to the City, under this Agreement, commencing on the earlier to occur of the following: (i) the first day of the calendar month after the Courtyard by Marriott or equivalent hotel brand that Stay Cal constructs on the Property receives its Certificate of Occupancy or (ii) two (2) years from April 1, 2022, regardless of whether a Courtyard by Marriott or equivalent hotel brand has been constructed on the Property and/or is open to the public ("Monthly Payment Commencement Date") and shall continue making such monthly payments until that date that is thirty (30) years after the Monthly Payment Commencement Date (the "Maturity Date"). For purposes of illustration only: (i) if the Courtyard by Marriott or equivalent hotel brand on the Property were to open to the public on January 15, 2024, the Monthly Payment Commencement Date as defined in this Agreement would be February 1, 2024, and Stay Cal would then be obligated to commence making the required monthly principal and interest payments to City through January 1, 2053, which would represent the Maturity Date pursuant to this hypothetical example; and (ii) if April 1, 2024 has passed and the Buyer has failed to construct a Courtyard by Marriott or equivalent hotel brand that is open to the public on or before April 1, 2024, the Monthly Payment Commencement Date shall be April 1, 2024 and the Maturity Date would be March 1, 2053.

5.6 Security. As security for repayment of the Note, Stay Cal shall execute a Deed of Trust (the "**Deed of Trust**") or if applicable an Amended and Restated Deed of Trust (the "**Amended and Restated Deed of Trust**") in favor of City as beneficiary pursuant to which City shall be provided a lien against Stay Cal's interest in the Property and the Project. The Deed of Trust shall be dated as of the Closing Date, shall be substantially in the form attached hereto as Exhibit F, and shall be recorded in the Official Records on the Closing Date. The Deed of Trust may be subordinated only to the City's Permitted Exceptions and such liens and encumbrances as City shall approve in writing. The City shall subordinate to any construction or permanent financing for this Project.

5.7 Prepayment. Stay Cal shall have the right to prepay the Loan at any time and from time to time, without penalty or premium, provided that any prepayment of principal must be accompanied by interest accrued but unpaid to the date of prepayment. Prepayments shall be applied first to accrued but unpaid interest and then to principal.

5.8 Conditions Precedent to Loan. City's obligation to fund the Loan is conditioned upon the satisfaction of all of the conditions set forth in Sections 2.3 and 3.8 and all of the following conditions:

5.8.1 The conveyance of the Property to Stay Cal;

5.8.2 Stay Cal's execution and delivery to City of this Agreement, the Note and the Deed of Trust or Amended and Restated Deed of Trust;

5.8.3 Recordation of the Deed of Trust or Amended and Restated Deed of Trust in the Official Record;

5.8.4 Stay Cal's delivery to City of evidence reasonably satisfactory to City that there are no mechanics' liens or stop notices related to the Property or the Project, and Stay Cal's provision to City of full waivers or releases of lien clams if required by City;

5.8.5 Stay Cal's delivery to the City of evidence of property and liability insurance coverage and payment and performance bonds in accordance with the requirements set forth herein. City must review and approve fund control and performance/completion bonds or similar mechanism approved by City;

5.8.6 No material adverse change as determined by City in its reasonable judgment shall have occurred in the condition of the Property or the Project or in the financial or other condition of Stay Cal since the Effective Date of this Agreement;

5.8.7 Stay Cal's delivery to City of each of the following: (i) certificate of good standing, certified by the Secretary of State indicating that Stay Cal is properly organized and authorized to do business in the State of California, (ii) a certified resolution indicating that Stay Cal has authorized this transaction and that the persons executing the City Documents on behalf of Stay Cal have been duly authorized to do so, and (iii) certified copy of Stay Cal's articles of organization and bylaws;

5.8.8 City's receipt of a written estimated settlement statement showing the acquisition price, closing costs and all other amounts due in escrow for Stay Cal's acquisition of the Property; and

5.8.9 Stay Cal shall facilitate discussions between the City or its designee and primary construction lender to the satisfaction of the City, including a meeting in advance of providing Loan; and

5.8.10 Stay Cal shall disclose all financial information related to construction of the Project as requested by and to the satisfaction of the City; and

5.8.11 City's inspection of final construction loan documents, including conditions to fund. Stay Cal shall satisfy conditions to fund other than City funding and transfer of property; and

5.8.12 Stay Cal shall record a deed restriction limiting the allowed use of the subject property to hotel uses rated STR chain upscale or better.

5.9 No Obligation to Provide Loan Upon Default. Notwithstanding any other provision of this Agreement, the City shall have no obligation to Close or provide the Loan if any of the following circumstances occur:

5.9.1 the failure of any of Stay Cal's representations and warranties made in this Agreement or in connection with the Loan to be true and correct in all material respects;

5.9.2 the termination of this Agreement by mutual agreement of the Parties;

5.9.3 the occurrence of an Event of Default under any City Document which remains uncured beyond any applicable cure period, or the existence of any condition, event or act which upon the giving of notice or the passage of time or both would constitute an Event of Default under any City Document. City may terminate this Agreement at any time prior to issuance of Loan.

5.10 Due on Sale or Encumbrance. Unless City agrees otherwise in writing, the entire unpaid principal balance and all interest and other sums accrued under the Note shall be due and payable upon the Transfer, absent the prior written consent of City, of all or any part of or interest in the Property except as otherwise permitted pursuant to this Agreement.

5.10.1 The Loan shall be due and payable, as provided herein, in the event Stay Cal refinances the Project and/or the Property in a cash out refinancing or upon any sale of the Project and/or Property, including partial sale of Stay Cal's ownership interest, except as otherwise permitted pursuant to this Agreement.

5.10.2 In the event Stay Cal refinances its construction financing or subsequent permanent financing ("**Mortgage**"), the repayment of which is secured, directly or indirectly by the Property or the Project, by a Mortgage, Stay Cal shall, upon the closing of the first such refinance of the Mortgage, pay to City on the Loan as follows:

- For cumulative Net Loan Proceeds totaling $0 - $4,000,000, 50% of Net Loan Proceeds; plus
- All Net Loan Proceeds in excess of $4,000,000 until the Loan is fully repaid.

5.10.3 In the event Stay Cal closes on a second refinancing of the Mortgage, the repayment of which is secured, directly or indirectly, by the Property or the Project, Stay Cal shall, upon the closing of the second such refinance of the Mortgage, pay to City 100% of the Net Loan Proceeds until the Loan is fully repaid.

For purposes hereof, "Net Loan Proceeds" shall mean the total loan proceeds available to Stay Cal under a new Mortgage, less all customary and necessary closing costs, including, without limitation, prepayment fees, interests costs, defeasance costs relating to the Mortgage being refinanced, and all closing costs relating to the new Mortgage, including, without limitation, legal fees, title costs, lender's origination fees, transfer fees and recording fees, and fees paid by Stay Cal to City in connection with executing any documents required in connection with such new Mortgage.

5.11 Additional Obligations of Stay Cal.

5.11.1 Stay Cal shall commence construction no later than October 17, 2022. Commencement of construction shall include a signed notice to proceed provided to the general contractor. Notwithstanding any other provision to the contrary, failure to commence construction on or before October 17, 2022, constitutes an Event of Default and there shall be no cure period.

5.11.2 Stay Cal shall provide a personal guarantee the satisfaction of the City prior to the disbursement of funds. The personal guarantee shall remain in place for the duration in construction and shall be released upon commencement and six (6) months of hotel operation.

5.11.3 In the event Stay Cal ceases pursuing the Project, Stay Cal shall:

5.11.3.1 Only sell the Project and Property to a buyer approved by the City;

5.11.3.2 Sell Project and Property to any qualified buyer chosen by the City, upon terms agreeable to by City and Stay Cal;

5.11.3.3 Release any territorial claims for hotel development in the area to qualified buyer to facilitate development; and

5.11.3.4 Release any restrictions on use of plans for future developers (e.g., intellectual property of plans, exclusive rights, etc.).

5.11.4 Stay Cal shall indemnify, defend, and hold harmless to the fullest extent permitted by law, the City from and against any and all claims, liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with the failure to pay prevailing wages or comply with the prevailing wage law. This indemnification obligation shall survive the termination of this Agreement. In the event it is determined all or any portion of the project is subject to prevailing wage, Stay Cal shall be solely responsible for paying prevailing wage, and any penalty or assessment.

5.11.5 Stay Cal shall ensure all property taxes are paid in full. Property taxes shall be kept current for the duration of the loan.

5.12 City Contribution. City agrees to provide Stay Cal with a contribution equal to the maximum of Five Hundred Ninety-Nine Thousand Nine Hundred and

Ninety-Nine Dollars ($599,999), so long as it is less than two percent (2%) of the total cost of the Project (the "**Contribution**"). The Contribution shall be paid by City directly to Stay Cal within ten (10) business days of completion and approval of the inspection of the entire foundation of the Project. In the event Stay Cal has not received approval of the entire foundation of the Project by December 31, 2023, City shall not be required to provide Contribution; this deadline may be extended by the City Manager for a period(s) not to exceed six months.

5.13 Fund Disbursement. Loan proceeds shall be paid directly to City or third-party recipients including but not limited to lenders, contractors, vendors, Contra Costa Fire Protection District, Delta Diablo, Contra Costa Water District (CCWD), and Pittsburg Unified School District (PUSD). City Manager may authorize, in their sole discretion, use of funds to repay Stay Cal for expenses.

5.14 City Oversight.

5.14.1 City may participate in ongoing construction management meetings between developer and contractor at City's discretion. Stay Cal shall provide City with schedule of all meetings reasonably in advance of meetings.

5.14.2 Stay Cal shall provide updates from lender's third-party fund control/construction monitor (e.g., Tetra Tech) promptly after receiving updates from the monitor.

5.14.3 Stay Cal shall make all reasonable efforts to facilitate transfer of information deemed necessary from City in its sole discretion from primary construction lender to City or City's agent; and

5.14.5 Stay Cal shall disclose all financial information related to construction of the Project within five (5) business days as requested by and to the satisfaction of the City upon request.

5. Exhibit C – Schedule of Performance. Exhibit C, "Schedule of Performance," of the Agreement is hereby replaced with Attachment 1 of this SEVENTH Amendment.

6. Counterparts; Fax or Email Transmission. This Amendment may be executed in two or more identical counterparts, and may be delivered by fax or email transmission in addition to the other forms of delivery of notices acceptable under the terms of the Agreement.

7. Entire Agreement. The Agreement embodies the entire understanding between Seller and Buyer with respect to its subject matter and can be changed only by an instrument in writing signed by Seller and Buyer.

//

IN WITNESS WHEREOF, this SEVENTH Amendment is executed by Buyer and

Seller as of the Effective Date.

City:
City of Pittsburg,
a California municipal corporation

By: _____
Name: Garrett Evans
Its: City Manager

Attest:

_____
Alice E. Evenson, City Clerk

Reviewed as to Form:

_____
Donna Mooney, City Attorney

Stay Cal:
Stay Cal Pittsburg LLC,
a California limited liability company

By: _____
Name: Hiten Suraj
Its: Manager

Attachment 1

EXHIBIT C: "SCHEDULE OF PERFORMANCE"

Action	Date
1. Financing Plan. Stay Cal shall submit evidence of financing, acceptable to the City, for development of Project. [Amended and Restated PSA § 4.06]	Oct. 4, 2022
2. Building Permits. Stay Cal shall obtain the Building Permits for construction of Project.	No later than October 10, 2022
3. Construction Contract. Stay Cal shall submit, and receive, City approval of the construction contract for the construction of the Project.	No later than October 10, 2022
4. Payment and Performance Bonds. Stay Cal shall submit for and receive City approval of the payment and performance bonds for the construction of the Project. [Amended and Restated PSA § 4.20]	No later than October 10, 2022
5. Insurance. Stay Cal shall submit evidence of insurance to the City and receive City approval thereof.	No later than October 10, 2022
6. Commencement of Construction. Stay Cal shall commence construction of the Project. [DA § 6.19]	No later than October 17, 2022
7. Completion of Construction. Stay Cal shall complete construction of the Project.	May 1, 2024

4

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
Attn: City Clerk

Exempt from Recording Fees
Government Code §§ 6103, 27383

CONTRA COSTA Co Recorder Office
JOSEPH CANCIAMILLA, Clerk–Recorder
DOC– 2018–0197392–00
Check Number
Monday, DEC 10, 2018 11:54:55
FRE $0.00
Ttl Pd $0.00 Nbr–0003363536 AAV / RN / 1-88

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

Parcel 1 of Parcel Map Waiver for a Lot Line Adjustment PMW 18-02

AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT

by and between

THE CITY OF PITTSBURG

and

STAY CAL PITTSBURG, LLC

November 5, 2018

THIS DOCUMENT WAS EXCUTED IN COUNTERPART

Exhibits

A Legal Description
B Form of Grant Deed
C Schedule of Performance
D Form of Certificate of Completion
E Form of Note
F Form of Deed of Trust
G Insurance Requirements
H Fee Deferral Agreement
I Utility Construction Cost Sharing

This Amended and Restated Purchase and Sale Agreement (this "**Agreement**") amending that certain Purchase and Sale Agreement by and between the City of Pittsburg, a municipal corporation ("**City**") and Stay Cal Pittsburg, LLC, a California limited liability company ("**Stay Cal**") dated November 5, 2018 (the "**PSA**") is entered into effective as of December 5, 2018 ("**Effective Date**") by and between City and Stay Cal. City and Stay Cal are hereinafter collectively referred to as the "**Parties**."

RECITALS

A. City is the owner of the real property located in the City of Pittsburg adjacent to the intersection of Railroad Avenue and Center Drive in the City of Pittsburg, County of Contra Costa, State of California, identified as Parcel 1 of Parcel Map Waiver for a Lot Line Adjustment PMW 18-02, which encompasses approximately 111,874 square feet, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "**Property**").

B. Stay Cal had previously entered into the PSA with the prior owner of the Property.

C. City assumed all rights and responsibilities of the former owner under the PSA pursuant to an assignment and assumption agreement at the time that the City took possession of the Property.

D. Pursuant to this Agreement, the Parties desire to amend and restate the PSA to reflect the renegotiation of certain terms of the sale of the property and to reflect the financing to be provided by City for construction of the Project (defined below).

E. Pursuant to the PSA, the purchase price for the Property is One Million Six Hundred Seventy-Eight Thousand One Hundred Ten Dollars ($1,678,110) (the "**Purchase Price**").

F. The Purchase Price is not amended or revised by this Agreement.

G. Stay Cal intends to purchase the Property and construct a Courtyard by Marriott or equivalent hotel brand on the Property with at least 125 rooms (the "**Project**").

H. Stay Cal has requested, and City has agreed to provide a loan in the amount of One Million Six Hundred Seventy-Eight Thousand One Hundred Ten Dollars ($1,678,110) (the "**Loan**") for the purchase of the Property, subject to the terms and conditions of this Agreement.

I. Stay Cal has requested, and City has agreed to provide deferral of certain development fees in the amount not greater than Four Hundred Thirty Thousand Dollars $ 430,000, to be repaid by Stay Cal in monthly payments until fully repaid, pursuant to a

Fee Deferral Agreement (the "**Deferral Agreement**") substantially in the form attached as Exhibit H to this Agreement.

J. Pursuant to this Agreement, Stay Cal will execute a promissory note (the "**Note**") and a deed of trust (the "**Deed of Trust**") evidencing the Loan, against the Property in favor of the City as beneficiary to secure the Loan and the Fee Deferral Agreement.

K. The City has concluded that Stay Cal has the necessary expertise, skill and ability to carry out the commitments contained in this Agreement and that this Agreement is in the best interests of the City and will materially contribute to the health and welfare of the citizens of the City.

L. Subject to the terms and conditions set forth in this Agreement: (i) the City will convey the Property to Stay Cal, (ii) the City will provide a loan to finance Stay Cal's acquisition of the Property, and (iii) Stay Cal will design, construct, own and operate the Project on the Property.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

ARTICLE I
DEFINITIONS

1. Definitions. The following terms shall have the meanings set forth in the Sections referenced below whenever used in this Agreement and the Exhibits attached hereto. Additional terms are defined in the Recitals and text of this Agreement.

1.1 **"Bankruptcy Law"** is defined in Section 9.1.h.

1.2 "**Certificate of Completion**" is defined in Section 4.14.

1.3 "**City Documents**" is defined in Section 2.3.3.

1.4 **"City's Lender Title Policy"** is defined in Section 3.8.1.d.

1.5 "**City's Permitted Exceptions**" is defined in Section 3.8.1.d.

1.6 "**Claims**" is defined in Section 4.16.

1.7 "**Closing Date**" or "**Close of Escrow**" shall be the date that escrow closes for conveyance of the Property to Stay Cal as defined in Section 3.6.

1.8 "**Conditions of Approval**" is defined in Section 4.1.

1.9 "**Construction Plans**" is defined in Section 4.10.

1.10 "**Controlled Affiliate**" is defined in Section 7.3.

1.11 "**Deed of Trust**" means the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing to be executed by Stay Cal as Trustor for the benefit of City and recorded against the Property to secure the repayment of the Loan is defined in Section 5.1.

1.12 "**Stay Cal's Permitted Exceptions**" is defined in Section 3.1.

1.13 "**Environmental Laws**" is defined in Section 8.1.2.

1.14 "**Escrow Agent**" is defined in Section 3.3.

1.15 "**Financing Plan**" is defined in Section 4.6.

1.16 "**Hazardous Material**" is defined in Section 8.1.1.

1.17 "**Hazardous Materials Claims**" is defined in Section 8.7(3).

1.18 "**Grant Deed**" is defined in Section 3.1.

1.19 "**Indemnitees**" is defined in Section 4.16.

1.20 "**Loan**" is defined in Section 5.1.

1.21 "**Note**" is defined in Section 5.1.

1.22 "**Purchase Price**" is defined in Section 3.2.

1.23 "**Official Records**" means the Official Records of Contra Costa County.

1.24 "**Owner's Title Policy**" is defined in Section 3.8.2.

1.25 "**Prevailing Wage Laws**" is defined in Section 4.16.

1.26 "**Project**" is defined in Recital G.

1.27 "**Property**" is defined in Recital A.

1.28 "**Schedule of Performance**" is defined in Section 4.7.

1.29 "**Title Company**" is defined in Section 3.3.

1.30 "**Title Exceptions**" is defined in Section 3.7.

1.31 "**Title Report**" is defined in Section 3.1.

1.32 "**Transfer**" is defined in Section 7.2.

ARTICLE II
REPRESENTATIONS; EFFECTIVE DATE; CONDITIONS PRECEDENT TO DISPOSITION

2.1 Stay Cal's Representations. Stay Cal represents and warrants to City as follows, and Stay Cal covenants that until the expiration or earlier termination of this Agreement, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 2.1 not to be true, Stay Cal shall immediately give written notice of such fact or condition to City. Stay Cal acknowledges that City shall rely upon Stay Cal's representations made herein notwithstanding any investigation made by or on behalf of City.

2.1.1 Authority. Stay Cal is a limited liability company in good standing under the laws of the State of California. The persons executing this Agreement on behalf of Stay Cal have been duly authorized to do so. This Agreement and the other City Documents (as defined below) constitute valid and binding obligations of Stay Cal, enforceable in accordance with their respective terms.

2.1.2 No Conflict. Stay Cal's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Stay Cal is a party or by which it is bound.

2.1.3 No Litigation or Other Proceeding. No litigation or other proceeding (whether administrative or otherwise) is outstanding or has been threatened that would prevent, hinder or delay the ability of Stay Cal to perform its obligations under this Agreement.

2.1.4 No Stay Cal Bankruptcy. Stay Cal is not the subject of a bankruptcy or insolvency proceeding.

2.2 Effective Date. The obligations of Stay Cal and City hereunder shall be effective as of the Effective Date which date is set forth in the preamble to this Agreement.

2.3 Conditions Precedent. City's obligation to convey the Property to Stay Cal is conditioned upon the satisfaction of all of the requirements set forth in each subsection of this Section 2.3 and in Section 3.8, unless any such condition is waived by City acting in the discretion of its City Manager. Prior to conveyance of the Property:

2.3.1 Due Authorization and Good Standing. Stay Cal's delivery to City of each of the following: (i) certificate of good standing, certified by the Secretary of State indicating that Stay Cal is properly organized and authorized to do business in the State of California, (ii) a certified resolution indicating that Stay Cal has authorized this

transaction and that the persons executing the City Documents (defined below) on behalf of Stay Cal have been duly authorized to do so, (iii) copies of Stay Cal's articles of organization.

2.3.2 No Litigation. To the best of Stay Cal's knowledge, there is no litigation pending with respect to this Agreement or any City approval related to the Project, the outcome of which could materially interfere with the development of the Property as set forth herein.

2.3.3 Execution and Delivery of Documents. Stay Cal has executed, acknowledged as applicable, and delivered to City or deposited into escrow this Agreement, and all other documents required in connection with the transactions contemplated hereby, including without limitation the Note and the Deed of Trust. All of the foregoing documents, together with this Agreement and the Grant Deed are hereinafter referred to collectively as the "**City Documents**."

2.3.4 Design Review. City has reviewed and approved the Site Development Plan and Project design.

2.3.5 Permits and Approvals; Cooperation. Stay Cal has completed all CEQA requirements and obtained all entitlements, permits, licenses and approvals required for the construction of the Project on the Property, including without limitation, building permits and use permits or shall provide evidence satisfactory to City that receipt of such permits and approvals is subject only to such conditions as City may reasonably approve. Nothing in this Agreement shall be construed as approval of any City entitlements for the Project. If Stay Cal is unable to obtain all necessary entitlements, permits, licenses and approvals required for the construction of the Project on the Property prior to Closing then Stay Cal shall have the right to terminate this Agreement and the parties shall have no further obligation to each other.

2.3.6 Payment of Fees. Stay Cal has paid, when due, all customary and reasonable fees and charges in connection with the processing of permits and approvals. Certain City controlled fees and charges in connection with the processing of permits and approvals in the amount not greater than Four Hundred Thirty Thousand Dollars ($430,000) shall be deferred and repaid by Stay Cal. Stay Call will collect an additional two percent (2%) to the initial ten percent (10%) of transient occupancy tax to pay for certain City controlled fees and charges until Stay Cal is reimbursed for all non Stay Cal share of public improvements. No interest shall be charged on the deferred fees and charges.

2.3.7 Construction Plans, Budget and Schedule. City has approved the Construction Plans and specifications for the Project pursuant to Article IV, and the construction budget and schedule for the Project.

2.3.8 Financing. Within sixty (60) days but no later than thirty (30) days from the Closing Date, Stay Cal has delivered to City evidence reasonably satisfactory to City that Stay Cal has secured binding commitments for all funding required to pursue

the development of the Project in excess of the Loan, subject only to commercially reasonable conditions, as more particularly described in Section 4.6.

2.3.9 Insurance and Performance Bonds. Stay Cal has provided evidence reasonably satisfactory to City that Stay Cal has obtained insurance coverage meeting the requirements set forth in Article X and shall have provided to City performance bonds or other assurance of completion reasonably satisfactory to City pursuant to the requirements set forth in Section 4.20.

2.3.10 Title. City shall have received assurance that the Deed of Trust will be recorded subject only to: (a) the provisions and effects of the City Documents, (b) any lien for current taxes and assessments or taxes and assessments accruing subsequent to recordation of the Grant Deeds, and (c) the City's Permitted Exceptions.

ARTICLE III
DISPOSITION OF THE PROPERTY

3.1 Purchase and Sale of Property. Provided that all conditions precedent set forth in this Agreement have been satisfied or waived, City shall sell to Stay Cal, and Stay Cal shall purchase from City, the fee interest in the Property in accordance with and subject to the terms, covenants and conditions of this Agreement, free and clear of all exceptions to title except: (a) the provisions and effects of the City Documents, (b) applicable building and zoning laws and regulations, (c) any lien for current taxes and assessments or taxes and assessments accruing subsequent to recordation of the Grant Deed (defined below), (d) exception numbers 6-9 and 11-14 as shown on that certain preliminary title report for the Property issued by First American Title Company and dated October 9, 2018 ("**Title Report**"), and (e) such other conditions, liens, encumbrances, restrictions, easements and exceptions as Stay Cal may approve in writing, which approval shall not be unreasonably withheld. All of the foregoing are collectively hereinafter referred to as the "**Stay Cal's Permitted Exceptions.**" Conveyance of the Property shall be effectuated by grant deed substantially in the form attached hereto as Exhibit B (the "**Grant Deed**").

3.2 Purchase Price. City shall sell the Property to Stay Cal for the sum of One Million Six Hundred Seventy-Eight Thousand One Hundred Ten Dollars ($1,678,110.00) (the **"Purchase Price"**).

3.3 Escrow. Within thirty (30) days of the Effective Date, City and Stay Cal shall open escrow at the office of First American Title Company, 1850 Mt. Diablo Blvd., Suite 300, Walnut Creek, CA 94596, or such other title company as the Parties may agree upon ("**Title Company**" or "**Escrow Agent**") in order to consummate the conveyance of the Property to Stay Cal and the closing of escrow for the transactions contemplated hereby.

3.4 Costs of Closing and Escrow. Stay Cal shall pay all escrow fees (including the costs of preparing documents and instruments), recording fees, title

insurance premiums for policies Stay Cal elects to purchase in connection with the acquisition of the Property and the financing of the Project and title report costs. City shall pay government conveyance fees and all transfer taxes. Property taxes and assessments shall be prorated as of the Closing Date. Stay Call shall pay for the cost of any lender's policy of title insurance that City elects to acquire in connection with the transactions contemplated hereby. All other costs and fees shall be paid in accordance with custom and practice in Contra Costa County.

3.5 Escrow Instructions; Deposit of Funds; Recordation of Documents. City and Stay Cal shall provide the Escrow Agent with a copy of this Agreement, which together with such supplemental instructions as City or Stay Cal may provide and which are consistent with the intent of this Agreement or which are otherwise mutually agreed upon by the Parties, shall serve as escrow instructions for the conveyance of the Property.

3.6 Closing. The Closing Date shall be the earlier to occur of the following: (i) one-hundred eighty (180) days from the expiration of the Due Diligence Period (December 9, 2018) or (ii) July 3, 2019 (the "**Closing Date" or "Close of Escrow**"). Prior to the Close of Escrow, Stay Cal shall deposit into escrow the amount of any funds Stay Cal is obligated to pay pursuant to this Agreement and the City Documents, executed and acknowledged as applicable. Provided that all conditions precedent to conveyance of the Property have been satisfied or waived, City shall deposit into escrow the executed Grant Deed and executed copies of the City Documents to which City is a party. On the Closing Date, the Escrow Agent shall cause the Grant Deed, the Deed of Trust to be recorded in the Official Records of the County of Contra Costa.

3.7 Review of Title. City shall provide or cause Title Company to provide Stay Cal with a copy of the Title Report within thirty (30) days following the Effective Date. Stay Cal shall notify City of any objections Stay Cal has to exceptions to title ("**Title Exceptions**") within ten (10) business days following Stay Cal's receipt of the Title Report. Stay Cal's failure to object within such period shall be deemed to be approval of the condition of title to the Property. If Stay Cal objects to any Title Exception, City shall use reasonable efforts at City's expense to remove from title or otherwise satisfy each such exception in a form that is reasonably satisfactory to Stay Cal no later than fourteen (14) days prior to the Closing Date.

3.8 Conditions to Closing.

3.8.1 City's Conditions to Closing. City's obligation to proceed with the conveyance of the Property is subject to Stay Cal's satisfaction or City's waiver of the following conditions:

a. No Default. There shall exist no condition, event or act which would constitute a material breach or default under this Agreement or any other City Document, or which, upon the giving of notice or the passage of time, or both, would constitute such a material breach or default.

b. Representations. All representations and warranties of Stay Cal contained herein or in any other City Document or certificate delivered in connection with the transactions contemplated by this Agreement shall be true and correct in all material respects as of the Close of Escrow.

c. Satisfaction of Conditions Precedent. All conditions set forth in Section 2.3 and each subsection thereof shall have been satisfied.

d. Lender's Title Policy. The Title Company shall, upon payment of the premium therefor, be ready to issue an ALTA Lender's Policy of Title Insurance for the benefit and protection of City (**"City Lender's Title Policy"**) in the amount of the Loan, insuring that the lien of the Deed of Trust is subject only to exceptions numbers 6-9 and 11-14 identified in that certain Preliminary Report issued by First American Title Company and dated October 9, 2018, deeds of trust and other security instruments securing all other construction and permanent financing for the Project included in Stay Cal's approved Financing Plan, and such other defects, liens, conditions, encumbrances, restrictions, easements and exceptions as City may approve in writing (collectively, the **"City's Permitted Exceptions"**) and containing such endorsements as City may reasonably require, with the cost of such Title Policy to be paid by Stay Cal.

3.8.2 Stay Cal's Conditions to Closing. Stay Cal's obligation to proceed with the acquisition of the Property is subject to City's satisfaction or Stay Cal's waiver of the following conditions:

a. No Default. City shall not be in default under the terms of this Agreement, and all representations and warranties of City contained herein shall be true and correct in all material respects.

b. Execution of Documents. City shall have executed and acknowledged the Grant Deed and any other documents required hereunder, and shall have delivered such documents into escrow.

c. Owner's Title Policy. The Title Company shall, upon payment of the premium therefor, be ready to issue an Owner's Title Insurance Policy for the benefit and protection of Stay Cal (**"Owner's Title Policy"**) showing title to the Property vested in Stay Cal, subject only to Stay Cal's Permitted Exceptions.

ARTICLE IV
DEVELOPMENT OF THE PROPERTY

4.1 The Project. Stay Cal shall construct the Project in accordance with the terms and conditions of this Agreement and in compliance with the terms and conditions of all approvals, entitlements and permits that the City or any other governmental body or agency with jurisdiction over the Project or the Property has granted or issued as of

the date hereof or may hereafter grant or issue in connection with development of the Project, including without limitation, all mitigation measures imposed in connection with environmental review of the Project and all conditions of approval imposed in connection with any entitlements, approvals or permits (all of the foregoing approvals, entitlements, permits, mitigation measures and conditions of approval are hereafter collectively referred to as the "**Conditions of Approval**").

The Project will consist of a Courtyard by Marriott or an equivalent hotel brand with at least 125 rooms, an on-site restaurant, full service bar, and conference room.

4.2 Backhaul System and Security System. Due to the location and height of the Project, Stay Cal agrees to install a backhaul, a relaying system that will convey surveillance information to the City of Pittsburg Police Department ("PPD"). Stay Cal also agrees to install a camera security system compatible with PPD.

4.3 Project Approvals. Stay Cal acknowledges and agrees that execution of this Agreement by City does not constitute approval for the purpose of the issuance of building permits for the Project, does not limit in any manner the discretion of City in such approval process, and does not relieve Stay Cal from the obligation to apply for and obtain all necessary entitlements, approvals, and permits for construction of the Project on the Property including without limitation, the approval of architectural plans, the issuance of any certificates regarding historic resources required in connection with the Project (if any), and the completion of any required environmental review.

Stay Cal covenants that it shall: (i) use best efforts to obtain all necessary permits and approvals which may be required by City or any other governmental agency having jurisdiction over the Property by the date set forth in the Schedule of Performance, (ii) comply with all Conditions of Approval, (iii) comply with all mitigation measures imposed in connection with any environmental review of the Project, and (iv) not commence construction work on the Project prior to issuance of building permits required for such work.

City staff shall work cooperatively with Stay Cal to assist in coordinating the expeditious processing and consideration of all permits, entitlements and approvals necessary for construction of the Project.

4.4 Fees. Except as expressly set forth herein, Stay Cal shall be solely responsible for, and shall promptly pay when due, all customary and usual fees and charges of City in connection with obtaining building permits and other approvals for the Project, including without limitation, those related to the processing and consideration of amendments, if any, to the current entitlements, any related approvals and permits, environmental review, architectural review, historic review, and any subsequent approvals for the Project.

4.5 Cost of Acquisition and Construction. Except as expressly set forth herein, Stay Cal shall be solely responsible for all direct and indirect costs and

expenses incurred in connection with the acquisition of the Property and construction of the Project, and none of such costs and expenses shall be the obligation of the City.

4.6 Financing Plan. Within sixty (60) days but no later than thirty (30) days from the Closing Date, Stay Cal shall submit for City review Stay Cal's plans for financing the construction and permanent financing of the Project (hereinafter the "**Financing Plan**"). The Financing Plan shall indicate all sources of funds necessary to pay, when due, the estimated costs of Project development, including without limitation acquisition costs and hard and soft construction costs, and shall be accompanied by evidence that all such funds have been firmly committed by Stay Cal, equity investors or lending institutions, subject only to commercially reasonable conditions. The Financing Plan shall include development and operating pro formas which set out in detail Stay Cal's plan for financing the costs of acquisition, construction and operation of the Project. City staff shall promptly review the proposed Financing Plan, and acting through the City's City Manager, the City shall approve such plan in writing within fifteen (15) business days following receipt provided that the plan conforms to the requirements of this Section. If the City does not approve the Financing Plan, the City shall set forth its objections in writing and notify Stay Cal of the reasons for its disapproval. Stay Cal shall thereafter submit a revised Financing Plan that addresses the reasons for disapproval, and the City shall grant Stay Cal a reasonable extension of the time deadlines set forth in this Agreement as required to restructure the Financing Plan, subject to the outside time limit for commencement of construction set forth in Section 4.7.

4.7 Schedule of Performance. Stay Cal shall commence and complete construction of the Project and shall satisfy all other obligations of Stay Cal under this Agreement within the time periods set forth herein and in the Schedule of Performance attached hereto as Exhibit C ("**Schedule of Performance**"), as such time periods may be extended upon the mutual written consent of the Parties. Subject to force majeure, and the City's issuance of permits and approvals, Stay Cal shall commence construction of the Project not later than the date specified in the Schedule of Performance, and Stay Cal shall diligently prosecute the construction work to completion in order to allow City to issue a final certificate of occupancy within twelve (12) months following commencement of construction, but in no event later than the date specified in the Schedule of Performance. Subject to force majeure, the availability of financing, and the City's issuance of permits and approvals, Stay Cal's failure to commence or complete the Project or satisfy any other obligations of Stay Cal under this Agreement in accordance with the time periods specified in this Section 4.7 or the Schedule of Performance shall be an Event of Default hereunder.

4.8 Rights of Access. For the purpose of ensuring that the construction of the Project is completed in compliance with this Agreement, Stay Cal shall permit representatives of the City to enter upon the Property following 24 hours written notice (except in the case of emergency in which case such notice as may be practical under the circumstances shall be provided).

4.9 City Disclaimer. Stay Cal acknowledges that the City is under no obligation, and City does not undertake or assume any responsibility or duty to Stay Cal or to any third party, to in any manner review, supervise, or inspect the progress of construction or the operation of the Project. Stay Cal and all third parties shall rely entirely upon its or their own supervision and inspection in determining the quality and suitability of the materials and work, the performance of architects, contractors, subcontractors, and material suppliers, and all other matters relating to the construction and operation of the Project. Any review or inspection undertaken by the City is solely for the purpose of determining whether Stay Cal is properly discharging its obligations under this Agreement, and shall not be relied upon by Stay Cal or any third party as a warranty or representation by the City as to the quality of the design or rehabilitation of the improvements or otherwise.

4.10 Construction Plans. By the date set forth in the Schedule of Performance, Stay Cal shall submit to City's Building Department for approval detailed construction plans for construction of the Project on the Property (the "**Construction Plans**"). As used herein "**Construction Plans**" means all construction documents upon which Stay Cal and Stay Cal's contractors shall rely in constructing the Project (including the landscaping, parking, and common areas) and shall include, without limitation, the site development plan, final architectural drawings, landscaping, exterior lighting and signage plans and specifications, materials specifications, final elevations, and building plans and specifications. The Construction Plans shall be based upon the scope of development set forth herein and upon the approvals issued by the City for the Project, and shall not materially deviate therefrom without the express written consent of the City.

4.11 Construction Pursuant to Plans. Stay Cal shall construct the Project in accordance with the approved Construction Plans, the Conditions of Approval, and all other permits and approvals granted by the City pertaining to the Project. Stay Cal shall comply with all directions, rules and regulations of any fire marshal, health officer, building inspector or other officer of every governmental agency having jurisdiction over the Property or the Project. Each element of the work shall proceed only after procurement of each permit, license or other authorization that may be required for such element by any governmental agency having jurisdiction. All design and construction work on the Project shall be performed by licensed contractors, engineers or architects, as applicable.

4.12 Change in Construction Plans. If Stay Cal desires to make any material change in the approved Construction Plans, Stay Cal shall submit the proposed change in writing to the City for its written approval, which approval shall not be unreasonably withheld or delayed if the Construction Plans, as modified by any proposed change, conform to the requirements of this Agreement and any approvals issued by the City after the Effective Date. Unless a proposed change is approved by City within thirty (30) days, it shall be deemed rejected. If rejected, the previously approved Construction Plans shall continue to remain in full force and effect. Any change in the Construction Plans required in order to comply with applicable codes shall be deemed approved, so long as such change does not substantially nor materially change the architecture,

design, function, use, or amenities of the Project as shown on the latest approved Construction Plans. Nothing in this Section is intended to or shall be deemed to modify the City's standard plan review procedures.

4.13 Defects in Plans. The City shall not be responsible to Stay Cal or to any third party for any defect in the Construction Plans or for any structural or other defect in any work done pursuant to the Construction Plans. Stay Cal shall indemnify, defend (with counsel approved by City) and hold harmless the Indemnitees (defined below) from and against all Claims (defined below) arising out of, or relating to, or alleged to arise from or relate to defects in the Construction Plans or defects in any work done pursuant to the Construction Plans whether or not any insurance policies shall have been determined to be applicable to any such Claims. Stay Cal's indemnification obligations set forth in this Section shall survive the expiration or earlier termination of this Agreement and the recordation of a Certificate of Completion. It is further agreed that City does not, and shall not, waive any rights against Stay Cal which it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or Stay Cal's deposit with City of any of the insurance policies described in this Agreement. Stay Cal's indemnification obligations pursuant to this Section shall not extend to Claims arising due to the gross negligence or willful misconduct of the Indemnitees.

4.14 Certificate of Completion for Project. Promptly after completion of construction of the Project, issuance of a final Certificate of Occupancy by the City and the written request of Stay Cal, the City will provide an instrument ("**Certificate of Completion**") so certifying, provided that at the time such certificate is requested all applicable work has been completed. The Certificate of Completion shall be conclusive evidence that Stay Cal has satisfied its obligations regarding construction of the Project.

The Certificate of Completion shall be issued substantially in the form attached hereto as Exhibit D, and at Stay Cal's option, shall be recorded in the Official Records. The Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Stay Cal to any holder of a deed of trust or mortgage securing money loaned to finance the Project or any part thereof and shall not be deemed a notice of completion under the California Civil Code, nor shall such Certificate provide evidence that Stay Cal has satisfied any obligation that survives the expiration of this Agreement.

4.15 Equal Opportunity. There shall be no discrimination on the basis of race, color, religion, creed, sex, sexual orientation, marital status, ancestry or national origin in the hiring, firing, promoting or demoting of any person engaged in construction work on the Property, and Stay Cal shall direct its contractors and subcontractors to refrain from discrimination on such basis.

4.16 Prevailing Wage Requirements. To the full extent required by all applicable state and federal laws, rules and regulations, Stay Cal and its contractors and agents shall comply with California Labor Code Section 1720 *et seq.* and the regulations adopted pursuant thereto ("**Prevailing Wage Laws**"), and shall be

responsible for carrying out the requirements of such provisions. If applicable, Stay Cal shall submit to City a plan for monitoring payment of prevailing wages and shall implement such plan at Stay Cal's expense. Stay Cal may terminate this Agreement if the City's entitlements, permits or approvals are conditioned upon use of any union labor for construction or operations.

To the fullest extent permitted by law, Stay Cal shall indemnify, defend (with counsel approved by City) and hold the City and its elected and appointed officers, officials, employees, agents, consultants, and contractors (collectively, the "**Indemnitees**") harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "**Claims**") which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages (including without limitation, all claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code Sections 1726 and 1781) or the requirement of competitive bidding in connection with the Project, the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of Stay Cal related to this Agreement with respect to the payment or requirement of payment of prevailing wages or the requirement of competitive bidding, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that City does not and shall not waive any rights against Stay Cal which it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or Stay Cal's deposit with City of any of the insurance policies described in this Agreement. The provisions of this Section 4.16 shall survive the expiration or earlier termination of this Agreement and the issuance of a Certificate of Completion for the Project. Stay Cal's indemnification obligations set forth in this Section shall not apply to Claims arising solely from the gross negligence or willful misconduct of the Indemnitees.

4.17 Compliance with Laws. Stay Cal shall carry out and shall cause its contractors to carry out construction of the Project in conformity with all applicable federal, state and local laws, rules, ordinances and regulations, including without limitation, all applicable federal and state labor laws and standards, applicable provisions of the California Public Contracts Code (if any), the City zoning and development standards, building, plumbing, mechanical and electrical codes, all other provisions of the City's Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation, the Americans with Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.* Stay Cal shall indemnify, defend (with counsel approved by City) and hold harmless the Indemnitees from and against any and all Claims arising in connection with the breach of Stay Cal's obligations set forth in this Section whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is

further agreed that City does not and shall not waive any rights against Stay Cal which it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or Stay Cal's deposit with City of any of the insurance policies described in this Agreement. Stay Cal's indemnification obligations set forth in this Section shall not apply to Claims arising solely from the gross negligence or willful misconduct of the Indemnitees. Stay Cal's defense and indemnification obligations set forth in this Section 4.17 shall survive the expiration or earlier termination of this Agreement and the issuance of a Certificate of Completion for the Project.

4.18 Liens and Stop Notices. Until the expiration of the term of the Note and the Deed of Trust, Stay Cal shall use commercially reasonable efforts to not allow to be placed on the Property or any part thereof any lien or stop notice on account of materials supplied to or labor performed on behalf of Stay Cal. If a claim of a lien or stop notice is given or recorded affecting the Project, Stay Cal shall within forty-five (45) days of such recording or service: (a) pay and discharge (or cause to be paid and discharged) the same; or (b) effect the release thereof by recording and delivering (or causing to be recorded and delivered) to the party entitled thereto a surety bond in sufficient form and amount; or (c) provide other assurance satisfactory to City that the claim of lien or stop notice will be paid or discharged. Notwithstanding any provision to the contrary, Stay Cal shall have the right to dispute the validity of any lien or stop notice given or recorded affecting the Project.

4.19 Right of City to Satisfy Liens on the Property. If Stay Cal fails to satisfy or discharge any lien or stop notice on the Property pursuant to and within the time period set forth in Section 4.18 above, the City shall have the right, but not the obligation, to satisfy any such liens or stop notices at Stay Cal's expense and without further notice to Stay Cal and all sums advanced by the City for such purpose shall be part of the indebtedness secured by the Deed of Trust. In such event Stay Cal shall be liable for and shall immediately reimburse City for such paid lien or stop notice. Alternatively, the City may require Stay Cal to immediately deposit with City the amount necessary to satisfy such lien or claim pending resolution thereof. The City may use such deposit to satisfy any claim or lien that is adversely determined against Stay Cal. Stay Cal shall file a valid notice of cessation or notice of completion upon cessation of construction work on the Property for a continuous period of thirty (30) days or more, and shall take all other reasonable steps to forestall the assertion of claims or liens against the Property. The City may (but has no obligation to) record any notices of completion or cessation of labor, or any other notice that the City deems necessary or desirable to protect its interest in the Property.

4.20 Performance and Payment Bonds. Prior to commencement of construction work on the Project, Stay Cal shall cause its general contractor to deliver to the City copies of payment bond(s) and performance bond(s) issued by a reputable insurance company licensed to do business in California, each in a penal sum of not less than one hundred percent (100%) of the scheduled cost of construction of the Project. The bonds shall name the City as a co-obligee.

4.21 Insurance Requirements. Stay Cal shall maintain and shall cause its contractors to maintain all applicable insurance coverage specified in Article X.

ARTICLE V
CITY FINANCIAL ASSISTANCE

5.1 Loan and Note. To assist in the acquisition of the Property, City shall provide a Loan in the form of seller-financing to cover the Purchase Price in the principal amount of One Million Six Hundred Seventy-Eight Thousand One Hundred Ten Dollars ($1,678,110.00) (the "**Loan**"). The Loan shall be evidenced by a secured promissory note dated as of the Closing Date and executed by Stay Cal substantially in the form attached hereto as Exhibit E (the "**Note**"), and shall be secured by the Deed of Trust (the "**Deed of Trust**") which shall be recorded against the Property subject only to City's Permitted Exceptions.

Provided that Stay Cal has complied with all conditions precedent to disbursement of the Loan set forth in Section 5.8, City will provide the Loan at Closing.

5.2 Interest. Commencing on the Closing Date and continuing through the date that all indebtedness and other amounts payable under this Agreement and the Note are paid in full, interest on the Loan shall accrue at the rate of two percent (2%) simple interest per annum on the unpaid principal outstanding from time to time, computed on a basis of a 365 day year. Interest is due and payable upon an event of default under Article IX hereof.

5.3. Term; Extension of Term. The term of the Loan is the earlier of (i) the sale or transfer of the Property and the Project by Stay Cal, or (ii) 20 years from the Closing Date (the "**Maturity Date**"). Notwithstanding the foregoing, the City shall have the right to accelerate the maturity date and declare all sums payable under the Note immediately due and payable upon the occurrence of an Event of Default.

5.4 Repayment. Stay Cal shall make monthly principal and interest payments to the City, under this Agreement, commencing on the earlier to occur of the following: (i) the first day of the calendar month after the Courtyard by Marriott or equivalent hotel brand that Stay Cal constructs on the Property opens to the public, or (ii) two (2) years from the Closing Date, regardless of whether a Courtyard by Marriott or equivalent hotel brand has been constructed on the Property and/or is open to the public ("Monthly Payment Commencement Date") and shall continue making such monthly payments until that date that is twenty (20) years after the Monthly Payment Commencement Date (the "Maturity Date"). For purposes of illustration only: (i) if the Courtyard by Marriott or equivalent hotel brand on the Property were to open to the public on October 25, 2019, the Monthly Payment Commencement Date as defined in this Agreement would be November 1, 2019, and Stay Cal would then be obligated to commence making the required monthly principal and interest payments to City through October 1, 2039, which would represent the Maturity Date pursuant to this hypothetical example; and (ii) in the event that the Closing date of this Agreement is March 1, 2019, and the Buyer has

failed to construct a Courtyard by Marriott or equivalent hotel brand that is open to the public on or before March 1, 2021, the Monthly Payment Commencement Date shall be March 1, 2021 and the Maturity Date would be February 1, 2041.

5.5 Security. As security for repayment of the Note, Stay Cal shall execute the Deed of Trust in favor of City as beneficiary pursuant to which City shall be provided a lien against Stay Cal's interest in the Property and the Project. The Deed of Trust shall be dated as of the Closing Date, shall be substantially in the form attached hereto as Exhibit F, and shall be recorded in the Official Records on the Closing Date. The Deed of Trust may be subordinated only to the City's Permitted Exceptions and such liens and encumbrances as City shall approve in writing. The City shall subordinate to any construction or permanent financing for this Project.

5.6 Use of Loan. The Loan shall be used solely to fund acquisition of the Property.

5.7 Prepayment. Stay Cal shall have the right to prepay the Loan at any time and from time to time, without penalty or premium, provided that any prepayment of principal must be accompanied by interest accrued but unpaid to the date of prepayment. Prepayments shall be applied first to accrued but unpaid interest and then to principal.

5.8 Conditions to Loan. City's obligation to fund the Loan is conditioned upon the satisfaction of all of the conditions set forth in Sections 2.3 and 3.8 and all of the following conditions:

5.8.1 The conveyance of the Property to Stay Cal;

5.8.2 Stay Cal's execution and delivery to City of this Agreement, the Note and the Deed of Trust;

5.8.3 Recordation of the Deed of Trust in the Official Record;

5.8.4 Stay Cal's delivery to City of evidence reasonably satisfactory to City that there are no mechanics' liens or stop notices related to the Property or the Project, and Stay Cal's provision to City of full waivers or releases of lien clams if required by City;

5.8.5 Stay Cal's delivery to the City of evidence of property and liability insurance coverage and payment and performance bonds in accordance with the requirements set forth herein;

5.8.6 No material adverse change as determined by City in its reasonable judgment shall have occurred in the condition of the Property or the Project or in the financial or other condition of Stay Cal since the Effective Date of this Agreement;

5.8.7 Stay Cal's delivery to City of each of the following: (i) certificate of good standing, certified by the Secretary of State indicating that Stay Cal is properly organized and authorized to do business in the State of California, (ii) a certified resolution indicating that Stay Cal has authorized this transaction and that the persons executing the City Documents on behalf of Stay Cal have been duly authorized to do so, and (iii) certified copy of Stay Cal's articles of incorporation and bylaws; and

5.8.8 City's receipt of a written estimated settlement statement showing the acquisition price, closing costs and all other amounts due in escrow for Stay Cal's acquisition of the Property.

5.9 No Obligation to Provide Loan Upon Default. Notwithstanding any other provision of this Agreement, the City shall have no obligation to Close if any of the following circumstances occur:

5.9.1 the failure of any of Stay Cal's representations and warranties made in this Agreement or in connection with the Loan to be true and correct in all material respects;

5.9.2 the termination of this Agreement by mutual agreement of the Parties;

5.9.3 the occurrence of an Event of Default under any City Document which remains uncured beyond any applicable cure period, or the existence of any condition, event or act which upon the giving of notice or the passage of time or both would constitute an Event of Default under any City Document.

5.10 Due On Sale or Encumbrance. Unless City agrees otherwise in writing, the entire unpaid principal balance and all interest and other sums accrued under the Note shall be due and payable upon the Transfer absent the prior written consent of City of all or any part of or interest in the Property except as otherwise permitted pursuant to this Agreement.

5.11 Fee Deferral Agreement. City agrees to permit Stay Cal to defer certain City controlled permit and entitlement fees, pursuant to that certain Fee Deferral Agreement executed by Stay Cal substantially in the form attached to this Agreement as Exhibit H, and incorporated herein by this reference. Pursuant to the Fee Deferral Agreement, Stay Cal must repay all deferred fees within ten years of the closing date. Stay Call will collect an additional two percent (2%) to the initial ten percent (10%) of transient occupancy tax to pay for certain City controlled fees and charges until the total deferred amount is repaid.

5.12 Offsite Improvements. Stay Cal hereby agrees to share in the cost of certain public improvements, as set forth in Exhibit I, that are required to be constructed in conjunction with the Project. Costs are to be shared on a pro-rata basis, and the non-Stay Cal share is not to exceed Five Hundred Thousand Dollars ($500,000). Stay Cal will collect an additional two percent (2%) to the initial ten percent (10%) of transient occupancy tax until Stay Cal has been completely reimbursed for its cost to construct

the non-Stay Cal share of certain public improvements. No interest will be charged to the City for the money advanced by Stay Cal for the non Stay Cal share of the public improvements.

ARTICLE VI
USE OF THE PROPERTY

6.1 Use. Stay Cal covenants and agrees for itself and its successors and assigns that the Property shall be used solely for the development and operation of at least 125 room Courtyard by Marriott or equivalent hotel brand in accordance with the terms and conditions of this Agreement.

6.2. Transit Occupancy Tax. Stay Cal shall charge guests using the Project a Transit Occupancy Tax of Twelve Percent (12%) of the room rate per day, as authorized pursuant to Pittsburg Municipal Code Chapter 3.12. Ten percent (10%) will be paid to the City and two percent (2%) shall be used in the following order: (i) to reimburse Stay Cal for the cost of the non-Stay Cal pro rata share of certain public improvements until Stay Cal is completely reimbursed, (ii) pay certain City controlled fees and charges pursuant to the Fee Deferral Agreement until all deferred fees are repaid, and (iii) repayment of the Loan, only if Stay Cal still has an outstanding balance.

6.3 Maintenance. Stay Cal shall, at its own expense, maintain the Property, including the landscaping and common areas in good physical condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations. Without limiting the foregoing, Stay Cal agrees to maintain the Property (including without limitation, the landscaping, driveways, parking areas, and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property. Stay Cal shall use reasonable efforts to prevent and/or rectify any physical deterioration of the Property and shall make all repairs, renewals and replacements necessary to keep the Property and the improvements located thereon in good condition and repair.

6.4 Other Taxes and Assessments. Stay Cal shall pay all real and personal property taxes, assessments and charges and all franchise, income, payroll, withholding, sales, and other taxes assessed against the Property and payable by Stay Cal, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that Stay Cal shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event the Stay Cal exercises its right to contest any tax, assessment, or charge, Stay Cal, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

6.4.1 Financial Obligations. Stay Cal agrees to pay its fair share of any levies imposed by any assessment district, enhanced infrastructure financing district, landscaping and lighting districts, community facilities districts, tax-exempt financing mechanisms, or other funding mechanisms related to public safety; traffic; parks; sewer; water; fire; or other infrastructure improvements (including, without limitation, design, acquisition, construction and maintenance costs).

a. Landscape and Lighting. Stay Cal agrees that the Project and Property will be subject to the City's existing Lighting and Landscaping District, as established pursuant to City Resolution No. 88-7324. Stay Cal shall take the steps necessary, as determined by the City Manager and City Attorney, to annex the Property into the City's existing Lighting and Landscaping District prior to issuance of any permits for the Project.

b. Police CFD. Stay Cal agrees to cooperate with City's efforts to annex the Project and Property into City of Pittsburg Community Facilities District No. 2004-01, as adopted pursuant to Resolution No. 04-10071 (the "Police Services District") in order to fund police services made necessary by the Project. Stay Cal shall take the steps necessary, as determined by the City Manager and City Attorney, to annex the Property into the City's Police Services District prior to issuance of any permits for the Project.

c. Fire District CFD. Stay Cal agrees to cooperate with City's efforts to annex the Project and Property into Contra Costa County Fire Protection Community Facilities District 2017-1, as established by Resolutions 17-13298 and 17-13311 and Ordinance 17-1428 (the "Fire Services District") in order to fund fire services made necessary by the Project. Stay Cal shall take the steps necessary, as determined by the City Manager and City Attorney, to annex the Property into the City's Fire Services District prior to issuance of any permits for the Project.

d. Property Taxes. Stay Cal shall not seek to reduce the Property's assessed value with the Contra Costa County Assessor greater than one percent (1%).

e. eBART CFD. Stay Cal agrees to cooperate with City's efforts to annex the Project and Property into the City of Pittsburg Community Facilities District No. 2014-01 for the Railroad Avenue Specific Plan Area (the "eBART District"), established by the City in order to finance the construction of the Pittsburg Center Station. Stay Cal shall take the steps necessary, as determined by the City Manager and City Attorney, to annex the Property into the City's eBART District prior to issuance of any permits for the Project.

f. Maintenance of Project Facilities. Stay Cal agrees that if its is unable to construct a facility to treat stormwater on the Property that it will cooperate with the City's efforts to annex the Project and Property in the the City of Pittsburg Community Facilities District 2016-1 Maintenance of Project Facilities.

g. Backhaul and Security Cameras. Stay Cal agrees to cooperate with City's efforts with the purchase and installation of a police radio relay system, security cameras, and the necessary facilities (collectively, the "Equipment") that are determined by the City to be compatible to the Pittsburg Police Department's system. Stay Cal shall contribute to the cost of the purchase of the Equipment and installation in an amount not to exceed Sixty Thousand Dollars ($60,000). Upon completion of the Project and the issuance of a Certificate of Occupancy, the Equipment shall become the property of the City, to be maintained by the City. Stay Cal shall grant the City or its designee access to the Equipment at all times for maintenance and repair efforts.

h. Business License. At all times, the Stay Cal, its contractors and subcontractors are required to maintain an active business license with the City.

i. Continuing Obligations. Notwithstanding any other provision of this Agreement, Stay Cal's obligations under this Section 6.4, inclusive, shall constitute a continuing obligation and bind Stay Cal, its successors and/or assigns as long the Project exists. Stay Cal's obligations under this Section 6.4 shall survive this Agreement's termination and continue in full force and effect until the Project ceases and all entitlements are vacated. Failure by Stay Cal of any of the obligations listed in this Section 6.4 will constitute a Default under Section 9.1.

6.5 Obligation to Refrain from Discrimination. Stay Cal shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, disability, marital status, ancestry, or national origin of any person. Stay Cal covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or part thereof, nor shall Stay Cal or any person claiming under or through Stay Cal establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in, of, or for the Property or part thereof. Stay Cal shall include such provision in all deeds, leases, contracts and other instruments executed by Stay Cal, and shall enforce the same diligently and in good faith.

6.6 City Agreement regarding use of Hotel Rooms. Stay Cal agrees to enter into a separate agreement with City whereby City has the right to reserve up to fifty (50)

rooms each year, subject to availability, at an agreed upon rate, for the use of dignitaries visiting the City.

ARTICLE VII

LIMITATIONS ON CHANGE IN OWNERSHIP, MANAGEMENT AND CONTROL OF STAY CAL; CITY OPTION

7.1 Change Pursuant to this Agreement. Stay Cal and its principals have represented that they possess the necessary expertise, skill and ability to carry out the construction of the Project pursuant to this Agreement. The qualifications, experience, financial capacity and expertise of Stay Cal and its principals are of particular concern to the City. It is because of these qualifications, experience, financial capacity and expertise that the City has entered into this Agreement with Stay Cal. No voluntary or involuntary successor, assignee or transferee of Stay Cal shall acquire any rights or powers under this Agreement, except as expressly provided herein.

7.2 Prohibition on Transfer. Prior to the payment of all sums owed under the Note, Stay Cal shall not, except as expressly permitted by this Agreement and subject to payment of all sums due to the City , directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively, "**Transfer**") of the whole or any part of the Property or this Agreement, without the prior written approval of City, which approval shall not be unreasonably withheld. Any such attempt to assign this Agreement without City's consent shall be null and void and shall confer no rights or privileges upon the purported assignee. In addition to the foregoing, prior to payment of all sums owed under the Note, except as expressly permitted by this Agreement and subject to payment of all sums due to the City, Stay Cal shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a "significant change of ownership" shall mean a transfer of the beneficial interest of more than forty-nine percent (49%) in aggregate of the present ownership and/or control of Stay Cal.

7.3 Permitted Transfers. Notwithstanding any contrary provision hereof, the prohibitions set forth in this Article shall not be deemed to prevent: (i) the granting of temporary easements or permits to facilitate development of the Property; (ii) the dedication of any property required pursuant to this Agreement; (iii) the rental of hotel rooms; (iv) assignments creating security interests for the purpose of financing the acquisition, construction or permanent financing of the Project or (v) a Transfer to an entity which is under the direct control of Stay Cal ("**Controlled Affiliate**").

7.4 Requirements for Proposed Transfers. The City may, in the exercise of its sole discretion, consent to a proposed Transfer of this Agreement, the Property or portion thereof if all of the following requirements are met (provided however, the requirements of this Section 7.4 shall not apply to Transfers described in clauses (i) through (v) of Section 7.3):

7.4.1 The proposed transferee demonstrates to the City's satisfaction that it has the qualifications, experience and financial resources necessary and adequate as may be reasonably determined by the City to competently complete the Project and to otherwise fulfill the obligations undertaken by the Stay Cal under this Agreement.

7.4.2 Stay Cal and the proposed transferee shall submit for City review and approval all instruments and other legal documents proposed to effect any Transfer of this Agreement, the Property or interest therein together with such documentation of the proposed transferee's qualifications and development capacity as the City may reasonably request.

7.4.3 The proposed transferee shall expressly assume all of the rights and obligations of Stay Cal under this Agreement and the City Documents arising after the effective date of the Transfer and all obligations of Stay Cal arising prior to the effective date of the Transfer (unless Stay Cal expressly remains responsible for such obligations) and shall agree to be subject to and assume all of Stay Cal's obligations pursuant to the Conditions of Approval and all other conditions, and restrictions set forth in this Agreement.

7.4.4 The Transfer shall be effectuated pursuant to a written instrument satisfactory to the City in a form recordable in the Official Records.

Consent to any proposed Transfer may be given by the City's City Manager unless the City Manager, in his or her discretion, refers the matter of approval to the City Council. If a proposed Transfer has not been approved by City in writing within thirty (30) days following City's receipt of written request by Stay Cal, it shall be deemed rejected.

7.5 Effect of Transfer without City Consent.

7.5.1 In the absence of specific written agreement by the City, no Transfer by Stay Cal shall be deemed to relieve the Stay Cal or any other party from any obligation under this Agreement.

7.5.2 Without limiting any other remedy City may have under this Agreement, or under law or equity, it shall be an Event of Default hereunder entitling City to terminate this Agreement if without the prior written approval of the City, Stay Cal assigns or Transfers this Agreement or the Property prior to repayment of the Loan. This Section 7.5.2 shall not apply to Transfers described in clauses (i) through (v) of Section 7.3.

7.5.3 If, in violation of this Agreement, Stay Cal Transfers all or any part of the Property or the Project, the City shall be entitled to receive from Stay Cal the amount by which the consideration payable for such Transfer exceeds the sum of (a) Purchase Price, and (b) the costs incurred by Stay Cal in connection with the improvement and development of the Property, including carrying charges, interest, fees, taxes, assessments and escrow fees. Such excess consideration shall belong to

and be paid to the City by the Stay Cal and until so paid, the City shall have a lien on the Property for such amount. The provisions of this Section 7.5.3 have been agreed upon so as to discourage land speculation by Stay Cal; accordingly, these provisions shall be given a liberal interpretation to accomplish that end.

7.6 Recovery of City Costs. Stay Cal shall reimburse City for all City costs, including but not limited to reasonable attorneys' fees, incurred in reviewing instruments and other legal documents proposed to affect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee within ten (10) days following City's delivery to Stay Cal of an invoice detailing such costs. Stay Cal's obligation to pay an invoice from the City shall be conditioned upon the City delivering a written quote to Stay Cal as to the cost of providing any contemplated services under this provision prior to commencing such work.

ARTICLE VIII
CONDITION OF THE SITE; ENVIRONMENTAL MATTERS

8.1 Definitions.

8.1.1. "**Hazardous Material**" means any chemical, compound, material, mixture, or substance that is now or may in the future be defined or listed in, or otherwise classified pursuant to any Environmental Laws (defined below) as a "hazardous substance", "hazardous material", "hazardous waste", "extremely hazardous waste", "infectious waste", "toxic substance", "toxic pollutant", or any other formulation intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, or toxicity. The term "hazardous material" shall also include asbestos or asbestos-containing materials, radon, chrome and/or chromium, polychlorinated biphenyls, petroleum, petroleum products or by-products, petroleum components, oil, mineral spirits, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable as fuel, perchlorate, and methyl tert butyl ether, whether or not defined as a hazardous waste or hazardous substance in the Environmental Laws.

8.1.2 "**Environmental Laws**" means any and all federal, state and local statutes, ordinances, orders, rules, regulations, guidance documents, judgments, governmental authorizations or directives, or any other requirements of governmental authorities, as may presently exist, or as may be amended or supplemented, or hereafter enacted, relating to the presence, release, generation, use, handling, treatment, storage, transportation or disposal of Hazardous Materials, or the protection of the environment or human, plant or animal health, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. § 9601), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C.

§ 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Oil Pollution Act (33 U.S.C. § 2701 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.), the Porter-Cologne Water Quality Control Act (Cal. Water Code § 13000 et seq.), the Toxic Mold Protection Act (Cal. Health & Safety Code § 26100, et seq.), the Safe Drinking Water and Toxic Enforcement Act of 1986 (Cal. Health & Safety Code § 25249.5 et seq.), the Hazardous Waste Control Act (Cal. Health & Safety Code § 25100 et seq.), the Hazardous Materials Release Response Plans & Inventory Act (Cal. Health & Safety Code § 25500 et seq.), and the Carpenter-Presley-Tanner Hazardous Substances Account Act (Cal. Health and Safety Code, Section 25300 et seq.).

8.2 Property Sold "AS IS." Stay Cal specifically acknowledges that the City is selling and Stay Cal is purchasing the Property on an "AS IS", "WHERE IS" and "WITH ALL FAULTS" basis and that Stay Cal is not relying on any representations or warranties of any kind whatsoever, express or implied, from City or its employees, City Council members, agents, or brokers as to any matters concerning the Property. The City makes no representations or warranties as to any matters concerning the Property, including without limitation: (i) the quality, nature, adequacy and physical condition of the Property, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (iv) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the property for any particular purpose, (v) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property, (vi) the compliance of the Property or its operation with any Environmental Laws, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence or removal of Hazardous Materials, substances or wastes on, under or about the Property or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any improvements on the Property, (ix) the condition of title to the Property, (x) the leases, service contracts, or other agreements affecting the Property, or (xi) the economics of the operation of the Property.

8.3 Stay Cal to Rely on Own Experts. Stay Cal understands that notwithstanding the delivery by City to Stay Cal of any materials, including, without limitation, third party reports, Stay Cal will rely entirely on Stay Cal's own experts and consultants and its own independent investigation in proceeding with the acquisition of the Property.

8.4 Right of Entry. Prior to the Close of Escrow, Stay Cal and Stay Cal's authorized representatives may enter upon and conduct further reviews and assessments of the physical and environmental condition of the Property and the condition of the existing improvements. City may require Stay Cal to execute a right of entry agreement satisfactory to City prior to entry onto the Property for such purpose and shall require Stay Cal to provide proof of liability insurance acceptable to City. Stay Cal's inspection, examination, survey and review of the Property shall be at Stay Cal's sole expense. Stay Cal shall provide City with copies of all reports and test results

promptly following completion of such reports and testing. Stay Cal hereby agrees to notify the City twenty-four (24) hours in advance of its intention to enter the Property and will provide workplans, drawings, and descriptions of any intrusive sampling it intends to do. Stay Cal must keep the Property in a safe condition during its entry. Stay Cal shall repair, restore and return the Property to its condition immediately preceding Stay Cal's entry thereon at Stay Cal's sole expense. Stay Cal will not permit any mechanics liens, stop notices or other liens or encumbrances to be placed against the Property prior to Close of Escrow. Without limiting any other indemnity provisions set forth in this Agreement, to the fullest extent permitted by law, Stay Cal shall indemnify, defend (with counsel approved by City) and hold the Indemnitees harmless from and against all Claims resulting from or arising in connection with entry upon the Property by Stay Cal or Stay Cal's agents, employees, consultants, contractors or subcontractors pursuant to this Section 8.5. Stay Cal's indemnification obligations set forth in this Section 8.5 shall survive the Close of Escrow and the termination of this Agreement.

8.5 Release by Stay Cal. Effective upon the Close of Escrow, Stay Cal WAIVES, RELEASES, REMISES, ACQUITS AND FOREVER DISCHARGES the City, its officers, City Council members, employees, agents, consultants and contractors, and any other person acting on behalf of the City, from any and all Claims, direct or indirect, known or unknown, foreseen or unforeseen, which Stay Cal now has or which may arise in the future on account of or in any way arising out of or in connection with the physical condition of the Property, the presence of Hazardous Materials in, on, under or about the Property, or any law or regulation applicable thereto including, without limiting the generality of the foregoing, all Environmental Laws.

STAY CAL ACKNOWLEDGES THAT STAY CAL IS FAMILIAR WITH SECTION 1542 OF THE CALIFORNIA CIVIL CODE, WHICH PROVIDES 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 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

BY INITIALING BELOW, STAY CAL EXPRESSLY WAIVES THE BENEFITS OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE WITH RESPECT TO THE FOREGOING RELEASE:

Stay Cal's initials: _____

8.6 Stay Cal's Post-Closing Obligations. Stay Cal hereby covenants and agrees that:

8.6.1 Stay Cal shall not knowingly permit the Property, the Project or any portion of either to be a site for the use, generation, treatment, manufacture,

storage, disposal or transportation of Hazardous Materials or otherwise knowingly permit the presence or release of Hazardous Materials in, on, under, about or from the Property or Project with the exception of cleaning supplies and other materials customarily used in construction, rehabilitation, use or maintenance of residential properties similar in nature to the Property and used, stored and disposed of in compliance with Environmental Laws.

8.6.2 Stay Cal shall keep and maintain the Property, the Project and each portion thereof in compliance with, and shall not cause or permit the Project or the Property or any portion of either to be in violation of, any Environmental Laws.

8.6.3 Upon receiving actual knowledge of the same, Stay Cal shall immediately advise City in writing of: (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Stay Cal, or the Property pursuant to any applicable Environmental Laws; (ii) any and all claims made or threatened by any third party against Stay Cal or the Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials; (iii) the presence or release of any Hazardous Materials in, on, under, about or from the Property; or (iv) Stay Cal's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Project classified as "Border Zone Property" under the provisions of California Health and Safety Code, Sections 25220 *et seq.,* or any regulation adopted in connection therewith, that may in any way affect the Property pursuant to any Environmental Laws or cause it or any part thereof to be designated as Border Zone Property. The matters set forth in the foregoing clauses (i) through (iv) are hereinafter referred to as **"Hazardous Materials Claims"**. The City shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claim.

8.6.4 Without the City's prior written consent, which shall not be unreasonably withheld or delayed, Stay Cal shall not take any remedial action in response to the presence of any Hazardous Materials in, on, under, or about the Property (other than in emergency situations or as required by governmental agencies having jurisdiction in which case the City agrees to provide its consent), nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Materials Claim.

8.7 Environmental Indemnity. To the greatest extent allowed by law, Stay Cal shall indemnify, defend (with counsel approved by City) and hold Indemnitees harmless from and against all Claims resulting, arising, or based directly or indirectly in whole or in part, upon (i) the presence, release, use, generation, discharge, storage or disposal of any Hazardous Material on, under, in or about the Property, or the transportation of any such Hazardous Material to or from, the Property, or (ii) the failure of Stay Cal, Stay Cal's employees, agents, contractors, subcontractors, or any person acting on behalf of or as the invitee of any of the foregoing to comply with Environmental Laws, unless

caused by the City's active negligence. The foregoing indemnity shall further apply to any residual contamination in, on, under or about the Property or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Material, and irrespective of whether any of such activities were or will be undertaken in accordance with Environmental Laws.

8.8 No Limitation. Stay Cal hereby acknowledges and agrees that Stay Cal's duties, obligations and liabilities under this Agreement are in no way limited or otherwise affected by any information the City may have concerning the Property and/or the presence in, on, under or about the Property of any Hazardous Material, whether the City obtained such information from the Stay Cal or from its own investigations, unless such information was known to the City at the time of execution of this Agreement and/or the time of the close of escrow for the conveyance of the Property to the Stay Cal but not disclosed to Stay Cal.

ARTICLE IX
DEFAULTS, REMEDIES AND TERMINATION

9.1 Event of Default. The following events shall constitute an event of default on the part of Stay Cal ("**Event of Default**"):

9.1.1 Stay Cal fails to commence or complete construction of the Project within the times set forth in Section 4.7, or subject to force majeure, abandons or suspends construction of the Project prior to completion for a period of sixty (60) days or more;

9.1.2 Stay Cal fails to pay when due the principal and interest (if any) payable under the Note or the Fee Deferral Agreement and such failure continues for thirty (30) days;

9.1.3 A Transfer occurs, either voluntarily or involuntarily, in violation of Article VII;

9.1.4 Stay Cal fails to maintain insurance as required pursuant to this Agreement, and Stay Cal fails to cure such default within ten (10) days;

9.1.5 Subject to Stay Cal's right to contest the following charges pursuant to Section 6.3, if Stay Cal fails to pay prior to delinquency taxes or assessments due on the Property or the Project or fails to pay when due any other charge that may result in a lien on the Property or the Project, and Stay Cal fails to cure such default within thirty (30) days of date of delinquency, but in all events upon the imposition of any such tax or other lien;

9.1.6 A default arises under any loan secured by a mortgage, deed of trust or other security instrument recorded against the Property and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to accelerate repayment of such loan;

9.1.7 Any representation or warranty contained in this Agreement or in any application, financial statement, certificate or report submitted to City in connection with this Agreement or Stay Cal's request for the Loan proves to have been incorrect in any material and adverse respect when made and continues to be materially adverse to the City;

9.1.8 If, pursuant to or within the meaning of the United States Bankruptcy Code or any other federal or state law relating to insolvency or relief of debtors ("**Bankruptcy Law**"), Stay Cal or any general partner thereof (i) commences a voluntary case or proceeding; (ii) consents to the entry of an order for relief against Stay Cal or any general partner thereof in an involuntary case; (iii) consents to the appointment of a trustee, receiver, assignee, liquidator or similar official for Stay Cal or any general partner thereof; (iv) makes an assignment for the benefit of its creditors; or (v) admits in writing its inability to pay its debts as they become due;

9.1.9 A court of competent jurisdiction shall have made or entered any decree or order (1) adjudging Stay Cal to be bankrupt or insolvent, (2) approving as properly filed a petition seeking reorganization of Stay Cal or seeking any arrangement for Stay Cal under bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (3) appointing a receiver, trustee, liquidator, or assignee of the Stay Cal in bankruptcy or insolvency or for any of its properties, or (4) directing the winding up or liquidation of the Stay Cal;

9.1.10 Stay Cal shall have assigned its assets for the benefit of its creditors (other than pursuant to a mortgage loan) or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within sixty (60) days after such event (unless a lesser time period is permitted for cure under any other mortgage on the Property, in which event such lesser time period shall apply under this subsection as well) or prior to any sooner sale pursuant to such sequestration, attachment, or execution;

9.1.11 The Stay Cal shall have voluntarily suspended its business or Stay Cal shall have been dissolved or terminated;

9.1.12 An event of default arises under any City Document and remains uncured beyond any applicable cure period; or

9.1.13 Stay Cal defaults in the performance of any term, provision, covenant or agreement contained in this Agreement other than an obligation enumerated in this Section 9.1 and unless a shorter cure period is specified for such default, the default continues for ten (10) days in the event of a monetary default or

thirty (30) days in the event of a nonmonetary default after the date upon which City shall have given written notice of the default to Stay Cal; provided however, if the default is of a nature that it cannot be cured within thirty (30) days, an Event of Default shall not arise hereunder if Stay Cal commences to cure the default within thirty (30) days and thereafter prosecutes the curing of such default with due diligence and in good faith to completion and in no event later than sixty (60) days after receipt of notice of the default.

9.2 City's Right to Terminate Agreement. If an Event of Default shall occur and be continuing beyond any applicable cure period, then City shall, in addition to other rights available to it under law or this Agreement, have the right to terminate this Agreement. If City makes such election, City shall give written notice to Stay Cal, all limited partners of Stay Cal and to any mortgagee entitled to such notice specifying the nature of the default and stating that this Agreement shall expire and terminate on the date specified in such notice, and upon the date specified in the notice, this Agreement and all rights of Stay Cal under this Agreement, shall expire and terminate.

9.3 City's Remedies and Rights Upon an Event of Default. Upon the occurrence of an Event of Default and the expiration of any applicable cure period, City shall have all remedies available to it under this Agreement or under law or equity, including, but not limited to the following, and City may, at its election, without notice to or demand upon Stay Cal, except for notices or demands required by law or expressly required pursuant to the City Documents, exercise one or more of the following remedies:

9.3.1 Accelerate and declare the balance of the Note and interest accrued thereon immediately due and payable;

9.3.2 Seek specific performance to enforce the terms of the City Documents;

9.3.3 Foreclose on the Property pursuant to the Deed of Trust;

9.3.4 Pursue any and all other remedies available under this Agreement or under law or equity to enforce the terms of the City Documents and City's rights thereunder.

9.4 Remedies Cumulative; No Consequential Damages. Except as otherwise expressly stated in this Agreement, the rights and remedies of the City are cumulative, and the exercise by City of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different time, of any other rights or remedies for the same or any other default by Stay Cal.

9.5 Inaction Not a Waiver of Default. No failure or delay by City in asserting any of its rights and remedies as to any default shall operate as a waiver of such default or of any such rights or remedies, nor deprive City of its rights to institute and maintain any action or proceeding which it may deem necessary to protect, assert or enforce any such rights or remedies in the same or any subsequent default.

9.6 Right of Reverter. If following conveyance of the Property to Stay Cal, Stay Cal (i) fails to begin construction of the Project within the time specified in Section 4.7 as such date may be extended pursuant to the terms hereof, (ii) abandons or suspends construction of the Project for a period of sixty (60) days after written notice from City unless, within such 60-day period, either the limited partners of Stay Cal or a lender holding a senior encumbrance against the Property that constitutes a Permitted Exception has declared Stay Cal to be in default for suspension of construction and has commenced action to cure the default and thereafter fully resumes construction by no later than ninety (90) days after receipt of notice of the default, which action shall constitute cure for purposes of this paragraph, or (iii) directly or indirectly, voluntarily or involuntarily Transfers the Property or this Agreement in violation of Article VII, the City may re-enter and take possession of the Property or any portion thereof with all improvements thereon without payment or compensation to Stay Cal, and revest in the City the estate theretofore conveyed to Stay Cal. The interest created pursuant to this Section 9.6 shall be a "power of termination" as defined in California Civil Code Section 885.010, and shall be separate and distinct from the City's option to purchase the Property under the same or similar conditions specified in Section 9.7. City's rights pursuant to this Section 9.6 shall not defeat, render invalid or limit any mortgage or deed of trust permitted by this Agreement or any rights or interests provided in this Agreement for the protection of the holders of such mortgages or deeds of trust.

The rights established in this Section 9.6 are to be interpreted in light of the fact that the City will convey the Property to the Stay Cal for completion of the Project as specified herein and not for speculation.

9.7 Option to Purchase, Enter and Possess. The City shall have the additional right at its option to purchase, enter and take possession of Property with all improvements thereon (the "**Repurchase Option**"), if after conveyance of the Property, Stay Cal (i) fails to begin construction of the Project within the time specified in Section 4.7 as such date may be extended pursuant to the terms hereof, (ii) abandons or suspends construction of the Project for a period of sixty (60) days after written notice from City unless, within such 60-day period, either the limited partners of Stay Cal or a lender holding a senior encumbrance against the Property that constitutes a Permitted Exception has declared Stay Cal to be in default for suspension of construction and has commenced action to cure the default and thereafter fully resumes construction by no later than ninety (90) days after receipt of notice of the default, which action shall constitute cure for purposes of this paragraph, (iii) fails to complete construction of the Project by the time specified in Section 4.7 as such date may be extended pursuant to the terms hereof, or (iv) directly or indirectly, voluntarily or involuntarily Transfers the Property or this Agreement in violation of Article VII.

To exercise the Repurchase Option, the City shall pay to Stay Cal cash in an amount equal to:

(i) The Purchase Price; plus

(ii) The fair market value of any new improvements existing on the Property at the time of exercise of the Repurchase Option; less

(iii) Any gains or income withdrawn or made by the Stay Cal from the applicable portion of the Property or the improvements thereon; less

(iv) The value of any liens or encumbrances on the applicable portion of the Property the City assumes or takes subject to; less

(v) Any damages to which the City is entitled under this Agreement by reason of Stay Cal's default.

In order to exercise the Repurchase Option, City shall give Stay Cal notice of such exercise, and Stay Cal shall, within thirty (30) days after receipt of such notice, provide City with a summary of all of Stay Cal's costs incurred as described in this Section. Within thirty (30) days of City's receipt of such summary, City shall pay into an escrow established for such purpose cash in the amount of all sums owing pursuant to this Section 9.7, and Stay Cal shall execute and deposit into such escrow a grant deed transferring to City all of Stay Cal's interest in the Property, or portion thereof, as applicable and the improvements located thereon.

9.8 Opportunity to Cure. Notwithstanding Sections 9.6 and 9.7, prior to exercising any rights of reverter or repurchase or any other rights granted under Sections 9.6 or 9.7, City shall give Stay Cal and the limited partners of Stay Cal written notice of its intent to exercise such right(s). Stay Cal and/or Stay Cal's limited partners shall have the right to cure the default giving rise to any right City asserts. If such default continues for 30 days after the date upon which City shall have given written notice of the default to Stay Cal and Stay Cal's limited partners, City may then proceed to exercise any rights it may have under Sections 9.6 or 9.7. For purposes of this Section, the following shall be deemed to cure any alleged default specified in subparagraphs (i)-(iii) of Sections 9.6 and 9.7:

(i) If the alleged default or defect is in failing to timely commence construction, commencement of construction within the 30-day cure period shall be deemed to cure the alleged default;

(ii) If the alleged default or defect is in failing to complete construction, substantial completion of construction within the 30-day cure period shall be deemed to cure the alleged default;

(iii) If the alleged default or defect is in abandoning or suspending construction, resuming construction within the 30-day cure period shall be deemed to cure the alleged default;

(iv) If the alleged default or defect is in making or allowing an improper Transfer, effective cancelation or novation of such Transfer within the 30-day cure period shall be deemed to cure the alleged default;

9.9 Memorandum of Right of Reverter/Option to Purchase. The Parties shall cause a memorandum or memoranda of the rights granted to the City in Sections 9.6 and 9.7 of this Agreement to be recorded in the Official Records at the time of the Close of Escrow for conveyance of the Property to Stay Cal. In lieu of such memorandum, the rights afforded City pursuant to Sections 9.6 and 9.7 may be described in the Grant Deed.

9.10 Construction Plans. If this Agreement is terminated pursuant to Section 9.2, the Stay Cal, at no cost to the City, shall deliver to City copies of any construction plans and studies in Stay Cal's possession or in the possession of the Stay Cal's consultants related to development of the Project on the Property, subject to the rights of third parties. In the event the City utilizes the construction plans or studies, the City shall indemnify Stay Cal for any claims arising from the use of construction plans or studies by the City pursuant to this Section 9.10.

9.11 Rights of Mortgagees. Any rights of the City under this Article IX shall not defeat, limit or render invalid any mortgage or deed of trust permitted by this Agreement or any rights provided for in this Agreement for the protection of holders of such instruments. Any conveyance or reverter of the Property to the City pursuant to this Article IX shall be subject to mortgages and deeds of trust permitted by this Agreement.

ARTICLE X
INDEMNITY AND INSURANCE.

10.1 Indemnity. To the fullest extent permitted by law, Stay Cal shall indemnify, defend (with counsel approved by City) and hold Indemnitees harmless from and against any and all Claims, including without limitation, Claims arising directly or indirectly, in whole or in part, as a result of or in connection with Stay Cal's or Stay Cal's contractors, subcontractors, agents or employees development, construction, improvement, operation, ownership or maintenance of the Project or the Property, or any part thereof or otherwise arising out of or in connection with Stay Cal's performance under this Agreement. Stay Cal's indemnification obligations under this Section 10.1 shall not extend to Claims resulting solely from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 10.1 shall survive the issuance of a Certificate of Completion for the Project and the expiration or earlier termination of this Agreement. It is further agreed that City does not and shall not waive any rights against Stay Cal that it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Stay Cal, of any of the insurance policies described in this Agreement.

10.2 Liability and Workers Compensation Insurance. Prior to initiating work on the Project and continuing through the issuance of the Certificate of Completion, Stay Cal and all contractors working on behalf of Stay Cal shall maintain and keep in force at Stay Cal's expense, insurance coverage with respect to the Property and the Project in

accordance with the requirements set forth in Exhibit G attached hereto and incorporated herein.

ARTICLE XI
MISCELLANEOUS PROVISIONS

11.1 No Brokers. Each Party warrants and represents to the other that no person or entity can properly claim a right to a real estate commission, brokerage fee, finder's fee, or other compensation with respect to the transactions contemplated by this Agreement. Each Party agrees to defend, indemnify and hold harmless the other Party from any claims, expenses, costs or liabilities arising in connection with a breach of this warranty and representation. The terms of this Section shall survive the expiration or earlier termination of this Agreement.

11.2 Enforced Delay; Extension of Times of Performance. Subject to the limitations set forth below, performance by either Party shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended where delays are due to: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions or priority, litigation, including court delays, unusually severe weather, acts or omissions of the other Party, acts or failures to act of any public or governmental agency or entity (other than the acts or failures to act of City which shall not excuse performance by City), or any other cause beyond the affected Party's reasonable control. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause and such extension is not rejected in writing by the other Party within ten (10) days of receipt of the notice. Neither Party shall unreasonably withhold consent to an extension of time pursuant to this Section.

Times of performance under this Agreement may also be extended in writing by the mutual agreement of the Parties (the City acting in the discretion of its City Manager unless he or she determines in his or her discretion to refer such matter to the City Council). The Parties acknowledge that adverse changes in economic conditions, either of the affected Party specifically or the economy generally, changes in market conditions or demand, and/or inability to obtain financing to complete the Project shall not constitute grounds of enforced delay pursuant to this Section. Each Party expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the Effective Date.

11.3 Notices. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Parties in accordance with this Section. All such notices shall be sent by:

(i) personal delivery, in which case notice is effective upon delivery;

(ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;

(iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;

(iv) facsimile or email transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail.

(v.) mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a nonbusiness day.

City: City of Pittsburg
65 Civic Avenue
Pittsburg, CA 95465
Attention: City Manager

Stay Cal: Stay Cal Pittsburg, LLC
2110 S. El Camino Real
San Mateo, CA 94403
Attention: Hiten Suraj

11.4 Attorneys' Fees. If any Party fails to perform any of its obligations under this Agreement, or if any dispute arises between the Parties concerning the meaning or interpretation of any provision hereof, then the prevailing Party in any proceeding in connection with such dispute shall be entitled to the costs and expenses it incurs on account thereof and in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements.

11.5 Waivers; Modification. No waiver of any breach of any covenant or provision of this Agreement shall be deemed a waiver of any other covenant or provision hereof, and no waiver shall be valid unless in writing and executed by the waiving Party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act, and no extension shall be valid unless in writing and executed by the Party granting the extension. This Agreement may be amended or modified only by a written instrument executed by the Parties.

11.6 Binding on Successors. Subject to the restrictions on Transfers set forth in Article VII, this Agreement shall bind and inure to the benefit of the Parties and their respective permitted successors and assigns. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any permitted successor and assign of such Party who has acquired an interest in compliance with this Agreement or under law.

11.7 Survival. All representations made by Stay Cal hereunder and Stay Cal's obligations pursuant to Sections 4.13, 4.16, 4.17, 8.5, 8.8, and 10.1 shall survive the expiration or termination of this Agreement and the issuance and recordation of a Certificate of Completion. None of the provisions, terms, representations, warranties and covenants of this Agreement are intended to or shall be merged by any grant deed conveying the Property to Stay Cal or any successor in interest, and neither such grant deed nor any other document shall affect or impair the provisions, terms, representations, warranties and covenants contained herein.

11.8 Construction. The section headings and captions used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree, that since both Parties have participated in the negotiation and drafting of this Agreement, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

11.9 Action or Approval. Whenever action and/or approval by City is required under this Agreement, the City Manager or his or her designee may act on and/or approve such matter unless specifically provided otherwise, or unless the City Manager determines in his or her discretion that such action or approval requires referral to the City Council for consideration.

11.10 Entire Agreement. This Agreement, including Exhibits A through I attached hereto and incorporated herein by this reference, together with the other City Documents contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statements between the Parties.

11.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Party. Any executed counterpart of this Agreement may be delivered to the other Party by email and shall be deemed as binding as if an originally signed counterpart was delivered.

11.12 Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this

Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.

11.13 No Third Party Beneficiaries. Nothing contained in this Agreement is intended to or shall be deemed to confer upon any person, other than the Parties and their respective successors and assigns, any rights or remedies hereunder.

11.14 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

11.15 Non-Liability of Officials, Employees and Agents. No officer, official, employee or agent of City shall be personally liable to Stay Cal or its successors in interest in the event of any default or breach by City or for any amount which may become due to Stay Cal or its successors in interest pursuant to this Agreement.

11.16 Time of the Essence; Calculation of Time Periods. Time is of the essence for each condition, term, obligation and provision of this Agreement. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a business day, in which event the period shall run until the next business day. The final day of any such period shall be deemed to end at 5:00 p.m., local time at the Property. For purposes of this Agreement, a "business day" means a day that is not a Saturday, Sunday, a federal holiday or a state holiday under the laws of California.

11.17 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws. Any action to enforce or interpret this Agreement shall be filed in the Superior Court of Contra Costa County, California or in the Federal District Court for the Northern District of California.

SIGNATURES ON FOLLOWING PAGE.

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

CITY

CITY OF PITTSBURG,
A MUNICIPAL CORPORATION

By: _____
Joe Sbranti, City Manager

ATTEST:

By: _____
Alice Evenson, City Clerk

APPROVED AS TO FORM:

By: _____
Donna Mooney, City Attorney

STAY CAL

STAY CAL PITTSBURG, LLC,
A CALIFORNIA LIMITED LIABILITY COMPANY

By:_____

Its:_____

By:_____

Its:_____

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

CITY

CITY OF PITTSBURG,
A MUNICIPAL CORPORATION

By: _____
Joe Sbranti, City Manager

ATTEST:

By: _____
Alice Evenson, City Clerk

APPROVED AS TO FORM:

By: _____
Donna Mooney, City Attorney

STAY CAL

STAY CAL PITTSBURG, LLC,
A CALIFORNIA LIMITED LIABILITY COMPANY

By: _____

Its: Authorized Member
HITEN SURAJ

By: _____

Its: _____

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

State of California
County of Contra Costa

On November 14, 2018 before me, Haidi C. Muro, Notary Public, personally appeared Joe Sbranti, 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 Haidi C Muro (Seal)

HAIDI C. MURO
Commission # 2091836
Notary Public - California
Contra Costa County
My Comm. Expires Nov 28, 2018

ACKNOWLEDGMENT

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

State of California)
County of ~~Contra Costa~~ San Mateo)

On Dec. 5, 2018 before me, Shital Patel, Notary Public, personally appeared, Hiten Suraj,

proved to me 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 Spatel

SHITAL PATEL
COMM. # 2242779
NOTARY PUBLIC • CALIFORNIA
SAN MATEO COUNTY
Comm. Exp. JUNE 11, 2022

Exhibit A

LEGAL DESCRIPTION OF PROPERTY

RECORDED AT THE REQUEST OF:

copy/duplicate has not been compared to original document

RETURN RECORDED COPY TO:
CCITY OF PITTSBURG
ENGINEERING RECORDS SECTION
65 CIVIC AVENUE
PITTSBURG, CA 94565-3814

08/10/2018,2018O126209

PARCEL MAP WAIVER FOR A LOT LINE ADJUSTMENT
PMW 18-02

OWNER: Garaventa Enterprises, Inc
PROPERTY ADDRESS: Center Drive
Pittsburg, CA 94565
ASSESSOR PARCEL NO.: 086-100-040 & 086-100-041

I, Richard Abono, City Engineer for the City of Pittsburg, do hereby waive the parcel map requirements (pursuant to the State of California Subdivision Map Act Section 66412 and the City of Pittsburg Municipal Code Section 17.04.050) for the lot line adjustment described and shown on the attached Exhibits "A" and "B".

The resulting parcels conform to the City of Pittsburg ordinances as to area, improvement and design, flood water drainage control, appropriate improved public roads, sanitary sewer facilities, water supply availability, environmental protection and other requirements pursuant thereto.

This certificate and the attached exhibits do not constitute a parcel map or legal record of survey and are only to certify that this lot line adjustment does not require the filing of a parcel map.

I certify that this Parcel Map Waiver conforms to the requirements of the Subdivision Map Act and local ordinances.

8/10/18
Date

Richard Abono
City Engineer PE 65440

City of Pittsburg
Exp. 09/30/2019

ACKNOWLEDGEMENT

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

State of California
County of Contra Costa)

On August 10, 2018 before me, Amanda J McVey, Notary Public

personally appeared Richard Abono,
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 Amanda J McVey

AMANDA J. MCVEY
Commission # 2120608
Notary Public - California
Contra Costa County
My Comm. Expires Jul 24, 2019

AUGUST 8, 2018
JOB NO. 1504-000

EXHIBIT A
LEGAL DESCRIPTION
LOT LINE ADJUSTMENT PMW 18-02
PARCEL 1

REAL PROPERTY SITUATE IN THE CITY OF PITTSBURG, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING ALL OF PARCEL 1 AND A PORTION OF PARCEL 2, AS SAID PARCELS ARE DESCRIBED IN THAT GRANT DEED TO GARAVENTA ENTERPRISES RECORDED SEPTEMBER 19, 2014, AS DOCUMENT NUMBER 2014-0160037, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH CORNER OF SAID PARCEL 2;

THENCE, FROM SAID POINT OF BEGINNING, ALONG THE SOUTHWEST LINE OF SAID PARCEL 2, NORTH 75°42'43" WEST, 286.48 FEET;

THENCE, CONTINUING ALONG SAID SOUTHWEST LINE, ALONG THE ARC OF A TANGENT 514.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 5°06'42", AN ARC DISTANCE OF 45.86 FEET;

THENCE, LEAVING SAID SOUTHWEST LINE, NORTH 17°42'22" EAST, 326.07 FEET TO A POINT ON THE NORTHWEST LINE OF SAID PARCEL 2;

THENCE, ALONG THE EXTERIOR BOUNDARY LINE OF SAID PARCEL 2 AND SAID PARCEL 1 THE FOLLOWING SEVENTEEN (17) COURSES:

1) SOUTH 72°17'38" EAST, 13.83 FEET,
2) SOUTH 27°17'38" EAST, 7.44 FEET,
3) SOUTH 72°17'38" EAST, 10.22 FEET,
4) SOUTHERLY, ALONG THE ARC OF A NON-TANGENT 19.50 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE RADIUS POINT OF SAID CURVE BEARS NORTH 86°22'10" WEST, THROUGH A CENTRAL ANGLE OF 14°04'32', AN ARC DISTANCE OF 4.79 FEET,
5) SOUTH 72°17"38" EAST, 28.00 FEET,
6) NORTHERLY, ALONG THE ARC OF A NON-TANGENT 19.50 FOOT CURVE TO THE RIGHT, FROM WHICH THE RADIUS POINT OF SAID CURVE BEARS SOUTH 72°17'38" EAST, THROUGH A CENTRAL ANGLE OF 11°28'15", AN ARC LENGTH OF 3.90 FEET,
7) SOUTH 74°03'49" EAST, 9.86 FEET,
8) NORTH 62°42'22" EAST, 8.23 FEET,
9) SOUTH 72°17'38" EAST, 135.81 FEET,
10) ALONG THE ARC OF A NON-TANGENT 192.46 FOOT CURVE TO THE RIGHT, FROM WHICH THE RADIUS POINT OF SAID CURVE BEARS SOUTH 17°44'07" WEST, THROUGH A CENTRAL ANGLE OF 5°40'02", AN ARC LENGTH OF 19.04 FEET,

11) ALONG THE ARC OF A COMPOUND 40,493.50 FOOT CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 00°01'42", AN ARC LENGTH OF 20.10 FEET,
12) ALONG THE ARC OF A REVERSE 210.50 FOOT CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 5°43'29", AN ARC LENGTH OF 21.03 FEET,
13) SOUTH 72°17'38" EAST, 83.39 FEET,
14) ALONG THE ARC OF A TANGENT 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 91°58'34", AN ARC LENGTH OF 40.13 FEET,
15) ALONG THE ARC OF A COMPOUND 420.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 10°28'47", AN ARC LENGTH OF 76.82 FEET,
16) ALONG THE ARC OF A REVERSE 1,010.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 8°57'26", AN ARC LENGTH OF 157.90 FEET,
17) THROUGH THE ARC OF A REVERSE 80.00 FOOT CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 32°25'04", AN ARC LENGTH OF 45.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 111,874 SQUARE FEET, OR 2.57 ACRES OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, EXHIBIT B, AND BY THIS REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION



MARK H. WEHBER, P.L.S.
L.S. NO. 7960

G:\1504\ACAD\plats\LEGALS\LG21 LLA PARCEL 1.docx

AUGUST 8, 2018
JOB NO. 1504-000

EXHIBIT A
LEGAL DESCRIPTION
LOT LINE ADJUSTMENT PMW 18-02
PARCEL 2

REAL PROPERTY SITUATE IN THE CITY OF PITTSBURG, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL 2, AS SAID PARCEL 2 IS DESCRIBED IN THAT GRANT DEED TO GARAVENTA ENTERPRISES RECORDED SEPTEMBER 19, 2014, AS DOCUMENT NUMBER 2014-0160037, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH CORNER OF SAID PARCEL 2;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE SOUTHWEST LINE OF SAID PARCEL 2, NORTH 75°42'43" WEST, 286.48 FEET;

THENCE, CONTINUING ALONG SAID SOUTHWEST LINE, ALONG THE ARC OF A TANGENT 514.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 5°06'42", AN ARC DISTANCE OF 45.86 FEET TO THE POINT OF BEGINNING;

THENCE, FROM SAID POINT OF BEGINNING, CONTINUING ALONG THE EXTERIOR BOUNDARY LINE OF SAID PARCEL 2 THE FOLLOWING FOURTEEN (14) COURSES:

1) CONTINUING ALONG THE ARC OF A 514.00 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE RADIUS POINT OF SAID CURVE BEARS SOUTH 09°10'35" WEST, THROUGH A CENTRAL ANGLE OF 01°12'45", AN ARC DISTANCE OF 10.88 FEET,
2) ALONG THE ARC OF A REVERSE 514.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 04°36'45", AN ARC DISTANCE OF 41.38 FEET,
3) NORTH 77°25'24" WEST 362.34 FEET,
4) NORTH 17°42'22" EAST 262.92 FEET,
5) NORTH 14°10'19" EAST 49.50 FEET,
6) ALONG THE ARC OF A NON-TANGENT 2.50 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE RADIUS POINT OF SAID CURVE BEARS SOUTH 76°33'57" EAST, THROUGH A CENTRAL ANGLE OF 89°27'52", AN ARC DISTANCE OF 3.90 FEET,
7) ALONG THE ARC OF A REVERSE 265.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 30°26'12", AN ARC DISTANCE OF 140.77 FEET,
8) ALONG THE ARC OF A NON-TANGENT 289.00 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE RADIUS POINT OF SAID CURVE BEARS SOUTH 85°57'59" WEST, THROUGH A CENTRAL ANGLE OF 21°44'23", AN ARC DISTANCE OF 109.66 FEET,
9) SOUTH 17°42'22" WEST 30.87 FEET,

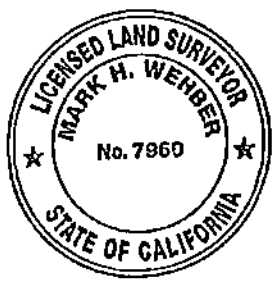
10) SOUTH 72°17'38" EAST 54.10 FEET,
11) ALONG THE ARC OF A TANGENT 88.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 33°22'16", AN ARC DISTANCE OF 51.25 FEET,
12) NORTH 74°20'06" EAST 97.04 FEET,
13) NORTH 17°42'22" EAST 72.94 FEET,
14) SOUTH 72°17'38" EAST 78.60 FEET;

THENCE, LEAVING SAID EXTERIOR BOUNDARY LINES, SOUTH 17°42'22" WEST 326.07 FEET TO SAID POINT OF BEGINNING.

CONTAINING 115,851 SQUARE FEET, OR 2.66 ACRES OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, EXHIBIT B, AND BY THIS REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION



MARK H. WEHBER, P.L.S.
L.S. NO. 7960

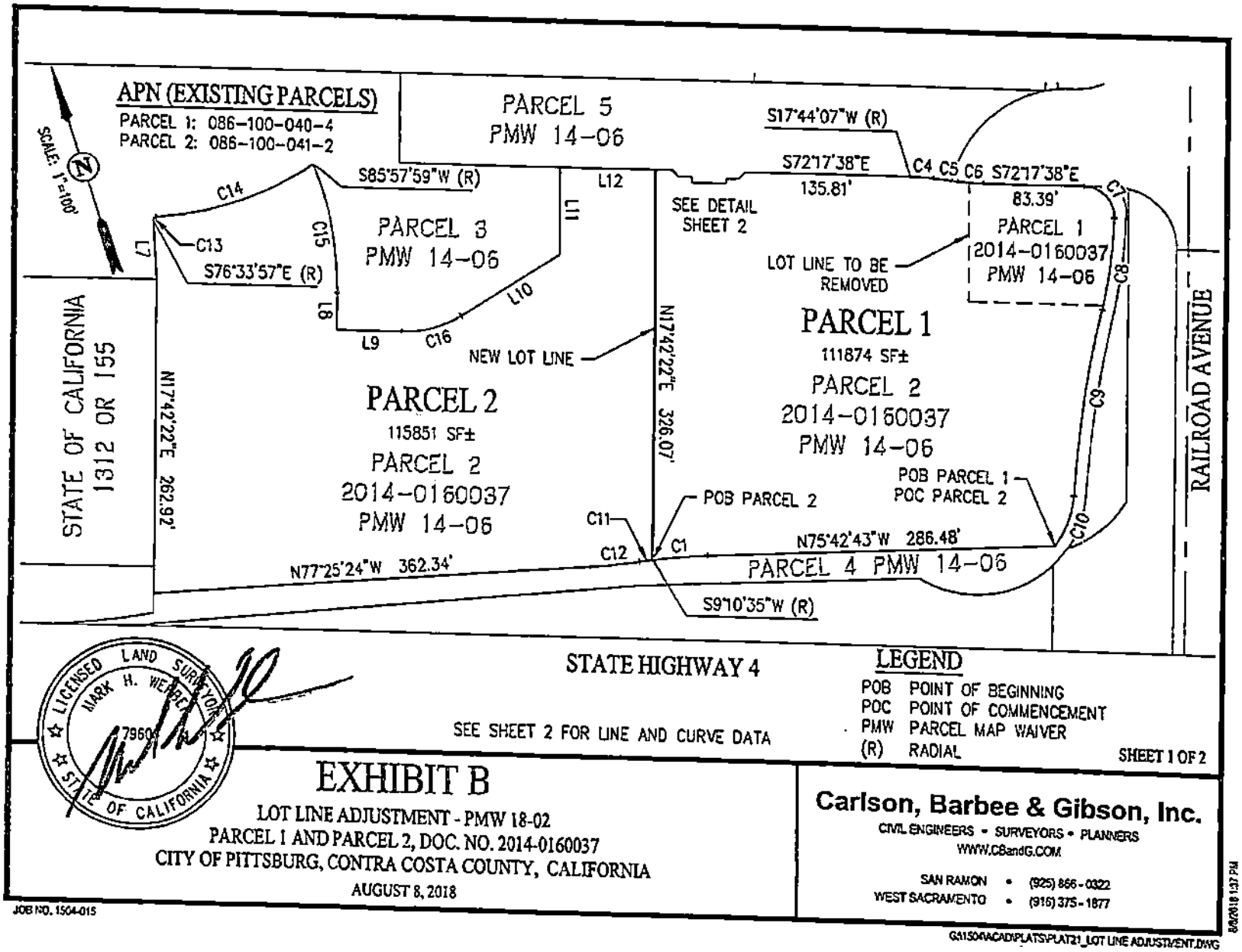


EXHIBIT B

LOT LINE ADJUSTMENT - PMW 18-02
PARCEL 1 AND PARCEL 2, DOC. NO. 2014-0160037
CITY OF PITTSBURG, CONTRA COSTA COUNTY, CALIFORNIA
AUGUST 8, 2018

Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
WWW.CBandG.COM
SAN RAMON • (925) 866-0322
WEST SACRAMENTO • (916) 375-1877

JOB NO. 1504-015

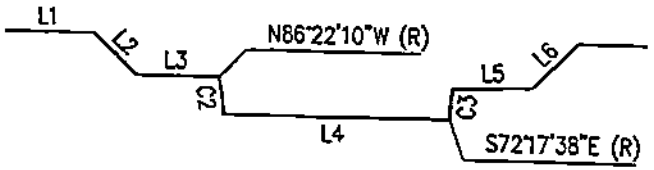
G:\1504\ACAD\PLATS\PLAT21_LOT LINE ADJUSTMENT.DWG

8/8/2018 1:37 PM

LINE TABLE		
NO	BEARING	LENGTH
L1	S72°17'38"E	13.83'
L2	S27°17'38"E	7.44'
L3	S72°17'38"E	10.22'
L4	S72°17'38"E	28.00'
L5	S74°03'49"E	9.86'
L6	N62°42'22"E	8.23'
L7	N14°10'19"E	49.50'
L8	S17°42'22"W	30.87'
L9	S72°17'38"E	54.10'
L10	N74°20'06"E	97.04'
L11	N17°42'22"E	72.94'
L12	S72°17'38"E	78.60'

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	514.00'	5°06'42"	45.86'
C2	19.50'	14°04'32"	4.79'
C3	19.50'	11°28'15"	3.90'
C4	192.46'	5°40'02"	19.04'
C5	40493.50'	0°01'42"	20.10'
C6	210.50'	5°43'29"	21.03'
C7	25.00'	91°58'34"	40.13'
C8	420.00'	10°28'47"	76.82'
C9	1010.00'	8°57'26"	157.90'
C10	80.00'	32°25'04"	45.26'
C11	514.00'	1°12'45"	10.88'
C12	514.00'	4°36'45"	41.38'
C13	2.50'	89°27'52"	3.90'
C14	265.00'	30°26'12"	140.77'
C15	289.00'	21°44'23"	109.66'
C16	88.00'	33°22'16"	51.25'

PARCEL 5
PMW 14-06



PARCEL 1

DETAIL

NOT TO SCALE

SHEET 2 OF 2

EXHIBIT B

LOT LINE ADJUSTMENT- PMW 18-02
PARCEL 1 AND PARCEL 2, DOC. NO. 2014-0160037
CITY OF PITTSBURG, CONTRA COSTA COUNTY, CALIFORNIA
AUGUST 8, 2018

JOB NO. 1504-015

Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
WWW.CBandG.COM
SAN RAMON • (925) 866 - 0322
WEST SACRAMENTO • (916) 375 - 1877

Exhibit B

FORM OF GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Stay Cal Pittsburg, LLC
2110 S. El Camino Real
San Mateo, CA 94403
Attention: Hiten Suraj

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

Parcel 1 of Parcel Map Waiver for a Lot Line Adjustment PMW 18-02

GRANT DEED

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City of Pittsburg, a municipal corporation (the "**City**"), hereby grants and conveys to Stay Cal Pittsburg LLC, a California limited liability company ("**Stay Cal**"), real property adjacent to the intersection of Railroad Avenue and Center Drive in the City of Pittsburg, County of Contra Costa, State of California, identified as Parcel 1 of Parcel Map Waiver for a Lot Line Adjustment PMW 18-02 (the "**Property**"), which encompasses approximately 111,874 square feet, as more particularly described in Exhibit A attached hereto and incorporated in this grant deed ("**Grant Deed**") by this reference.

RECITALS

A. The City and Garaventa Enterprises Inc., a California corporation ("**Garaventa**") executed a Development Agreement relating to the Property, dated May 5, 2014, and thereafter recorded in the official records of the Contra Costa County Recorder, and as may be amended from time to time.

B. The City and Garaventa amended the Development Agreement on _____, 2018, and thereafter recorded in the official records of the Contra Costa County Recorder.

C. Garaventa and Stay Cal executed a Purchase and Sale Agreement ("**PSA**"), dated [INSERT DATE] for the sale and purchase of Parcel 1.

D. Garaventa and City have executed an Assignment and Assumption Agreement of Purchase and Sale Agreement, whereby Garavetna has assigned its rights and responsibilities to the City and the City has assumed those rights and responsibilities pursuant to the PSA.

E. The City and Stay Cal Pittsburg LLC executed an Amended and Restated Purchase and Sale Agreement ("**Amended and Restated PSA**") on _____,

2018, and thereafter recorded in the official records of the Contra Costa County Recorder.

F. The City desires to sell to Stay Cal and Stay Cal desires to purchase from City the Property.

NOW THEREFORE, in consideration of the foregoing recitals and for the purposes and consideration of the covenants hereinafter contained, City and Agency agree as follows:

1. Resolution to Transfer. The Property is conveyed subject to Resolution 18-XXXXX adopted on _____, 2018 by the City Council.

2. Development of Property. Stay Cal hereby covenants and agrees to develop the Property into a Courtyard by Marriott or an equivalent hotel brand consisting of at least 125 rooms, an on-site restaurant, a full service bar, and a conference room, as more thoroughly described in the Amended and Restated PSA (the "**Project**"). Development of the Project will be in the best interests of the City and will materially contribute to the health and welfare of the citizens of the City.

3. Schedule of Performance. Stay Cal is subject to Section 4.7 of the Amended and Restated PSA, Schedule of Performance (the "**Schedule**") and failure to meet the specified dates in the Schedule is a default. The City shall have all remedies available under the Amended and Restated PSA.

4. Right of Reverter. If following conveyance of the Property to Stay Cal, Stay Cal (i) fails to begin construction of the Project within the time specified in Section 4.7 as such date may be extended pursuant to the terms, (ii) abandons or suspends construction of the Project for a period of sixty (60) days after written notice from City unless, within such 60-day period, either the limited partners of Stay Cal or a lender holding a senior encumbrance against the Property that constitutes a Permitted Exception has declared Stay Cal to be in default for suspension of construction and has commenced action to cure the default and thereafter fully resumes construction by no later than ninety (90) days after receipt of notice of the default, which action shall constitute cure for purposes of this paragraph, or (iii) directly or indirectly, voluntarily or involuntarily transfers the Property or this Amended and Restated PSA in violation of Article VII, the City may re-enter and take possession of the Property or any portion thereof with all improvements thereon without payment or compensation to Stay Cal, and revest in the City the estate theretofore conveyed to the Stay Cal. The interest created pursuant to Section 9.6 of the Amended and Restated PSA shall be a "power of termination" as defined in California Civil Code Section 885.010, and shall be separate and distinct from the City's option to purchase the Property under the same or similar conditions specified in Section 9.7 of the Amended and Restated PSA. City's rights pursuant to Section 9.6 shall not defeat, render invalid or limit any mortgage or deed of trust permitted by the Amended and Restated PSA or any rights or interests provided in the Amended and Restated PSA for the protection of the holders of such mortgages or deeds of trust.

The rights established in Section 9.6 are to be interpreted in light of the fact that the City will convey the Property to the Stay Cal for completion of the Project as specified in the Amendment to PSA and not for speculation.

5. Option to Purchase, Enter and Possess. The City shall have the additional right at its option to purchase, enter and take possession of Property with all improvements thereon (the **"Repurchase Option"**), if after conveyance of the Property, Stay Cal (i) fails to begin construction of the Project within the time specified in Section 4.7 of the Amended and Restated PSA, as such date may be extended pursuant to the terms, (ii) abandons or suspends construction of the Project for a period of sixty (60) days after written notice from City unless, within such 60-day period, either the limited partners of Stay Cal or a lender holding a senior encumbrance against the Property that constitutes a Permitted Exception has declared Stay Cal to be in default for suspension of construction and has commenced action to cure the default and thereafter fully resumes construction by no later than ninety (90) days after receipt of notice of the default, which action shall constitute cure for purposes of this paragraph, (iii) fails to complete construction of the Project by the time specified in Section 4.7 as such date may be extended pursuant to the terms, or (iv) directly or indirectly, voluntarily or involuntarily Transfers the Property or this Agreement in violation of Article VII.

To exercise the Repurchase Option, the City shall pay to Stay Cal cash in an amount equal to:

(i) The Purchase Price; plus

(ii) The fair market value of any new improvements existing on the Property at the time of exercise of the Repurchase Option; less

(iii) Any gains or income withdrawn or made by the Stay Cal from the applicable portion of the Property or the improvements thereon; less

(iv) The value of any liens or encumbrances on the applicable portion of the Property the City assumes or takes subject to; less

(v) Any damages to which the City is entitled under the Amended and Restated PSA by reason of Stay Cal's default.

In order to exercise the Repurchase Option, City shall give Stay Cal notice of such exercise, and Stay Cal shall, within thirty (30) days after receipt of such notice, provide City with a summary of all of Stay Cal's costs incurred as described in Section 9.7 of the Amended and Restated PSA. Within thirty (30) days of City's receipt of such summary, City shall pay into an escrow established for such purpose cash in the amount of all sums owing pursuant to Section 9.7, and Stay Cal shall execute and deposit into such escrow a grant deed transferring to City all of Stay Cal's interest in the Property, or portion thereof, as applicable and the improvements located thereon.

6. Nondiscrimination. Stay Cal shall not restrict the rental, lease, sublease, use, occupancy, tenure or enjoyment of the Property, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, disability, marital status, ancestry, or national origin of any person. Stay Cal covenants for itself and all persons claiming under or through it, and this Grant Deed is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or part thereof, nor shall Stay Cal or any person claiming under or through Stay Cal establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in, of, or for the Property or part thereof.

7. Term. The covenants contained in Section 2 regarding the development of the Property shall remain in effect until a certificate of occupancy is issued for the Project on the Property.

8. Counterparts. This Grant Deed may be executed in counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, City and Stay Cal have executed this Grant Deed as of this _____ day of _____, 2018.

CITY

CITY OF PITTSBURG,
a municipal corporation

By: _____
Joe Sbranti, City Manager

ATTEST:

By_____
Alice Evenson, City Clerk

APPROVED AS TO FORM:

By_____
Donna Mooney, City Attorney

STAY CAL

STAY CAL PITTSBURG LLC,
a California limited liability company

By: _____

Its: _____

Exhibit C

SCHEDULE OF PERFORMANCE

This Schedule of Performance summarizes the schedule for various activities under the Agreement (the "Agreement" or the "Amended and Restated Purchase and Sale Agreement") to which this exhibit is attached. The description of items in this Schedule of Performance is meant to be descriptive only, and shall not be deemed to modify in any way the provisions of the Agreement to which such items relate. Section references herein to the Agreement are intended merely as an aid in relating this Schedule of Performance to other provisions of the Agreement and shall not be deemed to have any substantive effect.

Whenever this Schedule of Performance requires the submission of plans or other documents at a specific time, such plans or other documents, as submitted, shall be complete and adequate for review by the City or other applicable governmental entity within the time set forth herein. Prior to the time set forth for each particular submission, the Stay Cal shall consult with City staff informally as necessary concerning such submission in order to assure that such submission will be complete and in a proper form within the time for submission set forth herein.

Action	Date
1. Conceptual Development Documents. Stay Cal shall submit the Conceptual Development Documents to the City for the City's review and receive the City approval.	November 30, 2018.
2. Application for Applicable Land Use Approvals. Stay Cal shall apply for the Applicable Land Use Approvals necessary for the construction of the Project and receive the City Approval.	February 28, 2019 .
3. Construction Plans. Stay Cal shall submit proposed Construction Plans for the Project to the City for the City's review and receive the City approval. [Amended and Restated PSA § 4.10]	June 1, 2019
4. Financing Plan. Stay Cal shall submit evidence of financing, acceptable to the City, for development of Project. [Amended and Restated PSA § 4.06]	Within sixty (60) days but no later than thirty (30) days from the Closing Date.
5. Building Permits. Stay Cal shall obtain the Building Permits for construction of Project.	No later than September 15, 2019.
6. Construction Contract. Stay Cal shall submit, and receive, City approval of the construction contract for the construction of the Project.	September 1, 2019.
7. Payment and Performance Bonds. Stay Cal shall submit for and receive City approval of the payment and performance bonds for the construction of the Project. [Amended and Restated PSA § 4.20]	No later than 15 days prior to the start of construction.
8. Insurance. Stay Cal shall submit evidence of insurance to the City and receive City approval thereof.	Within 10 days prior to the start of construction.

Action	Date
9. Commencement of Construction. Stay Cal shall commence construction of the Project. [DA § 6.19]	No later than October 1, 2019.
10. Completion of Construction. Stay Ca shall complete construction of the Project.	No later than September 30, 2020.

Exhibit D

FORM OF CERTIFICATE OF COMPLETION

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

Stay Cal Pittsburg, LLC
2110 S. El Camino Real
San Mateo, CA 94403
Attention: Hiten Suraj

CERTIFICATE OF COMPLETION

THIS CERTIFICATE OF COMPLETION (the "Release") is made by the **CITY OF PITTSBURG**, a municipal corporation (the "City"), in favor of **STAY CAL PITTSBURG LLC**, a California limited liability company ("Stay Cal"), as of [INSERT DATE].

RECITALS

A. The City and Stay Cal have entered into that certain Amended and Restated Purchase and Sale Agreement ("**Amended and Restated PSA**") dated [INSERT DATE], concerning the development of Parcel 1 of Parcel Map Waiver for a Lot Line Adjustment PMW 18-02, which encompasses approximately 111,874 square feet, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "**Property**").

B. As referenced in Section 4.14 of the Amended and Restated PSA, the City is required to furnish Stay Cal or its successors with a Certificate of Completion upon completion of construction of the Project, which Certificate of Completion is required to be in such form as to permit it to be recorded in the Recorder's office of the Contra Costa County. This Certificate of Completion is conclusive determination of satisfactory completion of the construction and development required by the Amended and Restated PSA.

C. The City has conclusively determined that such construction and development has been satisfactorily completed.

NOW, THEREFORE, the City hereby certifies as follows:

1. The Project to be constructed by Stay Cal have been fully and satisfactorily completed in conformance with the Amended and Restated PSA. Except as otherwise

provided in the Amended and Restated PSA, the provisions of the Amended and Restated PSA are hereby terminated and of no further force or effect. The Grant Deed and other documents executed and recorded pursuant to the Amended and Restated PSA shall remain in effect and enforceable according to their terms.

IN WITNESS WHEREOF, the City has executed this Certificate of Completion as of the date set forth above.

CITY OF PITTSBURG,
a municipal corporation

By: _____
, Mayor

ATTEST:

_____
, City Clerk

APPROVED AS TO FORM:

_____
, City Council

APPROVED BY STAYCAL:

STAY CAL PITTSBURG LLC,
a California limited liability company

By: _____
Hiten Suraj, President

EXHIBIT "A"

SITE DESCRIPTION

Exhibit E

FORM OF NOTE

PROMISSORY NOTE
SECURED BY DEED OF TRUST AND SECURITY AGREEMENT

Pittsburg, California

[INSERT DATE]

FOR VALUE RECEIVED, the undersigned, Stay Cal Pittsburg LLC, a California limited liability company (the "**Maker**" or "**Borrower**"), promises to pay to the order of the City of Pittsburg, a municipal corporation ("**City**" or "**Holder**"), the principal sum of One Million Six Hundred Seventy-Eight Thousand One Hundred Ten Dollars ($1,678,100.00), or so much thereof that may be advanced hereunder, together with interest at an annual rate as set forth below. Capitalized terms used but not defined herein shall have the same meaning as set forth in the Amended and Restated Purchase and Sale Agreement (the "**Amended and Restated PSA**") (defined below).

1. This Promissory Note (this "**Note**") has been executed and delivered in accordance with an Amended and Restated PSA dated [INSERT DATE], between Maker and Holder, which details the terms under which Holder agrees to lend Maker One Million Six Hundred Seventy-Eight Thousand One Hundred Ten Dollars ($1,678,100.00). The rights and obligations of Maker under this Note shall be governed by the Amended and Restated PSA, the Deed of Trust (defined below) and by the terms set forth in this Note.

2. Terms of Promissory Note.

(a) Loan Amount. City agrees to lend to Borrower, subject to the terms of the Amended and Restated PSA, an acquisition loan not to exceed One Million Six Hundred Seventy-Eight Thousand One Hundred Ten Dollars ($1,678,100.00).

(b) Interest Rate. Interest shall accrue at a rate of two percent (2%) and be paid in accordance with the following terms:

(1) Commencing on earlier to occur of the following: (i) the first day of the calendar month after the Courtyard by Marriott or equivalent hotel brand that Stay Cal constructs on the Property opens to the public, or (ii) two (2) years from the Closing Date, regardless of whether a Courtyard by Marriott or equivalent hotel brand has been constructed on the Property and/or is open to the public ("Monthly Payment Commencement Date") and shall continue making such monthly payments until that date that is twenty (20) years after the Monthly Payment Commencement Date (the "Maturity Date").

(c) Loan Repayment. The principal balance and interest shall be repaid over the term of two hundred thirty-nine (239) months in equal monthly payments of Eight Thousand Four Hundred Eighty-nine Dollars and Twenty-Eight Cents ($8,489.28) and one (1) final payment of Eight Thousand Four Hundred Seventy-Five Dollars and Fifteen Cents ($8,475.15) (the "Monthly Payments").

(1) Late Payment Fees. For any monthly payment that is not received by the fifteenth (15th) calendar day after which it was due, Borrower shall pay a late fee of ten percent (10%) of the amount unpaid. City and Borrower agree that the actual damages and costs sustained by the City due to failure to make timely payments would be extremely difficult to measure and that the charges specified in this paragraph represent a reasonable estimate by City and Borrower of fair average compensation for such damages and costs. Such charges shall be paid by Borrower without prejudice to the right of the City to collect any other amounts provided to be paid under the Amended and Restated PSA, Promissory Note, or Deed of Trust, or with respect to late payments, to declare default.

(d) Term. Maturity Date is a date that is twenty (20) years after the Monthly Payment Commencement Date

(e) Prepayment. The Note or any portion of the outstanding principal balance due under the Note may be prepaid at any time and from time to time, without premium or penalty. Any prepayment of principal must be accompanied by interest accrued but unpaid to the date of receipt of prepayment. Prepayments shall be applied first to any unpaid late charges and other costs and fees then due, then to accrued but unpaid interest and then to principal.

(f) Security. This Note is hereby secured by that certain Deed of Trust and Security Agreement (**"Deed of Trust"**) dated [INSERT DATE], executed by Borrower as trustor for the benefit of Holder and all sums advanced hereunder are secured thereby.

3. Terms of Payment.

(a) Place and Manner of Payment. Payment shall be made in lawful money of the United States at Holder's address for notices set forth in Section 8 of this Note.

(b) Lawful Interest. Notwithstanding any other provisions of this Note, or any instrument securing the obligations of Maker under this Note, if, for any reason whatsoever, the payment of any sums by Maker pursuant to the terms of this Note would result in the payment of interest which would exceed the amount that Holder may legally charge under the laws of the State of California, then the amount by which payment exceeds the lawful interest rate shall automatically be deducted from the principal balance owing on this Note, so that in no event shall Maker be obligated under the terms of this Note to pay any interest which would exceed the lawful rate.

4. Default.

(a) Events of Default. Each of the following events will constitute an event of default ("Event of Default") under this Note:

(1) Amended and Restated Purchase and Sale Agreement /Promissory Note Default. Maker's breach of any other promise or obligation in this Note, the Amended and Restated PSA or in any other instrument now or hereafter securing the indebtedness evidenced by this Note.

(2) False Representations. Any material representation or disclosure made to Holder by Maker in this Note that proves to be false or misleading in any way.

(3) Bankruptcy. The filing by or against Maker of a voluntary or involuntary petition in bankruptcy or the adjudication of Maker as bankrupt or insolvent, or the filing of any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, or the seeking or consenting to or acquiescing in the appointment of any trustee, receiver, liquidator of Maker or any substantial part of or all of the property of Maker, and if any such proceeding is not dismissed within sixty (60) days; the Maker is named in any such proceeding and the same is not dismissed within one hundred twenty (120) days.

(b) Default Interest. Upon the occurrence of any Event of Default all amounts owing under this Note shall accrue interest at the rate of 10% per annum.

5. Remedies. Upon the occurrence of any Event of Default, in addition to its other rights in this Note, the Deed of Trust, and the Loan Agreement, at law, or in equity, Holder may exercise any one or more of the following rights and remedies without prior demand:

(a) Acceleration. Holder may declare the outstanding principal balance of this Note, all interest accrued thereon, if any, and all other sums owing to Holder immediately due and payable; and

(b) Foreclosure. Holder may foreclose under the Deed of Trust.

(b) Proceed as Authorized at Law or in Equity. Holder may proceed as authorized at law or in equity with respect to the Event of Default, and in connection with that, remain entitled to exercise all other rights and remedies described in this Note, or the Amended and Restated PSA.

6. Maker's Waivers.

(a) Additional Security. Maker expressly agrees that Holder may accept further security for this Note, all without in any way affecting the obligations of Maker under this Note.

(b) Original Liability. No extension of time for payment of this Note or any installment hereof made by agreement by Holder with any person now or hereafter liable for the payment of this Note shall operate to release, discharge, modify, change or affect the original liability of Maker under this Note, either in whole or in part.

(c) Obligations Absolute. The obligations of Maker under this Note shall be absolute and Maker waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reasons whatsoever.

(d) Waivers. Maker hereby waives (i) any notice of default or delinquency in addition to any notice expressly required by this Note; (ii) notice of acceleration; (iii) any notice of nonpayment in addition to any notice required by this Note; (iv) notice of costs, expenses, losses and interest thereon; (v) notice of interest on interest and late fees; (vi) diligence in taking any action to collect any sums owing under the Promissory Note or in proceeding against any of the rights and interest in and to properties securing payment of the Promissory Note; and (vii) presentment for payment, demand, protest, and notices of dishonor and/or protest.

7. Holder Forbearance. No waiver of any breach, default or failure of condition under the terms of this Note or the Amended and Restated PSA or the obligations secured thereby shall be implied from any failure of Holder to take, or any delay by Holder in taking, action with respect to such breach, default or failure or from any previous waiver of any similar or unrelated breach, default or failure; and a waiver of any term of this Note, or the Amended and Restated PSA or any of the obligations secured thereby must be made in writing and shall be limited to the express written terms of such waiver.

8. Miscellaneous Provisions.

(a) Notices. All notices, requests and demands given to, or made upon, any party to this Agreement shall be deemed to have been given or made when properly deposited in the U.S. mail and addressed as follows:

If to Borrower: Stay Cal Pittsburg, LLC
2110 S. El Camino Real
San Mateo, CA 94403
Attention: Hiten Suraj

If to City: City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
Att: City Manager

With copy to: City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
Att: City Attorney

or to such other addresses as the parties may designate by notice as set forth above.

(b) Successors and Assigns. This Promissory Note (i) may not be assigned by Maker, (ii) may be assigned by Holder, at its sole option, and (iii) shall be binding on all successors and assigns of Holder and Maker.

(c) Attorneys' Fees. If any action is instituted by Holder to enforce this Note or to collect any sums due hereunder, Holder shall be entitled to collect from Maker all costs and expenses of such action, including, but not limited to, reasonable attorneys' fees.

(d) Severability. If a court of competent jurisdiction finds any provisions of this Note invalid or unenforceable, the remaining provisions shall not in any way be affected or impaired thereby, and all other provisions of this Note shall remain in full force and effect.

(e) Time. Time is of the essence in the performance of the terms and conditions of this Note.

(f) Governing Law. The laws of the State of California shall govern this Note.

(g) Joint and Several Liability. Maker consists of more than one person, each of whom is jointly and severally liable to City for the performance of this Note.

(h) Amendment. This Promissory Note may not be changed orally, but only by an amendment in writing signed by Maker and approved by Holder.

(i) Headings. The headings within this Note are for the purpose of reference only and shall not limit or otherwise affect any of the terms of the Promissory Note.

(j) Assumptions. This Promissory Note, may not be assumed in whole or in part without the prior written consent of Holder, which consent shall be given or withheld at the sole discretion of Holder. Holder may condition its consent to an assumption of this Note on the satisfaction of conditions reasonably required by Holder

at the time of the assumption. Conditions may include, but not be limited to, Holder's satisfaction, in its sole discretion, with the proposed assuming party's ability to meet the obligations required hereunder, the payment of an assumption fee and reimbursement of Holder's fees and costs incurred by reason of the assumption.

EXECUTED IN PITTSBURG, CALIFORNIA AND DELIVERED AS OF THE ? DAY OF ? 201?.

_____

Hiten Suraj, [INSERT TITLE]

Exhibit F

FORM OF DEED OF TRUST

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO: City of Pittsburg 65 Civic Avenue Pittsburg, CA 94565 EXEMPT FROM RECORDING FEES PER GOVERNMENT CODE §§6103, 27383	

Space above this line for Recorder's use

FOR: Parcel 1 of Parcel Map Waiver for a Lot Line Adjustment PMW 18-02

DEED OF TRUST AND SECURITY AGREEMENT

THIS DEED OF TRUST AND SECURITY AGREEMENT (this "**Deed of Trust**") is made as of [INSERT DATE], by Stay Cal Pittsburg LLC , a California limited liability corporation ("**Trustor**") to [INSERT TITLE COMPANY ONCE CONFIRMED], as trustee ("**Trustee**") for the benefit of the City of Pittsburg, a municipal corporation ("**Beneficiary**").

RECITALS

A. Trustor owns Parcel 1 of Parcel Map Waiver for a Lot Line Adjustment PMW 18-02, which encompasses approximately 111,874 square feet, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference ("**Land**").

B. Trustor and Beneficiary have entered into an Amended to Purchase and Sale Agreement dated [INSERT DATE] (the "**Amended and Resated PSA**") pursuant to which Beneficiary will carry an acquisition loan to Trustor in the amount of One Million Six Hundred Seventy-Eight Thousand One Hundred Ten Dollars ($1,678,110) (the "**Acquisition Loan**"). Trustor has also executed a promissory note evidencing the amount of the Acquisition Loan ("**Note**").

C. Trustor and Beneficiary have entered into a Fee Deferral Agreement dated [INSERT DATE] (the "**FDA**") pursuant to which Beneficiary will defer certain City controlled fees and charges in connection with the processing of permits and approvals in the amount not greater than Four Hundred Thirty Thousand Dollars $430,000, shall be deferred and repaid by Trustor in monthly payments until fully repaid.

D. Together, Acquisition Loan and FDA, are secured by this Deed of Trust.

E. As a condition to Amended and Restated PSA, Beneficiary has required that Trustor enter into this Deed of Trust and grant to Trustee for the benefit of Beneficiary, a lien and security interest in the Land (as defined below) to secure repayment of the Acquisition Loan and FDA.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Trustee agrees as follows:

1. Grant in Trust. Trustor irrevocably grants and conveys the Land to Trustee, in trust, with power of sale, together with all improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents (subject however to the rights and authorities given herein to Beneficiary to collect and apply such rents), all of which shall be deemed to be and remain a part of the Land secured by this Deed of Trust; and all of the foregoing, together with the Land are hereinafter referred to as the "Property."

Trustor covenants that it lawfully holds the estate hereby conveyed and has the right to grant and convey the Property, and that, to the best of Trustor's knowledge, the Property is unencumbered except for encumbrances of record. Trustor warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

2. Obligations Secured. This Deed of Trust is given for the purpose of securing payment and performance of all present and future indebtedness evidenced by the Note, the Amended and Restated PSA and any amendment thereof, including principal, interest, and the FDA all other amounts payable under the Amended and Restated PSA, the Note, and FDA.

3. Preservation and Maintenance of Property. Trustor agrees to keep the Property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting the Property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer, or permit any act upon the Property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune, and do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general.

4. Hazardous Materials. Trustor shall not cause or permit any Hazardous Materials (as defined in below) to be brought upon, kept, stored or used in, on, or about the Land by Trustor, or the agents, employees, contractors or invitees of Trustor except for materials commonly used in operation and maintenance of the Property, in each case in compliance with all applicable laws, and shall not cause any release of

Hazardous Materials into, onto, under or through the Land. If any Hazardous Material is discharged, released, dumped, or spilled in, on, under, or about the Land and results in any contamination of the Land or adjacent property, or otherwise results in the release or discharge of Hazardous Materials in, on, under or from the Land, Trustor shall promptly take all actions at Trustor's sole expense as are necessary to comply with all Hazardous Materials Laws (as defined below).

Trustor shall indemnify, defend (with counsel approved by Beneficiary) and hold Beneficiary harmless from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities and losses (including, without limitation, diminution in value of the Property, and sums paid in settlement of claims, attorney's fees, consultant fees and expert fees) which arise during or after the term of this Deed of Trust as a result of any breach, contamination, discharge, or release of Hazardous Materials by Trustor, agents, employees, licensees, or invitees. This indemnification of Beneficiary by Trustor includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Materials present in, on or under the Land or adjacent property caused by or a result of Trustor's activities. If any Hazardous Materials are discharged, released, dumped, or spilled in, on, under, or about the Land after Trustor obtains ownership and results in any contamination of the Land or adjacent property, or otherwise results in the release or discharge of Hazardous Materials in, on, under or from the Land, Trustor shall promptly take all actions at its sole expense as are necessary to comply with all Hazardous Materials Laws.

4.1 As used in this Deed of Trust, "**Hazardous Materials**" means any substance, material, or waste which is or becomes regulated by any local, state or federal authority, agency or governmental body, including any material or substance which is: (i) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant, " or any other terms comparable to the foregoing terms under any provision of California law or federal law as any such statutes and regulations now exist or may hereafter be amended, (ii) petroleum or petroleum products; (iii) asbestos; (iv) polychlorinated biphenyls, (v) radioactive chemicals, (vi) any material determined to hazardous based on deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity or toxicity, (vii) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act (33 U.S.C. § 1317); (viii) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* (42 U.S.C. § 6903); (ix) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, *et seq.*; or (x) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property.

4.2 As used in this Deed of Trust "**Hazardous Materials Laws**" means all federal, state and local laws, ordinances, regulations, orders and directives pertaining

to Hazardous Materials, including without limitation, the laws, statutes and regulations cited in the preceding Section 4.1, as they may be amended from time to time.

5. Charges; Liens. Trustor shall pay at least ten days before delinquency all taxes, levies, assessments and other charges affecting the Property that are (or if not paid may become) a lien on all or part of the Property. Trustor shall pay when due, all obligations secured by or reducible to a lien, charge or encumbrance which does now or later may encumber all or part of the Property or any interest in it, whether or not such lien, charge or encumbrance is or would be senior or subordinate to this Deed of Trust. Trustor shall give prompt notice to Beneficiary of any default under any mortgage, deed of trust or other security agreement with a lien on the Property.

6. Insurance. At all times during the term hereof, Trustor shall at Trustor's expense, maintain the insurance policies required under Article X of the Amended and Restated PSA. Trustor shall file with Beneficiary prior to recordation of this Deed of Trust, certificates (or such other proof as Beneficiary may reasonably require, including without limitation copies of the required insurance policies) evidencing each of the insurance policies and endorsements thereto, and such certificates (or policies) shall provide that at least thirty (30) days' prior written notice shall be provided to Beneficiary prior to the expiration, cancellation or change in coverage under each such policy. If any insurance policy required pursuant to this Deed of Trust is canceled or the coverage provided thereunder is reduced, Trustor shall, within ten (10) days after receipt of written notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with Beneficiary a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, Beneficiary may, without further notice and at its option, procure such insurance coverage at Trustor's expense, and Trustor shall promptly reimburse Beneficiary for such expense upon receipt of billing from Beneficiary.

7. Defense of Security. Trustor agrees to appear in and defend an action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all reasonable costs and expenses, including cost of evidence of title and attorney's fees, in any such action or proceeding in which Beneficiary or Trustee may appear.

8. Reimbursement of Costs. Trustor agrees to pay immediately and without demand all reasonable sums expended by Beneficiary or Trustee pursuant to the provisions hereof, with interest from date of expenditure at the amount allowed by law in effect at the date hereof.

9. Right to Cure. Should Trustor fail to make any payment or to comply with any provision herein, then Beneficiary or Trustee, each shall have the right but not the obligation, to make such payment or comply with such provision without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem

necessary to protect the security hereof. Beneficiary and Trustee are hereby authorized to enter upon the Land for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; to pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, or in enforcing this Deed of Trust by judicial foreclosure, pay necessary expenses, employ counsel, and pay reasonable attorney's fees. Beneficiary may make or cause to be made reasonable entries upon the Land and inspections of the Property, provided that Beneficiary shall give Trustor reasonable notice prior to any such inspection.

10. Condemnation Award. Any award of damages in connection with any condemnation for public use of or injury to the Property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply such moneys received by it to any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

11. Late Payment. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare an event of default under the Amended and Restated PSA, Note, or FDA for failure so to pay.

12. Release and Subordination. At any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust, Amended and Restated PSA, Note, and FDA for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may reconvey all or any part of said Property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement.

13. Reconveyance. Upon written request of Beneficiary stating that all sums secured hereby have been paid, Trustee shall reconvey, without warranty, the Property. The recitals in any reconveyance executed under this Deed of Trust of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustor shall pay all fees to Trustee and all recordation fees related to such reconveyance.

14. Indemnification. Trustor shall indemnify, defend (with counsel reasonably acceptable to Beneficiary), and hold harmless the Trustee and the Beneficiary from and against all claims arising directly or indirectly in any manner in connection with or as a result of (i) any breach of Trustor's covenants under the Amended and Restated PSA, the Note, FDA, or this Deed of Trust (collectively the "**Amended and Restated PSA Documents**"), (ii) any representation by Trustor in any Amended and Restated PSA Documents which proves to be false or misleading in any material respect when made,

(iii) injury or death to persons or damage to Property or other loss occurring on the Land or in any improvement located thereon, whether caused by the negligence or any other act or omission of Trustor or any other person or by negligent, faulty, inadequate or defective design, building, construction or maintenance or any other condition or otherwise, and (iv) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against Beneficiary which relates to or arises out of the Property in connection with Trustor's ownership, operation or maintenance of the Property, or any Amended and Restated PSA Documents or any transaction contemplated thereby, or any failure of Trustor to comply with all applicable state, federal and local laws and regulations applicable to the Property, provided that Beneficiary shall not be entitled to indemnification under this Section for matters caused Beneficiary's gross negligence or willful misconduct. The obligations of Trustor under this Section shall survive the repayment of the Amended and Restated PSA, Note, FDA, and Deed of Trust. Notwithstanding any contrary provision contained herein, the obligations of Trustor under this Section shall survive any foreclosure proceeding, any foreclosure sale, any delivery of a deed in lieu of foreclosure, any reversion in interest, and any release or reconveyance of this Deed of Trust.

15. Limitation of Liability. Beneficiary shall not be directly or indirectly liable to Trustor or any other person as a consequence of any of the following: (i) Beneficiary's exercise of or failure to exercise any rights, remedies or powers granted to Beneficiary in this Deed of Trust; (ii) Beneficiary's failure or refusal to perform or discharge any obligation or liability of Trustor under any agreement related to the Property or under this Deed of Trust; (iii) any waste committed by Trustor or any third parties, or (iv) any dangerous or defective condition of the Property. Trustor hereby expressly waives and releases all liability of the types described in this Section, and agrees that Trustor shall assert no claim related to any of the foregoing against Beneficiary.

16. Notice. Except for any notice required under applicable law to be given in another manner, any notice, request or consent required pursuant to this Deed of Trust shall be deemed delivered upon receipt when delivered personally or by facsimile transmission, provided that a transmission report is generated reflecting the accurate transmission thereof, or three (3) business days after being deposited in the U.S. mail, first class postage prepaid, return receipt requested, or one (1) day after deposit with a nationally recognized overnight carrier addressed as follows:

City: City Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
Attn: City Manager

Copy to: City Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
Attn: City Attorney

Developer: Stay Cal Pittsburg, LLC
2110 S. El Camino Real
San Mateo, CA 94403
Attention: Hiten Suraj

or to such other addresses as the parties may designate by notice as set forth above.

17. Due On Sale Without the Consent of Beneficiary. If the Property, any part of it, or interest in it is sold, or if Trustor agrees to sell, convey, or alienate said property, by operation of law or otherwise pursuant to the transfer provisions of Section 7.2 of the Amended and Restated PSA, all obligations secured by this Deed of Trust shall immediately become due and payable.

18. Trustor's Right to Reinstate. Notwithstanding Beneficiary's acceleration of the sums secured by this Deed of Trust due to Trustor's breach, Trustor shall have the right to have any proceedings begun by Beneficiary to enforce this Deed of Trust discontinued at any time prior to entry of a judgment enforcing this Deed of Trust if: (i) Trustor pays Beneficiary all sums which would be then due under this Deed of Trust if the Amended and Restated PSA had no acceleration provision; (ii) Trustor cures all breaches of any other covenants or agreements of Trustor contained in this Deed of Trust; (iii) Trustor pays all reasonable expenses incurred by Beneficiary and Trustee in enforcing the covenants and agreements of Trustor contained in this Deed of Trust, and in enforcing Beneficiary's and Trustee's remedies as provided herein, including, but not limited to, reasonable attorney's fees; and (iv) Trustor takes such action as Beneficiary may reasonably require to assure that the lien of this Deed of Trust, Beneficiary's interest in the Property and Trustor's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Trustor, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

19. Successors and Assigns. The terms, covenants and conditions of this Deed of Trust shall be binding on and inure to the benefit of the heirs, legatees, devisees, administrators, executors, successors in interest, transferees and assigns of the Trustor, Beneficiary and Trustee.

20. Substitution of Trustee. Beneficiary may from time to time or at any time substitute a Trustee or Trustees to execute the trust hereby created, and when any such substitution has been filed for record in the office of the recorder in Contra Costa County, it shall be conclusive evidence of the appointment of such Trustee or

Trustees, and such new Trustee or Trustees shall succeed to all of the powers and duties of the Trustee or Trustees named herein.

IN WITNESS WHEREOF, the Trustor has executed this Deed of Trust.

Trustor,

HITEN SURAJ, [INSERT TITLE]
STAY CAL PITTSBURG LC

By: _____

Exhibit G

INSURANCE REQUIREMENTS

Stay Cal and all contractors working on behalf of Stay Cal shall procure and maintain the insurance coverage set forth herein. Said insurance shall be maintained in full force and effect until the Certificate of Completion is issued by the City. Additionally, completed operations coverage shall be maintained in full force and effect for three years after the acceptance date of the public improvements. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

(1) Insurance Services Office form number CG0001 covering Commercial General Liability on an "occurrence" basis.

(2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

B. Minimum Limits of Insurance

(1) Comprehensive General Liability: Prior to initiating work on the Project and continuing through the issuance of the Certificate of Completion, Stay Cal's general contractor shall maintain limits no less than $2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Such policy shall name Indemnitees and Stay Cal as additional insureds.

(2) Automobile Liability: Until issuance of a Certificate of Completion, Stay Cal and all contractors working on behalf of Stay Cal shall maintain limits no less than $2,000,000 combined single limit per accident for bodily injury and property damage.

(3) Workers' Compensation and Employer's Liability: Until issuance of a Certificate of Completion, Stay Cal and all contractors working on behalf of Stay Cal shall maintain limits no less than Workers' compensation limits as required by the Labor Code of the State of California and Employers Liability limits of $2,000,000 per accident for bodily injury or disease.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Indemnitees; or the Stay Cal shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

(1) General Liability and Automobile Liability Coverages

(a) The Indemnitees are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Stay Cal, and with respect to liability arising out of activities performed by or on behalf of the Stay Cal including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Stay Cal's insurance (at least as broad as ISO Form CG 20 10, 11 85 or later revised), or as a separate owner's policy.

(b) For any claims related to the Project or the Property, the Stay Cal's insurance coverage shall be primary insurance as respects the Indemnitees. Any insurance or self-insurance maintained by the Indemnitees shall be excess of the Stay Cal's insurance and shall not contribute with it.

(2) Workers' Compensation and Employer Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Indemnitees for losses arising from work performed by the Stay Cal pursuant to this Agreement.

(3) All Coverages

(a) Insurance is to be placed with insurers with a current A.M. Best rating of "A:VII" or better, and who are either "admitted" by the California Department of Insurance or who are listed on the "List of Eligible Surplus Line Insurers" as maintained by the California Department of Insurance. (Note: The List of Eligible Surplus Line Insurers is also known as the "LESLI List").

(b) Stay Cal shall furnish the City with original certificates and amendatory endorsements affecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms, provided those

endorsements or policies conform to the City's requirements. Initial certificates and endorsements are to be received and approved by the City before construction work commences. Updated certificates and endorsements are to be provided to the City prior to each policy expiration date. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

(c) Stay Cal and/or Stay Cal's general contractor shall include all subcontractors as insureds under their policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

(d) Stay Cal hereby grants to City a waiver of any right to subrogation that any insurer of Stay Cal may acquire against the City by virtue of the payment of any loss under such insurance. This provision applies regardless of whether the City has requested or received a waiver of subrogation endorsement from the insurer.

(e) Each insurance policy required herein shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. If any insurance policy or coverage required hereunder is canceled or reduced, Stay Cal shall, within fifteen (15) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Stay Cal's expense, and Stay Cal shall promptly reimburse City for such expense upon receipt of billing from City.

(f) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Section 2782 of the Civil Code.

(g) Upon commencement of construction of the Project and continuing until issuance of a Certificate of Completion, Stay Cal or the Stay Cal's contractor working on behalf of Stay Cal shall maintain a policy of builder's all-risk insurance in an amount not less than the full insurable cost of the Project on a replacement cost basis naming City as a loss payee.

(h) Stay Cal shall maintain property insurance covering all risks of loss (other than earthquake), including flood (if required) for 100% of the replacement value of the Project with deductible, if any, in an amount acceptable to City, naming City as a loss payee.

Exhibit H

FEE DEFERRAL AGREEMENT

RECORDING REQUESTED BY:

CITY OF PITTSBURG
When Recorded Mail To:
City Clerk
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

FOR: Parcel 1 of Parcel Map Waiver for a Lot Line Adjustment PMW 18-02	

Space above this line for Recorder's use.

FEE AGREEMENT

This Agreement ("**Agreement**") is entered into effective as of _____ ("**Effective Date**") by and between the City of Pittsburg, a municipal corporation ("**City**") and Stay Cal Pittsburg LLC, a California limited liability company (the "**Developer**"). City and Developer are hereinafter collectively referred to as the "**Parties.**"

Recitals

A. Developer is the owner of certain real property, which is located at the intersection of Railroad Avenue and Center Drive in the City of Pittsburg, County of Contra Costa, State of California, identified as Parcel 1 of Parcel Map Waiver for a Lot Line Adjustment PMW 18-02, which encompasses approximately 111,874 square feet, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "**Property**").

B. The City and Developer executed an Amended and Restated Purchase and Sale Agreement ("**Amended and Restated PSA**") on _____, 2018, and thereafter recorded in the official records of the Contra Costa County Recorder

C. Pursuant to the Amended and Restated PSA, Developer is required to construct a Courtyard by Marriott or equivalent hotel brand on the Property with at least 125 rooms, on-site restaurant, full service bar, and conference room (the "**Project**").

D. Recognizing the benefit to the Project, Developer has agreed to execute and record this Agreement prior to obtaining its grading permit.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The Parties have agreed to that certain development fees in the amount not greater than Four Hundred Thirty Thousand Dollars $ 430,000 shall be deferred (the "Deferred Amount").

Fee	Estimated Amount
Water Connection Fee (FRC) 2" domestic	$ 121,645
Water Connection Fee (FRC) 1" domestic	$ 50,000
Sewer Connection Fee (FRC)	$ 142,557
Pittsburg Local Traffic Mitigation Fee	$ 114,931
TOTAL	$ 429,133

2. Term of Agreement.

2.1 Term. Developer shall collect a total of twelve percent (12%) transient occupancy tax ("**TOT**"), pursuant to Pittsburg Municipal Code Chapter 3.12, and remit the full amount monthly to City. Of the twelve percent (12%), two percent (2%) shall be applied to the Deferred Amount owed until fully paid. No interest shall be charged on the Deferred Amount.

2.2 Effectiveness Succeeds Conveyance of Property. This Agreement is effective and fully binding for the term set forth above, regardless of any sale, assignment, transfer, or conveyance of the Property or the Project or any part thereof or interest therein unless this Agreement is terminated or modified earlier by City in a recorded writing.

3. Binding Upon Successors; Covenants to Run with the Land. Developer hereby subjects its interest in the Property and the Project to the covenants and restrictions set forth in this Agreement. The City and Developer hereby declare their express intent that the covenants and restrictions set forth herein are covenants running with the land and are binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of Developer and City, regardless of any sale, assignment, conveyance or transfer of the Property, the Project or any part thereof or interest therein. Any successor-in-interest to Developer, including without limitation any purchaser, transferee or lessee of the Property or the Project (other than the tenants of the individual dwelling units within the Project) will be subject to all of the duties and obligations imposed hereby for the full term of this Agreement.

4. Property Management; Repair and Maintenance; Marketing.

4.1 Management Responsibilities. Developer shall be responsible for all management functions with respect to the Property and the Project including without limitation administration and operation of Project, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. Except as City may otherwise agree in writing, City shall have no responsibility for management or maintenance of the Property or the Project.

5. Repair, Maintenance and Security. Throughout the term of this Agreement, Developer shall at its own expense, maintain the Property and the Project in good physical condition, in good repair, and in decent, safe, sanitary, habitable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations. Without limiting the foregoing, Developer agrees to maintain the Project and the Property (including without limitation, common areas, landscaping, driveways and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Project. Developer shall take reasonable steps to prevent and/or rectify any physical deterioration of the Property and the Project and shall make all reasonable repairs, renewals and replacements necessary to keep the Property and the improvements located thereon in good condition and repair. Developer shall provide adequate security services for occupants of the Project.

5. 1 City's Right to Perform Maintenance. In the event that Developer breaches any of the covenants contained in Section 5, and such default continues for a period of ten (10) days after written notice from City (with respect to graffiti, debris, and waste material) or thirty (30) days after written notice from City (with respect to landscaping, building improvements and general maintenance), then City, in addition to any other remedy it may have under this Agreement or at law or in equity, shall have the right, but not the obligation, to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and the landscaped areas on the Property. All costs expended by City in connection with the foregoing, constitute an indebtedness, and must be paid by Developer to City upon demand. All such sums remaining unpaid thirty (30) days following delivery of City's invoice therefor will bear interest at the rate of 10% per annum and may be collected by the City by recording a lien on the property and/or placing the cost thereof on the County tax roll for collection with property taxes on the Property.

6. Recordation; No Subordination. This Agreement shall be recorded in the Official Records of Contra Costa County. Developer hereby represents, warrants and covenants that with the exception of the easements of record, absent the written consent of City, this Agreement shall not be subordinated in priority to any lien (other than those pertaining to taxes or assessments, encumbrance, or other interest in the Property or the Project. If at the time this Agreement is recorded, any interest, lien, or encumbrance has been recorded against the Project in position superior to this Agreement, upon the request of

City, Developer hereby covenants and agrees to promptly undertake all action necessary to clear such matter from title or to subordinate such interest to this Agreement consistent with the intent of and in accordance with this Section 7, and to provide such evidence thereof as City may reasonably request.

7. Default and Remedies.

7.1 Events of Default. The occurrence of any one or more of the following events shall constitute an event of default hereunder (**"Event of Default"**):

(a) Subject to Developer's right to contest the following charges, Developer's failure to pay taxes or assessments due on the Property or the Project or failure to pay any other charge that may result in a lien on the Property or the Project, and Developer's failure to cure such default within 10 days.

(b) Developer's default in the performance of any term, provision or covenant under this Agreement or under any other City Document and unless such provision specifies a shorter cure period for such default, the continuation of such default for ten (10) days in the event of a monetary default or thirty (30) days in the event of a non-monetary default following the date upon which City provides written notice of the default to Developer, or if the nature of any such non-monetary default is such that it cannot be cured within 30 days, Developer's failure to commence to cure the default within thirty (30) days and thereafter prosecute the curing of such default with due diligence and in good faith, but in no event longer than 120 days from receipt of the notice of default.

7.2 Remedies. If within the applicable cure period, Developer fails to cure a default or fails to commence to cure and diligently pursue completion of a cure, as applicable, or if a cure is not possible, City may proceed with any of the following remedies:

(a) Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and enjoining, abating, or preventing any violation of such terms and conditions, and seeking declaratory relief; and

(b) Pursue any other remedy allowed at law or in equity.

7.3 Remedies Cumulative. Each of the remedies provided herein is cumulative and not exclusive. The City may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

8. Indemnification. Developer shall defend (with counsel approved by City), indemnify and hold the City and its officials, officers, directors, employees, and agents (collectively, the **"Indemnified Parties"**) harmless from and against any and all losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including reasonable attorneys' fees) which an Indemnified Party may incur as

a result of (1) Developer's failure to perform any obligation as and when required by this Agreement; (2) any failure of Developer's representations or warranties to be true and complete in all material respects when made; or (3) any act or omission by Developer, or any of Developer's contractors, subcontractors, agents, employees, licensees or suppliers with respect to the Project or the Property, except to the extent that such losses are caused by the sole negligence, gross negligence or willful misconduct of such Indemnified Party. Developer shall pay immediately upon an Indemnified Party's demand any reasonable amounts owing under the indemnity provided under this Section. The duty of Developer to indemnify includes the duty to defend the Indemnified Party in any court action, administrative action, or other proceeding brought by any third party arising in connection with the Project or the Property with counsel reasonably approved by City. Developer's duty to indemnify the Indemnified Parties shall survive the expiration or earlier termination of this Agreement.

9. Miscellaneous.

9.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties. Alternatively, if the City Manager determines, in the City Manager's sole discretion that such amendment is minor and consistent with the overall intent of this Agreement, the City Manager shall have the discretion to approve such minor amendment.

9.2 No Waiver. Any waiver by City of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by City to take action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by City at any time to require strict performance by Developer of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

9.3 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

(a) personal delivery, in which case notice is effective upon delivery;

(b) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt;

(c) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;

(d) facsimile or email transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile or email shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a nonbusiness day.

City:
City of Pittsburg
65 Civic Ave
Pittsburg, CA 94565
Attention: City Manager

Developer:
Stay Cal Pittsburg, LLC
2110 S. El Camino Real
San Mateo, CA 94403
Attention: Hiten Suraj

9.4 Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

9.5 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

9.6 Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City Manager or by any person who shall have been designated by the City Manager, without further approval by the City Council.

9.7 Non-Liability of City and City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Developer or any successor in interest, in the event of any default or breach by the City, or for any amount of money which may become due to Developer or its successor or for any obligation of City under this Agreement.

9.8 Headings; Construction. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party.

9.9 Time is of the Essence. Time is of the essence in the performance of this Agreement.

9.10 Governing Law, Venue. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Venue for any litigation shall lie in Contra Costa County Superior Court.

9.11 Attorneys' Fees and Costs. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

9.12 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

9.13 Entire Agreement; Exhibits. This Fee Agreement contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto. The exhibits attached hereto are incorporated herein by this reference. This section, however, shall not be construed to modify the conditions of approval and other terms and conditions imposed by the City of Pittsburg, through its rules, regulations and ordinances and the actions of the City Council and/or Planning Commission, all of to which the Developer has agreed.

9.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

9.15 Incorporation of Recitals. The Recitals set forth above are incorporated herein as if fully set forth here.

SIGNATURES ON FOLLOWING PAGE.

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

DEVELOPER

Stay Cal Pittsburg LLC, a California limited liability company,

By: _____
Hiten, Suraj
Its: _____

CITY OF PITTSBURG

By: _____
Joe Sbranti, City Manager

Attest:_____
Alice Evenson, City Clerk

Approved as to form:

_____
Donna Mooney, City Attorney

Exhibit A

PROPERTY DESCRIPTION

Real property in the City of Pittsburg, County of Contra Costa, State of California, described as follows:

ACKNOWLEDGMENT

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

State of California)

County of Contra Costa)

On_____ before me, _____, Notary Public, personally appeared,

_____,

proved to me 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_____

Exhibit I

SHARED PUBLIC IMPROVEMENTS

On-Site Joint Trench	N/A	$25,000	$0	**$25,000**
On-Site Waterlines	N/A	$60,000	$95,000	**$155,000**
RR Ave Median & Striping Modifications	$50,000	$50,000	$50,000	**$150,000**
Traffic Signal Dog House (Center/RR Ave)	$15,000	$15,000	$15,000	**$45,000**
RR Ave Lane Design	$8,000	$8,000	$8,000	**$24,000**
Microwave Signal Relay		$0	$10,000	**$10,000**
Backhaul and Security Cameras	$60,000		$20,000	**$80,000**
Contingency	$2,000	$2,000	$2,000	**$6,000**
Total	**$135,000**	**$160,000**	**$200,000**	**$495,000**

FIRST AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE CITY OF PITTSBURG AND STAY CAL PITTSBURG LLC
(Parcel 1 of Parcel Map Waiver for Lot Line Adjustment PMW 18-02)

THIS FIRST AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT ("**First Amendment**"), dated for reference as of June 18, 2019, is entered into by and between the City of Pittsburg, a California municipal corporation ("**Seller**"), and Stay Cal Pittsburg LLC, a California limited liability company ("**Buyer**"). Seller and Buyer are collectively referred to herein as the "**Parties.**"

RECITALS

A. Seller and Buyer entered into that certain Amended and Restated Purchase and Sale Agreement on December 5, 2018 ("**Agreement**") regarding Buyer's acquisition of real property located at southwest corner of Center Drive and Railroad Avenue, also known as Parcel 1 of Parcel Map Waiver for Lot Line Adjustment PMW 18-02 ("**Property**"), as more particularly described in Exhibit A to the Agreement.

B. Buyer is preparing to apply for land use entitlements and requests that certain dates in Exhibit C of the Agreement, Schedule of Performance, be extended, and that the close of escrow date on the sale of the Property be extended accordingly.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. Exhibit C – Schedule of Performance. Exhibit C Schedule of Performance of the Agreement is hereby replaced with Attachment 1 of this First Amendment.

2. Closing Date. Section 3.6 of the Agreement is hereby amended to read as follows:

Closing. The Closing Date shall be the earlier to occur of the following: (i) ninety (90) days from the date of Planning Commission approval of Design Review or (ii) October 1, 2019 (the "**Closing Date" or "Close of Escrow**"). Prior to the Close of Escrow, Stay Cal shall deposit into escrow the amount of any funds StayCal is obligated to pay pursuant to the Agreement and the City Documents, executed and acknowledged as applicable. Provided that all conditions precedent to conveyance of the Property have been satisfied or waived, City shall deposit into escrow the executed Grant Deed and executed copies of the City Documents to which City is a party. On the Closing Date, the Escrow Agent shall cause the Grant Deed and the Deed of Trust to be recorded in the Official Records of the County of Contra Costa.

3. Counterparts; Fax or Email Transmission. This Amendment may be executed in two or more identical counterparts, and may be delivered by fax or email transmission in addition to the other forms of delivery of notices acceptable under the terms of the Agreement.

4. Entire Agreement. The Agreement, together with this First Amendment, embodies the entire understanding between Seller and Buyer with respect to its subject matter and can be changed only by an instrument in writing signed by Seller and Buyer.

IN WITNESS WHEREOF, this First Amendment is executed by Buyer and Seller as of the Effective Date.

Seller:
City of Pittsburg,
a California municipal corporation

By: _____
Name: Garrett Evans
Its: City Manager

Attest:

_____
Alice E. Evenson, City Clerk

Reviewed as to Form:

_____
Donna Mooney, City Attorney

Buyer:
Stay Cal LLC,
a California limited liability company

By: _____

Name: Hiten Suraj
Its: Managing Member

Attachment 1

4. Entire Agreement. The Agreement, together with this First Amendment, embodies the entire understanding between Seller and Buyer with respect to its subject matter and can be changed only by an instrument in writing signed by Seller and Buyer.

IN WITNESS WHEREOF, this First Amendment is executed by Buyer and Seller as of the Effective Date.

Seller:
City of Pittsburg,
a California municipal corporation

By: _____
Name: Garrett Evans
Its: City Manager

Attest:

_____
Alice E. Evenson, City Clerk

Reviewed as to Form:

_____
Donna Mooney, City Attorney

Buyer:
Stay Cal LLC,
a California limited liability company

By: _____

Name: Hiten Suraj
Its: Managing Member

Attachment 1

EXHIBIT C SCHEDULE OF PERFORMANCE

Action	Date
1. Conceptual Development Documents. Stay Cal shall submit the Conceptual Development Documents to the City for the City's review and receive the City approval.	November 30, 2018.
2. Application for Applicable Land Use Approvals. Stay Cal shall apply for the Applicable Land Use Approvals necessary for the construction of the Project and receive the City Approval.	February 28, 2019 .
3. Construction Plans. Stay Cal shall submit proposed Construction Plans for the Project to the City for the City's review and receive the City approval. [Amended and Restated PSA § 4.10]	October 1, 2019
4. Financing Plan. Stay Cal shall submit evidence of financing, acceptable to the City, for development of Project. [Amended and Restated PSA § 4.06]	Within sixty (60) days but no later than thirty (30) days from the Closing Date.
5. Building Permits. Stay Cal shall obtain the Building Permits for construction of Project.	No later than December 15, 2019.
6. Construction Contract. Stay Cal shall submit, and receive, City approval of the construction contract for the construction of the Project.	December 1, 2019.
7. Payment and Performance Bonds. Stay Cal shall submit for and receive City approval of the payment and performance bonds for the construction of the Project. [Amended and Restated PSA § 4.20]	No later than 15 days prior to the start of construction.
8. Insurance. Stay Cal shall submit evidence of insurance to the City and receive City approval thereof.	Within 10 days prior to the start of construction.
9. Commencement of Construction. Stay Cal shall commence construction of the Project. [DA § 6.19]	January 15, 2020.
10. Completion of Construction. Stay Ca shall complete construction of the Project.	April 14, 2021.

SECOND AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE CITY OF PITTSBURG AND STAY CAL PITTSBURG LLC
(Parcel 1 of Parcel Map Waiver for Lot Line Adjustment PMW 18-02)

THIS SECOND AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT ("**Second Amendment**"), dated for reference as of September 27, 2019, is entered into by and between the City of Pittsburg, a California municipal corporation ("**Seller**"), and Stay Cal Pittsburg LLC, a California limited liability company ("**Buyer**"). Seller and Buyer are collectively referred to herein as the "**Parties.**"

RECITALS

A. Seller and Buyer entered into that certain Amended and Restated Purchase and Sale Agreement on December 5, 2018 ("**Agreement**") regarding Buyer's acquisition of real property located at southwest corner of Center Drive and Railroad Avenue, also known as Parcel 1 of Parcel Map Waiver for Lot Line Adjustment PMW 18-02 ("**Property**"), as more particularly described in Exhibit A to the Agreement.

B. Seller and Buyer entered into that First Amendment to Amended and Restated Purchase and Sale Agreement on June 18, 2018 ("First Amendment) which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, thus also extending the close of escrow date.

C. Changes on the plans for the Buyer's proposed project has necessitated further evaluation by the City, requiring certain dates in Exhibit C of the Agreement, Schedule of Performance, be extended, and that the close of escrow date on the sale of the Property be extended accordingly.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. Exhibit C – Schedule of Performance. Exhibit C Schedule of Performance of the Agreement is hereby replaced with Attachment 1 of this Second Amendment.

2. Closing Date. Section 3.6 of the Agreement is hereby amended to read as follows:

Closing. The Closing Date shall be no later than November 15, 2019 (the "**Closing Date" or "Close of Escrow**"). Prior to the Close of Escrow, Stay Cal shall deposit into escrow the amount of any funds StayCal is obligated to pay pursuant to the Agreement and the City Documents, executed and acknowledged as applicable. Provided that all conditions precedent to conveyance of the Property have been satisfied or waived, City shall deposit into escrow the executed Grant Deed and executed copies of the City Documents to which City is a party. On the Closing Date, the Escrow Agent shall cause the Grant Deed and the Deed of Trust to be recorded in the Official Records of the County of Contra Costa.

3. Financing Plan. Section 4.6 of the Agreement is hereby amended to read as follows:

Financing Plan. No later than seven (7) days from the Closing Date, Stay Cal shall submit for City review Stay Cal's plans for financing the construction and permanent financing of the Project (hereinafter the "**Financing Plan**"). The Financing Plan shall indicate all sources of funds necessary to pay, when due, the estimated costs of Project development, including without limitation acquisition costs and hard and soft construction costs, and shall be accompanied by evidence that all such funds have been firmly committed by Stay Cal, equity investors or lending institutions, subject only to commercially reasonable conditions. The Financing Plan shall include development and operating pro formas which set out in detail Stay Cal's plan for financing the costs of acquisition, construction and operation of the Project. City staff shall promptly review the proposed Financing Plan, and acting through the City's City Manager, the City shall approve such plan in writing within fifteen (15) business days following receipt provided that the plan conforms to the requirements of this Section. If the City does not approve the Financing Plan, the City shall set forth its objections in writing and notify Stay Cal of the reasons for its disapproval. Stay Cal shall thereafter submit a revised Financing Plan that addresses the reasons for disapproval, and the City shall grant Stay Cal a reasonable extension of the time deadlines set forth in this Agreement as required to restructure the Financing Plan, subject to the outside time limit for commencement of construction set forth in Section 4.7.

4. Counterparts; Fax or Email Transmission. This Amendment may be executed in two or more identical counterparts, and may be delivered by fax or email transmission in addition to the other forms of delivery of notices acceptable under the terms of the Agreement.

5. Entire Agreement. The Agreement, together with this First Amendment, embodies the entire understanding between Seller and Buyer with respect to its subject matter and can be changed only by an instrument in writing signed by Seller and Buyer.

SIGNATURES ARE ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, this Second Amendment is executed by Buyer and Seller as of the Effective Date.

Seller:
City of Pittsburg,
a California municipal corporation

By: _____
Name: Garrett Evans
Its: City Manager

Attest:
_____
Alice E. Evenson, City Clerk

Reviewed as to Form:
_____
Donna Mooney, City Attorney

Buyer:
Stay Cal LLC,
a California limited liability company

By: _____
Name: Hiten Suraj
Its: Managing Member

Attachment 1

EXHIBIT C SCHEDULE OF PERFORMANCE

Action	Date
1. Conceptual Development Documents. Stay Cal shall submit the Conceptual Development Documents to the City for the City's review and receive the City approval.	November 30, 2018.
2. Application for Applicable Land Use Approvals. Stay Cal shall apply for the Applicable Land Use Approvals necessary for the construction of the Project and receive the City Approval.	February 28, 2019
3. Construction Plans. Stay Cal shall submit proposed Construction Plans for the Project to the City for the City's review and receive the City approval. [Amended and Restated PSA § 4.10]	November 15, 2019
4. Financing Plan. Stay Cal shall submit evidence of financing, acceptable to the City, for development of Project. [Amended and Restated PSA § 4.06]	No later than seven (7) days after the Closing Date.
5. Building Permits. Stay Cal shall obtain the Building Permits for construction of Project.	No later than January 31, 2020.
6. Construction Contract. Stay Cal shall submit, and receive, City approval of the construction contract for the construction of the Project.	January 15, 2020.
7. Payment and Performance Bonds. Stay Cal shall submit for and receive City approval of the payment and performance bonds for the construction of the Project. [Amended and Restated PSA § 4.20]	No later than 15 days prior to the start of construction.
8. Insurance. Stay Cal shall submit evidence of insurance to the City and receive City approval thereof.	Within 10 days prior to the start of construction.
9. Commencement of Construction. Stay Cal shall commence construction of the Project. [DA § 6.19]	February 28, 2020.

Action	Date
10. Completion of Construction. Stay Ca shall complete construction of the Project.	May 29, 2021.

THIRD AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE CITY OF PITTSBURG AND STAY CAL PITTSBURG LLC
(APN 086-100-045)

THIS THIRD AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT ("**Third Amendment**"), dated for reference as November 14, 2019, is entered into by and between the City of Pittsburg, a California municipal corporation ("**Seller**"), and Stay Cal Pittsburg LLC, a California limited liability company ("**Buyer**"). Seller and Buyer are collectively referred to herein as the "**Parties**."

RECITALS

A. Seller and Buyer entered into that certain Amended and Restated Purchase and Sale Agreement on December 5, 2018 ("**Agreement**") regarding Buyer's acquisition of real property located at southwest corner of Center Drive and Railroad Avenue, also known as APN 086-100-045 ("**Property**"), as more particularly described in Exhibit A to the Agreement.

B. Seller and Buyer entered into that First Amendment to Amended and Restated Purchase and Sale Agreement on June 18, 2019 ("First Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, thus also extending the close of escrow date.

C. Seller and Buyer entered into that Second Amendment to Amended and Restated Purchase and Sale Agreement on September 27, 2019 ("Second Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, thus also extending the close of escrow date.

D. Changes on the plans for the Buyer's proposed project has necessitated further evaluation by the City, requiring certain dates in Exhibit C of the Agreement, Schedule of Performance, be extended, and that the close of escrow date on the sale of the Property be extended accordingly.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. Exhibit C – Schedule of Performance. Exhibit C Schedule of Performance of the Agreement is hereby replaced with Attachment 1 of this Third Amendment.

2. Closing Date. Section 3.6 of the Agreement is hereby amended to read as follows:

Closing. The Closing Date shall be no later than December 19, 2019 (the "**Closing Date" or "Close of Escrow**"). Prior to the Close of Escrow, Stay Cal shall deposit into escrow the amount of any funds StayCal is obligated to pay pursuant to the Agreement and the City Documents, executed and acknowledged as applicable. Provided that all conditions precedent to conveyance of the Property have been satisfied

or waived, City shall deposit into escrow the executed Grant Deed and executed copies of the City Documents to which City is a party. On the Closing Date, the Escrow Agent shall cause the Grant Deed and the Deed of Trust to be recorded in the Official Records of the County of Contra Costa.

3. Counterparts; Fax or Email Transmission. This Amendment may be executed in two or more identical counterparts, and may be delivered by fax or email transmission in addition to the other forms of delivery of notices acceptable under the terms of the Agreement.

4. Entire Agreement. The Agreement, together with the First Amendment and the Second Amendment, embodies the entire understanding between Seller and Buyer with respect to its subject matter and can be changed only by an instrument in writing signed by Seller and Buyer.

IN WITNESS WHEREOF, this Third Amendment is executed by Buyer and Seller as of the Effective Date.

Seller:
City of Pittsburg,
a California municipal corporation

By: _____
Name: Garrett Evans
Its: City Manager

Attest:

_____
Alice E. Evenson, City Clerk

Reviewed as to Form:

_____
Donna Mooney, City Attorney

Buyer:
Stay Cal Pittsburg LLC,
a California limited liability company

By: _____
Name: Hiten Suraj
Its: Manager

Attachment 1

EXHIBIT C SCHEDULE OF PERFORMANCE

Action	Date
1. Conceptual Development Documents. Stay Cal shall submit the Conceptual Development Documents to the City for the City's review and receive the City approval.	November 30, 2018
2. Application for Applicable Land Use Approvals. Stay Cal shall apply for the Applicable Land Use Approvals necessary for the construction of the Project and receive the City Approval.	February 28, 2019 .
3. Construction Plans. Stay Cal shall submit proposed Construction Plans for the Project to the City for the City's review and receive the City approval. [Amended and Restated PSA § 4.10]	Grading and Foundation Plans by January 6, 2019 Construction Plans due February 28, 2020
4. Financing Plan. Stay Cal shall submit evidence of financing, acceptable to the City, for development of Project. [Amended and Restated PSA § 4.06]	No later than seven (7) days after the Closing Date.
5. Building Permits. Stay Cal shall obtain the Building Permits for construction of Project.	No later than May 11, 2020
6. Construction Contract. Stay Cal shall submit, and receive, City approval of the construction contract for the construction of the Project.	March 15, 2020
7. Payment and Performance Bonds. Stay Cal shall submit for and receive City approval of the payment and performance bonds for the construction of the Project. [Amended and Restated PSA § 4.20]	No later than 15 days prior to the start of construction.
8. Insurance. Stay Cal shall submit evidence of insurance to the City and receive City approval thereof.	Within 10 days prior to the start of construction.
9. Commencement of Construction. Stay Cal shall commence construction of the Project. [DA § 6.19]	May 26, 2020
10. Completion of Construction. Stay Ca shall complete construction of the Project.	December 16, 2020

THIRD AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE CITY OF PITTSBURG AND STAY CAL PITTSBURG LLC
(APN 086-100-045)

THIS THIRD AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT ("**Third Amendment**"), dated for reference as November 14, 2019, is entered into by and between the City of Pittsburg, a California municipal corporation ("**Seller**"), and Stay Cal Pittsburg LLC, a California limited liability company ("**Buyer**"). Seller and Buyer are collectively referred to herein as the "**Parties**."

RECITALS

A. Seller and Buyer entered into that certain Amended and Restated Purchase and Sale Agreement on December 5, 2018 ("**Agreement**") regarding Buyer's acquisition of real property located at southwest corner of Center Drive and Railroad Avenue, also known as APN 086-100-045 ("**Property**"), as more particularly described in Exhibit A to the Agreement.

B. Seller and Buyer entered into that First Amendment to Amended and Restated Purchase and Sale Agreement on June 18, 2019 ("First Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, thus also extending the close of escrow date.

C. Seller and Buyer entered into that Second Amendment to Amended and Restated Purchase and Sale Agreement on September 27, 2019 ("Second Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, thus also extending the close of escrow date.

D. Changes on the plans for the Buyer's proposed project has necessitated further evaluation by the City, requiring certain dates in Exhibit C of the Agreement, Schedule of Performance, be extended, and that the close of escrow date on the sale of the Property be extended accordingly.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. Exhibit C – Schedule of Performance. Exhibit C Schedule of Performance of the Agreement is hereby replaced with Attachment 1 of this Third Amendment.

2. Closing Date. Section 3.6 of the Agreement is hereby amended to read as follows:

Closing. The Closing Date shall be no later than December 19, 2019 (the "**Closing Date" or "Close of Escrow**"). Prior to the Close of Escrow, Stay Cal shall deposit into escrow the amount of any funds StayCal is obligated to pay pursuant to the

Agreement and the City Documents, executed and acknowledged as applicable. Provided that all conditions precedent to conveyance of the Property have been satisfied or waived, City shall deposit into escrow the executed Grant Deed and executed copies of the City Documents to which City is a party. On the Closing Date, the Escrow Agent shall cause the Grant Deed and the Deed of Trust to be recorded in the Official Records of the County of Contra Costa.

3. Counterparts; Fax or Email Transmission. This Amendment may be executed in two or more identical counterparts, and may be delivered by fax or email transmission in addition to the other forms of delivery of notices acceptable under the terms of the Agreement.

4. Entire Agreement. The Agreement, together with the First Amendment and Second Amendment, embodies the entire understanding between Seller and Buyer with respect to its subject matter and can be changed only by an instrument in writing signed by Seller and Buyer.

IN WITNESS WHEREOF, this Third Amendment is executed by Buyer and Seller as of the Effective Date.

Seller:
City of Pittsburg,
a California municipal corporation

By: _____
Name: Garrett Evans
Its: City Manager

Attest:

_____
Alice E. Evenson, City Clerk

Reviewed as to Form:

_____
Donna Mooney, City Attorney

Buyer:
Stay Cal Pittsburg LLC,
a California limited liability company

By:
Name: Hiten Suraj
Its: Manager

1/15/19

Attachment 1

EXHIBIT C SCHEDULE OF PERFORMANCE

Action	Date
1. Conceptual Development Documents. Stay Cal shall submit the Conceptual Development Documents to the City for the City's review and receive the City approval.	November 30, 2018
2. Application for Applicable Land Use Approvals. Stay Cal shall apply for the Applicable Land Use Approvals necessary for the construction of the Project and receive the City Approval.	February 28, 2019 .
3. Construction Plans. Stay Cal shall submit proposed Construction Plans for the Project to the City for the City's review and receive the City approval. [Amended and Restated PSA § 4.10]	Grading and Foundation Plans by January 6, 2019 Construction Plans due February 28, 2020
4. Financing Plan. Stay Cal shall submit evidence of financing, acceptable to the City, for development of Project. [Amended and Restated PSA § 4.06]	No later than seven (7) days after the Closing Date.
5. Building Permits. Stay Cal shall obtain the Building Permits for construction of Project.	No later than May 11, 2020
6. Construction Contract. Stay Cal shall submit, and receive, City approval of the construction contract for the construction of the Project.	March 15, 2020
7. Payment and Performance Bonds. Stay Cal shall submit for and receive City approval of the payment and performance bonds for the construction of the Project. [Amended and Restated PSA § 4.20]	No later than 15 days prior to the start of construction.
8. Insurance. Stay Cal shall submit evidence of insurance to the City and receive City approval thereof.	Within 10 days prior to the start of construction.

9. Commencement of Construction. Stay Cal shall commence construction of the Project. [DA § 6.19]	May 26, 2020
10. Completion of Construction. Stay Ca shall complete construction of the Project.	December 16, 2020

9. Commencement of Construction. Stay Cal shall commence construction of the Project. [DA § 6.19]	May 26, 2020
10. Completion of Construction. Stay Ca shall complete construction of the Project.	December 16, 2020

FOURTH AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE CITY OF PITTSBURG AND STAY CAL PITTSBURG LLC
(APN 086-100-045)

THIS FOURTH AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT ("**Fourth Amendment**"), dated for reference as 9/14, 2020, is entered into by and between the City of Pittsburg, a California municipal corporation ("**Seller or City**"), and Stay Cal Pittsburg LLC, a California limited liability company ("**Buyer or Stay Cal**"). City and Stay Cal are collectively referred to herein as the "**Parties**."

RECITALS

A. Seller and Buyer entered into that certain Amended and Restated Purchase and Sale Agreement on December 5, 2018 ("**Agreement**") regarding Buyer's acquisition of real property located at southwest corner of Center Drive and Railroad Avenue, also known as APN 086-100-045 ("**Property**"), as more particularly described in Exhibit A to the Agreement.

B. Seller and Buyer entered into that First Amendment to Amended and Restated Purchase and Sale Agreement on June 18, 2019 ("First Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and extended the close of escrow date.

C. Seller and Buyer entered into that Second Amendment to Amended and Restated Purchase and Sale Agreement on September 27, 2019 ("Second Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and extended the close of escrow date.

D. Seller and Buyer entered into that Third Amendment to Amended and Restated Purchase and Sale Agreement on November 14, 2019 ("Third Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and extended the close of escrow date.

E. Revisions to the Buyer's proposed project has necessitated further evaluation by the City, and the impacts of the Coronavirus, also known as COVID-19, have required that certain dates in Exhibit C of the Agreement, Schedule of Performance, be extended.

F. The sale of the Property closed escrow on December 24, 2019.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. Payment of Fees. Section 2.3.6 of the Agreement is hereby amended to read as follows:

Payment of Fees. Stay Cal has paid, when due, all customary and reasonable fees and charges in connection with the processing of permits and approvals. Certain City-controlled fees and charges in connection with the processing of permits and approvals in the amount not greater than Four Hundred Forty-Five Thousand, Eight Hundred Forty-Three Dollars ($445,843) shall be deferred and paid by Stay Cal. Stay Cal will collect an additional two percent (2%) to the initial ten percent (10%) of transient occupancy tax to pay for certain City-controlled fees and public improvements, which public improvements shall not exceed One Million Six Hundred Thousand Dollars ($1,600,000). Stay Cal shall collect the additional 2% in transient occupancy tax until Stay Cal is reimbursed for all non Stay Cal share of said public improvements, Stay Cal has repaid all City-controlled fees which were deferred, and Stay Cal has repaid all amounts due under the Loan, only if Stay Cal still has an outstanding Loan balance . No interest shall be charged on the deferred fees and public improvements costs.

2. Repayment. Section 5.4 of the Agreement is hereby amended to read as follows:
Repayment. Stay Cal shall make monthly principal and interest payments to the City, under this Agreement, commencing on the earlier to occur of the following: (i) the first day of the calendar month after the Courtyard by Marriott or equivalent hotel brand that Stay Cal constructs on the Property opens to the public, or (ii) the first day of the calendar month after December 24, 2022, regardless of whether a Courtyard by Marriott or equivalent hotel brand has been constructed on the Property and/or is open to the public ("Monthly Payment Commencement Date") and shall continue making such monthly payments until that date that is twenty (20) years after the Monthly Payment Commencement Date (the "Maturity Date"). For purposes of illustration only: (i) if the Courtyard by Marriott or equivalent hotel brand on the Property were to open to the public on October 25, 2022, the Monthly Payment Commencement Date as defined in this Agreement would be November 1, 2022, and Stay Cal would then be obligated to commence making the required monthly principal and interest payments to City through October 1, 2042, which would represent the Maturity Date pursuant to this hypothetical example; and (ii) escrow closed on this Agreement is December 24, 2019, and if the Buyer will be unable to construct a Courtyard by Marriott or equivalent hotel brand that is open to the public on or before March 1, 2023, the Monthly Payment Commencement Date shall be January 1, 2023 and the Maturity Date would be December 1, 2043.

3. Exhibit C – Schedule of Performance. Exhibit C Schedule of Performance of the Agreement is hereby replaced with Attachment 1 of this Fourth Amendment.

4. Counterparts; Fax or Email Transmission. This Amendment may be executed in two or more identical counterparts, and may be delivered by fax or email transmission in addition to the other forms of delivery of notices acceptable under the terms of the Agreement.

5. Entire Agreement. The Agreement embodies the entire understanding between Seller and Buyer with respect to its subject matter and can be changed only by an instrument in writing signed by Seller and Buyer.

IN WITNESS WHEREOF, this Fourth Amendment is executed by Buyer and Seller as of

the Effective Date.

SIGNATURES ARE ON THE FOLLOWING PAGE

City:
City of Pittsburg,
a California municipal corporation

By: _____
Name: Garrett Evans
Its: City Manager

Attest:
_____
Alice E. Evenson, City Clerk

Reviewed as to Form:

_____
Donna Mooney, City Attorney

Stay Cal:
Stay Cal Pittsburg LLC,
a California limited liability company

the Effective Date.

SIGNATURES ARE ON THE FOLLOWING PAGE

City:
City of Pittsburg,
a California municipal corporation

By: _____
Name: Garrett Evans
Its: City Manager

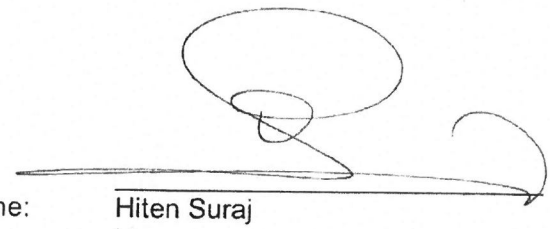
Attest:

_____
Alice E. Evenson, City Clerk

Reviewed as to Form:

_____
Donna Mooney, City Attorney

Stay Cal:
Stay Cal Pittsburg LLC,
a California limited liability company

By: 
Name: Hiten Suraj
Its: Manager

Attachment 1

EXHIBIT C SCHEDULE OF PERFORMANCE

Action	Date
1. Conceptual Development Documents. Stay Cal shall submit the Conceptual Development Documents to the City for the City's review and receive the City approval.	November 30, 2018
2. Application for Applicable Land Use Approvals. Stay Cal shall apply for the Applicable Land Use Approvals necessary for the construction of the Project and receive the City Approval.	February 28, 2019
3. Construction Plans. Stay Cal shall submit proposed Construction Plans for the Project to the City for the City's review and receive the City approval. [Amended and Restated PSA § 4.10]	Grading and Foundation Plans by January 6, 2019 Construction Plans due December 30, 2020
4. Financing Plan. Stay Cal shall submit evidence of financing, acceptable to the City, for development of Project. [Amended and Restated PSA § 4.06]	June 1, 2021

Action	Date
5. Building Permits. Stay Cal shall obtain the Building Permits for construction of Project.	No later than February 1, 2022
6. Construction Contract. Stay Cal shall submit, and receive, City approval of the construction contract for the construction of the Project.	August 1, 2021
7. Payment and Performance Bonds. Stay Cal shall submit for and receive City approval of the payment and performance bonds for the construction of the Project. [Amended and Restated PSA § 4.20]	February 1, 2022
8. Insurance. Stay Cal shall submit evidence of insurance to the City and receive City approval thereof.	February 1, 2022
9. Commencement of Construction. Stay Cal shall commence construction of the Project. [DA § 6.19]	March 1, 2022
10. Completion of Construction. Stay Ca shall complete construction of the Project.	March 1, 2023

FIFTH AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE CITY OF PITTSBURG AND STAY CAL PITTSBURG LLC
(APN 086-100-045)

THIS FIFTH AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT ("**Fifth Amendment**"), dated for reference as January 14, 2021, is entered into by and between the City of Pittsburg, a California municipal corporation ("**Seller or City**"), and Stay Cal Pittsburg LLC, a California limited liability company ("**Buyer or Stay Cal**"). City and Stay Cal are collectively referred to herein as the "**Parties**."

RECITALS

A. Seller and Buyer entered into that certain Amended and Restated Purchase and Sale Agreement on December 5, 2018 ("**Agreement**") regarding Buyer's acquisition of real property located at southwest corner of Center Drive and Railroad Avenue, also known as APN 086-100-045 ("**Property**"), as more particularly described in Exhibit A to the Agreement.

B. Seller and Buyer entered into that First Amendment to Amended and Restated Purchase and Sale Agreement on June 18, 2019 ("**First Amendment**") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and extended the close of escrow date.

C. Seller and Buyer entered into that Second Amendment to Amended and Restated Purchase and Sale Agreement on September 27, 2019 ("**Second Amendment**") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and extended the close of escrow date.

D. Seller and Buyer entered into that Third Amendment to Amended and Restated Purchase and Sale Agreement on November 14, 2019 ("**Third Amendment**") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and extended the close of escrow date.

E. The sale of the Property closed escrow on December 24, 2019.

F. Revisions to the Buyer's proposed project has necessitated further evaluation by the City, and the impacts of the Coronavirus, also known as COVID-19, have required that certain dates in Exhibit C of the Agreement, Schedule of Performance, be extended. Seller and Buyer entered into that Fourth Amendment to Amended and Restated Purchase and Sale Agreement on September 14, 2020 ("**Fourth Amendment**").

G. Due to COVID-19, Z Modular, the company retained by Stay Cal to construct the hotel rooms offsite, has had to make changes to its operation delaying Stay Cal's commencement date by as much as 16 months, to the middle of 2023.

H. Stay Cal, in an effort to increase its prospects for financing opportunities, is proposing to amend the site plan to allow for a commercial structure in addition to

the proposed hotel. The Agreement and the respective sections will be amended prior to the submission of the commercial structure plans to the City that include the information, details, and schedule related to the commercial structure.

I. Stay Cal has, therefore, enlisted MWT Architect to design and prepare the construction documents for a hotel to be constructed onsite instead of modular hotel rooms to be constructed offsite and assembled on the Property. The change in the method of construction requires that certain dates in Exhibit C of the Agreement, Schedule of Performance, be revised. These revisions only add four months to the completion date in the Fourth Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. Exhibit C – Schedule of Performance. Exhibit C Schedule of Performance of the Agreement is hereby replaced with Attachment 1 of this Fifth Amendment, reflecting the date changes to the construction of the hotel. A schedule of performance will be established prior to the submission of the plans to the City to reflect the dates related to the construction of the commercial structure.

2. Counterparts; Fax or Email Transmission. This Amendment may be executed in two or more identical counterparts, and may be delivered by fax or email transmission in addition to the other forms of delivery of notices acceptable under the terms of the Agreement.

3. Entire Agreement. The Agreement embodies the entire understanding between Seller and Buyer with respect to its subject matter and can be changed only by an instrument in writing signed by Seller and Buyer.

IN WITNESS WHEREOF, this Fifth Amendment is executed by Buyer and Seller as of the Effective Date.

SIGNATURES ARE ON THE FOLLOWING PAGE

City:
City of Pittsburg,
a California municipal corporation

By: _____
Name: Garrett Evans
Its: City Manager

Attest:

_____
Alice E. Evenson, City Clerk

Reviewed as to Form:

_____
Donna Mooney, City Attorney

Stay Cal:
Stay Cal Pittsburg LLC,
a California limited liability company

By: _____
Name: Hiten Suraj
Its: Manager

City:
City of Pittsburg,
a California municipal corporation

By: _____
Name: Garrett Evans
Its: City Manager

Attest:

_____
Alice E. Evenson, City Clerk

Reviewed as to Form:

_____
Donna Mooney, City Attorney

Stay Cal:
Stay Cal Pittsburg LLC,
a California limited liability company

By: _____
Name: Hiten Suraj
Its: Manager

Attachment 1

EXHIBIT C SCHEDULE OF PERFORMANCE

Hotel Schedule

Action	Date
1. Conceptual Development Documents. Stay Cal shall submit the Conceptual Development Documents to the City for the City's review and receive the City approval.	March 1, 2021
2. Application for Applicable Land Use Approvals. Stay Cal shall apply for the Applicable Land Use Approvals necessary for the construction of the Project and receive the City Approval. Stay Cal shall request to extend its Land Use Approvals.	February 28, 2019 - Submitted . Before the expiration date of the current Land Use Approvals June 25, 2021.
3. Construction Plans. Stay Cal shall submit proposed Construction Plans for the Project to the City for the City's review and receive the City approval. [Amended and Restated PSA § 4.10]	Grading and Foundation Plans by March 1, 2021 Construction Plans due March 1, 2021
4. Financing Plan. Stay Cal shall submit evidence of financing, acceptable to the City, for development of Project. [Amended and Restated PSA § 4.06]	August 1, 2021
5. Building Permits. Stay Cal shall obtain the Building Permits for construction of Project.	No later than February 1, 2022
6. Construction Contract. Stay Cal shall submit, and receive, City approval of the construction contract for the construction of the Project.	August 1, 2021
7. Payment and Performance Bonds. Stay Cal shall submit for and receive City approval of the payment and performance bonds for the construction of the Project. [Amended and Restated PSA § 4.20]	February 1, 2022
8. Insurance. Stay Cal shall submit evidence of insurance to the City and receive City approval thereof.	February 1, 2022

Action	Date
9. Commencement of Construction. Stay Cal shall commence construction of the Project. [DA § 6.19]	March 1, 2022
10. Completion of Construction. Stay Cal shall complete construction of the Project.	July 1, 2023

SIXTH AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE CITY OF PITTSBURG AND STAY CAL PITTSBURG LLC
(APN: 086-100-045)

THIS SIXTH AMENDMENT TO AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT ("**SIXTH Amendment**"), dated for reference as APRIL 13, 2022, is entered into by and between the City of Pittsburg, a California municipal corporation ("**Seller or City**"), and Stay Cal Pittsburg LLC, a California limited liability company ("**Buyer or Stay Cal**"). City and Stay Cal are collectively referred to herein as the "**Parties**."

RECITALS

A. Seller and Buyer entered into that certain Amended and Restated Purchase and Sale Agreement with an effective date of December 5, 2018 ("**Agreement**") regarding Buyer's acquisition of real property located at southwest corner of Center Drive and Railroad Avenue, also known as APN: 086-100-045 ("**Property**"), as more particularly described in Exhibit A to the Agreement.

B. Seller and Buyer entered into that First Amendment to Amended and Restated Purchase and Sale Agreement on June 18, 2019 ("First Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and extended the close of escrow date.

C. Seller and Buyer entered into that Second Amendment to Amended and Restated Purchase and Sale Agreement on September 27, 2019 ("Second Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and extended the close of escrow date.

D. Seller and Buyer entered into that Third Amendment to Amended and Restated Purchase and Sale Agreement on November 14, 2019 ("Third Amendment") which extended certain dates on Exhibit C of the Agreement and Schedule of Performance.

E. The sale of the Property closed escrow on December 24, 2019.

F. Seller and Buyer entered into that Fourth Amendment to Amended and Restated Purchase and Sale Agreement on September 14, 2020 ("Fourth Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance, and modified the payment of fees and repayment provisions of the Agreement.

G. Seller and Buyer entered into that Fifth Amendment to Amended and Restated Purchase and Sale Agreement on January 14, 2021 ("Fifth Amendment") which extended certain dates on Exhibit C of the Agreement, Schedule of Performance.

H. Revisions to the Buyer's proposed project funding and construction plans and the impacts of the Coronavirus, also known as COVID-19, has necessitated further evaluation by the City and has required that certain dates in Exhibit C of the Agreement, Schedule of Performance be extended.

I. Revisions to the Buyer's proposed project, including increasing financing opportunities for the project, has necessitated that Buyer seek to amend the site plan to create a separate legal parcel from the Property, to allow for a commercial structure in addition to the hotel, with the separate legal parcel then being sold to a third party.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree to amend the Agreement as follows:

1. Recital G. Recital G is hereby amended to read as follows: Stay Cal intends to purchase the Property and construct a Courtyard by Marriott or equivalent hotel brand on the Property with at least 117 rooms (the "**Project**").

2. Recital I. Recital I is hereby amended to read as follows: Stay Cal has requested, and City has agreed to provide deferral of certain development fees (**"Deferred Fees"**) in the amount not greater than Four Hundred Sixty-Three Thousand Dollars ($463,000), to be repaid by Stay Cal in monthly payments until fully repaid, pursuant to a Fee Deferral Agreement (the "**Fee Deferral Agreement**") substantially in the form attached as Exhibit H of Agreement.

3. Section 2.3.6 Payment of Fees. Section 2.3.6 is hereby amended to read as follows: Payment of Fees. Stay Cal has paid, when due, all customary and reasonable fees and charges in connection with the processing of permits and approvals. Certain City-controlled fees and charges in connection with the processing of permits and approvals in the amount not greater than Four Hundred Sixty-Three Thousand Dollars ($463,000) shall be deferred and paid by Stay Cal pursuant to the terms of the Deferral Agreement. Interest on the Deferred Fees shall begin to accrue from the time that permits are obtained and fees become due and payable, at a commercially reasonable interest rate of two and one-half percent (2.5%) simple interest per annum on the unpaid principal amount, computed on a basis of a 365-day year. Principal and interest are due and payable upon an event of default under Article IX hereof.

4. Section 4.1 The Project. The last sentence of Section 4.1 is hereby amended to read as follows: The Project will consist of a Courtyard Marriott or an equivalent hotel brand with at least 117 rooms, an on-site restaurant, full bar service, and a conference room in accordance with brand standards for a Courtyard Marriott.

5. Article V City Financial Assistance. Article V is hereby amended in its entirety to read as follows:

ARTICLE V
CITY FINANCIAL ASSISTANCE

5.1 Loan and Note. To assist in the acquisition of the Property, City shall provide a Loan in the form of seller-financing to cover the Purchase Price in the principal amount of One Million Six Hundred Seventy-Eight Thousand One Hundred Ten Dollars ($1,678,110.00) (the "**Loan**"). The Loan shall be evidenced by a secured promissory note dated as of the Closing Date and executed by Stay Cal substantially in the form attached hereto as Exhibit E (the "**Note")** and shall be secured by the Deed of Trust (the "**Deed of Trust**") which shall be recorded against the Property subject only to City's Permitted Exceptions.

Provided that Stay Cal has complied with all conditions precedent to disbursement of the Loan set forth in Section 5.8, City will provide the Loan at Closing.

5.2 Interest. Commencing on the Closing Date and continuing through the date that all indebtedness and other amounts payable under this Agreement and the Note are paid in full, interest on the Loan shall accrue at a commercially reasonable interest rate of two and one-half percent (2.5%) simple interest per annum on the unpaid principal outstanding from time to time, computed on a basis of a 365-day year. Interest is due and payable upon an event of default under Article IX hereof.

5.3. Term; Extension of Term. The term of the Loan is the earlier of (i) the sale or transfer of the Property and the Project by Stay Cal, except as provided herein, or (ii) 25 years from the month after issuance of the Certificate of Occupancy (the "**Maturity Date**"). Notwithstanding the foregoing, the City shall have the right to accelerate the maturity date and declare all sums payable under the Note immediately due and payable upon the occurrence of an Event of Default.

5.4 Repayment. Stay Cal shall make monthly principal and interest payments to the City, under this Agreement, commencing on the earlier to occur of the following: (i) the first day of the calendar month after the Courtyard by Marriott or equivalent hotel brand that Stay Cal constructs on the Property receives its Certificate of Occupancy or (ii) two (2) years from April 1, 2022, regardless of whether a Courtyard by Marriott or equivalent hotel brand has been constructed on the Property and/or is open to the public ("Monthly Payment Commencement Date") and shall continue making such monthly payments until that date that is twenty-five (25) years after the Monthly Payment Commencement Date (the "Maturity Date"). For purposes of illustration only: (i) if the Courtyard by Marriott or equivalent hotel brand on the Property were to open to the public on January 15, 2024, the Monthly Payment Commencement Date as defined in this Agreement would be February 1, 2024, and Stay Cal would then be obligated to commence making the required monthly principal and interest payments to City through January 1, 2048, which would represent the Maturity Date pursuant to this hypothetical example; and (ii) if April 1, 2024 has passed and the Buyer has failed to construct a Courtyard by Marriott or equivalent hotel brand that is open to the public on or before April 1, 2024, the Monthly Payment Commencement Date shall be April 1, 2024 and the Maturity Date would be March 1, 2048.

5.5 Security. As security for repayment of the Note, Stay Cal shall execute the Deed of Trust in favor of City as beneficiary pursuant to which City shall be provided a lien against Stay Cal's interest in the Property and the Project. The Deed of Trust shall be dated as of the Closing Date, shall be substantially in the form attached hereto as Exhibit F, and shall be recorded in the Official Records on the Closing Date. The Deed of Trust may be subordinated only to the City's Permitted Exceptions and such liens and encumbrances as City shall approve in writing. The City shall subordinate to any construction or permanent financing for this Project.

5.6 Use of Loan. The Loan shall be used solely to fund acquisition of the Property.

5.7 Prepayment. Stay Cal shall have the right to prepay the Loan at any time and from time to time, without penalty or premium, provided that any prepayment of principal must be accompanied by interest accrued but unpaid to the date of prepayment. Prepayments shall be applied first to accrued but unpaid interest and then to principal.

5.8 Conditions to Loan. City's obligation to fund the Loan is conditioned upon the satisfaction of all of the conditions set forth in Sections 2.3 and 3.8 and all of the following conditions:

5.8.1 The conveyance of the Property to Stay Cal;

5.8.2 Stay Cal's execution and delivery to City of this Agreement, the Note and the Deed of Trust;

5.8.3 Recordation of the Deed of Trust in the Official Record;

5.8.4 Stay Cal's delivery to City of evidence reasonably satisfactory to City that there are no mechanics' liens or stop notices related to the Property or the Project, and Stay Cal's provision to City of full waivers or releases of lien clams if required by City;

5.8.5 Stay Cal's delivery to the City of evidence of property and liability insurance coverage and payment and performance bonds in accordance with the requirements set forth herein;

5.8.6 No material adverse change as determined by City in its reasonable judgment shall have occurred in the condition of the Property or the Project or in the financial or other condition of Stay Cal since the Effective Date of this Agreement;

5.8.7 Stay Cal's delivery to City of each of the following: (i) certificate of good standing, certified by the Secretary of State indicating that Stay Cal is properly organized and authorized to do business in the State of California, (ii) a certified resolution indicating that Stay Cal has authorized this transaction and that the persons executing the City Documents on behalf of Stay Cal have been duly authorized to do so,

and (iii) certified copy of Stay Cal's articles of incorporation and bylaws; and

5.8.8 City's receipt of a written estimated settlement statement showing the acquisition price, closing costs and all other amounts due in escrow for Stay Cal's acquisition of the Property.

5.9 No Obligation to Provide Loan Upon Default. Notwithstanding any other provision of this Agreement, the City shall have no obligation to Close if any of the following circumstances occur:

5.9.1 the failure of any of Stay Cal's representations and warranties made in this Agreement or in connection with the Loan to be true and correct in all material respects;

5.9.2 the termination of this Agreement by mutual agreement of the Parties;

5.9.3 the occurrence of an Event of Default under any City Document which remains uncured beyond any applicable cure period, or the existence of any condition, event or act which upon the giving of notice or the passage of time or both would constitute an Event of Default under any City Document.

5.10 Due On Sale or Encumbrance. Unless City agrees otherwise in writing, the entire unpaid principal balance and all interest and other sums accrued under the Note shall be due and payable upon the Transfer absent the prior written consent of City of all or any part of or interest in the Property except as otherwise permitted pursuant to this Agreement.

5.11 Fee Deferral Agreement. City agrees to permit Stay Cal to defer certain City controlled permit and entitlement fees, pursuant to that certain Fee Deferral Agreement executed by Stay Cal substantially in the form attached to this Agreement as Exhibit H, and incorporated herein by this reference. Interest on the deferred amounts shall accrue at a commercially reasonable interest rate of two and one-half percent (2.5%) simple interest per annum on the unpaid principal outstanding from time to time, computed on a basis of a 365-day year. Interest shall begin to accrue at the time that permits are obtained. Stay Cal shall make monthly principal and interest payments to the City, commencing on the first day of the calendar month after the Courtyard by Marriott or equivalent hotel brand that Stay Cal constructs receives its Certificate of Occupancy or (ii) two (2) years from April 1, 2022, regardless of whether a Courtyard by Marriott or equivalent hotel brand has been constructed on the Property and/or is open to the public ("Monthly Payment Commencement Date") and shall continue making such monthly payments until fully satisfied..

5.12 City Contribution. City agrees to provide Stay Cal with a contribution equal to the maximum of Five Hundred Ninety-Nine Thousand Nine Hundred and Ninety-Nine Dollars ($599,999), so long as it is less than two percent (2%) of the total cost of the Project (the "**Contribution**"). The Contribution shall be paid by City directly to Stay Cal within ten (10) business days of completion and approval of the inspection

of the entire foundation of the Project. In the event Stay Cal has not received approval of the entire foundation of the Project by December 31, 2023, City shall not be required to provide Contribution; this deadline may be extended by the City Manager for a period(s) not to exceed six months.

6. Section 6.1 Use. Section 4.1 is hereby amended to read as follows: Stay Cal covenants and agrees for itself and its successors and assigns that the Property shall be used for the development and operation of a Courtyard Marriott or an equivalent hotel brand with at least 117 rooms and a conference room. Additional uses of the Property may be approved by the City in the City's discretion.

7. Section 6.2 Transit Occupancy Tax. Section 6.2 is hereby deleted in its entirety and replaced with the following: During the first five years of operation of the hotel, commencing on the date of issuance of the Certificate of Occupancy, if the owner and/or operator of the Project sells to or enters into an agreement with any party to utilize the Project in a manner which prevents the City from collecting Transit Occupancy Tax **("TOT")**, Stay Cal shall pay the City the lost TOT, equivalent to Five Hundred Thousand Dollars ($500,000) per year, up to Two Million Dollars ($2,000,000).

8. Section 7.3 Permitted Transfers. Section 7.3 is hereby amended to read as follows: Notwithstanding any contrary provision hereof, the prohibitions set forth in this Article shall not be deemed to prevent: (i) the granting of temporary easements or permits to facilitate development of the Property; (ii) the dedication of any property required pursuant to this Agreement; (iii) the rental of hotel rooms; (iv) assignments creating security interests for the purpose of financing the acquisition, construction or permanent financing of the Project; (v) a Transfer to an entity which is under the direct control of Stay Cal or in which Hiten Suraj is a principal or (v) a Transfer to any entity so long as Stay Cal remains an owner of the Project and Hiten Suraj is a guarantor of any debt associated with the Project (**"Controlled Affiliate"**).

9. Section 7.4.4 is hereby amended to read as follows: No transfer of any portion of the Property to an entity not expressly enumerated in Section 7.3 shall be valid without a written recorded agreement between the Parties demonstrating the City's consent and setting forth conditions by City. Stay Cal acknowledges the written agreement shall condition the City consent to sale on the obligation of Stay Cal to impose certain requirements on buyer that would otherwise be imposed on Stay Cal and the entirety of the Property in the absence of a sale. For example, and not as a limitation, Stay Cal shall require buyer to pay all taxes and assessments as set forth in Sections 6.4 and 6.4.1, provide payment and performance bonds and insurance as set forth in 4.20-4.21, provide a release to the City as set forth in Section 8.5, and indemnify the City as set forth in Sections 8.7 and Article X.

a. 75% of the net proceeds from the sale of the separate legal parcel described in Recital I shall be held in escrow. 50% of the proceeds held in escrow shall be disbursed to Stay Cal when the City's Contribution is disbursed and the remaining 50% of the proceeds shall be disbursed to

Stay Cal upon completion of the framing for the Project.

10. Section 9.6 Right of Reverter. Section 9.6 is hereby amended to read as follows: If prior to issuance of a Certificate of Occupancy, Stay Cal abandons the Project or seeks to sell the Project, City shall retain sole discretion for approving the buyer and purchase price. Proceeds from the sale to a third party approved by the City shall be disbursed in the following order: 1) unpaid balance of the Loan to the City; 2) reimbursement to Stay Cal for all out-of-pocket expenses associated with the Project up to Five Hundred Thousand Dollars ($500,000); and 3) remaining balance of the sales proceeds, after the Loan has been satisfied, will be divided equally and between Stay Cal and the City. This right of reverter shall not be triggered on a sale of any portion of the Project as long as Stay Cal remains an owner of the Project and/or Hiten Suraj remains a guarantor of any debt associated with the Project.

11. Exhibit C – Schedule of Performance. Exhibit C, "Schedule of Performance," of the Agreement is hereby replaced with Attachment 1 of this SIXTH Amendment.

12. Counterparts; Fax or Email Transmission. This Amendment may be executed in two or more identical counterparts, and may be delivered by fax or email transmission in addition to the other forms of delivery of notices acceptable under the terms of the Agreement.

13. Entire Agreement. The Agreement embodies the entire understanding between Seller and Buyer with respect to its subject matter and can be changed only by an instrument in writing signed by Seller and Buyer.

IN WITNESS WHEREOF, this SIXTH Amendment is executed by Buyer and Seller as of the Effective Date.

SIGNATURES ARE ON THE FOLLOWING PAGE

City:
City of Pittsburg,
a California municipal corporation

By: _____
Name: Garrett Evans
Its: City Manager

Attest:

_____ for
Alice E. Evenson, City Clerk

Reviewed as to Form:

_____
Donna Mooney, City Attorney

Stay Cal:
Stay Cal Pittsburg LLC,
a California limited liability company

By: _____
Name: Hiten Suraj
Its: Manager

Attachment 1

EXHIBIT C: "SCHEDULE OF PERFORMANCE"

Action	Date
1. Conceptual Development Documents. Stay Cal shall submit the Conceptual Development Documents to the City for the City's review and receive the City approval.	March 1, 2021
2. Application for Applicable Land Use Approvals. Stay Cal shall apply for the Applicable Land Use Approvals necessary for the construction of the Project and receive the City Approval. Stay Cal shall request to extend its Land Use Approvals.	February 28, 2019 – Submitted Before the expiration date of the current Land Use Approval June 25, 2021.
3. Construction Plans. Stay Cal shall submit proposed Construction Plans for the Project to the City for the City's review and receive the City approval. [Amended and Restated PSA § 4.10]	Grading and Foundation Plans by January 6, 2019 Construction Plans due October 30, 2020
4. Financing Plan. Stay Cal shall submit evidence of financing, acceptable to the City, for development of Project. [Amended and Restated PSA § 4.06]	May 1, 2022
5. Building Permits. Stay Cal shall obtain the Building Permits for construction of Project.	No later than August, 2022
6. Construction Contract. Stay Cal shall submit, and receive, City approval of the construction contract for the construction of the Project.	July 1, 2022
7. Payment and Performance Bonds. Stay Cal shall submit for and receive City approval of the payment and performance bonds for the construction of the Project. [Amended and Restated PSA § 4.20]	July 1, 2022
8. Insurance. Stay Cal shall submit evidence of insurance to the City and receive City approval thereof.	July 1, 2022
9. Commencement of Construction. Stay Cal shall commence construction of the Project. [DA § 6.19]	September 1, 2022
10. Completion of Construction. Stay Ca shall complete construction of the Project.	May 1, 2024

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Consideration of a City Council Request for a Future Agenda Item Related to Creating a Community Volunteer Database

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

At the September 19, 2022, City Council meeting, Council Member Craft requested a future agenda item related to creating a Community Volunteer Database that would provide information to residents regarding community volunteering opportunities.

FISCAL IMPACT

Staff does not have a cost impact at this time. Staff will conduct research and provide the City Council through the Community Services Subcommittee with an update on potential cost after evaluating ways to incorporate volunteer opportunities with local organizations.

RECOMMENDATION

City Council accept the report and move to direct staff to take actions necessary to create a Community Volunteer Database.

BACKGROUND

Pursuant to the City Council Handbook, if an individual Councilmember wishes to have an agenda item placed on a future agenda, a Councilmember may make a request under the Requests for Future Agenda Items section of the agenda. At the next regularly scheduled City Council meeting, the requested item will be listed on the agenda under “Consideration”.

The item will identify the Councilmember making the request and briefly describe the nature of the request. Staff will not spend time on the requested item except to provide assistance to the Councilmember to frame the issue so that the City Council and public clearly understand the request. Should the issue be an item that staff has already researched, or is in the process of researching, an informational report may accompany the request on the agenda. Additionally, if the City Manager feels there is information that should be shared in

order to productively evaluate next steps, brief information regarding the request may be included on the subsequent agenda.

When the item is called, the Councilmember making the request will describe the request and the City Council may have a brief discussion of the requested item. Upon concurrence by the majority of the membership of the City Council present that staff time and City resources be spent on an item, it shall be scheduled for a future meeting. The City Manager may make a recommendation on the potential future meeting date for a requested item to be brought before the City Council in consideration of the scope of work related to the requested item, cost, availability of staff, future agenda schedule(s), and/or other reasons. City Council discussion will be limited to whether staff time and City resources should be spent on the item. The City Council will take no other action on the item itself. City Council concurrence that staff time or City resources be spent on an item does not signify approval of the item, just that the City Council wishes to have it studied further and the City Council may, at any time, decide not to pursue the item further.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

Staff will evaluate the logistical requirements and costs associated with creating and maintaining a Community Volunteer Database. The evaluation will also include researching other communities to see if a model exists and can be replicated. The evaluation and process to implement the Community Volunteer Database will be presented to the Community Services Subcommittee for feedback. After the refinement from the Community Services Subcommittee is incorporated, a report for action will be presented to the full City Council.

Report Prepared By: Garrett Evans, City Manager

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Consideration of a City Council Request for a Future Agenda Item Related to Creating a Culture and Diversity Initiative

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

At the September 19, 2022, City Council meeting, Council Member Craft requested a future agenda item related to creating a Culture and Diversity Initiative that would provide criteria and process for local organizations to seek assistance and funding for events.

FISCAL IMPACT

Staff does not have a cost impact at this time. Staff will conduct research and provide the City Council through the Community Services Subcommittee with an update on potential cost after evaluating various event fees and assistance for local Cultural and Diversity events.

RECOMMENDATION

City Council accept the report and move to direct staff to take actions necessary to further evaluate creating a Culture and Diversity Initiative.

BACKGROUND

Pursuant to the City Council Handbook, if an individual Councilmember wishes to have an agenda item placed on a future agenda, a Councilmember may make a request under the Requests for Future Agenda Items section of the agenda. At the next regularly scheduled City Council meeting, the requested item will be listed on the agenda under “Consideration”.

The item will identify the Councilmember making the request and briefly describe the nature of the request. Staff will not spend time on the requested item except to provide assistance to the Councilmember to frame the issue so that the City Council and public clearly understand the request. Should the issue be an item that staff has already researched, or is in the process of researching, an informational report may accompany the request on the agenda. Additionally, if the City Manager feels there is information that should be shared in

order to productively evaluate next steps, brief information regarding the request may be included on the subsequent agenda.

When the item is called, the Councilmember making the request will describe the request and the City Council may have a brief discussion of the requested item. Upon concurrence by the majority of the membership of the City Council present that staff time and City resources be spent on an item, it shall be scheduled for a future meeting. The City Manager may make a recommendation on the potential future meeting date for a requested item to be brought before the City Council in consideration of the scope of work related to the requested item, cost, availability of staff, future agenda schedule(s), and/or other reasons. City Council discussion will be limited to whether staff time and City resources should be spent on the item. The City Council will take no other action on the item itself. City Council concurrence that staff time or City resources be spent on an item does not signify approval of the item, just that the City Council wishes to have it studied further and the City Council may, at any time, decide not to pursue the item further.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

Staff will evaluate the costs for local organizations to utilize City facilities to host or promote local Culture or Diversity events. Staff will also evaluate other ways to promote local Culture and Diversity events through various media available to the City of Pittsburg. The evaluation, criteria for local organizations to request assistance, and process to submit the request for assistance will be presented to the Community Services Subcommittee for feedback. After the refinement from the Community Services Subcommittee is incorporated, a report for action will be presented to the full City Council.

Report Prepared By: Garrett Evans, City Manager

CITY OF PITTSBURG
CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES

DATE: September 19, 2022

LOCATION: Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

CITY COUNCIL.AGENCY MEMBERS
Holland Barrett White, Mayor/Chair
Shanelle Scales-Preston, Vice-Mayor/Chair
Juan Antonio Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
Marilyn Craft, Council/Agency Member
S.L. Floyd, Agency Member
Annie Hill Herring, Agency Member

APPOINTED OFFICIALS
Garrett Evans, City Manager/Executive Director
Donna Mooney, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

Prior to the regular meeting, a Special Meeting for Closed Session only was convened at 5:33 P.M. for the following items:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Section 54956.81.

   1) Property: 25 Power Avenue (APN: 086-100-047); City negotiators: Garrett Evans, Maria Aliotti, Jordan Davis; Negotiating parties: Hiten Suraj, Stay Cal Pittsburg LLC; Under negotiation: Both price and terms of payment

   2) Property: Stoneman Park (APN: 094-080-014, 094-090-001, 094-080-002); City negotiators: Garrett Evans, Maria Aliotti, Jordan Davis; Negotiating parties: Albert Seeno III and Louis Parsons, Discovery Builders LLC; Under negotiation: Both price and terms of payment

City Attorney Mooney stated there was no reportable action in Closed Session.

Mayor White called the meeting to order at 7:18 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, CA after convening in Closed Session at 6:21 P.M. for the following items:

1. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION - Significant exposure to litigation pursuant to Section 54956.9(d)(2):

   Number of cases: One (1)

City Attorney Mooney stated there was no reportable action in Closed Session.

ROLL CALL

Member Banales was absent and excused.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PRESENTATIONS

2. Quarterly Overview of Use of Force by Law Enforcement Personnel and Overview of Internal Affairs Investigations.

PROCLAMATIONS

3. National Hispanic Heritage Month

CITY MANAGER REPORTS/REMARKS

City Manager Evans reported on upcoming City events.

PUBLIC COMMENTS

There were no public comments.

COMMITTEE REPORTS

Member Craft attended the Tri-Delta Transit Meeting.

Vice-Mayor Scales-Preston attended the Los Medanos Health Advisory Committee meeting along with Member Killings.

CITY COUNCIL MEETING

PUBLIC HEARING

6. Adoption of a Resolution and Introduction and Waive First Reading of an Ordinance Amending the Zoning Map for Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)

Mayor White opened the Public Hearing. There being no one to speak to the item, Mayor White closed the Public Hearing.

On Motion by Member Killings, seconded by Member Craft to adopt the resolution and introduce and waive first reading of an ordinance and carried by the following vote:

AYES: Craft, Killings, Scales-Preston, White
ABSENT: Banales

7. Adoption of a City Council Resolution Approving the 2021-2022 Community Development Block Grant Consolidated Annual Performance and Evaluation Report By Minute Order, Establish a My Brother's Keeper Ad Hoc Subcommittee and Appointing Two Subcommittee Members

Mayor White opened the Public Hearing. There being no one to speak to the item, Mayor White closed the Public Hearing.

On Motion by Member Craft, seconded by Vice-Mayor Scales-Preston to adopt and carried by the following vote:

AYES: Craft, Killings, Scales-Preston, White
ABSENT: Banales

CONFLICT OF INTEREST STATEMENT

There were no conflicts of interest statements.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY, SOUTHWEST PITTSBURG GHAD II AND SUCCESSOR AGENCY CONSENT CALENDAR

Mayor/Chair White asked that Item 14 be removed from the Consent Calendar and considered separately.

On Motion by Member Craft, seconded by Vice-Mayor/Chair Scales-Preston to adopt without Item 14, and carried by the following vote:

AYES: Craft, Killings, Scales-Preston, White
ABSENT: Banales

8. Minutes of October 15, 2022

9. Adoption of a Pittsburg Power Company Resolution Attesting the Veracity of the 2021 Power Content Label to the California Energy Commission

10. Adoption of a City Council Resolution Making Findings in Support of Continuing to Hold Public Subcommittee Meetings by Teleconference Pursuant to California Government Code Section 54953(e)

11. Adoption of a City Council Resolution to Accept Project 4065, 2021/2022 CDBG ADA Curb Ramp Installation Project as Complete and Authorize the City Engineer to File a Notice of Completion

12. Adoption of a City Council Resolution Amending City's Conflict of Interest Code

13. Adoption of a City Council Resolution to Authorize the Purchase of a 12,000 Gal. Aboveground Storage Tank from PME, Approve and Allocation Additional Funds for Project 3118, Corporation Yard Fueling System Replacement Project

15. Adoption of a City Council Resolution Authorizing the City Attorney to Execute a Legal Services Agreement with Sher Edling LLP for PCBs litigation

16. By Minute Order, Select Appointments to Vacancies on the Measure M/P Citizens Oversight Committee

17. Adoption of City Council Resolution Authorizing City Manager to Execute a Contract for Police Vehicle Equipment

18. Adoption of a City Council Resolution Authorizing Execution of Contract for Bulk Gasoline Services

19. Adoption of a City Council Resolution Authorizing Execution of Contract for Renewable Diesel

20. Adoption of City Council Resolution Allocating Funds and Awarding a Purchase Contract for a 2022 930M Wheel Loader

21. Adoption of a City Council Resolution to Authorize Execution of a First Amendment to Consulting Services Agreement with Sloan Sakai Yeung & Wong, LLP

22. A Resolution Approving a Consultant Agreement for Design of Project 5067 - Water Treatment Plant Filter Replacement

23. Adoption of a City Council Resolution Authorizing the City Manager to Negotiate and Execute a Consultant Agreement for Design Services for the Reviving the Heart of Pittsburg Pride Project

24. Adoption of City Council Resolution Authorizing the City Manager to Execute a Contract for the Purchase of a Towable Generator

25. Adoption of a City Council Resolution Authorizing the City Manager to Negotiate and Submit to the California State Lands an Amendment to Tidelands Lease No. PRC 7643.1

26. Adoption of City Council Resolution Authorizing City Manager to Execute a Contract for the Purchase of New Police Interceptor Vehicles

27. Adoption of a City Council Resolution Approving the Contract Renewal Agreement with Axon Enterprise, Inc.

28. Adoption of a City Council Resolution Authorizing Negotiation and Execution of Agreement with Motorola Solutions to Replace Police Radio System to Meet California Department of Justice Requirements

The following item was considered separately:

14. By Minute Order, Establish a Tobacco, Cannabis, and Alcohol Policy Review Ad Hoc Subcommittee and Appoint Two Subcommittee Members

On Motion by Vice-Mayor/Chair Scales-Preston, seconded by Member Craft to adopt, with Member Killings and Vice-Mayor/Chair Scales-Preston appointed, and carried by the following vote:

AYES: Craft, Killings, Scales-Preston, White
ABSENT: Banales

COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

Member Craft requested a Cultural and Diversity Resource Commission be explored, along with funding for events/projects.

On Motion by Member Craft, Seconded by Vice-Mayor Scales-Preston, to place an item on a future agenda and carried by the following vote:

AYES: Craft, Killings, Scales-Preston, White
ABSENT: Banales

Member Craft requested a Volunteer/Community Engagement Database to enable staff to utilize volunteers at City events. She noted this could be a collaborative effort with the Chamber of Commerce.

On Motion by Member Craft, Seconded by Vice-Mayor Scales-Preston, to place an item on a future agenda and carried by the following vote:

AYES: Craft, Killings, Scales-Preston, White
ABSENT: Banales

COUNCIL MEMBER REMARKS

Vice-Mayor Scales-Preston attended the Pittsburg Reads event, the March on Railroad fundraiser for the Pittsburg High School Marching Show Band, and the Day on the Green at Buchanan Park.

Member Craft noted the Kiwanis Gala was scheduled for October.

ADJOURNMENT

The City Council adjourned at 8:40 P.M. to October 3, 2022.

Respectfully submitted,

Alice E. Evenson, City Clerk

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution to Authorize the City Manager to Execute Agreements with the California Department of Transportation for the Living Green Pittsburg – Trail and Community Outreach Project

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

The City was awarded the Clean California Grant for the design and construction of the Living Green Pittsburg – Trail and Community Outreach Project (the "Project"). On August 1, 2022, the City Council accepted the grant and allocated matching funds. The City Council must designate an authorized signatory to execute an agreement with Caltrans. This resolution will authorize the City Manager to execute the Restricted Grant Agreement and amendments thereto with the California Department of Transportation.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

The City Council adopt a resolution authorizing the City Manager to execute agreements and amendments with Caltrans for the Clean California Grant, Living Green Pittsburg – Trail and Community Outreach Project.

BACKGROUND

Staff applied for and received grants from the California Department of Transportation for beautification of open space around the city.

On August 1, 2022, the City Council accepted the grant and allocated matching funds for the Project in Resolution 22-14134.

The Project will construct a pilot green space with bioswales, trees, artwork, and a Class I Trail along Frontage Rd. that will provide better access to the Pittsburg Center Bart Station. The Project will also include a citywide “Living Green” outreach campaign with a website to educate residents on the importance of litter and pollution prevention.

SUBCOMMITTEE FINDINGS

This item was not presented at a subcommittee.

STAFF ANALYSIS

Since approval of the Project, staff has solicited Statements of Qualifications for the infrastructure design portion. Caltrans must provide a notice before a design contract is awarded. Upon the adoption of this resolution, staff will facilitate the execution of the Restricted Grant Agreement with Caltrans and complete all necessary documents to receive a notice to proceed.

ATTACHMENTS: Resolution
Restricted Grant Agreement
Restricted Grant Agreement Amendment

Report Prepared By: Joseph Camaddo, Assistant Engineer

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a City Council Resolution Authorizing the City Manager to Execute Agreements with the California Department of Transportation for the Living Green Pittsburg - Trail and Community Outreach Project	RESOLUTION NO. 22-

WHEREAS, Resolution 22-14145 accepted the Clean California Grant and allocated matching funds for the construction of the Living Green Pittsburg – Trail and Community Outreach Project (the "Project"); and

WHEREAS, the City of Pittsburg is eligible to receive state funding for the Project through the California Department of Transportation; and

WHEREAS, an executed Restricted Grant Agreement with the California Department of Transportation is required before funds can be distributed through the Clean California Local Grant Program; and

WHEREAS, an authorized signatory must be delegated to execute any agreements with Caltrans.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Pittsburg hereby authorizes the City Manager to execute the Restricted Grant Agreement and amendments thereto with the California Department of Transportation for the Living Green Pittsburg – Trail and Community Outreach Project.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of October 2022, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

Clean California Local Grant Program (State)

Restricted Grant Agreement

This Restricted Grant Agreement (RGA), between the State of California acting by and through its Department of Transportation, referred to herein as **CALTRANS**, and the City of Pittsburg, hereinafter referred to as **AGENCY**, will commence on May 15, 2022, or upon approval by **CALTRANS**, whichever occurs later. This RGA is of no effect unless approved by **CALTRANS**. **AGENCY** shall not receive payment for work performed prior to approval of this RGA and before receipt of Notice to Proceed from **CALTRANS**. This RGA shall expire on **December 31, 2024**.

Recitals

1. Under this RGA, **CALTRANS** intends to convey State restricted grant funds to **AGENCY**, pursuant to Budget Act Line Item 2660-101-0046T, who will implement the project pursuant to the attached Approved Grant Application and Amendment(s) to Grant Application, Attachment III under the terms, covenants, and conditions of this RGA.
2. **CALTRANS** and **AGENCY** intend that only funds that are authorized as restricted grants will be subject to this RGA, and that no funds that should be the subject of a Joint Powers Agreement, Interagency Agreement, or other non-grant agreement shall be subject to this RGA.

Now, Therefore, based upon the terms, covenants, and conditions of this RGA, the parties agree as follows:

Section I

AGENCY Agrees:

To timely and satisfactorily complete all Project work described in **Attachment III** ("Project Work") within the project budget and in accordance with the items of this RGA.

Section II

CALTRANS Agrees:

That when conducting an audit of the costs claimed by **AGENCY** under the provisions of this RGA, to conduct the audit in accordance with applicable laws and regulations.

Section III

It Is Mutually Agreed:

1. Under this RGA, **CALTRANS** will convey State grant restricted funds to **AGENCY**, pursuant to Budget Act Line Item 2660-101-0046T, and **AGENCY** will use the funds to only conduct the scope of work identified in this agreement and authorized by Streets and Highway Code section 91.41 The funds subject to this RGA must be identified as available to a public entity that is responsible for implementing the scope of work authorized under the Clean California Local Grant Program in **CALTRANS**' budget, and **AGENCY** represents and warrants that it is a public entity that is responsible for implementing the scope of work authorized under the Clean California Local Grant Program.

2. Under this restricted grant, funds may be only used for the purposes set forth in this RGA, **AGENCY** Resolution **(Attachment IV),** Approved Grant Application and Amendment(s) to Grant Application **(Attachment III)**, and the Grant Program Guidelines (**Attachment I**), and the funds may only be used for costs and expenses that are directly related to such purpose.
3. **AGENCY** shall perform all the duties and obligations described in the Living Green Pittsburg - Trail and Community Outreach Project, hereinafter "Project", subject to the terms and conditions of this RGA and Approved Grant Application and Amendment(s) to Grant Application **(Attachment III)**, which are attached hereto as **Attachment III**.
4. The resolution authorizing **AGENCY** to execute this RGA pertaining to the above-described Project is attached hereto as **Attachment IV**.
5. **AGENCY** is not requesting an advance payment pursuant to California Streets and Highways Code section 94.41(e).
6. All services performed by **AGENCY** pursuant to this RGA shall be subject to and performed in accordance with California Streets and Highways Code §91.41 including, but not limited to, Government Code Section 14460(a)(1), as well as all applicable Federal, State, and Local laws, regulations, and ordinances, all applicable **CALTRANS** policies and procedures, and all applicable **CALTRANS** published manuals, including, but not limited to, the Grant Program Guidelines (**Attachment I**).
   California Government Code Section 14460(a)(1) provides: "The department **[CALTRANS]**, and external entities that receive state and federal transportation funds from the department, are spending those funds efficiently, effectively, economically, and in compliance with applicable state and Federal requirements. Those external entities include, but are not limited to, private for profit and nonprofit organizations, local transportation agencies, and other local agencies that receive transportation funds either through a contract with the department or through an agreement or grant administered by the department."

7. Project funding is as follows:

Fund Title	Fund Source	Dollar Amount
Clean California Local Grant Funds	State General Fund (0001) Budget Item 2660-130-001 State Program Code 20.30.010.900 FY 2021/22 FY2022/23[1]	 $338,500.00 $1,015,500.00
Cash Local Match	Agency Provided	$812,250.00
Value of Third-Party In-Kind Contributions	Agency Provided	$0.00
Total of other fund sources (not in-kind contributions)	Agency Provided	$0.00
	Total Project Costs	**$2,166,250.00**

No in-kind contributions may be made unless the amount and type of the contribution is identified above.

For Caltrans Use Only

I hereby Certify upon my own personal knowledge that budgeted funds are available for encumbrance.			
Jie Chen		05/03/2022	$1,354000.00
Accounting Officer Printed Name	Accounting Officer Signature	Date	Amount Certified

8. This RGA is exempt from the legal review and approval by the Department of General Services, pursuant to Legal Opinions of the Attorney General: 58 Ops. Cal. Atty. Gen. 586 (1975), 63 Ops. Cal. Atty. Gen. 290 (1980), 74 Ops. Cal. Atty. Gen. 10 (1991), and 88 Ops. Cal. Atty. Gen. 56.
9. Notification of Parties
   a. **AGENCY's** Project Manager for Project is Joseph Camaddo, (925) 331-7960.
   b. **CALTRANS'** Contract Manager is Linda Phoen, (408) 595-4007. "Contract Manager" as used herein includes his/her designee.
   c. All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and received by the parties at their respective addresses:

      City of Pittsburg
      Attention: Joseph Camaddo, Assistant Engineer
      Phone Number: (925) 331-7960
      Email: jcamaddo@pittsburgca.gov
      Address: 65 Civic Ave, Pittsburg, CA 94565

California Department of Transportation
District 4, Maintenance
Attention: Linda Phoen, Acting Senior Transportation Engineer
Phone Number: (408) 595-4007
Email: linda.phoen@dot.ca.gov
Address: 111 Grand Ave, Oakland, CA 94612

10. Period of Performance

    a. Reimbursable work under this RGA shall begin no earlier than on May 15, 2022, following the written approval of **CALTRANS** and **AGENCY's** receipt of the Notice to Proceed letter of this RGA by **CALTRANS**. All reimbursable work shall terminate no later than June 30, 2024. Project closeout and final invoicing to **CALTRANS** must be submitted no later than November 1, 2024. Work incurred after June 30, 2024 will not be reimbursed. Payment shall be forfeit for any and all invoicing submitted to **CALTRANS** after November 1, 2024. Notwithstanding the foregoing, Caltrans will reimburse for actual close out costs incurred by **AGENCY** through November 1, 2024 (which, in total, shall not exceed 5% of the grant award).

    b. If requested by the **CALTRANS Contract Manager, AGENCY** will attend a kickoff meeting with **CALTRANS** to be scheduled within one (1) week from receipt of Notice to Proceed sent by **CALTRANS**.

11. Changes in Terms/Amendments

    This Agreement may only be amended or modified by mutual written agreement of the parties.

12. Cost Limitation

    a. The maximum total amount granted and reimbursable to **AGENCY** pursuant to this RGA by **CALTRANS** shall not exceed **$1,354,000.00**.

    b. It is agreed and understood that the CCLGP funds are limited to the amount granted. **CALTRANS** will only reimburse the cost of services actually incurred in accordance with the provisions of this RGA and as authorized by the **CALTRANS** Contract Manager at or below that fund limitation established herein.

13. Termination

    a. **CALTRANS** reserves the right to terminate this RGA upon written notice to **AGENCY** at least 30 days in advance of the effective date of such termination in the event **CALTRANS** determines (at its sole discretion) that **AGENCY** failed to proceed with PROJECT Work in accordance with the terms of this RGA. In the event of termination for convenience, **CALTRANS** will reimburse **AGENCY** for all allowable, authorized, and non-cancelled costs up to the date of termination. **AGENCY** shall return any unused advance amounts which cannot be supported by eligible expenditure documentation.

    b. This RGA may be terminated by either party for any reason by giving written notice to the other party at least 30 days in advance of the effective date of such termination. In the event of termination for convenience, **CALTRANS** will reimburse **AGENCY** for all costs that are expressly allowable, pre-authorized in writing, and non-cancellable, up to the date of termination.

c. **AGENCY** has 60 days after the Termination Date to submit accurate invoices to **CALTRANS** to make final allowable payments for Project costs in accordance with the terms of this RGA. Failure to submit invoices within this period of time shall result in a waiver by **AGENCY** of its right to reimbursement of expended costs. Costs that are reimbursed and later determined to be ineligible for reimbursement shall be returned by **AGENCY** to **CALTRANS**.

14. Budget Contingency Clause

a. It is mutually agreed that if the US Congress or the State Legislature fail to appropriate or allocate funds during the current year and/or any subsequent years covered under this RGA do not appropriate sufficient funds for the program, this RGA shall be of no further force and effect. In this event, **CALTRANS** shall have no liability to pay any funds whatsoever to **AGENCY** or to furnish any other considerations under this RGA and **AGENCY** shall not be obligated to perform any provisions of this RGA.

b. The certification of FY 2022/23 funds will be contingent upon the passage of the FY 2022/23 Budget. Payment for any work performed that is funded by FY 2022/23 will be delayed if the FY 2022/23 Budget is not signed by June 30, 2022. Pursuant to Government Code (GC), Section 926.10, no late payment penalty shall accrue during any time period for which no Budget Act in effect.

c. If funding for any fiscal year is reduced or deleted by US Congress or State Legislature for purposes of this program, **CALTRANS** shall have the option to either terminate this RGA with no liability occurring to **CALTRANS**, or offer an RGA Amendment to **AGENCY** to reflect reduced amount.

15. Payment and Invoicing

a. **AGENCY**, its contractors, subcontractors and sub-recipients shall establish and maintain an accounting system and records that properly accumulate and segregate incurred Project costs and matching funds by line. The accounting system of **AGENCY**, its contractors, all subcontractors, and sub-recipients shall conform to Generally Accepted Accounting Principles (GAAP) and any standards specified by the source of funds, to enable the determination of incurred costs at interim points of completion, and to provide support for reimbursement payment vouchers or invoices.

b. The method of payment for this RGA will be based on the actual allowable costs that are incurred in accordance with the provisions of this RGA and in the performance of the Approved Grant Application and Amendment(s) to Grant Application **(Attachment III)**. **CALTRANS** will reimburse **AGENCY** for expended actual allowable direct costs, and including, but not limited to, labor costs, travel, and contracted consultant services costs incurred by **AGENCY** in performance of the Project Work. Indirect costs are reimbursable only if the **AGENCY** has identified the estimated indirect cost rate in **Attachment II** and an approved Indirect Cost Allocation Plan or an Indirect Cost Rate Proposal as set forth in **Section III–Cost Principles, Item 16d**. The total cost shall not exceed the cost reimbursement limitation set forth in **Section III–Cost Limitations, Item 11a**. Actual costs shall not exceed the estimated wage rates, labor costs, travel, and other estimated costs and fees set forth in **Attachment III** without an amendment to this RGA, as agreed between **CALTRANS** and **AGENCY**.

c. Reimbursement of **AGENCY** expenditures will be authorized only for those allowable costs actually incurred by **AGENCY** in accordance with the provisions of this RGA and in the performance of Project Work. **AGENCY** must not only have incurred the expenditures on or after the start date and the issuance of the Notice to Proceed letter for this RGA and before the Expiration Date but must have also paid for those costs to claim any reimbursement.

d. The **AGENCY** indirect cost rate must be approved in writing by the California Department of Transportation Independent Office of Audits and Investigations or federal cognizant agency before any reimbursement payment is made by **CALTRANS** to **AGENCY** for such cost.

e. Travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Human Resources for similar employees (i.e. non-represented employees) unless written verification is supplied that government hotel rates were not then commercially available to **AGENCY**, its subrecipients, contractors, and/or subcontractors, at the time and location required as specified in the California Department of Transportation's Travel Guide Exception Process at the following link: https://travelpocketguide.dot.ca.gov/.

   Also see website for summary of travel reimbursement rules.

f. **AGENCY** shall submit invoices to **CALTRANS** at least quarterly, but no more frequently than monthly, in arrears upon completion of project tasks, milestone and/or deliverables in accordance with the Project Timeline in **Attachment III** to the satisfaction of **CALTRANS** Contract Manager. Invoices shall reference this RGA Number and shall be signed and submitted to **CALTRANS** Contract Manager , as stated in **Section III–Notification of Parties, Item 8c**.

g. Invoices shall include the following information:

   1) Names of the **AGENCY** personnel performing work

   2) Dates and times of Project Work

   3) Locations of Project Work

   4) Itemized costs as set forth in **Attachment III**, including identification of each employee, contractor or subcontractor staff who provided services during the period of the invoice, the number of hours and hourly rates for each employee, contractor, sub-recipient or subcontractor staff member, authorized travel expenses with receipts, receipts for authorized materials or supplies, and contractor, subrecipient and subcontractor invoices.

   5) **AGENCY** shall submit written progress reports with each set of invoices to allow **CALTRANS** Contract Manager to determine if **AGENCY** is performing to expectations, is on schedule, is within funding cost limitations, to communicate interim findings, and to afford occasions for airing difficulties respecting special problems encountered so that remedies can be developed.

h. Incomplete or inaccurate invoices shall be returned to the **AGENCY** unapproved for correction. Failure to submit invoices on a timely basis may be grounds for termination of this RGA for material breach per Section III–Termination, Item 12.

i. **CALTRANS** will reimburse **AGENCY** for all allowable Project costs at least quarterly, but no more frequently than monthly, in arrears as promptly as **CALTRANS** fiscal procedures permit upon receipt of an itemized signed invoice.

j. The RGA Expiration Date refers to the last date for **AGENCY** to incur valid Project costs or credits and is the date this RGA expires. **AGENCY** has until November 1, 2024 to make final allowable payments to Project contractors or vendors, and submit the Project's Final Report, as defined in Attachment I and a final invoice to **CALTRANS** for reimbursement for allowable Project costs. Any unexpended Project funds not invoiced by the 60th day will be reverted and will no longer be accessible to reimburse late Project invoices contractor.

k. The final invoice will be paid upon submission by **AGENCY** to **CALTRANS** and acceptance by **CALTRANS** of the Final Delivery Report. Complete final delivery reports and invoices must be submitted to **CALTRANS** by November 1, 2024.

16. Local Match Funds

a. **AGENCY** shall contribute not less than a proportional cash amount toward the services described herein on a monthly or quarterly basis. Notwithstanding the foregoing, to the extent that in-kind contributions are permitted and identified under this RGA, **Section III–Project Funding, Item 6,** the contributions may be counted as cash only when they are actually received by the **AGENCY** and confirmed by **CALTRANS**. Except where expressly allowed in writing herein, reimbursement of credits for local matching funds and in-kind contributions will be made or allowed only for work performed on and after the initial date of this Agreement and on or before June 30, 2024.

b. **AGENCY** agrees to contribute the statutorily required local contribution of matching funds if any is specified within this RGA or in any Attachment hereto, toward the actual cost of the services described in **Attachment III**. **AGENCY** shall contribute not less than its required match amount toward the services described herein. Local cash and in-kind match requirements can be found in the Grant Program Guidelines (**Attachment I**); but AGENCY must fully satisfy the local cash and in-kind match amount and percentage identified in **Section III, Paragraph 7** with the final invoice.

17. Quarterly Progress Reporting

a. AGENCY shall submit written quarterly progress reports to the **CALTRANS** Contract Manager to determine if **AGENCY** is performing to expectations, is on schedule, is within funding cost limitations, to communicate interim findings, and to afford occasions for airing difficulties respecting special problems encountered so that remedies can be developed.

18. Cost Principles

a. **AGENCY** agrees to comply with Title 2, Code of Federal Regulations (CFR), Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

b. **AGENCY** agrees, and will assure that its contractors, sub-recipients, in-kind contributors, and subcontractors will be obligated to agree, that (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual Project cost items and (b) and (b) all parties shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Every sub-recipient receiving Project funds as a sub-recipient, contractor, or subcontractor under this RGA shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards to the extent applicable.

c. Any Project costs for which **AGENCY** has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, and/or Part 48, Chapter 1, Part 31, are subject to repayment by **AGENCY** to **CALTRANS**. Should **AGENCY** fail to reimburse moneys due CALTRANS within 30 days of discovery or demand, or within such other period as may be agreed in writing between the parties hereto, **CALTRANS** is authorized to intercept and withhold future payments due **AGENCY** from **CALTRANS** or any third-party source, including, but not limited to, the State Treasurer, the State Controller or any other fund source.

d. Prior to **AGENCY** seeking reimbursement of indirect costs, **AGENCY** must have identified estimated indirect cost rate in **Attachment II,** prepare and submit annually to **CALTRANS** for review and approval an indirect cost rate proposal and a central service cost allocation plan (if any) in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and Chapter 5 of the Local Assistance Procedures Manual which may be accessed at: https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/ch05.pdf

e. **AGENCY** agrees and shall require that all its agreements with consultants and subrecipients contain provisions requiring adherence to this section in its entirety **except for section c**, **above**.

19. Americans with Disabilities Act

    By signing this Agreement, **LOCAL AGENCY** assures **CALTRANS** that in the course of performing Project Work, it will fully comply with the applicable provisions of the Americans with Disabilities Act (ADA) of 1990, as amended, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 USC Section 12101 et seq.).

20. Iran Contracting Act

    Proposed Contractor must complete and submit to **CALTRANS** the Iran Contracting Act Certification certifying that it is not on the most current DGS list of Entities Prohibited from Contracting with Public Entities in California per the Iran Contracting Act, 2010 (https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/List-of-Ineligible-Businesses), before the Agreement has been executed, unless Contractor is exempted from the certification requirement by Public Contract Code Section 2205(c) or (d). If claiming an exemption, the proposed Contractor shall provide written evidence that supports an exemption under Public Contract Code Section 2203(c) or (d) before execution of the Agreement.

21. Indemnification

    a. Neither **CALTRANS** nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by **AGENCY**, its officers, employees, agents, its contractors, its subrecipients, or its subcontractors under or in connection with any work, authority, or jurisdiction conferred upon **AGENCY** under this RGA. It is understood and agreed that **AGENCY** shall fully defend, indemnify, and save harmless **CALTRANS** and all of **CALTRANS**' officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, including, but not limited to, tortuous, contractual, likeness statutes under California Civil Code §§ 3344 and 3344.1, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by **AGENCY**, its officers, employees, agents, contractors, subrecipients, or subcontractors under this RGA.

b. **AGENCY** agrees to fully defend, indemnify, and save harmless **CALTRANS** and all of its officers and employees from any and all claims, lawsuits, or legal actions, including reasonable attorneys' fees and legal costs, relating to intellectual property claims arising from or related to the Project and/or any work procured under this RGA, including but not limited to claims based on (1) U.S. federal or state trademark infringement laws, (2) patent infringement laws (3) 17 U.S.C. §§ 101-810 (the Copyright Act of 1976, as modified), (4) 17 U.S.C. § 106A(a) (the Visual Artists Rights Act of 1990, "VARA"), (5) 17 U.S.C. § 113, (6) California Civil Code § 987 (the California Art Preservation Act), California Civil Code §989, or (7) any other rights arising under U.S. federal or state laws or under the laws of any other country that conveys rights and protections of the same nature as those conveyed under 17 U.S.C. §106A(a) and California Civil Code §987, including intellectual property claims arising from or related to breach of contract, inverse condemnation, conversion, and/or taking of property.

22. Nondiscrimination Clause (2 CCR 11105 Clause b)

a. During the performance of this RGA, the **AGENCY**, its contractors, its subrecipients, and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. **AGENCY** shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

b. **AGENCY** shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code Sections 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code Sections 11135-11139.5), and the regulations or standards adopted by **CALTRANS** to implement such article.

c. **AGENCY** shall permit access by representatives of the Department of Fair Employment and Housing and **CALTRANS** upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or **CALTRANS** shall require to ascertain compliance with this clause.

d. **AGENCY** and its contractors, its sub-recipients, and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

e. **AGENCY** shall include the nondiscrimination and compliance provisions of this clause in all agreements with its sub-recipients, contractors, and subcontractors, and shall include a requirement in all agreements with all of same that each of them in turn include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts they enter into to perform work under this RGA.

23. Retention of Records/Audits

a. **AGENCY**, its contractors, subcontractors, and sub-recipients, agree to comply with Title 2, Code of Federal Regulations (CFR), Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

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

c. For the purpose of determining compliance with applicable State and **AGENCY** law in connection with the performance of **AGENCY's** contracts with third parties pursuant to Government Code Section 8546.7**, AGENCY**, **AGENCY's** sub-recipients, contractors, subcontractors, and **CALTRANS**, shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times during the entire Project period and for three (3) years from the date of final payment to **AGENCY** under this RGA. **CALTRANS**, the California State Auditor, or any duly authorized representative of **CALTRANS** or the United States Department of Transportation, shall each have access to any books, records, and documents that are pertinent to a Project for audits, examinations, excerpts, and transactions, and **AGENCY** shall furnish copies thereof if requested.

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

e. Additionally, all grants may be subject to a pre-award audit prior to execution of this RGA to ensure **AGENCY** has an adequate financial management system in place to accumulate and segregate reasonable, allowable and allocable costs.

f. Any contract with a contractor, subcontractor, or sub-recipient entered into as a result of this RGA shall contain all the provisions of this article.

24. Adjudication of Facts in Disputes

a. Any dispute concerning a question of fact arising under this RGA that is not disposed of by agreement shall be decided by the **CALTRANS** Contract Officer, who may consider any written or verbal evidence submitted by **AGENCY**. The **CALTRANS** Contract Officer shall issue a written decision within 30 days of receipt of the dispute. If **AGENCY** rejects the decision of the **CALTRANS** Contract Officer, **AGENCY** can pursue any and all remedies authorized by law. Neither party waives any rights to pursue remedies authorized by law.

b. Neither the pendency of a dispute nor its consideration by **CALTRANS** Contract Officer will excuse **AGENCY** from full and timely performance in accordance with the terms of this RGA.

25. INTENTIONALLY DELETED

26. Third-Party Contracts

a. **AGENCY** shall perform the work contemplated with resources available within its own organization and no portion of the work shall be contracted to a third party without prior written authorization by the **CALTRANS** Contract Manager unless expressly included (subrecipient identified) in **Attachment III** as Project Work.

b. All State-government-funded procurements must be conducted using a fair and competitive procurement process. **AGENCY** may use its own procurement procedures as long as the procedures comply with the local **AGENCY's** laws, rules, and ordinances governing procurement and all applicable provisions of State law, including, without limitation, the requirement that the **AGENCY** endeavor to obtain at least three (3) competitive bids for solicitation of goods, services, and consulting services (see Part 2, Chapter 2, Articles 3 and 4 of the Public Contract Code); a qualifications-based solicitation process, for which statements of qualifications are obtained from at least three (3) qualified firms for architecture and engineering services (see Title 1, Division 5, Chapter 10 of the Government Code); and, the applicable provisions of the State Contracting Manual (SCM), Chapter 5, which are not inconsistent with this **Item 23, Third Party Contracts**. The SCM can be found and the following link: https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/State-Contracting.

c. Any contract entered into as a result of this RGA shall contain all the provisions stipulated in this RGA to be applicable to **AGENCY's** sub-recipients, contractors, and subcontractors. Copies of all agreements with sub-recipients, contractors, and subcontractors, must be submitted to the **CALTRANS** Contract Manager.

d. **CALTRANS** does not have a contractual relationship with the **AGENCY's** subrecipients, contractors, or subcontractors, and the **AGENCY** shall be fully responsible for all work performed by its subrecipients, contractors, or subcontractors.

e. Prior authorization in writing by the **CALTRANS** Contract Manager shall be required before **AGENCY** enters into any non-budgeted sub-agreement. **AGENCY** shall provide an evaluation of the necessity or desirability of incurring such costs. **AGENCY** shall retain all receipts for such purchases or services and shall submit them with invoices per **Section III–Payment and Invoicing**, **Item 14(e)(4)**, **above**.

f. Any contract entered into by **AGENCY** as a result of this RGA shall mandate that travel and per diem reimbursements and third-party contract reimbursements to subrecipients, contractors, and subcontractors, will be allowable as Project costs only after those costs are incurred and paid for by the subrecipients, contractors, and subcontractors. Travel expenses and per diem rates for subcontractors shall be reimbursed pursuant to **Section III–Payment and Invoicing**, **Item 14c**, **above**.

27. Drug-Free Workplace Certification

By signing this RGA, **AGENCY** hereby certifies under penalty of perjury under the laws of California that **AGENCY** will comply with the requirements of the Drug-Free Workplace Act of 1990 (Gov. Code Sections 8350 et seq.) and will provide a Drug-Free workplace by doing all of the following:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).

b. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:

1) The dangers of drug abuse in the workplace.

2) The person's or organization's policy of maintaining a Drug-Free workplace.

3) Any available counseling, rehabilitation, and employee assistance programs.

4) Penalties that may be imposed upon employees for drug abuse violations.

c. Provide, as required by Government Code Section 8355(a)(3), that every employee who works on the proposed contract or grant:

1) Will receive a copy of the company's Drug-Free policy statement.

2) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.

d. Failure to comply with these requirements may result in suspension of payments under this RGA or termination of this RGA or both, and **AGENCY** may be ineligible for the award of any future state contracts if **CALTRANS** determines that any of the following has occurred: (1) **AGENCY** has made a false certification or, (2) **AGENCY** violates the certification by failing to carry out the requirements as noted above.

28. Relationship of Parties

It is expressly understood that this agreement is executed by and between two (2) independent governmental entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of an independent party.

29. State-Owned Data

a. **AGENCY** agrees to comply with the following requirements to ensure the preservation, security, and integrity of State-owned data on portable computing devices and portable electronic storage media:

1) Encrypt all State-owned data stored on portable computing devices and portable electronic storage media using government-certified Advanced Encryption Standard (AES) cipher algorithm with a 256-bit or 128-bit encryption key to protect **CALTRANS** data stored on every sector of a hard drive, including temp files, cached data, hibernation files, and even unused disk space.
2) Data encryption shall use cryptographic technology that has been tested and approved against exacting standards, such as FIPS 140-2 Security Requirements for Cryptographic Modules.
3) Encrypt, as described above, all State-owned data transmitted from one computing device or storage medium to another.
4) Maintain confidentiality of all State-owned data by limiting data sharing to those individuals contracted to provide services on behalf of the State, and limit use of State information assets for State purposes only.
5) Install and maintain current anti-virus software, security patches, and upgrades on all computing devices used during the course of the Agreement.
6) Notify the **CALTRANS** Contract Manager immediately of any actual or attempted violations of security of State-owned data, including lost or stolen computing devices, files, or portable electronic storage media containing State-owned data.
7) Advise the owner of the State-owned data, the **AGENCY** Information Security Officer, and the **AGENCY** Chief Information Officer of vulnerabilities that may present a threat to the security of State-owned data and of specific means of protecting that State-owned data.

b. **AGENCY** agrees to use the State-owned data only for State purposes under this Agreement.
c. **AGENCY** agrees to not transfer State-owned data to any computing system, mobile device, or desktop computer without first establishing the specifications for information integrity and security as established for the original data file(s) (State Administrative Manual (SAM) Section 5335.1).

30. **CALTRANS'** Use of "Before" and "After" Project Photographs

a. **AGENCY** acknowledges it provided a "Before" photograph of the Project with the **AGENCY**'s application for the Clean California Local Grant Program. **AGENCY** acknowledges and agrees it must provide an "After" photograph of the Project as part of the close out reporting process.
b. **AGENCY** warrants it is the copyright owner of the "Before" and "After" Project photographs.
c. Neither the "Before" nor "After" Project photographs shall include the faces of any individuals.
d. **AGENCY** grants to **CALTRANS** an irrevocable, perpetual, royalty-free, sublicensable, unlimited, worldwide license to prepare derivative works, make, publish, display, and distribute two-dimensional reproductions and/or copies, digitally and in print, of the "Before" and "After" Project photographs, or derivatives thereof, for non-commercial purposes or any State government purposes. This includes, but is not limited to, reproductions used in brochures, media publicity, public outreach campaigns (including television and social media campaigns), education, and exhibition catalogues or other similar publication.
e. When applicable, **AGENCY** shall obtain and provide to **CALTRANS** any and all documentation **CALTRANS** reasonably determines is necessary or desirable to perfect the license described in this RGA to **CALTRANS**. This documentation shall be provided to **CALTRANS** within fifteen (15) days of written notice that this documentation is required.

31. Limited Grant of Rights to **CALTRANS** for Use of Educational Programming ("educational programming") Created or Produced for Project and Visual Art Located Outside of State Right-of-Way ("**Artwork**") Created or Produced for Project

    a. Educational programming:

        i. **AGENCY** shall obtain from any and all copyright owner(s) of educational programming a sublicensable, irrevocable, perpetual, royalty-free, unlimited, worldwide license to prepare derivative works, make, publish, display, and distribute two-dimensional reproductions and/or copies, digitally and in print, of the educational programming created or produced for Project under this RGA, or derivatives thereof, for non-commercial purposes or any State government purposes. This includes, but is not limited to, reproductions used in brochures, media publicity, public outreach campaigns (including television and social media campaigns), education, exhibition catalogues or other similar publication. **AGENCY** shall obtain any and all other intellectual property rights necessary to make this grant to **CALTRANS** as described in this RGA.

        ii. **AGENCY** grants to **CALTRANS** an irrevocable, perpetual, royalty-free, sublicensable, unlimited, worldwide license to prepare derivative works, make, publish, display, and distribute two-dimensional reproductions and/or copies, digitally and in print, of the educational programming created or produced for Project under this RGA, or derivatives thereof, for non-commercial purposes or any State government purposes. This includes, but is not limited to, reproductions used in brochures, media publicity, public outreach campaigns (including television and social media campaigns), education, and exhibition catalogues or other similar publication.

        iii. When applicable, **AGENCY** shall obtain and provide to **CALTRANS** any and all documentation **CALTRANS** reasonably determines is necessary or desirable to perfect the license or sublicense described in this RGA to **CALTRANS**. This documentation shall be provided to **CALTRANS** within fifteen (15) days of written notice that this documentation is required.

        iv. To the extent any logos, including trademarks or service marks, belonging to third parties and/or the **AGENCY** are used on educational programming created or produced for Project under this RGA, **AGENCY** agrees to obtain and grant all necessary rights for **CALTRANS** to use and allow agents of **CALTRANS** to use the logos in connection with use of the educational programming for non-commercial purposes or State government purposes. This includes but is not limited to reproductions used in brochures, media publicity, public outreach campaigns (including television and social media campaigns), education and exhibition catalogues or other similar publication. This documentation shall be provided to **CALTRANS** within fifteen (15) days of written notice that this documentation is required.

    b. **Artwork**:

        i. **AGENCY** shall obtain from the artist(s), or any other copyright owner(s) of **Artwork**, a sublicensable, irrevocable, perpetual, royalty-free, unlimited, worldwide license to prepare derivative works, make, publish, display, and distribute two-dimensional reproductions and/or copies, digitally and in print, of **Artwork** created or produced for Project under this RGA, or derivatives thereof, for non-commercial purposes or any State government purposes. This includes, but is not limited to, reproductions used in brochures, media publicity, public outreach campaigns (including television and social media campaigns), education, and exhibition catalogues or other similar publication. **AGENCY** shall obtain any and all other intellectual property rights necessary to make this grant to **CALTRANS** as described in this

RGA.

ii. **AGENCY** grants to **CALTRANS** an irrevocable, perpetual, royalty-free, sublicensable, unlimited, worldwide license to prepare derivative works, make, publish, display, and distribute two-dimensional reproductions and/or copies, digitally and in print, of **Artwork** created or produced for Project under this RGA, or derivatives thereof, for non-commercial purposes or any State government purposes. This includes, but is not limited to, reproductions used in brochures, media publicity, public outreach campaigns (including television and social media campaigns), education, and exhibition catalogues or other similar publication.

iii. **AGENCY** shall obtain and provide to **CALTRANS** any and all documentation **CALTRANS** reasonably determines is necessary or desirable to perfect the license or sublicense described in this RGA to **CALTRANS**. This documentation shall be provided to **CALTRANS** within fifteen (15) days of written notice that this documentation is required.

32. Government Purpose Rights for Inventions

a. Inventions are any idea, methodologies, design, concept, technique, invention, discovery, improvement or development regardless of patentability made solely by **AGENCY** or jointly with the **AGENCY's** contractor, subcontractor and/or subrecipient during the term of this RGA and in performance of any work under this RGA, provided that either the conception or reduction to practice thereof occurs during the term of this RGA and in performance of work issued under this RGA.

b. **CALTRANS** will have Government Purpose Rights to any inventions created as a result of the Project. "Government Purpose Rights" are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights, and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose any said invention. "Government Purpose Rights" also include the right to release or disclose said invention(s) outside **CALTRANS** for any State government purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the invention(s) for any State government purpose. "Government Purpose Rights" do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the invention(s) for any commercial purpose.

33. Additional Intellectual Property Provisions

a. To the extent any intellectual property is created or produced for Project under this RGA, and not covered in other provisions of this RGA, **AGENCY** agrees to take reasonable steps to ensure that **CALTRANS** has the rights necessary to allow for use of the intellectual property in a fashion substantially similar to other rights for non-commercial uses and State government purposes described in this RGA.
b. If additional uses are reasonably determined to be needed by **CALTRANS** for public outreach purposes, **AGENCY** will obtain rights and grant **CALTRANS** and its agents said additional rights for use of the "Before" and "After" Project photos, **Artwork** created or produced for Project under this RGA, and educational programming created or produced for Project under this RGA. The grant will be an irrevocable, non-exclusive, perpetual, royalty-free, sublicensable, unlimited, worldwide license.
c. When requested to so do by **AGENCY**, all reproductions and/or copies by **CALTRANS** of "Before" or "After" Project photographs, educational programming, and **Artwork** shall contain a credit to the Artist/ Copyright owner(s) and a copyright notice in substantially the following form: © [Artist/Copyright owner's name, date of publication]. **AGENCY** bears sole responsibility to

promptly notify **CALTRANS,** in writing**,** about instances where such accreditation is requested and provide the Artist/ Copyright owner's name and date of publication. **CALTRANS** will make reasonable efforts to affix the copyright notice in a timely manner.

d. Required disclaimer language for educational programming and **Artwork** created or produced for Project under this RGA.
   i. Educational programming: **AGENCY** must place a disclaimer statement in a conspicuous manner on the educational programming created or produced for Project under this RGA a disclaimer that states the content of the educational programming does not reflect the official views or policies of **CALTRANS**. The educational programming does not constitute a standard, specification, or regulation.
   ii. **Artwork**: **AGENCY** must place a disclaimer statement in a conspicuous manner on or in close proximately to the **Artwork** created or produced for Project under this RGA a disclaimer statement that the contents of the artwork do not reflect the official views or policies of **CALTRANS**.

e. Avoidance of Infringement: In performing work under this RGA, **AGENCY** and its employees agree to avoid designing or developing any items that infringe one or more patents or other intellectual property rights of any third party. If **AGENCY** or its employees becomes aware of any such possible infringement in the course of performing any work under this RGA, **AGENCY** or its employees shall immediately notify **CALTRANS** in writing.

f. **Contractors, Subcontractors, and Subrecipients:** Through contract with its sub-recipients, contractors, and subcontractors, **AGENCY** shall affirmatively bind by contract all of its contractors, subcontractors, subrecipients, and service vendors (hereinafter "**AGENCY's Contractor/Subcontractor/Subrecipient**") providing services under this RGA to conform to the provisions of paragraphs 31-33 of this RGA. In performing services under this RGA, **AGENCY's** Contractor/Subcontractor/Subrecipient shall agree to avoid designing or developing any items that infringe one (1) or more patents or other intellectual property rights of any third party. If **AGENCY's** Contractor/Subcontractor/Subrecipient becomes aware of any such possible infringement in the course of performing any work under this RGA, **AGENCY's** Contractor/Subcontractor/Subrecipient shall immediately notify the **AGENCY** in writing, and **AGENCY** will then immediately notify **CALTRANS** in writing.

34. Visual Art Located on California State Right-of-Way

AGENCY agrees if Project involves visual art located on California State right-of-way, Project must be submitted and adhere to **CALTRANS**' most current Transportation Art Proposal process, policies, guidelines, and requirements. Information regarding **CALTRANS**' Transportation Art program can be found at https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-j-transportation-art. **AGENCY** bears sole responsibility for ensuring that any Project will be timely submitted through **CALTRANS**' Transportation Art Proposal process, approved, and installed prior to any deadlines as required by this RGA.

a. **AGENCY** acknowledges that funds provided by **CALTRANS** under this RGA shall not be used for maintenance outside of the project time limits as provided in this RGA.

b. **AGENCY** acknowledges that the **CALTRANS**' Transportation Art Proposal process requires, among other things, **CALTRANS** ownership of any tangible visual final artwork, an unlimited, irrevocable copyright assignment to **CALTRANS** of the final artwork, and waiver of moral rights under California Civil Code § 987 (the California Art Preservation Act) and 17 U.S.C. § 106A(a) (the Visual Artists Rights Act of 1990, "VARA") of the final artwork.

c. **AGENCY** acknowledges that any submittal to the **CALTRANS**' Transportation Art Proposal process includes restrictions on the type of work that can be located on California State right-of-way.

35. Assumption of Risk and Indemnification Regarding Exposure to Environmental Health Hazards

In addition to, and not a limitation of, Contractor's indemnification obligations contained elsewhere in this Agreement, Contractor hereby assumes all risks of the consequences of exposure of Contractor's employees, agents, Subcontractors, Subcontractors' employees, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, to any and all environmental health hazards, local and otherwise, in connection with the performance of this Agreement. Such hazards include, but are not limited to, bodily injury and/or death resulting in whole or in part from exposure to infectious agents and/or pathogens of any type, kind or origin. Contractor also agrees to take all appropriate safety precautions to prevent any such exposure to Contractor's employees, agents, Subcontractors, Subcontractors' employees, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement. Contractor also agrees to indemnify and hold harmless **CALTRANS**, the State of California, and each and all of their officers, agents and employees, from any and all claims and/or losses accruing or resulting from such exposure. Except as provided by law, Contractor also agrees that the provisions of this paragraph shall apply regardless of the existence or degree of negligence or fault on the part of **CALTRANS**, the State of California, and/or any of their officers, agents and/or employees.

36. Mandatory Organic Waste Recycling

It is understood and agreed that pursuant to Public Resources Code Sections 42649.8 et seq., if Contractor generates two (2) cubic yards or more of organic waste or commercial solid waste per week, Contractor shall arrange for organic waste or commercial waste recycling services that separate/source organic waste for organic waste recycling. Contractor shall provide proof of compliance, i.e. organic waste recycling services or commercial waste recycling services that separate/source organic waste recycling, upon request from **CALTRANS** Contract Manager

37. Project Close Out/Closeout Report

a. **AGENCY** will provide a final close out report to the **CALTRANS** Contract Manager no later than November 1, 2024.

CALTRANS reserves the right to inspect the project location prior to approving the final invoice and closeout report.

b. **CALTRANS** reserves the right to withhold final payment to **AGENCY** pending receipt and approval of the final closeout report by the **CALTRANS** Contract Manager.

c. Payments shall be forfeit if invoices are submitted after November 1, 2024.

38. ADA Compliance

    All entities that provide electronic or information technology or related services that will be posted online by **CALTRANS** must be in compliance with Government Code Sections 7405 and 11135 and the Web Content Accessibility Guidelines (WCAG) 2.0 or subsequent version, published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success. All entities will respond to and resolve any complaints/deficiencies regarding accessibility brought to their attention.

39. Prevailing Wages and Labor Code Compliance

    AGENCY shall comply with any and all applicable labor and prevailing wage requirements in Labor Code Sections 1720 through 1815 and implementing regulations for any public works or maintenance contracts and subcontracts executed for the **AGENCY**'s work on or for the Project.

40. In the event of any inconsistency between the provisions which constitute this RGA, the following order of precedence shall apply:

    I. This Restricted Grant Agreement (as amended);
    II. The **CALTRANS** Local Grant Program Guidelines;
    III. Approved Indirect Cost Rate (if applicable);
    IV. Approved Grant Application (as amended); and
    V. **AGENCY** Resolution.

41. Survival

    AGENCY's representations, the indemnification provisions in paragraph 21, intellectual property provisions in paragraphs 30, 31, 32, and 33, and all other provisions which by their inherent character establish ongoing obligations shall remain in full force and effect, regardless of any expiration and/or termination of this RGA.

42. Sanctions

    No agreements under this RGA shall be made with individuals and/or entities that are determined to be a target of sanctions by the State of California while such sanctions are in effect.

Section IV

Attachments:

The following attachments are incorporated into, and are made a part of this RGA by this reference and attached hereto.

I. Grant Program Guidelines
II. Approved Indirect Cost Rate (if applicable)
III. Approved Grant Application and Amendment(s) to Grant Application (if applicable)
IV. **AGENCY** Resolution

In Witness Whereof, the parties hereto have executed this RGA on the day and year first herein above written:

STATE OF CALIFORNIA **DEPARTMENT OF TRANSPORTATION**	**CITY OF PITTSBURG**
By:	By:
Printed Name: Gretchen Chavez	Printed Name: Garrett Evans
Title: Office Chief Clean California Local Grant Program Division of Local Assistance	Title: City Manager
Date:	Date:
	By:
	Printed Name:
	Title:
	Date:

Clean California Local Grant Program (State)
Amendment to Grant Application
Amendment Number_1_("Amendment")

This Amendment will commence on May 15, 2022, or upon approval by **CALTRANS**, whichever occurs later, and it amends the Grant Application submitted by **CITY OF PITTSBURG**, hereinafter referred to as **AGENCY**, as set forth below:

Application

Section	Original Text	Amended Text
1.3 of the main app form, row "Total Cash Local Match"	$812,000. Discrepancy in local match calculation.	$812,250

In Witness Whereof, the parties hereto have executed this Amendment Number _1_ to the Grant Application on the day and year first herein above written:

STATE OF CALIFORNIA **DEPARTMENT OF TRANSPORTATION**	**CITY OF PITTSBURG**
By:	By:
Printed Name: Gretchen Chavez	Printed Name:
Title: Office Chief Clean California Local Grant Program Division of Local Assistance	Title:
Date:	Date:
	By:
	Printed Name:
	Title:
	Date:

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Approving the Re-allocation of Funds from Project 5209 to Project 5003 and Approving a Consultant Agreement for the Design of Project 5003 West Santa Fe Avenue Sewer and Water Rehabilitation

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

Project 5003 West Santa Fe Avenue Sewer and Water Rehabilitation (the "Project") is for the removal, abandonment, and replacement of sewer and water mains in three different locations in the City. This Resolution will authorize the re-allocation of funds from Project 5209 Sewer Replacement/Rehabilitation Program to Project 5003 and approve a Consultant Agreement for project design with Hydroscience Engineers, Inc. in the amount of $703,845.

FISCAL IMPACT

The proposed project design fee is $703,845. Funding will be provided from Project 5003 which has an approved budget of $3,400,000 previously allocated from the Water Operations Fund (Fund 501).

Project 5209 has a current approved budget of $3,200,000 which includes $2,600,000 previously allocated from the Sewer Operations Fund (Fund 521) and $600,000 previously allocated from the Sewer Facilities Reserve Fund (Fund 522). This Resolution will re-allocate the $3,200,000 currently approved for Project 5209 to Project 5003 establishing a new total project budget of $6,600,000.

A Budget Summary is attached.

RECOMMENDATION

The City Council adopt the attached Resolution approving the re-allocation of funds from Project 5209 to Project 5003, approve a Consultant Agreement for project design with Hydroscience Engineers, Inc. in the amount of $703,845, and authorize the City Manager to execute the agreement.

BACKGROUND

The Project includes rehabilitation of water and sanitary sewer facilities, spot repairs, and manhole installation/rehabilitation, where chronic issues require a significant amount of maintenance repairs.

On December 16, 2019, the City Council adopted Resolution 19-13729 approving the Five-Year Capital Improvement Program for Fiscal Years 2018/19 through 2023/24 allocating $400,000 from the Water Operations Fund (Fund 501) to Project 5003.

On June 21, 2021, the City Council adopted Resolution 21-13944 approving the Five-Year Capital Improvement Program for Fiscal Years 2020/21 through 2025/26 allocating $1,000,000 from Water Operations Fund (Fund 501) to Project 5003, and $1,600,000 from the Sewer Operations Fund (Fund 521) and $600,000 from the Sewer Facility Reserve Fund (Fund 522) to Project 5209.

On July 18, 2022, the City Council adopted Resolution 22-14125 approving the Five-Year Capital Improvement Program for FY 2022/23 through 2026/27 allocating $2,000,000 from Water Operations Fund (Fund 501) to Project 5003 and $1,000,000 from the Sewer Operations Fund (Fund 521) to Project 5209.

On July 6, 2022, staff received and evaluated five Statement of Qualifications (SOQ). Hydroscience Engineers, Inc. was ranked as the most qualified based on the SOQ submitted. Hydroscience Engineers, Inc.'s design service proposal totals $703,845.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

Project 5209 Sewer Replacement/Rehabilitation Program is for the construction and rehabilitation of citywide sewer mains, and Project 5003 West Santa Fe Avenue Water and Sewer Rehabilitation is for the construction and rehabilitation of water and sewer mains in three locations in the city. Because both projects share the same limits, this Resolution will combine the two projects into one and re-allocate the funds from Project 5209 to Project 5003, with a total approved budget of $6,600,000 for design and construction

Staff evaluated the submitted Statements of Qualifications (SOQ). The Consultant Selection Committee members reviewed each SOQ received and independently assigned a weighted score based on resource capability, personnel and firm experience, firm history with similar projects, project management approach, and schedule.

Hydroscience Engineers, Inc. received the highest ratings and was selected for the design of the Project based on their expertise with public works projects, staff experience, and previous history of providing high quality engineering services to the city.

ATTACHMENTS: Resolution
Budget Summary- Exhibit A
Consulting Services Agreement

Report Prepared By: Gabriel Piña, Associate Engineer

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a City Council Resolution to Re-allocate Funds From Project 5209 to Project 5003 and Approve a Consultant Agreement for the Design of Project 5003 West Santa Fe Avenue Sewer and Water Rehabilitation	)	RESOLUTION NO. 22-

WHEREAS, Project 5209 Sewer Replacement/Rehabilitation Program is for the construction and rehabilitation of citywide sewer mains, and Project 5003 West Santa Fe Avenue Water and Sewer Rehabilitation (the "Project") is for the construction and rehabilitation of water and sewer mains in three locations in the City and includes the rehabilitation of water and sanitary sewer facilities, spot repairs, and manhole installation/rehabilitation; and

WHEREAS, on December 16, 2019, the City Council adopted Resolution 19-13729 approving the Five-Year Capital Improvement Program for Fiscal Years 2018/19 through 2023/24 and allocating $400,000 from the Water Operations Fund (Fund 501) to Project 5003; and

WHEREAS, on June 21, 2021, the City Council adopted Resolution 21-13944 approving the Five-Year Capital Improvement Program for Fiscal Years 2020/21 through 2025/26 and allocating $1,000,000 from Water Operations Fund (Fund 501) to Project 5003, and allocating $1,600,000 from the Sewer Operations Fund (Fund 521) and $600,000 from the Sewer Facility Reserve Fund (Fund 522) to Project 5209; and

WHEREAS, on July 18, 2022, the City Council adopted Resolution 22-14125 approving the Five-Year Capital Improvement Program for Fiscal Years 2022/23 through 2026/27 allocating $2,000,000 from Water Operations Fund (Fund 501) to Project 5003, and allocating $1,000,000 from the Sewer Operations Fund (Fund 521) to Project 5209; and

WHEREAS, Project 5209 Sewer Replacement/Rehabilitation Program has a total approved budget of $3,200,000, and Project 5003 West Santa Fe Avenue Sewer and Water Rehabilitation has a total approved budget of $3,400,000; and

WHEREAS, since Project 5209 and 5003 both share the same limits, this Resolution will combine the two projects into one and re-allocate the funds from Project 5209 to Project 5003, with a total approved budget of $6,600,000 for design and construction; and

WHEREAS, on July 6, 2022, the Consultant Selection Committee received and evaluated five Statement of Qualifications (SOQ); and

WHEREAS, the Consultant Selection Committee selected Hydroscience Engineers, Inc. for the design of the Project with a total fee of $703,845. This was based on their familiarity with other public works projects, their staff expertise, and their previous history of providing high quality engineering services to the City.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby authorizes the funds from Project 5209, Sewer Replacement/Rehabilitation Program to be re-allocated to Project 5003, West Santa Fe Avenue Sewer and Water Rehabilitation for a total project budget of $6,600,000 and authorizes the City Manager to execute a Consultant Services Agreement for project design between the City of Pittsburg and Hydroscience Engineers, Inc. in an amount not to exceed $703,845.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of October 2022, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF PITTSBURG AND HYDROSCIENCE ENGINEERS, Inc.

THIS Agreement ("Agreement") for consulting services is made by and between the City of Pittsburg, a municipal corporation ("City") and HydroScience Engineer, Inc., a California Corporation ("Consultant") (together referred to as the "Parties") as of October 3rd, 2022 (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A, and incorporated herein, at the time and place and in the manner specified therein.

1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on October 3rd, 2024 or the date the Consultant completes the services specified in Exhibit A, whichever occurs first, unless the term of the Agreement is otherwise terminated or extended, as referenced herein.

1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.

1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, requests in writing the reassignment of any such persons to ensure Consultant performs services in accordance with the Standard of Performance, Consultant shall, immediately upon receiving City's request, reassign such persons.

1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided herein above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed seven hundred and three thousand eight hundred and forty five dollars ($703,845), as set forth in Exhibit B, attached hereto and incorporated herein for services to be performed and reimbursable expenses incurred under this

Agreement. This dollar amount is not a guarantee that the City will pay that full amount to the Consultant, but is merely a limit of potential City expenditures under this Agreement.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information, unless waived by the City Manager, or his or her designee:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- The Consultant's signature.

2.2 **Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall pay undisputed invoices that comply with the above requirements within 30 days from the receipt of the invoice.

2.3 **Final Payment.** Consultant shall submit its final invoice within 60 days of completing its services. Consultant's failure to submit its final invoice within this 60 day period shall constitute Consultant's waiver of any further billings to, or payments from, City.

2.4 **Reimbursable Expenses.** Reimbursable expenses, if any, are specified in Exhibit B and included in the total compensation referenced in Section 2. Expenses not listed in Exhibit B are not chargeable to, or reimbursable by, City.

2.5 **Payment of Taxes.** Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.

2.6 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of a written authorization from the City Manager, or his or her designee.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement

Section 4. INSURANCE REQUIREMENTS. Before beginning any services under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance specified herein and maintain that insurance throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid or proposal. Consultant shall be fully responsible for the acts and omissions of its subcontractors or other agents.

4.1 **Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant in the amount required by applicable law. The requirement to maintain Statutory Workers' Compensation and Employer's Liability Insurance may be waived by the City upon written verification that Consultant is a sole proprietor and does not have any employees and will not have any employees during the term of this Agreement.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **General requirements.** Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than $2,000,000 per occurrence and $4,000,000 aggregate, combined single limit coverage for risks associated with the work contemplated by this Agreement.

4.2.2 **Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition) covering any auto (Code 1), or if Consultant has no owned autos, hired (code 8) and non-owned autos (Code 9). No endorsement shall be attached limiting the coverage.

4.2.3 **Additional requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

a. The Commercial General and Automobile Liability Insurance shall cover on an occurrence basis.

b. City, its officers, officials, employees, agents, and volunteers shall be covered as additional insureds for liability arising out of work or operations on behalf of the Consultant, including materials, parts, or equipment furnished in connection with such work or operations; or automobiles owned, leased, hired, or borrowed by the Consultant. Coverage can be provided in the form of an endorsement to the Consultant's insurance at least as broad as CG 20 10 11 85, or both CG 20 10 10 01 and CG 20 37 10 01.

c. For any claims related to this Agreement or the work hereunder, the Consultant's insurance covered shall be primary insurance as respects the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be

excess of the Consultant's insurance and non-contributing.

d. The policy shall cover inter-insured suits and include a "separation of Insureds" or "severability" clause which treats each insured separately.

e. Consultant agrees to give at least 30 days prior written notice to City before coverage is canceled or modified as to scope or amount.

4.3 **Professional Liability Insurance.**

4.3.1 **General requirements.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than $1,000,000 per occurrence or claim covering the Consultant's errors and omissions.

4.3.2 **Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

a. The retroactive date of the policy must be shown and must be before the date of the Agreement.

b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement or the work.

c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must purchase an extended period coverage for a minimum of five (5) years after completion of work under this Agreement.

d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

4.4 **All Policies Requirements.**

4.4.1 **Submittal Requirements**. Consultant shall submit the following to City prior to beginning services:

a. Certificate of Liability Insurance in the amounts specified in this Agreement; and

b. Additional Insured Endorsement as required for the General Commercial and Automobile Liability Polices.

4.4.2 **Acceptability of Insurers.** All insurance required by this Agreement is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.3 **Deductibles and Self-Insured Retentions.** Insurance obtained by the Consultant shall have a self-insured retention or deductible of no more than $100,000.

4.4.4 **Wasting Policies**. No policy required herein shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

4.4.5 **Waiver of Subrogation.** Consultant hereby agrees to waive subrogation which any insurer or contractor may require from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agents, and subcontractors.

4.4.6 **Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein, and Consultant shall ensure that City, its officers,

officials, employees, agents, and volunteers are covered as additional insured on all coverages.

4.4.7 **Excess Insurance.** If Consultant maintains higher insurance limits than the minimums specified herein, City shall be entitled to coverage for the higher limits maintained by the Consultant.

4.5 **Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option: 1) obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; 2) order Consultant to stop work under this Agreement and withhold any payment that becomes due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof; and/or 3) terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

5.1 **General Indemnification.** Consistent with California Civil Code Section 2782.8, Consultant shall, to the fullest extent permitted by law, indemnify, protect, defend and hold harmless City, and its employees, officials, and agents, from any and all demands, losses, claims, costs, liabilities, and expenses for any damage, injury, or death, including any and all administrative fines, penalties, or costs imposed as a result of an administrative proceeding, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its officers, employees, agents, contractors, subconsultants, or any persons under its direction or control. If requested by City, Consultant shall defend any such suits at its sole cost and expense. If City elects to provide its own defense, Consultant shall reimburse City for any expenditures, including reasonable attorneys' fees and costs. Consultants' obligations under this section exist regardless of concurrent negligence or willful misconduct on the part of City or any other person; provided, however, that Consultant will not be required to indemnify, including the cost to defend, City for the proportion of liability a court determines does not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its officers, employees, agents, contractors, subconsultants, or any persons under its direction or control. This Section 5.1 shall survive any expiration or termination of this Agreement.

5.2 **PERS Indemnification.** In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this

Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONSULTANT.

6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City.

6.2 **Consultant Not an Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder. Consultant shall also, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates as determined by the California Department of Industrial Relations.

7.3 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have, and will maintain at their sole cost and expense, all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

7.4 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, genetic information, marital status, sex, sexual orientation, gender or gender identity, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Section 8. TERMINATION AND MODIFICATION.

8.1 **Termination.** Upon ten days' prior written notice, City may cancel this Agreement at any time and without cause upon such written notification to Consultant. In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

8.2 **Amendments.** The parties may amend this Agreement only by a writing signed by the parties hereto.

8.3 **Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the City Manager, or his or her designee. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the City Manager, or his or her designee.

8.4 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant, including but not limited to the provisions of Section 5, shall survive the termination of this Agreement.

8.5 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:

8.5.1 Immediately terminate the Agreement;

8.5.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;

8.5.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or

8.5.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

8.5.5 The remedies mentioned in this Agreement are not exclusive of any other right, power or remedy permitted by law. The City's failure or delay in exercising any remedy shall not constitute a waiver of such remedy or preclude the further exercise of City's rights.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 **Records Created as Part of Consultant's Performance.** All final versions of reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement, and the City may use, reuse or otherwise dispose of the documents without Consultant's permission. It is understood and agreed that the documents and other materials,

including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential drafts and will not be released to third parties by Consultant without prior written approval of City.

9.2 **Consultant's Books and Records.** Consultant shall maintain any and all records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement. All such records shall be maintained in accordance with generally accepted accounting principles and shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Pursuant to Government Code Section 8546.7, the Agreement may be subject to the examination and audit of the State Auditor for a period of 3 years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in Contra Costa County or in the United States District Court for the Northern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.

10.6 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

10.7 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.8 **Notices.** Any notice, demand, request, consent or approval that either party is required to give the other pursuant to this Agreement, shall be in writing and may be given by either (i) personal service, or (ii) certified United States mail, postage prepaid, return receipt requested, Notice shall be effective upon personal delivery or delivery to the addresses specified below, as reflected on the receipt of delivery or return receipt, as applicable.

Consultant: HydroScience Engineers, Inc.
741 Allston Way
Berkeley, CA 94710
ATTN: Curtis Lam

City: City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
ATTN: City Manager

10.9 **Professional Seal.** Where applicable in the determination of the City Manager, or his or her designee, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility."

10.10 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A and B represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. To the extent there are any inconsistences between this Agreement, the Exhibits, and Consultant's proposal, the Agreement shall control. To the extent there are any inconsistences between the Exhibits and the Consultant's Proposal, the Exhibits shall control.

Exhibit A Scope of Services
Exhibit B Compensation Schedule

10.11 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.12 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.13 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any third parties.

The Parties have executed this Agreement as of the Effective Date.

CITY OF PITTSBURG

Garrett Evans, City Manager

CONSULTANT

Curtis Lam P.E, President

Attest:

Alice Evenson, City Clerk

Approved as to Form:

Donna Mooney, City Attorney

EXHIBIT A

SCOPE OF SERVICES

HydroScience
Strategic Water Solutions

HydroScience Engineers, Inc.
741 Alliston Way
Berkeley, CA 94710
510.540.7100

September 8, 2022

Gabriel Piña
City of Pittsburg
65 Civic Ave
Pittsburg, CA 94565

Subject: Proposal for Engineering Services - Contract No. 2021-04, West Santa Fe Avenue Sewer and Water Rehabilitation Project

Dear Mr. Piña:

HydroScience Engineers (HydroScience) is pleased to present this proposal to provide engineering and bid period services for the City of Pittsburg's (City's) Contract No. 2021-04 capital improvements project (Project). This proposal was requested by the City pursuant to the City's review of HydroScience's statement of qualification for the Project. It includes changes to the draft proposal that were requested by the City.

Background

The City wishes to replace aging sanitary sewer and water distribution pipelines in three distinct areas as described below and as shown in the attached figures:

- Area 1: Replace sanitary sewers and water mains in the older, residential area bounded by Beacon Street, West 10th Street, Black Diamond Street, and the Burlington Northern Santa Fe (BNSF) Railway, excluding the new neighborhood adjoining Scudero Court. Total sewer main footage will be approximately 10,630 linear feet, and total water main footage will be approximately 13,326 linear feet.

- Area 2: Replace water mains in the downtown area on East Fourth Street between Marina Boulevard and Railroad Avenue; and on East Fifth Street between Railroad Avenue and Cumberland Street. Total water main footage will be approximately 655 linear feet.

- Area 3: Replace sanitary sewers and water mains in the mixed residential/commercial neighborhood on East 12th Street between Moose Way and Harbor Street. Total sewer main and water main footage will be approximately 1,425 linear feet.

Improvements will include new sanitary sewer mains, new sanitary sewer manholes, new lower sewer laterals with cleanouts (from main to property line), rehabilitation of sanitary sewer manholes, new water mains, new water services (from main to meter box), new water valves and hydrants, removal and/or abandonment of sewer mains and water mains rendered obsolete by the improvements, trench paving, concrete sidewalk and gutter repair, restoration of surface improvements, and incidental work. It is assumed that all new construction will be performed by conventional cut-and-cover methods, with a single trenchless crossing of Harbor Street (by either pipe reaming, pipe bursting, or by guided boring).

Whole street resurfacing will be designed and specified for up to 2,200 linear feet of street as directed by City. This includes approximately 700 feet of East 12th Street between Moose Way and Solari Street, and up to 1,500 feet of additional street as directed by the City. The work may include full reconstruction of the street section and/or restoration by application of Cape Seal.

The City's Wastewater Collection System Master Plan was completed in 2003 and amended three times, most recently in 2011. The original Master Plan did not identify any capacity deficiencies in the Project areas. The sewer system improvements will be strictly to correct maintenance and reliability difficulties as identified in the City's Capital Improvement Program. HydroScience will design the replacement or rehabilitated sewers to match or exceed the capacities of the sewers they replace, with a minimum main sewer size of eight inches. Sewer slopes will be increased to meet minimum slopes from Central Contra Costa Sanitary District standards, which have been adopted by the City of Pittsburg, to the degree possible.

The City's Water System Master Plan (2015) did not identify any capacity deficiencies in the Project areas. The water system improvements will be strictly to correct maintenance problems in the aging pipelines. HydroScience will design the replacement water mains to match the sizes of the existing water mains, with a minimum water main size of eight inches.

Scope of Services

The services will consist of preparation of a single set of plans, specifications, and cost estimate (PS&E), along with an estimated construction schedule. It also includes project management and bidding assistance services, and an allowance for additional services, all as described below. Office engineering services (submittal reviews, request for information responses, change order assistance, etc.) are omitted from the scope of services.

Task 1 – Project Management

This task includes project management activities including contract execution, maintaining project schedule, subcontractor management, invoicing, and participation in progress meetings.

Meetings will be held at the following milestones: project kickoff, 35% submittal review, 65% submittal review, and 95% submittal review (pre-bid meeting is covered under Task 6, below). For each meeting, an agenda and notes will be prepared and delivered to the City.

A running list of review comments and responses will be prepared after receipt of City's first submittal review. This list will be updated with each submittal and will be incorporated into the discussion at the progress meetings.

Deliverables:

- Project schedule with updates when schedule changes
- Monthly invoices with description of work completed
- Meeting agendas and notes
- Review comments lists

Task 2 – Surveying and Mapping

Surveying subconsultant will perform a control survey for mapping, and will provide inter-visible, semi-permanent monuments (nails and shiners, P-K nails, or similar) at an interval of no more than 1,000 feet to aid the contractor with layout of the work. Surveyor will provide a table of control point coordinates and elevations, and will show the locations of the control points on the base maps.

Surveying subconsultant will perform surveying and mapping for all project areas. The mapping will cover an area approximately 120 feet wide, extending to the fronts of buildings that front the streets on which the work will take place. Mapping will cover the entire length of the pipelines to be replaced, and will extend 150 feet beyond the limits of work on all ends. Mapping for Area 1 will be performed using aerial topographic survey, supplemented by ground survey for areas obscured by tree cover. Mapping for Areas 2 and 3 will be performed using ground survey methods.

Mapping will cover all improvements in public street areas, including manholes, valves, utility vaults, USA markings, utility and light poles, trees, face of curb, lip of gutter, pavement markings and other essential features. On private property, the mapping will include front building corners, driveways, walkways, fences, retaining walls, trees, sewer cleanouts, and water meters.

All base mapping will be prepared for plotting at a scale of 1" = 40' using California State Plane coordinates and the City's vertical datum. Contour interval will be one foot. Map data will be 3D data in AutoCAD 2022 version.

All sewer and storm drain manholes, catch basins, and public cleanouts in the mapping area will be surveyed to determine their position. Sketch sheets (dip sheets) will be prepared for all such structures, showing the orientations, sizes, and invert elevations of all pipelines entering and leaving the structures, and will include a north arrow.

Surveyor will open all water valve boxes in mapping areas to measure the depth to top of pipe or top of valve to help estimate the depth of existing water pipelines.

Surveying subconsultant will perform a follow-up survey to locate utility potholes and associated USA markings to show in the plans. It is assumed that there will be a total of 20 such locations.

Services to be Provided by City:

- No-cost encroachment permit for work in City streets (if needed)
- Provide local monument data for establishment of control network.
- Provide assistance to gain access to private property, as needed

Deliverables:

- Base mapping (PDF and AutoCAD 2022 files)

Task 3 – Geotechnical Investigation

A geotechnical investigation will be performed by the geotechnical subconsultant to identify the geological setting and to provide recommendations for design of the pipelines.

The investigation will begin with desktop research to characterize the geological setting. This investigation will utilize the geotechnical investigation performed for the City's nearby Contract No. 2012-15 improvements; published documents from the Association of Bay Area Governments, US Geological Survey, US Soil Conservation Services, and California Geological Survey; historic topographic maps and aerial images; and any additional geotechnical reports provided by the City.

Two test borings will be performed in East 12th Street close to Harbor Street to aid in the design of trenchless pipe installation. The borings will be done to 10 feet below the identified sewer subgrade (maximum 30 feet). The borings will be backfilled with cement grout per the boring permit. Pavement repair will consist of a single 6-inch lift of hot asphalt (temporary cold asphalt patch will be used as an interim pavement where needed). Cuttings will be disposed of by the driller.

Samples will be laboratory tested for moisture content, unit weight, Atterberg limits, grain size distribution, unconfined compression, and direct shear. The number of tests will depend on the distribution of soil units and quality. The testing will not include testing for environmental contaminants, nor for soil conductivity or corrosivity.

The data from the desktop investigation, sampling, and testing will be analyzed. A draft geotechnical report will be prepared for review by HydroScience and by the City. The report will present all of the geotechnical findings, and will provide the results of the engineering analysis in the form of applicable geotechnical recommendations. After review of the draft geotechnical report, a final geotechnical report will be prepared.

Services to be Provided by City:

- No-cost encroachment permit for work in City streets
- Geotechnical investigation reports for work within or near Project areas

Deliverables:

- Draft geotechnical investigation report (PDF)
- Final geotechnical investigation report (PDF)

Task 4 – Utility Investigation

HydroScience will perform a utility investigation to identify the utility occupation in the Project areas. This will begin by contacting known utility providers and obtaining maps showing the locations of their facilities. These will be plotted on the base maps. Utility locations will be adjusted during design from surveyed locations of vaults, poles, trench cuts, USA markings and other surface evidence.

Utility potholing subcontractor will perform up to 20 potholes to confirm the horizontal location and depth of selected utilities in the vicinity of the work. This will include excavation marking and notification of USA, vacuum potholing, recording the thickness of pavement and pavement base material, identification of utility sizes and materials, depth measurements, placement of markings for subsequent location by the surveyor, backfilling with native material, and surface restoration.

Pavement repair will consist of a single 6-inch lift of hot asphalt, with all pavement repairs performed in a single day (temporary cold asphalt patch will be used as an interim pavement where needed).

HydroScience will adjust the utility locations on the base maps to reflect the findings of the potholing effort. Pothole locations will be shown on the base maps, along with the recorded depths, materials, and sizes of utilities found. Pavement thicknesses will be presented in a separate table in the drawings for use by the contractor.

Task 5 – Prepare Construction Documents

The contract documents will consist of a set of sealed plans and specifications for the City to bid and construct the Project. The contract documents will refer to City Standard Details and Standard Specifications, with special technical details and technical provisions provided by HydroScience to meet the specific needs of the Project. HydroScience will prepare a project description, bid schedule, and description of bid items to include with the City's front end documents. Project construction cost estimates and estimated construction schedule will also be included, and will be delivered approximately two weeks after their respective submittals.

It is expected that all work, with the exception of minor work to complete new lower sewer lateral and water service connections, will take place in City right-of-way, and that no easements will be required. No special permits are anticipated for this project. HydroScience will coordinate with utility providers as needed to relocate interfering utilities.

It is expected that this project will qualify for a statutory exemption under the California Environmental Quality Act (CEQA); that the City will make this determination; and that any efforts to comply with CEQA will be performed by the City. HydroScience will complete form 12-D from the Caltrans Local Assistance Procedures Manual for the project.

35% Submittal

Plans for the 35% submittal will be prepared from the base maps developed in Task 2, with utilities added from the utility maps obtained in Task 4. City water, sewer, and storm drain improvements will be shown according to atlas maps and as-built drawings provided by the City. Improvements will be shown in plan view only for the 35% submittal (profile views will be added for the 65% and later submittals). In preparing the plans, HydroScience will perform a field visit to proof the base mapping and to inspect sewer manholes and visible water facilities.

A brief basis of design technical memorandum (BOD TM) will be prepared to describe the project description, objectives, design criteria, and special details. The BOD TM and 35% plans will constitute the 35% submittal.

Services to be Provided by City:

- Provide as-built drawings, atlas maps, current wastewater system master plan, and sewer CCTV information, as available.
- Provide traffic control and assistance opening sewer manholes for manhole inspections and field proofing efforts. Assist with access to private property as needed.

Deliverables:

- BOD TM and 35% plans (PDF format)

65% Submittal

After receipt of City comments to the 35% submittal, HydroScience will advance the drawings to include final alignment, profile views, and details. Lateral and water service locations will be based on: cleanout and water meter locations obtained during the topographic survey, CCTV information provided by the City, and as-built drawing information. The 65% submittal will also include draft technical specifications and construction cost estimate. The estimate will be formatted according to the proposed format of the bid schedule, with water, sewer, and joint costs tallied separately so that the City can easily see the impacts on the different funding sources (water, sewer, and streets).

Deliverables:

- 65% submittal (PDF and Microsoft Word format)

95% Submittal

After receipt of City comments to the 65% submittal, HydroScience will update and complete the drawings. Draft technical specifications will be edited to meet the Project needs, and will be appended to the City's front end documents to create a complete document. An estimated construction schedule will be included with this submittal.

Deliverables:

- 95% submittal (PDF and Microsoft Word format)
- Project description and/or figures for public outreach (PDF format)

100% Submittal

After receipt of City comments to the 95% submittal, HydroScience will finalize the plans and technical specifications and prepare completed documents ready for final approval by the City. After a final review by City staff, the documents will be signed and sealed and delivered to the

City for City's signature and for bidding. It is expected that only a few, minor changes will be made to the 100% drawings and specifications to prepare the final drawings and specifications.

Services to be Provided by City:

- City will handle CEQA efforts for the project.
- City will provide public outreach for the project.
- City will provide access to manholes, vaults and other City facilities as needed for design.
- City will assist with gaining access to private property as needed for design.

Deliverables:

- 100% submittal (pdf and Microsoft Word format)
- Final submittal (6 hard copy sets, pdf and Microsoft word format, AutoCAD 2022 format)

Task 6 – Bid Period Services

Bid period services include: attendance and participation in the pre-bid meeting and field walk, responding to prospective bidders' questions, preparation of addenda as needed, and review of the apparent low bidder's bid for general conformance with the Project requirements.

Deliverables:

- Written responses to prospective bidders' questions
- Addenda
- Written response to review of low bidder's bid

Task 7 – Additional Services As Requested

Task 7 includes additional services as requested by the City. All work performed under this task shall be authorized in advance by written agreement between the City and HydroScience. This task includes an allowance for the addition of two additional plan and profile sheets for continuation of the trunk sewer in Area 1 to the existing connection at West 8th Street and Montezuma Street (if found to be needed) plus an additional 80 hours of time, each, for the Project Manager, Project Engineer, and Design Engineer as may be requested by the City.

Proposed Schedule

Work shall proceed according to the schedule presented in the Statement of Qualifications, with an assumed start date of October 4, 2022.

Notice to Proceed:	October 4, 2022
Submit 35% Submittal:	January 24, 2023
Submit 65% Submittal:	March 7, 2023
Submit 95% Submittal:	May 9, 2023
Submit 100% Submittal:	June 6, 2023
Submit Bid Documents:	June 20, 2023

Project Staffing

Project will be staffed as identified in the Project SOQ submitted by HydroScience:

- Principal-in-Charge/Quality Control – Curtis Lam, PE
- Project Manager – Eric Petrel, PE
- Project Engineer – Jason Crowley, PE or Robert Le, PE
- Design Engineer – Kyle Fooks
- Water Line Hydraulic Analysis (if needed) – Jonathan Machorro, PE
- Sewer Line Hydraulic Analysis (if needed) – Alex Park, PE
- Surveying – LCC
- Geotechnical Investigation – McMillen Jacobs
- Utility Potholing – EXARO

Fee

All work shall be performed on a time-and-materials basis in accordance with the current on-call agreement between HydroScience and the City. Fee breakdown by task is as follows:

Task	Description	HydroScience Labor Hours	Subconsultants / Expenses	Budget
1	Project Management	182	$440	$47,500
2	Surveying and Mapping	34	$103,400	$110,020
3	Geotechnical Investigation	8	$50,100	$57,270
4	Utility Investigation	48	$68,310	$77,590
5	Prepare Construction Documents	1,474	$660	$321,100
6	Bid Period Services	48	$55	$12,055
	Total Base Fee			**$625,535**
7	Additional Services as Requested	304	$11,110	$78,310

Should you have any questions about our proposal, please contact Eric at (510) 540-7100 X24 or epetrel@hydroscience.com. On behalf of HydroScience, we are sincerely looking forward to the opportunity to assist the City with this important project.

Sincerely yours,
HYDROSCIENCE ENGINEERS

Eric Petrel, PE

Senior Project Manager

Curtis Lam, PE

Principal

Attachments: Project area figures from Request for Qualifications

CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' 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.

CONSULTANT

By: _____

Title: President

2784982.1

EXHIBIT B

COMPENSATION SCHEDULE

APPENDIX B: HOURLY RATES

HydroScience's standard billing rates are found below and are valid through the 2022 calendar year. Rates are subject to annual adjustments not to exceed 5%. Hourly billing rates include postage and telephone charges that are normal to the work authorized. Other direct costs for travel, reproduction, mail service, outside services, etc. will be invoiced at 110 percent of the actual cost.

HYDROSCIENCE ENGINEERS, INC.

2022 Standard Schedule of Billing Rates
Rates are subject to increase 5% annually

NAME	LABOR CLASSIFICATION	HOURLY RATE
Curtis Lam	Principal	$275
Eric Petrel	Engineer IX	$265
	Engineer VIII	$255
	Engineer VII	$240
	Engineer VI	$230
Alex Park	Engineer V	$220
Jason Crowley and Jonathan Machorro	Engineer IV	$210
	Engineer III	$195
Kyle Fooks	Engineer II	$185
	Engineer I	$170
	Engineering Aide	$100
	Construction Professional VI	$180
	Construction Professional V	$170
	Construction Professional IV	$160
	Construction Professional III	$150
	Construction Professional II	$140
	Construction Professional I	$130
	Cross Connection Control Specialist	$125
	CAD Manager	$145
	CAD Designer I	$125
	Marketing Professional	$110
	Administrative II	$100
	Administrative	$85

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ENGINEERING & SURVEYING, INC.

PRINCIPALS
Randolph W. Leptien
Christine M. Leptien-Parks
Mariam Munshi Virani

FOUNDED 1954
Guenter K. Leptien
Frank J. Cronin
Jasper Cooper

RATE SCHEDULE

OFFICE & DESIGN PERSONNEL	HOURLY RATE
Technical Assistant 1	$74.00
Technical Assistant 2	$88.00
CAD 1	$112.00
CAD 2	$153.00
Assistant Civil Engineer	$168.00
Special Districts Manager	$168.00
Civil Engineer 1/Project Manager	$187.00
Civil Engineer 2	$220.00
Land Surveyor (Office)	$220.00
Principal Engineer	$253.00

FIELD & SURVEY PERSONNEL	
Field Assistant	$92.00
Survey Tech. 1	$97.00
Survey Tech. 2	$135.00
Field Representative (Construction)	$168.00
Resident Engineer	$190.00
Chief of Party	$188.00
Principal Surveyor	$253.00

REIMBURSABLE EXPENSES
Charges for reproductions, blueprinting, long distance travel costs, outside computer services, rental of special equipment, County base maps, official records, record maps, delivery, express mail and insurance certificates (where client requires to be listed as an additional insured) will be charged at 1.15 times cost. Sub-consultant's services will be charged at 1.10 times cost.

CONDITIONS
Invoices are mailed at monthly intervals and upon completion of work segments when appropriate.

Charges for personnel engaged in professional and/or technical work are made for the actual hours directly chargeable to the project. Rates for individuals may vary depending on the service performed. Minimum rate for a two person survey crew is $285.00 per hour (4 hour minimum).

In the event of required overtime, the rates charged for office personnel and field personnel will be 1.5 times the hourly rates shown. Work required on Sundays and Holidays for field surveyors will be charged at 2 times the hourly rates shown.

Litigation Services rate is $463.00/hour.

EFFECTIVE DATE: 07/01/2022

930 Estudillo Street
Martinez, California
94553-1620
(925) 228-4218
(925) 228-4638 fax
www.lcc-inc.com

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McMILLEN JACOBS ASSOCIATES

2022 SCHEDULE OF RATES

These are "all-up" rates, meaning that they include direct salary cost, overhead, general and administrative costs not separately accounted for, and profit. They shall remain in effect through November 30, 2022. These rates shall be unilaterally revised by McMillen Jacobs Associates about December 1st of each calendar year for normal annual escalation and salary increases.

Classification	**Hourly Rate**
Principal (Dru Nielson & Norman Joyal)	$335
Project Engineer (Su Soe)	$190

Unmanned Aerial Vehicle (UAV) Onsite Flight Rental Fee - $2,000/day

Expenses: All direct costs are to be billed at actual cost, including:

1. Transportation expenses, including airfare, hotel, meals, ground transportation, and miscellaneous expenses.
2. Communications expenses, including long distance telephone, cell phone, facsimile, and messenger services.
3. Reproductions, plots, postage, handling and delivery of Instruments of Service, photography, blueprints, graphics, photo prints or printing.
4. Applicable taxes for work performed outside of California.

Basis for Services: Client agrees to pay McMillen Jacobs Associates for all services performed for the Project computed on a Time and Expense Basis in accordance with the schedule for McMillen Jacobs Associates' personnel as set forth herein. Client also agrees to pay McMillen Jacobs Associates all reimbursable project-related expenses.

Invoicing: McMillen Jacobs Associates will endeavor to submit progress invoices to the Client monthly and a final invoice upon completion of services. Payments are due and payable upon receipt of McMillen Jacobs Associates' invoice. Amounts unpaid 45 days after receipt of invoice shall bear interest at the rate of 1-1/2% (one and one-half percent) per month, or the maximum rate allowed by law.

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Project Name							
Project Number							
Task Description							
Prime Consultant:					**Prime Project Number**	**Agreement No:**	
Subconsultant:							
EXARO Technologies Corporation							
1	**DIRECT LABOR**		Hours	Rate/Hr	Multiplier	Billing Rate	Subtotals
	Name of Staff						
	Operations Manager	Jose Dominguez	0	$74.62	225.55%	242.93	$ -
	Project Manager	Mario Lopez	0	$67.14	225.55%	218.57	$ -
	Project Coordinator	Arthur Servin	0	$39.98	225.55%	130.15	$ -
					225.55%	0.00	$ -
					225.55%	0.00	$ -
	Subtotal - Home Labor						$ -
	FIELD LABOR						
	Lead Foreman	Yogendra Singh	0	$71.66	225.55%	233.29	$ -
	Foreman	TBD	0	$64.99	225.55%	211.57	$ -
	Technician	TBD	0	$62.40	225.55%	203.14	$ -
					225.55%	0.00	$ -
					225.55%	0.00	$ -
					225.55%	0.00	$ -
					225.55%	0.00	$ -
					225.55%	0.00	$ -
	Subtotal - Field Labor						$ -
2		Total	0			**Total Labor Cost**	$ -
4							
5	**OTHER DIRECT COSTS Daily Unit Rates**	**most equipment are in h**	**Units**	**Rate**			**Costs**
	Arrow Board		0	$ 160.00			$ -
	Core Machine Ultimate		0	$ 515.00			$ -
	Electronic Detection Locator		0	$ 114.00			$ -
	Fuel TBD		0	$ -			$ -
	GPR Rebar Scanner / Utility Locator		0	$ 284.00			$ -
	Loader Bobcat		0	$ 412.00			$ -
	Material TBD		0	$ -			$ -
	Mini Excavator		0	$ 397.00			$ -
	Trencher		0	$ 515.00			$ -
	Tripod Rescue		0	$ 145.00			$ -
	Walk Behind Cutting Saw		0	$ 119.00			$ -
	Truck		0	$ 266.00			$ -
	Dump Truck		0	$ 330.00			$ -
	Vacuum Truck		0	$ 927.00			$ -
	Vacuum Truck with Boom Super Sucker		0	$ 1,391.00			$ -
	Permits/Bonds TBD		0	$ -			$ -
	Subsistence / Travel		0	$ 330.00			$ -
6				**Other Direct Costs (ODCs):**			$ -
7	**SUB CONSULTANTS:**						
8				**Subconsultants:**			$ -
9							
10							
11							
12	***Fixed Fee Home & Field***			15%			$ -
13	**TOTAL PROJECT TASK COST**			**Total:**			$ -
Form 60H							

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Project Budget Summary
Project 5003 West Santa Fe Ave. Water and Sewer Rehabilitation

Project Funding

Previously Allocated	Water Operations Fund (Fund 501) (Project 5003)	$1,400,000
Previously Allocated	2022-23 Water Operations Fund (Fund 501) (Project 5003)	$2,000,000
Previously Allocated	Sewer Operations Fund (Fund 521) (Project 5209)	$1,600,000
Previously Allocated	Sewer Facility Reserve (Fund 522) (Project 5209)	$600,000
Previously Allocated	2022-23 Sewer Operations Fund (Fund 521) (Project 5209)	$1,000,000
	Funding Total	**$6,600,000**

Project Expenditures:

Design: (Code 2122)	Design		$703,845
		Subtotal	$703,845
Miscellaneous: (Code 1399)	Advertising		$1,000
	Reproduction		$1,000
	Postage		$1,000
		Subtotal	$3,000
Construction: (Code 2281)	Estimated Construction Costs		$4,513,155
	Estimated Construction Contingency		$1,200,000
	Estimated Material Testing Costs		$100,000
		Subtotal	$5,813,155
Staff Time: (Code 1101)	Staff Time During Design		$20,000
	Staff Time During Construction Management		$20,000
		Subtotal	$40,000
Admin Overhead (Code 2372)	Staff Costs During Design Phase		$20,000
	Staff Costs During Construction Management		$20,000
		Subtotal	$40,000
		Estimated Total Expenditures	**$6,600,000**

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution to Designate City Agents Authorized to Apply for State and Federal Disaster Relief Assistance

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

The California Governor's Office of Emergency Services (Cal OES) has oversight for public financial assistance related to state and federal declared disasters. Every three years, Cal OES requires the City Council to designate positions within the City authorized to make these requests. This Resolution designates the City Manager, Finance Director, and City Engineer as agents to provide for all matters pertaining to financial assistance after state and federal declared disasters.

FISCAL IMPACT

This item has no fiscal impact.

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution designating the City Manager, the Director of Finance, and the City Engineer as agents authorized to file for financial assistance related to state or federal declared disasters.

BACKGROUND

In 2017, staff applied for disaster relief related to damage from winter storms. After completing the financial reimbursement paperwork, Cal OES determined that the City did not have a resolution that designated staff positions eligible to apply for relief funding.

On January 16th, 2018, the City Council adopted Resolution 18-13419 designating agents authorized to request state and federal disaster assistance. This designation must be renewed every three years for the City to maintain eligibility.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

Renewal of designated agents to apply for financial assistance is necessary to limit the financial risk associated with state and federal disasters. Naming the City Manager, the Director of Finance, and the City Engineer allows the City increased flexibility in managing the responsibility of disaster relief response.

ATTACHMENTS: Resolution
Cal OES 130 Form

Report Prepared By: Khristin Labao, Assistant Engineer

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a City Council Resolution)
to Designate City Agents Authorized to) RESOLUTION NO. 22-
Apply for State and Federal Disaster)
Relief Assistance)

WHEREAS, the City of Pittsburg responds to disaster emergencies; and,

WHEREAS, the City Council of the City of Pittsburg proactively acts to recover funds expended due to declared disasters; and

WHEREAS, the California Office of Emergency Services (Cal OES) requires a designated agent from each entity to provide the assurances and agreements required for all matters pertaining to state and federal disaster assistance; and

WHEREAS, on January 16th, 2018, the City Council adopted Resolution 18-13419 authorizing the approval of Cal OES Form 130, designating city positions authorized to apply for state and federal financial assistance under applicable law due to a declared disaster; and

WHEREAS, Cal OES requires that entities renew their selection of designated agent every three years.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby designates the City Manager, the Finance Director, and the City Engineer to apply for state and federal financial assistance on behalf of the City of Pittsburg under applicable law due to declared disasters.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of October 2022, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

STATE OF CALIFORNIA
GOVERNOR'S OFFICE OF EMERGENCY SERVICES
Cal OES 130

Cal OES ID No: 013-57456-00

DESIGNATION OF APPLICANT'S AGENT RESOLUTION FOR NON-STATE AGENCIES

BE IT RESOLVED BY THE City Council (Governing Body) OF THE City of Pittsburg (Name of Applicant)

THAT City Manager (Title of Authorized Agent), OR

Finance Director (Title of Authorized Agent), OR

City Engineer (Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the City of Pittsburg (Name of Applicant), a public entity established under the laws of the State of California, this application and to file it with the California Governor's Office of Emergency Services for the purpose of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

THAT the City of Pittsburg (Name of Applicant), a public entity established under the laws of the State of California, hereby authorizes its agent(s) to provide to the Governor's Office of Emergency Services for all matters pertaining to such state disaster assistance the assurances and agreements required.

Please check the appropriate box below:

☒ This is a universal resolution and is effective for all open and future disasters up to three (3) years following the date of approval below.

☐ This is a disaster specific resolution and is effective for only disaster number(s) _____

Passed and approved this 3rd day of October, 20 22

Garrett Evans, City Manager
(Name and Title of Governing Body Representative)

Paul Rodrigues, Director of Finance
(Name and Title of Governing Body Representative)

Richard Abono, City Engineer
(Name and Title of Governing Body Representative)

CERTIFICATION

I, _____ (Name), duly appointed and _____ (Title) of

_____ (Name of Applicant), do hereby certify that the above is a true and correct copy of a

Resolution passed and approved by the _____ (Governing Body) of the _____ (Name of Applicant)

on the _____ day of _____, 20___.

_____ (Signature) _____ (Title)

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of City Council Resolution Authorizing the City Manager to Execute a Contract for the Purchase of a New E60 Excavator

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

The City maintains a fleet of vehicles and equipment necessary for police operations and for maintenance of the City's infrastructure, including an excavator that needs replacement. If approved, this resolution will authorize a purchase contract with Clark Equipment Company dba Bobcat Company ("Bobcat") for a new E60 R2-Series Bobcat Compact Excavator.

FISCAL IMPACT

None from this action. The City Council approved sufficient funds for the purchase of the excavator with adoption the City's Operating Budget for Fiscal Year 2022-23 (Resolution 22-14107), including the Sewer Operations budget accounts (521-45254). This is an appropriate use of these funds.

RECOMMENDATION

City Council adopt the attached authorizing the City Manager to execute a purchase contract with Bobcat in the amount of $78,813.98, for purchase of a E60 R2-Series Bobcat Compact Excavator.

BACKGROUND

The Public Works Department Fleet Maintenance Division is responsible for the maintenance of a vehicle fleet of cars, trucks, heavy equipment, and other equipment. The entire fleet has a replacement value of approximately $6 million. These vehicles are necessary to maintain efficient operations of the City.

Having an excavator is critical for projects, routine maintenance and for emergency repairs to water distribution lines, and to sewer collection facilities located throughout the City.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

Staff solicited cost proposals from Bobcat for the replacement excavator. Bobcat is a vendor contracted with Sourcewell (formerly National Joint Powers Alliance (NJPA)). Sourcewell is a public agency service cooperative that provides opportunities for members to purchase equipment through nationally leveraged, competitively bid contracts through national solicitations. Sourcewell contracts bring considerable value and efficiencies to members through nationally leveraged contracted suppliers and access to the highest quality products and brand. Each solicitation and RFP contain language which includes all qualified customers in all fifty states. The City of Pittsburg is a member of Sourcewell and has successfully used several different Sourcewell contracts in the past.

If approved, the agreement would authorize the City to make a “piggyback” purchase from Bobcat for the price previously negotiated with Sourcewell for this equipment.

Staff recommends City Council approve the attached resolution authorizing the City Manager to execute a contract with Bobcat, in the amount of $78,813.98, for the purchase of a new E60 R2-Series Bobcat Compact Excavator.

ATTACHMENTS: Resolution
Bobcat Quote
Bobcat Signed Agreement
Sourcewell Contract

Report Prepared By: Natasha Farmer, Public Works Administrative Analyst I

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter Of:

Authorizing Execution of a Contract) RESOLUTION NO. 22 - _____
to Purchase a New Excavator)

WHEREAS, the City's Public Works Department is responsible for the care and maintenance of the City's Fleet; and,

WHEREAS, the current excavator is no longer reliable or cost-effective to repair; and,

WHEREAS, a replacement excavator is necessary for routine maintenance and emergency repairs to water and sewer infrastructure; and,

WHEREAS, Sourcewell, formerly NJPA, has undertaken competitive bidding equivalent to or better than the requirements in City's Purchasing Policy and has entered into contracts with various vendors including Clark Equipment Company dba Bobcat Company, a Delaware Corporation ("Bobcat"); and,

WHEREAS, City seeks to "piggyback" on a Sourcewell contract for a E60 R2-Series Bobcat Compact Excavator, specifically Contract from RFP #040319-CEC; and

WHEREAS, sufficient funds to accommodate the purchase are available in the previously approved City operating budget for Fiscal Year 2022/23 for Sewer Operations.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburg hereby approves and authorizes the City Manager to execute a Contract with Bobcat in the amount of $78,813.98 for the purchase of a new E60 R2-Series Bobcat Compact Excavator.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of October 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

AGREEMENT BETWEEN
THE CITY OF PITTSBURG AND
CLARK EQUIPMENT COMPANY DBA BOBCAT COMPANY
PURSUANT TO SOURCEWELL CONTRACT FROM RFP #040319-CEC

THIS Agreement ("Agreement") is made by and between the City of Pittsburg, a municipal corporation ("City") and Clark Equipment Company dba Bobcat Company, a Delaware Corporation ("Bobcat") (together referred to as the "Parties") as of September 12, 2022 (the "Effective Date").

WHEREAS, Sourcewell, formerly NJPA, has undertaken competitive bidding equivalent to or better than the requirements in City's Purchasing Policy and has entered into contracts with various vendors including Bobcat; and

WHEREAS, City seeks to "piggyback" on a Sourcewell contract for a E60 R2-Series Bobcat Compact Excavator, specifically Contract from RFP #040319-CEC; and

WHEREAS, the Contract provides that additional terms and conditions or transaction documentation may be negotiated between a Sourcewell Participating Entity such as City, and the vendor; and

WHEREAS, City seeks to add or clarify certain terms of Contract from RFP #040319-CEC.

City and Bobcat agree as follows:

1. **Governing Law and Venue.** The laws of the State of California shall govern this Agreement and Contract from RFP #040319-CEC ("Contract"). In the event that either party brings any action against the other under this Agreement or the Contract, the parties agree that trial of such action shall be vested exclusively in the state courts of California in Contra Costa County or in the United States District Court for the Northern District of California.

2. **Workers' Compensation.** Bobcat shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly by Bobcat in the amount required by applicable law.

3. **Compliance with Applicable Laws.** Bobcat and any subcontractors shall comply with all laws applicable to the performance of the work hereunder. Bobcat shall also, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates as determined by the California Department of Industrial Relations.

4. **Order of Precedence.** In the event of any inconsistency between this Agreement and the Contract, the terms of this Agreement shall govern. The terms of this Agreement and the Contract shall govern over any Purchase Order from Bobcat.

5. **Representations.** Bobcat represents and warrants that it is bound by all terms in Contract from RFP #040319-CEC.

The Parties have executed this Agreement as of the Effective Date.

CITY OF PITTSBURG

Garrett Evans, City Manager

Attest:

Alice E. Evenson, City Clerk

Approved as to Form:

Donna Mooney, City Attorney

CLARK EQUIPMENT COMPANY DBA BOBCAT COMPANY

Jesse R. Rheault

Jesse Rheault - Government Account Manager

NAME / TITLE

Bobcat

Product Quotation

Quotation Number: MMB-01167v1
Date: 2022-09-01 13:00:35

Customer Name/Address:	Bobcat Delivering Dealer	ORDER TO BE PLACED WITH: Contract Holder/Manufacturer
CITY OF PITTSBURG PUBLIC WORKS **Attn: GREG JUSTICE** **357 E 12TH STREET** **Pittsburg, CA 94565** **Phone: (925) 252-4035**	**Bobcat of Contra Costa, Pittsburg, CA** **2035 E Leland Rd** **Pittsburg CA 94565** **Phone: 925-318-4465** **Fax:**	**Clark Equipment Co dba Bobcat Company** **250 E Beaton Dr,** **West Fargo, ND 58078** **Phone: 701-241-8719** **Fax: 855-608-0681** **Contact: Heather Messmer** **Heather.Messmer@doosan.com**

Description	Part No	Qty	Price Ea.	Total
E60 R2-Series Bobcat Compact Excavator	M3321	1	$55,267.10	$55,267.10
60 Month Protection Plus (2000 Hours)	9986418	1	$1,700.00	$1,700.00
P64 Performance Package "Long Arm Clamp with Diverter Valve	M3321-P06-P64	1	$4,765.60	$4,765.60
	Hydraulic X-Change Add-on Counterweight"			
C52 Comfort Package "Enclosed Cab with HVAC Cloth Suspension Seat Travel Motion Alarm	M3321-P07-C52	1	$7,499.80	$7,499.80
	Bobcat 7 inch Touch Display • Radio • Bluetooth • Keyless Start"			
18" MX4 XCHG TEETH	7322082	1	$1,252.48	$1,252.48

Total of Items Quoted	**$70,484.98**
Dealer P.D.I.	**$250.00**
Freight Charges	**$2,107.00**
Dealer Assembly Charges	**$0.00**
Other Charges: Material and Logistics	**$5,972.00**
Quote Total - US dollars	**$78,813.98**

Notes:

Prices per the Sourcewell Contract #040319-CEC.
Terms Net 60 Days. Credit cards accepted.
FOB Destination
State Sales Taxes apply. IF Tax Exempt, please include Tax Exempt Certificate with order.
TID# 38-0425350

Orders Must Be Placed with: Clark Equipment Company dba Bobcat Company, Govt Sales, 250 E Beaton Drive, West Fargo, ND 58078.

Quote valid for 30 days

ORDER ACCEPTED BY:

_____ _____

SIGNATURE **DATE**

_____ _____

PRINT NAME AND TITLE **PURCHASE ORDER NUMBER**

DELIVERY ADDRESS:_____

BILLING ADDRESS (if different than Ship To):_____

TAX EXEMPT? _____YES _____NO

Exempt in the State of _____

Tax Exempt ID:

FEDERAL - _____

***STATE* - _____**

Expiration Date: _____

TAX EXEMPT? _____YES _____NO

Exempt in the State of _____

Tax Exempt ID:

FEDERAL - _____

***STATE* - _____**

Expiration Date: _____

Form C

EXCEPTIONS TO PROPOSAL, TERMS, CONDITIONS, AND SOLUTIONS REQUEST

Company Name: **Clark Equipment Company dba Bobcat Company**

Any exceptions to the terms, conditions, specifications, or proposal forms contained in this RFP must be noted in writing and included with the Proposer's response. The Proposer acknowledges that the exceptions listed may or may not be accepted by Sourcewell or included in the final contract. Sourcewell will make reasonable efforts to accommodate the listed exceptions and may clarify the exceptions in the appropriate section below.

Section/page	Term, Condition, or Specification	Exception	Sourcewell ACCEPTS
N/A			

Proposer's Signature: _____ **Date:** 3-29-2019

Sourcewell's clarification on exceptions listed above:

LEGAL
HCP
Initials
May 23, 2019
Date

Contract Award
RFP #040319

FORM D

Formal Offering of Proposal
(To be completed only by the Proposer)

MEDIUM DUTY AND COMPACT CONSTRUCTION EQUIPMENT WITH RELATED ATTACHMENTS, ACCESSORIES, AND SUPPLIES

In compliance with the Request for Proposal (RFP) for MEDIUM DUTY AND COMPACT CONSTRUCTION EQUIPMENT WITH RELATED ATTACHMENTS, ACCESSORIES, AND SUPPLIES, the undersigned warrants that the Proposer has examined this RFP and, being familiar with all of the instructions, terms and conditions, general and technical specifications, sales and service expectations, and any special terms, agrees to furnish the defined products and related services in full compliance with all terms and conditions of this RFP, any applicable amendments of this RFP, and all Proposer's response documentation. The Proposer further understands that it accepts the full responsibility as the sole source of solutions proposed in this RFP response and that the Proposer accepts responsibility for any subcontractors used to fulfill this proposal.

Company Name: **Clark Equipment Company dba Bobcat Company** Date: **03-29-2019**

Company Address: **250 East Beaton Dr.**

City: **West Fargo** State: **ND** Zip: **58078**

CAGE Code/DUNS: **1QK63 / 152762931**

Contact Person: **Randy L. Fuss** Title: **Director, Government Accounts**

Authorized Signature: _____ **Randy L. Fuss**
(Name printed or typed)

FORM E

CONTRACT ACCEPTANCE AND AWARD

(Top portion of this form will be completed by Sourcewell if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

Sourcewell Contract #: 040319-CEC

Proposer's full legal name: Clark Equipment Company dba Bobcat Company

Based on Sourcewell's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by Sourcewell.

The effective date of the Contract will be May 31, 2019 and will expire on May 31, 2023 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the Sourcewell Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at Sourcewell's discretion.

Sourcewell Authorized Signatures:

DocuSigned by:
Jeremy Schwartz
C0FD2A139D06489...
SOURCEWELL DIRECTOR OF OPERATIONS AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz
(NAME PRINTED OR TYPED)

DocuSigned by:
Chad Coauette
7E42B8F817A64CC...
SOURCEWELL EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coauette
(NAME PRINTED OR TYPED)

Awarded on May 28, 2019

Sourcewell Contract # 040319-CEC

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name Clark Equipment Company dba Bobcat Company

Authorized Signatory's Title Director, Government Accounts

VENDOR AUTHORIZED SIGNATURE

Ramsey L. Fuss
(NAME PRINTED OR TYPED)

Executed on May 30th, 2019

Sourcewell Contract # 040319-CEC

Form F

PROPOSER ASSURANCE OF COMPLIANCE

Proposal Affidavit Signature Page

PROPOSER'S AFFIDAVIT

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to Sourcewell members agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.

2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of Sourcewell, or any person, firm, or corporation under contract with Sourcewell, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.

3. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted in writing and have been included with the Proposer's RFP response.

4. The Proposer will, if awarded a Contract, provide to Sourcewell Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.

5. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.

6. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.

7. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

8. The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify Sourcewell for reasonable measures that Sourcewell takes to uphold such a data designation.

[The rest of this page has been left intentionally blank. Signature page below]

By signing below, Proposer is acknowledging that he or she has read, understands, and agrees to comply with the terms and conditions specified above.

Company Name: **Clark Equipment Company dba Bobcat Company**

Address: **250 East Beaton Dr.**

City/State/Zip: **West Fargo, ND. 58078**

Telephone Number: **701-241-8746**

E-mail Address: **randy.fuss@doosan.com**

Authorized Signature:

Authorized Name (printed): **Randy L. Fuss**

Title: **Director, Government Accounts**

Date: 3-29-2019

Notarized

Subscribed and sworn to before me this 29 day of March, 2019

Notary Public in and for the County of Cass State of ND

My commission expires: May 8, 2023

Signature:

LOGAN GIEFER
State of North Dakota
Notary Public
My Commission Expires May 8, 2023

Form P

PROPOSER QUESTIONNAIRE

Payment Terms, Warranty, Products and Services, Pricing and Delivery, and Industry-Specific Questions

Proposer Name: **Clark Equipment Company dba Bobcat Company**

Questionnaire completed by: **Randy L. Fuss** ***Director, Government Accounts***

Payment Terms and Financing Options

1) What are your payment terms (e.g., net 10, net 30)?

- ***Bobcat Company***
  Terms: Net 30

2) Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?

- ***Bobcat Company***
  We provide competitive leasing, tax free municipal leasing and other financing options for various terms, which are available through the authorized dealer locations and other third party financing organizations such as; Wells Fargo, PNC, and National Cooperative Leasing.

3) Briefly describe your proposed order process. Please include enough detail to support your ability to report quarterly sales to Sourcewell. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell Members' purchase orders.

- ***Bobcat Company***
  - Quote preparation will be completed by the Government Accounts Department or Bobcat Dealer Sales Representative
  - Quote presented will include ordering instructions to submit to the Government Accounts Department or respective Bobcat Dealer
  - ***All orders will be sent to and handled/processed through the corporate Bobcat Government Accounts Department to validate pricing, order control and visibility with the factories, and proper recording for audit purposes and sales report accountability.***
  - Order is entered into the ERP System
  - Dealer is notified of order and any special requirements and install instrucitons
  - Machine is built, inspected and shipped from the Bobcat Factory to the resepective delivering Bobcat Dealer
  - Bobcat Dealer will complete the pre-delivery inspection, install ordered parts/accessories and attachments and complete final delivery to government customer and complete initial operator/safety/maintenance training.
  - Bobcat Dealer will submit a signed delivery report notifying Bobcat Company of delivery and acceptance.
  - Bobcat Company or Bobcat Dealer invoices customer

4) Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell Members for using this process?

Bobcat Company

Yes, Bobcat Company will accept government purchase cards to satisfy payment requirements. Currently, Bobcat Company does not charge any additional fees for credit card payments.

Warranty

5) **Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may include in your response a copy of your warranties, but at a minimum please also answer the following questions.**

Bobcat Company

All Bobcat Skid Steer Loaders, Compact Track Loaders, and Mini-Excavators will include a 24 month/Unlimited hours warranty. All other products to include; Toolcat, Utility Vehicles, Mini-Track Loaders, and Versa-Handlers will include a 12 month/Unlimited hours warranty. (See Attached Warranty Statements)

- **Do your warranties cover all products, parts, and labor?**
  - ***Bobcat Company***
    - Warranties will cover all parts and labor within the specified warranty period.

- **Do your warranties impose usage restrictions or other limitations that adversely affect coverage?**
  - ***Bobcat Company***
    - Customary to the manufacturing industry, usage limitations such as; length of time or number of month (i.e. 12 months) and/or the number of hours (i.e. 2000 hours). Optional Manufacturers Warranty would also follow the aforementioned number of months/hours methodology.
    - Other limitations or circumstances that would restrict or otherwise create warranty limitations are; abuse, unauthorized alterations; damage; environmental conditions, inadequate maintenance, adjustments, normal wear/tear, consumable items, unauthorized repairs, rentals/loaner units, diagnostic time, freight charges, project/job loss, and clean up time

- **Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?**
  - ***Bobcat Company***
    - Travel time for techinicians will not be covered to perfom warranty repair.

- **Are there any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell Members in these regions be provided service for warranty repair?**
  - ***Bobcat Company***
    - Bobcat Company has nearly 600 independently owned and authorized dealers throughout North America. There are multiple dealers or enterprise locations within each state that will stand ready to perform service and warranty work to best serve the government customers.

- **Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?**

  - ***Bobcat Company***
    - Warranty service for any items made by other manufacturers or not manufactured by Bobcat Company will be passed on to the original equipment manufacturer. Note, all products currently offered in response to this RFP will be covered by the warranty of Bobcat Company.

- **What are your proposed exchange and return programs and policies?**
  - ***Bobcat Company***

- Exchange and returns rarely occur, however in the event that the situation(s) shall arise, Bobcat Company will work with the customer on a case by case basis. It is Bobcat Companys' intent to create a world class customer experience and will work diligently with the customer(s) and dealer(s) to quickly provide resolution and minimize any disruption in the customer(s) operations.

6) **Describe any service contract options for the items included in your proposal.**
   - ***Bobcat Company***
     - Service contracts will be only offered by the Bobcat indepently owned and authorized dealers
     - If so chosen by the customer, service contracts through the Bobcat dealer can quoted and ordered in conjunction with contract items.

Pricing, Delivery, Audits, and Administrative Fee

7) **Provide a general narrative description of the equipment/products and related services you are offering in your proposal.**

- ***Bobcat Companys'*** product lines fit within the scope of this Sourcewell RFP. Our breadth of products include the following for Sales, Lease and Rental; Skid Steer Loaders, Compact Track Loaders, Compact and Mini Excavators, Mini Track Loaders, Utility Work Machines (Toolcat®), Compact Tractors, Utility Vehicles, and Versa-Handlers. Our product offering will be expanded in 2020 to include Small Articulating Loaders and Compact Wheel Loaders.

8) **Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. (Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract. See the body of the RFP and the Price and Product Change Request Form for more detail.)**

- ***Bobcat Companys'*** pricing model will be a percentage discount off manufacturers suggested list price by product category. (See Bobcat Company Price Pages attached)

9) **Please quantify the discount range presented in this response. For example, indicate that the pricing in your response represents is a 50% percent discount from the MSRP or your published list.**

- ***Bobcat Company*** discounts will range from 16% to 30% off the manufacturers suggested list price depending on product category. Throughout the term of the contract, Bobcat Company will offer additional discount incentives pertinent to manufacturing pressure, discount programs, and market share opportunities. (See attached Bobcat Company Price Pages)

10) **The pricing offered in this proposal is**

_____a. the same as the Proposer typically offers to an individual municipality, university, or school district.

_____b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.

_____c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.

__X__ d. other than what the Proposer typically offers (please describe).

- **Pricing offered in response to this Sourcewell RFP is similar or is better than some pricing offered to other GPOs, Cooperative procurement organizations, or state purchasing departments. Because of the ceiling based pricing, our discount structure offered will allow for best value, better flexibility, better volume discount considerations, hot list pricing, market conditions, manufacturing pressures, and positioned to provide more competitive discounts as needed to accommodate budgets or customer situations.**

11) Describe any quantity or volume discounts or rebate programs that you offer.

Bobcat Company

- Quantity or volume discounts are available upon request. Like models, factory installed options and attachments with quantities of 3 or more receive favorable discount considerations beginning with 1% additional discount and/or freight cost reductions.

12) Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.

Bobcat Company

- Bobcat Company will allow for "sourced" goods/products or related services or "open market" item or "nonstandard options" to be itemized and offered on Sourcewell member quotes and orders. For example, items such as aftermarket attachments not offered by Bobcat Company will be offered at the dealer price plus 10% and the dealer invoice will collected for record retention.

13) Identify any total cost of acquisition costs that are NOT included in the pricing submitted with your response. This cost includes all additional charges that are not directly identified as freight or shipping charges. For example, list costs for items like installation, set up, mandatory training, or initial/pre-delivery inspection. Identify any parties that impose such costs and their relationship to the Proposer.

Bobcat Company

- Additional total cost of acquisition may include items such as dealer installation of parts and accessories, set up and pre-delivery inspections. Costs are associated with the local dealers shop and labor rates.

14) If travel expense, delivery or shipping is an additional cost to the Sourcewell Member, describe in detail the complete travel expense, shipping and delivery program.

Bobcat Company

- Freight costs (varies by product type) from the factory to customer delivery address will be itemized on the quote and paid by the customer, unless otherwise agreed. Units will be shipped from the factory to the nearest assigned dealer for pre-delivery inspection and parts/accessory installation unless unforeseen circumstances warrant a change to this procedure. The dealer will be responsible for making contact with the customer to arrange final delivery within the appropriate delivery times determined by the customer.

15) Specifically describe those travel expense, shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery.

Bobcat Company

- In situations where delivery is to be made to Alaska, Hawaii, remote parts of Canada, or any offshore delivery the customer will be responsible for the additional freight, air freight, sling load, barge, fairy, and freight forwarding charges to include cargo containers. Additional charges will be reviewed by the customer prior to order and it is customary for Bobcat Company to work with the customer if there is a desired delivery method specified by the customer.

16) Describe any unique distribution and/or delivery methods or options offered in your proposal.

Bobcat Company

- Other than the aforementioned methods of delivery, if a unique delivery situation were to arise Bobcat Company will work closely with the customer to provide the most efficient and cost effective methods.

17) **Please specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell.**

Bobcat Company

- From inception of the contract, Sourcewell Contract specific price pages, dealer memorandum of instruction, and ordering instructions will be handled and distributed to the Bobcat Dealers by the Bobcat Company Government Sales Office. Pricing and discounts will be input into the Bobquote System in order to comply with contract discounts and pricing for quoting consistency in accordance to the awarded contract. All orders will be verified and processed by the Bobcat Government Sales Operations staff in order to maintain consistency and audit compliance. Sourcewell Contract quotes and sales orders will be documented on an internal retail report for easy access and filtering to efficiently provide sales data for quarterly reporting to Sourcewell and administrative fee remittance.

18) **Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See RFP Section 6.29 and following for details.)**

Bobcat Company
Bobcat Company proposes an administrative fee structure of no more than 1%. This proposed discount will allow Bobcat Company to offer additional incentives to Sourcewell members to better meet the customers constrained budgets and better meet the competitive situations in markets of opportunity.

Industry-Specific Questions

19) **Describe any industry-specific quality management system certifications obtained by your organization.**

Bobcat Company
Bobcat Company hold certificates in accordance ISO 9001-2015 (see attached certificates)

20) **Describe any environmental management system certifications obtained by your organization.**

Bobcat Company
Bobcat Company holds certificates in accordance with ISO 14001 Environmental Management Systems certification (see attached certificate)

21) **Describe any preventive maintenance programs that your organization offers for the solutions you are proposing in your response.**

Bobcat Company
Preventative maintenance programs are available and may be purchased through the local dealer for an additional charge. Prices vary depending on model, level of service program desired (i.e. number of times per year, benchmarked number of hours,

Signature: _____ Date: 3-29-2019

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement for a Wharf Asset Evaluation

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

The City of Pittsburg is owner of a former industrial wharf once used for movement of materials in association with an upland power plant. Due to factors including but not limited to the wharf's historical use and time of construction, the City is interested in evaluation of the wharf to identify disposition options for the structure and develop a reuse plan.

FISCAL IMPACT

This project will have no impact on the City's general fund as some tasks are eligible for use of the City's US EPA Brownfield Grant funds. Funds from the $3.2 million Tidelands Lease termination payment received from NRG Energy will be used to pay for any remaining tasks completed under the contract.

RECOMMENDATION

Staff recommends that the City Council adopt the attached Resolution authorizing the City Manager to negotiate and execute a Professional Services Agreement with Anchor QEA for a Wharf Asset Evaluation and to allocate $186,000 for the cost of the evaluation.

BACKGROUND

PG&E constructed a 1,100-foot long timber, concrete, and steel wharf for piping materials from vessels to land to support its associated Pittsburg power plant in the 1950's. Through a series of transactions over the next 70 years, the power plant property and wharf infrastructure were sold to various operators with its latest being NRG Energy. In 2011, California Senate Bill 551 enacted a grant of sovereign tidelands and submerged lands (Tidelands) within City boundaries to the City. This grant included APN 085-010-012, the land on which the wharf was built. With the passage of SB 551, by operation of law, the City

became lessor in place of the State of California for all existing leases of Tidelands, and entered into a Tidelands Lease for use of the wharf by NRG Energy.

In 2021, developer Integral Communities purchased the nearly 1,000 acres of power plant property adjacent to the wharf. The City terminated its lease with NRG Energy on June 30, 2021, and the wharf became property of the City pursuant to a provision in the lease. As new owner of the unique infrastructure, the City conducted a Condition Assessment Report (Assessment) of the wharf (see Attachment 3). In addition to detailed conditions, this Assessment approximated costs of demolition and replacement as well as repair of the wharf at $21,300,000 and $8,700,000 respectively. Given these costs, in August, the City entered into a contract for a feasibility study to identify relative processes and costs for implementing the highest and best use the wharf.

Potential highest and best uses of the wharf fall into three main categories: removal, recreational, and industrial. Building on and complimentary to the feasibility study, an asset evaluation will aim to assess the wharf structure to understand current environmental considerations, costs, and steps necessary to support each of the three main use categories from an environmental perspective.

SUBCOMMITTEE FINDINGS

This item was not presented at a Subcommittee.

STAFF ANALYSIS

The Pittsburg Waterfront is evolving. In the last decade two large industrial property owners sold over 1,000 acres to lighter commercial users or residential developers, prominent enterprises like Dow Chemical and US Steel have undergone major structural transitions, and green tech has expanded on the waterfront with much more potential. On the western half of Pittsburg’s waterfront, City Council approved its first commercial Tidelands Lease for a hotel near the marina in 2022, retail entities like bait shops, fish markets, and cafes are thriving, old parks and recreation amenities are receiving grant-funded upgrades, and the City continues to pursue expansion of its waterfront-focused brownfield programs. All of these changes affect the disposition of the wharf, but none more than the Bay Walk Project proposing 2,000 residential unit, mixed-use development on upland property adjacent to it.

The City's Environmental Services Division is responsible for fostering projects that promote public benefit and redevelopment of underutilized properties. With the influx of residents associated with the Bay Walk Project, productive use of the wharf that can provide immense public benefit and revitalization of underutilized infrastructure can become a reality. The feasibility study proposed will develop details needed to inform future community and City Council decisions through exploration of financial opportunities and costs, physical needs, environmental parameters, and implementation hurdles of industrial, commercial, and recreational uses.

Staff sought three quotes for evaluation of the wharf's highest and best use and received one response from Anchor QEA. Anchor QEA has extensive internal knowledge and experience on the Sacramento San-Joaquin River Delta, and in addition to the wharf feasibility study, the City has worked with Anchor QEA for several years on dredge projects, various marine permitting items, and conditions assessments. Anchor QEA also routinely works with the EPA and a suite of environmentally focused agencies, has extensive brownfield experience, and has an abundant network of Minority and Women Business Enterprise subcontractors and partners.

ATTACHMENTS: Resolution 22-
Consultant Services Agreement

Report Prepared By: Sara Bellafronte, Senior Administrative Analyst

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Authorizing the City Manager to Negotiate and)
Execute a Professional Services Agreement for) RESOLUTION NO. 22-
A Wharf Asset Evaluation)

WHEREAS, PG&E constructed a 1,100-foot long timber, concrete, and steel wharf to support its associated Pittsburg power plant in the 1950's, and through a series of transactions over the next 70 years, the power plant property and wharf infrastructure were sold to various operators with its latest being NRG Energy; and

WHEREAS, in 2011, California Senate Bill 551 enacted a grant of sovereign tidelands and submerged lands (Tidelands) within City boundaries to the City. This grant included APN 085-010-012, the land on which the wharf was built; and

WHEREAS, with the passage of SB 551, by operation of law, the City became lessor in place of the State of California for all existing leases of Tidelands, and entered into a Tidelands Lease for use of the wharf by NRG Energy; and

WHEREAS, the NRG Energy terminated its lease with the City on June 30, 2021, and the wharf became property of the City pursuant to a provision in the lease; and

WHEREAS, as new owner of the unique infrastructure and its associated costs, the City entered into a contract in 2022 for a feasibility study to identify relative processes and costs for implementing the highest and best use the wharf; and

WHEREAS, building on and complimentary to the feasibility study, the City proposes to enter into a contract for an asset evaluation that will aim to assess the wharf structure to understand current environmental considerations, costs, and steps necessary to support each of the three main use categories from an environmental perspective; and

WHEREAS, staff sought three quotes for this work and received one response from Anchor QEA. Anchor QEA has extensive internal knowledge and experience on the Sacramento San-Joaquin River Delta, EPA Brownfields programs, environmental permitting agencies, and a robust network of Minority and Women Business Enterprises.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburg hereby authorizes the City Manager to negotiate and execute a Professional Services Agreement with Anchor QEA for a Wharf Asset Evaluation and allocates $186,000 for the cost of the evaluation.

PASSED AND ADOPTED by the City Council of the City of Pittsburg, at a regular meeting on the 3rd day of October 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Ordinance Approving a Zoning Map Amendment for Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

On September 19, 2022, the City Council held a public hearing on a request for approval of a 17-lot, single-family residential, subdivision on a 1.8-acre site located at 360 Central Avenue in the RS-5 (Single-Family Residential) District. Assessor Parcel Number 086-151-002. After closing the public hearing, the Council adopted Resolution No. 22-14162 approving a General Plan Map amendment, a Vesting Tentative Map for a Major Subdivision and Design Review of landscape and architectural plans. The City Council also introduced and waived further reading of an ordinance approving a Zoning Map amendment for the project. The Ordinance is now ready for City Council adoption.

FISCAL IMPACT

One-time revenues related to construction permits and other development fees and exactions (as outlined in the proposed development agreement) are anticipated with this project. There is no impact to the General Fund if this project is approved.

RECOMMENDATION

City Council move to adopt an Ordinance approving a Zoning Map amendment (and associated PD Plan) for Liberty Residential Subdivision Phase II (Attachment 1).

BACKGROUND

The requested Zoning Map amendment would rezone the site from RS-5 (Single-Family Residential) District to PD (Planned Development) District (see Exhibit A of Attachment 1) to allow for flexible, small lot development.

For a more detailed discussion of the application in its entirety, the City Council may refer to the September 19, 2022, staff report titled “Adoption of a Resolution and Introduction and Waive First Reading of an Ordinance Amending the Zoning Map for Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR),” included as Attachment 2 of this report.

SUBCOMMITTEE FINDINGS

Not applicable.

STAFF ANALYSIS

After the City Council holds a public hearing and introduces an ordinance on a given matter, approval of the matter is formalized by City Council adoption of the ordinance by a majority vote at a meeting no fewer than five days after the public hearing. The ordinance becomes effective 30 days after the date of its adoption.

ATTACHMENTS:

1. Ordinance
    a. Exhibit A – Zoning Map Amendment and PD Plan
2. City Council Staff Report dated September 19, 2022

Report Prepared By: Alison Hodgkin, Associate Planner

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance Approving a Zoning Map Amendment for a 17-Lot, Single-Family Residential Subdivision at 360 Central Avenue, for "Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)."	)	ORDINANCE NO.

The PITTSBURG City Council DOES ORDAIN as follows:

SECTION 1. Recitals.

A. On September 21, 2021, Louis Parsons of Discovery Builders, Inc., filed Planning Application No. AP-21-1599 (GP, RZ, SUBD, DR), requesting approval of: 1) a General Plan Map Amendment to change the parcel's land use designation from Low Density Residential to Medium Density Residential, 2) a Zoning Map Amendment to rezone the parcel from RS-5 (Residential Single Family 5,000 square-foot minimum lot size) to PD (Planned Development), 3) a Vesting Tentative Map for a 17-lot Major Subdivision; and 4) Design Review. The project site is located at 360 Central Avenue. Assessor Parcel Number 086-151-002.

B. The proposed project is governed by the applicable goals and policies of the Pittsburg General Plan, the Pittsburg Municipal Code (PMC), and the City's adopted Design Review and Development Guidelines (DRDGs; Planning Commission Resolution No. 9864).

C. The proposed project statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15182 (Projects Pursuant to a Specific Plan) of the State CEQA Guidelines. Government Code section 65457(a) provides that any residential development project, including any subdivision, or any zoning change that is undertaken to implement and is consistent with a Specific Plan for which an Environmental Impact Report has been certified after January 1, 1980, is exempt from the requirements of CEQA. This exemption is also codified in the CEQA Guidelines, section 15182(c).

D. Pursuant to PMC sections 18.16.02 and 18.48.030, the City Council, upon recommendation of the Planning Commission, may approve a zoning map amendment if it finds that: 1) the change proposed is consistent with the objectives, policies, general land uses and programs specified in the General Plan and applicable specific plan; 2) a community need is demonstrated for the change proposed; and 3) its adoption will be in conformity with public convenience, general welfare and good zoning practice.

E. On August 9, 2022, after conducting a duly noticed public hearing, the Planning Commission adopted Resolution No. 10196, recommending approval of the proposal in its entirety, including the requested Zoning Map Amendment.

F. On or prior to Friday, September 9, 2022, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020.A - D, a "Notice of Public Hearing," for the September 19, 2022, public hearing on this item was published in the East County Times; was posted at City Hall; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice.

G. On September 19, 2022, the City Council held a duly-noticed public hearing to: 1) introduce and waive further reading of this ordinance approving the proposed Zoning Map Amendment; and 2) adopt a resolution approving the proposed General Plan Map Amendment, Vesting Tentative Map and Design Review, at which time oral and/or written testimony was considered.

SECTION 2. Findings.

Based on the City Council Staff Report entitled, "Adoption of a Resolution and Introduction and Waive First Reading of an Ordinance Approving Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)," dated September 19, 2022, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

Zoning Map Amendment:

2. The proposed amendment to the Zoning Map is consistent with the objectives, policies, general land uses, and programs specified in the General Plan in that:

   a. The proposed project will be developed on an infill site, thereby helping the City maintain a compact urban form within the City's projected municipal boundary (Goal 2-G-1).

   b. The proposed project will provide medium intensity single-family residential near the Downtown and in an area accessible to transit and services (Goals 2-G-4 and 3-G-3). The project site is within a half-mile distance of the Pittsburg Center BART Station and a quarter-mile of two bus stops located near the intersections of Railroad Avenue/Central Avenue and Harbor Street/Central Avenue (Tri Delta Transit Routes 381 and 387).

   c. The proposed project will expand Pittsburg's housing diversity by providing single-family development on smaller lots ranging from

approximately 2,000 to 4,200 square feet (Goal 2-G-5 and Housing Goal G-1).

d. The proposed project will utilize a Planned Development (PD) zoning, in part, to achieve a high-quality design outcome (Policy 2-P-5).

e. The proposed project will pay its share of the costs for the construction of facilities needed to serve the development (Policy 3-P-1, 3-P-13, and 7-P-2). The proposed project will comply with conditions of approval requiring payment of the Facilities Reserve Charge, Local Traffic Mitigation Fee (LTMF), and Regional Transportation Development Impact Mitigation Fee (RT-DIM) in accordance with the Pittsburg Municipal Code.

f. The proposed project will promote the public health, safety, and general welfare in that it requires the Developer to: a) pay fees to finance unmet local and regional traffic improvement needs; b) annex the site into the City's Community Facilities District (CFD) 2007-1 for park maintenance; c) annex the site into the City's CFD 2016-1 for maintenance of off-site stormwater facilities; d) annex the site into the City's CFD 2005-1 for police and other emergency services; e) annex the site into the City's CFD 2014-1 for Railroad Avenue Specific Plan improvements and f) annex the site into the City's CFD 2017-1 for fire facilities and fire safety and emergency services.

g. The proposed project will be built in an area where public facilities and infrastructure are already available (Policy 3-P-1).

h. The existing transportation system has adequate capacity to accommodate the proposed project (Policy 3-P-2). Residents of the proposed project will have multiple transportation options available to them as the site is located near BART, Tri-Delta Transit, and bicycle lanes.

i. The Developer was not required to prepare a traffic impact study because the proposed project is expected to generate under 100 net new peak hour trips (Policy 3-P-5).

j. The proposed project will provide safe and contiguous routes for pedestrians and bicyclists (Policy 3-P-17, 7-P-34, and 7-P-40) in that there is an existing Class II bicycle lane along Central Avenue.

k. The proposed project focuses single-family residential on a site that has been designated as a Priority Development Area under the Metropolitan Transportation Commission and Association of Bay Area Government's FOCUS Program (Policy 3-P-18 and Housing Policy P-1.1 D).

l. The proposed project will promote the development and intensification of the Downtown commercial core as neighborhood retail center by

increasing the demand for retail and other amenities (Goal 5-G-2).

m. The proposed project will encourage walking as a regular means of transportation due to the site's proximity to various amenities (Goal 7-G-15). The project site is within a half-mile distance of Marina Vista Elementary School, Pittsburg High School, City Park, John Buckley Square, the Pittsburg Center BART Station, and the Downtown commercial core.

n. The proposed project will include bicycle racks in each garage for secure bicycle parking (Policy 7-P-45).

o. The Developer was not encouraged to dedicate a public park because the proposed development includes less than 150 units (Policy 8-P-16).

p. The Developer will equitably share the costs associated with providing water and wastewater services to the proposed project through payment of the Pittsburg Facilities Reserve Charge (Policy 11-P-7 and 11-P-18).

q. The proposed project will include sound walls along the north and south perimeter and provide upper-floor windows of residences adjacent to the UPRR tracks (homes on Lots 11-14) to be upgraded to a Sound Transmission Class (STC) rating of 32. The proposed sound walls and upper-story windows will help ensure interior noise levels do not exceed 45 dB CNEL (Policy 12-P-6).

r. The proposed Zoning Map amendment is for a project site that is vacant, underutilized, and appropriate for higher-density residential use given its proximity to schools, parks, transit, and commercial amenities (Housing Element Policy P-1.1 B).

s. The proposed project will provide market-rate housing near in the Downtown and increase demand for economic activity in nearby shopping centers (Housing Policy P-1.2).

t. The proposed project will provide two, single-family homes with Accessory Dwelling Units (ADUs) that would allow extended families to live near each other, increase the affordable and rental housing stock, and provide income assistance to homeowners (Housing Policy P-1.5).

u. The proposed project will help attain the City's Regional Housing Needs Allocation for moderate and above-moderate income households (Policy P-1.6).

v. The proposed project will comply with conditions of approval requiring construction of quality home designs to ensure future residents will enjoy an attractive living environment (Housing Goal G-5 and Policy P-5.1).

3. The proposed amendment to the Zoning Map is compatible with the uses

authorized in, and the regulations prescribed for, the land use district for which it is prepared, in that the land uses allowed in the proposed 'PD District' will be the same as those allowed in the 'RS-4 (Single-Family Residential) District' and the development regulations for the proposed 'PD District' will be those specified in the PD Plan in Exhibit A of this resolution.

4. There is a community need for the proposed zoning change, in that the amendment will facilitate occupancy of a long-standing vacant site in accordance with the City's housing goals calling for development of a variety of housing types, densities, and prices to balance the City's housing stock and to meet Pittsburg's regional fair share housing needs for people of all income levels. Providing 57 small-lot, market-rate residential units along with six income-restricted accessory units at the site will provide diverse housing options for residents and create an opportunity for more residents to utilize the Pittsburg Center BART Station and other public transit opportunities.

5. The proposed zoning amendment will be in conformity with public convenience, general welfare, and good zoning practice, in that the amendment will facilitate development of a long-standing vacant site, which could help to eradicate existing problems that come with vacant sites, such as illegal dumping and loitering. Additionally, the proposed project will add additional residents to the area who may frequent the established and potential commercial uses envisioned along Railroad Avenue. In addition, the site's proximity to both the Pittsburg Center BART Station and two existing bus routes presents an opportunity for more residents to utilize public transit opportunities.

SECTION 3. Decision.

Based on the findings and the authority set forth above, the City Council hereby:

A. Amends the Zoning Map, as referenced in Pittsburg Municipal Code, Title 18 (Zoning Ordinance) section 18.04.020, to change the zoning for the project site from RS-5 District to 'PD' District and adopting specific land use and development regulations as substantially presented in Exhibit A of this resolution.

SECTION 4. Effective Date

This Ordinance shall be in full force and effective thirty (30) days after its adoption.

SECTION 5. Publication.

The City Clerk shall either (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or (b) have a summary of the ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again 20 days after its adoption.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on September 19, 2022, and was adopted and ordered published at a meeting of the City Council held on October 3, 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

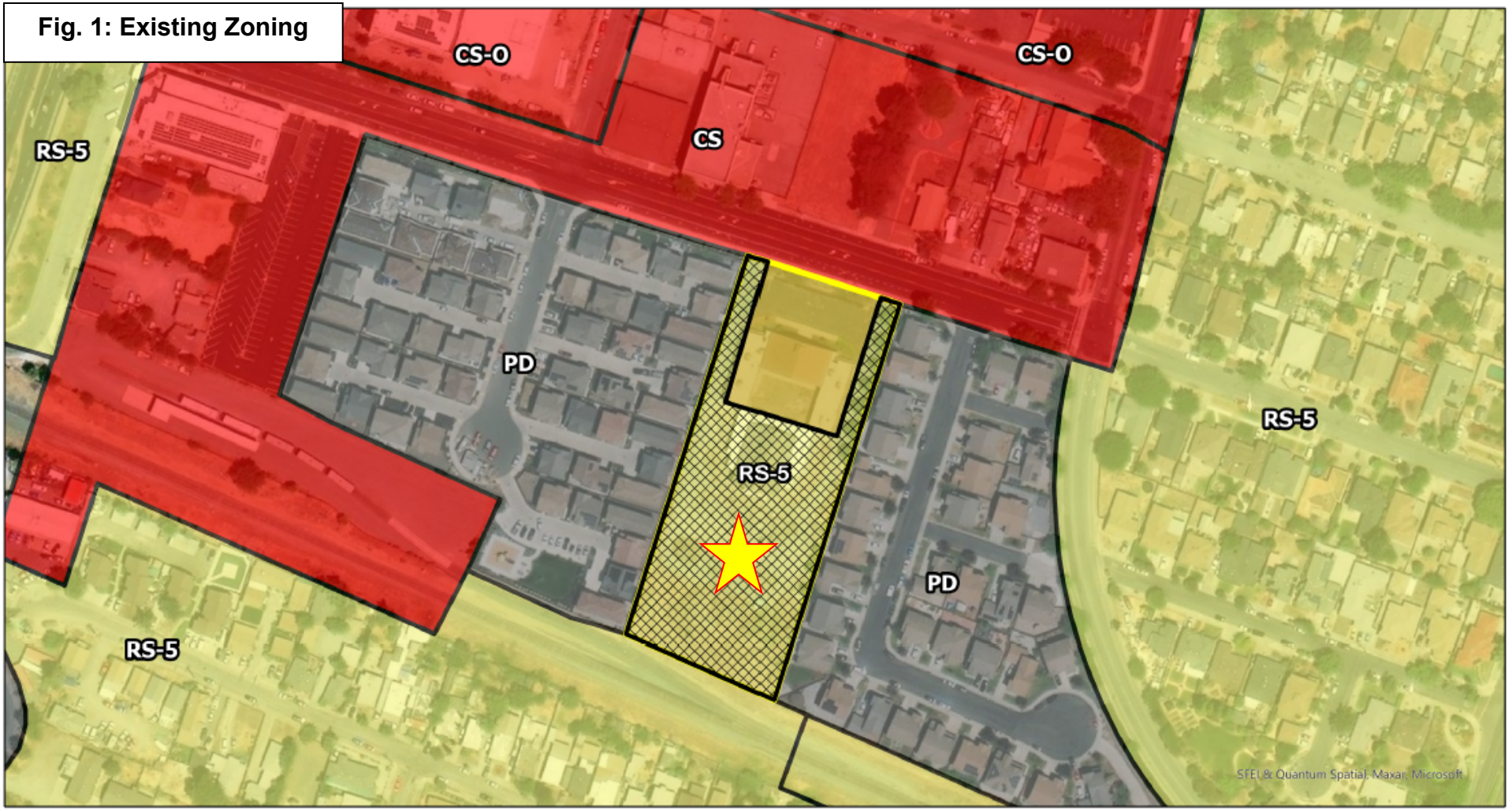
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

Fig. 1: Existing Zoning



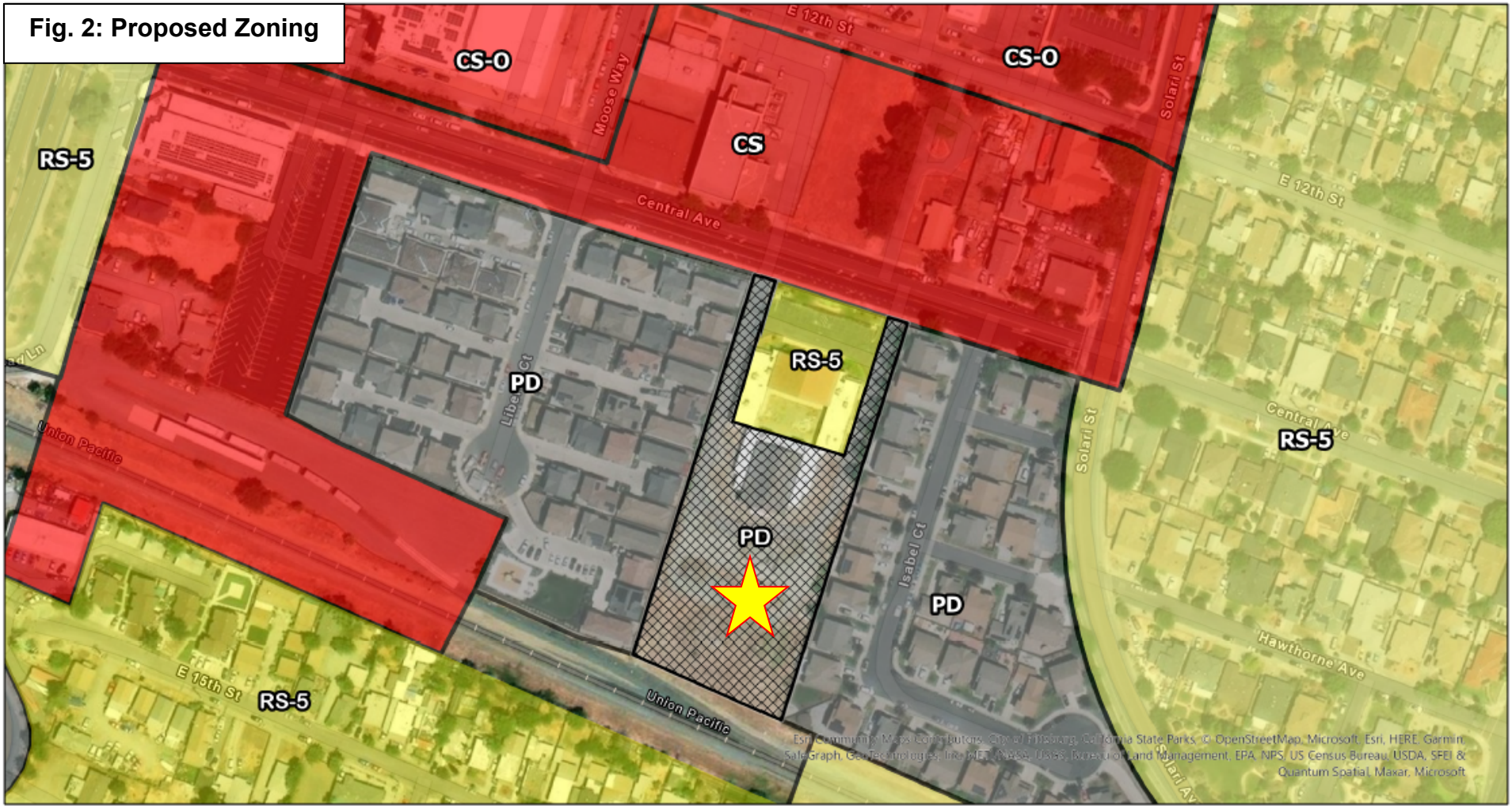
Existing Zoning District(Current APN:086-151-002)
360 Central Ave, Pittsburg, CA,94565
0 140 280 560 Feet
Scale: 1:1,700

N

Legend
Project Site
Zoning
CS,Service Commercial
CS-O,Service Commercial-Limited Overlay
PD,Planned Development
RS-5,Single Family Residential (5,000 sf min. lot size)

City of Pittsburg

Fig. 2: Proposed Zoning



Proposed Zoning District(Current APN:086-151-002)
360 Central Ave, Pittsburg, CA,94565
0 145 290 580 Feet
Scale: 1:1,700

Legend
Project Site
Zoning
CS,Service Commercial
CS-O,Service Commercial-Limited Overlay
PD,Planned Development
RS-5,Single Family Residential (5,000 sf min. lot size)

City of Pittsburg

Purpose and Applicability
The purpose of this PD Plan is to establish land use and development regulations for a 17-unit, single-family residential subdivision on a 1.8-acre site located 360 Central Avenue (APN: 086-151-002).

Land Use Regulations
The land uses allowed in the PD (Planned Development) District (shown in Figure 2) shall be the same as those allowed in the RS-4 (Single-Family Residential) District (Pittsburg Municipal Code [PMC] Chapter 18.50).

Development Regulations
Except as indicated in the table at right, all development regulations of the PD District shall be the same as those of the RS-4 District. Use and development of the property would also comply with Article 3 (Performance Standards), Article 5 (Home Occupations) of PMC Chapter 18.50 and with the Off-Street Parking Requirements of PMC Chapter 18.78.

PD Development Regulations	
Min. Lot Size	2,000 sq. ft.
Min. Lot Width	40 ft.
Min. Front Yard (fronting on private road)	4 ft.
Min. Corner Side Yard (next to private road)	4 ft.
Min. Interior Side Yard	4 ft.
Min. Rear Yard	4 ft.
Max. Encroachment into a Required Yard	1 ft.
Max. Lot Coverage	60%
Max. Building Height	28 ft.

Office of the City Manager
65 Civic Avenue
Pittsburg, CA 94565

MEMO: September 19, 2022

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

RE: **Adoption of a Resolution and Introduction and Waive First Reading of an Ordinance Amending the Zoning Map for Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)**

EXECUTIVE SUMMARY

This is a public hearing on a request for approval of: 1) a General Plan Map Amendment to change the parcel's land use designation from Low Density Residential to Medium Density Residential and 2) a Zoning Map Amendment to rezone the parcel from RS-5 (Single-Family Residential) to PD (Planned Development) District (and associated PD Plan) for the Liberty Residential Subdivision Phase II Project located at 360 Central Avenue in the RS-5 (Single-Family Residential) district. Assessor's Parcel No. 086-151-002. For information purposes, this application also includes consideration of a Vesting Tentative Map for a 17-lot Major Subdivision and Design Review of landscape and architectural plans. On August 9, 2022, the Planning Commission adopted Resolution No. 10196 recommending approval of the proposal in its entirety.

FISCAL IMPACT

One-time revenues related to construction permits and other development fees and exactions (as outlined in the proposed Conditions of Approval) are anticipated with this proposal. There is no impact to the General Fund if this project is approved.

RECOMMENDATION

City Council open the public hearing; take public comment; close the public hearing; then: (1) adopt a resolution (Attachment 1) approving a General Plan Map amendment, Vesting Tentative Map for a Major Subdivision and Design Review; and (2) introduce, waive further reading, and pass to second reading, an ordinance (Attachment 2) approving a Zoning Map amendment for the project. A condition of approval for the project has been included making approval of the General Plan Map amendment, Vesting Tentative Map for a Major Subdivision and Design Review contingent upon City Council adoption of the ordinance approving the

Zoning Map amendment (and associated PD Plan) for Liberty Residential Subdivision Phase II.

BACKGROUND

On September 21, 2021, Louis Parsons of Discovery Builders, Inc., filed Planning Application No. AP-21-1599 (GP, RZ, SUBD, DR), requesting: 1) a General Plan Map Amendment to change the parcel's land use designation from Low Density Residential to Medium Density Residential, 2) a Zoning Map Amendment to rezone the parcel from RS-5 (Residential Single Family 5,000 square-foot minimum lot size) to PD (Planned Development), 3) a Vesting Tentative Map for a 17-lot Major Subdivision; and 4) Design Review.

The Planning Commission held a public hearing to consider Mr. Parsons' project on August 9, 2022. Following public testimony and deliberations, the Planning Commission unanimously adopted Resolution No. 10196 (Attachment 3), recommending the City Council adopt an ordinance and resolution to approve Liberty Residential Subdivision Phase II, subject to conditions.

Existing Conditions: The parcel is 1.8 acres, designated Low Density Residential and currently zoned RS-5 (Single-Family Residential – 5,000 Square Foot Minimum Lot Size). The 1.8-acre parcel is located south of Central Avenue, directly behind a 0.65-acre parcel containing an existing, 10,206 square-foot (sq. ft.) church (Hamilton Memorial). The property is located within the Old Town Gateway subarea of the Railroad Avenue Specific Plan (RASP).

The 1.8-acre parcel is vacant and undeveloped. The land is flat and contains seasonal grasses, five palm trees along the east and west perimeter, and seven Callery Pear trees along the east property line near the entrance of the project site. There is a wood fence along the east property line providing separation from the adjacent residential subdivision 'Terra Nova.' There is an eight-foot sound wall along the west property line providing separation from the adjacent residential subdivision 'Liberty Phase I.' Currently, two free-standing blockades are placed on the east and west side of the existing church building to prevent access to the site from Central Avenue. The south side (rear) of the property is not secured with fencing and contains a remnant Union Pacific Railroad (UPRR) spur track easement which has been quitclaimed to the applicant.

See Photos of the Project Site in Attachment 4.

The project site is approximately one-half-mile from the Pittsburg Center Bay Area Rapid Transit (BART) station and is within a quarter mile of two bus stops located near the intersections of Railroad Avenue/Central Avenue and Harbor Street/Central Avenue (Tri Delta Transit Routes 381 and 387). Additionally, the project site is within one half-mile distance of Marina Vista Elementary School, Pittsburg High School, City Park, John Buckley Square, and the Downtown commercial core.

See Map of Surrounding Land Uses in Attachment 5.

Proposed Project: The proposed project would subdivide a 1.8-acre parcel into 17 lots for single-family residential development, similar to adjacent Liberty Phase I subdivision. Four approvals are requested for this project: 1) a General Plan Map Amendment, 2) a Zoning Map

Amendment, 3) a Vesting Tentative Map for a Major Subdivision and 4) Design Review. Each approval is discussed in detail below.

1. General Plan Map Amendment:

The proposed General Plan Map Amendment would change the parcel's current land use designation from Low Density Residential, which limits construction to a maximum of 7 dwelling units per acre (du/ac), to Medium Density Residential which allows for the construction of a maximum of 14 du/ac.

See Exhibit A of Attachment 1 (Resolution) for the proposed General Plan Map Amendment.

2. Zoning Map Amendment:

The proposed Zoning Map Amendment would rezone the 1.8-acre project site from RS-5 District to PD (Planned Development) District. The land uses allowed in the proposed PD District would be the same as those allowed in the RS-4 (Single-Family Residential) District. Specific development regulations for the proposed PD District, as shown in the PD Plan, would be:

Min. Lot Size:	2,000 sq. ft.
Min. Lot Width:	40 ft.
Min. Front Yard (fronting on private street):	4 ft.
Min. Corner Side Yard (next to private street):	4 ft.
Min. Interior Side Yard:	4 ft.
Min. Rear Yard:	4 ft.
Max. Encroachment into a Required Yard:	1 foot
Max. Lot Coverage:	60 percent
Max. Building Height:	28 ft.

The proposed development regulations in the PD Plan (listed above) are the same standards that were approved for the adjacent Liberty Phase I project completed in 2021.

See Exhibit A of Attachment 2 (Ordinance) for the proposed Zoning Map Amendment and PD Plan (Development Regulations).

3. Vesting Tentative Map for a Major Subdivision:

The proposed Major Subdivision would subdivide the 1.8-acre parcel into 17, single-family residential lots. The proposed lot sizes range from 2,150 (smallest lot size) to 3,649 sq. ft. (largest lot size), yielding a density of approximately 9.45 du/ac.

Access: A single, 20-foot wide, two-way private street off Central Avenue (Colleen Circle) would provide access to the proposed subdivision. A four-and-a-half-foot sidewalk is proposed along the interior of the proposed subdivision. In the northeast portion of the project site, the sidewalk would transition to the opposite side of the private street via a four-foot-wide crosswalk with Americans with Disabilities Act (ADA)-compliant curb returns and lead out to Central Avenue. Hamilton Memorial Church has secured an easement from Discovery Builders, Inc. to access the church using Colleen Circle. No improvements to Central Avenue

are required as part of this project. Currently, a remnant UPRR spur track easement, which has been quitclaimed to the applicant, crosses the rear property line through proposed lots 11 – 15.

Off-Street Parking: Each residence within the proposed subdivision would include a two-car garage, which satisfies the requirement for off-street parking pursuant to PMC Chapter 18.78. An additional eight guest parking spaces would be provided in the northern section of the subdivision adjacent to proposed lots 1 and 17. No parking would be allowed on Colleen Circle.

Bicycle Facilities: A Class II bicycle lane exists along Central Avenue. The applicant has proposed two, wall-mounted bicycle racks in the garage of all 17 residences.

Infrastructure/Utilities: The proposed project would be connected to existing utility providers in the City. Water services would be provided by the Contra Costa Water District and treated in the City's water treatment facilities. As part of Liberty Phase I, the applicant installed a new segment of waterline for the city on Central Avenue intended to serve both Liberty Phase I and Phase II residential subdivisions. Therefore, the proposed project is compliant with the 2015 Water System Master Plan, as amended. A Condition of Approval will require the applicant to evaluate the existing, receiving storm and sewer facilities for adequate capacity and provide the results to the city to identify any service or supply problems. If any service or supply problems arise, the applicant agrees to cover the cost for installation of additional facilities required to be constructed to accommodate the proposed project.

Stormwater: In accordance with the Memorandum of Understanding (MOU) executed with the city on May 16, 2016, and amended December 12, 2019, the applicant proposes to utilize offsite mitigation credits in lieu of constructing low impact development (LID) stormwater facilities within the project site. The applicant will be required to annex the project site into Community Facilities District (CFD) 2016-1, for the continuous maintenance of offsite stormwater treatment facilities constructed at Carion Court, as a Condition of Approval. Additionally, the applicant will install full trash capture devices in all stormdrain inlets within the project area.

Prior to recording the Final Map, the applicant will be required to annex the project site into CFD 2005-1 (Public Safety Services), CFD 2007-1 (Park Maintenance) and CFD 2014-1 (Railroad Avenue Specific Plan).

See Exhibit B of Attachment 1 (Resolution) for the proposed Major Subdivision 9550 and Vesting Tentative Map.

4. Design Review:

Pursuant to PMC 18.36.100, Design Review is required for Major Subdivisions in single-family land use districts and PD districts.

Architectural Plans: The architectural plans for the proposed subdivision include four, two-story, single-family residence models with three exterior design options and 12 total color schemes. The house model designs are characterized by a mixture of hipped and gable-end roofs with concrete tile roofing material, stucco siding and simulated stone veneer or

horizontal lap siding and windows with faux shutters or wrought iron railings.

The proposed single-family residence models (Plans 1 – 4) would range from 1,814 to 2,487 sq. ft. in total living area. The proposal includes eight (8) Plan 1, four (4) Plan 2, four (4) Plan 3 and one (1) Plan 4 floor plans. All of the 17 proposed lots would include a concrete pathway leading up to a front porch/patio area ranging in size from 29 to 96 sq. ft.

Plan 1. The floor plan for the eight, Plan 1 single-family residences shows a 419 sq. ft., two-car garage with two wall-mounted bicycle racks, a family or 'great' room, a 'nook' or dining room, a kitchen with appliances, pantry and half bathroom or 'powder' room on the first floor. On the second floor, the Plan 1 floor plan shows three bedrooms, two full bathrooms (including a master bath and walk-in closet), laundry facilities and a loft or optional fourth bedroom.

Plan 2. The floor plan for the four, Plan 2 single-family residences shows a 416 sq. ft., two-car garage with two wall-mounted bicycle racks, a living room (with a storage area under the stairs), a dining room, a kitchen with appliances and half bathroom or 'powder' room on the first floor. On the second floor, the Plan 2 floor plan shows four bedrooms, two full bathrooms (including a master bath and walk-in closet), laundry facilities and a loft. Two of the four Plan 2 homes would also include an approximately 280 sq. ft. Accessory Dwelling Unit (ADU) to meet the city's affordable housing requirements in PMC Chapter 18.86. Both ADUs would be equipped with an exterior entry door and include a 'studio-style' living room/bedroom, kitchenette and bathroom. Buyers of the two Plan 2 homes with the ADU would have the option of placing a lockable interior door leading from the living room of the main dwelling unit to the ADU. Should the buyer of the Plan 2 homes with the ADU choose to remove the optional interior door to the ADU, the space would be constructed as a wall.

Plan 3. The floor plan for the four, Plan 3 single-family residences shows a 436 sq. ft., two-car garage with two wall-mounted bicycle racks, a living room, a 'nook,' a dining room, a kitchen with appliances and a half bathroom or 'powder' room on the first floor. On the second floor, the Plan 3 floor plan shows four bedrooms, two full bathrooms (including a master bath and walk-in closet), laundry facilities and a loft.

Plan 4. The floor plan for the single, Plan 4 single-family residence shows a 420 sq. ft., two-car garage with two wall-mounted bicycle racks, a family or 'great' room, a dining room, a kitchen with appliances, pantry and half bathroom or 'powder' room on the first floor. On the second floor, the Plan 4 floor plan shows four bedrooms, two full bathrooms (including a master bath and walk-in closet), laundry facilities and a loft.

Green Building Features: Each proposed single-family residence would be equipped with an air conditioning unit and solar panels compliant with 2019 California Energy Code. Solar panels would be installed at the time of final occupancy through a separate permit. Additionally, the proposed project would include cool roofs and pre-wire for electric vehicle charging.

Refuse: Each proposed single-family residence would be equipped with an approximately 8 sq. ft. concrete trash pad and the ability to accommodate three bins (refuse, recyclables, organics) at the curb in the front of each residence. All bins would be sized to ensure

compliance with requirements of Senate Bill 1383 (2016).

Landscaping: The Landscape and Fencing Plan indicates front yard landscaping would be installed for each proposed lot. For proposed lots 5 and 6, which are on the corner, there would be corner-side landscaping. Additional landscaping is shown along the east property line and surrounding the guest parking areas adjacent to proposed lots 1 and 17. Each proposed lot would include shrubs, drought-tolerant ground cover and bark. Shrubs would include one-gallon containers of Manzanita, Spanish Lavender, Red Sage and Dwarf Germander and five-gallon containers of Noell Grevillea, Variegated Mock Orange and Shiny Xylosma. Additionally, each proposed lot would have at least one, 15-gallon container with the street tree (*Chinese Pistache)* and one 15-gallon container with a California native accent tree (*Cercis Occidentalis, Western Redbud or California Redbud).* The existing, five palm trees along the east and west perimeter of the project site would be removed to allow for sufficient access. The existing, seven Callery Pear trees along the east property line near the entrance of the project site would also be removed to allow for construction of the proposed sidewalk. Because the existing palm and Callery Pear trees do not meet the definition of "protected tree" in PMC section 18.84.835(F), a tree removal permit is not required.

Fencing: Each proposed lot would be fully fenced with a six-foot, board-on-board, wood fence with steel posts and include a latched yard gate.

Sound Walls: Two separate, eight-foot sound walls would also be constructed on the project site. There is an existing, eight-foot sound wall along the entire length of the west property line which currently separates the project site from the adjacent Liberty Phase I Subdivision. One of the two proposed sound walls would be located along the entire length of the southern property line to separate proposed lots 11 – 14 from the railroad. The second proposed sound wall would be located along the southern property line of the existing Hamilton Memorial Church parcel, providing separation between the church and the proposed Liberty Phase II Subdivision. According to the schematic in the plans, both sound walls would be treated with decorative features consistent with neighborhood design.

See Exhibit C of Attachment 1 (Resolution) for the proposed Project Plans, including the Landscaping and Fencing Plan and Garbage Collection Exhibit.

GENERAL PLAN/CODE COMPLIANCE:

Pittsburg General Plan 2020

The project site is located in the East Central subarea of the General Plan and is currently designated Low Density Residential. The Low Density Residential designation is intended to provide sites for single family development with a density of 1 to 7 du/ac.

Although it is consistent with several General Plan goals and policies, the proposed project is a single-family development with a density of 9.45 du/ac which exceeds the parcel's existing General Plan land use designation.

To address this inconsistency, the applicant is requesting the parcel be redesignated to Medium Density Residential. If the proposed General Plan Amendment is approved, the maximum density for the project site would increase from 7 du/ac to 14 du/ac, which would

allow for a maximum of 25.2 dwelling units on the 1.8-acre project site. The applicant is proposing a total of 17 dwelling units on the project site, which is less than the maximum that would be permitted.

Railroad Avenue Specific Plan

The proposed project is located within the Railroad Avenue Specific Plan (RASP) area. Together, the RASP and the General Plan provide a framework to guide future development within the RASP boundary. The RASP was adopted in 2009 to implement the goals for the Railroad subarea of the General Plan. The RASP envisions a vibrant, walkable, mixed-use, and transit-oriented activity center around the Pittsburg Center BART Station.

The proposed project is located within the Old Town Gateway subarea of the RASP and has a RASP land use classification of Low Density Residential. The Old Town Gateway subarea is located at the northern edge of the RASP area, between the Burlington Northern Santa Fe and the Union Pacific Railroad tracks. The Old Town Gateway subarea is intended to provide a transition from the RASP area to Old Town Pittsburg.

The RASP states that "continuing to allow residential and commercial development in this sub-area will allow for future projects that provide shopping or employment opportunities in the space between the Specific Plan Area and Old Town." RASP Land Use Policy 3-P-3 is also applicable to the proposed project in that it encourages additional housing opportunities, including affordable housing, within one-half mile of the BART Station.

Zoning: The project site is in the RS-5 District. This zoning district is intended implement the General Plan land use designation. PMC section 18.50.105 requires a 5,000 sq. ft. minimum lot size in the RS-5 District which translates to a maximum density of 8.7 du/ac. Therefore, the current RS-5 zoning allows for a maximum of 15.7 dwelling units on the 1.8-acre project site.

To provide for small-lot development and additional flexibility for this property, the applicant is requesting the parcel be rezoned to a PD District which is allowed pursuant to PMC section 18.62.010(D). Rezones to PD Districts must be accompanied by a "PD Plan" that include specific land use and development regulations for the rezoned properties. The City Council has approved similar PD rezones and PD plans for past subdivisions such as the adjacent Liberty Phase I Subdivision, 'Vista Del Mar' in the San Marco area, 'Clipper Cove' west of Downtown, and 'Waterstone' / 'Belle Harbor' across from Pittsburg High School.

If the rezone from RS-5 to PD is approved, the development regulations proposed in the PD Plan would reduce the minimum lot size for the 1.8-acre project site to 2,000 sq. ft. This would allow for a maximum of 39.2 dwellings on the 1.8-acre project site. However, the applicant is proposing 17 dwelling units on the project site, which is less than half of what would be allowed.

Development Review Design Guidelines

The proposed project is subject to the city's Development Review Design Guidelines (DRDG), adopted by the Planning Commission through Resolution No. 9864.

The DRDG sections that apply to this development are Sections I (Residential - Single

Family/Duplex) and II (Neighborhood/Subdivision Design), which are intended to encourage good design for all residential dwelling units and neighborhoods/ subdivisions and Section VI (Green Building Design Guidelines), which are intended to encourage the use of green building design attributes, such as those that conserve energy and water use and promote clean local air quality.

In addition to demonstrating compliance with the city's DRDGs, new development with certain RASP land use classifications must comply with specific RASP design and development policies and standards. These additional RASP development standards (intensity, height, setback, parking and landscaping) only apply to properties within the RASP area with the following land use classifications: Transit Oriented Development (TOD) – High, TOD – Medium, TOD – Residential, Community Commercial and Business Commercial. It is important to note, the project site has a RASP land use classification of Low Density Residential and therefore does not fall within a land use classification subject to additional RASP design and development standards.

Inclusionary Housing Requirements

The purpose of PMC Chapter 18.86 (Inclusionary Housing) is to implement General Plan policies by establishing minimum requirements, incentives, and alternative measures to ensure safe, decent and affordable housing for all segments of the city's population, regardless of household income, can be provided. Pittsburg General Plan Housing Element Policy 1.5 encourages construction of Accessory Dwelling Units (ADUs) or "second units" to allow extended families to live near each other, increase the affordable and rental housing stock, and provide income assistance to homeowners.

The Liberty Residential Subdivision Phase I project, approved in 2018, complied with the city's Inclusionary Housing requirements by requiring 10 percent of all single-family homes within the subdivision to include an ADU. Each unit was subject to a "Secondary Unit Regulatory Agreement and Declaration of Restrictive Covenants" (Affordable Housing Agreement).

The Affordable Housing Agreements for the Liberty Phase I project detailed specific occupancy regulations and rent restrictions for each unit. For instance, in the Agreement, each Liberty Phase I ADU is restricted, in that, if rented, can only be occupied by households whose gross income does not exceed 30 percent of the Area Median Income (AMI) for Contra Costa County. The agreement explains that this covenant runs with the land in perpetuity and clarifies that future purchasers of the six lots that include the ADUs are responsible for meeting obligations in the Agreement.

Requiring 10 percent of all new residential units to include a secondary, lower-income unit is consistent with what the City required for the Liberty Phase I, Greystone, Waterstone, Alves Ranch and Tuscany Meadows projects, and is consistent with direction provided to Planning Staff by the City Council and the City Manager related to strategies used to incorporate affordable housing into these market-rate projects.

Given that Liberty Phase II is an infill development adjacent to Liberty Phase I, staff recommends the 10 percent Inclusionary Housing requirement continue to be utilized to meet the requirements of PMC Chapter 18.86. Therefore, the applicant is proposing that two of the 17 proposed single-family residences include ADUs subject to Affordable Housing

Agreements with the City. This will be included as a condition of approval for the project.

See Exhibit D of Attachment 1 (Resolution) for Conditions of Approval.

Required Finding – General Plan Map Amendment: In order to adopt a general plan amendment, the City Council must determine, in accordance with Government Code section 65358, that the amendment would be in the public interest.

Required Findings – Zoning Map Amendment: In order to approve zoning changes, the City Council must determine, in accordance with PMC section 18.48.030, that:

A. the change proposed is consistent with the objectives, policies, general land uses and programs specified in the General Plan and applicable specific plan;

B. in the case of a base district, overlay district or general land use regulation, the change proposed is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is proposed;

C. a community need is demonstrated for the change proposed; and

D. its adoption would be in conformity with public convenience, general welfare and good zoning practice.

Required Findings – Vesting Tentative Map for a Major Subdivision: In order to approve a Vesting Tentative Map for a Major Subdivision, the City Council must determine, in accordance with PMC section 17.20.060(c), that:

A. the proposed map is consistent with the general plan and any applicable specific plan, or other applicable provision of PMC;

B. the site is physically suitable for the type of development;

C. the site is physically suitable for the proposed density of development;

D. the design of the subdivision or the proposed improvements would not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;

E. the design of the subdivision or the type of improvements would not cause serious public health problems; and

F. the design of the subdivision or the type of improvements would not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

Required Findings – Design Review: In order to grant Design Review approval for a project, the City Council must determine, in accordance with PMC section 18.36.220.B, that:

A. the structure conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;

B. the structure would be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;

C. the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;

D. the structure is in harmony with proposed developments on land in the general area; and

E. the application conforms with the criteria set forth in any applicable City adopted Design Guidelines.

A full analysis of how the proposed project meets the required General Plan Map amendment, Vesting Tentative Map for a Major Subdivision and Design Review findings is provided in Section 2 (Findings) of the Resolution (Attachment 1). A full analysis of how the proposed project meets the required findings for a Zoning Map Amendment is provided in Section 2 (Findings) of the Ordinance (Attachment 2).

Environmental Review: The proposed project is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15182 (Projects Pursuant to a Specific Plan) of the State CEQA Guidelines.

Government Code section 65457(a) provides that any residential development project, including any subdivision, or any zoning change that is undertaken to implement and is consistent with a Specific Plan for which an Environmental Impact Report has been certified after January 1, 1980, is exempt from the requirements of CEQA. This exemption is also codified in the CEQA Guidelines, section 15182(c).

The proposed project is consistent with the RASP and Environmental Impact Report (EIR) which was adopted and certified by the City Council on November 2, 2009, in Ordinance No. 09-1319 and Resolution No. 09-11303. The proposed project falls within the boundaries of the RASP. A primary purpose of the RASP is to facilitate the development of new housing near the Pittsburg Center BART station. The proposed project is entirely residential, would consist of 17, single-family homes, along with a private road and other improvements, in close proximity to the Pittsburg Center BART station. The proposed project would advance the RASP's goal of developing livable, low-density housing near public transit and within walking distance of new retail and commercial developments around the BART station.

CEQA provides a streamlined review process for projects consistent with existing zoning, a general plan, or a specific/community plan for which an EIR has been certified. The RASP EIR studied the environmental impacts associated with the anticipated buildout of approximately 1,845 new residential units and 988,449 sq. ft. of new commercial floor area within the RASP area. Since its inception in 2009, staff estimates that just 20 percent of the anticipated buildout of new residential units has been achieved. The proposed General Plan and Zoning Map Amendments would help implement many of the goals and policies in the RASP.

Additionally, the project site is less than five acres, surrounded on all sides by urban uses and is located in a disturbed area with little to no value as habitat for endangered, rare or threatened species. The project site is in an infill location and of a modest size. Compliance with General Plan and RASP policies, requirements in the PMC and project Conditions of Approval would ensure that any impacts to traffic, noise, air and water quality would be less than significant.

If the proposed project is approved, Planning Staff would file a Notice of Determination (NOD) with the Governor's Office of Planning and Research (OPR) State Clearinghouse and Contra Costa County Clerk-Recorder's Office pursuant to CEQA Guidelines, section 15094.

See Attachment 6 for the CEQA Substantial Conformance Memo.

Public Notice: On or before Friday, September 9, 2022, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020.A, B and D, a "Notice of Public Hearing," for the September 19, 2022, public hearing on this item was published in the East County Times; was posted at City Hall and at or near the project site; was delivered for posting at the Pittsburg Library; was posted on the "Public Notices" section of the City's website and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice. In addition, a copy of the notice was posted on www.nextdoor.com ("Nextdoor") and was sent directly to all subscribed residents in the "Harbor and School Street" neighborhood.

See Attachment 7 for the Public Hearing Notice.

SUBCOMMITTEE FINDINGS

Not applicable.

STAFF ANALYSIS

Staff believes that the City Council can make the required findings to approve of the proposed project. The staff-recommended findings are provided in Section 2 (Findings) of Attachment 1 (Resolution) and Attachment 2 (Ordinance) and summarized below.

General Plan Map Amendment

The proposed General Plan Map Amendment of the project site from Low Density Residential to Medium Density Residential would be in the public interest, in that the proposed land use change would facilitate quality residential development, promote the reuse and revitalization of a dilapidated property, help the city maintain a compact urban form, and promote a diversity of housing types and densities near the Pittsburg Center BART station. The proposed project would also enhance the visual quality of the area and increase the number of residents within the area that naturally monitor the streetscape and one another, enhancing community safety.

See Attachment 8 for the Consistency Analysis with General Plan Goals and Policies.

Zoning Map Amendment

The proposed Zoning Map Amendment of the project site from RS-5 to PD would be consistent with the objectives, goals, and policies in the General Plan and RASP in that, among other reasons provided in the resolution in Attachment 1, the project would: a) provide medium intensity, single-family residential development near Downtown and in an area accessible to transit and services, b) expand Pittsburg's housing diversity by providing higher-density single-family development on smaller lots, c) promote the development and intensification of the Downtown Commercial Core as a neighborhood retail center by increasing the demand for retail and other amenities, d) encourage walking as a regular means of transportation due to the parcel's proximity to various amenities, e) provide sound walls along the south and west property lines to mitigate noise along Central Avenue and the UPRR, f) provide two single-family homes with ADUs that would allow extended families to live near each other, increase the affordable and rental housing stock, and provide income assistance to homeowners, and g) be consistent with the PD zoning of immediately adjacent properties.

Vesting Tentative Map for a Major Subdivision

The proposed Vesting Tentative Map, subdividing the parcel into 17, single-family residential lots would be consistent with the objectives, goals, and policies in the General Plan and RASP in that, the project site is adjacent to underutilized and vacant properties identified in Figure 2.2 of the RASP as "Opportunity Sites" that have recently been transformed. The project site is physically suitable for the type and density of the proposed development in that it is flat, vacant/undeveloped site. The design of the proposed subdivision and accompanying improvements would not have a significant impact on the environment, injure fish or wildlife or their habitat, or pose a significant risk to human health in that the project site is less than five acres, surrounded on all sides by urban uses and is located in a disturbed area with little to no value as habitat for endangered, rare or threatened species. The proposed subdivision would not cause serious health problems in that the project site is located between two, recent single-family residential subdivisions. The design of the proposed subdivision would not conflict with easements for access through or use of property within the proposed subdivision, in that the UPRR spur track easement on the property has been quitclaimed.

Design Review

The proposed project would conform with good taste, good design and in general contributes to the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality, in that the proposed house models would feature an attractive architectural design characterized by a mixture of hipped and gable-end roofs with high-quality, concrete tile roofing material; stucco siding with horizontal trim, corbels, and simulated stone veneer; and a mixture of single-hung and sliding glass windows with faux shutters, or decorative wrought iron railings. Residential front yards would feature drought-tolerant plants and blooming street trees that would provide seasonal color throughout the subdivision.

See Attachment 9 for the Consistency Analysis with Development Review Design Guidelines

ATTACHMENTS:

1. Resolution
    a. Exhibit A – General Plan Map Amendment
    b. Exhibit B – Vesting Tentative Map for Major Subdivision
    c. Exhibit C – Project Plans
    d. Exhibit D – Conditions of Approval
2. Ordinance
    a. Exhibit A – Zoning Map Amendment and PD Plan
3. Planning Commission Resolution No. 10196
4. Photos of Project Site
5. Map of Surrounding Uses
6. Substantial Conformance Memo
7. Public Hearing Notice
8. General Plan Goals and Policies – Consistency Analysis
9. Development Design Review Guidelines – Consistency Analysis

Prepared by: Alison Hodgkin, Associate Planner

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Approving a General Plan Map Amendment, Vesting Tentative Map, and Design Review for a 17-Lot, Single-Family Residential Subdivision at 360 Central Avenue, for "Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)."	))))))	RESOLUTION NO. 22-

WHEREAS, on September 21, 2021, Louis Parsons of Discovery Builders, Inc., filed Planning Application No. AP-21-1599 (GP, RZ, SUBD, DR), requesting: 1) a General Plan map amendment to change the parcel's land use designation from 'Low Density Residential' to 'Medium Density Residential,', 2) a Zoning Map amendment to rezone the parcel from RS-5 (Residential Single Family 5,000 square-foot minimum lot size) to PD (Planned Development), 3) a Vesting Tentative Map for a 17-lot Major Subdivision and 4) Design Review on a 1.8-acre parcel located at 360 Central Avenue. Assessor's Parcel No. 086-151-002; and

WHEREAS, the proposed project is governed by the applicable goals and policies of the Pittsburg General Plan, the Pittsburg Municipal Code (PMC), and the City's adopted Design Review and Development Guidelines (DRDGs; Planning Commission Resolution No. 9864); and

WHEREAS, the proposed project is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15182 (Projects Pursuant to a Specific Plan) of the State CEQA Guidelines (Public Resources Code section 21080); and

WHEREAS, under Government Code section 65358, the City Council, upon recommendation of the Planning Commission, may amend the City's General Plan, in whole or in part, if it finds that the amendment would be in the public interest. No more than four general plan amendments to each required element may be adopted within one calendar year. In this calendar year so far, the City Council has not adopted any amendments to the General Plan Land Use Element; and

WHEREAS, pursuant to PMC section 17.20.060(c), the City Council, upon recommendation of the Planning Commission, may approve a tentative map if it finds that: a) the proposed map is consistent with the General Plan and any applicable specific plan, or other applicable provision of the PMC; b) the site is physically suitable for the type of development; c) the site is physically suitable for the proposed density of development; d) the design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat; e) the design of the subdivision or the proposed improvements will not cause serious health problems; and f) the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision; and

WHEREAS, pursuant to PMC section 18.36.230, the City Council, upon

recommendation of the Planning Commission, may grant design review approval if it finds that: a) the structure conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality; b the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable; c) the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value; d) the structure is in harmony with proposed developments on land in the general area; and e) the application conforms with the criteria set forth in any applicable City adopted design guidelines; and

WHEREAS, on September 19, 2022, after conducting a duly-noticed public hearing, the Planning Commission adopted Resolution No. 10196, recommending approval of the requested General Plan Map amendment, Zoning Map amendment, Vesting Tentative Map and Design Review; and

WHEREAS, on or prior to Friday, September 9, 2022, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020.B, C and D, a "Notice of Public Hearing," for the September 19, 2022, public hearing on this item was published in the East County Times; was posted at City Hall; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice; and

WHEREAS, on September 9, 2022, the City Council held a duly-noticed public hearing to: 1) introduce and waive further reading of an ordinance approving the proposed Zoning Map amendment; and 2) adopt this resolution approving the General Plan Map amendment, Vesting Tentative Map, and Design Review, at which time oral and/or written testimony was considered.

NOW THEREFORE, the City Council of the City pf Pittsburg does resolve as follows:

Section 1. Authority

A. Article XI, Section 7 of the California Constitution confers on cities the authority to regulate land use within their jurisdictions under the police power and to make and enforce ordinances to protect the public health, safety and welfare. Aesthetic reasons alone justify exercise of the police power (Metromedia, Inc. vs. City of San Diego [1980] 264 C3d 848, 164 CR 510).

B. The General Plan is the single most important planning document and represents the most comprehensive statement of the city's interests and welfare (Government Code section 65300; Citizens of Goleta Valley vs. Board of Supervisors [1990] 52 CA3d 553, 276 CR 410). In general, all land use decisions must be consistent with the general plan. Consistency exists between a city's land use action and the general plan when a city has officially adopted such a plan, and the various land uses approved are compatible with the objectives,

policies, general land uses and programs specified in the plan (Lesher Communications, Inc. vs. City of Walnut Creek [1990] 52 C3d 531, 277 CR1).

C. The Subdivision Map Act (Government Code section 66410, et seq.) vests in cities the power to regulate and control the design and improvement of subdivisions within their boundaries (Government Code section 66411). "Improvement" is broadly defined to include any specific improvement or type of improvement, the installation of which is necessary to ensure consistency with the general plan (Government Code section 66419[b]).

D. A city may not approve a tentative map unless it finds that the proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan (Government Code section 66473.5).

Section 2. Findings

A. Based on the City Council staff report entitled, "Adoption of a Resolution and Introduction and Waive First Reading of an Ordinance Approving Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)," dated September 19, 2022, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

General Plan Map Amendment:

2. The proposed amendments to the General Plan are in the public interest, in that the proposed land use change will facilitate quality residential development, promote the reuse and revitalization of a dilapidated site, help the City maintain a compact urban form, and promote a diversity of housing types and densities near the Pittsburg Center BART Station. The proposed project will also enhance the visual quality of the area and increase the number of residents within the area that naturally monitor the streetscape and one another, enhancing community safety.

Vesting Tentative Map:

3. The proposed Vesting Tentative Map is consistent with the General Plan, in that:

   a. The proposed project will be developed on an infill site, thereby helping the City maintain a compact urban form within the City's projected municipal boundary (Goal 2-G-1).

   b. The proposed project will provide medium intensity single-family

residential near the Downtown and in an area accessible to transit and services (Goals 2-G-4 and 3-G-3). The project site is within a half-mile distance of the Pittsburg Center BART Station and a quarter-mile of two bus stops located near the intersections of Railroad Avenue/Central Avenue and Harbor Street/Central Avenue (Tri Delta Transit Routes 381 and 387).

c. The proposed project will expand Pittsburg's housing diversity by providing single-family development on smaller lots ranging from approximately 2,000 to 4,200 square feet (Goal 2-G-5 and Housing Goal G-1).

d. The proposed project will utilize a Planned Development (PD) zoning, in part, to achieve a high-quality design outcome (Policy 2-P-5).

e. The proposed project will pay its share of the costs for the construction of facilities needed to serve the development (Policy 3-P-1, 3-P-13, and 7-P-2). The proposed project will comply with conditions of approval requiring payment of the Facilities Reserve Charge, Local Traffic Mitigation Fee (LTMF), and Regional Transportation Development Impact Mitigation Fee (RT-DIM) in accordance with the Pittsburg Municipal Code.

f. The proposed project will promote the public health, safety, and general welfare in that it requires the Developer to: a) pay fees to finance unmet local and regional traffic improvement needs; b) annex the site into the City's Community Facilities District (CFD) 2007-1 for park maintenance; c) annex the site into the City's CFD 2016-1 for maintenance of off-site stormwater facilities; d) annex the site into the City's CFD 2005-1 for police and other emergency services; e) annex the site into the City's CFD 2014-1 for Railroad Avenue Specific Plan improvements and f) annex the site into the City's CFD 2017-1 for fire facilities and fire safety and emergency services.

g. The proposed project will be built in an area where public facilities and infrastructure are already available (Policy 3-P-1).

h. The existing transportation system has adequate capacity to accommodate the proposed project (Policy 3-P-2). Residents of the proposed project will have multiple transportation options available to them as the site is located near BART, Tri-Delta Transit, and bicycle lanes.

i. The Developer was not required to prepare a traffic impact study because the proposed project is expected to generate under 100 net new peak hour trips (Policy 3-P-5).

j. The proposed project will provide safe and contiguous routes for pedestrians and bicyclists (Policy 3-P-17, 7-P-34, and 7-P-40) in that there is an existing Class II bicycle lane along Central Avenue.

k. The proposed project focuses single-family residential on a site that has been designated as a Priority Development Area under the Metropolitan Transportation Commission and Association of Bay Area Government's FOCUS Program (Policy 3-P-18 and Housing Policy P-1.1 D).

l. The proposed project will promote the development and intensification of the Downtown commercial core as neighborhood retail center by increasing the demand for retail and other amenities (Goal 5-G-2).

m. The proposed project will encourage walking as a regular means of transportation due to the site's proximity to various amenities (Goal 7-G-15). The project site is within a half-mile distance of Marina Vista Elementary School, Pittsburg High School, City Park, John Buckley Square, the Pittsburg Center BART Station, and the Downtown commercial core.

n. The proposed project will include bicycle racks in each garage for secure bicycle parking (Policy 7-P-45).

o. The Developer was not encouraged to dedicate a public park because the proposed development includes less than 150 units (Policy 8-P-16).

p. The Developer will equitably share the costs associated with providing water and wastewater services to the proposed project through payment of the Pittsburg Facilities Reserve Charge (Policy 11-P-7 and 11-P-18).

q. The proposed project will include sound walls along the north and south perimeter and provide upper-floor windows of residences adjacent to the UPRR tracks (homes on Lots 11-14) to be upgraded to a Sound Transmission Class (STC) rating of 32. The proposed sound walls and upper-story windows will help ensure interior noise levels do not exceed 45 dB CNEL (Policy 12-P-6).

r. The proposed Zoning Map amendment is for a project site that is vacant, underutilized, and appropriate for higher-density residential use given its proximity to schools, parks, transit, and commercial amenities (Housing Element Policy P-1.1 B).

s. The proposed project will provide market-rate housing near in the

Downtown and increase demand for economic activity in nearby shopping centers (Housing Policy P-1.2).

t. The proposed project will provide two, single-family homes with Accessory Dwelling Units (ADUs) that would allow extended families to live near each other, increase the affordable and rental housing stock, and provide income assistance to homeowners (Housing Policy P-1.5).

u. The proposed project will help attain the City's Regional Housing Needs Allocation for moderate and above-moderate income households (Policy P-1.6).

v. The proposed project will comply with conditions of approval requiring construction of quality home designs to ensure future residents will enjoy an attractive living environment (Housing Goal G-5 and Policy P-5.1).

4. The project site is physically suitable for the type of development proposed in that the site is flat and surrounded by existing infrastructure, minimizing the amount of work and investment needed to extend utilities and services to the site.

5. The project site is physically suitable for the proposed density of development, in that the site is flat and surrounded by existing, established development. Further, the site is located within one-half mile of the Pittsburg Center BART Station, and less than a quarter-mile from two existing bus routes, making it an appropriate location for a medium-density residential development, as defined by the City's General Plan.

6. The design of the proposed subdivision and accompanying improvements will not cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat, in that the project is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15182 (Projects Pursuant to a Specific Plan) of the State CEQA Guidelines (Public Resources Code section 21080).

7. The design of the subdivision and type of improvements proposed will not cause serious public health problems, in that the Phase I Environmental Site Assessment revealed no evidence of hazardous substances or petroleum products in connection with the project site.

8. The design of the subdivision and type of improvements proposed will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision, in that there are no existing public access easements on the site. The proposed Vesting Tentative Map includes a new private street that will connect the development to existing public roadways, and the new private street will be of

sufficient width to accommodate automobile and emergency vehicle access into and around the site.

Design Review:

9. The proposed project conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality, in that the proposed house models feature an attractive architectural design characterized by a mixture of hipped and gable-end roofs with high-quality, concrete tile roofing material; stucco siding with horizontal trim, corbels, and simulated stone veneer; and a mixture of single-hung and sliding glass windows with faux shutters, or decorative wrought iron railings. The proposed project will also provide an attractive outdoor environment for residents. The Developer will install a variety of colorful, drought-tolerant landscaping and a decorative, masonry sound wall with wall caps and simulated stone veneer at each wall pilaster. Residential front yards will feature drought-tolerant plants and blooming street trees that will provide seasonal color throughout the subdivision.

10. The proposed project will be protected against exterior and interior noise, vibrations and other factors which may tend to make the environment less desirable, in that the project will be built to standard building codes that dictate maximum noise levels for the interiors of residential units.

11. The exterior design of the proposed project is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value. Rather, the proposed project will enhance the neighborhood's appearance and value, in that it will result in a highly attractive environment utilizing a variety of compatible house and front yard landscape designs. The proposed project will add value to the community by attracting additional residential and commercial investment in the area.

12. The proposed project is in harmony with proposed developments on land in the general area, in that there are no proposed developments in the immediate vicinity of the project site.

13. The proposed project will substantially conform to all applicable Development Review Design Guidelines (DRDG, Planning Commission Resolution No. 9864) for single-family development.

B. The City Council Staff Report entitled, "Adoption of a Resolution and Introduction and Waive First Reading of an Ordinance Approving Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)," dated September 19, 2022, is referenced hereto as additional support for findings.

Section 3. Decision

Based on the findings and the authority set forth above, the City Council hereby takes the following actions:

A. Amends General Plan Figure 2-2 (Land Use Diagram) to change the land use designation of the project site, from Low Density Residential to Medium Density Residential as substantially presented in Exhibit A of this resolution;

B. Modifies other Land Use Element tables and charts as necessary to reflect the change in land use acreages and maintain internal consistency with the General Plan document;

C. Approves Vesting Tentative Map 9550 (Exhibit B) subdividing the project site into 17 lots for detached single-family homes, subject to the conditions as substantially presented in Exhibit C of this resolution; and

D. Approves design review of the accompanying architectural and landscape plans (Exhibit D), subject to the conditions as substantially presented in Exhibit C of this resolution.

Section 4. The Improvements are Reasonably Necessary to Meet the Needs of the Public Arising as a Result of the Subdivision

An improvement imposed as a condition of approval of a tentative map is valid to the extent that it is not excessive. An improvement is not considered excessive if it is reasonably necessary to meet public needs arising as a result of the subdivision. (Government Code section 66465.4 (a), (b).) As an additional finding, the City Council hereby finds that the improvements and requirements described in section 3, above, are reasonably necessary to meet the needs of the public arising as a result of the Liberty Residential Development, as further described in sections 2, 3, and 4 of this resolution.

Section 5. Effective Date

This resolution shall take effect immediately upon its adoption.

Section 6. Adoption

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 19th day of September 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

Fig. 1: Existing General Plan Designation

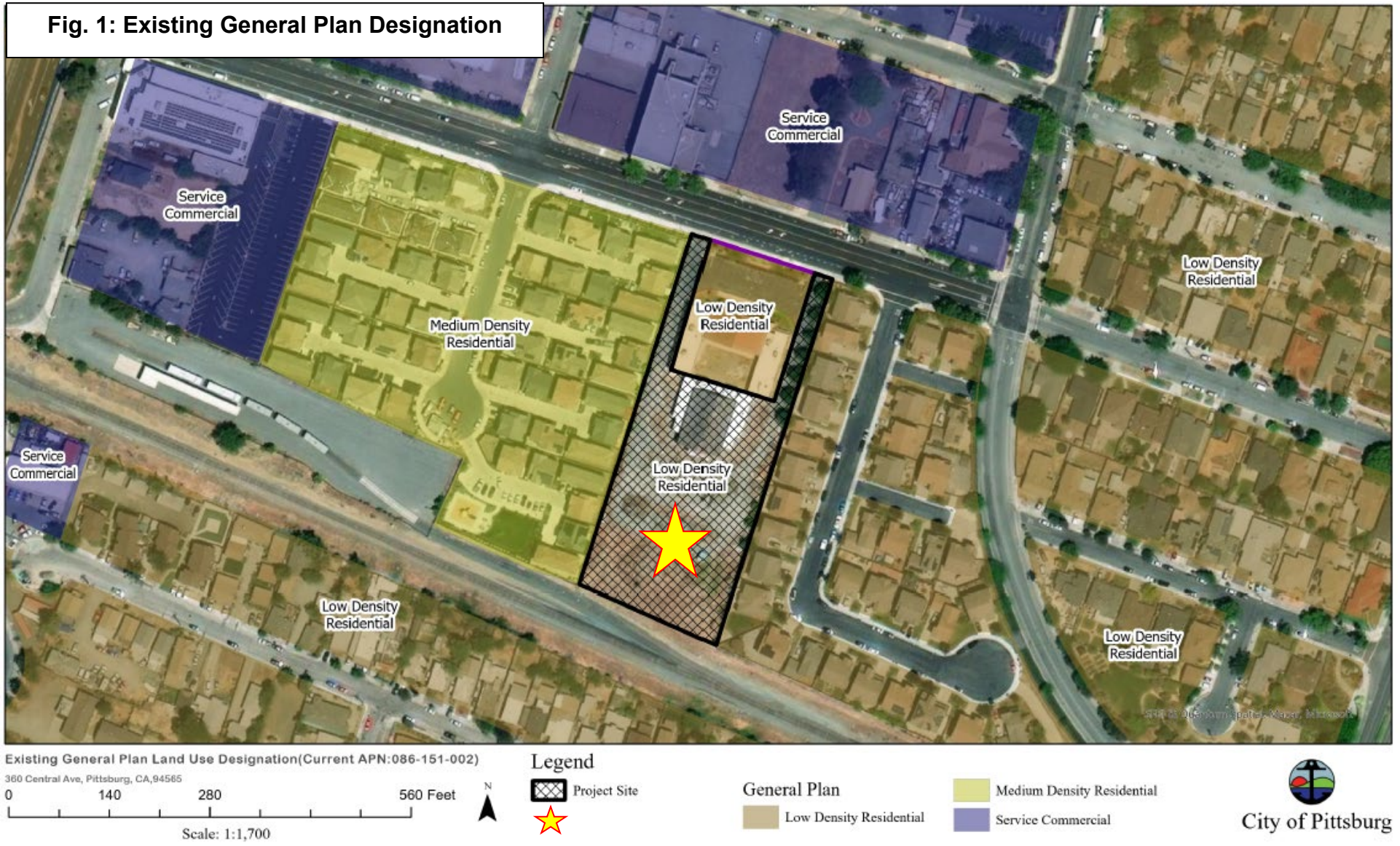
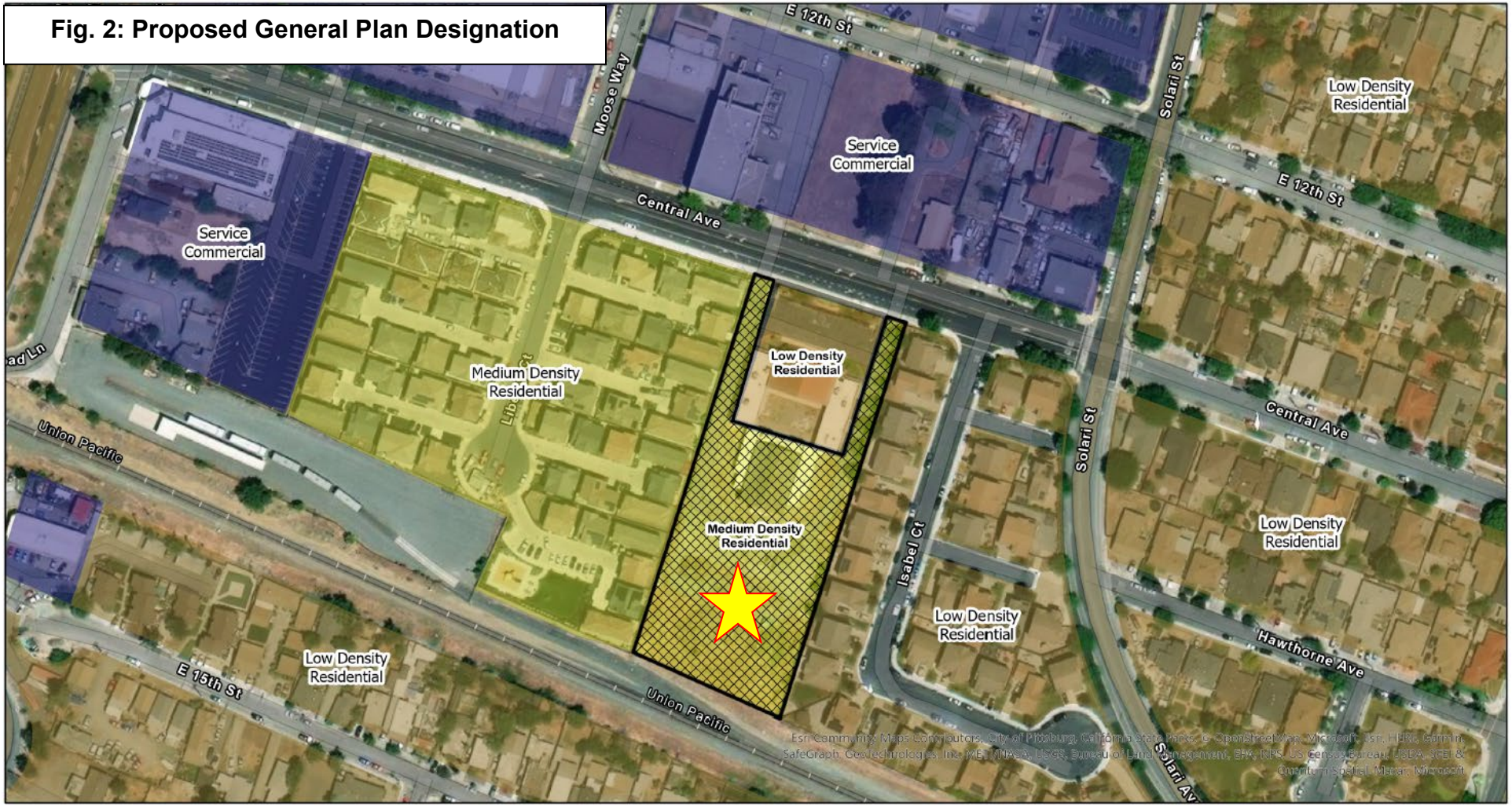


Fig. 2: Proposed General Plan Designation



Proposed General Plan Land Use Designation(Current APN:086-151-002)
360 Central Ave, Pittsburg, CA,94565
0 145 290 580 Feet
Scale: 1:1,700

Legend
Project Site
Project Site

General Plan
Low Density Residential
Medium Density Residential
Service Commercial

City of Pittsburg

Exhibit B - AP-21-1599 (GP, RZ, SUBD, DR)

VESTING TENTATIVE MAP
"LIBERTY PHASE II"
SUBDIVISION 9550
CITY OF PITTSBURG
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

GENERAL

ASSESSORS PARCEL NO(s):	PARCELS A & B OF PMW 22–07
PROJECT ADDRESS:	360 CENTRAL AVENUE PITTSBURG, CA
TOTAL GROSS AREA:	2.45 AC
EXISTING ZONING:	SINGLE FAMILY RESIDENTIAL – 5,000 SF (RS–5)
PROPOSED ZONING:	PLANNED DEVELOPMENT (PD)
EXISTING GENERAL PLAN:	LOW DENSITY RESIDENTIAL
EXISTING USE:	BUILDING WITH LOT
PROPOSED USE:	17 RESIDENTIAL LOTS
PROPOSED DENSITY:	6.9 DU/AC
FEMA FLOOD DESIGNATION:	ZONE "X" (FIRM PANEL 060033–0119G, DATED 09–30–2015)
EXISTING TOPOGRAPHY DATE	09–24–2020
FIRE PROTECTION DISTRICT	CONTRA COSTA COUNTY FIRE PROTECTION DIST.

FACILITIES

WATER:	CITY OF PITTSBURG
SEWER:	CITY OF PITTSBURG
STORM DRAIN:	CITY OF PITTSBURG
GAS & ELECTRIC:	PACIFIC GAS & ELECTRIC
TELEPHONE:	AT&T

NOTES

1. NO PUBLIC AREAS ARE PROPOSED.
2. ALL EXISTING STRUCTURES ONSITE ARE TO BE REMOVED.

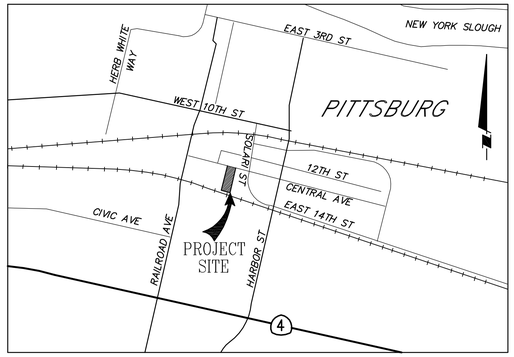
BENCHMARK

TIDAL–4 (PID JS1881) BRASS DISK IN TOP OF CONCRETE STEP LEADING TO BASEMENT AT OLD POST OFFICE BUILDING ON RAILROAD AVENUE.
ELEV=22.27 (NGVD 29)

BASIS OF BEARINGS

THE BEARING TAKEN OF SOUTH 73°14'26" EAST, BETWEEN THE FOUND MONUMENT ON CENTRAL AVE., AT THE INTERSECTION OF RAILROAD AVENUE, AS SHOWN ON THE RECORD OF SURVEY FILED IN 100 L.S.M. 26.

GRAPHIC SCALE
30 15 0 30
(IN FEET)
1 inch = 30 ft.



VICINITY MAP
NOT TO SCALE

SHEET INDEX

SHEET No.	DESCRIPTION
C1	TITLE SHEET
C2	SECTIONS & DETAILS
C3	TOPOGRAPHIC SURVEY & DEMOLITION PLAN
C4	PRELIMINARY GRADING, DRAINAGE & UTILITY PLAN

OWNER/DEVELOPER

LIBERTY DEVELOPERS, LLC
4021 PORT CHICAGO HIGHWAY
CONCORD, CA 94520
(925) 682-6419

CIVIL ENGINEER

APEX CIVIL ENGINEERING & LAND SURVEYING
817 ARNOLD DRIVE, SUITE 50
MARTINEZ, CA 94553
(925) 476-8499

SOILS ENGINEER

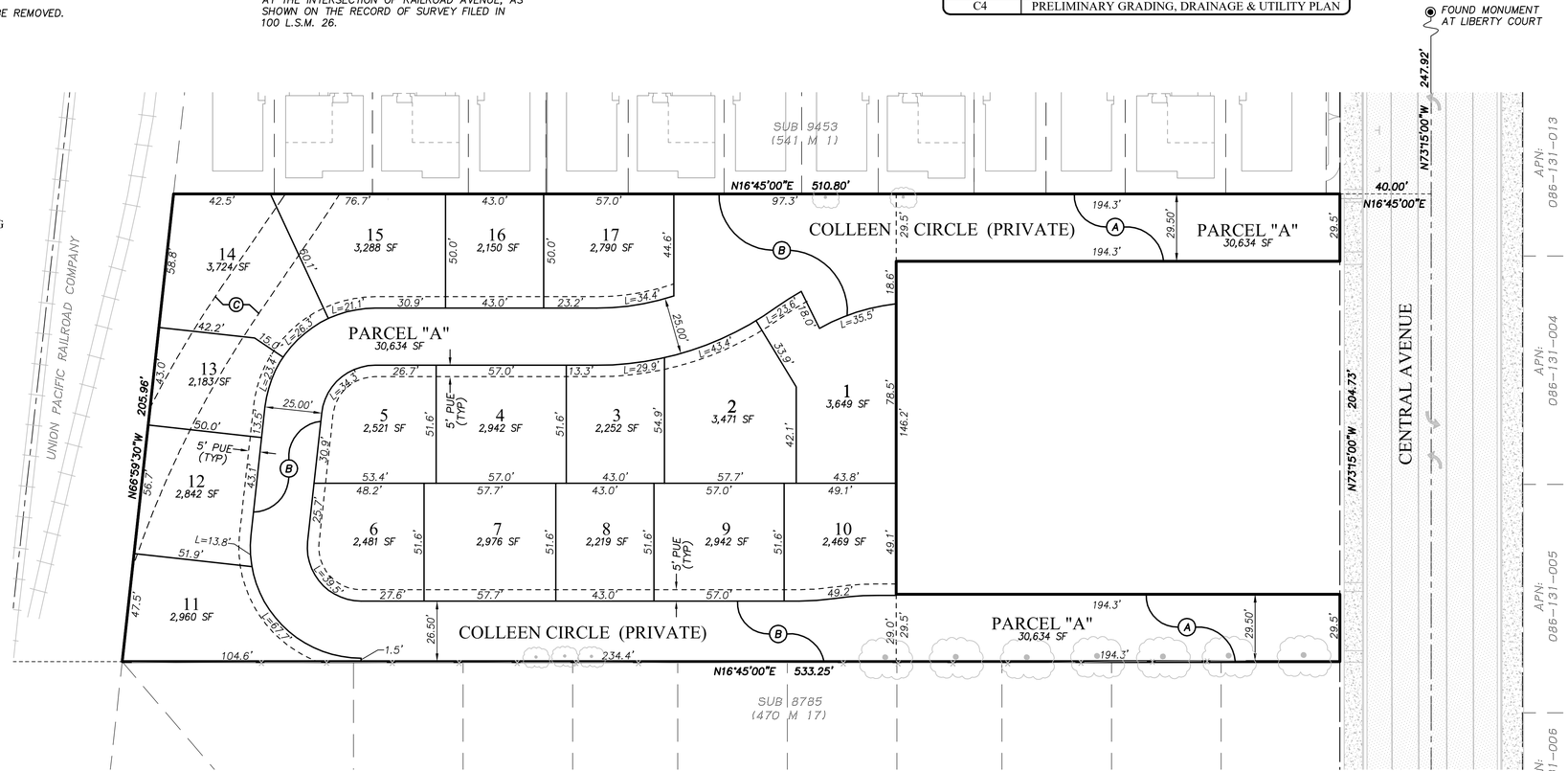
TRC
1920 OLD MIDDLEFIELD WAY
MOUNTAIN VIEW, CA 94043
(650) 967-2365

JOINT TRENCH DESIGN

LIGHTHOUSE DESIGN
1781 VINEYARD DRIVE, SUITE 212
ANTIOCH, CA 94509
(925) 757-4259

LANDSCAPE ARCHITECT

THOMAS BAAK & ASSOCIATES
1620 NORTH MAIN STREET, SUITE 4
WALNUT CREEK, CA 94596
(925) 933-2583



SITE PLAN
SCALE: 1"=30'

(A) DENOTES PAUE
(B) DENOTES EVAE, PUE, SSE, SDE, PAUE
(C) SPUR TRACK EASEMENT PER 815 OR 43 TO BE QUITCLAIMED

NOTES:
THE LOCATION OF ALL EXISTING UTILITIES SHOWN ON THE PLANS HAVE BEEN DETERMINED FROM THE BEST INFORMATION AVAILABLE. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY THE VARIOUS UTILITIES AND EXERCISE EXTREME CAUTION IN AREAS OF BURIED UTILITIES DURING CONSTRUCTION.
CALL USA – 811 AT LEAST 48 HOURS BEFORE DIGGING. HAND DIG NEAR UNDERGROUND UTILITIES.

DIAL TOLL FREE
1 800 227 2600
AT LEAST TWO DAYS BEFORE YOU DIG
UNDERGROUND SERVICE ALERT OF NORTHERN CALIFORNIA

NOTE:
THE LOCATION OF ALL EXISTING UTILITIES SHOWN ON THE PLANS HAVE BEEN DETERMINED FROM THE BEST INFORMATION AVAILABLE. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY THE VARIOUS UTILITIES AND EXERCISE EXTREME CAUTION IN AREAS OF BURIED UTILITIES DURING CONSTRUCTION.

LEGEND

- LOT BOUNDARY
- RIGHT–OF–WAY
- ADJACENT PROPERTY LINE
- NEW BUILDING
- EX. HOUSE
- EX. ASPHALT
- NEW CONCRETE
- NEW ASPHALT
- GRIND AND OVERLAY AREA
- 5% FINISHED GRADE SLOPE
- DIRECTION OF DRAINAGE FLOW
- EX. TREE
- STORM DRAIN LINE

ABBREVIATIONS

AB	–	AGGREGATE BASE
AC	–	ACRE
AD	–	AREA DRAIN
BO	–	BLOW–OFF
CB	–	CATCH BASIN
CONC	–	CONCRETE
COP	–	CITY OF PITTSBURG
DET	–	DETAIL
DU	–	DWELLING UNITS
ESMT	–	EASEMENT
EVAE	–	EMERGENCY VEHICLE ACCESS ESMT
EX	–	EXISTING
FF	–	FINISH FLOOR
FG	–	FINISH GRADE
FL	–	FLOW LINE ELEVATION
G	–	GRATE ELEVATION
GL	–	GARAGE LIP ELEVATION
HP	–	HIGH POINT
LF	–	LINEAR FEET
P	–	PAD
PAUE	–	PRIVATE ACCESS & UTILITY ESMT
PL	–	PROPERTY LINE
PSDE	–	PRIVATE STORM DRAIN EASEMENT
PUE	–	PUBLIC UTILITY EASEMENT
PVC	–	POLYVINYL CHLORIDE
R/W	–	RIGHT OF WAY
SD	–	STORM DRAIN
SDE	–	STORM DRAIN EASEMENT
SDWK	–	SIDEWALK
SF	–	SQUARE FEET
SO	–	SIDE OPENING
SS	–	SANITARY SEWER
SSCO	–	SANITARY SEWER CLEANOUT
SSE	–	SANITARY SEWER EASEMENT
STD	–	STANDARD
TC	–	TOP OF CURB
TW	–	TOP OF WALL
TYP	–	TYPICAL

REGISTERED PROFESSIONAL ENGINEER KIMBERLY A. CAY NO. 78203 CIVIL STATE OF CALIFORNIA

817 Arnold Drive, Ste. 50
Martinez, CA 94553
Ph: (925) 476-8499
www.apexce.net

APEX CIVIL ENGINEERING & LAND SURVEYING

NO.	REVISIONS	BY	APP	DATE

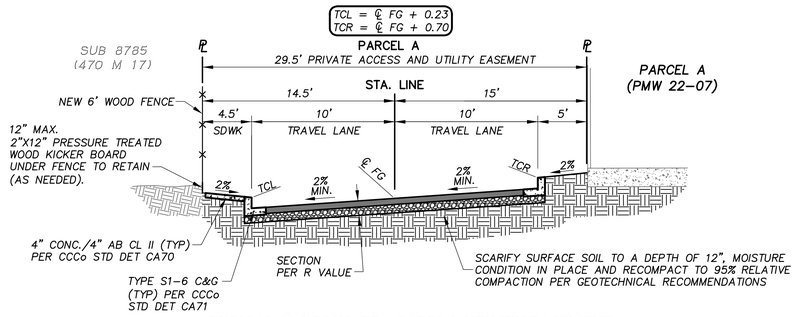
VESTING TENTATIVE MAP (SUB# 9550)
TITLE SHEET
"LIBERTY PHASE II"
360 CENTRAL AVENUE, PITTSBURG, CA

SHEET
C1

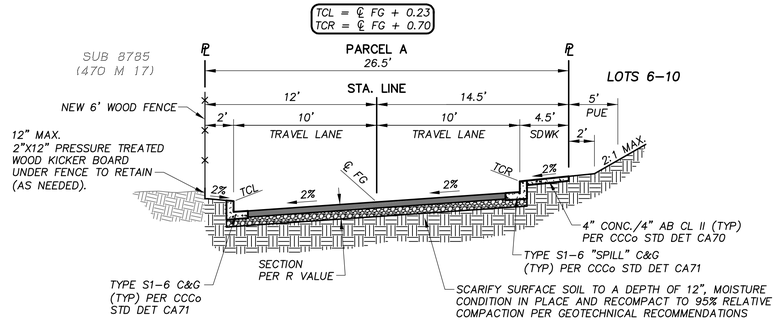
DATE
08-02-2022

PROJECT #: 20079

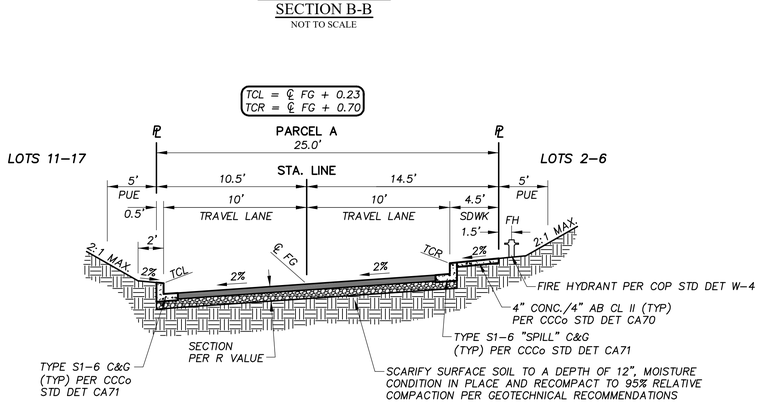
LIBERTY PHASE II ~ VESTING TENTATIVE MAP ~ 08-02-2022



TYPICAL 29.5' PRIVATE ACCESS & UTILITY EASEMENT
SECTION A-A
NOT TO SCALE

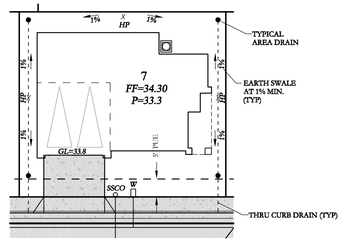


TYPICAL 26.5' STREET SECTION (PRIVATE)
COLLEEN CIRCLE
SECTION B-B
NOT TO SCALE



TYPICAL 25.0' STREET SECTION (PRIVATE)
COLLEEN CIRCLE
SECTION C-C
NOT TO SCALE

SOUNDWALL AND RETAINING WALL/SUBDRAIN DESIGN BY OTHERS. REFERENCE PLANS BY OTHERS



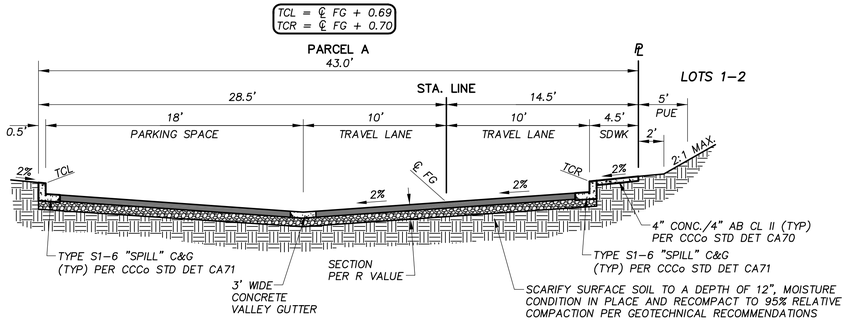
TYPICAL LOT DETAIL
NOT TO SCALE

TYPICAL DRAINAGE CALCULATIONS

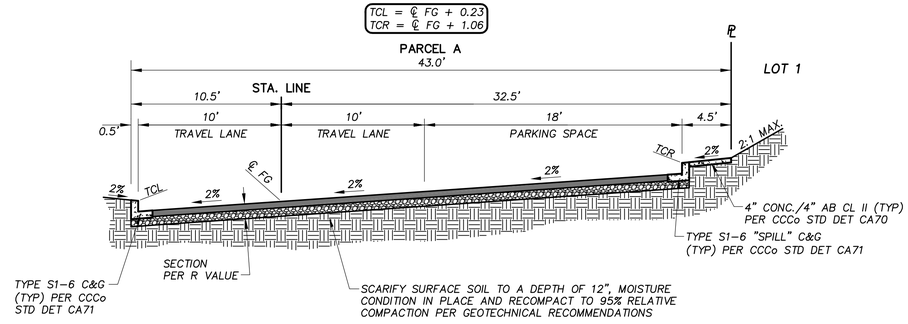
FF = PAD + 1.0'±
GL = FF − 0.5'
SIDE YARD HP = FF − 0.7'
AREA DRAINS = HP − 0.3' = PAD

SPECIAL GRADING NOTE:

PER THE RECOMMENDATION OF THE SOILS ENGINEER, FINISHED GRADE SLOPES MUST PROVIDE AT LEAST 3 TO 5 PERCENT WITHIN 5 FEET OF THE EXTERIOR WALLS AT RIGHT ANGLES TO THEM TO ALLOW SURFACE WATER TO DRAIN POSITIVELY AWAY FROM THE STRUCTURES. ALSO, ALL DRAINAGE SWALES SHALL BE GRADED TO A MINIMUM SLOPE OF 1% IN THE DIRECTION OF DRAINAGE.



TYPICAL STREET SECTION WITH PARKING (PRIVATE)
COLLEEN CIRCLE
SECTION D-D
NOT TO SCALE



TYPICAL STREET SECTION WITH PARKING (PRIVATE)
COLLEEN CIRCLE
SECTION E-E
NOT TO SCALE

CONCRETE SECTIONS

DESCRIPTION	CONC	AB	REBAR
CONCRETE DRIVEWAYS	6.0"	6.0"	#3 BARS @ 18" O.C. BOTH WAYS

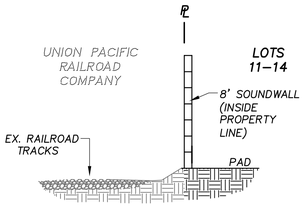
REFER TO STRUCTURAL DESIGN SPECIFICATIONS AND DETAILS BY OTHERS.

SUBGRADE SOILS SHALL BE PREPARED PER THE RECOMMENDATIONS OUTLINED IN THE GEOTECHNICAL RECOMMENDATIONS, DATED JANUARY 25, 2019.

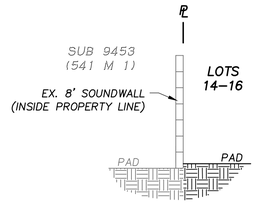
STRUCTURAL PAVEMENT SECTIONS

STREET NAME	R-VALUE	TI	AC	AB	ASB
COLLEEN CIRCLE	5	5	3"	10"	---

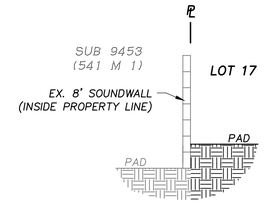
*****FINAL STRUCTURAL SECTION SHALL BE BASED ON ACTUAL R-VALUE TESTS TAKEN DURING CONSTRUCTION. ONCE THE R-VALUE TESTING HAS BEEN PERFORMED, DEVELOPER SHALL PROVIDE ONE (1) SET OF STREET ROAD DESIGN CALCULATIONS AND RECOMMENDATIONS WITH AN APPROPRIATE TABLE FOR THE STRUCTURAL DESIGN OF EACH ROAD. ONCE RECEIVED, THE CITY WILL EVALUATE THE PROPOSED DESIGN SECTION AND APPROVE THOSE THAT ARE SATISFACTORY. THE CONTRACTOR SHALL NOT BEGIN PLACING ANY COMPONENTS OF A STREET STRUCTURAL SECTION BEFORE IT IS APPROVED BY THE CITY.***



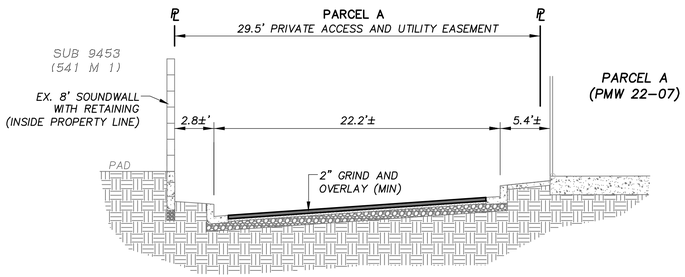
SECTION F-F
NOT TO SCALE



SECTION G-G
NOT TO SCALE



SECTION H-H
NOT TO SCALE



TYPICAL 29.5' PRIVATE ACCESS & UTILITY EASEMENT
SECTION I-I
NOT TO SCALE

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APEX
CIVIL ENGINEERING & LAND SURVEYING

NO.	REVISIONS	BY	APP	DATE

VESTING TENTATIVE MAP (SUB# 9550)
SECTIONS & DETAILS
"LIBERTY PHASE II"
360 CENTRAL AVENUE, PITTSBURG, CA

SHEET
C2

DATE
08-02-2022

PROJECT #: 20079

TOPOGRAPHIC SURVEY & DEMOLITION PLAN

"LIBERTY PHASE II"

SUBDIVISION 9550

CITY OF PITTSBURG
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

GENERAL DEMOLITION NOTES:

1. DEMOLITION PERMIT IS REQUIRED PRIOR TO COMMENCEMENT OF DEMOLITION. A COPY OF THE DEMOLITION PERMIT IS REQUIRED TO BE ON SITE AT ALL TIMES.
2. NOISE–PRODUCING CONSTRUCTION ACTIVITY (INCLUDING PLAYING OF RADIO OR MUSIC) AND GRADING OPERATION SHALL BE LIMITED TO WEEKDAYS (MONDAY THROUGH FRIDAY) EXCEPT CITY HOLIDAYS AND FROM THE HOURS OF 7:00AM TO 5:00PM, SATURDAY AND SUNDAY; NONE, AND SHALL BE PROHIBITED ON STATE AND FEDERAL HOLIDAYS. ALL EQUIPMENT SHALL BE ADEQUATELY MUFFLED AND MAINTAINED. NO CHANGES SHALL BE ALLOWED WITHOUT PRIOR WRITTEN CONSENT OF THE CITY. ALL REQUESTS FOR CHANGES MUST BE MADE A MINIMUM OF 72 HOURS PRIOR TO THE REQUEST FOR CHANGE.
3. THE CONSTRUCTION CONTRACTOR AGREES, THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR THE JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS; AND DEFEND, INDEMNIFY AND HOLD THE DESIGN PROFESSIONAL AND CITY HARMLESS FROM ANY AND ALL LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE DESIGN PROFESSIONAL.
4. THE CONTRACTOR SHALL PROVIDE EMERGENCY TELEPHONE NUMBERS FOR PUBLIC WORKS, AMBULANCE, POLICE, AND FIRE DEPARTMENTS AT THE JOB SITE.
5. THE CONTRACTOR SHALL CONTROL DUST BY WATERING EXPOSED SURFACES AS NEEDED. INCREASED WATERING SHALL BE REQUIRED WHEN WIND SPEEDS EXCEED 10 MPH.
6. THE PROJECT APPLICANT SHALL SWEEP STREETS DAILY, OR AS NECESSARY, WITH WATER SWEEPERS IF VISIBLE SOIL MATERIAL IS CARRIED ONTO ADJACENT PUBLIC STREETS.
7. THE CONTRACTOR SHALL PROVIDE TEMPORARY CONSTRUCTION DRIVES TO PREVENT THE TRACKING OF SOIL, DUST, MUD, OR CONSTRUCTION DEBRIS ON PUBLIC STREETS.
8. MUD TRACKED ONTO STREETS OR ADJACENT PROPERTIES SHALL BE REMOVED IMMEDIATELY, STREET SHALL BE SWEPT WITH A POWER SWEEPER (NOT PRESSURE WASHED) AS DIRECTED BY THE CITY.

GRAPHIC SCALE
20 10 0 20
(IN FEET)
1 inch = 20 ft.

BENCHMARK

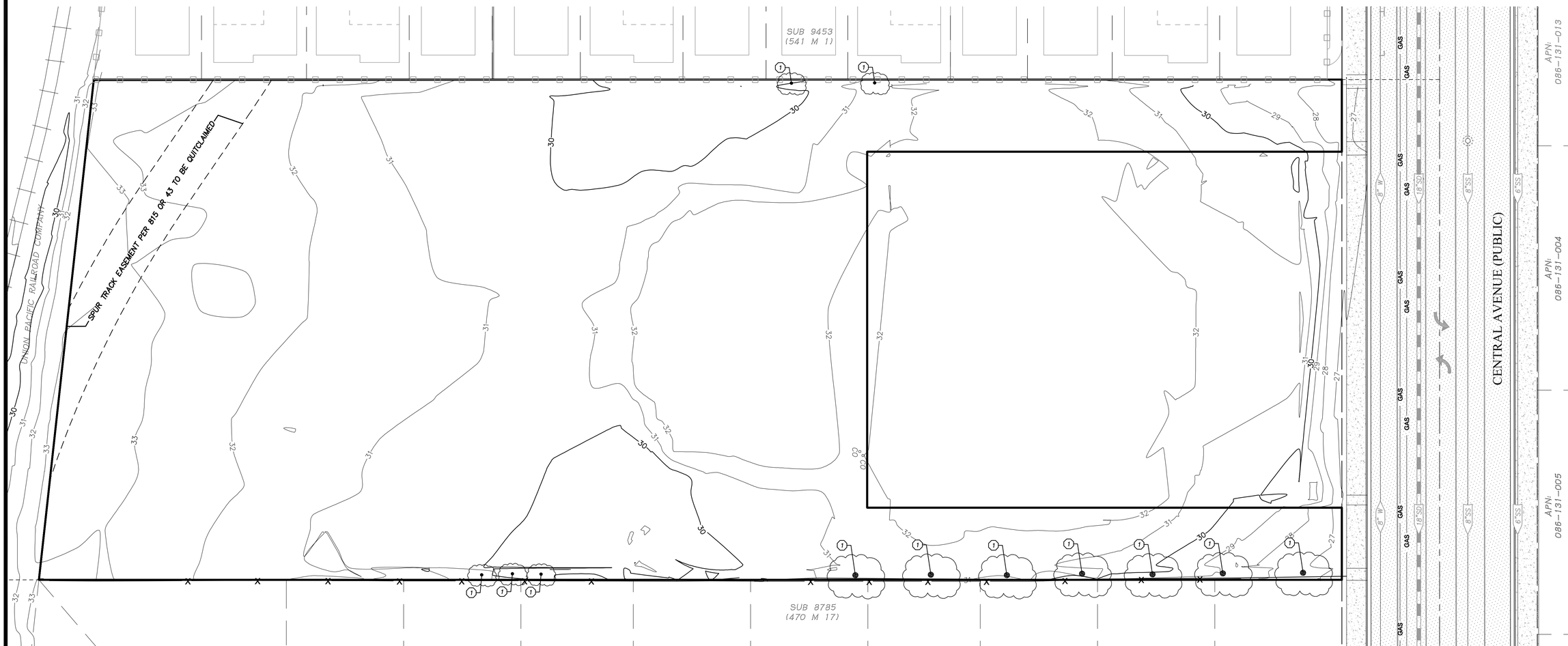
TIDAL–4 (PID JS1881) BRASS DISK IN TOP OF CONCRETE STEP LEADING TO BASEMENT AT OLD POST OFFICE BUILDING ON RAILROAD AVENUE. ELEV=22.27 (NGVD 29)

BASIS OF BEARINGS

THE BEARING TAKEN OF SOUTH 73°14'26" EAST, BETWEEN THE FOUND MONUMENT ON CENTRAL AVE., AT THE INTERSECTION OF RAILROAD AVENUE, AS SHOWN ON THE RECORD OF SURVEY FILED IN 100 L.S.M. 26.

DEMOLITION KEY LEGEND

(1) *EXISTING TREE/BUSH TO BE REMOVED*



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APEX
CIVIL ENGINEERING & LAND SURVEYING

NO.	REVISIONS	BY	APP	DATE

VESTING TENTATIVE MAP (SUB# 9550)
TOPOGRAPHIC SURVEY & DEMOLITION PLAN
"LIBERTY PHASE II"
360 CENTRAL AVENUE, PITTSBURG, CA

SHEET
C3

DATE
08-02-2022

PROJECT #: 20079

PRELIMINARY GRADING, DRAINAGE & UTILITY PLAN

"LIBERTY PHASE II"

SUBDIVISION 9550

CITY OF PITTSBURG
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

DRAINAGE SYSTEM SUMMARY

STRUCTURE #	GRATE ELEVATION	FLOW LINE ELEVATION
CB-1	TC 28.56	12"FL 26.33 IN EX.12"FL 26.33 OUT
CB-2	TC 31.80	10"FL 27.14 IN 12"FL 27.14 OUT
CB-3	G 31.5	10"FL 27.28 THRU
CB-4	G 31.8	10"FL 27.35 THRU
CB-5	G 32.0	10"FL 27.49 OUT
EX.CB	TC 29.15	EX.12"FL 26.82 THRU
CB-6	TC 32.11	EX.12"FL 27.10 OUT

SEWER SYSTEM SUMMARY

STRUCTURE #	RIM ELEVATION	FLOW LINE ELEVATION
SSMH-1	26.02±	8"FL 17.23 IN EX. 8"FL 16.98 THRU
SSMH-2	31.55±	8"FL 23.58 THRU
SSMH-3	32.60±	8"FL 25.40 IN 8"FL 25.23 OUT
SSMH-4	32.88±	8"FL 25.88 OUT
EX.SSMH	26.80±	8"FL 18.00 IN EX. 8"FL 17.75 THRU
SSMH-5	32.16±	8"FL 24.29 IN 8"FL 24.12 OUT
SSMH-6	33.14±	8"FL 26.14 OUT

NOTES

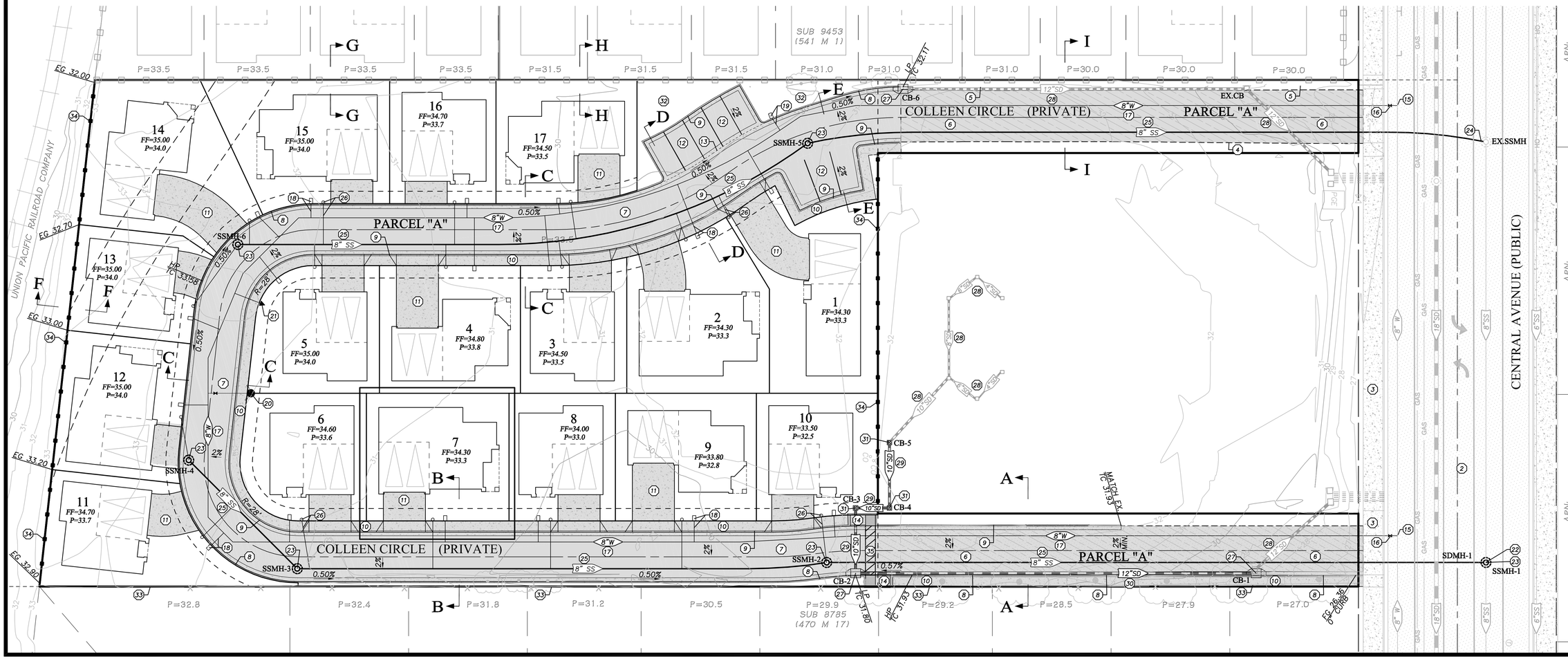
1. *WATER MAINS, METERS AND LATERALS SHALL BE PER CITY OF PITTSBURG STANDARDS.*
2. *SEWER MAINS AND MANHOLES SHALL BE INSTALLED PER CENTRAL CONTRA COSTA SANITARY DISTRICT (CCCSD) STANDARDS & SPECIFICATIONS.*
3. *STORM DRAIN PIPES SHALL BE ADS N-12 (WT) OR EQUAL.*
4. *ROADWAYS SHALL BE CAPABLE OF SUPPORTING A 75,000 LB. GROSS VEHICLE WEIGHT.*
5. *CONTRACTOR SHALL USE EXTREME CAUTION DURING CONSTRUCTION AND AROUND EXISTING UTILITIES ON-SITE AND IN CENTRAL AVENUE.*
6. *UTILITY TRENCHING PER IN CENTRAL AVENUE SHALL BE PER CITY OF PITTSBURG STANDARD DETAIL R-5.*
7. *EXISTING STRIPING ALONG CENTRAL AVENUE TO REMAIN. IF STRIPING IS REMOVED AS A RESULT OF UTILITY TRENCHING, IT SHALL BE REPLACED IN LIKE KIND.*
8. *PAINT ALL CURBS RED ON COLLEEN CIRCLE, EXCLUDING DRIVEWAY APRONS.*
9. *THE LOCATION OF ALL EXISTING UTILITIES SHOWN ON THE PLANS HAVE BEEN DETERMINED FROM THE BEST INFORMATION AVAILABLE. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY THE VARIOUS UTILITIES AND EXERCISE EXTREME CAUTION IN AREAS OF BURIED UTILITIES DURING CONSTRUCTION. CALL USA - 811 AT LEAST 48 HOURS BEFORE DIGGING. HAND DIG NEAR UNDERGROUND UTILITIES.*

GRAPHIC SCALE
20 10 0 20
(IN FEET)
1 inch = 20 ft.

SECTIONS NOTE:
REFER TO SHEET C2
FOR ALL SECTIONS

KEY LEGEND

1. *EXISTING BUILDING TO REMAIN*
2. *EXISTING PAVEMENT TO REMAIN*
3. *EXISTING CONCRETE TO REMAIN*
4. *GRINDING LIMIT LINE (TYP)*
5. *EXISTING CONCRETE CURB TO REMAIN*
6. *GRIND AND OVERLAY (2" MIN) ASPHALT TO DRAIN PER PLAN*
7. *ASPHALT PAVEMENT. SECTION PER SOILS ENGINEER'S RECOMMENDATIONS*
8. *TYPE S1-6 CURB & GUTTER PER CCCo STD DET CA71*
9. *TYPE S1-6 CURB & "SPILL" GUTTER PER CCCo STD DET CA71*
10. *4.5' SIDEWALK (FROM FC) PER CCCo STD DET CA70*
11. *CONCRETE DRIVEWAY (TYP). SECTION PER TABLE ON SHEET C2*
12. *9'x18' GUEST PARKING SPACE (TYP)*
13. *3' WIDE CONCRETE VALLEY GUTTER*
14. *ADA (TYPE C) CURB RAMP PER CCCo STD DET CA75*
15. *TAP TO EX. 8" WATER MAIN IN CENTRAL AVENUE*
16. *INSTALL 8" GATE VALVE*
17. *8" WATER MAIN*
18. *WATER LATERAL AND METER (TYP) PER COP STD DET W-5*
19. *IRRIGATION METER. LATERAL AND METER PER COP STD DET W-5*
20. *RESIDENTIAL FIRE HYDRANT PER COP STD DET W-4*
21. *1" AIR RELEASE VALVE*
22. *INSTALL SANITARY SEWER MANHOLE OVER EX. 8" SANITARY SEWER IN CENTRAL AVE*
23. *SANITARY SEWER MANHOLE PER CCCSD DWG-1*
24. *CONNECT TO EX. SANITARY SEWER MANHOLE WITH LINK SEAL*
25. *8" SS MAIN AT S=0.0077 (MIN)*
26. *4" SANITARY SEWER LATERAL (2% MIN) & CLEANOUT (TYP) PER COP STD DET S-2*
27. *INSTALL TYPE "A" CATCH BASIN PER CCCo STD DET CD20*
28. *EXISTING STORM DRAIN LINE TO REMAIN*
29. *10" HDPE STORM DRAIN PIPE @ 0.5% MIN.*
30. *12" HDPE STORM DRAIN PIPE @ 0.5% MIN.*
31. *INSTALL CATCH BASIN (CHRISTY V12 OR EQUAL)*
32. *COMMON LANDSCAPE AREA*
33. *EXISTING FENCE TO BE REPLACED AS NEEDED*
34. *8' HIGH PROTO-II SOUNDWALL (OR EQUAL)*
35. *4' WIDE STRIPED CROSSWALK*



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REVISIONS | NO. | BY | APP | DATE

VESTING TENTATIVE MAP (SUB# 9550)
PRELIMINARY GRADING, DRAINAGE & UTILITY PLAN
"LIBERTY PHASE II"
360 CENTRAL AVENUE, PITTSBURG, CA

SHEET
C4

DATE
08-02-2022

PROJECT #: 20079



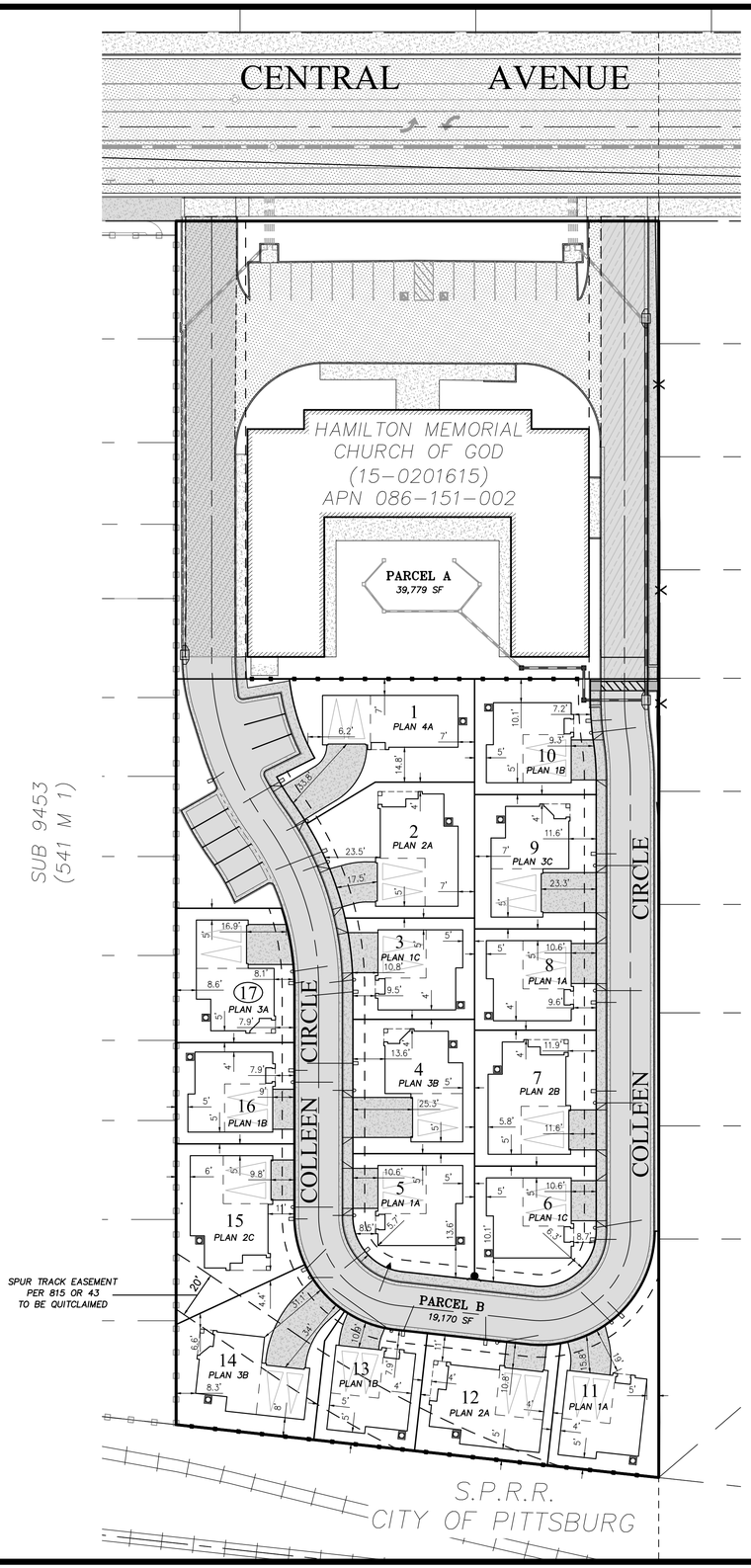


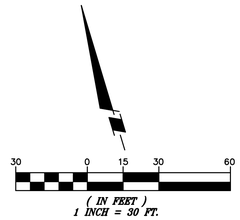

LIBERTY II
PITTSBURG, CA

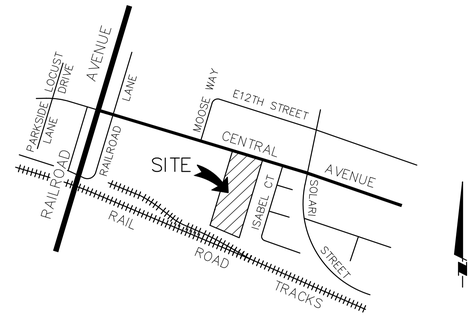
DESIGN REVIEW BOOKLET INCLUDES:

△1 **07/06/22 PLANNING REVISION**
AFFECTED SHEETS INDICATE DELTA 1 NOTE

LIBERTY II
PITTSBURG, CA
DISCOVERY
DESIGN
GROUP, LLC
Discovery Builders Inc.
Date 10/15/21







VICINITY MAP
NOT TO SCALE

DISTRIBUTION TABLE

PLAN#	1 TWO STORY	2 TWO STORY	3 TWO STORY	4 TWO STORY	
	PLAN 1	PLAN 2	PLAN 3	PLAN 4	
COUNT	8	4	4	1	TOTAL HOMES: 17
PERCENT	47.1%	23.5%	23.5%	5.9%	TOTAL PERCENT: 100.0%

LIBERTY PHASE II - MASTER PLOTTING PLAN

PITTSBURG , CA

DISCOVERY
DESIGN
GROUP

July 7, 2021

1 07/06/22 PLANNING REVISION



Elevation A



Elevation C

MATERIAL LEGEND

A VILLA CONCRETE TILE ROOFING
GABLE ROOFS
STUCCO BODY
STUCCO TRIM
STUCCO/FOAM CORBEL
SIMULATED STONE/BRICK VENEER
ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES

B FLAT CONCRETE TILE ROOFING
GABLE ROOFS
STUCCO BODY
STUCCO TRIM
STUCCO/FOAM CORBEL
BOARD AND BATTEN
SIMULATED STONE VENEER
ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES

C FLAT CONCRETE TILE ROOFING
GABLE ROOFS
STUCCO BODY
STUCCO TRIM
STUCCO/FOAM CORBEL
MOCK WOOD SHUTTERS
LAP SIDING
ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES

GENERAL NOTES:

1. ALL EXPOSED PORTIONS OF BUILDING FOUNDATIONS SHALL BE PAINTED THE MAIN 'BODY' COLOR
2. ALL ROOF VENTS SHALL BE PAINTED THE SAME COLOR AS ROOFING MATERIAL TO WHICH THEY ARE ADJACENT. DOWNSPOUTS, SIDE VENTS, AND ATTACHED UTILITY BOXES SHALL BE PAINTED THE SAME COLOR OR COLORS AS THE SURFACE OR SURFACES TO WHICH THEY ARE ADJACENT.



Elevation B

Plan 1
Front Elevations

0 2 4 6 8 16

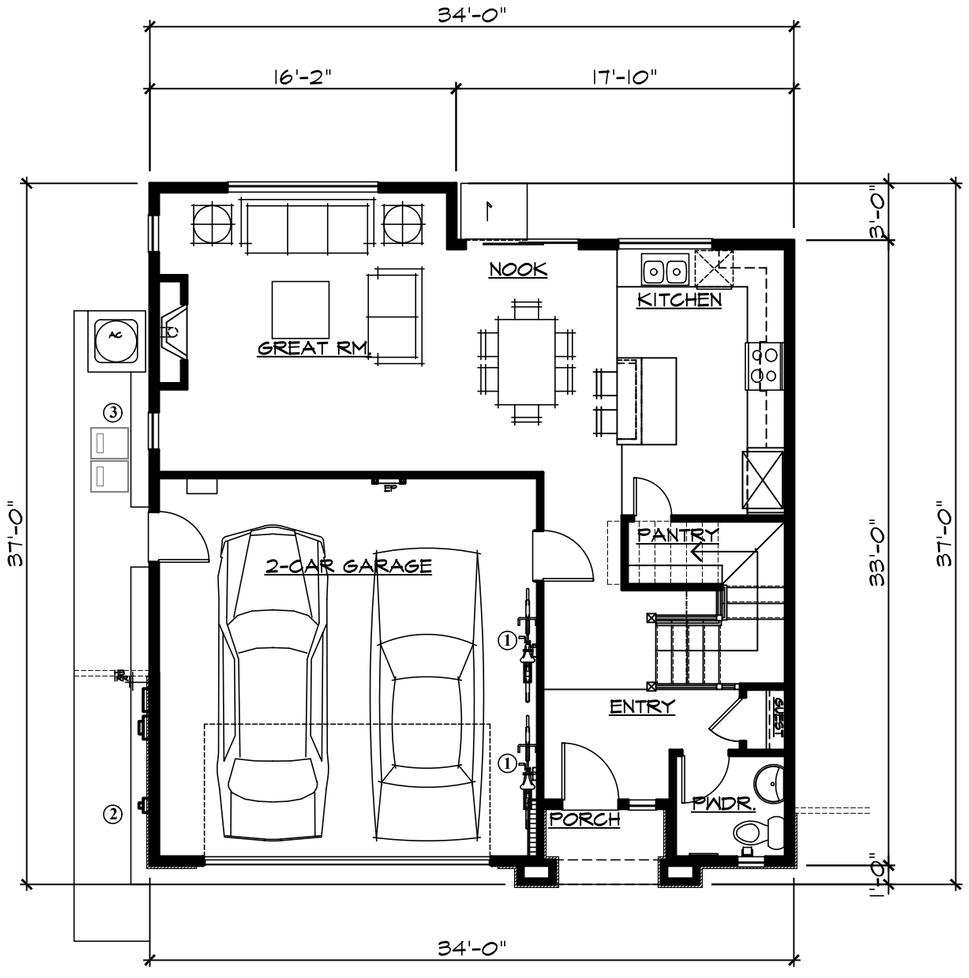
LIBERTY II

PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.

Date 10/15/21



Plan Notes:

1. Wall-mounted bicycle storage
2. Concrete pathway
3. Concrete trash pad (7' min.)

Plan 1

3 BEDROOMS
2-1/2 BATHS
LOFT OR OPT. BEDROOM 4

SQUARE FOOTAGE	
FIRST FLOOR	731 SF
SECOND FLOOR	1083 SF
TOTAL LIVING AREA	1814 SF
GARAGE	419 SF
PORCH	29 SF
FOOTPRINT	1179 SF

First Floor Plan

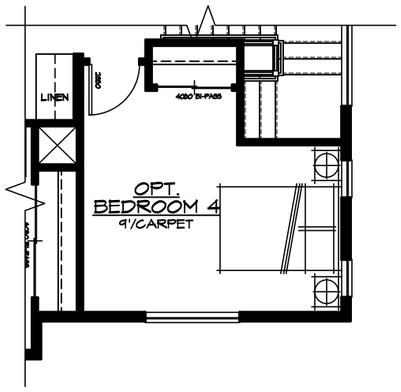
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LIBERTY II

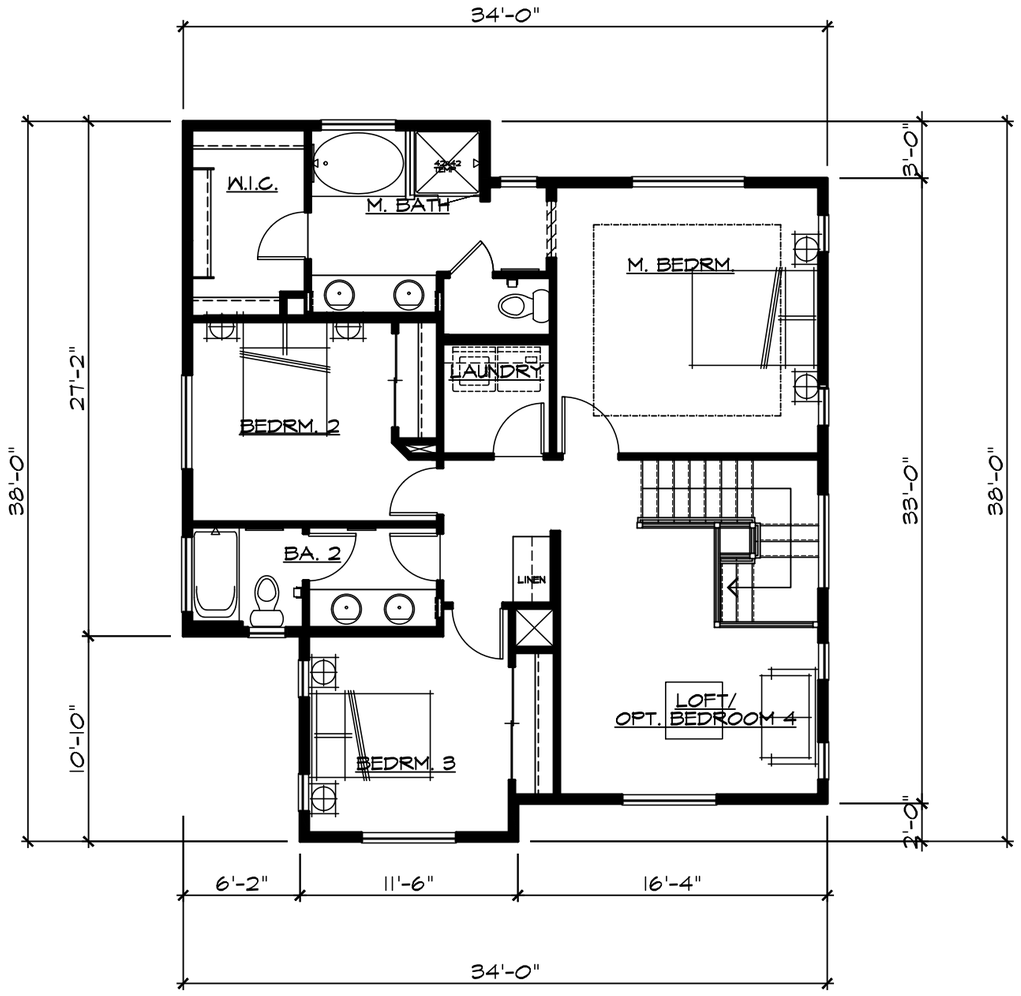
PITTSBURG, CA

DISCOVERY
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D a t e 10/15/21



Opt. Bedrm. 4



Plan 1

3 BEDROOMS
2-1/2 BATHS
LOFT OR OPT. BEDROOM 4

SQUARE FOOTAGE	
FIRST FLOOR	731 SF
SECOND FLOOR	1083 SF
TOTAL LIVING AREA	1814 SF
GARAGE	419 SF
PORCH	29 SF
FOOTPRINT	1179 SF

Second Floor Plan

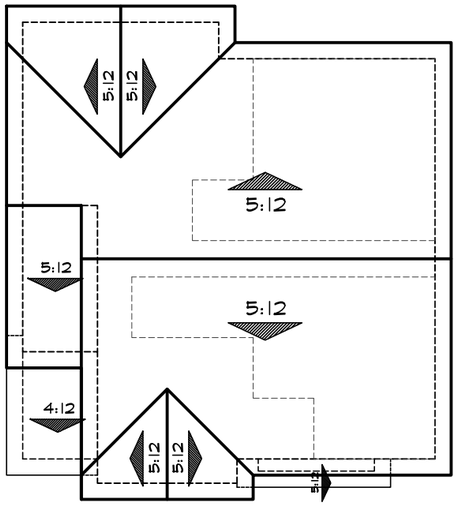
0 2 4 6 8 16

LIBERTY II

PITTSBURG, CA

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D a t e 10/15/21



SOLAR ZONE READY:

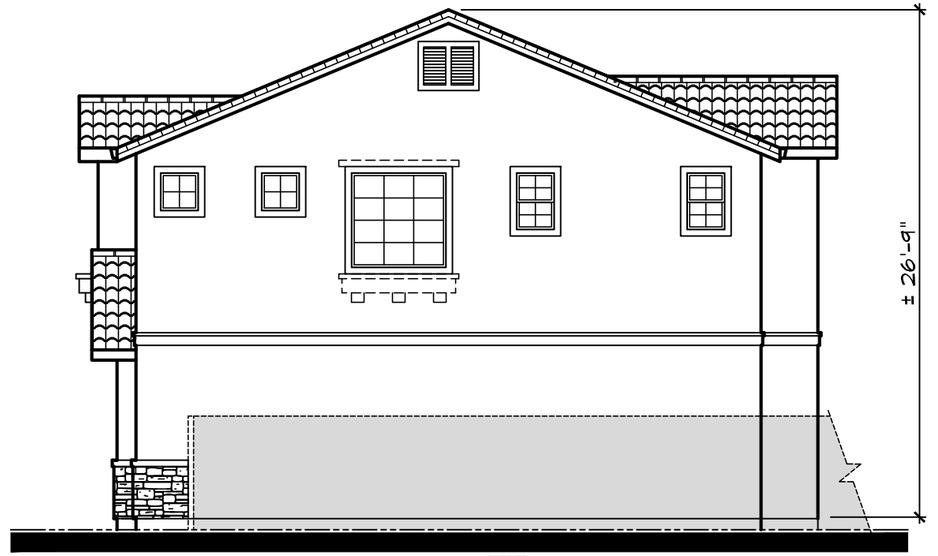
REFER TO SECTION 110.10 IN THE 2016 CALIFORNIA ENERGY CODE FOR MANDATORY REQUIREMENTS FOR SINGLE-FAMILY RESIDENCES AND MINIMUM SOLAR ZONE.

NOTES:
1. NO ROOF PLUMBING OR MECHANICAL PENETRATION IN THIS AREA.
2. ALL SECTIONS OF THE SOLAR ZONE LOCATED ON STEEP-SLOPED ROOFS SHALL BE ORIENTED BETWEEN 110 DEGREES AND 270 DEGREES OF TRUE NORTH, CEC SECTION 110.10(b)2.
3. SOLAR PANELS WILL BE INSTALLED UNDER A SEPARATE PERMIT.

5'x5' MIN. — DENOTES SOLAR PANELS

Roof Plan 'A'

0 2 4 6 8 16



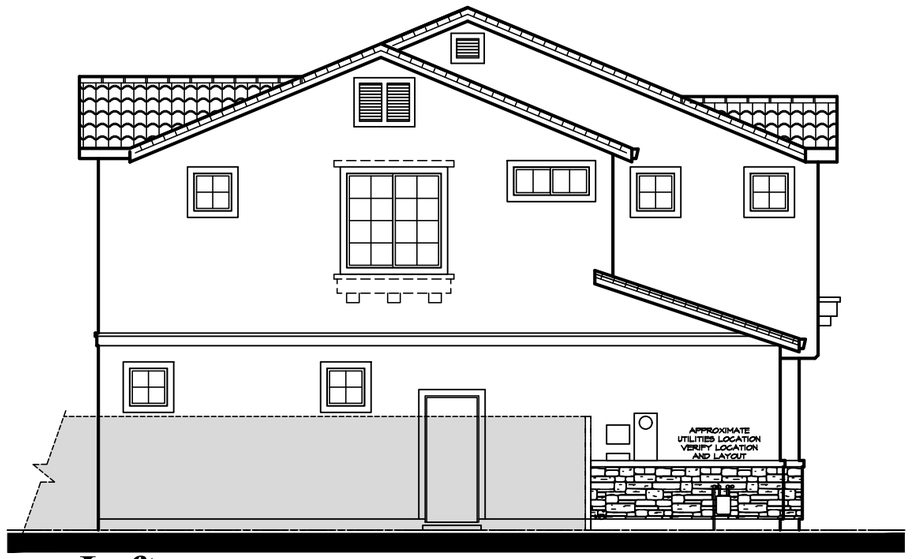
Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

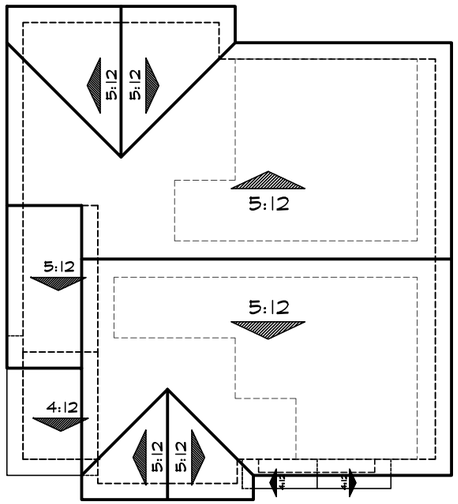
Plan 1
Elevations - 'A'

0 2 4 6 8 16

LIBERTY II
PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.
Date 10/15/21
1 07/06/22 PLANNING REVISION



SOLAR ZONE READY:

REFER TO SECTION 110.10 IN THE 2016 CALIFORNIA ENERGY CODE FOR MANDATORY REQUIREMENTS FOR SINGLE-FAMILY RESIDENCES AND MINIMUM SOLAR ZONE.

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2. ALL SECTIONS OF THE SOLAR ZONE LOCATED ON STEEP-SLOPED ROOFS SHALL BE ORIENTED BETWEEN 110 DEGREES AND 270 DEGREES OF TRUE NORTH, CEC SECTION 110.10(b)2.
3. SOLAR PANELS WILL BE INSTALLED UNDER A SEPARATE PERMIT.

5'x5' MIN. — DENOTES SOLAR PANELS

Roof Plan 'B'

0 2 4 6 8 16



Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

Plan 1
Elevations - 'B'

0 2 4 6 8 16

LIBERTY II

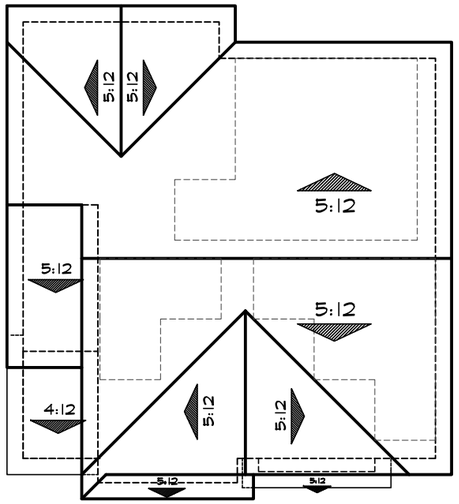
PITTSBURG, CA

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5'x5' MIN. — DENOTES SOLAR PANELS

Roof Plan 'C'

0 2 4 6 8 16



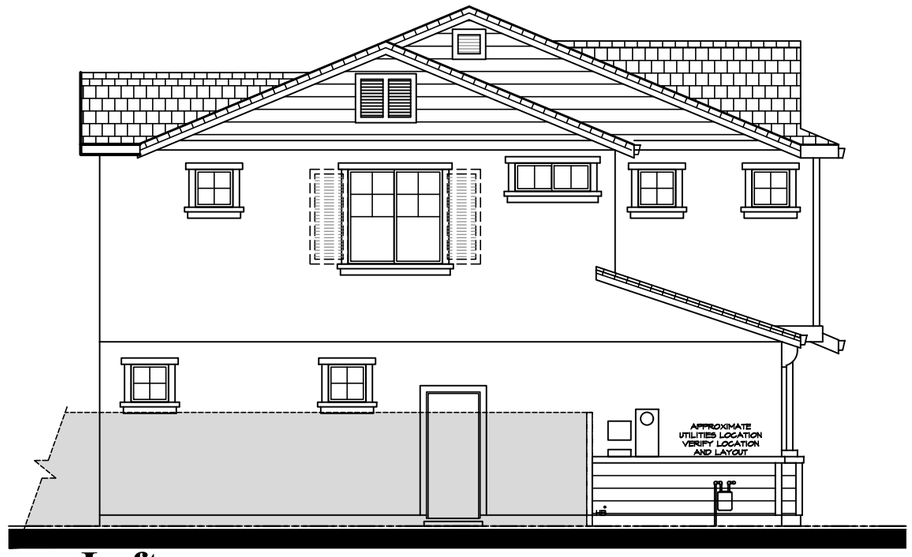
Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

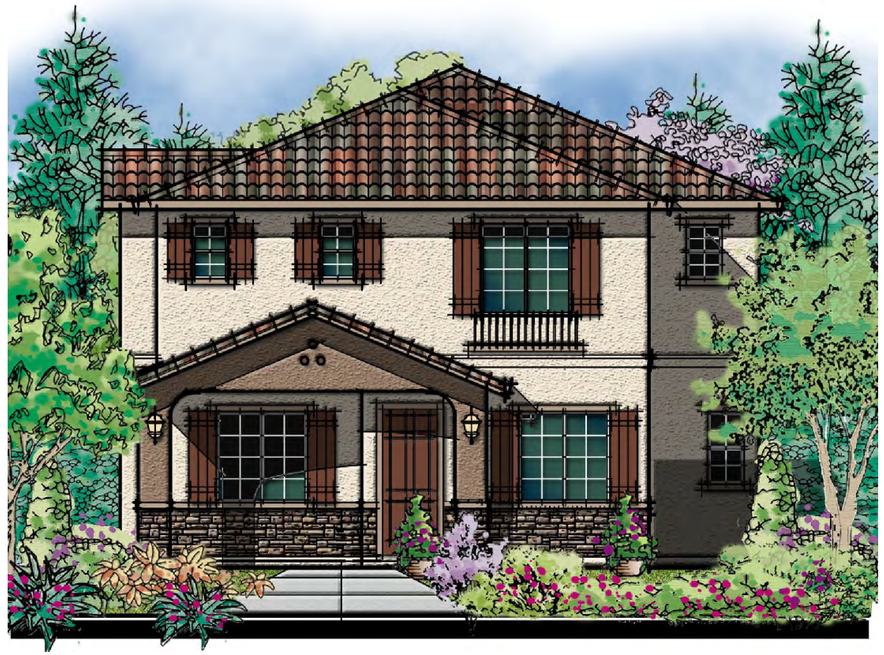
Plan 1
Elevations - 'C'

0 2 4 6 8 16

LIBERTY II
PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.
Date 10/15/21
1 07/06/22 PLANNING REVISION



Elevation A



Elevation C

MATERIAL LEGEND

A VILLA CONCRETE TILE ROOFING
GABLE & HIP ROOFS
STUCCO BODY
STUCCO TRIM
MOCK VENTS
MOCK WOOD SHUTTERS
SIMULATED BRICK VENEER
WROUGHT IRON DETAIL
ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES

B FLAT CONCRETE TILE ROOFING
GABLE & HIP ROOFS
STUCCO BODY
STUCCO TRIM
STUCCO/FOAM CORBEL
MOCK VENTS
BOARD AND BATTEN
SIMULATED STONE VENEER
ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES

C FLAT CONCRETE TILE ROOFING
GABLE & HIP ROOFS
STUCCO BODY
STUCCO TRIM
STUCCO/FOAM CORBEL
MOCK VENTS
MOCK WOOD SHUTTERS
LAP SIDING
ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES

GENERAL NOTES:

1. ALL EXPOSED PORTIONS OF BUILDING FOUNDATIONS SHALL BE PAINTED THE MAIN 'BODY' COLOR
2. ALL ROOF VENTS SHALL BE PAINTED THE SAME COLOR AS ROOFING MATERIAL TO WHICH THEY ARE ADJACENT. DOWNSPOUTS, SIDE VENTS, AND ATTACHED UTILITY BOXES SHALL BE PAINTED THE SAME COLOR OR COLORS AS THE SURFACE OR SURFACES TO WHICH THEY ARE ADJACENT.



Elevation B

Plan 2
Front Elevations

0 2 4 6 8 16

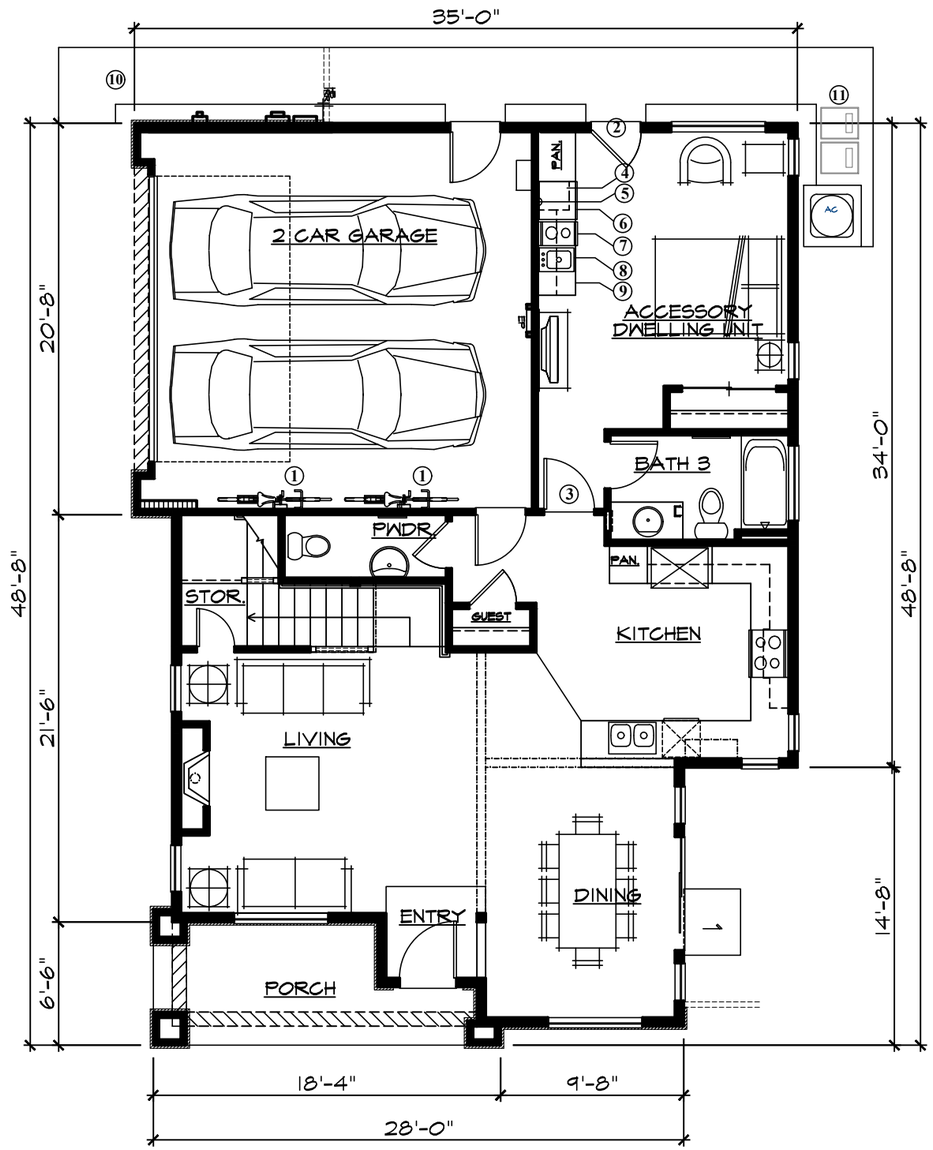
LIBERTY II

PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.

Date 10/15/21



Plan Notes:

① Wall-mounted bicycle storage

ACCESSORY DWELLING UNIT

② Exterior entry door

③ Door to living shall be tight fitting to the frame and sill. Door shall be solid core with weather-stripping and lockable from the main living area.

④ Upper microwave shelf with receptacle

⑤ Electrical receptacle

⑥ Undercounter refrigerator

⑦ Two-burner electric cooktop

⑧ Stainless steel sink with garbage disposal

⑨ Base cabinet with tile countertop

⑩ Concrete pathway

⑪ Concrete trash pad (7' min.)

Plan 2

4 BEDROOMS WITH ATTACHED 1 BEDROOM ADU
3-1/2 BATHS
LOFT

SQUARE FOOTAGE	
FIRST FLOOR	1033 SF
SECOND FLOOR	1454 SF
TOTAL LIVING AREA	2487 SF
GARAGE	416 SF
PORCH	96 SF
FOOTPRINT	1545 SF

First Floor Plan

0 2 4 6 8 16

LIBERTY II

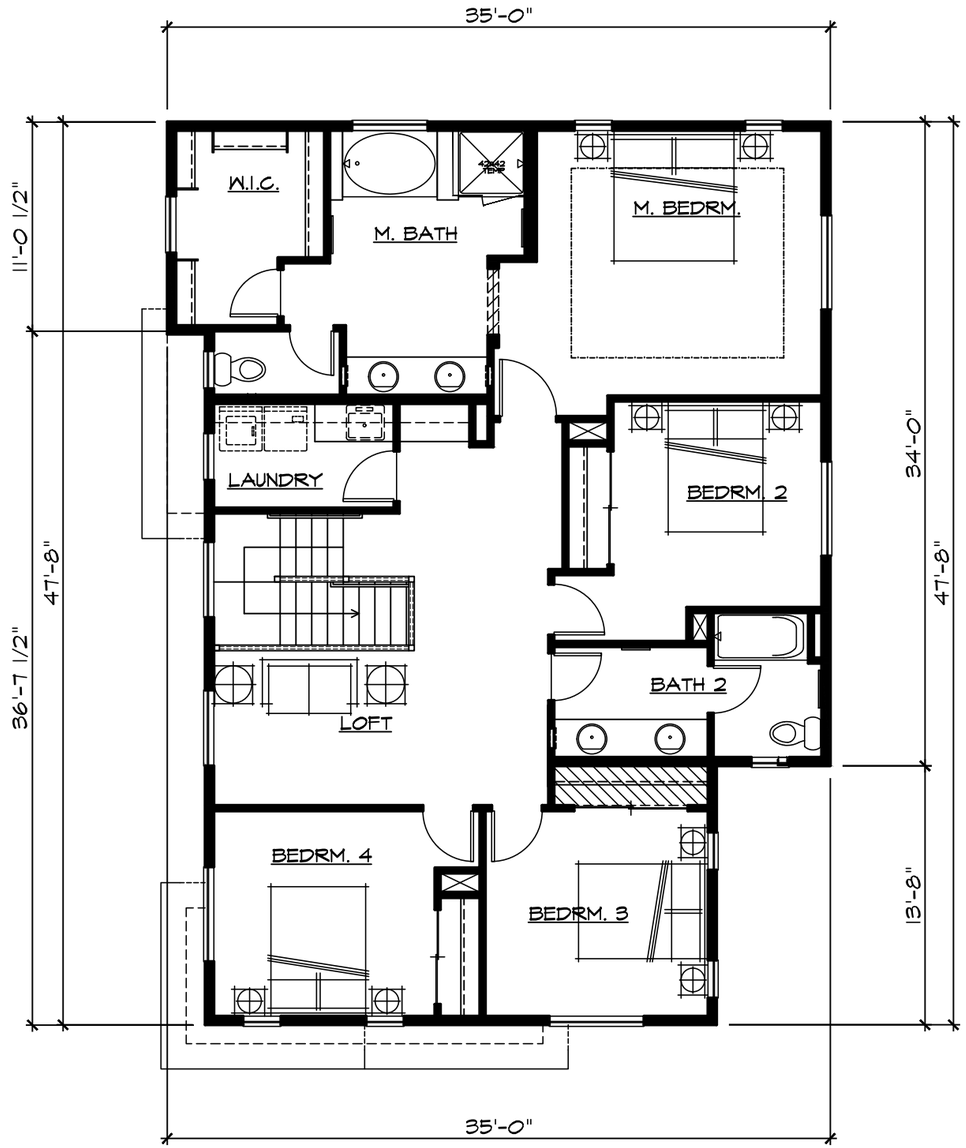
PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.

Date 10/15/21

1 07/06/22 PLANNING REVISION



Plan 2

4 BEDROOMS WITH ATTACHED
1 BEDROOM ADU
3-1/2 BATHS
LOFT

SQUARE FOOTAGE	
FIRST FLOOR	1033 SF
SECOND FLOOR	1454 SF
TOTAL LIVING AREA	2487 SF
GARAGE	416 SF
PORCH	96 SF
FOOTPRINT	1545 SF

Second Floor Plan

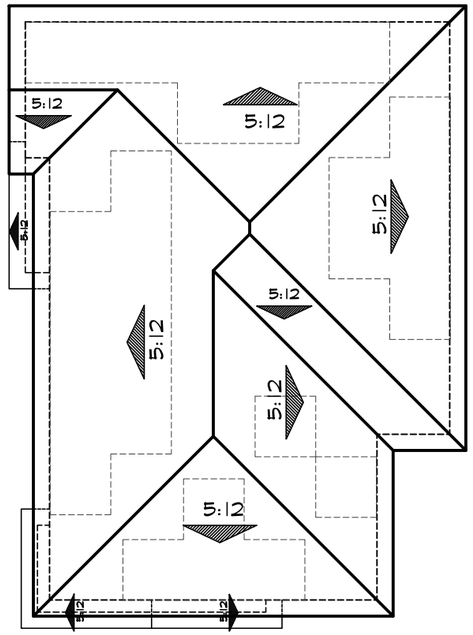
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LIBERTY II

PITTSBURG, CA

DISCOVERY
DESIGN
GROUP, LLC

Discovery Builders Inc.
D a t e 10/15/21
1 07/06/22 PLANNING REVISION



Roof Plan 'A'

0 2 4 6 8 16

SOLAR ZONE READY:

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3. SOLAR PANELS WILL BE INSTALLED UNDER A SEPARATE PERMIT.

5'x5' MIN. — DENOTES SOLAR PANELS



Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

Plan 2
Elevations - 'A'

0 2 4 6 8 16

LIBERTY II

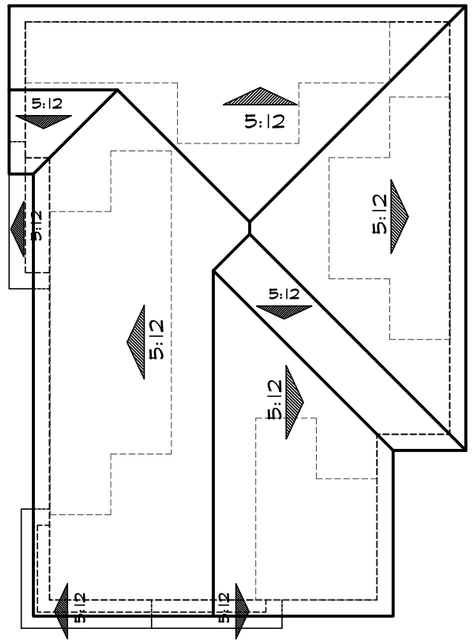
PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.

Date 10/15/21

1 07/06/22 PLANNING REVISION



Roof Plan 'B'

0 2 4 6 8 16

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5'x5' MIN. — DENOTES SOLAR PANELS



Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

Plan 2
Elevations - 'B'

0 2 4 6 8 16

LIBERTY II

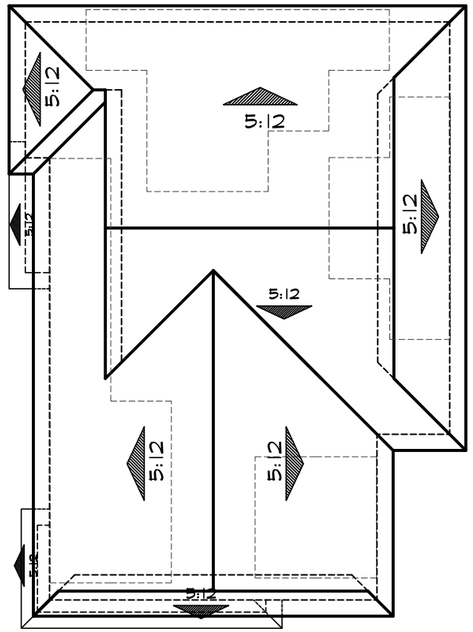
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Discovery Builders Inc.

Date 10/15/21

1 07/06/22 PLANNING REVISION



Roof Plan 'C'

0 2 4 6 8 16

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3. SOLAR PANELS WILL BE INSTALLED UNDER A SEPARATE PERMIT.

5'x5' MIN. — DENOTES SOLAR PANELS



Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

Plan 2
Elevations - 'C'

0 2 4 6 8 16

LIBERTY II

PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.

Date 10/15/21

1 07/06/22 PLANNING REVISION



Elevation A



Elevation C

MATERIAL LEGEND

A VILLA CONCRETE TILE ROOFING
GABLE & HIP ROOFS
STUCCO BODY
STUCCO TRIM
MOCK VENTS
SIMULATED BRICK VENEER
ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES

B FLAT CONCRETE TILE ROOFING
GABLE ROOFS
STUCCO BODY
STUCCO TRIM
BOARD AND BATTEN
SIMULATED STONE VENEER
ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES

C FLAT CONCRETE TILE ROOFING
GABLE ROOFS
STUCCO BODY
STUCCO TRIM
MOCK WOOD SHUTTERS
MOCK VENTS
LAP SIDING
ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES

GENERAL NOTES:

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Elevation B

Plan 3
Front Elevations

0 2 4 6 8 16

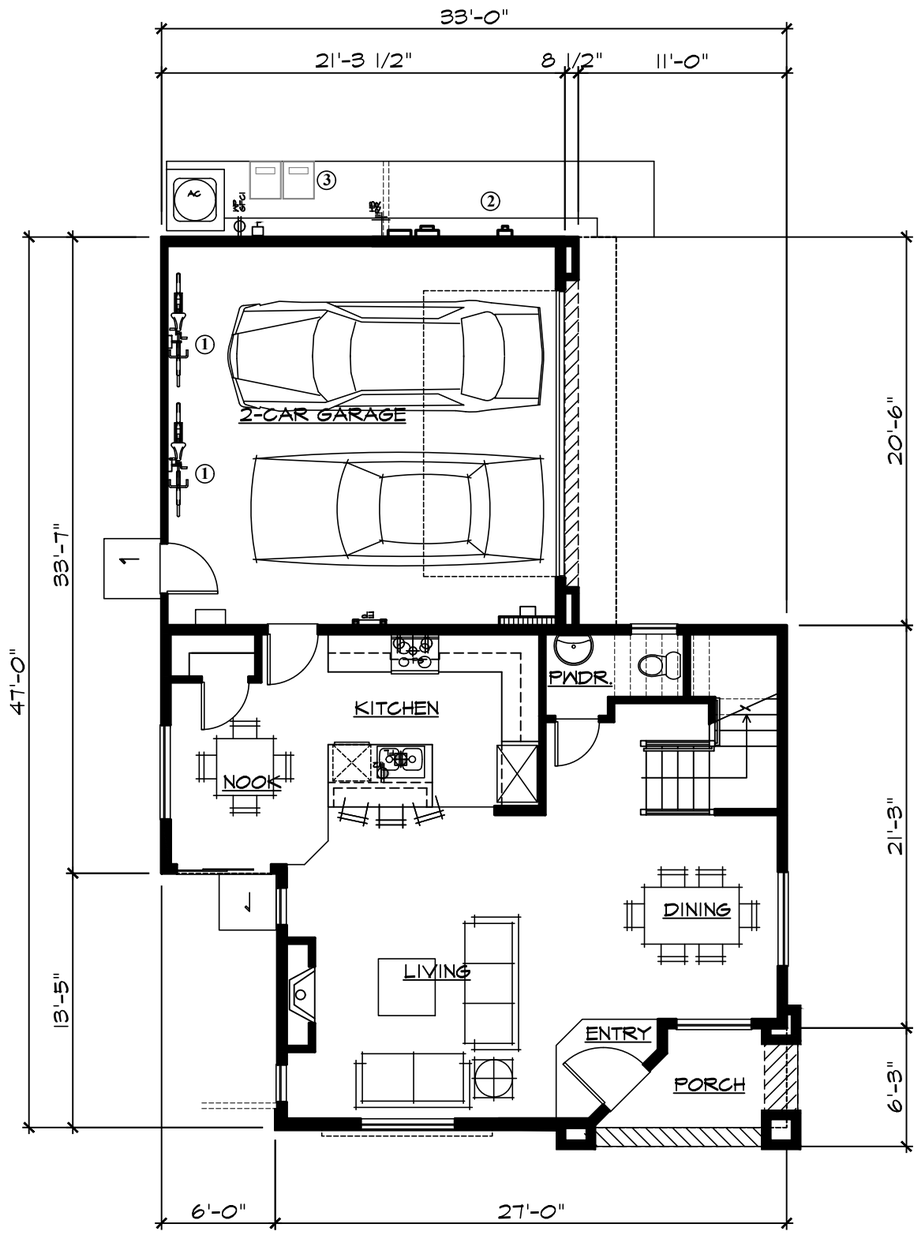
LIBERTY II

PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.

D a t e 10/15/21



Plan Notes:

1. Wall-mounted bicycle storage
2. Concrete pathway
3. Concrete trash pad (7' min.)

Plan 3

4 BEDROOMS
2-1/2 BATHS
LOFT

SQUARE FOOTAGE	
FIRST FLOOR	751 SF
SECOND FLOOR	1204 SF
TOTAL LIVING AREA	1955 SF
GARAGE	436 SF
PORCH	57 SF
FOOTPRINT	1244 SF

First Floor Plan

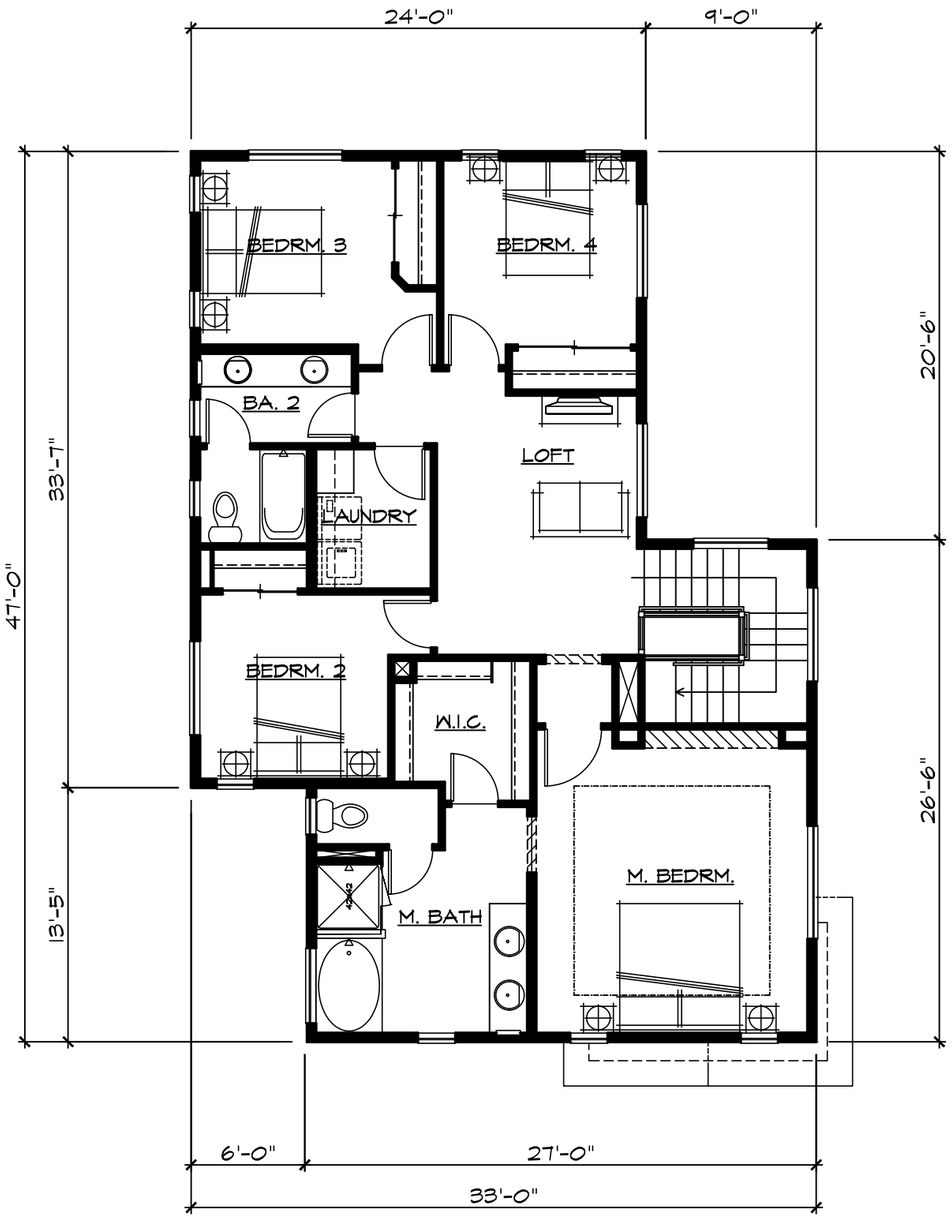
0 2 4 6 8 16

LIBERTY II

PITTSBURG, CA

DISCOVERY
DESIGN
GROUP, LLC

Discovery Builders Inc.
D a t e 10/15/21



Plan 3

4 BEDROOMS
2-1/2 BATHS
LOFT

SQUARE FOOTAGE	
FIRST FLOOR	751 SF
SECOND FLOOR	1204 SF
TOTAL LIVING AREA	1955 SF
GARAGE	436 SF
PORCH	57 SF
FOOTPRINT	1244 SF

Second Floor Plan

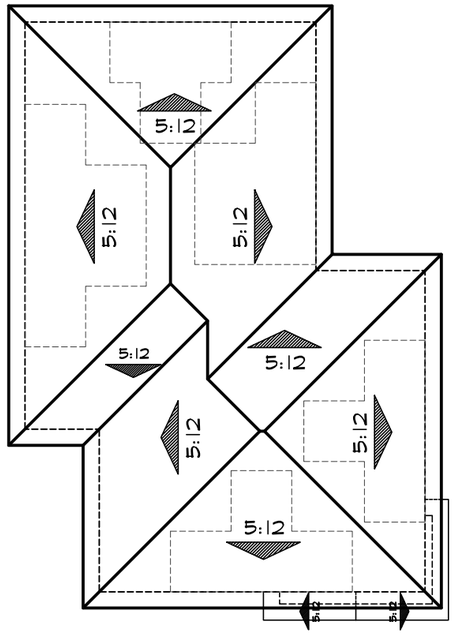
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LIBERTY II

PITTSBURG, CA

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Discovery Builders Inc.
D a t e 10/15/21



Roof Plan 'A'

0 2 4 6 8 16

SOLAR ZONE READY:

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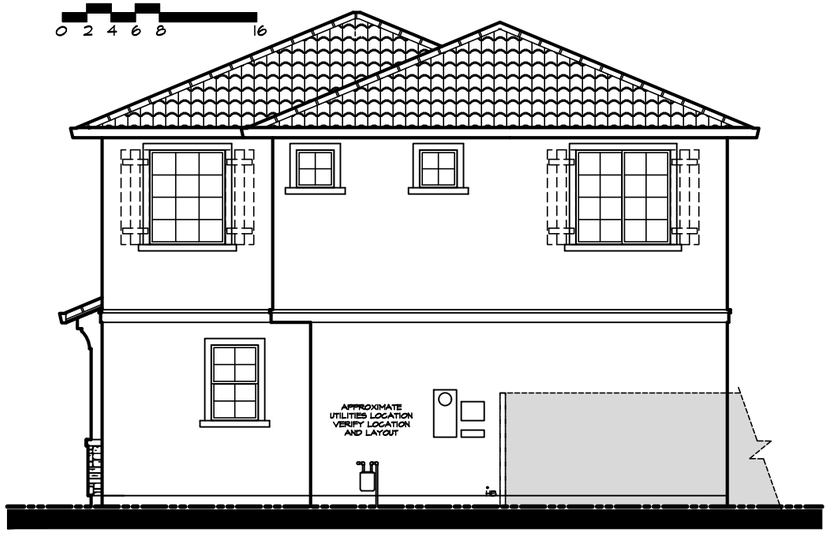
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5'x5' MIN. — DENOTES SOLAR PANELS



Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

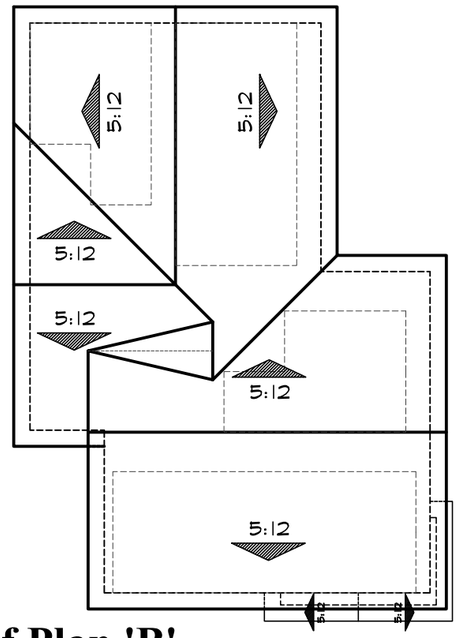
Plan 3
Elevations - 'A'

0 2 4 6 8 16

LIBERTY II
PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.
Date 10/15/21
1 07/06/22 PLANNING REVISION



Roof Plan 'B'

0 2 4 6 8 16

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5'x5' MIN. — DENOTES SOLAR PANELS



Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

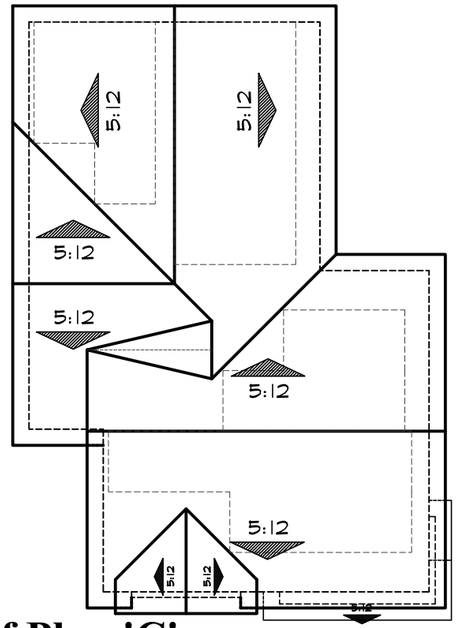
INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

Plan 3
Elevations - 'B'

0 2 4 6 8 16

LIBERTY II
PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC
Discovery Builders Inc.
Date 10/15/21
1 07/06/22 PLANNING REVISION



Roof Plan 'C'

0 2 4 6 8 16

SOLAR ZONE READY:

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5'x5' MIN. — DENOTES SOLAR PANELS



Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

Plan 3
Elevations - 'C'

0 2 4 6 8 16

LIBERTY II

PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

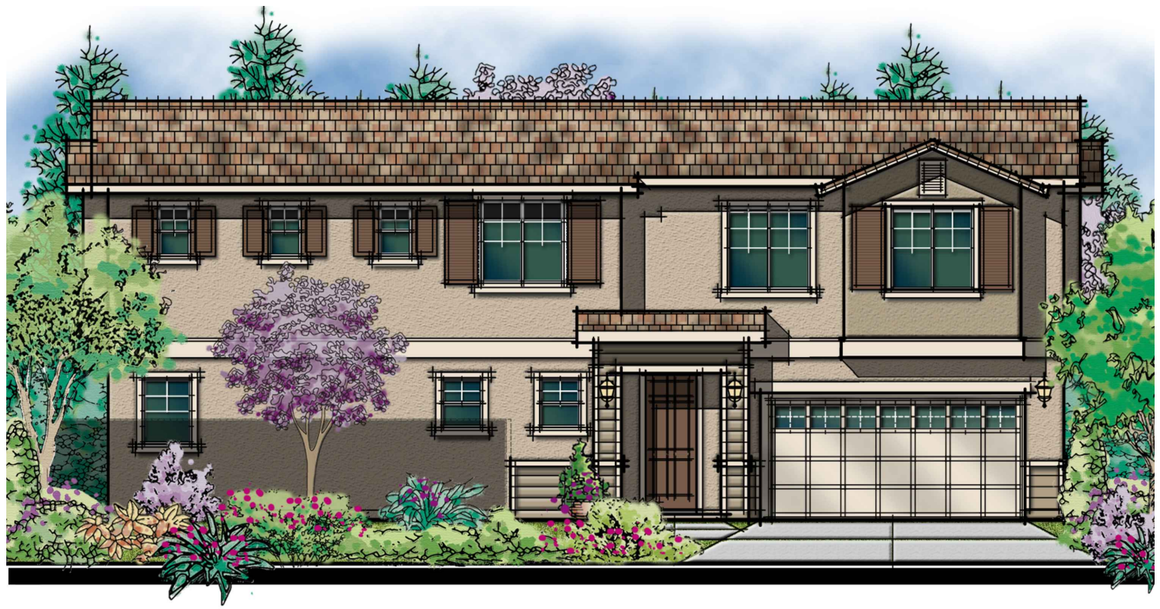
Discovery Builders Inc.

Date 10/15/21

1 07/06/22 PLANNING REVISION



Elevation A



Elevation C

MATERIAL LEGEND

A	B	C
VILLA CONCRETE TILE ROOFING	FLAT CONCRETE TILE ROOFING	FLAT CONCRETE TILE ROOFING
GABLE & HIP ROOFS	GABLE ROOFS	GABLE ROOFS
STUCCO BODY	STUCCO BODY	STUCCO BODY
STUCCO TRIM	STUCCO TRIM	STUCCO TRIM
MOCK VENTS	STUCCO/FOAM CORBEL	MOCK VENTS
MOCK WOOD SHUTTERS	MOCK WOOD SHUTTERS	MOCK WOOD SHUTTERS
SIMULATED BRICK VENEER	SIMULATED STONE VENEER	LAP SIDING
ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES	BOARD AND BATTEN	ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES
	ROLL-UP GARAGE DOORS W/ OPT. WINDOW LITES	

GENERAL NOTES:

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Elevation B

Plan 4
Front Elevations

0 2 4 6 8 16

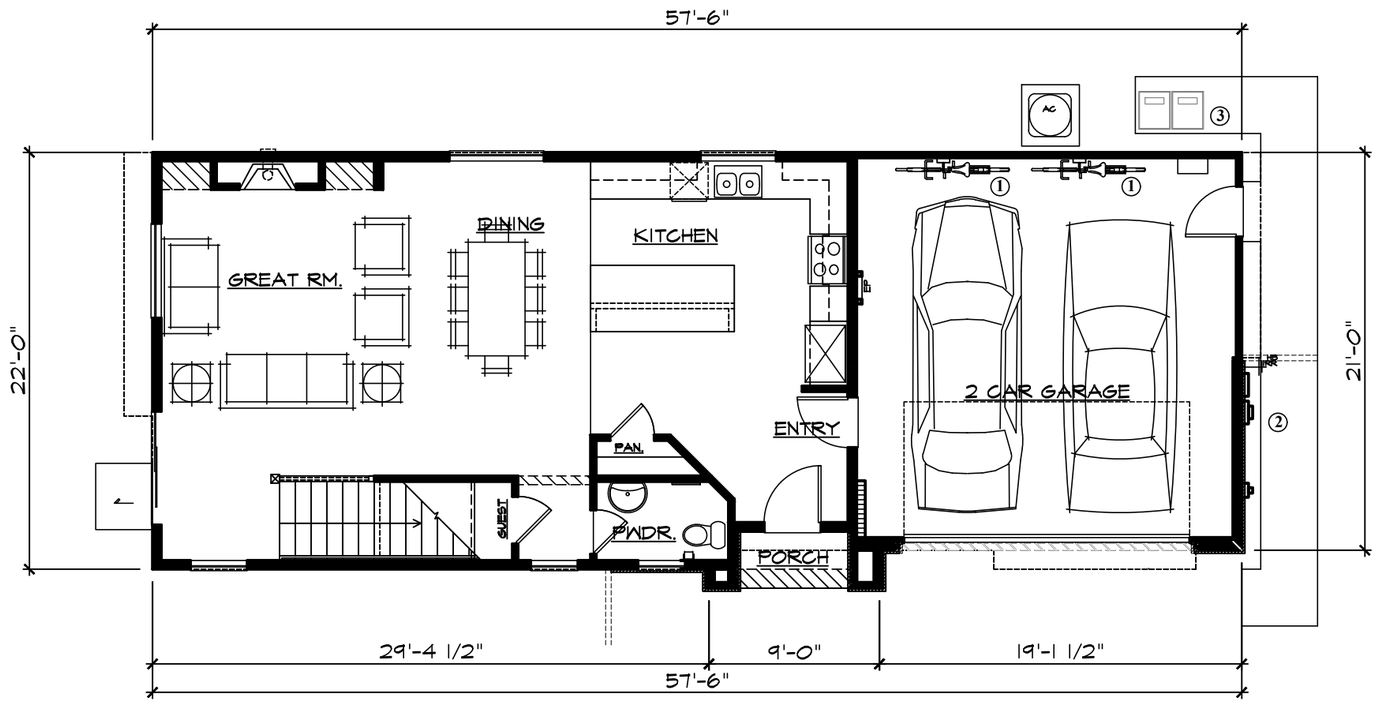
LIBERTY II
PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.
Date 10/15/21

Plan Notes:

1. Wall-mounted bicycle storage
2. Concrete pathway
3. Concrete trash pad (7' min.)



Plan 4

4 BEDROOMS
2-1/2 BATHS
LOFT

SQUARE FOOTAGE	
FIRST FLOOR	805 SF
SECOND FLOOR	1182 SF
TOTAL LIVING AREA	1987 SF
GARAGE	420 SF
PORCH	23 SF
FOOTPRINT	1248 SF

First Floor Plan

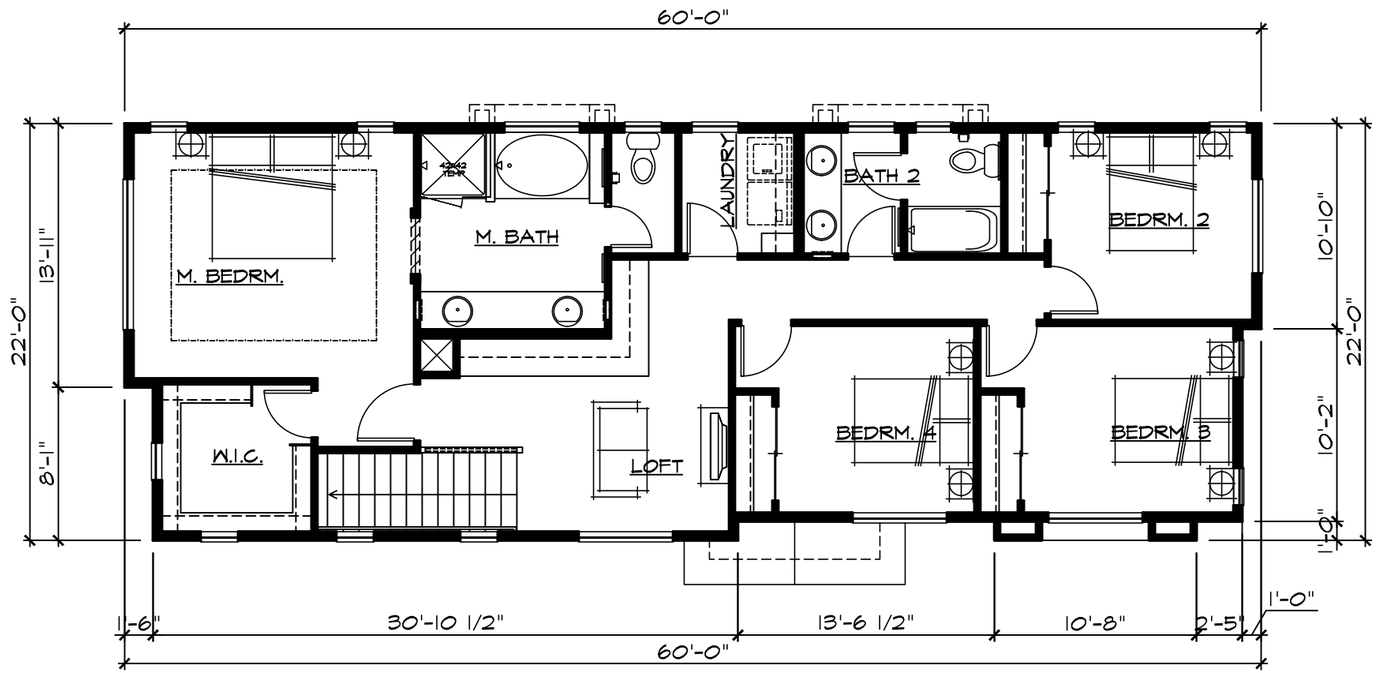
0 2 4 6 8 16

LIBERTY II

PITTSBURG, CA

DISCOVERY
DESIGN
GROUP, LLC

Discovery Builders Inc.
D a t e 10/15/21



Plan 4

4 BEDROOMS
2-1/2 BATHS
LOFT

SQUARE FOOTAGE	
FIRST FLOOR	805 SF
SECOND FLOOR	1182 SF
TOTAL LIVING AREA	1987 SF
GARAGE	420 SF
PORCH	23 SF
FOOTPRINT	1248 SF

Second Floor Plan

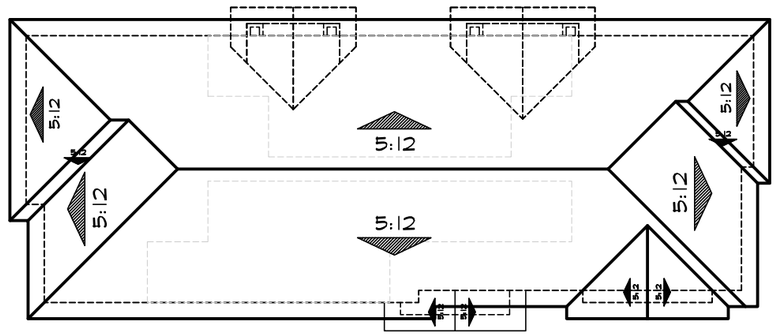
0 2 4 6 8 16

LIBERTY II

PITTSBURG, CA

DISCOVERY
DESIGN
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Discovery Builders Inc.
D a t e 10/15/21



Roof Plan 'A'

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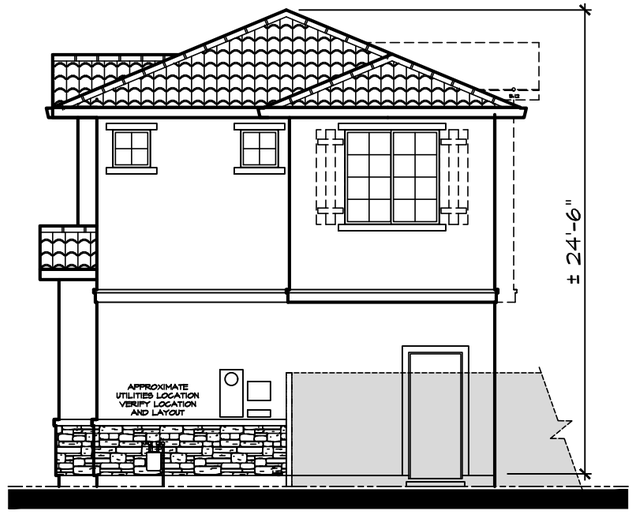
INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

SOLAR ZONE READY:

REFER TO SECTION 110.10 IN THE 2016 CALIFORNIA ENERGY CODE FOR MANDATORY REQUIREMENTS FOR SINGLE-FAMILY RESIDENCES AND MINIMUM SOLAR ZONE.

NOTES:
1. NO ROOF PLUMBING OR MECHANICAL PENETRATION IN THIS AREA.
2. ALL SECTIONS OF THE SOLAR ZONE LOCATED ON STEEP-SLOPED ROOFS SHALL BE ORIENTED BETWEEN 110 DEGREES AND 270 DEGREES OF TRUE NORTH, CEC SECTION 110.10(b)2.
3. SOLAR PANELS WILL BE INSTALLED UNDER A SEPARATE PERMIT.

5'x5' MIN. — DENOTES SOLAR PANELS



Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

Plan 4
Elevations - 'A'

0 2 4 6 8 16

LIBERTY II

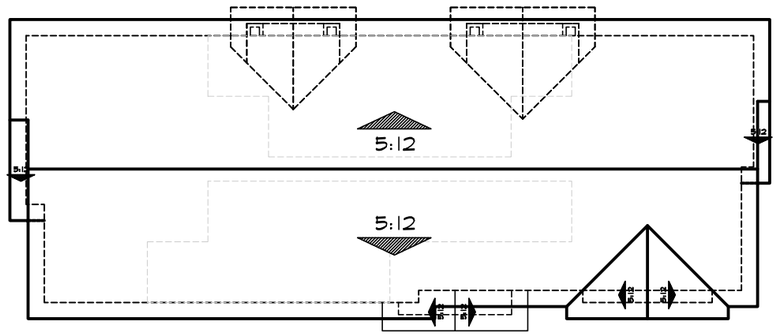
PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.

Date 10/15/21

1 07/06/22 PLANNING REVISION



SOLAR ZONE READY:

REFER TO SECTION 110.10 IN THE 2016 CALIFORNIA ENERGY CODE FOR MANDATORY REQUIREMENTS FOR SINGLE-FAMILY RESIDENCES AND MINIMUM SOLAR ZONE.

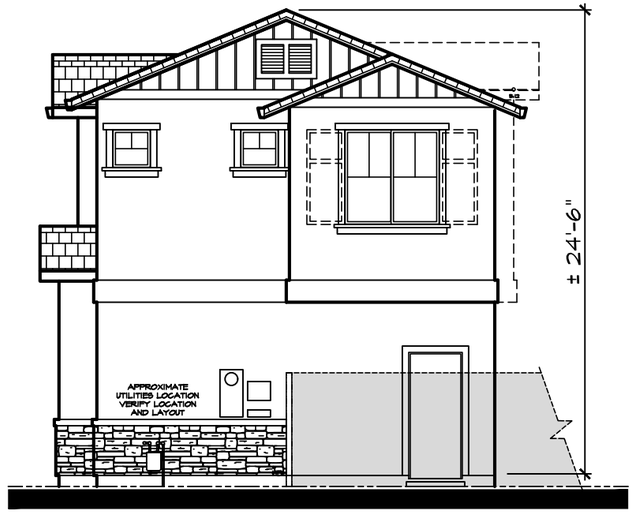
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2. ALL SECTIONS OF THE SOLAR ZONE LOCATED ON STEEP-SLOPED ROOFS SHALL BE ORIENTED BETWEEN 110 DEGREES AND 270 DEGREES OF TRUE NORTH, CEC SECTION 110.10(b)2.
3. SOLAR PANELS WILL BE INSTALLED UNDER A SEPARATE PERMIT.

5'x5' MIN. — DENOTES SOLAR PANELS

Roof Plan 'B'

0 2 4 6 8 16

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

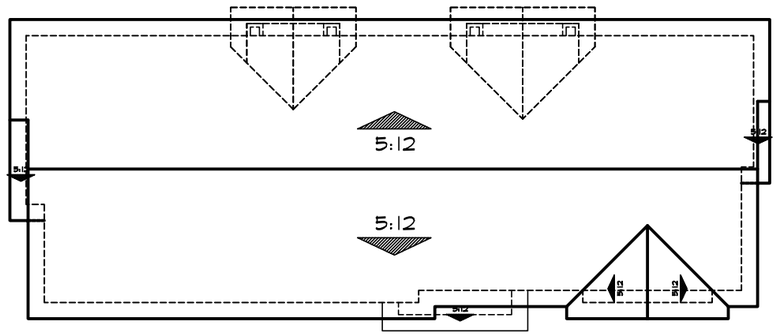
Plan 4
Elevations - 'B'

0 2 4 6 8 16

LIBERTY II
PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.
D a t e 10/15/21
1 07/06/22 PLANNING REVISION



SOLAR ZONE READY:

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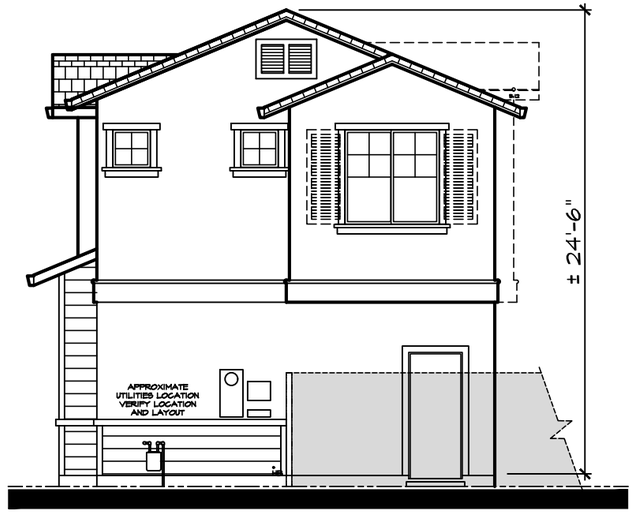
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3. SOLAR PANELS WILL BE INSTALLED UNDER A SEPARATE PERMIT.

5'x5' MIN. — DENOTES SOLAR PANELS

Roof Plan 'C'

0 2 4 6 8 16

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Right

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

Rear

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW



Left

INDICATES ENHANCEMENTS AT CENTRAL AVENUE STREET VIEW

Plan 4
Elevations - 'C'

0 2 4 6 8 16

LIBERTY II
PITTSBURG, CA

DISCOVERY DESIGN GROUP, LLC

Discovery Builders Inc.
Date 10/15/21
1 07/06/22 PLANNING REVISION

SUBDIVISION: LIBERTY II

PITTSBURG, CA

SCHEME	ROOFING TILE	BODY 1	BODY 2	TRIM & GARAGE DOOR	ACCENT & FRONT DOOR	MASONRY
SCHEME 1	1VICS0024 DESERT SAGE 	KMW28 CLAM	KM5784 CREEK BAY	KM5792 STACKED STONE	KM4582 BEAVER PELT	CHARDONNAY SOUTHERN LEDGESTONE 
SCHEME 2	1VICS3233 BROWN BLEND 	KMW10 POGO SANDS	KM5785-3 COUNTRY CLUB	KM5777-2 CANNERY PARK	KM4897 YIN MIST	PHEASANT PRO-FIT ALPINE LEDGESTONE 
SCHEME 3	1VICS0024 DESERT SAGE 	KM4632-1 WHITE SAND	KM4649-3 OLIVE WOOD	KMW6-1 LILY WHITE	KM5751-5 COASTLINE TRAIL	BUCKS COUNTY COUNTRY LEDGESTONE 
SCHEME 4	1VICS7330 VERONA CLAY 	KMW25-1 VAPOR TRAIL	KM4587-3 SMOKY TOPAZ	KM4572-2 TUNGSTEN	KMA21-5 TUSCAN OLIVE	CHARDONNAY PRO-FIT ALPINE LEDGESTONE 
SCHEME 5	1VICS7330 VERONA CLAY 	KM4660-1 WEDDING DRESS	KM5708-3 LOVER'S LEAP	KM4552 ANTIQUE WINDMILL	KMA66 SANTANA SOUL	CHARDONNAY SOUTHERN LEDGESTONE 
SCHEME 6	1VICS3233 BROWN BLEND 	KMW24-1 BUD'S SAILS	KM4642-2 BIRD'S NEST	KM4645-5 WINE CORK	KM5762-5 HIKING BOOTS	CHARDONNAY EUROPEAN CASTLE STONE 

ROOFING: BORAL CONCRETE TILE OR EQUIVALENT

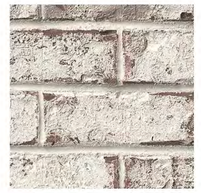
STONE: BORAL CULTURED STONE/CULTURED BRICK EQUIVALENT

PAINT: KELLY MOORE OR EQUIVALENT

REVISED: 01/14/2022

SUBDIVISION: LIBERTY II

PITTSBURG, CA

SCHEME	ROOFING TILE	BODY 1	BODY 2	TRIM & GARAGE DOOR	ACCENT & FRONT DOOR	MASONRY
SCHEME 7	1FACS1132 CHARCOAL BROWN BLEND 	46 ACOUSTIC WHITE	KM5771 APPLE HILL	KM5772 PALM LANE	KM4575-5 MUDROOM	OLD EDISTO 
SCHEME 8	1FACS1132 CHARCOAL BROWN BLEND 	KM4706 RUSTIC HACIENDA	KM5786-5 RIVER BANK	KM4704-2 DUSTY TRAIL RIDER	HLS4201 ADOBE WHITE	CHARDONNAY SOUTHERN LEDGESTONE 
SCHEME 9	1FACSC1430 CHARCOAL BLEND 	KM4941 CITY DWELLER	KM4945-3 SECRET PASSAGEWAY	KM4786 FRESH LINEN	407 CARBON	UMBER CREEK PRO-FIT ALPINE LEDGESTONE 
SCHEME 10	1FACS1132 CHARCOAL BROWN BLEND 	KM4601-2 DRIED GRASS	KM4574-3 DRY DOCK	KM4571-1 COBBLESTONE STREET	KM4812-5 JUNGLE COVER	OLD EDISTO 
SCHEME 11	1FACS5354 STONE MOUNTAIN BLEND 	KM4943-3 SUBWAY	KM4600-2 AFTERNOON TEA	KMW29-1 KITTEN WHISKERS	KM4939 ARROWHEAD	UMBER CREEK PRO-FIT ALPINE LEDGESTONE 
SCHEME 12	1FACS0024 DESERT SAGE 	49 ANTIQUE WHITE	KM4543-2 COFFEE DIVA	KM4553 BRAUN	KM4747-3 KNOCK ON WOOD	BUCKS COUNTY SOUTHERN LEDGESTONE 

ROOFING: BORAL CONCRETE TILE OR EQUIVALENT

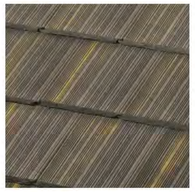
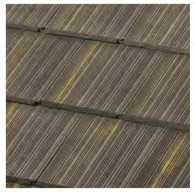
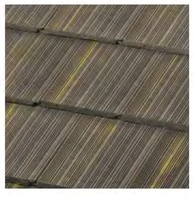
STONE: BORAL CULTURED STONE/CULTURED BRICK EQUIVALENT

PAINT: KELLY MOORE OR EQUIVALENT

REVISED: 01/14/2022

SUBDIVISION: LIBERTY II

PITTSBURG, CA

SCHEME	ROOFING TILE	BODY 1	BODY 2	TRIM & GARAGE DOOR	ACCENT & FRONT DOOR	MASONRY
SCHEME 13	1FBCF3233 BROWN BLEND 	KM5766 WHISPER RIDGE	KM4937 PAW PRINT	KMW24 BUD'S SAILS	KM4932-5 RUB ELBOWS	HUDSON BAY COUNTRY LEDGESTONE 
SCHEME 14	1FBCF1132 CHARCOAL BROWN BLEND 	KM4594-2 BAY AREA	KM4711-1 BAUHAUS TAN	KM4595-3 CLAY BATH	KMA76-5 LOG CABIN	CHARDONNAY COUNTRY LEDGESTONE 
SCHEME 15	1FBCF1132 CHARCOAL BROWN BLEND 	230 GRAYSTONE	KM5778-3 SHEEPSKIN GLOVES	KMW26 ABILENE LACE	KM4519-5 TURKISH COFFEE	MARSH POINTE 
SCHEME 16	1FBCF3233 BROWN BLEND 	KM5710-1 SUNDAY DRIVE	KM4544-3 HUTCHINS PLAZA	KM4554-5 BUFFALO DANCE	KMA77-5 BROWN BEAR	WOLF CREEK COUTRY LEDGESTONE 
SCHEME 17	1FBCF1430 CHARCOAL BLEND 	KM5766 WHISPER RIDGE	KM5757 FARMER'S MARKET	KM5748 NATURE'S GATE	KM4897 YIN MIST	ECHO RIDGE PRO-FIT ALPINE LEDGESTONE 
SCHEME 18	1FBCF3233 BROWN BLEND 	KM4788-1 EVENING DOVE	KM4741-3 EXECUTIVE COURSE	KMW30-1 LIGHT FROST	KM4792-5 FERN GULLY	OLD EDISTO 

ROOFING: BORAL CONCRETE TILE OR EQUIVALENT
STONE: BORAL CULTURED STONE/CULTURED BRICK EQUIVALENT
PAINT: KELLY MOORE OR EQUIVALENT

REVISED: 01/14/2022

LIBERTY PHASE II

PITTSBURG, CALIFORNIA

PROPOSED TREES

TREES

SYMBOL	BOTANICAL/ COMMON NAME
15 GALLON CONTAINERS	
	PISTACIA CHINENSIS 'KEITH DAVEY' CHINESE PISTACHE
	California Native Accent Tree: Cercis Occidentalis, Western Redbud or California Redbud

NOTE:
SEE SHEET P2 FOR FENCE AND WALL DETAILS

0' 20' 10' 40'
SCALE: 1"=20'-0"



SITE PLAN

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MSLA
LANDSCAPE ARCHITECTURE, Inc.
306 Canyon Falls Dr. Folsom, CA 95630
916.989.3372 www.msladesign.com

LICENSED LANDSCAPE ARCHITECT MICHAEL SHOLAR 5009 STATE OF CALIFORNIA
EXP. 05.31.22
PRELIMINARY

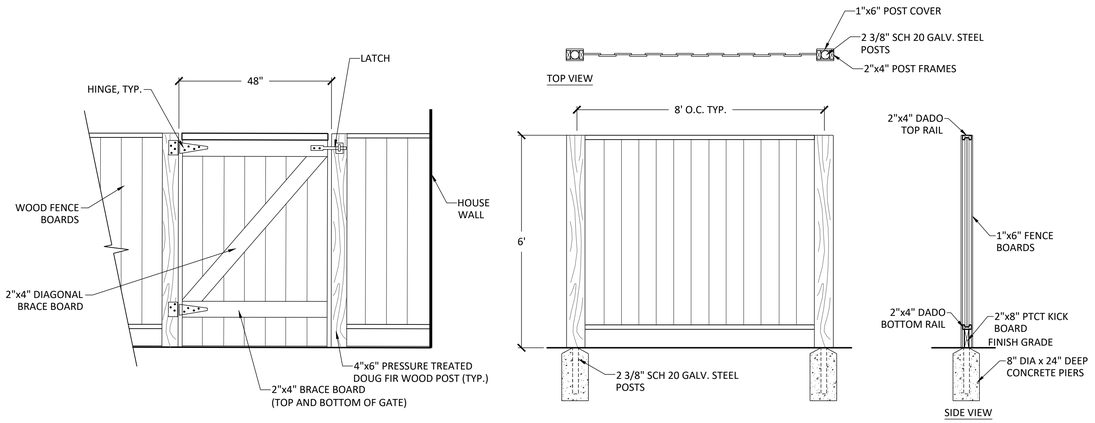
PRELIMINARY LANDSCAPE AND FENCING PLAN

OCTOBER 25, 2021

SHEET P1 OF TOTAL 2

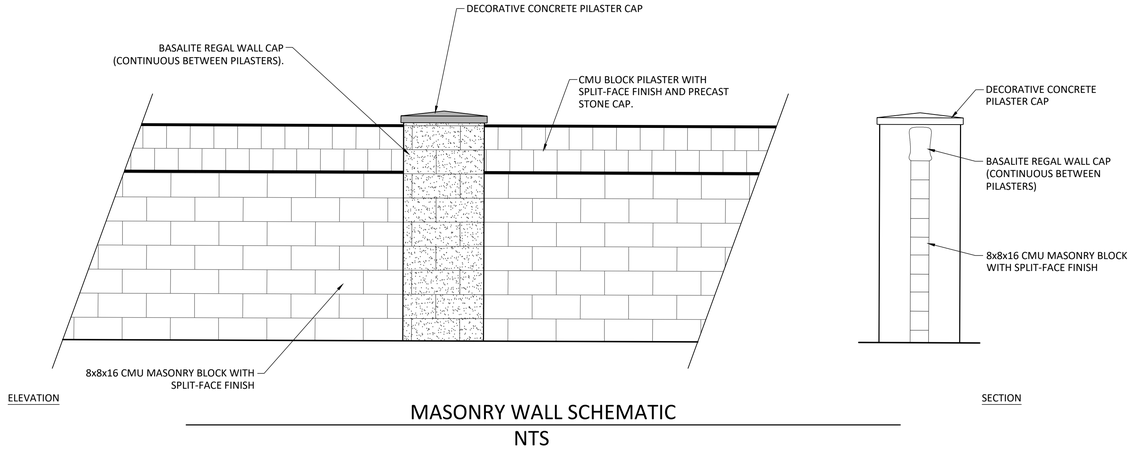
LIBERTY PHASE II

PITTSBURG, CALIFORNIA



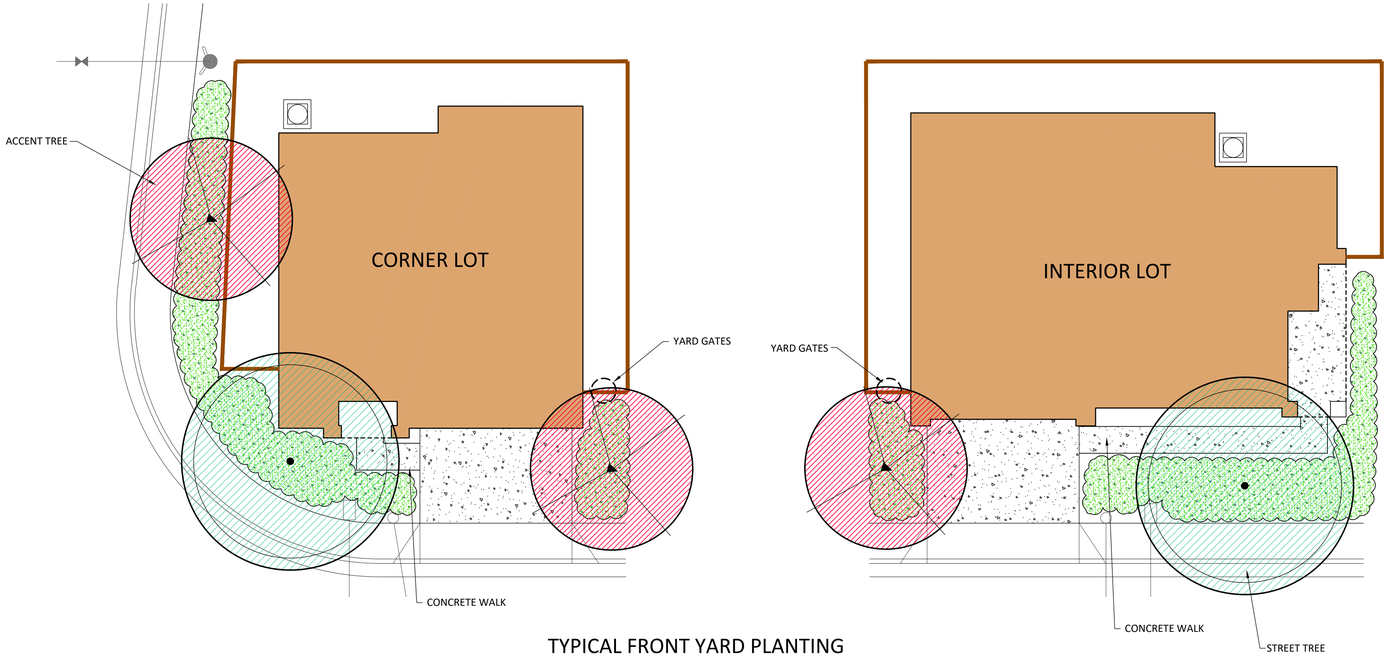
GOOD NEIGHBOR WOOD FENCE WITH STEEL POSTS AND GATE DETAIL

NTS



MASONRY WALL SCHEMATIC

NTS



TYPICAL FRONT YARD PLANTING

1"=8'-0"

PROPOSED PLANTS

TREES

SYMBOL	BOTANICAL/ COMMON NAME
15 GALLON CONTAINERS	
	PISTACIA CHINENSIS 'KEITH DAVEY' CHINESE PISTACHE
	LAGERSTROEMIA DYNAMITE'/ CRAPE MYRTLE

SHRUBS

SYMBOL	BOTANICAL/ COMMON NAME
1 GALLON CONTAINERS	
	ARCTOSTAPHYLOS UVA-URSI 'POINT REYES'/ PROSTRATE MANZANITA
	LAVANDULA STOECHAS/ SPANISH LAVENDER
	SALVIA GREGGII 'FURMANS RED'/ RED SAGE
	TEUCRIUM FRUTICANS 'VARIEGATED'/ DWARF GERMANDER
5 GALLON CONTAINERS	
	GREVILLEA X 'NOELLII'/ NOELL GREVILLEA
	PITTOSPORUM TOBIRA VARIEGATA/ VARIEGATED MOCK ORANGE
	ROSA CARPET RED'/ RED CARPET ROSE
	XYLOSMA CONGESTUM/ SHINY XYLOSMA


CRAPE MYRTLE


CHINESE PISTACHE


MANZANITA


SPANISH LAVENDER


CARPET ROSE


RED SAGE


DWARF GERMANDER


NOELL GREVILLEA


VARIEGATED MOCK ORANGE


XYLOSMA

MSLA
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916.989.3372 www.msladesign.com

LICENSED LANDSCAPE ARCHITECT MICHAEL SHULAR STATE OF CALIFORNIA
EXP. 05.31.22
PRELIMINARY

TYPICAL LOT PLAN

OCTOBER 25, 2021

SHEET P2 OF TOTAL 2

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GARBAGE COLLECTION EXHIBIT

"LIBERTY PHASE II"

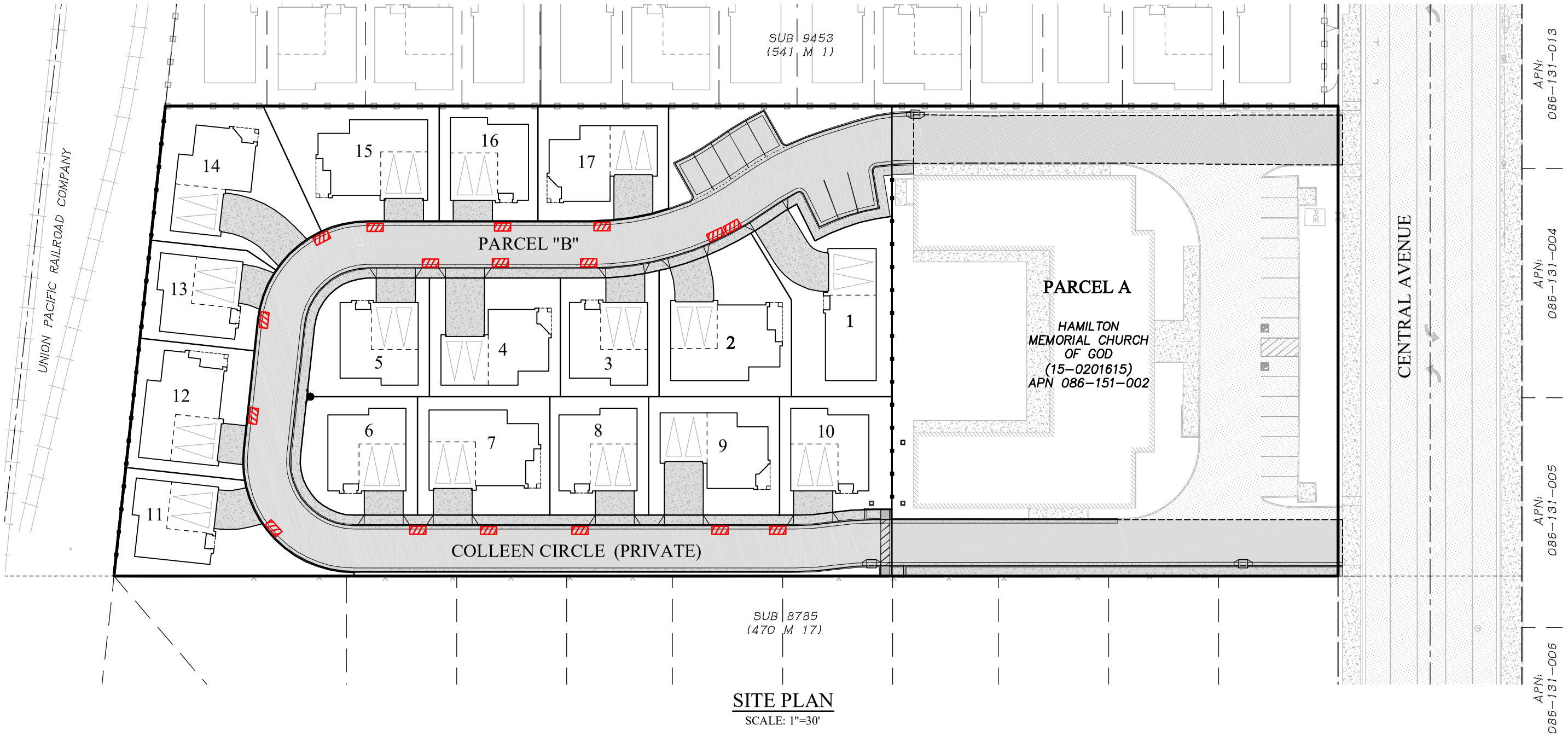
SUBDIVISION 9550

CITY OF PITTSBURG
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

GRAPHIC SCALE
30 15 0 30
(IN FEET)
1 inch = 30 ft.

LEGEND

GARBAGE COLLECTION AREA



SITE PLAN
SCALE: 1"=30'

CONDITIONS OF APPROVAL

Planning Conditions

1. **Conformity with Project Plans**
   The project shall be constructed in substantial conformity with the Vesting Tentative Map for Subdivision 9550 (Sheets 1 through 4) dated August 2, 2022; the Landscape Plans dated October 25, 2021 (Sheets P-1 and P-2); the Master Plotting Plan dated July 7, 2022; the Architectural and Street Elevation Plans dated October 15, 2021, revised July 6, 2022, except as hereinafter may be modified. Any major changes to the project plans shall be subject to review and approval by the Planning Commission at the City Planner's discretion.

2. **Contingent Approval**
   Approval of the Vesting Tentative Map and Design Review is contingent upon City Council adoption of an ordinance approving: 1) a General Plan Map Amendment changing the parcel's land use designation from Low Density Residential to Medium Density Residential and 2) a Zoning Map Amendment rezoning the project site from RS-5 (Single-Family Residential) District to PD (Planned Development) District and accompanying PD Plan specifying land use and development regulations for the rezoned property.

3. **Final Plot Plans**
   Final plot plans shall be in substantial conformity with the Master Plotting Plan noted above. Minor plot plan rearrangements may be made subject to review and approval by the Planning Division. The Developer shall ensure that:

   a) rearrangements shall not result in more than two of the same Plan 1, 2, 3, and 4 house models being located next to one another.
   b) where two of the same house models are placed next to one another, a different elevation (either A, B, or C) and different color scheme shall be applied to each house model.
   c) all individual plot plans submitted to the Planning Division for review shall note the proposed house plan, elevation, and color scheme, and whether the house plan has been reversed.

4. **Final Architectural Plans**
   Final Architectural Plans shall reflect the following modifications, subject to review and approval by the Planning Division:

   a) Horizontal lap siding, board and batten siding, stone/brick veneer, and ledger details, where indicated on front elevations, shall be extended around all adjacent sides. All base trim details (including brick or stone veneer or stucco pop-outs), located along the bottom portion of the first floor and that wrap around the corner to the left or right side elevation of the house, shall extend all the way to the point at which the fence line intersects the respective side

wall and to the foundation line, where applicable. Siding, veneer, or ledger details shall be wrapped around all exposed sides of porch pillars. Trim details shall be included between stucco and lap siding or veneer transitions, where appropriate.

5. **Additional Green Building Features**
The project is required to meet the Residential Mandatory Measures specified under the 2019 California Green Building Standards Code. In addition to those measures, the project shall implement the following Residential Voluntary Measures:

a) A4.106.5 Cool roof for reduction of heat island effect
b) A4.106.8 Pre-wire electric vehicle (EV) charging for new construction

6. **Pre-Wiring Option for Photovoltaic Panels**
The Developer shall include, as part of the options package for buyers of single-family houses in the subdivision, an option that offers pre-wiring of the house for photovoltaic (solar) panels compliant with the 2019 California Energy Code. The construction drawings for each plan shall include appropriate electrical and roof framing details as necessary to reflect the option for pre-wiring the houses for roof-mounted photovoltaic panels. The Developer shall maintain and make available to all potential buyers, in each sales office, a brochure or list of vendors and installers of solar panels for residential use. A copy of the vendor list/brochure shall be provided to the Planning Division, prior to issuance of the first building permit for construction of a single-family residence.

7. **Final Landscape Plans**
Final Landscape Plans shall reflect the following modifications, subject to review and approval by the Planning Division:

a) Pre-emergent herbicide and a weed barrier shall be provided for all planting areas. Planting areas shall receive a three-inch layer of light brown bark mulch dressing.
b) Mailbox cluster units shall have a black finish.

8. **Installation of Landscaping and Irrigation**
Prior to occupancy of the houses by residents, the Developer shall complete installation of landscaping and automatic irrigation systems in street landscape areas and front and corner side yards of respective lots, in accordance with Article VII (Landscaping, Irrigation and Hydroseeding) of PMC Chapter 18.84, or other applicable water efficient landscape ordinance, subject to approval by the Community and Economic Development Department. The Developer shall provide the irrigation system controller map, programming table, and annual maintenance schedules to new owners upon sale/transfer of ownership of the residential property from the Developer to the buyer. Typical front yard landscaping shall include a minimum of one street tree and one smaller ornamental tree per lot,

along with a combination of shrubbery and ground cover. If required landscaping is not completed prior to final inspection and occupancy, the Developer shall post a bond to assure that the work is completed to the satisfaction of the City.

9. **Water-Efficient Model Home**
   At least one of the model houses built in the development shall demonstrate water-efficient landscaping techniques in accordance with Article 7 of Chapter 18.84 of the Zoning Ordinance. The Developer shall make available to potential buyers brochures or other written or graphic media that informs visitors and potential buyers about the principles of water-efficient landscapes, including but not limited to those principles that are described in PMC Chapter 18.84, Article VII.

10. **Street Lights and Spacing**
    The Developer shall provide a photometric graph and table to determine the appropriate street light spacing for the project. An approved lighting software program that clearly indicates the Average Luminance/Minimum Luminance Uniformity ratio of the roadway within the project area is to be used for the lighting calculations (see City Standard Detail T-1 for details). The Developer shall install single-head decorative luminaire poles with LED decorative (“Acorn”) post top light fixtures (as specified on Sheet T-5 of the City of Pittsburg Traffic and Lighting Details), with a height not to exceed 15 feet, throughout the subdivision in accordance with the photometric graph and table.

11. **AC Unit Placement**
    Air conditioning units shall be placed along the wall in the rear or side yards with a minimum of three feet unobstructed access around the unit, except that one side of the unit may have less than a three-foot separation between the unit and a wall of the house.

12. **Rooftop Equipment**
    Roof vents shall be painted the same color as roofing material to which they are adjacent. Downspouts, side vents, attached utility boxes, and hose bibs shall be painted the same color or colors as the surface or surfaces to which they are adjacent.

13. **Address Identification**
    The Developer shall install, on each residence, minimum four-inch high, block style numbers that contrast with the building façade for address identification purposes. The numbers shall be a satin black finish and located directly below façade lighting. The construction drawings submitted for each house model shall identify the location of the address box or number(s) on the house façade, along with a detail or keynote that describes how the house number will be illuminated or made identifiable from the street or shared driveways, as applicable.

14. **Refuse Management Plan**
    The Developer shall prepare a Refuse Management Plan to promote the safe,

efficient, and timely pickup of refuse by Mt. Diablo Resource Recovery. The Plan shall specify: 1) the designated areas for placement of refuse carts; 2) the designated pickup days and timeframes; 3) parking restrictions along designated pickup areas; and 4) the procedure for green waste pickup by the homeowner association's landscape contractor. The Plan shall be submitted to and approved by the Planning Manager prior to issuance of the first building permit. The Developer shall provide each prospective home buyer with a disclosure advising them of Refuse Management Plan.

Each proposed single-family residence shall provide a concrete trash pad. All 17 proposed lots shall be able to accommodate three bins (refuse, recyclables, organics) at the curb in the front of each residence. All bins shall be sized to ensure compliance with requirements of Senate Bill 1383 (2016).

15. **Housing Affordability**
The Developer is required to construct two Accessory Dwelling Units (ADUs) within the project pursuant to PMC Section 18.86.080, which will allow extended families to live near each other, increase the City's affordable housing stock, and provide opportunities for homeowners to generate additional income consistent with Housing Element Policy P-1.5 and General Plan policies 8-P-1, 8-P-2, 8-P-11.

A covenant shall be recorded limiting the amount of rent that may be charged for each ADU, consistent with the terms and conditions set forth in the Affordable Housing Agreement. Prior to the City's issuance of the first Certificate of Occupancy, the Developer agrees to enter into an Affordable Housing Agreement with the City consistent with applicable law, including Pittsburg Municipal Code Chapter 18.50.

The Developer agrees that the ADUs referenced in this Section shall not be built or otherwise allowed on adjoining lots without the prior written approval of the City Manager.

16. **East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan**
The Developer is required to obtain permit coverage under the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan ("ECCC HCP/NCCP"). The Developer shall complete an ECCC HCP/NCCP Planning Survey Report (PSR) for the Project. The PSR shall be submitted to and approved by the Planning Manager prior to issuance of the first building permit.

17. **Windows**
The Developer is required to provide sound walls and upper-floor windows of residences adjacent to the Union Pacific Railroad tracks (homes on Lots 11, 12, 13, and 14) to be upgraded to a Sound Transmission Class (STC) rating of 32. The proposed sound walls and upper-story windows will help ensure interior noise levels do not exceed 45 dB CNEL (Policy 12-P-6).

18. **RASP EIR Mitigation Measures**
The developer shall comply with the environmental impact mitigation measures identified below.

a) **AQ-1.1 Implement dust control measures.** To reduce particulate matter emissions during construction, the City shall ensure that all development proposed under the Railroad Avenue Specific Plan complies with the dust control strategies developed by BAAQMD. These dust control strategies shall include:
   i. Cover all trucks hauling construction and demolition debris from the site;
   ii. Water all exposed or disturbed soil surfaces at least twice daily;
   iii. Use watering to control dust generation during demolition of structures or break-up of pavement;
   iv. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved parking areas and staging areas;
   v. Sweep daily (with water sweepers) all paved parking areas and staging areas during the earthwork phases of construction;
   vi. Provide daily clean-up of mud and dirt carried onto paved streets from the site;
   vii. Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
   viii. Limit traffic speeds on unpaved roads to 15 mph;
   ix. Install sandbags or other erosion control measures to prevent silt runoff to public roadways; and
   x. Replant vegetation in disturbed areas as quickly as possible.

b) **AQ-1.2 Reduce emissions from heavy-duty diesel-powered equipment.** The City shall ensure that all development proposed under the Railroad Avenue Specific Plan implements measures to reduce the emissions of pollutants generated by heavy-duty diesel-powered equipment during demolition and construction:
   i. Keep all construction equipment in proper tune in accordance with manufacturer's specifications.
   ii. Use late model heavy-duty diesel-powered equipment at the Project Site to the extent that it is readily available in the San Francisco Bay Area.
   iii. Use diesel-powered equipment that has been retrofitted with after-treatment products (e.g., engine catalysts) to the extent that it is readily available in the San Francisco Bay Area.
   iv. Use low-emission diesel fuel for all heavy-duty diesel-powered equipment operating and refueling at the Project Site to the extent that it is readily available and cost effective in the San Francisco Bay Area (this does not apply to diesel-powered trucks traveling to and from the site.

v. Utilize alternative fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and unleaded gasoline) to the extent that the equipment is readily available and cost effective in the San Francisco Bay Area.
vi. Limit truck and equipment idling time to five minutes or less.
vii. Rely on the electricity infrastructure surrounding the construction sites rather than electrical generators powered by internal combustion engines to the extent feasible.

c) **AQ-6.1 Develop and implement a plan to reduce operational air emissions.** Prior to approval of building entitlements and permits, the project developers shall be required to demonstrate to the City that stationary source emissions reduction measures have been included to reduce operational emissions resulting from development in the project area to the maximum extent practicable. A plan for reducing stationary sources shall be approved by City staff. The plan shall include measures such as, but not limited to, incorporating energy-saving appliances for heating and air conditioning units and energy efficient lighting.

d) **NO-1.1 Implement construction best management practices to reduce construction noise.** The construction contractor(s) shall implement the following measures during the construction under the Railroad Avenue Specific Plan:
i. Restrict construction activities to the hours of 8:00 a.m. to 5:00 p.m.
ii. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically attenuating shields or shrouds, wherever feasible).
iii. Impact tools (e.g., jackhammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or
iv. electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to 10 dBA. External jackets on the tools themselves shall be used where feasible, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
v. Construction contractor shall use “quiet” gasoline-powered compressors or other electric-powered compressors and use electric rather than gasoline or diesel-powered forklifts for small lifting.
vi. Stationary noise sources, such as temporary generators, shall be located as far from adjacent receptors as possible, and they shall

be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.

vii. Erect temporary plywood noise barriers around the construction site, to shield adjacent uses.

viii. Prohibit trucks from idling along residential streets serving the construction site.

e) **NO-3.1 Implement site and architectural design measures to reduce noise levels for new residential development with ambient noise levels greater than 65 dBA CNEL.** Per the General Plan, new development located near a roadway that produces noise levels greater than 65 dBA CNEL (measured at the façade of a proposed residential use) shall be required to have an acoustical analysis prepared by a qualified acoustical engineer to ensure that all feasible site planning and architectural design measures were incorporated to reduce interior noise levels to a maximum of 45 dB CNEL. Measures to achieve acceptable noise levels include adjusting the configuration of the proposed residential buildings and placing exterior living areas such as patios and balconies away from high traffic roadways. Recommendations from the acoustical study must be incorporated into building and site design and submitted to the City for approval prior to issuance of a building permit.

f) **BIO-1 Conduct a nesting bird survey within the Specific Plan Area.** Project applicants shall be required to comply with the following activities prior to construction during the nesting season, March 1st to August 1st. Outside the specified time period, no mitigation would be required.

1. Between March 1st and August 1st, the applicant shall have a qualified biologist conduct nest surveys 30 days prior to any demolition/construction activities that are within 500 feet of potential nest trees. A pre-construction survey report shall be submitted to (California Department of Fish and Wildlife, CDFW) and the City of Pittsburg that includes, at a minimum: (1) a description of the methodology including dates of field visits, the names of survey personnel with resumes, and a list of references cited, and persons contacted; and (2) a map showing the location(s) of any bird nests observed on the project site. This report shall be consistent with the requirements from the East Contra Costa County (Habitat Conservation Plan). If no active nests of the Migratory Bird Treaty Act, California Department of Fish and Game, or U.S. Fish and Wildlife Service protected species are identified then no further mitigation is required.
2. Should active bird nests be located in the survey area, the applicant, in consultation with the City of Pittsburg and CDFW, shall delay construction in the vicinity of active nest sites during the breeding season (March 1st through August 1st) while the nest is occupied with adults and/or young.

3. A qualified biologist shall monitor any occupied nest to determine when the nest is no longer used. If the construction cannot be delayed, avoidance shall include the establishment of a non-disturbance buffer zone around the nest site. The size of the buffer zone will be determined in consultation with the CDFW but will be a minimum of 100 feet. The buffer zone shall be delineated by highly visible temporary construction fencing.
4. No intensive disturbance (e.g., heavy equipment operation associated with construction or use of cranes) or other project related activities that could cause nest abandonment or forced fledging, shall be initiated within the established buffer zone of an active nest between March 1st and August 1st.
5. If demolition/construction activities are unavoidable within the buffer zone, the project applicant shall retain a qualified biologist to monitor the nest site to determine if construction activities are disturbing the adult or young birds. If abandonment occurs the biologist shall consult with CDFG or USFWS for the appropriate salvage measures. This could include taking any nestlings to a local wildlife rehabilitation center.
6. Trees that support active nests which are to be removed shall only be removed during the non-breeding, non-nesting season.

g) **CR-1 Treatment of unexpected paleontological resources.** Should paleontological resources be identified at project construction sites during any phase of construction, the construction contractor/supervisor shall cease operation at the site of the discovery and immediately notify the City of Pittsburg Planning Department. The project applicant shall retain a qualified paleontologist to provide an evaluation of the find and to prescribe mitigation measures to reduce impacts to a less- than-significant level. In considering any suggested mitigation proposed by the consulting paleontologist, the City of Pittsburg Planning Department shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, specific plan policies and land use assumptions, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation for paleontological resources is carried out.

Engineering Conditions

Engineering Fees and Deposits:

19. **Major Subdivision Map Processing Fee**
The Developer shall pay the subdivision map processing fee according to the following amounts as applicable to the project:

1st – 3rd Final Map Check		4th Final Map Check+
5-50 lots	$4,000	$4,000 + $800/ea. additional map check
51-150 lots	$4,500	$4,500 + $1,065/ea. additional map check
151 or more	$5,000	$5,000 + $1,330/ea. additional map check

50% of this fee shall be submitted with the first plan submittal. The remaining balance shall be paid in full to the Engineering Division prior to the City Council's approval of the final map.

20. **Improvement Plan Check Fee**
The total improvement plan review fee is 4.5% of the engineer's estimate for the cost of improvements. An initial payment of 50% of the estimated total improvement plan review fee is to be submitted to the Engineering Division with the engineer's estimate with the first plans submittal. The remainder of the fee shall be due payable prior to the issuance of an Engineering Site Development Permit.

21. **Improvement Inspection Fee**
The Developer shall pay an Improvement Inspection Fee according to the following rates as applicable to the project:

Percent of Engineer's Estimate	Total Estimated Project Costs
7.5%	≥ $500,000
5%	$500,001 - $5 million
4.6%	$5 million<

The Improvement Inspection Fee shall be due payable prior to the issuance of an Engineering Site Development Permit.

22. **Grading Plan Check Deposit**
The total Grading Plan Review Fee is 2.5% of the engineer's estimated cost for grading, or it may be based upon cubic yards of earth disturbance as set forth in the City's Master Fee Schedule. An initial payment of 50% of the estimated total Grading Plan Review Fee is to be submitted to the Engineering Division with the engineer's estimate with the first plans submittal. The remainder of the fee shall be due payable prior to issuance of a Grading Permit.

23. **Grading Inspection Fee**
The Grading Inspection Fee is 3% of the engineer's estimated for the cost of grading. The Grading Inspection Fee may also be based upon an approved engineer's estimate of total cubic yards, according to the current schedule of grading fee charges as set forth in the City's Master Fee Schedule.

24. **In Lieu Parkland Dedication Fee**
The Developer shall pay an In-Lieu Parkland Dedication Fee equivalent to providing five acres of park area per one thousand persons residing within the new

development and shall be based on the fair market value of developed parkland, or as established with separate agreement as approved by the City Engineer.

25. **Facility Reserve Charge**
The Developer shall pay the City of Pittsburg Facilities Reserve Charge (PMC Chapters 13.08, 13.12 and 13.24) (the "FRC") to the Engineering Division, for water and sewer service in the amounts in effect when the applicant obtains a building permit.

26. **Local Traffic Mitigation Fee**
The Developer shall pay the Local Transportation Mitigation Fee (PMC Chapter 15.90) (the "LTMF") amount in effect when the applicant obtains a building permit. The Developer understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index (CCI) and may be increased at the City Council's discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by the proposed development. The LTMF is calculated by dividing the total fee share of improvement costs by the total number of Dwelling Unit Equivalencies ("DUE") in the City, as described in PMC Chapter 15.90 and the Pittsburg Local Transportation Mitigation Fee Program Update, copies of which are available from the City.

27. **Regional Traffic Mitigation Fee**
The Developer shall pay the Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.103) (the "RTDIM") amount in effect when the Developer obtains a building permit. The RTDIM will be automatically increased or decreased on January 1 of each year based on the percent change in the Engineering News-Record Construction Costs Index – San Francisco Bay Area, between September 1 and September 1 of the preceding two calendar years.

28. **Sanitary Sewer CCTV Inspection Deposit**
The Developer shall pay the sanitary sewer CCTV inspection deposit as set forth in the City's Master Fee Schedule. The current deposit amount is $1,000 for the first 1,000 linear feet of sewer main, plus $1.50/linear foot of additional sewer pipe.

29. **Storm Drain CCTV Inspection Deposit**
The Developer shall pay the storm drain CCTV inspection deposit as set forth in the City's Master Fee Schedule. The current deposit amount is $1,000 for the first 1,000 linear feet of storm drain main, plus $1.50/linear foot of additional storm-drain pipe.

30. **Geographical Information System**
The Developer shall pay the Geographic Information System fee as set forth in the City's Master Fee Schedule. The current fee is $114/dwelling unit for residential use.

31. **NPDES Plan Review Fee**
The Developer shall pay a National Pollutant Discharge Elimination System ("NPDES") plan review fee for review of stormwater control plans and processing of closeout agreements and/or review of Storm Water Pollution Prevention Plans ("SWPPP"). The current fee is:

- $3,933 for the first 10,000 sf up to 1st acre
- Add additional $145/acre for projects greater than 1 acre, up to the first 5 acres
- Add additional $32/acre for projects greater than 5 acres

32. **NPDES Site Inspection Deposit**
The Developer shall pay an NPDES inspection deposit for city staff's inspection of C.3 compliant facilities constructed, and/or inspection of construction site for compliance with Best Management Practices in accordance with the City's Municipal Regional Stormwater NPDES Permit. The current rate is:

- $15,000 for the first 10,000 sf up to 1st acre
- $30,000 for projects greater than 1 acre

This deposit shall remain in place for the duration of the first year of the proposed project. If the proposed project is completed prior to the project's one-year anniversary, the remaining balance of the deposit will be returned to the Developer.

33. **Supplemental Studies**
If additional engineering studies are deemed necessary by the City Engineer, i.e. geotechnical, structural, hydraulic, etc., or expedited reviews are requested by the Developer, the Developer shall pay for all costs related to the extra work. The costs may include the preparation of special studies, additional staff time, and/or reviews of the special studies if studies are prepared by the applicant's engineer.

<u>Engineering Submittals:</u>

34. **Electronic Submittals**
The Developer shall submit electronic, pdf. files of the engineering plans to the Engineering Division for review and approval through the Accela permitting portal. The plans shall be prepared by a registered civil engineer, to include but not be limited to the following:

- Site Plan
- Demolition Plan
- Grading and Drainage Plan
- Utilities Plan
- Landscaping and Irrigation Plan
- Joint Trench and Photometric Plan

- Signing and Striping Plan
- Offsite Improvements Due to Project Impacts

35. **Final Map**
The Developer shall submit the Final Map with closure calculations, prior to City Council's approval of each Final Map, Improvement, or Grading Plans.

36. **Geotechnical Report**
The Developer shall submit a current Geotechnical Report that supports the design features incorporated into the proposed project including, but not limited to, grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections. The Geotechnical Report shall be submitted to the Engineering Division for review prior to the approval of any civil plans and/or the issuance of an Engineering Permit.

37. **Record Drawings**
Before project acceptance, the Developer shall submit a complete set of record drawings to the Engineering Division, in an acceptable electronic format, that is AutoCAD compatible (including Final Maps, Grading Plans, Improvement Plans, Landscaping, Irrigation Plans, etc.).

National Pollutant Discharge Elimination System (NPDES):

38. **Permit Coverage under the State General Construction Permit**
The Developer shall submit a copy of the Notice of Intent (NOI) submitted to the State Water Resources Control Board for coverage under the Construction general Permit, and a copy of the Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The SWPPP shall also include measures to prevent soil, dirt, and debris from entering the storm drain system, in accordance with California Stormwater Quality Association's (CASQA's) construction handbook.

39. **Stormwater Offsite Compliance**
In accordance with the Memorandum of Understanding executed with the City on May 16, 2016, and amended December 12, 2019, the Developer chooses to use offsite mitigation credits in lieu of constructing Low Impact Development (LID) stormwater facilities within the project site.

40. **Full Trash Capture Device.** The Developer shall install full trash capture devices, approved by the San Francisco Regional Water Quality Control Board, in all inlets within the project area. These devices shall be maintained in perpetuity by the Developer.

Utilities:

41. **Capacity Evaluation**
The Developer shall evaluate the existing, receiving storm, sewer, and water facilities for adequate capacity and provide the results to the City to identify any service or supply problems. The cost for installation of additional facilities required to be constructed to accommodate the project shall be borne by the Developer.

Traffic and Site Improvements:

42. **Parking**
The Developer understands that on-site street parking will not be permitted to maintain fire truck and emergency access.

43. **Curb Ramps**
The Developer shall provide ADA compliant curb returns.

44. **Walls**
The Developer shall install sound walls proposed at the railroad tracks and between the church and homes. Walls to be 8’ tall.

45. **Traffic Plan**
The Developer shall include pavement striping, red curbs, signage, and dimensions of parking lot in plans.

Site Design Conditions:

46. **Sidewalks**
The Developer shall provide 4.5’ wide sidewalks throughout the subdivision.

47. **Retaining Walls**
The Developer shall construct retaining walls made from concrete block, gravity concrete, or similar material when walls are required between lots.

48. **Sump Area Drainage**
The Developer shall provide a safe release of drainage from sump areas, without conveying water over private property, allowing water to drain without damaging private or public improvements in the event of blockage of the storm drain system.

49. **Water Conveyance**
The Developer shall provide proper water line size to meet the domestic and fire protection demands for the proposed subdivision.

50. **Fire Hydrants**
The Developer shall provide fire hydrant locations approved by Contra Costa County Fire Prevention District.

51. **Water Sampling Station**
The Developer shall provide a water sampling station as required by the City of Pittsburg Public Works Department.

52. **Utility Parcel Dedication**
The Developer shall create and dedicate utility parcels to the City rather than utility easements between lots.

53. **Water Use Calculations**
The Developer shall provide estimated water use calculations to show compliance with the City's water efficient landscape ordinance.

Engineering Exactions (CFD inclusion):

54. **Annexation Documentation for CFD 2005-1**
Community Facilities District 2005-1 is for Public Safety Services, the fee will provide funding for an increase of police coverage in the area. The rate of the CFD 2005-1 fee is subject to City Council Resolution No. 05-10342. The Developer shall deliver written approval in a manner acceptable to the City Engineer, that the owner of the parcel is electing to annex the subject property into the 2005-1 Public Safety Services Community Facilities District (CFD 2005-1), prior to the recordation of the first Final Map.

55. **Annexation Documentation for CFD 2007-1**
Community Facilities District 2007-1 is for Park Maintenance. The rate of the CFD 2007-1 fee is subject to City Council Resolution No. 07-10698. The Developer shall deliver written approval in a manner acceptable to the City Engineer, that the owner of the parcel is electing to annex the subject property into the 2007-01 Park Maintenance Community Facilities District (CFD 2007-1), prior to the recordation of the first Final Map.

56. **Annexation Documentation for CFD 2014-1**
Community Facilities District 2014-1 is for the Railroad Avenue Specific Plan (RASP) area. The rate of the CFD fee is subject to City Council Resolution No. 14-12094. The Developer shall pay the one-time CFD fee for Community Facilities District (CFD 2014-1), prior to issuance of any building permits.

Fees are assessed on a per lot basis depending on each lot's distance from the Bay Area Rapid Transit (BART) station within the RASP area for the fiscal year rates in place at time of building permit. Lots located within one-quarter mile of the BART station are located in Tax Zone 1. Lots located between one-quarter mile and one-half mile of the BART station are located in Tax Zone 2. Lots located beyond one-half mile of the BART station are located in Tax Zone 3. Lots that straddle the Tax Zone boundaries shall pay the higher of the Tax Zone fees. Therefore, lots 11, 12, 13, 14, 15, 5 and 6 are located fully or partially within Tax Zone 2. The remaining lots (17, 16, 4, 3, 2, 1, 7, 8, 9 and 10) are located fully within Tax Zone 3.

57. **Annexation Documentation for CFD 2016-1**
Community Facilities District 2016-1 is for the continuous maintenance of offsite stormwater treatment facilities constructed at Carion Court. The rate of the CFD 2016-1 fee is subject to City Council Resolution 16-13160. The Developer shall deliver written approval in a manner acceptable to the City Engineer, that the owner of the parcel is electing to annex the subject property into the Maintenance of Project Facilities Community Facilities District (CFD 2016-1), prior to the recordation of the first Final Map.

58. **Annexation Documentation for CFD 2017-1**
Community Facilities District 2017-1 is for fire facilities and fire safety and emergency services. The rate of the CFD 2017-1 fee is subject to City Council Resolution No. 17-13311. The Developer shall deliver written approval in a manner acceptable to the City Engineer, that the owner of the parcel is electing to annex the subject property into the 2017-1 Fire Facilities and Fire Safety and Emergency Services Community Facilities District (CFD 2017-1), prior to the recordation of the first Final Map.

Fire Conditions

59. The Contra Costa County Fire Protection District has development impact fees established in City of Pittsburg. Proposed projects within the development impact areas will need to pay the fees prior to Building Permit issuance.

60. Access as shown appears to comply with Fire District requirements.

Provide emergency apparatus access roadways with all-weather (paved) driving surfaces of not less than 20-feet unobstructed width, and not less than 13 feet 6 inches of vertical clearance, to within 150 feet of travel distance to all portions of the exterior walls of every building. Access shall have a minimum outside turning radius of 45 feet, and must be capable of supporting the imposed fire apparatus loading of 37 tons. (503) CFC

61. Access roadways of less than 28-feet unobstructed width shall have signs posted or curbs painted red with the words NO PARKING - FIRE LANE clearly marked. (22500.1) CVC, (503.3) CFC

Access roadways of 28 feet or greater, but less than 36-feet unobstructed width shall have NO PARKING - FIRE LANE signs posted, allowing for parking on one side only or curbs painted red with the words NO PARKING - FIRE LANE clearly marked. (22500.1) CVC, (503.3) CFC

62. The Developer shall provide an adequate and reliable water supply for fire protection with a minimum fire flow of 1000 GPM. Required flow must be delivered from not more than 1 hydrant flowing for a duration of 120 minutes while maintaining 20-pounds residual pressure in the main. (507.1), (B105) CFC

63. The Developer shall provide hydrants of the East Bay type in compliance with Chapter 5 and Appendix B and C of the California Fire Code. (C103.1) CFC.

64. A Land Development Permit is required for access and water supply review and approval prior to submitting building construction plans.

    The Developer shall submit a minimum of two (2) copies of full size, scaled site improvement plans indicating:

    All existing or proposed hydrant locations,
    Gates, fences, retaining walls, bio-retention basins, any obstructions to access.
    Fire apparatus access,
    Size of largest home and type of construction,
    Striping and signage plan to include "NO PARKING-FIRE LANE" markings.

    This is a separate submittal from the building construction plans. These plans shall be approved prior to submitting building plans for review. (501.3) CFC

65. Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (501.4) CFC

    Note: A temporary aggregate base or asphalt grindings roadway is not considered an all-weather surface for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum roadway material and must be engineered to support the designated gross vehicle weight of 37 tons.

66. The homes as proposed shall be protected with an approved automatic fire sprinkler system complying with the 2016 edition of NFPA 13D / R or Section R313.3 of the 2019 California Residential Code. Submit a minimum of two (2) sets of plans to this office for review and approval prior to installation. (903.2) CFC, (R313.3) CRC, Contra Costa County Ordinance 2019-37.

67. The Developer shall provide traffic signal pre-emption systems (Opticom) on any new or modified traffic signals installed with this development. (21351) CVC

68. Development on any parcel in this subdivision shall be subject to review and approval by the Fire District to ensure compliance with minimum requirements related to fire and life safety. Submit three (3) sets of plans to the Fire District prior to obtaining a building permit. (501.3) CFC

69. The owner or the owner's authorized agent shall be responsible for the development, implementation and maintenance of a written plan establishing a fire prevention program at the project site applicable throughout all phases of the construction. The plan shall be made available for review by the fire code official upon request. (Ch.33) CFC

The fire prevention program superintendent shall develop and maintain an approved prefire plan in cooperation with the fire chief. The fire chief and fire code official shall be notified of changes affecting the utilization of information contained in such prefire plans. (Ch.33) CFC

Standard Conditions

70. **Standard Conditions of Development**
The Standard Conditions of Development, as adopted by the Pittsburg Planning Commission by Resolution No. 8931, shall apply as conditions of approval for this project as applicable. Where there is a conflict between the Standard Conditions and the project-specific conditions identified in this resolution, the specific conditions of this resolution shall govern.

71. **Design of Storm Drain, Water, and Sewer Facilities**
The design and construction of storm drain, water, and sewer facilities shall be in accordance with PMC Section 17.28.020.

72. **Compliance with PMC Title 12, 13, and 15**
All site development shall comply with PMC Title 12 (Streets, Sidewalks, and Utilities), Title 13 (Water and Sewers), and Title 15 (Buildings and Construction) as determined by the City Engineer. Issuance of a site development permit will be required whereby specific engineering requirements will be made as conditions of approval.

73. **Undergrounding of Utilities**
All utility boxes and/or transformers shall be undergrounded. Where undergrounding is deemed infeasible or not recommended by Pacific Gas & Electric (PG&E), utility boxes and/or transformers shall be masked by either faux stone utility box covers or a landscape screen. Screening mechanism shall be approved by the Planning Manager prior to installation.

74. **Other Agency Requirements**
The Developer shall comply with all the requirements of the Community Development Department and all other applicable local, state, and federal agencies.

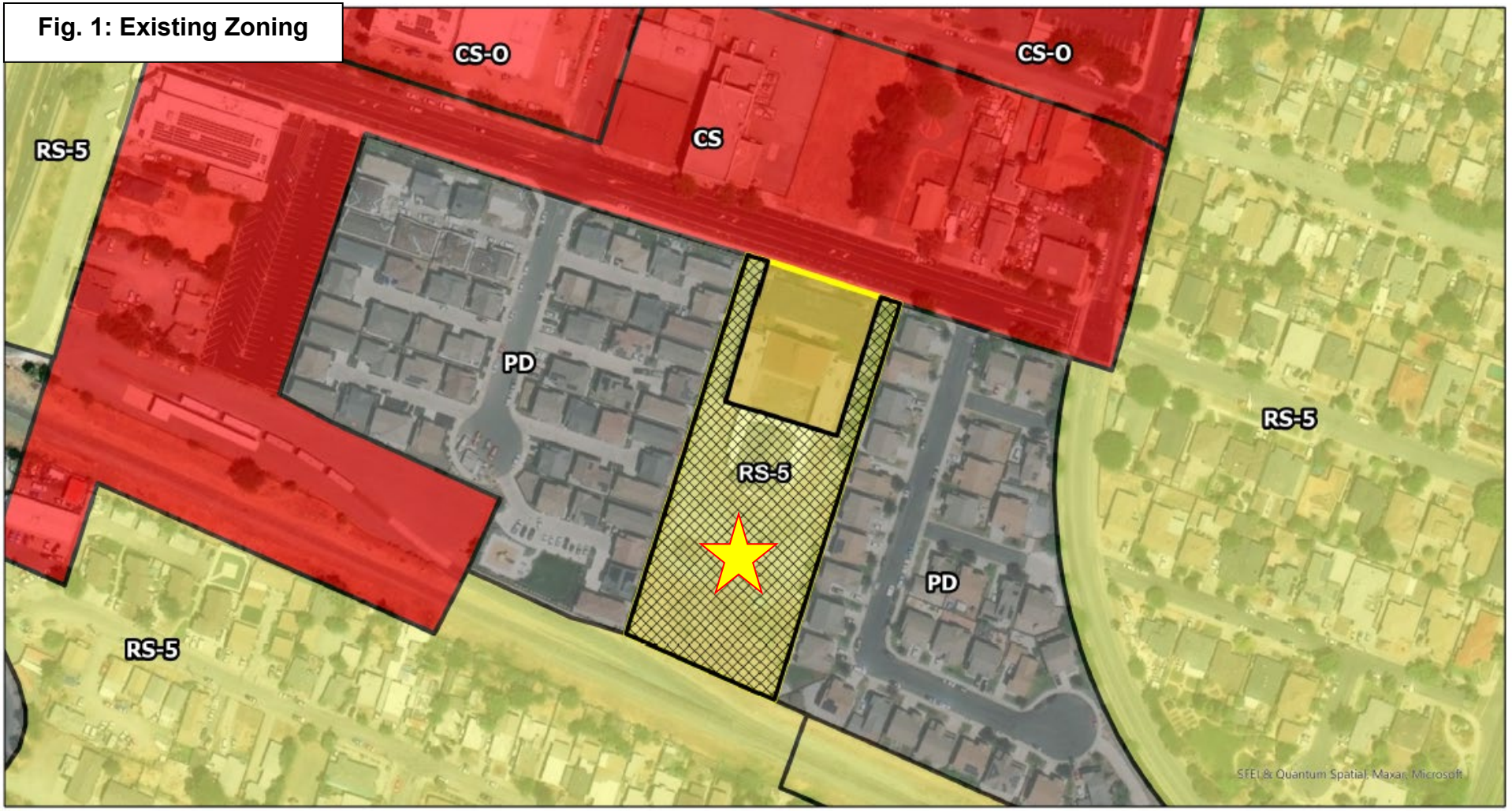
75. **Indemnification**
Developer agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent project approval, or other action arising out of, or in connection with, this project approval. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at developer's sole cost and

expense. Developer may select its own legal counsel to represent developer's interests at developer's sole cost and expense. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.

76. **Vesting Tentative Map Expiration**
The conditional approval of the Vesting Tentative Map expires 36 months after the adoption of this resolution, in accordance with PMC section 17.20.070(a). The expiration of the map terminates all proceedings and no final or parcel map may be filed without first processing a new tentative map. An extension of approval may be granted by the Planning Commission upon application to the Planning Division before the map expiration date.

77. **Design Review Approval Expiration**
The conditional Design Review approval of the Vesting Tentative Map for Subdivision 9550, Landscape Plans, Master Plot Plan, and Architectural Plans, and Street Elevations will expire 24 months after the adoption of this resolution, unless a building permit or grading permit has been issued or a written request for extension is filed with the Planning Division prior to the expiration date and subsequently approved by the Planning Commission. The approval shall be valid for no more than six months from the date of building or grading permit issuance unless work is commenced and diligently pursued prior to the expiration of the building or grading permit.

Fig. 1: Existing Zoning



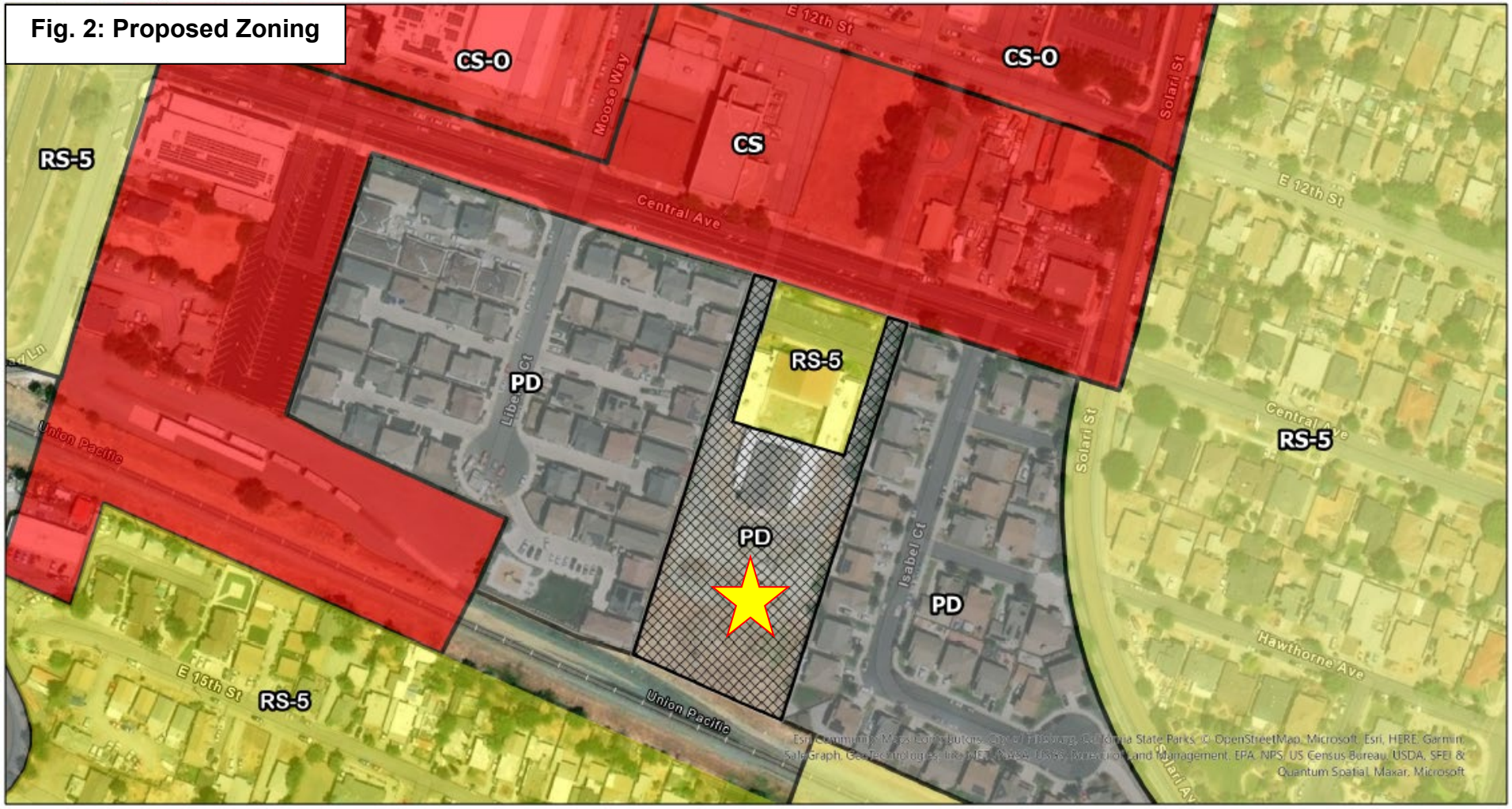
Existing Zoning District(Current APN:086-151-002)
360 Central Ave, Pittsburg, CA,94565
0 140 280 560 Feet
Scale: 1:1,700

N

Legend
Project Site
Zoning
CS,Service Commercial
CS-O,Service Commercial-Limited Overlay
PD,Planned Development
RS-5,Single Family Residential (5,000 sf min. lot size)

City of Pittsburg

Fig. 2: Proposed Zoning



Proposed Zoning District(Current APN:086-151-002)
360 Central Ave, Pittsburg, CA,94565
0 145 290 580 Feet
Scale: 1:1,700

Legend
Project Site
Zoning
CS,Service Commercial
CS-O,Service Commercial-Limited Overlay
PD,Planned Development
RS-5,Single Family Residential (5,000 sf min. lot size)

City of Pittsburg

Purpose and Applicability
The purpose of this PD Plan is to establish land use and development regulations for a 17-unit, single-family residential subdivision on a 1.8-acre site located 360 Central Avenue (APN: 086-151-002).

Land Use Regulations
The land uses allowed in the PD (Planned Development) District (shown in Figure 2) shall be the same as those allowed in the RS-4 (Single-Family Residential) District (Pittsburg Municipal Code [PMC] Chapter 18.50).

Development Regulations
Except as indicated in the table at right, all development regulations of the PD District shall be the same as those of the RS-4 District. Use and development of the property would also comply with Article 3 (Performance Standards), Article 5 (Home Occupations) of PMC Chapter 18.50 and with the Off-Street Parking Requirements of PMC Chapter 18.78.

PD Development Regulations	
Min. Lot Size	2,000 sq. ft.
Min. Lot Width	40 ft.
Min. Front Yard (fronting on private road)	4 ft.
Min. Corner Side Yard (next to private road)	4 ft.
Min. Interior Side Yard	4 ft.
Min. Rear Yard	4 ft.
Max. Encroachment into a Required Yard	1 ft.
Max. Lot Coverage	60%
Max. Building Height	28 ft.

Attachment 3

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Recommending City Council Approval of a General Plan Map Amendment, Rezoning, Vesting Tentative Subdivision Map, and Design Review for a 17-Unit, Single-Family Residential Subdivision at 360 Central Avenue, for "Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)."	)	Resolution No. 10196

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

A. On November 17, 2020, Louis Parsons of Discovery Builders, Inc., filed Planning Application No. AP-21-1556 (PPR), requesting Preliminary Plan Review of a conceptual plan for an 18-unit, single-family development on a 1.8-acre parcel located at 360 Central Avenue. Assessor's Parcel No. 086-151-002.

B. On April 16, 2021, Pittsburg Planning Staff presented the conceptual plan (AP-21-1556 PPR) to the City of Pittsburg Land Use Subcommittee (LUS).

C. Following feedback from the LUS, on September 21, 2021, Louis Parsons of Discovery Builders, Inc., filed Planning Application No. AP-21-1599 (GP, RZ, SUBD, DR), requesting: 1) a General Plan map amendment to change the parcel's land use designation from 'Low Density Residential' to 'Medium Density Residential,', 2) a Zoning Map amendment to rezone the parcel from RS-5 (Residential Single Family 5,000 square-foot minimum lot size) to PD (Planned Development), 3) a Vesting Tentative Map for a 17-lot Major Subdivision and 4) Design Review on a 1.8-acre parcel located at 360 Central Avenue. Assessor's Parcel No. 086-151-002.

D. The proposed project is governed by the applicable goals and policies of the Pittsburg General Plan (General Plan) and the Pittsburg Municipal Code (PMC).

E. Pursuant to PMC section 17.16.100, an applicant may request that two or more applications for separate discretionary approvals, including zoning amendments under PMC Title 18, requested or required in conjunction with a project be consolidated.

F. Under Government Code section 65358, the legislative body of a local

government agency may amend its General Plan, in whole or in part, if it finds that the amendment would be in the public interest. No more than four General Plan amendments to each required element may be adopted within one calendar year. In this calendar year so far, the City Council has not adopted any amendments to the General Plan Land Use Element.

G. The California Government Code and PMC identify the Planning Commission as the advisory body to the City Council on amendments to the General Plan. Government Code section 65353(a) requires that the Planning Commission conduct at least one public hearing prior to making its recommendation on a proposed General Plan amendment.

H. PMC section 18.16.020 identifies the Planning Commission as the advisory body to the City Council on proposed zoning changes, and requires that the Planning Commission determine, prior to making its recommendation, that:

1. the change proposed is consistent with the objectives, policies, general land uses and programs specified in the General Plan and applicable specific plan;

2. in the case of a base district, overlay district or general land use regulation, the change proposed is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is proposed;

3. a community need is demonstrated for the change proposed; and

4. its adoption will be in conformity with public convenience, general welfare and good zoning practice.

I. PMC section 17.12.010 identifies the Planning Commission as the advisory body to the City Council on proposed tentative maps when consolidated with one or more applications for other approvals which are subject to final approval by the City Council. In order to recommend City Council approval of a Vesting Tentative Map, the Planning Commission must determine, in accordance with PMC section 17.20.060(c), that:

1. the proposed map is consistent with the General Plan and any applicable specific plan, or other applicable provision of PMC;

2. the site is physically suitable for the type of development;

3. the site is physically suitable for the proposed density of development;

4. the design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure

fish or wildlife or their habitat;

5. the design of the subdivision or the type of improvements will not cause serious public health problems; and

6. the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

J. Pursuant to PMC section 18.36.230, the Planning Commission shall discuss the application for Design Review approval and integrate it with the land use approval process applicable to the project. In order to recommend Design Review approval (pursuant to the direction of PMC section 18.36.230), the Planning Commission must determine, in accordance with PMC section 18.36.220.B, that:

1. the structure conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;

2. the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;

3. the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;

4. the structure is in harmony with proposed developments on land in the general area; and

5. the application conforms with the criteria set forth in any applicable City adopted design guidelines.

K. The proposed project is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15182 (Projects Pursuant to a Specific Plan) of the State CEQA Guidelines (Public Resources Code section 21080).

L. On Friday, July 29, 2022, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020 A, B, and D, a "Notice of Public Hearing," for the August 9, 2022, public hearing on this item was published in the East County Times; was posted at City Hall; was delivered for posting at the Pittsburg Library; was posted at the project site; was posted on the "Public Notices" section of the City's website and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services

might be affected by this project, and to individuals who had previously filed written request for such notice. In addition, a copy of the notice was posted on www.nextdoor.com ("Nextdoor") and was sent directly to all subscribed residents in the "Harbor and School Street" neighborhood.

M. On August 9, 2022, the Planning Commission held a public hearing on Planning Application No. AP-21-1599 (GP, RZ, SUBD, DR), at which time additional oral and/or written testimony was considered.

Section 2. Findings

A. Based on the Planning Commission staff report entitled, "Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR), dated August 9, 2022, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the Planning Commission finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

General Plan:

2. The proposed amendments to the General Plan are in the public interest, in that the proposed land use change will facilitate quality residential development, promote the reuse and revitalization of a dilapidated site, help the City maintain a compact urban form, and promote a diversity of housing types and densities near the Pittsburg Center BART Station. The proposed project will also enhance the visual quality of the area and increase the number of residents within the area that naturally monitor the streetscape and one another, enhancing community safety.

Zoning Map:

3. The proposed amendment to the Zoning Map is consistent with the objectives, policies, general land uses and programs specified in the General Plan in that:

   a. The proposed project will be developed on an infill site, thereby helping the City maintain a compact urban form within the City's projected municipal boundary (Goal 2-G-1).

   b. The proposed project will provide medium intensity single-family residential near the Downtown and in an area accessible to transit and services (Goals 2-G-4 and 3-G-3). The project site is within a half-mile distance of the Pittsburg Center BART Station and a

quarter-mile of two bus stops located near the intersections of Railroad Avenue/Central Avenue and Harbor Street/Central Avenue (Tri Delta Transit Routes 381 and 387).

c. The proposed project will expand Pittsburg's housing diversity by providing single-family development on smaller lots ranging from approximately 2,000 to 4,200 square feet (Goal 2-G-5 and Housing Goal G-1).

d. The proposed project will utilize a Planned Development (PD) zoning, in part, to achieve a high-quality design outcome (Policy 2-P-5).

e. The proposed project will pay its share of the costs for the construction of facilities needed to serve the development (Policy 3-P-1, 3-P-13, and 7-P-2). The proposed project will comply with conditions of approval requiring payment of the Facilities Reserve Charge, Local Traffic Mitigation Fee (LTMF), and Regional Transportation Development Impact Mitigation Fee (RT-DIM) in accordance with the Pittsburg Municipal Code.

f. The proposed project will promote the public health, safety, and general welfare in that it requires the Developer to: a) pay fees to finance unmet local and regional traffic improvement needs; b) annex the site into the City's Community Facilities District (CFD) 2007-1 for park maintenance; c) annex the site into the City's CFD 2016-1 for maintenance of off-site stormwater facilities; d) annex the site into the City's CFD 2005-1 for police and other emergency services; e) annex the site into the City's CFD 2014-1 for Railroad Avenue Specific Plan improvements and f) annex the site into the City's CFD 2017-1 for fire facilities and fire safety and emergency services.

g. The proposed project will be built in an area where public facilities and infrastructure are already available (Policy 3-P-1).

h. The existing transportation system has adequate capacity to accommodate the proposed project (Policy 3-P-2). Residents of the proposed project will have multiple transportation options available to them as the site is located near BART, Tri-Delta Transit, and bicycle lanes.

i. The Developer was not required to prepare a traffic impact study because the proposed project is expected to generate under 100 net new peak hour trips (Policy 3-P-5).

j. The proposed project will provide safe and contiguous routes for pedestrians and bicyclists (Policy 3-P-17, 7-P-34, and 7-P-40) in that there is an existing Class II bicycle lane along Central Avenue.

k. The proposed project focuses single-family residential on a site that has been designated as a Priority Development Area under the Metropolitan Transportation Commission and Association of Bay Area Government's FOCUS Program (Policy 3-P-18 and Housing Policy P-1.1 D).

l. The proposed project will promote the development and intensification of the Downtown commercial core as neighborhood retail center by increasing the demand for retail and other amenities (Goal 5-G-2).

m. The proposed project will encourage walking as a regular means of transportation due to the site's proximity to various amenities (Goal 7-G-15). The project site is within a half-mile distance of Marina Vista Elementary School, Pittsburg High School, City Park, John Buckley Square, the Pittsburg Center BART Station, and the Downtown commercial core.

n. The proposed project will include bicycle racks in each garage for secure bicycle parking (Policy 7-P-45).

o. The Developer was not encouraged to dedicate a public park because the proposed development includes less than 150 units (Policy 8-P-16).

p. The Developer will equitably share the costs associated with providing water and wastewater services to the proposed project through payment of the Pittsburg Facilities Reserve Charge (Policy 11-P-7 and 11-P-18).

q. The proposed project will include sound walls along the north and south perimeter and provide upper-floor windows of residences adjacent to the UPRR tracks (homes on Lots 11-14) to be upgraded to a Sound Transmission Class (STC) rating of 32. The proposed sound walls and upper-story windows will help ensure interior noise levels do not exceed 45 dB CNEL (Policy 12-P-6).

r. The proposed Zoning Map amendment is for a project site that is vacant, underutilized, and appropriate for higher-density residential use given its proximity to schools, parks, transit, and commercial amenities (Housing Element Policy P-1.1 B).

s. The proposed project will provide market-rate housing near in the Downtown and increase demand for economic activity in nearby shopping centers (Housing Policy P-1.2).

t. The proposed project will provide two, single-family homes with Accessory Dwelling Units (ADUs) that would allow extended families to live near each other, increase the affordable and rental housing stock, and provide income assistance to homeowners (Housing Policy P-1.5).

u. The proposed project will help attain the City's Regional Housing Needs Allocation for moderate and above-moderate income households (Policy P-1.6).

v. The proposed project will comply with conditions of approval requiring construction of quality home designs to ensure future residents will enjoy an attractive living environment (Housing Goal G-5 and Policy P-5.1).

4. The proposed amendment to the Zoning Map is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is prepared, in that the land uses allowed in the proposed 'PD District' will be the same as those allowed in the 'RS-4 (Single-Family Residential) District' and the development regulations for the proposed 'PD District' will be those specified in the PD Plan in Exhibit B of this resolution.

5. There is a community need for the proposed change to the Zoning Map, in that the amendment will facilitate occupancy of a long-standing vacant site in accordance with the City's housing goals calling for development of a variety of housing types, densities, and prices to balance the City's housing stock and to meet Pittsburg's regional fair share housing needs for people of all income levels. Providing 17 small-lot, market-rate residential units along with two rent-restricted ADUs at the site will provide diverse housing options for residents and create an opportunity for more residents to utilize the Pittsburg Center BART Station and other public transit opportunities.

6. The proposed amendment to the Zoning Map will be in conformity with public convenience, general welfare, and good zoning practice, in that the amendment will facilitate development of a dilapidated site. Additionally, the proposed project will add additional residents to the area who may frequent the established and potential commercial uses envisioned along Railroad Avenue. In addition, the site's proximity to both the Pittsburg Center BART Station and two existing bus routes presents an opportunity for more residents to utilize public transit opportunities.

Vesting Tentative Map for Major Subdivision:

7. The Vesting Tentative Map for the proposed 17-lot, Major Subdivision is consistent with the proposed General Plan land use designation of Medium Density Residential, as described in Section 2.A.3 above.

8. The project site is physically suitable for the type of development proposed in that the site is flat and surrounded by existing infrastructure, minimizing the amount of work and investment needed to extend utilities and services to the site.

9. The project site is physically suitable for the proposed density of development, in that the site is flat and surrounded by existing, established development. Further, the site is located within one-half mile of the Pittsburg Center BART Station, and less than a quarter-mile from two existing bus routes, making it an appropriate location for a medium-density residential development, as defined by the City's General Plan.

10. The design of the proposed subdivision and accompanying improvements will not cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat, in that the project is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15182 (Projects Pursuant to a Specific Plan) of the State CEQA Guidelines (Public Resources Code section 21080).

11. The design of the subdivision and type of improvements proposed will not cause serious public health problems, in that the Phase I Environmental Site Assessment revealed no evidence of hazardous substances or petroleum products in connection with the project site.

12. The design of the subdivision and type of improvements proposed will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision, in that there are no existing public access easements on the site. The proposed Vesting Tentative Map includes a new private street that will connect the development to existing public roadways, and the new private street will be of sufficient width to accommodate automobile and emergency vehicle access into and around the site.

Design Review:

13. The proposed project conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high

quality, in that the proposed house models feature an attractive architectural design characterized by a mixture of hipped and gable-end roofs with high-quality, concrete tile roofing material; stucco siding with horizontal trim, corbels, and simulated stone veneer; and a mixture of single-hung and sliding glass windows with faux shutters, or decorative wrought iron railings. The proposed project will also provide an attractive outdoor environment for residents. The Developer will install a variety of colorful, drought-tolerant landscaping and a decorative, masonry sound wall with wall caps and simulated stone veneer at each wall pilaster. Residential front yards will feature drought-tolerant plants and blooming street trees that will provide seasonal color throughout the subdivision.

14. The proposed project will be protected against exterior and interior noise, vibrations and other factors which may tend to make the environment less desirable, in that the project will be built to standard building codes that dictate maximum noise levels for the interiors of residential units.

15. The exterior design of the proposed project is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value. Rather, the proposed project will enhance the neighborhood's appearance and value, in that it will result in a highly attractive environment utilizing a variety of compatible house and front yard landscape designs. The proposed project will add value to the community by attracting additional residential and commercial investment in the area.

16. The proposed project is in harmony with proposed developments on land in the general area, in that there are no proposed developments in the immediate vicinity of the project site.

17. The proposed project will substantially conform to all applicable Development Review Design Guidelines (DRDG, Planning Commission Resolution No. 9864) for single-family development.

B. The Staff Report entitled, "Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)," dated August 9, 2022, is referenced hereto as additional support for findings.

Section 3. Decision

Based on the findings and the authority set forth above, the Planning Commission hereby recommends that the City Council adopt an ordinance and resolution to:

A. Amend General Plan Figure 2-2 (Land Use Diagram) to change the land use designation of the property described in section 1.A above, from 'Low Density Residential' to 'Medium Density Residential' as substantially presented in Exhibit

A of this resolution;

B. Modify other Land Use Element tables and charts as necessary to reflect the change in land use acreages and maintain internal consistency with the General Plan document;

C. Amend the Zoning Map, as referenced in Pittsburg Municipal Code, Title 18 (Zoning Ordinance) section 18.04.020, to change the zoning of the property described in section 1.A above, from 'RS-5' District to 'PD' District as substantially presented in Exhibit B of this resolution;

D. Adopt specific land use and development regulations for the property described in section 1.A above as substantially presented in the PD Plan in Exhibit B of this resolution;

E. Approve Major Subdivision 9550 and Vesting Tentative Map subdividing the property described in section 1.A above into 17 lots for detached, single-family residences, subject to conditions, as substantially presented in Exhibit C of this resolution; and

F. Approve Design Review of the accompanying architectural and landscape plans, subject to the conditions as substantially presented in Exhibit D of this resolution.

Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner Jackson, seconded by Commissioner Adams, the foregoing resolution was passed and adopted the 9th day of August, 2022, by the Planning Commission of the City of Pittsburg, California by the following vote:

AYES: Robinson, Adams, Kobata, Foster, Jackson

NAYES: None

ABSTAIN: None

ABSENT: Perkins, Popova

I hereby certify that the above Resolution was adopted by the Planning Commission of the City of Pittsburg on August 9, 2022.

JOHN FUNDERBURG III, SECRETARY
PITTSBURG PLANNING COMMISSION

Attachment 4
Photos of Site and Surroundings
Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)



Above: View of entrances to Project Site from Central Avenue looking south



Above and Below:
East entrance to Project Site from Central Avenue



Above and Below:
West entrance to Project Site from Central Avenue







Above: View of entrance to Project Site from Central Avenue looking west toward Railroad Avenue



Above: View of entrance to Project Site from Central Avenue looking east toward Harbor Street



Above: View of Project Site from Union Pacific Railroad looking north toward Hamilton Memorial Church (to remain) and Central Ave

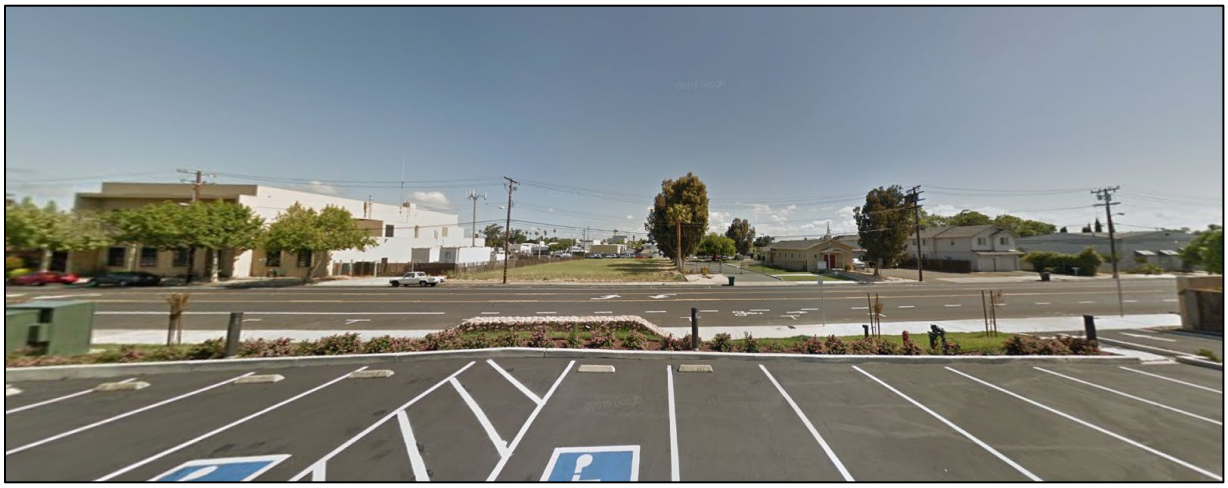
Below: View of Project Site from southern property line looking north toward Hamilton Memorial Church (to remain) and Central Avenue



Below: View of Project Site from northern property line (southside of Hamilton Memorial Church) looking south toward Union Pacific Railroad



Below: View of vacant property from Hamilton Memorial Church looking north across Central Avenue



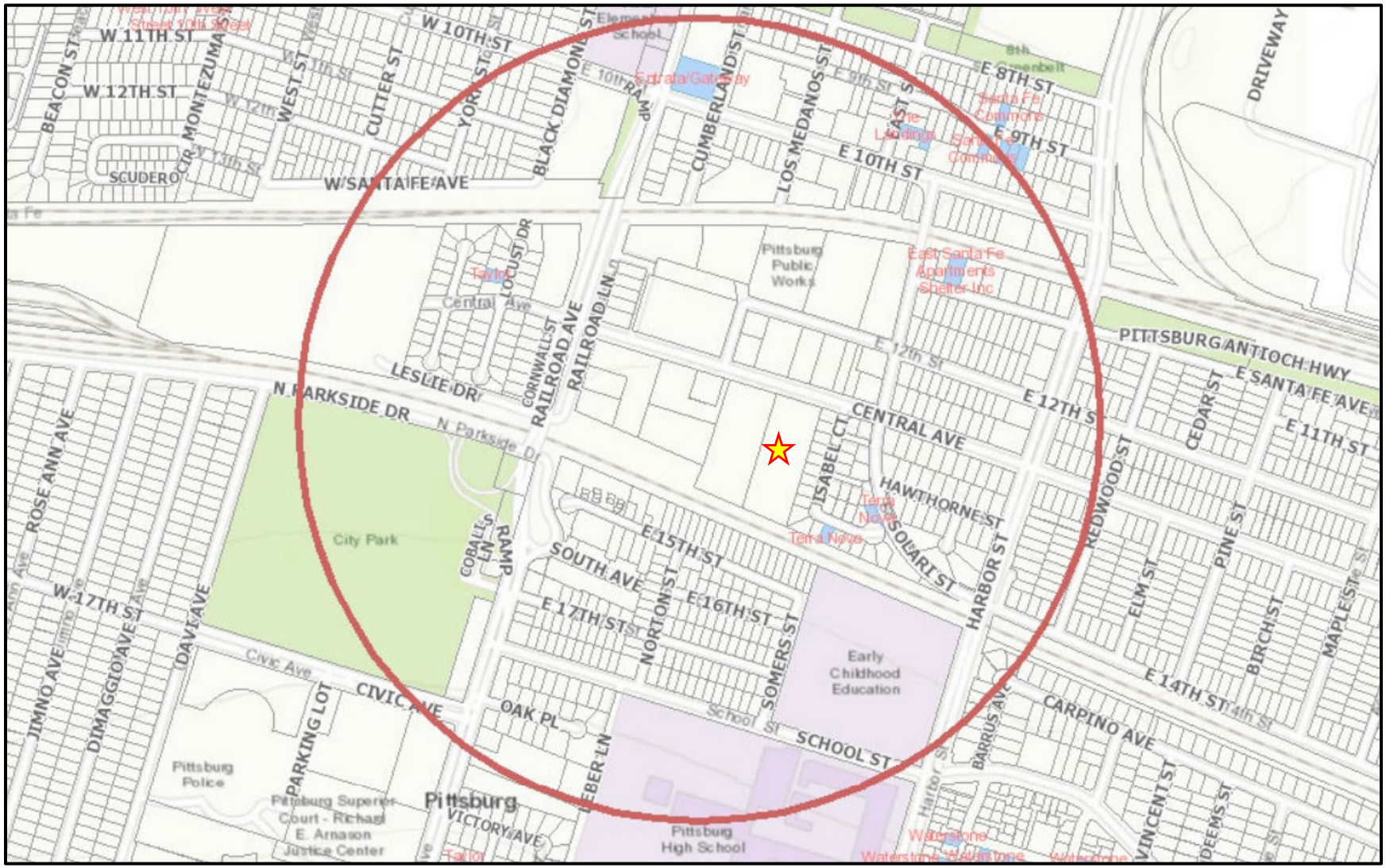
Attachment 5
Map of Surrounding Uses
Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)

Project Site



Attachment 5
Map of Surrounding Uses
Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)

Project Site **Income-Restricted Developments** **¼ mile radius of Project Site**



August 1, 2022

Alison Hodgkin, Associate Planner
City of Pittsburg, Planning Division
65 Civic Avenue
Pittsburg, CA 94565

RE: CEQA Environmental Documentation for the Liberty Subdivision Phase II

Dear Ms. Hodgkin:

FirstCarbon Solutions (FCS) has reviewed the proposed Liberty Subdivision Phase II application to determine the appropriate level of environmental review required under the California Environmental Quality Act (CEQA). As documented below, given the available information, FCS determined that the project is consistent with the Railroad Avenue Specific Plan (RASP) and the existing environmental analysis sufficiently addresses the requirements of CEQA.

PROJECT UNDERSTANDING

Regional and Local Setting

The project site is located in the City of Pittsburg (City). The City is located in eastern Contra Costa County in the San Francisco Bay Area and is part of the Sacramento-San Joaquin River Delta area. The approximately 1.08-acre project site (78,559 square feet) is located on Assessor's Parcel Number (APN) 086-151-002.

The City is located within an urbanized area, with residential, commercial, public, and light industrial uses in the eastern and central parts of the City, and heavy industrial uses in the northeastern portion. Regional access to the project area is provided from the east by State Route (SR) 4 (the California Delta Highway), locally from the north by Harbor Street, and locally from the east by East 14th Street. The areas adjoining and surrounding the project site include low-density residential areas with single-family homes to the east, west, and south, and a church and commercial areas to the north. The Union Pacific Railroad forms the southern border of the project site.

Project Description

The proposed project includes the construction of 17 new single-family homes with related access roads and landscaping. The site is bounded on the west by the 57-unit Liberty Phase I development and on the east by the 35-unit Terra Nova residential subdivision. To the north, there is a 0.65-acre parcel with an existing church (Hamilton Memorial) and beyond, Central Avenue. The site is currently vacant; the 0.65-acre parcel containing the church is not a part of the proposed project and was separated from the project site by Parcel Map Waiver (PMW) 22-07, recorded on June 22, 2022.

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56 Broome Corporate Parkway
Conklin, NY 13748
CANADA
UNITED KINGDOM
PORTUGAL
FRANCE
KENYA
AUSTRALIA
PHILIPPINES
CHINA
MALAYSIA
SINGAPORE

The site is covered with a gravel and dirt parking lot, as well as vacant, disturbed areas.

The project proposes to rezone the property from RS-5 (Residential, 5,000 square feet) to PD (Planned Development, 2,000 square feet), allowing for the development of medium-density residential dwellings on 17 lots, ranging from 2,150 square feet to 3,724 square feet in size, with a gross density of 9.45 dwelling units per gross acre (du/acre). The subdivision would be accessed from Central Avenue via a 20-foot wide, two-way street along the east and west sides of the existing Hamilton Memorial Church building.

Project runoff would be conveyed via storm drains to be located along the east and west borders of the subdivision to existing inlet in Central Avenue. The proposed project would be connected to existing utility providers in the City. Water services would be provided by the Contra Costa Water District and treated in the City's water treatment facilities. Garbage pickup services would be provided by Pittsburg Disposal Services. Solid waste would be transported to Potrero Hills Landfill, and industrial non-recyclables transported to Keller Canyon Landfill. The City and the Delta Diablo Sanitation District would provide sewer services.

Project Site History

Dolans Pittsburg Lumber occupied the site from 1975 to approximately 2010; since that time the site has been fully developed and occupied by several different religious denominations, most recently Hamilton Memorial Church. Topographic contours in the project area have largely remained consistent over the years.

BACKGROUND AND LEGAL STANDARDS

The project area is located in the City's RASP area, in the Old Town Gateway subarea. The RASP designates land use on the project site as low density residential, and the site is zoned RS-5.

The RASP Environmental Impact Report (RASP EIR) analyzed the physical impacts of demolition, construction and development consistent with RASP implementation, which includes the project area. The RASP EIR addressed impacts related to aesthetics, agriculture, air quality, biological resources, cultural resources, greenhouse gas emissions, hazardous materials, hydrology and water quality, land use, noise, population, public services, utilities, and transportation. The City certified the RASP EIR on July 6, 2009, pursuant to Resolution No. 09-11250 and subsequently adopted the RASP on August 11, 2009. The RASP EIR is a program EIR, pursuant to CEQA Guidelines Section 15168.

CEQA Guidelines Section 15168 provides that after a public agency certifies a program EIR (such as for a general plan or other comprehensive land use plan like the RASP), later activities must be examined in light of the program EIR to determine whether an additional environmental document must be prepared. If the agency finds that the later activity is within the scope of the program EIR, no new environmental document is required under CEQA. (State CEQA Guidelines § 15168(c)(2).) Whether a supplemental EIR or other environmental document must be prepared is a factual question and depends

on an analysis of the subsequent activity being within the scope of the prior analysis. Multiple provisions in CEQA and the CEQA Guidelines specifically discuss additional environmental review requirements and address the requisite analysis when a later activity is consistent with the analysis in a certified EIR.

Public Resources Code Section 21166 CEQA Guidelines Sections 15162 and 15163

Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163 provide that the agency shall not prepare a subsequent or supplemental EIR unless the agency determines, on the basis of substantial evidence, that certain conditions exist that will lead to a new significant impact or substantial increase in the severity of a previously identified impact, or that a new or previously rejected mitigation measure or alternative would substantially reduce significant effects.

CEQA Guidelines Section 15182

In addition to the limitations on additional review for activities within the scope of a program EIR, CEQA also includes a specific exemption for projects that are consistent with a specific plan.

Pursuant to CEQA Guidelines Section 15182, a public agency need not prepare an EIR or negative declaration for a residential project that conforms to a specific plan for which an environmental document has been prepared. CEQA Guidelines Section 15182 specifically states:

a) Exemption. Where a public agency has prepared an EIR on a specific plan after January 1, 1980, no EIR or negative declaration need be prepared for a residential project undertaken pursuant to and in conformity to that specific plan if the project meets the requirements of this section.

b) Scope. Residential projects covered by this section include but are not limited to land subdivisions, zoning changes, and residential planned unit developments.

c) Limitation. This section is subject to the limitation that if after the adoption of the specific plan, an event described in Section 15162 should occur, this exemption shall not apply until the city or county which adopted the specific plan completes a subsequent EIR or a supplement to an EIR on the specific plan. The exemption provided by this section shall again be available to residential projects after the Lead Agency has filed a Notice of Determination on the specific plan as reconsidered by the subsequent EIR or supplement to the EIR.

CONSISTENCY ANALYSIS

The project site is located in the northern region of the RASP, in a subarea called Old Town Gateway, approximately 0.5-mile from the Pittsburg Center Bay Area Rapid Transit (BART) station site on California Avenue. As part of the proposed project, the applicant is requesting: (1) a General Plan Map Amendment to change the existing general plan designation of the parcel from low to medium density residential and (2) a Zoning Map Amendment to rezone the parcel from RS-5 to PD. The proposed 17 lots would result in a density of 9.45 du/acre, which would be consistent with the medium-density residential range of 7.0 to

14.0 du/acre. As such, the proposed project is consistent with the RASP and, if the General Plan Map Amendment to medium-density residential is adopted, the City of Pittsburg General Plan.

Table 1: Allowed Versus Proposed Uses

	Existing Regulations	Proposed Development	Consistent
General Plan Designation	Low Density Residential (1 to 7 du/ac)	Medium-Density Residential: (7 to 14 du/ac)	Yes, with approval of GP Map Amendment
Zoning	RS-5	Planned Development	Yes, with approval of Zoning Map Amendment
Lot Size	5,000 square feet	2,150 sf (minimum) to 3,724 sf (maximum)	Yes, with approval of PD Plan
Density	Low Density Residential classification allows up to 12.6 single and multi-family units on a 1.8-acre site	Medium Density Residential classification allows up to 25.2 single and multi-family units on a 1.8-acre site	Yes, with approval of GP Map Amendment

ENVIRONMENTAL IMPACTS

The RASP EIR analyzed potentially significant impacts from RASP implementation. The RASP EIR was a program EIR in that it studied a plan for the future development of the RASP area, rather than, for example, a specific development on a particular parcel for which a developer sought land use entitlements. However, as explained in Section 2.1 of the RASP EIR, "In the future, this program-level EIR may be supplemented by further project-level environmental review if it is determined that an individual development project could potentially have one or more site-specific impacts on the environment that will not be mitigated by the measures contained herein and by complying with policies set forth in the Pittsburg General Plan and the Railroad Avenue Specific Plan."

Overall, the RASP EIR estimated that the proposed land uses in the RASP area would result in approximately 1,845 new residential units and 988,449 square feet of new commercial floor area within the approximately 97 acres of project area closest to the BART station (Civic Center and Transit Village subareas). Additionally, the RASP EIR assumed that there would be approximately 262 residential units and 78,650 square feet of commercial development within the High School Village area, specifically the area located adjacent to California Avenue. The RASP EIR did not assume or evaluate growth within the Old Town Gateway subarea; however, the underlying land use designation of low density residential remained consistent with what was assumed and evaluated in the City General Plan EIR.

The RASP EIR also presumed a 25 percent buildout of the assumed development potential by 2015 and 100 percent buildout by 2030, with the caveat that the 2015 assumption may be aggressive due to

market conditions at the time of EIR preparation. To date there have been 379 (202 multifamily and 177 single-family) units built in the project area, including the adjacent Liberty Phase I subdivision, which was approved on June 18, 2018, and completed construction in October 2021.

Upon review of the proposed project's technical information (available from the City on request) it was determined that the proposed project's impacts would be mitigated to a less than significant level through implementation of mitigation measures included in the Mitigation Monitoring and Reporting Plan (MMRP) previously approved by the City in Resolution 09-11250 and outlined in Table 2 below. The following is a brief explanation of each resource area studied in the RASP EIR.

- **Transportation/Traffic:** The intersections and roads impacted by RASP implementation as analyzed in the RASP EIR are outside the project area. Overall, the RASP EIR found that only two of the 16 studied intersections would not satisfy the Traffic Service Objectives in the East County Action Plan for the RASP in the year 2015 and that in year 2030, SR-4 would not meet those objectives. The RASP EIR concluded that RASP implementation would not have any significant impact on the transportation system in the City. The proposed development is an implementation action of the RASP and would not have any additional impacts on circulation systems in the project area. Egress from the proposed development would be clearly marked with stop signs; therefore, no new road hazards would be added.
- **Air Quality:** The RASP EIR analyzed the RASP's full development potential, including the project site. To reduce potential air quality impacts, RASP EIR Mitigation Measure (MM) AQ-1.1, MM AQ-1.2, and MM AQ-6.1 would be required to be implemented as a part of this proposed project. The RASP EIR found that RASP implementation would have a significant and unavoidable impact due to mobile sources of air pollutants that would generate emissions of reactive organic gases, nitrous oxide, and particulate matter. The proposed project would contribute those air pollutants during construction, as well as during operation from vehicles traveling to and from the site. As previously discussed, the proposed project would maintain the existing buildout potential envisioned in the RASP EIR. The proposed 17 lots would result in a density of 9.45 du/ac, which would be consistent with the General Plan, if the proposed General Plan Map Amendment redesignating the parcel to medium density residential is approved. As a result, the construction emissions that would occur from development of the proposed project would not exceed that envisioned by the RASP EIR, and operational emissions associated the operation of vehicles, building electricity, and the use of area-source equipment such as landscaping tools would not exceed that envisioned by the RASP EIR. Therefore, the proposed project would be consistent with the RASP and General Plan and by extension the BAAQMD's AQP. Subsequent health and odor impacts to sensitive receptors would therefore not exceed those envisioned by the RASP EIR. As such, the proposed project's impacts are within the scope of impacts addressed in the RASP EIR, are adequately analyzed in the RASP EIR, and no further analysis is needed.
- **Noise:** The project area is surrounded by residential uses and a high school. As such, the proposed project would implement MM NO-1.1 and MM NO-3.1 as outlined in Table 2, below, to ensure that it would not have a significant impact from construction or operation. The proposed project

would not generate excessive vibration and would not substantially increase ambient noise levels. The proposed project would develop the project site with residential uses, consistent with the surrounding land uses. As such, the proposed project would be consistent with existing uses, and project impacts are adequately discussed in the RASP EIR. Furthermore, implementation of MM NO-3.1 would ensure that potential noise impacts from railroad activity of traffic noise levels would be reduced to less than significant by ensuring that the interior noise levels will be maintained in accordance with acceptable standards. In addition, the proposed project is not located within 2 miles of a public or private airport and therefore, airport noise impacts would be less than significant. No further analysis is needed.

- **Cultural Resources:** The project area does not contain any historical structures. A records search conducted at the Northwest Information Center (NWIC) at Sonoma State University on July 7, 2022, determined that no known historic or archaeological resources exist on the project site or within a 0.5-mile radius. A field survey of the site conducted on July 25, 2022 did not identify any resources in the portions of the site not covered by asphalt. Grading and other ground-disturbing activities would be required during project construction. If any historical, archaeological, or paleontological resources are encountered inadvertently during construction, standard federal and State regulations would apply and dictate their proper identification and treatment. NWIC records search results and pedestrian survey photographs are available at the City upon request.
- **Hazardous Materials**: A Phase I Environmental Site Assessment (Phase I ESA) prepared by TRC, dated October 15, 2020 found no evidence of contamination on-site and no need for any further investigation. The Phase I report is available at the City upon request.
- **Biological Resources**: Based on a July 28, 2022, field survey, there are two landcover types on the project site- urban (northern portion of the site) and ruderal (southern portion of the site). A few scattered burrows were observed toward the southern end of the project site but showed no signs of activity. There are numerous ornamental trees within and adjacent to the project site that provide suitable habitat for a variety of species of nesting birds. Construction activities that occur during the avian nesting season could disturb nesting sites for bird species protected under the Migratory Bird Treaty Act (MBTA) or the Fish and Game Code. Birds protected under the MBTA, or California Fish and Game Code are considered sensitive during the active nesting period. The RASP EIR analyzed the RASP's full development potential, including the project site. To reduce potential impacts to biological resources, RASP EIR MM BIO-1 would be required to be implemented as a part of this project if project construction is initiated during the nesting season (March 1-August 1, as identified in Mitigation Measure BIO-1). Additionally, the project site falls within the boundaries of the East Contra Costa County HCP/NCCP (HCP/NCCP) and is identified with both urban and ruderal land covers. As such, the proposed project would need to adhere to the requirements outlined in the HCP/NCCP as part of site development. HCP/NCCP requirements generally entail the preparation of a Planning Survey Report application which may require additional species-specific mitigation (e.g., burrowing owl, based on the ruderal habitat and burrows present), and subsequent development fees, if applicable.

- **Public Services:** Analysis in the RASP EIR shows that the City could provide adequate public services to the RASP area without significant impacts. Although RASP implementation would require an increased level of police, fire protection, and emergency response services, the increased level would not trigger the need for construction of new facilities that could adversely affect the physical environment. As such, the proposed project would not require the construction of new fire or police facilities that would impact the environment. Project implementation would increase the number of schoolchildren in the area. The project applicant would contribute Senate Bill 50 school impact fees as discussed in the RASP EIR, which would mitigate the impacts to a less than significant level. The proposed project's impacts were adequately analyzed in the RASP EIR and as such, additional environmental analysis is not needed.
- **Utilities:** As noted above, utilities would be provided by the City. The RASP EIR concludes that the storm drain system has enough capacity to accommodate the increased load from proposed development above existing conditions. Sewer services in the RASP area are provided by the City and the Delta Diablo Sanitation District. Within the RASP area, the sewer main that crosses west to east was determined adequately sized to serve planned development. Solid waste is disposed of at the Potrero Hills Landfill, and industrial non-recyclables are transported to Keller Canyon Landfill. As determined in the RASP EIR, both landfills have sufficient means to accommodate the increased amount of waste produced by the proposed project. Finally, the RASP EIR states that the Contra Costa Water District provides raw water for the City that is treated in the City's water treatment facilities. Water booster pumps may be necessary to accommodate higher-density, vertical development, but the proposed project would have sufficient supply and adequate water pressure without additional infrastructure. Therefore, the proposed project's potential impacts are adequately covered by the RASP EIR, and no additional analysis is needed.
- **Climate Change:** As previously discussed, the proposed project would maintain the existing buildout potential envisioned in the RASP EIR. The proposed 17 lots would result in a density of 9.45 du/acre, which would maintain consistency with the proposed medium-density residential range of 7.0 to 14.0 du/acre. As a result, the construction greenhouse gas (GHG) emissions that would occur from development of the proposed project would not exceed that envisioned by the RASP EIR, and operational GHG emissions associated the operation of vehicles, building electricity, and the use of area-source equipment such as landscaping tools would not exceed that envisioned by the RASP EIR. Moreover, the proposed project would incorporate green building practices as required by the City that are more stringent than what was in effect at the time the RASP EIR analyzed the potential GHG emissions generated from buildout of the project site. As such, he proposed project's potential impacts are adequately covered by the RASP EIR, and no additional analysis is needed.

Table 2: Relevant Project Impacts and Mitigation Measures

Section	Impact	Mitigation/Improvement Measure
Air Quality		
Air Quality	**Impact AQ-1**: Construction activities under the proposed project could cause emissions of dust or contaminants from equipment exhaust that could contribute to existing air quality violations or expose sensitive receptors to pollutant concentrations. This would be a temporary but potentially significant impact.	**AQ-1.1: Implement dust control measures.** To reduce particulate matter emissions during construction, the City shall ensure that all development proposed under the Railroad Avenue Specific Plan complies with the dust control strategies developed by BAAQMD. These dust control strategies shall include: • Cover all trucks hauling construction and demolition debris from the site; • Water all exposed or disturbed soil surfaces at least twice daily; • Use watering to control dust generation during demolition of structures or break-up of pavement; • Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved parking areas and staging areas; • Sweep daily (with water sweepers) all paved parking areas and staging areas during the earthwork phases of construction; • Provide daily clean-up of mud and dirt carried onto paved streets from the site; • Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.); • Limit traffic speeds on unpaved roads to 15 mph; • Install sandbags or other erosion control measures to prevent silt runoff to public roadways; and • Replant vegetation in disturbed areas as quickly as possible. **AQ-1.2: Reduce emissions from heavy-duty diesel-powered equipment.** The City shall ensure that all development proposed under the Railroad Avenue Specific Plan implements measures to reduce the emissions of pollutants generated by heavy-duty diesel-powered equipment during demolition and construction: • Keep all construction equipment in proper tune in accordance with manufacturer's specifications. • Use late model heavy-duty diesel-powered equipment at the Project Site to the extent that it is readily available in the San Francisco Bay Area. • Use diesel-powered equipment that has been retrofitted with after-treatment products (e.g., engine catalysts) to the extent that it is readily available in the San Francisco Bay Area. • Use low-emission diesel fuel for all heavy-duty diesel-powered equipment operating and refueling at the Project Site to the extent that it is readily available and cost effective in the San Francisco Bay Area (this does not apply to diesel-powered trucks traveling to and from the site.

Section	Impact	Mitigation/Improvement Measure
		• Utilize alternative fuel construction equipment (i.e., compressed natural gas, liquid petroleum gas, and unleaded gasoline) to the extent that the equipment is readily available and cost effective in the San Francisco Bay Area. • Limit truck and equipment idling time to five minutes or less. • Rely on the electricity infrastructure surrounding the construction sites rather than electrical generators powered by internal combustion engines to the extent feasible.
	Impact AQ-5: Cumulative construction emissions could result in emissions of dust and particulates, which could exceed Regional air quality standards. However, development projects proposed under the cumulative scenario would be required to implement measures to control construction Emissions.	Mitigation Measures AQ-1.1 and AQ-1.2 would reduce individual projects' contributions to those impacts to a less than significant level.
	Impact AQ-6: Since operational emissions from the proposed project would be individually significant, operational emissions would also be cumulatively considerable.	**AQ-6.1: Develop and implement a plan to reduce operational air emissions.** Prior to approval of building entitlements and permits, the project developers shall be required to demonstrate to the City that stationary source emissions reduction measures have been included to reduce operational emissions resulting from development in the project area to the maximum extent practicable. A plan for reducing stationary sources shall be approved by City staff. The plan shall include measures such as, but not limited to, incorporating energy-saving appliances for heating and air conditioning units and energy efficient lighting.
Noise		
Noise	**NO-1:** Development under the Railroad Avenue Specific Plan would expose existing sensitive receptors adjacent to the proposed uses to temporary increases in noise levels associated with construction. This would result in a potentially significant impact.	**NO-1.1: Implement construction best management practices to reduce construction noise.** The construction contractor(s) shall implement the following measures during the construction under the Railroad Avenue Specific Plan: • Restrict construction activities to the hours of 8:00 a.m. to 5:00 p.m. • Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically attenuating shields or shrouds, wherever feasible). • Impact tools (e.g., jackhammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or

Section	Impact	Mitigation/Improvement Measure
		electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to 10 dBA. External jackets on the tools themselves shall be used where feasible, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible. • Construction contractor shall use "quiet" gasoline-powered compressors or other electric-powered compressors and use electric rather than gasoline or diesel-powered forklifts for small lifting. • Stationary noise sources, such as temporary generators, shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible. • Erect temporary plywood noise barriers around the construction site, to shield adjacent uses. • Prohibit trucks from idling along residential streets serving the construction site.
	NO-3: The Railroad Avenue Specific Plan proposes residential land uses in areas where ambient noise levels currently exceed acceptable levels for new residential uses. This is a potentially significant impact of the project.	**NO-3.1: Implement site and architectural design measures to reduce noise levels for new residential development with ambient noise levels greater than 65 dBA CNEL.** Per the General Plan, new development located near a roadway that produces noise levels greater than 65 dBA CNEL (measured at the façade of a proposed residential use) shall be required to have an acoustical analysis prepared by a qualified acoustical engineer to ensure that all feasible site planning and architectural design measures were incorporated to reduce interior noise levels to a maximum of 45 dB CNEL. Measures to achieve acceptable noise levels include adjusting the configuration of the proposed residential buildings and placing exterior living areas such as patios and balconies away from high traffic roadways. Recommendations from the acoustical study must be incorporated into building and site design and submitted to the City for approval prior to issuance of a building permit.
Biological Resources	**D1:** While nesting activities were not observed during the surveys in the Specific Plan Area, existing trees could support nesting birds in the future. Construction activities associated with future projects	**BIO-1:** Conduct a nesting bird survey within the Specific Plan Area. Project applicants shall be required to comply with the following activities prior to construction during the nesting season, March 1st to August 1st. Outside the specified time period, no mitigation would be required. (a) Between March 1st and August 1st, the applicant shall have a qualified biologist conduct nest surveys 30 days prior to any

Section	Impact	Mitigation/Improvement Measure
	could result in the disturbance to nesting birds. This would be considered a potentially significant impact.	demolition/construction activities that are within 500 feet of potential nest trees. A pre-construction survey report shall be submitted to (California Department of Fish and Wildlife, CDFW) and the City of Pittsburg that includes, at a minimum: (1) a description of the methodology including dates of field visits, the names of survey personnel with resumes, and a list of references cited, and persons contacted; and (2) a map showing the location(s) of any bird nests observed on the project site. This report shall be consistent with the requirements from the East Contra Costa County (Habitat Conservation Plan). If no active nests of the Migratory Bird Treaty Act, California Department of Fish and Game, or U.S. Fish and Wildlife Service protected species are identified then no further mitigation is required. (b) Should active bird nests be located in the survey area, the applicant, in consultation with the City of Pittsburg and CDFW, shall delay construction in the vicinity of active nest sites during the breeding season (March 1st through August 1st) while the nest is occupied with adults and/or young. A qualified biologist shall monitor any occupied nest to determine when the nest is no longer used. If the construction cannot be delayed, avoidance shall include the establishment of a non-disturbance buffer zone around the nest site. The size of the buffer zone will be determined in consultation with the CDFW but will be a minimum of 100 feet. The buffer zone shall be delineated by highly visible temporary construction fencing. (c) No intensive disturbance (e.g., heavy equipment operation associated with construction or use of cranes) or other project related activities that could cause nest abandonment or forced fledging, shall be initiated within the established buffer zone of an active nest between March 1st and August 1st. (d) If demolition/construction activities are unavoidable within the buffer zone, the project applicant shall retain a qualified biologist to monitor the nest site to determine if construction activities are disturbing the adult or young birds. If abandonment occurs the biologist shall consult with CDFG or USFWS for the appropriate salvage measures. This could include taking any nestlings to a local wildlife rehabilitation center. (e) Trees that support active nests which are to be removed shall only be removed during the non-breeding, non-nesting season.
Cultural Resources		
Cultural Resources	**E.3:** It is possible that intact paleontological resources could be adversely affected by	**CR-1: Treatment of unexpected paleontological resources.** Should paleontological resources be identified at project construction sites during any phase of construction, the construction

Section	Impact	Mitigation/Improvement Measure
	the earth-moving development of the Specific Plan Area. Impacts on paleontological resources are therefore considered potentially significant.	contractor/supervisor shall cease operation at the site of the discovery and immediately notify the City of Pittsburg Planning Department. The project applicant shall retain a qualified paleontologist to provide an evaluation of the find and to prescribe mitigation measures to reduce impacts to a less- than-significant level. In considering any suggested mitigation proposed by the consulting paleontologist, the City of Pittsburg Planning Department shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, specific plan policies and land use assumptions, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation for paleontological resources is carried out.

CONCLUSION

The City has complied with the provisions and is implementing the steps outlined in the RASP and the RASP EIR. Pursuant to CEQA Guidelines Section 15168(c)(4), the City used "a written checklist . . . to determine whether the environmental effects of the project's site-specific operations were evaluated in the RASP EIR." Pursuant to Section 15168(c)(2), the City evaluated whether further environmental review was required per the provisions of Section 15162(a). The City considered various technical studies prepared by environmental consultants hired by the City and the applicant (including geotechnical studies, Phase I studies, stormwater retention, drainage, and proposed site and landscaping plans).

The proposed project would be consistent with the assumptions for the project site as analyzed in the RASP EIR, and the proposed project would not result in any new significant impacts or increase the severity of any significant impacts identified in the RASP EIR. The circumstances under which the proposed project would be undertaken have not substantially changed such that new or more severe impacts would occur. Finally, there is no new information of substantial importance indicating new or more significant adverse environmental impacts. Therefore, no further environmental analysis is required.

City of Pittsburg
Community and Economic Development Department – Planning Division
65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the **CITY COUNCIL** of the City of Pittsburg will conduct a public hearing on:

DATE: **September 19, 2022**
TIME: **7:00 p.m.**
PLACE: **City Council Chamber at City Hall**
65 Civic Avenue, Pittsburg, California

Concerning the following matter:

Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)

This is an application filed by Louis Parsons of Discovery Builders, Inc., requesting approval of: 1) a General Plan map amendment to change the site's land use designation from 'Low Density Residential' to 'Medium Density Residential,' 2) a Zoning map amendment to rezone the site from RS-5 (Residential Single Family, 5,000 Square Foot Minimum Lot Size) to PD (Planned Development), 3) a major subdivision/vesting tentative map to subdivide the parcel into 17 lots for single-family residential development and 4) design review on a 1.8-acre site located at 360 Central Avenue. Assessor's Parcel No. 086-151-002.

Environmental Determination
The project is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15182 (Projects Pursuant to a Specific Plan) of the CEQA Guidelines.

PROJECT PLANNER: Alison Hodgkin, (925) 252-6987 or ahodgkin@pittsburgca.gov

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Why am I receiving this notice?
You are receiving this notice because you have either previously requested notifications from the Planning Division, or a project has been proposed in your neighborhood and all property owners within a minimum 300-foot radius of the project site are required to be notified under the Pittsburg Municipal Code.

Where can I get more information about this project?
The complete file for this project is available for public inspection; please contact the project planner listed above to make necessary arrangements.

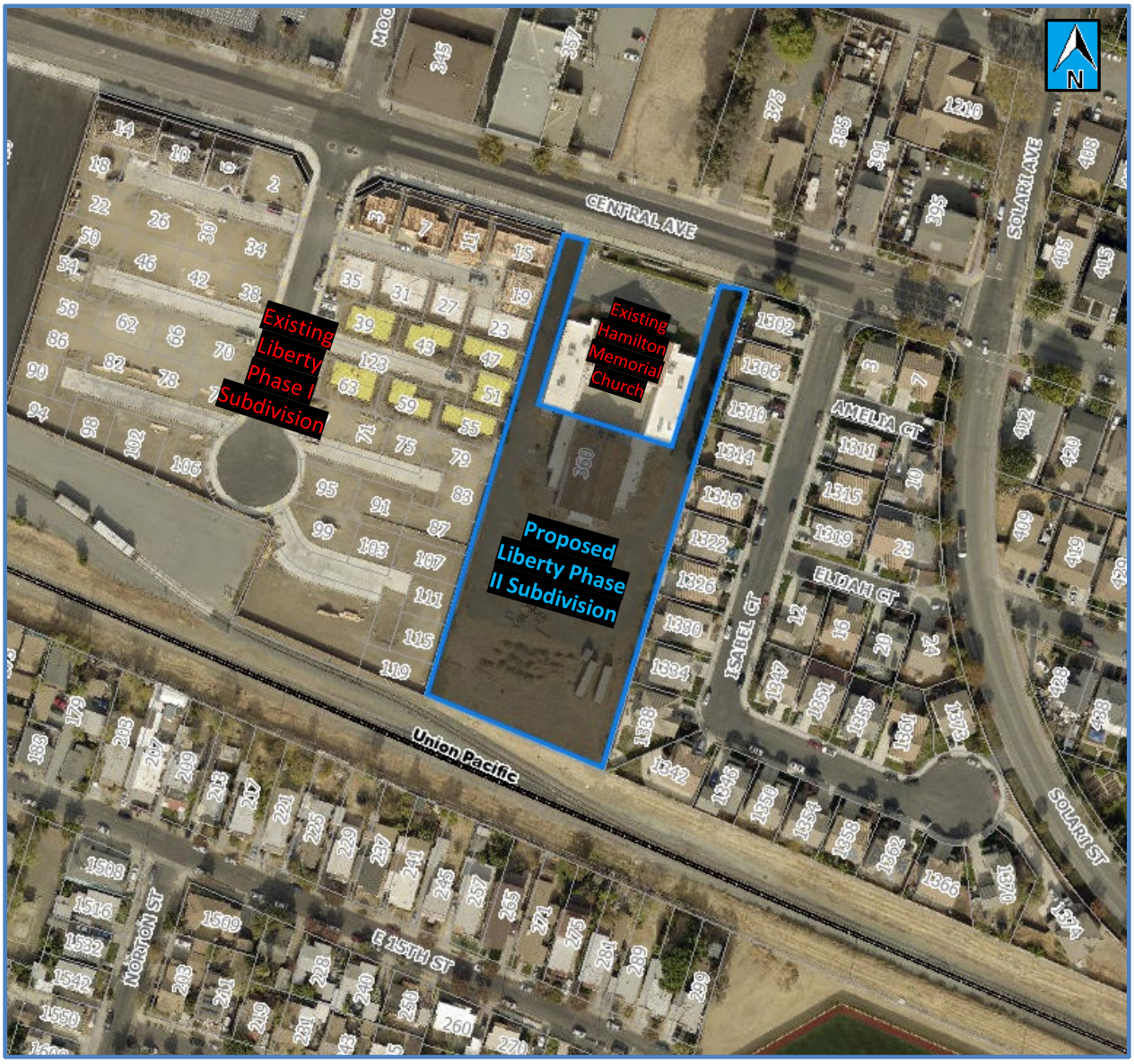
What can I do if I have comments on the project?
Comments or objections to the project can be made by writing or through e-mailed testimony prior to the meeting or provided orally during the meeting. Written comments citing the project name may be emailed to the project planner listed above or may be mailed or delivered to Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565.

Pursuant to Section 65009 of the California Government Code, if you challenge this matter in court, you may be limited to those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on the matter delivered to this agency at, or prior to the public hearing. Any written correspondence delivered to the Planning Division before the hearing body's action on the matter will become a part of the administrative record.

Para información en español:
(925) 252-4920

JOHN FUNDERBURG, SECRETARY
PITTSBURG PLANNING COMMISSION

Project Title: Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)
Location: 360 Central Avenue, APN 086-151-002



City of Pittsburg
Community Development Department - Planning Division
65 Civic Avenue
Pittsburg, CA 94565

NOTICE OF PUBLIC HEARING

Attachment 8
Development Review Design Guidelines
Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)

Design Review Guideline	Meets Guideline?
Section I: Residential (Single Family/Duplex)	
1.a: Reliefs and architectural treatments should be provided on all building elevations (360 degree architecture), i.e. 2"x4" (wood or styrofoam/stucco) window and door reveal treatment on all building elevations.	**Yes.** The proposed homes incorporate reliefs and architectural treatments on all building elevations.
1.b: Provide concrete and/or tile roof material. Architectural grade composition material may be used if rake treatment is included or roof pitch, greater than 4:12 is used.	**Yes.** The proposed homes incorporate tile roof material.
1.c: Each dwelling unit should be provided with complete front yard and corner-side yard xerophytic landscaping and automatic irrigation.	**Yes.** The proposed landscaping meets the standards set forth in PMC Section 18.84.310.
1.d: Required front yards should vary in depth unless otherwise stated for a proposed PD (Planned Development) district.	**N/A.** This guideline does not appear to apply to PD districts.
1.e: Decorative masonry walls should be provided between all arterial streets and future homes.	**N/A.** No homes are proposed along arterial streets.
1.f: Roof slopes should be considered greater than 4:12 unless inappropriate for architectural style (i.e. Ranch Style, etc.).	**Yes.** The proposed homes will have a roof slope of 5:12.
1.g: Provide articulated garage doors on all garages.	**Yes.** The proposed homes will have articulated garage doors.

1.h: Garage doors designs should not be duplicated. Not less than four styles should be used in a subdivision.	**Yes.** There are 12 different color schemes that the applicant has provided; each has a different garage door design and color.
1.i: Side-on garages are recommended intermittently through-out the subdivision (70' wide lots or greater).	**N/A.** Seventy-foot wide lots are not proposed as part of the project.
1.j: Garage frontage should not occupy more than 60% of allowable lot frontage.	**Yes.** The applicant has provided four different floor plans, all of which have a garage frontage of no more than 60% of the allowable lot frontage.
1.k: Provide board-on-board fencing on all side yards and rear yards (excluding side yards and rear yards adjacent to major thoroughfares), unless a view corridor is to be maintained.	**Yes.** Six-foot-high, wood, board-on-board fencing will be installed along side and rear yards, with the exception of Lots 11 – 17, which will have a rear-yard masonry wall; Lots 1 and 10 will have a side yard masonry wall.
1.l: The architectural treatments (such as sidings, shingles, window, and door trims) established on the front facades of each of the approved house designs shall be carried around to the sides and rear elevations of the buildings, except that masonry veneer treatments at the base of a structure need be carried only partly around the side elevations, to either the adjoining fence line or the closest interior right angle joint.	**Yes.** Architectural treatments on the front facades of all homes are carried around to the sides and rear elevations of the buildings.
Section II. Neighborhood / Subdivision Design	
2.a: Subdivision entry monuments should be provided on new major subdivisions, neighborhoods or villages, if appropriate.	**N/A.** Given the unique shape of the project site, an entry monument is not proposed or appropriate.

2.b: Perimeter wall and/or sound wall pilasters should not be greater than 50 feet on center.	**Yes.** The applicant will provide pilasters with a decorative concrete cap at intervals of 25 feet or less. A decorative wall cap would also be provided along each wall.
2.c: Sound walls exceeding 6 feet in height and visible from the public right-of-way should be treated with decorative features consistent with the neighborhood design.	
2.d: All masonry walls should include a wall cap.	
2.e: Retaining walls, exceeding three feet tall, adjacent to a public right-of-way should be constructed with the same materials as used for the sound walls.	**N/A.** No retaining walls are proposed in the plan set.
2.f: Masonry or sound walls should be staggered when adjacent to public right of ways.	**N/A.** No masonry or sound walls are adjacent to the public right of way.
2.g: Single story units should be located on corner lots whenever possible.	**N/A.** None of the 17 units are single-story.
2.h: Developer should select, at least one of the schemes provided in Appendix 1 of the DRDGs for screening all utility boxes, transformers, backflow preventers, meters and junction boxes.	**Conditionally.** A condition of approval would require all utility boxes and/or transformers to be undergrounded. Where undergrounding is deemed infeasible or not recommended by Pacific Gas & Electric (PG&E), utility boxes and/or transformers would be masked by either faux stone utility box covers or a landscape screen.
2.i: Construct fence/walls at top-down slope banks. Design fence at top of slope to take advantage of potential views.	**N/A.** The site is relatively flat and will not require fences/walls at top-down slope banks.

2.j: Dwelling unit driveways should align with on-coming street at three-way intersections when possible.	**N/A.** The development does not include any three-way intersections.
2.k: Existing trees which have greater than a nine (9) inch trunk caliper should be incorporated into the design of project.	There are five existing palm trees and seven existing Callery Pear trees on the project site which do not meet the definition of a "protected tree." To allow for sufficient access, the five palm trees will be removed. To allow for construction of a sidewalk, the seven Callery Pear trees will be removed.
2.l: Landscaped portions of set-backs, excluding sidewalk along public streets, should not be less than the height of the fence or sound wall.	**Yes.** Landscaped portions of front and side yards are not less than the height of the fences or sound walls.
2.m: Landscaping areas shall not be less than three feet wide, between the curbs.	**Yes.** Landscaping areas are not less than three ft. wide, between curbs.
2.n: Subdivision perimeter walls should be minimized. Install wrought iron fencing at open end of cul-de-sacs, parks and open space.	**N/A.** Use of sound walls is required per conditions of approval. No cul-de-sacs, parks or open space is proposed as part of the project.
Section VI. Green Building Design Guideline	
6.A.1: Solar energy systems should be an option to the homebuyer by the builder.	**Conditionally.** A condition of approval would require the developer to include, as part of the options package for buyers of single-family houses in the subdivision, an option that offers pre-wiring of the house for photovoltaic (solar) panels.
6.A.2: For homes without solar energy systems, green roofs or cool roofs, roofing should include the following features: a) A minimum of 300 square feet of unobstructed roof area facing within 30 degrees of south. b) South facing sloped roofs should be at an angle of approximately 38 degrees.	

6.A.3: The external design of homes should feature up to date energy efficiency technologies: a) For infill housing, homes without solar energy systems should be covered with a cool roof. b) Roof overhangs should be sized to block the high summer sun but allow the lower winter sun to enter windows.	**Conditionally.** The project is required to meet the Residential Mandatory Measures specified under the 2019 California Green Building Standards Code, Part 11. A condition of approval would be included requiring the developer to implement additional Residential Voluntary Measures, including cool roofs for reduction of heat island effect.
6.A.4: Deciduous trees of approved native species should be planted to the south and west of the home to shade the home during summer and allow solar heat gain during winter.	**Yes.** The proposed landscaping meets the standards set forth in PMC Section 18.84.310.
6.A.5: Secure and convenient storage for at least two bicycles should be provided.	**Yes.** The project would provide two, wall-mounted bicycle racks in each garage for secure parking.
6.A.6: Outdoor design and features should maximize landscaping water conservation.	**Yes.** The project would provide drought-tolerant landscaping, including shrubs, drought-tolerant ground cover and bark.
6.B.1: Non-invasive, drought tolerant shade trees should be planted in the landscaping strips that are located between curb and sidewalk such that tree canopies will shade as much street surface as possible. Shade trees should be selected and placed so that they will not block solar access to neighboring structures' south-facing roofs.	**Yes.** Non-invasive, drought tolerant trees will be used for landscaping and are placed to shade as much street surface as possible.
6.B.2: Streetlights and street trees should be spaced so that street lighting is not blocked and made less effective by street trees.	**N/A.** As a Condition of Approval, the Developer will provide a photometric graph and table to determine the appropriate streetlight spacing for the project.

6.B.3: Subdivisions should be designed to maximize potential solar energy generation	**Yes.** The project includes, as part of options package for buyers of single-family houses in the subdivision, an option that offers pre-wiring of the house for solar panels compliant with the 2019 California Energy Code.
6.B.4: Subdivisions should be designed around common open space areas that promote neighborhood community building. Such open spaces can include bicycle and pedestrian only plaza spaces, community garden spaces, or vegetated open space. Privately maintained open space should total ¾ acres for every square mile or portion thereof, with a minimum of ¾ acres for any project greater than 12 acres No individual privately maintained common open space location should be smaller than ¼ acre.	**N/A.** No common open space areas are provided as part of the proposed subdivision.
6.B.5: Vehicular Connectivity: Local streets should form a well-connected network that provides for safe, direct, and convenient vehicular access.	**Yes.** Central Avenue is part of a well-connected street network.
6.B.6: Bicycle/Pedestrian Connectivity: Subdivisions should include a designated pedestrian route interconnecting all internal uses, site entrances, primary building entrances, public facilities, and adjacent uses to existing external bicycle and pedestrian facilities and streets.	**Yes.** A Class II bike path is provided along Central Avenue.

6.B.7: New streetlight electrical grid systems should be planned to supply future curbside electric vehicle charging stations. A 220/240V electrical supply should be extended to curbside spaces. The conduit should connect to an installed charging unit or an electrical pedestal or a well where a charging station may be installed in the future. Spacing of charging units, pedestals, or wells should be at least one per 50 potential curbside parking spaces in residential subdivisions.	**N/A.** The project does not allow curbside parking nor does the project consist of more than 50 parking spaces.

Attachment 9
Applicable General Plan Goals and Policies
Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)

General Plan Goal/Policy	Analysis
Land Use Element:	
2-G-1: Maintain a compact urban form within the City's projected municipal boundary. Ensure that hillside lands not environmentally suitable for development are maintained as open space.	**Consistent.** The proposed project would be constructed on an infill site.
2-G-4: Provide a range of development intensities, with the highest intensities in Downtown and in areas accessible to transit and services, and lower intensities in hillsides and at the City's southern edge.	**Consistent.** The project site is within a half-mile distance of the Pittsburg Center BART station and a quarter-mile of two bus stops located near the intersections of Railroad Avenue/Central Avenue and Harbor Street/Central Avenue (Tri Delta Transit Routes 381 and 387).
2-G-5: Promote a diversity of housing types, including opportunities for hillside estate development, as well as smaller lot, infill, and high-density housing.	**Consistent.** The proposed project would provide infill, single family development on smaller lots ranging from 2,150 (smallest lot size) to 3,649 sq. ft. (largest lot size).
2-P-5: Undertake planned development as a means to achieve high community design standards, not to circumvent development intensity standards.	**Consistent.** The proposed project will utilize a PD zoning, in part, to achieve a high-quality design outcome.
Growth Management:	
3-P-1: Allow urban and suburban development only in areas where public facilities and infrastructure (police, fire, parks, water, sewer, storm drainage, and community facilities) are available or can be provided.	**Consistent.** The proposed project will be built in an area where public facilities and infrastructure are already available.
3-P-2: Prior to project approval, ensure that the existing and planned transportation system will have adequate capacity to accommodate new urban development.	**Consistent.** Residents of the proposed development will have multiple transportation options available to them as the site is located near BART, Tri-Delta Transit, and bicycle lanes.
3-P-5: As part of development review, require preparation of a traffic impact study for all development projects expected to generate more than 100 net new peak hour vehicle trips. Ensure that traffic impact studies are prepared by professional transportation consultants selected and hired by the City, but require that project proponents pay all fees associated with development of such studies.	**Consistent.** The developer was not required to prepare a traffic impact study because the proposed project is expected to generate under 100 net new peak hour trips.
3-P-13: Review and update the City's transportation impact fee schedule, requiring developers to pay the costs necessary to mitigate impacts of their development projects on the local and regional transportation system.	**Consistent.** The proposed project will pay its share of the costs for the construction of facilities needed to serve the development. Conditions of approval will require payment of the Facilities Reserve Charge, Local Traffic Mitigation Fee (LTMF), and Regional Transportation Development Impact Mitigation Fee (RT-DIM) in accordance with the Pittsburg Municipal Code.

3-P-17: As part of development approval, ensure that safe and contiguous routes for pedestrians and bicyclists are provided within new development projects and on any roadways that are impacted as a result of new development.	**Conditionally Consistent.** Residents of the proposed development will be able to utilize the existing Class II bicycle lane along Central Avenue.
Downtown Element	
5-G-2: Promote the development and intensification of the Downtown commercial core as both a visitor destination and a neighborhood retail center. Encourage a critical mass of visitor-oriented retail businesses, such as gift shops and galleries, as well as neighborhood retail and personal services.	**Consistent.** The proposed project will promote the development and intensification of the Downtown commercial core as neighborhood retail center by increasing the demand for retail and other amenities.
5-G-4: Establish a Downtown population goal of at least 7,000 to provide vitality and support a vibrant neighborhood commercial center.	**Consistent.** The proposed project will add approximately 55 people (17 units at 3.27 people/unit). The additional population will help further support a vibrant neighborhood commercial center.
Transportation Element	
7-G-15: Encourage walking as a regular means of transportation for people who live within a half-mile walk of school, work, or routine shopping destinations.	**Consistent.** The proposed project will encourage walking as a regular means of transportation due to the site's proximity to various amenities. The project site is within a half-mile distance of Marina Vista Elementary School, Pittsburg High School, City Park, John Buckley Square, the Pittsburg Center BART station, and the Downtown commercial core.
7-P-2: Use the adopted Regional and Local Transportation Impact Mitigation Fee ordinances to ensure that all new development pays an equitable pro-rata share of the cost of transportation improvements.	**Consistent.** The proposed project would be required to pay all building permit and impact fees associated with residential development.
7-P-34: As part of development approval, ensure that safe and contiguous routes for pedestrians and bicyclists are provided within new development projects and on any roadways that are impacted as a result of new development.	**Consistent.** There is an existing Class II bicycle lane along Central Avenue.
Resource Conservation Element	
9-G-7: Comply with Regional Water Quality Control Board regulations and standards to maintain and improve the quality of both surface water and groundwater resources.	**Consistent.** The proposed project will comply with conditions of approval requiring submittal of a copy of the Notice of Intent (NOI) submitted to the State Water Resources Control Board for coverage under the Construction general Permit. Additionally, in accordance with the Memorandum of Understanding executed with the City on May 16, 2016, and amended December 12, 2019, the applicant will use offsite mitigation credits in lieu of constructing low impact development (LID) stormwater facilities within the project site.
9-P-22: Continue working with the Regional Water Quality Control Board in the implementation of the National Pollutant Discharge Elimination System (NPDES), with specific requirements established in each NPDES permit.	

Health and Safety Element	
10-G-8: Ensure that new development mitigates impacts to the City's storm drainage capacity from storm water runoff in excess of runoff occurring from the property in its undeveloped state.	**Consistent.** The project will comply with conditions of approval requiring implementation of a Storm Water Control Plan in compliance with the requirements set forth in the City's most current NPDES permit.
10-P-39: Strive to maintain a ratio of 1.8 sworn police officers per 1,000 residents.	**Consistent.** The project site will be annexed into the City's CFD 2005-1 for police and other emergency services
Public Facilities Element	
11-G-2: Continue to implement water conservation policies to ensure adequate supplies of water in the future.	**Consistent.** The proposed project is required to meet the 2019 California Green Building Standards Code, Part 11. Residential Mandatory Measures sections 4.303 and 4.304 require water conserving plumbing fixtures and fittings and water efficient landscaping.
11-P-7: Ensure that new residential, commercial, and industrial development equitably shares costs associated with providing water services to areas of urban expansion within the Planning Area.	**Consistent.** The proposed project will equitably share the costs associated with providing water and wastewater services to the subdivision through payment of the Pittsburg Facilities Reserve Charge.
11-P-18: Ensure that new residential, commercial, and industrial development equitably share costs associated with providing wastewater services to areas of urban expansion within the Planning Area.	
Noise Element	
12-P-6: Ensure that new noise-sensitive uses, including schools, hospitals, churches, and homes, in areas near roadways identified as impacting sensitive receptors by producing noise levels greater than 65 dB CNEL (Figure 12-1), incorporate mitigation measures to ensure that interior noise levels do not exceed 45 dB CNEL.	**Consistent.** The proposed project will provide sound walls along the north and south property lines and will also comply with conditions of approval requiring upper-floor windows of residences adjacent to the UPRR tracks (homes on Lots 11-14) to be upgraded to a Sound Transmission Class (STC) rating of 32. The proposed sound walls and upper-story windows will help ensure interior noise levels do not exceed 45 dB CNEL.
Housing Element	
P-1.1 B: Ensure there is an adequate supply of mixed use and residentially zoned land of appropriate densities to accommodate existing and anticipated housing needs through 2022. Rezone vacant/underutilized land that is deemed appropriate for mixed use or residential/higher-density residential use.	**Consistent.** The project site being rezoned is vacant, underutilized, and appropriate for higher-density residential use given its proximity to schools, parks, transit, and commercial amenities.
P-1.2: Encourage the construction of both high end and moderate-income housing in the southern foothills, downtown, along the waterfront, and throughout Pittsburg to provide above moderate-income housing opportunities in the community and to increase economic activity within the city.	**Consistent.** The proposed project will provide market-rate housing near the Downtown and increase demand for economic activity in nearby shopping centers.

P-1.5: Encourage the construction of accessory dwelling units or "second units" that allow extended families to live near each other, increase the affordable and rental housing stock, and provide income assistance to homeowners.	**Consistent.** The proposed project will provide two single-family homes with accessory dwelling units that would allow extended families to live near each other, increase the affordable and rental housing stock, and provide income assistance to homeowners.
P-1.6: Meet Pittsburg's fair share regional housing needs [allocation].	**Consistent.** The proposed project will help attain the City's Regional Housing Needs Allocation for moderate and above-moderate income households
P-5.1: Enhance the quality and variety of new home designs and home additions to ensure an attractive living environment.	**Consistent.** The proposed project will comply with the City of Pittsburg Development Review Design Guidelines (DRDGs) and conditions of approval requiring construction of quality home designs to ensure future residents will enjoy an attractive living environment.

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Approving the Installation of Speed Humps on Manville Avenue

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

The City's Traffic Calming Policy includes specific criteria to be used when considering the implementation of speed humps to calm traffic on local streets. If the City Council approves the proposed speed humps on Manville Avenue between Madoline Street and Riverview Drive, installation can be scheduled this fiscal year.

FISCAL IMPACT

The engineer's estimate for this work is $45,000 to be funded by Project 2039 (2022/2023 Citywide Traffic Calming Project) approved in the Five-Year Capital Improvement Program (CIP) for Fiscal Years 2022/23 through 2026/27.

RECOMMENDATION

Staff recommends the City Council adopt the attached resolution approving the installation of speed humps on Manville Avenue between Madoline Street and Riverview Drive.

BACKGROUND

On May 17, 2004, the City Council adopted Resolution 04-10078 approving the current Traffic Calming Policy, which includes the use of speed humps where certain criteria are met.

On February 7, 2022, a resident submitted an application for speed humps on Manville Avenue between Madoline Street and Riverview Drive.

On March 31, 2022, City staff evaluated the City's Traffic Calming Policy criteria for installing speed humps on Manville Avenue between Madoline Street and Riverview Drive and determined that all criteria and warrants have been met.

On June 8, 2022, the City's Engineering Division presented to the Community Advisory Commission (CAC). The CAC recommends that the City Council approve the installation of speed humps on Manville Avenue between Madoline Street and Riverview Drive.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

Staff has verified all criteria that warrants the installation of speed humps on Manville Avenue, between Madoline Street and Riverview Drive. The criteria used in creating this recommendation is summarized in the attached Exhibit I – Speed Hump Investigation Report.

ATTACHMENTS: Resolution
Exhibit I- Manville Avenue Speed Hump Investigation Report
Exhibit II – Manville Avenue Speed Hump Layout

Report Prepared By: Nhat Phan, Associate Engineer

City of Pittsburg

Engineering Department
65 Civic Ave, Pittsburg CA 94565
Phone: (925) 252-4930

Speed Hump Request Investigation

Street Name**:** **Manville Avenue** Posted Speed: **25 mph**

Limits: **Between Madoline Street and Riverview Drive**

• Initial Petition Submitted and Verified	Yes	No	No. Of Signatures: Exempt
• Residential local or collector street	Yes	No	■ Local ☐ Collector
• No Bus Route	Yes	No	
• Improved streets with curb and gutter	Yes	No	
• Posted speed limit of 25 or 30 MPH	Yes	No	Posted: 25
• 15% of traffic must be at least 6 MPH greater than the existing speed limit	Yes	No	Critical Speed: 35
• The average daily traffic is more than 500 and no more than 3000 vehicles per day	Yes	No	A.D.T: 525
• Street with a grade equal or less than 5 percent	Yes	No	Grade: 1%
• Street segment 750’ or longer	Yes	No	Length: 1300 Ft
• Two Other Traffic Calming Strategies Deemed Ineffective	Yes	No	1.) targeted police enforcement 2.) radar speed feedback trailer
• All Preliminary Warrants Met	Yes	No	
• The installation of speed humps shall not unduly affect response times of emergency services as determined by the City Traffic Engineer.			
• “Request for Speed Humps” petition on file and addresses verified with 67% approval.	Yes	No	%: 90

NOTES: _____

_____

Investigation Completed By: Nhat Phan Date: 6/3/2022

Priority Score (PS)= V+AR

V: 10
AR: 0.1
PS: 10.1

Exhibit II - Manville Avenue Speed Hump Layout



*NOTE: ALL DIMENSIONS ARE FROM CENTERLINE OF SPEED BUMP

SHEET NO. 1 OF 1	DATE	DESCRIPTION	BY	DRAWN: AF
				DATE: 07/28/2022
DRAWING NO. P-1				SCALE: 1"= 120'

MANVILLE AVENUE SPEED HUMPS PROJECT

City of Pittsburg

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a City Council Resolution) RESOLUTION NO. 22-
Approving the Installation of Speed)
Humps on Manville Avenue)

WHEREAS, on May 17, 2004, the City Council adopted Resolution 04-10078 approving the City's current Traffic Calming Policy; and

WHEREAS, on February 7, 2022, the City received an application for the installation of speed humps along the entire length of Manville Avenue; and

WHEREAS, on March 31, 2022, staff evaluated the City's Traffic Calming Policy criteria for installing speed humps on Manville Avenue between Madoline Street and Riverview Drive and determined that all criteria and warrants had been met; and

WHEREAS, on June 8, 2022, staff presented to the Community Advisory Commission, and they recommended the City Council approve the installation of speed humps on Manville Avenue between Madoline Street and Riverview Drive.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the installation of speed humps on Manville Avenue between Madoline Street and Riverview Drive.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of October 2022, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of City Council Resolution Authorizing City Manager to Execute a Contract for New Chevrolet Vehicles

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

The City maintains a fleet of vehicles and equipment necessary for police operations and for maintenance of the City's infrastructure. Purchasing new vehicles is necessary to replace vehicles that have lower reliability and are requiring more maintenance. If approved, the resolution authorizes the purchase of 2 new Chevrolet Tahoe vehicles from California Automotive Retailing Group, Inc. dba Dublin Chevrolet, "piggybacking" off a competitive bid process undertaken by County of Alameda.

FISCAL IMPACT

Funding for the vehicles, totaling $111,931.20 will come from the Public Works Department's Fleet budget (Fund 611-43201) previously approved by the City Council for FY 2022-23. No new funds are requested.

RECOMMENDATION

City Council adopt the attached resolution to authorize the City Manager to execute the purchase of two 2023 Chevrolet Tahoe SUV's totaling $111,931.20 from Dublin Chevrolet.

BACKGROUND

The Public Works Department Fleet Maintenance Division is responsible for the maintenance of a vehicle fleet of more than 200 cars, trucks, heavy equipment and other equipment. The fleet includes police patrol cars, sedans, motorcycles, heavy-duty trucks and construction equipment, as well as light- and medium-duty trucks, vans, sport utility vehicles, and other pieces of equipment such as compressors and mowers. The entire fleet has a replacement value of approximately $6 million.

Staff identified specific vehicles and equipment designated for purchase during FY 2022/23 based on highest priority for City operations, immediate need, and length of time required for delivery. If approved, the 2 vehicles will replace those in lesser condition in the Police Department's fleet.

In order to save valuable time and take advantage of pricing obtained through competitive bidding by the County of Alameda, staff is proposing to "piggyback" on the contract with California Automotive Retailing Group, Inc. dba Dublin Chevrolet ("Dublin Chevrolet") with the terms and pricing established by the County of Alameda in its contract with this vendor.

The County of Alameda conducted a competitive process that opened on June 16, 2021 and closed on July 27, 2021. Upon review Alameda County selected Dublin Chevrolet as the lowest, responsible responsive bidder for Chevrolet vehicles to meet their specifications, thusly awarding the firm with Master Contract Number 901979. The Contract between Dublin Chevrolet and Alameda County ends on September 30, 2024.

If adopted, the resolution would authorize the City Manager to execute a contract for the Chevrolet Tahoe vehicles at the same price obtained by the County of Alameda through a competitive bid process, with an agreed-upon cost difference for shipping and specialized parts. There are sufficient funds in the City's FY 2022-23 Fleet Budget to accommodate this purchase.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

Staff recommends the City Council approve the attached resolution authorizing the City Manager to execute a contract with California Automotive Retailing Group, Inc. dba Dublin Chevrolet in the amount of $111,931.20 for two new 2022 Chevrolet Tahoe SUV's for the Police Department.

ATTACHMENTS: Resolution
County of Alameda – Dublin Chevrolet Contract
Agreement Pittsburg – Dublin Chevrolet

Report Prepared By: Natasha Farmer, Public Works Administrative Analyst I

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter Of:

Authorizing Execution of a)
Contract to Purchase New) RESOLUTION NO. 22-
Chevrolet Tahoe Vehicles)

WHEREAS, the City's Public Works Department is responsible for the care and maintenance of the City's fleet of vehicles and equipment; and,

WHEREAS, from time to time vehicles and equipment become old or worn to the point where they are no longer able to provide optimum service to the City or are too costly to maintain; and,

WHEREAS, these vehicles and equipment must routinely be replaced to provide City staff with adequate equipment to provide the best and most cost-effective services to the public; and

WHEREAS, County of Alameda has undertaken a competitive bidding process equivalent to or better than the requirements in City's Purchasing Policy and has awarded a contract to Dublin Chevrolet as its vendor for Chevrolet Vehicle Purchases; and

WHEREAS, Dublin Chevrolet was the lowest responsive, responsible bidder for all 2023 Chevrolet models and specifications; and

WHEREAS, City seeks to "piggyback" on the County of Alameda contract for Vehicle Purchases, specifically Master Contract No. 901979; and

WHEREAS, sufficient funds for this purchase are available in the previously approved Fleet Budget for Fiscal Year 2022/23.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Pittsburg hereby approves and authorizes the City Manager to execute a contract with Dublin Chevrolet in the amount of $111,931.20 to purchase two new 2023 Chevrolet Tahoe Utility vehicles for the Police Department.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of October 2022, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

Master Contract No. 901979
Procurement Contract No. 22889

COUNTY OF ALAMEDA
STANDARD SERVICES AGREEMENT

This Agreement, dated as of 9/28/2021, is by and between the County of Alameda, hereinafter referred to as the "County", and California Automotive Retailing Group, Inc. dba Dublin Chevrolet, hereinafter referred to as the "Contractor".

WITNESSETH

Whereas, County desires to obtain vehicle purchase which are more fully described in Exhibit A hereto ("Description of Services"); and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County; and

Now, therefore it is agreed that County does hereby retain Contractor to provide vehicle purchase, and Contractor accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Exhibit A	Definition of Services
Exhibit A-1	Specific Requirements
Exhibit B	Payment Terms
Exhibit C	Insurance Requirements
Exhibit D	Debarment and Suspension Certification
Exhibit E	The Iran Contracting Act (ICA) of 2010

The term of this Agreement shall be from October 1, 2021 through September 30, 2024.

The County neither warrants nor guarantees any minimum compensation to the Contractor under this Agreement. Payment to Contractor shall be based on actual services performed on behalf of the County. The compensation payable to Contractor hereunder shall be paid from a total pool contract amount for the vehicle purchase. The total pool amount for all contracts shall not exceed Nine Million dollars ($9,000,000) for the term of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

By: DocuSigned by: Detra Dillon Signature

Name: Detra Dillon (Printed)

Title: Procurement Administrator

Date: 9/28/2021

CALIFORNIA AUTOMOTIVE RETAILING GROUP, DBA DUBLIN CHEVROLET

By: DocuSigned by: Richard Slade Signature

Name: Richard Slade (Printed)

Title: Director of Fleet and Commercial

Date: 9/27/2021

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

GENERAL TERMS AND CONDITIONS

1. INDEPENDENT CONTRACTOR: No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

   Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

   Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such amounts.

   In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of County.

   Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of County is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

   Notwithstanding the foregoing, if the County determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, County may upon two week's notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments.

2. INDEMNIFICATION: To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors,

employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder. The obligations of this indemnity shall be for the full amount of all damage to County, including defense costs, and shall not be limited by any insurance limits.

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

3. INSURANCE AND BOND: Contractor shall at all times during the term of the Agreement with the County maintain in force, at minimum, those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein. The County and all parties as set forth on Exhibit C shall be considered an additional insured or loss payee if applicable. All of Contractor's available insurance coverage and proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages. Any insurance limitations are independent of and shall not limit the indemnification terms of this Agreement. Contractor's insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to County. Contractor's excess and umbrella insurance shall also apply on a primary and non-contributory basis for the benefit of the County before County's own insurance policy or self-insurance shall be called upon to protect it as a named insured.

4. PREVAILING WAGES: Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality

in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.

5. WORKERS' COMPENSATION: Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense and further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

6. CONFORMITY WITH LAW AND SAFETY:

   a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, ordinances, codes and regulations.

   b. Accidents: If a death, serious personal injury, or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.

   c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.

7. DEBARMENT AND SUSPENSION CERTIFICATION: (Applicable to all agreements funded in part or whole with federal funds and contracts over $25,000).

a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.

b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded by any federal department or agency;

(2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.

8. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto.

9. TRAVEL EXPENSES: Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.

10. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.

11. OWNERSHIP OF DOCUMENTS: Contractor hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor's sub-Contractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's Information System, respecting in any way the subject matter of this Agreement.

Contractor shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. Contractor agrees to take such

further steps as may be reasonably requested by County to implement the aforesaid assignment. If for any reason said assignment is not effective, Contractor hereby grants the County and any assignee of the County an express royalty – free license to retain and use said Documents and Materials. The County's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not Contractor's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

In Contractor's contracts with other Contractors, Contractor shall expressly obligate its Sub-Contractors to grant the County the aforesaid assignment and license rights as to that Contractor's Documents and Materials. Contractor agrees to defend, indemnify, and hold the County harmless from any damage caused by a failure of the Contractor to obtain such rights from its Contractors and/or Sub-Contractors.

Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or copyright arising out of such selection. The County's rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

12. CONFLICT OF INTEREST; CONFIDENTIALITY: The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the County that Contractor has no present, and will have no future, conflict of interest between providing the County services hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

13. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County:

COUNTY OF ALAMEDA
GENERAL SERVICES AGENCY
MOTOR VEHICLE DIVISION
165-13th Street, Oakland, CA 94612
Attn: Ashwin Swenson, ashwin.swenson@acgov.org

COUNTY OF ALAMEDA
PUBLIC WORKS AGENCY
6089 Madigan Road, Dublin, CA 94568
Attn: Jennifer Nuyten, jen@acpwa.org

ZONE 7 WATER DISTRICT
100 North Canyons Parkway, Livermore, CA 94551
Attn: Zeljka Bozic, zbozic@zone7water.com

To Contractor:

CALIFORNIA AUTOMOTIVE RETIALING GROUP, INC.
DBA DUBLIN CHEVROLET
4200 John Monego Court, Dublin, CA 94568
Attn: Richard Slade, richardms@cacargroup.com

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

14. USE OF COUNTY PROPERTY: Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.

15. EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS: Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.

a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.

b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.

c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.

d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.

e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.

f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.

16. DRUG-FREE WORKPLACE: Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement.

17. AUDITS; ACCESS TO RECORDS: The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

18. DOCUMENTS AND MATERIALS: Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Contractor under this Agreement.

19. TIME OF ESSENCE: Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.

20. TERMINATION: The County has and reserves the right to suspend, terminate, or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate, or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination, or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its vehicle purchase shall not exceed the pool amount of $9,000,000 payment for vehicles provided hereunder prior to the effective date of said suspension, termination or abandonment.

21. SMALL LOCAL AND EMERGING BUSINESS (SLEB) PARTICIPATION:

Contractor has been approved by County to participate in contract without SLEB participation SLEB waiver# 7737. As a result, there is no requirement to subcontract with another business in order to satisfy the County's Small and Emerging Locally owned Business provision.

However, if circumstances or the terms of the contract should change, Contractor may be required to immediately comply with the County's Small and Emerging Local Business provisions, including but not limited to:

a. Contractor must be a certified small or emerging local business(es) or subcontract a minimum 20% with a certified small or emerging local business(es).

b. SLEB subcontractor(s) is independently owned and operated (i.e., is not owned or operated in any way by Prime), nor do any employees of either entity work for the other.

c. Small and/or Emerging Local Business participation and current SLEB certification status must be maintained for the term of the contract. Contractor shall ensure that their own certification status and/or that of participating subcontractors (as is applicable) are maintained in compliance with the SLEB Program.

d. Contractor shall not substitute or add any small and/or emerging local business(s) listed in this agreement without prior written approval from the County. Said requests to substitute or add a small and/or emerging local business shall be submitted in writing to the County department contract representative identified under Item #13 above. Contractor will not be able to substitute the subcontractor without prior written approval from the Alameda County Auditor Controller Agency, Office of Contract Compliance & Reporting (OCCR).

e. All SLEB participation, except for SLEB prime contractor, must be tracked and monitored utilizing the Elation compliance System.

County will be under no obligation to pay contractor for the percent committed to a SLEB (whether SLEB is a prime or subcontractor) if the work is not performed by the listed small and/or emerging local business.

For further information regarding the Small Local Emerging Business participation requirements and utilization of the Alameda County Contract Compliance System contact OCCR via e-mail at ACSLEBcompliance@acgov.org.

22. FIRST SOURCE PROGRAM: For contracts over $100,000, Contractor shall provide County ten (10) working days to refer to Contractor, potential candidates to be considered by Contractor to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the County that Contractor has available during the contract term before advertising to the general public.

23. CHOICE OF LAW: This Agreement shall be governed by the laws of the State of California.

24. WAIVER: No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

25. ENTIRE AGREEMENT: This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.

26. HEADINGS herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.

27. ADVERTISING OR PUBLICITY: Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.

28. MODIFICATION OF AGREEMENT: This Agreement may be supplemented, amended, or modified only by the mutual agreement of the parties. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.

29. ASSURANCE OF PERFORMANCE: If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.

30. SUBCONTRACTING/ASSIGNMENT: Contractor shall not subcontract, assign, or delegate any portion of this Agreement or any duties or obligations hereunder without the County's prior written approval.

    a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.

b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County's prior written approval.

c. Contractor shall require all subcontractors to comply with all indemnification and insurance requirements of this agreement, including, without limitation, Exhibit C. Contractor shall verify subcontractor's compliance.

d. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.

31. SURVIVAL: The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.

32. SEVERABILITY: If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

33. PATENT AND COPYRIGHT INDEMNITY: Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software ("Contractor Products") provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, "Losses") arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit, or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County's prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the Contractor Products.

a. If Contractor is obligated to defend County pursuant to this Section 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney's fees and costs) incurred in relationship with County's defense and/or settlement of such proceeding.

b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.

c. Notwithstanding this Section 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.

34. OTHER AGENCIES: Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.

35. EXTENSION: This agreement may be extended for additional two years by mutual agreement of the County and the Contractor.

36. SIGNATORY: By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

[END OF GENERAL TERMS AND CONDITIONS]

EXHIBIT A

DEFINITION OF SERVICES

1. Contractor shall provide vehicle purchase with the Specific Requirements and Deliverables/Reports set on this Exhibit A, consisting of the following:

   Exhibit A-1 Specific Requirements

   a. This Exhibit A has been drafted to include the requirements contained in the Request for Quotation No. 901979, including any addenda, the proposal response of Contractor (Response), and additional services that the County obtained through negotiations, if any. In the event of any conflict (direct or indirect) among any of the exhibits, the RFQ and the Response, the more stringent requirements providing the County with the broader scope of services shall have precedence, such that this Exhibit A including all attachments, the scope of work described in the RFQ and the scope of work described in Contractor's proposal shall be performed to the greatest extent feasible.

   b. Contractor shall provide, as requested, on a non-exclusive basis, vehicle purchase as described in Exhibit A-1. Contractor understands that they are other vendor on a list that may provide vehicle purchase, the Contract Pool.

   c. The RFQ and Response may be relied upon to interpret this Contract and shall be applied in such a manner so that the obligations of the Contractor are to provide the County with the broadest scope of services for the best value.

2. Contractor project team will consist of the following Key Personnel and subcontractors, as applicable during the contract term:

Name	Title	Telephone	Email Address
Richard Slade	Director of Fleet and Commercial Sales	925-560-4465	richardms@cacargroup.com
Chris Sims	Commercial Sales Manager	925-479-3572	csims@cacargroup.com

Contractor agrees that it shall not transfer or reassign the individuals identified above as Key Personnel or substitute subcontractors without the express written agreement of County, which agreement shall not be unreasonably withheld. Should such individual or individuals in the employ of Contractor no longer be employed by Contractor during the term of this Agreement, Contractor shall make a good faith effort to present to County an individual with greater or equal qualifications as a replacement subject to County's approval, which approval shall not be unreasonably withheld.

3. The approval of County to a requested change shall not release Contractor from its obligations under this Agreement.

EXHIBIT A-1

SPECIFIC REQUIREMENTS

1. Vehicle shall be new (unused) and manufacturer's current production as of the time of purchase of vehicles.

2. Vehicles shall be supplied with all equipment and accessories indicated as standard equipment in the manufacturer's published literature (or web site).

3. Vehicle classifications shall be consistent with the U.S. Environmental Protection Agency (EPA) and U.S. Department of Energy (DOE) Fuel Economy Guide.

4. All parts, components, and accessories shall be genuine Original Equipment Manufacturer (O.E.M.) shall be included for each vehicle including, but not limited to:

   a. Spare key(s) and fob(s), if separate

   b. Air Conditioning

   c. Automatic Transmission

   d. AM/FM Radio

   e. Floor mat sets installed in all seating rows where the vehicle comes with carpeted floors.

   f. If available as standard or optional equipment, all vehicles with a GVWR under 10,000 pounds shall include a mounted spare tire and wheel changing tools (if a full size spare is available, then it shall be included).

5. All O.E.M. option prices shall be charged at actual dealer's cost.

6. Wheel weights shall contain no more than 0.1 percent lead by weight per HSC §25215.6

7. Exterior color will be advised by County upon order.

8. Inerior color shall be factory standard.

9. Fuel types may include any of the following:

   a. Gasoline (maximum 87 octane)

   b. Diesel

c. Flexible Fuel Vehicles (FFV) also called Ethanol or E85

d. Compressed Natural Gas (CNG): CNG systems must be OEM or OEM approved

e. Hybrid-Electric Vehicles (HEV)

f. Plug-in Hybrid Electric Vehicles (PHEV)

g. Electric Vehicles (EV) also called Battery Electric Vehicles (BEV)

h. Fuel Cell Vehicles (FCV)

10. Emission Certification for all vehicles shall be 50 State emissions.

11. SAFETY AND REGULATIONS

a. Vehicles shall be fully compliant with all federal and state regulations in effect as of the date of manufacture.

b. Vehicle shall be capable of operating successfully with all options ordered with vehicle.

c. All vehicle brake friction materials must meet the requirements as identified in Health and Safety Code (HSC) Section 25250.51.

d. Vehicles shall conform to the Federal Motor Vehicle Safety Standards (FMVSS) and the California Vehicle Code (CVC) requirements in effect as of the date of manufacture.

e. Vehicle engine shall be California Air Resource Board (CARB) certified to operate on highway in the State of California at the time of manufacture.

f. Any motor vehicle rated at 8,500 pounds GVWR or less which has a vehicle curb weight of 6,000 pounds or less shall meet or exceed California's Ultra-Low Emission Vehicle II (ULEV II) standards for exhaust emissions (13 California Code of Regulations (CCR) 1961).

12. TITLE

a. All documents required to obtain a State of California Title must be properly completed and delivered to Alameda County.

b. Invoice from the manufacturer's dealer accompanying a line sheet listing all equipment with order codes must be delivered with all vehicles. All components of option packages must be in or on the vehicle at the time of delivery.

13. MANUALS

a. Contractor shall furnish for the life of the contract web access to OEM diagnostic software including parts lists, service, maintenance, operation, and overhaul manuals for the chassis, engine, transmission, drive line, electrical, fuel, and emissions upon delivery of the vehicles to the County.

14. Warranty. Contractor warrants:

a. Each vehicle purchased shall accompany the manufacturer's warranty at time of delivery at no additional cost to County;

b. Original manufacturer warranty shall be in effect for all aftermarket parts; and

c. Five (5)-year/100,000 miles powertrain warranty.

15. Delivery

a. All vehicles shall be delivered with fluid levels at the manufacturer's recommended full capacity.

b. All manufacturer's pre-delivery service and inspections shall be completed prior to delivery.

c. Any damage to vehicle occur during transportation must be reported to County personnel who placed the order and corrective action to repair or replace the damaged vehicle, in part or in whole, must be born by the Contractor at no additional cost to County.

d. Delivery shall be Free On Board (F.O.B) destination prepaid and allowed to Alameda County for:

(1) Dublin
(2) Livermore
(3) Oakland

e. Contractor shall agree to drop ship vehicle directly to an alternate location within Alameda County borders at no additional charge to County upon request at time of order.

f. Contractor shall provide General Motor (GM) Common Training including provide login credentials to County personnels for access to GM training courses used by Contractor techinicians.

EXHIBIT B

PAYMENT TERMS

1. County will use its best efforts to make payment to Contractor upon successful completion and acceptance of the following services listed within thirty (30) days upon receipt and approval of invoice.

2. County will pay the dollar amount over triple-net dealer invoice in the amount of $475 for every vehicle purchased from Contractor during the term of this contract.

3. Invoices will be reviewed for approval by the County, General Services Agency-Motor Vehicle Divison, Public Works Agency, and Zone 7 Water District.

4. Total payment under the terms of this Agreement will not exceed the total pool amount of $9,000,000. This cost includes all taxes and all other charges.

EXHIBIT C

INSURANCE REQUIREMENTS

WAIVED

EXHIBIT D

COUNTY OF ALAMEDA
DEBARMENT AND SUSPENSION CERTIFICATION

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- **Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;**
- **Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;**
- **Does not have a proposed debarment pending; and**
- **Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.**

If there are any exceptions to this certification, insert the exceptions in the following space. For any exception noted, indicate to whom it applies, initiating agency, and dates of action. Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: California Automotive Retailing Group, Inc.

PRINCIPAL: Richard Slade TITLE: Director of Fleet and Commercial

SIGNATURE: DocuSigned by: Richard Slade C003F18B64F94B1... DATE: 9/27/2021

EXHIBIT E

COUNTY OF ALAMEDA
THE IRAN CONTRACTING ACT (ICA) OF 2010
For Procurements of $1,000,000 or more

The California Legislature adopted the Iran Contracting Act (ICA) to respond to policies of Iran in a uniform fashion (PCC § 2201(q)). The ICA prohibits persons engaged in investment activities in Iran from bidding on, submitting proposals for, or entering into or renewing contracts with public entities for goods and services of one million dollars ($1,000,000) or more (PCC § 2203(a)). A person who "engages in investment activities in Iran" is defined in either of two ways:

1. The person provides goods or services of twenty million dollars ($20,000,000) or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
2. The person is a financial institution (as that term is defined in 50 U.S.C. § 1701) that extends twenty million dollars ($20,000,000) or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created by the California Department of General Services (DGS) pursuant to PCC § 2201(b) as a person engaging in the investment activities described in paragraph 1 above.

By signing below, I hereby certify that as of the time of bidding or proposing for a new contract or renewal of an existing contract, neither I nor the company I own or work for are identified on the DGS list of ineligible persons and neither I nor the company I own or work for are engaged in investment activities in Iran in violation of the Iran Contracting Act of 2010.

If either I or the company I own or work for are ineligible to bid or submit a proposal or to renew a contract, but I believe I or it qualifies for an exception listed in PCC § 2202(c), I have described in detail the nature of the exception: _____

_____

_____

_____

CONTRACTOR: California Automotive Retailing Group, Inc.

PRINCIPAL: Richard Slade TITLE: Director of Fleet and Commercial

SIGNATURE: DocuSigned by: Richard Slade C003F18B64F94B1... DATE: 9/27/2021

QUESTIONNAIRE FOR DETERMINING THE WITHHOLDING STATUS

INSTRUCTIONS: This questionnaire is to be completed by the County department for services contracts and must be included as part of the contract package. Be sure to answer all of the questions in Sections I and II and to complete the certifications on page 2. Sections III and IV contain supplemental questions to be answered for contractors in certain service categories.

CONTRACTOR NAME: CALIFORNIA AUTOMOTIVE RETAILING GROUP, INC. DBA DUBLIN CHEVROLET DEPT #: 400100

TITLE/SERVICE: VEHICLE PURCHASE

DEPT. CONTACT: ASHWIN SWENSON PHONE: 510.224.7326

I. INFORMATION ABOUT THE CONTRACTOR	YES	NO
1. Is the contractor a corporation or partnership?	(X)	( )
2. Does the contractor have the right per the contract to hire others to do the work agreed to in the contract?	(X)	( )

3. If the answer to BOTH questions is YES, provide the employer ID number here: 71-0923180
No other questions need to be answered. Withholding is not required.

4. If the answer to question 1 is NO and 2 is YES, provide the individual social security number here: _____
No other questions need to be answered. Withholding is not required.

5. If the answer to question 2 is NO, continue to Section II.

II. RELATIONSHIP OF THE PARTIES	YES	NO
1. Does the County have the right to control the way in which the work will be done, i.e., will the County be able to specify the sequence of steps or the processes to be followed if it chooses to do so?	( )	( )
2. Is the contractor restricted from performing similar services for other businesses while contractor is working for the County?	( )	( )
3. Will the contractor be working for more than 50% of the time for the County (50% = 20 hrs/wk; 80 hrs/mo)?	( )	( )

		YES	NO
4.	Is the relationship between the County and the contractor intended to be ongoing?	( )	( )

III. FOR CONSULTANTS, PROJECT MANAGERS, PROJECT COORDINATORS

		YES	NO
1.	Is the contractor being hired for a period of time rather than for a specific project?	( )	( )
2.	Will payment be based on a wage or salary (as opposed to a commission or lump sum)?	( )	( )

IV. FOR PHYSICIANS, PSYCHIATRISTS, DENTISTS, PSYCHOLOGISTS

		YES	NO
1.	Will the agreement be with an individual who does not have an outside practice?	( )	( )
2.	Will the contractor work more than an average of ten hours per week? IF THE ANSWER TO QUESTION 2 IS YES, ANSWER QUESTION 3.	( )	( )
3.	Will the County provide more than 20% of the contractor's income?	( )	( )
4.	If the answer to either question 2, or if required, question 3 is NO, the entire answer is NO.		

A "YES" answer to any of the questions in Section II, or, if applicable, Sections III or IV constitutes justification for paying the contractor through the payroll system as an "employee for withholding purposes."

CERTIFICATIONS:

I hereby certify that the answers to the above questions accurately reflect the anticipated working relationship for this contract.

DocuSigned by:
Richard Slade
Contractor Signature

DocuSigned by:
Detra Dillon
Agency/Department Head/Designee Signature

Richard Slade
Printed Name

Detra Dillon
Printed Name

9/27/2021
Date

9/28/2021
Date

AGREEMENT BETWEEN
THE CITY OF PITTSBURG AND
CALIFORNIA AUTOMOTIVE RETAILING GROUP, INC. DBA DUBLIN CHEVROLET
PURSUANT TO COUNTY OF ALAMEDA CONTRACT NO. 901979

THIS Agreement ("Agreement") is made by and between the City of Pittsburg, a municipal corporation ("City") and California Automotive Retailing Group, Inc. dba Dublin Chevrolet, a California corporation ("Dublin Chevrolet") (together referred to as the "Parties") as of September 13, 2022 (the "Effective Date").

WHEREAS, County of Alameda has undertaken competitive bidding process equivalent to or better than the requirements in City's Purchasing Policy and has awarded a contract to Dublin Chevrolet; and

WHEREAS, City seeks to "piggyback" on the County of Alameda contract for Vehicle Purchases, specifically Contract No. 901979; and

WHEREAS, City seeks to add or clarify certain terms of the Contract for purposes of applicability to City.

NOW, THEREFORE, City and Dublin Chevrolet agree as follows:

1. **Governing Law and Venue.** The laws of the State of California shall govern this Agreement and Contract No. 901979 ("Contract"). In the event that either party brings any action against the other under this Agreement or the Contract, the parties agree that trial of such action shall be vested exclusively in the state courts of California in Contra Costa County or in the United States District Court for the Northern District of California.

2. **Workers' Compensation.** Dublin Chevrolet shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Dublin Chevrolet in the amount required by applicable law.

3. **Compliance with Applicable Laws.** Dublin Chevrolet and any subcontractors shall comply with all laws applicable to the performance of the work hereunder. Dublin Chevrolet shall also, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates as determined by the California Department of Industrial Relations.

4. **Delivery.** Delivery shall be Free On Board (F.O.B) destination prepaid and allowed to Contra Costa County for Pittsburg.

5. **Order of Precedence.** In the event of any inconsistency between this Agreement and the Contract, the terms of this Agreement shall govern.

6. **Representations.** Dublin Chevrolet represents and warrants that it is bound by all terms in Contract to the City to the same extent as to the County of Alameda except as set forth in this Agreement.

The Parties have executed this Agreement as of the Effective Date.

CITY OF PITTSBURG

Garrett Evans, City Manager

CALIFORNIA AUTOMOTIVE RETAILING GROUP, INC. DBA DUBLIN CHEVROLET

Mohammad Warraich, Managing Partner

Attest:

Alice E. Evenson, City Clerk

Approved as to Form:

Donna Mooney, City Attorney

AGREEMENT BETWEEN
THE CITY OF PITTSBURG AND
CALIFORNIA AUTOMOTIVE RETAILING GROUP, INC. DBA DUBLIN CHEVROLET
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The Parties have executed this Agreement as of the Effective Date.

CITY OF PITTSBURG

Garrett Evans, City Manager

CALIFORNIA AUTOMOTIVE RETAILING GROUP, INC. DBA DUBLIN CHEVROLET

Mohammad Warraich, Managing Partner

Attest:

Alice E. Evenson, City Clerk

Approved as to Form:

Donna Mooney, City Attorney

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution to Accept the Program for Arterial System Grant for Traffic Signal Synchronization, Allocate Matching Funds, and Authorize Execution of the Grant Agreement

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

The Metropolitan Transportation Commission (MTC) recently approved a $111,900 grant award to the City through its Program for Arterial System Synchronization (PASS) to improve travel time along the Buchanan Road, Railroad Avenue, and West Leland Road corridors. This Resolution accepts the grant, allocates matching funds, and authorizes execution of an agreement between MTC and the City.

FISCAL IMPACT

Under MTC grant guidelines, the $111,900 grant award requires local matching funds in the amount of $16,684. Sufficient funds are available for re-allocation from Project 2233 - Traffic Signal Modification, which is an appropriate use of these funds. No new fund allocations are requested.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution accepting the $111,900 PASS Grant, re-allocate $16,684 from Project 2233 – Traffic signal Modification, and authorize the City Manager to execute a funding agreement and other documentation necessary to receive the grant.

BACKGROUND

On May 12, 2022, staff applied for FY 2022/23 PASS Grant funding to synchronize traffic signal timings along the Buchanan Road, Railroad Avenue, and West Leland Road corridors.

On July 8, 2022, MTC notified the City that the PASS Grant application was approved in the amount of $111,900.

SUBCOMMITTEE FINDINGS

This item was not reviewed by a subcommittee.

STAFF ANALYSIS

Staff and a traffic design consultant will use PASS Grant funds to evaluate and address the inefficiencies of traffic signal timings during peak commute hours along the Buchanan Road, Railroad Avenue, and West Leland Road travel corridors. Traffic counts, installation of GPS clocks, and traffic modifications will be made to a total of 35 traffic signal intersections.

The proposed improvements will help reduce traffic congestion, travel times, and greenhouse gas emissions (GHG). The grant will also help improve travel time reliability and traffic safety.

ATTACHMENTS: Resolution
PASS FY 22/23 Joint Funding Agreement

Report Prepared By: Nhat Phan, Associate Engineer

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a City Council Resolution to Accept the Program for Arterial System (PASS) Grant for Traffic Signal Synchronization, Allocate Matching Funds, and Authorize Execution of the Grant Agreement	)))))	RESOLUTION NO. 22-

WHEREAS, the City has been awarded a PASS Grant in the amount of $111,900 for Traffic Signal Synchronization on Buchanan Road, Railroad Avenue, and West Leland Road (the “Project”); and

WHEREAS, the Project will improve travel time during peak commute hours along three major arterial corridors, by means of traffic counts, installation of GPS clocks, and traffic modifications at 35 traffic signalized intersections; and

WHEREAS, the PASS Grant requires that the City allocate matching funds in the amount of $16,684 for a total project budget of $111,900.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Pittsburg hereby accepts the PASS Grant in the amount of $111,900, re-allocates $16,684 from Project 2233 - Traffic Signal Modification, and authorizes the City Manager to execute the grant agreement on behalf of the City.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of October 2022, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

METROPOLITAN
TRANSPORTATION
COMMISSION

Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105
415.778.6700
www.mtc.ca.gov

Alfredo Pedroza, Chair
Napa County and Cities

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Marin County and Cities

Carol Dutra-Vernaci
Cities of Alameda County

Dina El-Tawansy
California State Transportation Agency

Victoria Fleming
Sonoma County and Cities

Dorene M. Giacopini
U.S. Department of Transportation

Federal D. Glover
Contra Costa County

Sam Liccardo
San Jose Mayor's Appointee

Nate Miley
Alameda County

Gina Papan
Cities of San Mateo County

David Rabbitt
Association of Bay Area Governments

Hillary Ronen
City and County of San Francisco

Libby Schaaf
Oakland Mayor's Appointee

James P. Spering
Solano County and Cities

Amy R. Worth
Cities of Contra Costa County

Vacant
U.S. Department of Housing and Urban Development

Therese W. McMillan
Executive Director

Alix Bockelman
Deputy Executive Director, Policy

Andrew B. Fremier
Deputy Executive Director, Operations

Brad Paul
Deputy Executive Director, Local Government Services

September 12, 2022

Nhat Phan
Associate Engineer
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

RE: PASS FY 22/23 Joint Funding Agreement

Dear Mr. Phan:

This letter, effective as of July 8, 2022 ("Effective Date") is the agreement between the City of Pittsburg ("AGENCY") and the Metropolitan Transportation Commission ("MTC") for developing and implementing traffic signaling coordination plans for the Program for Arterial System Synchronization (PASS) FY 22/23 project, which will be jointly funded by MTC and AGENCY ("the Agreement"). AGENCY's application for the FY 22/23 PASS cycle submitted May 12, 2022, is incorporated herein by this reference.

1. It is agreed that with funding under this Agreement, MTC will engage its consultant, TJKM Transportation Consultants ("Consultant"), to perform all the services specified in Attachment A, Scope of Work, according to the schedule in Attachment B, Project Payment Schedule, both attached hereto and incorporated herein by this reference.

2. Work will be performed under the direction of Robert Rich or a designated representative (herein "Project Manager") who will approve a work plan prior to Consultant beginning work.

3. Consultant will be compensated for its services in accordance with Attachment B, Project Payment Schedule, attached hereto and incorporated herein by this reference. The maximum amount payable to Consultant, including (as applicable) labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, indirect costs, overhead, profit, subcontractors costs (including mark-up), travel, equipment, materials and supplies, and expenses shall not exceed one hundred four thousand, seven hundred dollars ($104,700) ("Maximum Payment").

MTC shall furnish nine (9) GPS clocks that AGENCY shall install and configure at the project locations identified in Attachment A, Scope of Work.

MTC shall invoice AGENCY for its local match contribution for the Project in the amount of sixteen thousand, six hundred eighty-four dollars ($16,684) billable in lump sum upon the first month after the start of work by Consultant. AGENCY shall pay MTC fully upon receipt of an invoice in the amount stated above within thirty (30) days of receipt. MTC's invoice shall be mailed to:

Attention: Nhat Phan,
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

4. The term of the Agreement shall begin on the Effective Date and conclude on June 30, 2023, unless MTC terminates this agreement earlier as provided below.

5. MTC may terminate the Agreement without cause upon three (3) days' prior written notice. In the event of early termination, MTC shall reimburse AGENCY in an amount equal to its proportional share of the funds that were unused towards the Project. AGENCY shall submit an invoice requesting reimbursement for unused funds electronically via email to MTC at acctpay@bayareametro.gov or in writing and delivered or mailed to MTC as follows:

Attention: MTC Accounting Section
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105

Payment shall be made by MTC within thirty (30) days of receipt of an acceptable invoice, approved by the Project Manager or a designated representative.

6. Except for invoices submitted by MTC, all notices or other communications to either party by the other shall be deemed given when made in writing and delivered, mailed, emailed, or faxed to such party at their respective addresses as follows:

To MTC: Attention: Robert Rich
Metropolitan Transportation Commission
375 Beale Street, Suite 800
San Francisco, CA 94105
Email: rrich@bayareametro.gov

To AGENCY: Attention: Nhat Phan,
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
Email: Nphan@pittsburgca.gov

7. To the maximum extent permitted by law, AGENCY shall indemnify, keep and hold harmless MTC and its commissioners, directors, officers, agents, and employees ("MTC Indemnified Parties") against any and all demands, claims, suits or actions arising out of any of the following:

   A. Any injury or death to persons or property or pecuniary, financial or economic losses that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by AGENCY caused by any breach of the Agreement or negligent act or omission or willful misconduct of AGENCY or its officers, employees, subconsultants or agents; or

   B. Any allegation that materials or services provided by AGENCY under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

   AGENCY further agrees to defend any and all such claims, actions, suits or other legal proceedings and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered against any of the MTC Indemnified Parties, AGENCY shall, at its expense, satisfy and discharge the same.

   The provisions set forth in this Article are intended to be applied to the fullest extent allowed under the law and, if any portion of it is found to be void or unenforceable, the remainder is to be severable and enforceable. This indemnification shall survive termination or expiration of this Agreement.

8. Any claim or controversy concerning the interpretation, application, or implementation of this Agreement between MTC and AGENCY that cannot be resolved through the informal, good faith efforts of the parties may, by specific agreement of the parties, be submitted to alternative dispute resolution (that is, mediation or arbitration) with the parameters for such dispute resolution being agreed to by the parties at the time. If a dispute is not resolved through discussion or the parties do not agree to alternative dispute resolution, either party may pursue available legal remedies in a California State or Federal court of competent jurisdiction. AGENCY must file a government claim pursuant to Government Code section 910 *et seq.* in order to initiate a civil action. The prevailing party in any dispute shall be entitled to payment of its attorneys' fees and costs. This section shall survive the termination or expiration of the Agreement.

9. All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of California applicable to agreements made and to be performed within the State.

10. This Agreement constitutes the complete agreement between the parties and supersedes any prior written or oral communications. Any amendment of the Agreement must be in writing, specifically identified as an amendment to the Agreement, and signed by both AGENCY and the Executive Director of MTC, or his designated representative. The Project Manager is not a designated representative, for purposes of approving an amendment.

If you agree, please sign this letter in the space provided below.

Very truly yours,

Therese W. McMillan
Executive Director

Accepted and Agreed to this:
Date: _____

_____
Garrett Evans, City Manager

ATTACHMENT A

SCOPE OF WORK

The services to be performed by Consultant shall consist of services requested by the Project Manager or a designated representative including, but not limited to, the following scope excerpted from Deliverable 1B (Final Scope, Schedule and Budget) for AGENCY's FY 22/23 PASS project:

SCOPE OF WORK

The Scope of Services for the project will be conducted in accordance with the *Standard Scope of Work, Schedule and Budget* for the PASS Consultants and based on information and data provided by project sponsors. The PASS Standard Scope of Work is attached in **Appendix A**.

The tasks listed below outline the additions, clarifications, and/or deletions only to the Standardized Scope of Work.

Task 1.0: Project Start-Up

The Kick-off meeting was held on July, 18, 2022 from 10:00 a.m.-11:00 a.m.; the sign-in sheet is attached in **Appendix B**.

Task 2.0: Analysis of Existing Conditions

TJKM will obtain an aerial image and scalable map of the study corridors from Google maps and existing signal timing sheets for all study intersections from the City, County and Caltrans. Existing Conditions Synchro Models will be developed, validated and calibrated to reasonably replicate existing traffic patterns observed along the study corridors for each of the study peak periods based on the data collected as discussed below. TJKM will submit an Existing Conditions Report summarizing the existing data collected and existing signal timing evaluation.

Data Collection

Average Daily Traffic (ADT) Counts: As determined at the Kick-off meeting, seven-day 24-hour bi-directional average daily traffic (ADT) counts in 15-minute intervals will be collected at a total of eight locations along the three study corridors.

Turning Movement Counts: The turning movement counts (TMC) will be collected in 15-minute intervals during weekday AM, School PM and PM peak periods at the 35 study intersections combined across Buchanan Road, Railroad Avenue and West Leland Road as listed in the *Project Understanding* section. The peak periods for collecting the turning movement counts and field data during weekdays will be determined by analyzing the 24-hour ADT counts. The TMC and field data will be collected on typical non-holiday school weekdays (Tuesdays and/or Thursdays). Wednesdays will be excluded from data collection and implementation, as the schools generally follow an early release schedule on Wednesday.

Collision History: TJKM will obtain collision data for all study intersections and corridors from the City of Pittsburg for the most recent three-year period available.

Travel Time and Delay Studies

The travel time and delay studies will be conducted along the study corridors as provided in **Table 2**.

Table 2: Travel Time Segments

Corridor	*Direction*	*From*	*To*
Buchanan Road	Eastbound	Railroad Avenue	Meadows avenue
Buchanan Road	Westbound	Meadows avenue	Railroad Avenue
Railroad Avenue	Northbound	Pheasant Drive	Civic Avenue
Railroad Avenue	Southbound	Civic Avenue	Pheasant Drive
West Leland Road	Eastbound	San Marco Boulevard	Harbor Street
West Leland Road	Westbound	Harbor Street	San Marco Boulevard

Travel time and delay studies will be collected during typical non-holiday school weekdays (Tuesdays and/or Thursdays) by floating car method along the project corridors. At a minimum, four bi-directional travel time runs will be collected along the study corridors during the three study peak periods.

Task 3.0: Development of Draft Recommendations

TJKM will submit an interim deliverable with recommendations for cycle lengths and signal groupings. Once these are finalized, TJKM will complete the analysis and submit a Draft Recommendations Report. A meeting will be scheduled to review the recommendations with the City of Pittsburg, Caltrans, MTC and other project sponsors.

TJKM will update minimum timing parameters such as minimum green intervals for bicycles, pedestrian walk and clearance/flash don't walk (FDW) intervals, yellow and all red intervals at all study intersections where needed per the California Manual on Uniform Traffic Control Devices (CA MUTCD 2014), the City of Pittsburg and Caltrans guidelines.

TJKM will work with the City of Pittsburg and Caltrans to review the actuated settings currently used and make recommendations for improving these settings where necessary.

Traffic Signal Timing Software

Synchro Version 10.0 software will be used to conduct the signal timing analysis.

Task 4.0: Implementation and Evaluation

TJKM will assist the City and Caltrans staff for field implementation of the recommended traffic signal timing plans at 35 study intersections. TJKM staff will observe the corridor after implementation and perform revisions to the signal timing as needed. TJKM will submit final timing sheets and Synchro models after implementation and fine-tuning, along with the Final Project Report containing signal timing evaluation, and benefit/cost analysis, to determine the amount of public benefit derived from investing in the PASS project.

Procurement and Installation of GPS Clocks

GPS clocks for traffic signal coordination are required for four junctions along Buchanan Road - Buchanan Road / Ventura Drive, Buchanan Road / Loveridge Road, Buchanan Road / Suzanne Drive and Buchanan Road / Harbor Street and also for five intersections along W Leland Road - W Leland Road / Crestview Drive, W Leland Road / Dover Way, W Leland Road / Range Road, W Leland Road / Jaqueline Drive and W Leland Road / Chestnut Drive. As part of the project, MTC will procure the GPS clocks and City of Pittsburg will coordinate the installation of the GPS clocks.

ATTACHMENT B

PROJECT PAYMENT AND SCHEDULE

Payment for Consultant's services shall be due in the firm fixed amounts indicated below, upon acceptance by Project Manager of the following deliverables or milestones, described in detail in Attachment A:

Task	Deliverables	Due Date	Amount	MTC Share	AGENCY Share
1A	Draft Scope of Work, Schedule, and Budget	Aug 2022	$5,235	$4,581	$654
1B	Final Scope of Work, Schedule, and Budget	Sep 2022	$5,235	$4,581	$654
2A	Draft Existing Conditions Report	Nov 2022	$31,410	$27,484	$3,926
2B	Final Existing Conditions Report	Dec 2022	$10,470	$9,162	$1,308
3A	Draft Recommendations Report	Jan 2023	$15,705	$13,742	$1,963
3B	Revised Recommendations Report	Feb 2023	$10,470	$9,162	$1,308
4	Preliminary Implementation and Fine Tuning	May 2023	$15,705	$13,742	$1,963
4A	Draft Project Report with Benefit-Cost Analysis	Jun 2023	$5,235	$4,581	$654
4B	Final Project Report with Benefit-Cost Analysis	Jun 2023	$5,235	$4,581	$654
	Total Consultant Services		**$104,700**	**$91,616**	**$13,084**
	GPS Clocks	n/a	$7,200	$3,600	$3,600
	Total		**$111,900**	**$95,216**	**$16,684**

MTC shall submit an invoice to AGENCY for the total AGENCY Share amount upon start of work by Consultant.

OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Authorizing Agreements between the California Department of Transportation (Caltrans) and the City of Pittsburg for Project 2018-03 - BART Pedestrian and Bicycle Connectivity

MEETING DATE: October 3, 2022

EXECUTIVE SUMMARY

This Resolution will authorize the City Manager to execute a Project Specific Pedestrian and Bicycle Maintenance Agreement, Amendment No.1 of Freeway Maintenance Agreement, and a State Highway Relinquishment Agreement between Caltrans and the City of Pittsburg for Project 2018-03 - BART Pedestrian and Bicycle Connectivity (the “Project”).

FISCAL IMPACT

There is no fiscal impact with the authorization of these agreements. Once the pedestrian and bicycle pathways are complete, the City will assume responsibility for their continued maintenance.

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute a Project Specific Pedestrian and Bicycle Maintenance Agreement, Amendment No.1 of Freeway Maintenance Agreement, and a State Highway Relinquishment Agreement between Caltrans and the City of Pittsburg for Project 2018-03 - BART Pedestrian and Bicycle Connectivity.

BACKGROUND

The Project will improve pedestrian and bicycle access to the Pittsburg Center BART Station. It includes construction of:

- A Class I trail in the green space on the west side of Railroad Avenue from the Delta DeAnza Trail to Highway 4
- A Class I trail in the existing BART parking lot located on Bliss Avenue to Railroad Avenue

- A Class I trail with parking on the south side of California Avenue from Railroad Avenue to Harbor Street
- Class IV bicycle lanes on Railroad Avenue from 17th Street to California Avenue

On January 22, 2019, preliminary engineering funds were approved for the Project, and the E-76 Authorization to Proceed with Design was issued.

On June 11, 2019, staff received and evaluated four Statements of Qualifications (SOQ) for design engineers. Harrison Engineering Inc. was ranked as the most qualified based on the SOQ submitted.

On December 16, 2019, the City Council adopted Resolution 19-13732 authorizing the City Manager to execute an agreement for project design with Harrison Engineering Inc.

Between December 18, 2019, to September 5, 2022, staff and design consultants coordinated with Caltrans to develop the Amendment No. 1 Freeway Maintenance Agreement, Project Specific Pedestrian and Bicycle Maintenance Agreement, and State Highway Relinquishment Agreement. These agreements are prepared specifically to define the City of Pittsburg's and Caltrans' maintenance responsibilities for pedestrian and bicycle pathway improvements constructed with the Project.

SUBCOMMITTEE FINDINGS

This item was not reviewed by a subcommittee.

STAFF ANALYSIS

Staff recommends the City Council authorize the City Manager to sign the Project Specific Pedestrian and Bicycle Maintenance Agreement, Amendment No.1 Freeway Maintenance Agreement, and State Highway Relinquishment Agreement for the BART Pedestrian and Bicycle Connectivity Project.

Once all agreements have been signed, Caltrans will finalize approval of design plan submittals and authorize release of funding for the Project.

ATTACHMENTS: Resolution
Project Specific Pedestrian and Bicycle Maintenance Agreement
Amendment No.1 to Freeway Maintenance Agreement
State Highway Relinquishment Agreement

Report Prepared By: Nhat Phan, Associate Engineer

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a City Council Resolution Authorizing)
the City Manager to Execute Agreements Between) RESOLUTION NO. 22-
the California Department of Transportation and)
the City of Pittsburg for Project 2018-03 BART)
Pedestrian and Bicycle Connectivity)

WHEREAS, Project 2018-03 BART Pedestrian and Bicycle Connectivity (the "Project") is for the construction of pedestrian/bicycle trails and bicycle lanes around the Pittsburg Center BART Station to provide better access; and

WHEREAS, these agreements are prepared specifically to define the City of Pittsburg's and the California Department of Transportation's (Caltrans) maintenance responsibilities for pedestrian and bicycle pathway improvements constructed with the Project; and

WHEREAS, once all agreements are signed, Caltrans will finalize approval of design plan submittals and authorize the release funding for Project construction.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Pittsburg hereby authorizes the City Manager to enter into a Project Specific Pedestrian and Bicycle Maintenance Agreement, Amendment No. 1 of Freeway Maintenance Agreement, and a State Highway Relinquishment Agreement between Caltrans and the City of Pittsburg for Project 2018-03 - BART Pedestrian and Bicycle Connectivity.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 3rd day of October 2022, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

_____
Holland Barrett White, Mayor

ATTEST:

_____
Alice E. Evenson, City Clerk

PROJECT SPECIFIC PEDESTRIAN AND BICYCLE MAINTENANCE AGREEMENT WITH CITY OF PITTSBURG

THIS AGREEMENT is made effective on _____, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE" and the City of Pittsburg; hereinafter referred to as "CITY"; and collectively referred to as "PARTIES".

SECTION I

RECITALS

1. Encroachment Permit Number _____ will be executed between CITY and STATE to construct Bay Area Rapid Transit (BART, not a party to this Agreement) Pedestrian and Bicycle Connectivity Project alongside State Route (SR) 4, hereinafter referred to as "PROJECT", and

2. The PROJECT will construct pedestrian and bicycle paths between Railroad Avenue and Harbor Street and from eastbound onramp between Railroad Avenue and existing BART parking facility on Bliss Avenue, hereinafter referred to as "PATH", and

3. In accordance with said agreement, it was agreed by PARTIES that prior to or upon PROJECT completion, CITY and STATE will enter into a Maintenance Agreement, and

4. The PARTIES hereto mutually desire to identify the maintenance responsibilities of CITY for the improvements of PROJECT constructed within the STATE right of way under the Encroachment Permit Number _____, and

5. There is an existing Freeway Maintenance Agreement(s), with CITY dated October 17, 2006. This Agreement is not meant to replace or supersede the earlier agreement(s).

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

SECTION II

AGREEMENT

1. Exhibit A consists of plan drawings and Exhibits B delineate and describe the areas within STATE right of way which are the responsibility of the CITY to maintain in accordance with this Agreement.

2. If there is mutual agreement on a change in the maintenance responsibilities between PARTIES, the PARTIES can revise the Exhibit A, or B by a mutual written execution of the exhibit.

3. CITY must obtain the necessary Encroachment Permits from STATE's District 4 Encroachment Permit Office prior to entering STATE right of way to perform CITY maintenance responsibilities. This permit will be issued at no cost to CITY.

4. The degree or extent of maintenance work to be performed, and the standards therefore, shall be in according with the provisions of Section 27 of the Streets and Highways Code and the then current edition of the State Maintenance Manual.

5. The maintenance functions assigned to CITY, at CITY's expense, with regards to PATH are as follows:

5.1. PATH PAVEMENT

CITY shall perform PATH pavement repair and replacement, crack sealing, pothole patching, pavement resurfacing (overlay), emergency pavement maintenance as a result of normal wear and tear and public use of the PATH. CITY will maintain, at CITY expense, a safe facility for pedestrian and bicycle travel along the entire length of PATH, and is solely responsible for all PATH improvements, all fences, guard railing, drainage facilities at grade, curb and gutter, new Americans with Disabilities Act (ADA) compliance curb and ramp, crosswalk treatment, non-STATE standard materials, slope and structural section pavement of PATH located and constructed within STATE's right of way.

5.2. LITTER AND GRAFFITI

CITY shall perform cleanup, debris and litter removal and sweeping operations necessary to maintain the width limits of the PATH as shown in Exhibit A, in a neat and clean usable condition, free of litter, debris and graffiti. Litter, debris and graffiti include, but not limited to, all sand, paper, garbage, refuse, and other items resulting from public access. Graffiti removal should be complied to State Maintenance Manual Volume No.1 Chapter D1.06.

5.3. VEGETATION CONTROL

CITY shall perform vegetation control of all vegetative material growing within the designated width limits of the PATH as shown on Exhibit A, including treatment by means of brush control and tree trimming.

5.4. SIGNS

CITY shall maintain all signing placed on or immediately adjacent to PATH for the purpose of warning or regulating PATH traffic.

5.5. STRIPING

CITY shall maintain all striping and pavement marking required for the direction and operation of PATH traffic.

5.6. SAFETY DEVICES

The maintenance, repair, replacement and cleaning of PATH safety devices such as bollards, gates, surveillance cameras, cleaning guide posts and markers are the CITY's responsibility.

5.7. PATH LIGHTING

CITY shall operate and maintain the lighting that illuminates PATH including lighting at mixing areas, handrails, light fixtures and replacing bulbs. CITY shall be responsible for electricity costs associated with lighting PATH and for the conduit and circuitry accessible from the path surface.

5.8. DRAINAGE

CITY shall maintain all drainage facilities built for PATH. These duties include but not limited to preventing drainage obstructions and maintaining worn/damaged drainage facilities.

5.9. RETAINING WALLS FOR PATH

CITY will perform debris removal, cleaning and painting to keep retaining wall structures for the PATH as shown in Exhibit A free of debris, dirt and graffiti. The structural maintenance, including inspection, maintenance, and any emergency work for the retaining walls shall lie with CITY at CITY's expense.

5.10. LANDSCAPED AREAS

CITY is responsible for the maintenance of any plantings or other types of roadside improvements of PROJECT lying outside of the fenced area restricting walk-on access to the freeway.

5.11. ROADWAY SECTION – CALIFORNIA AVENUE

CITY will maintain, at CITY's expense, all portions of city streets, appurtenant structures, drainage facilities, and bordering areas, within the designated areas on the attached maps marked EXHIBIT "A." CITY will maintain, at CITY's expense, a safe facility for travel along entire length of the roadways by providing sweeping, graffiti and debris removal when necessary, and all signing and striping and pavement markings required for the direction and operation of the roadways.

5.12. EXISTING WATER IRRIGATION SUPPLY LINE

CITY will maintain, at CITY's expense, existing 4" irrigation water supply line underneath path pavement, irrigation valves and valve boxes located along the north side of adjacent Bliss Avenue properties as shown in Exhibit A.

5.13. ACCESS

The STATE reserves its unrestricted right to use all areas within the STATE right of way for future construction, reconstruction, expansion, or modification, including inspection and maintenance purposes. STATE will have the use of PATH as a service road for its operations and maintenance vehicles. State will be responsible for any repair and/or replacement for damages incurred to PATH and PATH components as a result of its use of PATH as a service road.

6. STATE shall maintain fences adjacent to PATH that separates PATH and the state highway.

7. LEGAL RELATIONS AND RESPONSIBILITIES

7.1. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or to affect the legal liability of a PARTY to the Agreement by imposing any standard of care with respect to the operation and maintenance of STATE highways and local facilities different from the standard of care imposed by law.

7.2. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by, under or in connection with any work, authority or jurisdiction conferred upon STATE under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless CITY and all of their officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.

7.3. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction conferred upon CITY under this Agreement. It is understood and agreed that CITY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY under this Agreement.

8. PREVAILING WAGES:

8.1. Labor Code Compliance- If the work performed under this Agreement is done under contract and falls within the Labor Code section 1720(a)(1) definition of a "public works" in that it is construction, alteration, demolition, installation, or repair;

or maintenance work under Labor Code section 1771. CITY must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7. CITY agrees to include prevailing wage requirements in its contracts for public works. Work performed by CITY'S own forces is exempt from the Labor Code's Prevailing Wage requirements.

8.2. Requirements in Subcontracts - CITY shall require its contractors to include prevailing wage requirements in all subcontracts when the work to be performed by the subcontractor under this Agreement is a "public works" as defined in Labor Code Section 1720(a)(1) and Labor Code Section 1771. Subcontracts shall include all prevailing wage requirements set forth in CITY's contracts.

9. INSURANCE -

9.1. SELF-INSURED - CITY is self insured. CITY agrees to deliver evidence of self-insured coverage providing general liability insurance, coverage of bodily injury liability and property damage liability, naming STATE, its officers, agents and employees as the additional insured in an amount of $1 million per occurrence and $2 million in aggregate and $5 million in excess. Coverage shall be evidenced by a certification of self-insurance letter ("Letter of Self-Insurance"), satisfactory to STATE, certifying that CITY meets the coverage requirements of this section. This Letter of Self-Insurance shall also identify the PROJECT location as depicted in EXHIBIT A. CITY shall deliver to STATE the Letter of Self-Insurance with a signed copy of this AGREEMENT. A copy of the executed Letter of Self-Insurance shall be attached hereto and incorporate as Exhibit B.

9.2. SELF-INSURED using Contractor - If the work performed under this AGREEMENT is done by CITY's contractor(s), CITY shall require its contractor(s) to maintain in force, during the term of this AGREEMENT, a policy of general liability insurance, including coverage of bodily injury liability and property damage liability, naming STATE, its officers, agents and employees as the additional insured in an amount of $1 million per occurrence and $2 million in aggregate and $5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement.

10. TERMINATION - This Agreement may be terminated by mutual written consent by PARTIES or by STATE for cause. CITY's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by STATE.

11. TERM OF AGREEMENT - This Agreement shall become effective on the date first shown on its face sheet and shall remain in full force and effect until amended or terminated as set forth in Article 10 above.

PARTIES are empowered by Streets and Highways Code Section 114 and 130 to enter into this Agreement and have delegated to the undersigned the authority to execute this Agreement on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this Agreement.

IN WITNESS WHEREOF, the PARTIES hereto have set their hands and seals the day and year first above written.

THE CITY OF PITTSBURG

By: _____
HOLLAND BARRETT WHITE
CITY Mayor

Initiated and Approved

By: _____
GARRETT EVANS
CITY Manager

ATTEST:

By: _____
ALICE E. EVENSON
CITY Clerk

By: _____
DONNA MOONEY
CITY Attorney

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
LEAH BUDU Date
Deputy District Director
Maintenance District

EXHIBIT A

(Plan map identifying the applicable STATE Routes (Freeway proper) and CITY road(s) and facilities)

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
04	CC	04	23.0–24.4	1	7

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

PROJECT SPECIFIC PEDESTRIAN AND BICYCLE MAINTENANCE AGREEMENT WITH CITY OF PITTSBURG ON STATE HIGHWAY

IN CONTRA COSTA COUNTY
IN PITTSBURG BETWEEN
RAILROAD AVENUE AND HARBOR STREET

FEDERAL PROJECT NO. CML 5127(036)

CITY CONTRACT NO. 2018–03

OCTOBER 1ST, 2021



INDEX OF SHEETS

SHEET NO.	TITLE
1	TITLE SHEET (T-1)
2	TYPICAL SECTIONS (X-1)
3	TYPICAL SECTIONS (X-2)
4	CALIFORNIA AVENUE LAYOUT (L-1)
5	CALIFORNIA AVENUE LAYOUT (L-2)
6	BLISS AVENUE LAYOUT (L-3)
7	RAILROAD AVENUE LAYOUT (L-4)

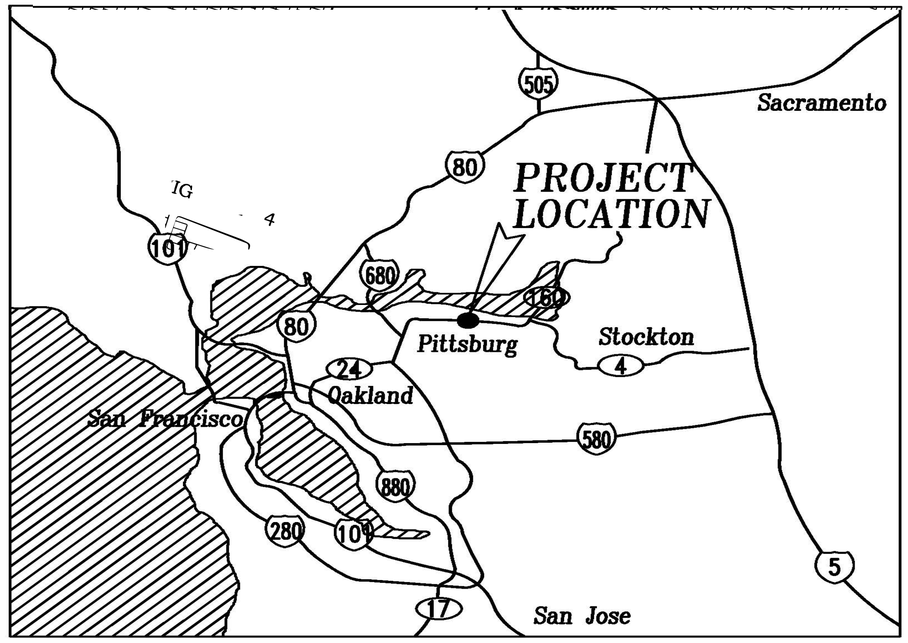
LEGEND

AREA WITHIN CALTRANS R/W TO BE MAINTAINED BY THE CITY

CALTRANS R/W LINE

LIGHTING

VIDEO CAMERA



VICINITY MAP
NOT TO SCALE

EXHIBIT A

CITY OF PITTSBURG
ENGINEERING DIVISION
65 CIVIC AVENUE
PITTSBURG, CA 94565

CONTRACT No.	2018–03
PROJECT ID	0421000238

APPROVED AS TO IMPACT ON STATE FACILITIES AND CONFORMANCE WITH APPLICABLE STATE STANDARDS AND PRACTICES AND THAT TECHNICAL OVERSIGHT WAS PERFORMED.

DATE SIGNED

LICENSE Exp DATE

REGISTRATION No.

CALTRANS DESIGN OVERSIGHT APPROVAL

CONSULTANT DESIGN ENGINEER
RANDELL HARRISON

DATE PLOTTED =>
TIME PLOTTED =>
LAST REVISION

BORDER LAST REVISED 7/1/2010 CALTRANS WEB SITE IS: HTTP//WWW.DOT.CA.GOV/

RELATIVE BORDER SCALE IS IN INCHES 0 1 2 3

USERNAME =>
DWG FILE =>

UNIT 0000

PROJECT NUMBER & PHASE 0421000238

NOTES:

1. FOR FULL EXTENT OF RIGHT OF WAY TO BE MAINTAINED BY CITY, SEE FREEWAY MAINTENANCE AGREEMENT DATED OCTOBER 17, 2006.

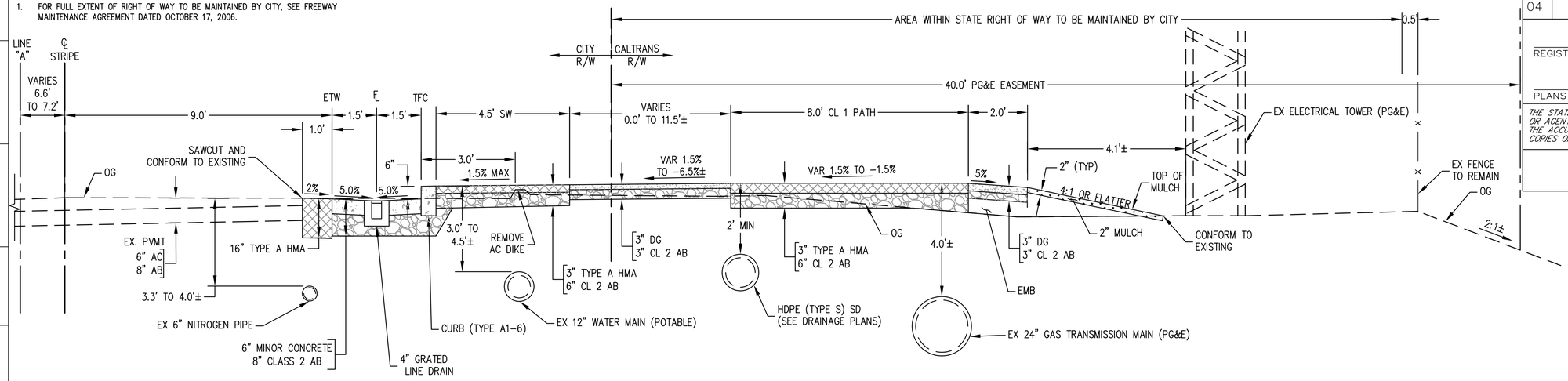
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REGISTERED CIVIL ENGINEER DATE

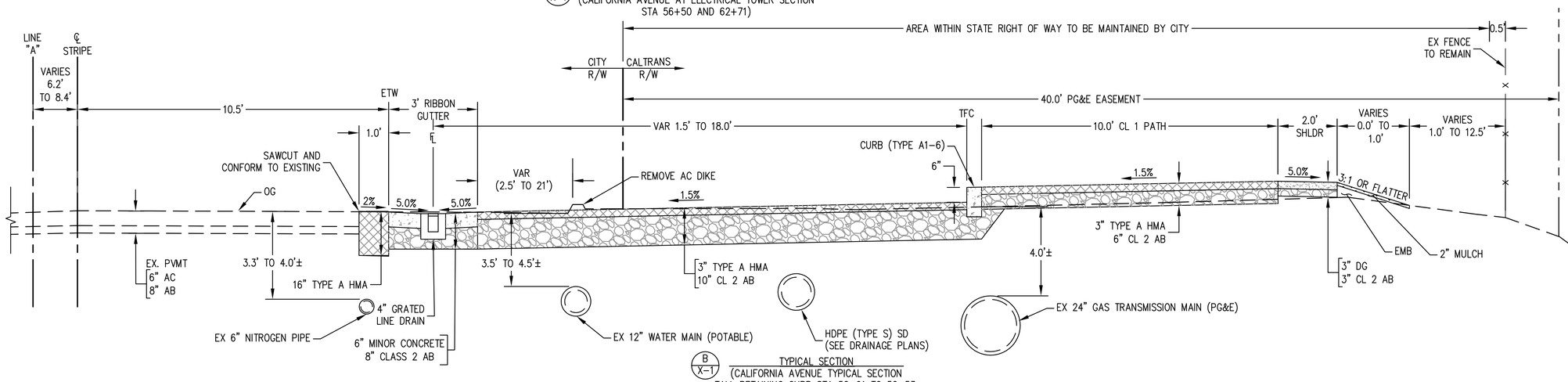
PLANS APPROVAL DATE

REGISTERED PROFESSIONAL ENGINEER — No. — Exp. — CIVIL — STATE OF CALIFORNIA

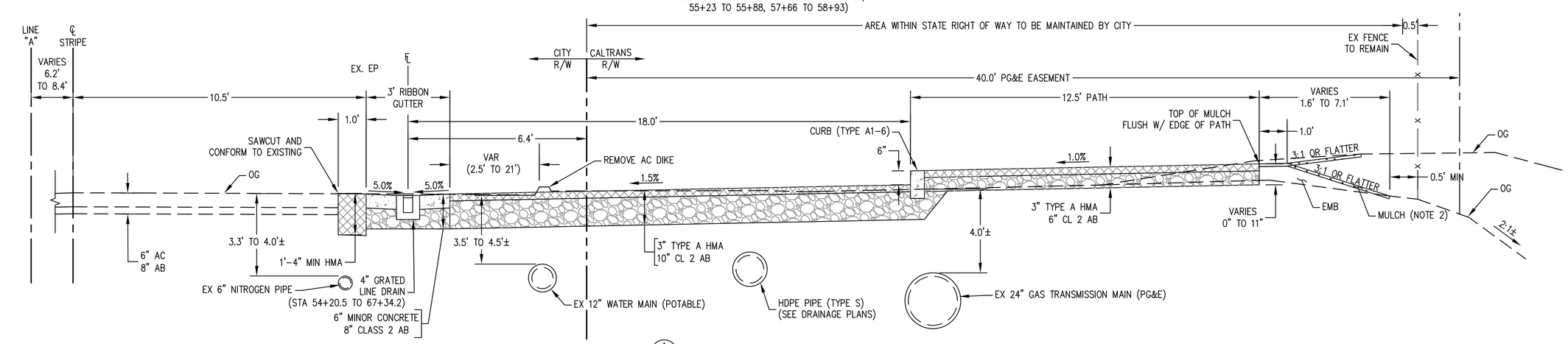
THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.



C / X–1 TYPICAL SECTION
(CALIFORNIA AVENUE AT ELECTRICAL TOWER SECTION STA 56+50 AND 62+71)



B / X–1 TYPICAL SECTION
(CALIFORNIA AVENUE TYPICAL SECTION TALL RETAINING CURB STA 52+01 TO 52+53, 55+23 TO 55+88, 57+66 TO 58+93)



A / X–1 TYPICAL SECTION
(CALIFORNIA AVENUE TYPICAL SECTION)

EXHIBIT A

DATE	REVISED BY
05/05/2022	RANDELL HARRISON

DESIGNED BY RANDELL HARRISON
CHECKED BY

FUNCTIONAL SUPERVISOR 05-05-22

STATE OF CALIFORNIA – DEPARTMENT OF TRANSPORTATION

LAST REVISION 05-05-22
DATE PLOTTED => 5-May-2022
TIME PLOTTED => 12:24

BORDER LAST REVISED 8/1/2010

USERNAME => erik
DWG FILE => 03-bpbc-x-1 caltrans.dwg

RELATIVE BORDER SCALE IS IN INCHES 0 1 2 3

UNIT PROJECT NUMBER & PHASE 0421000238 EA 2W580

NOTES:

1. FOR FULL EXTENT OF RIGHT OF WAY TO BE MAINTAINED BY CITY, SEE FREEWAY MAINTENANCE AGREEMENT DATED OCTOBER 17, 2006.

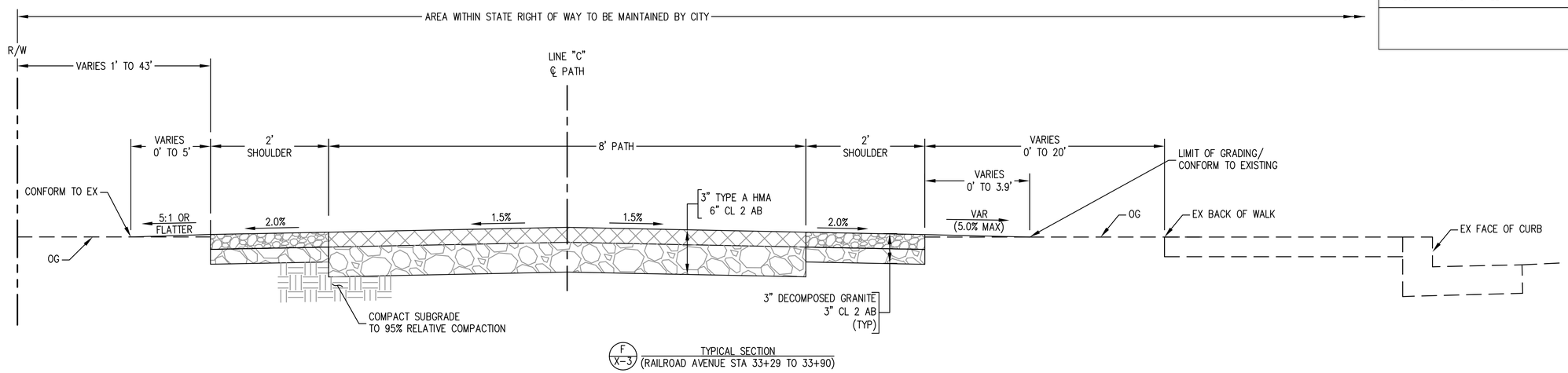
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REGISTERED CIVIL ENGINEER DATE

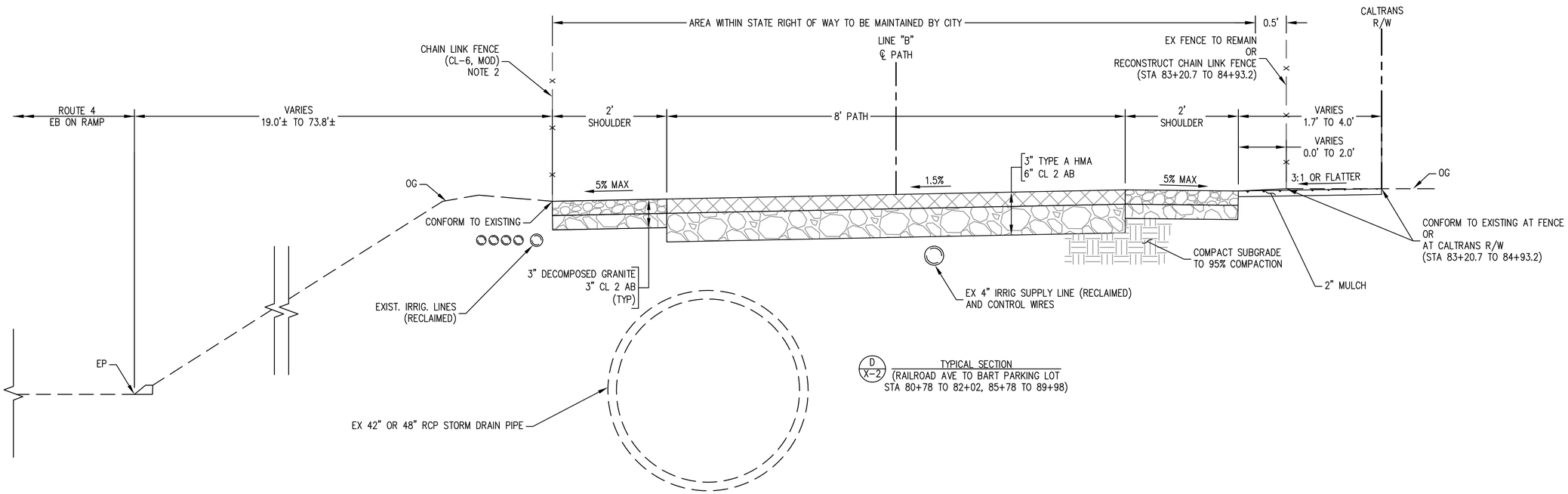
PLANS APPROVAL DATE

REGISTERED PROFESSIONAL ENGINEER — No. — Exp. — CIVIL — STATE OF CALIFORNIA

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.



F / X-3 TYPICAL SECTION (RAILROAD AVENUE STA 33+29 TO 33+90)



D / X-2 TYPICAL SECTION (RAILROAD AVE TO BART PARKING LOT STA 80+78 TO 82+02, 85+78 TO 89+98)

EXHIBIT A

DESIGNED BY	CHECKED BY	RANDELL HARRISON	RANDELL HARRISON	05/05/2022	05/05/2022	REVISED BY	DATE REVISED

FUNCTIONAL SUPERVISOR: 05-05-22

STATE OF CALIFORNIA – DEPARTMENT OF TRANSPORTATION — Caltrans

LAST REVISION 05-05-22 | DATE PLOTTED => 5-May-2022 | TIME PLOTTED => 12:27

BORDER LAST REVISED 8/1/2010 | USERNAME => erik | DWG FILE => 03-bpbc-x-1 caltrans.dwg | RELATIVE BORDER SCALE IS IN INCHES 0 1 2 3 | UNIT | PROJECT NUMBER & PHASE 0421000238 | EA 2W580

NOTES:

1. FOR FULL EXTENT OF RIGHT OF WAY TO BE MAINTAINED BY CITY, SEE FREEWAY MAINTENANCE AGREEMENT DATED OCTOBER 17, 2006.

LEGEND

- AREA WITHIN CALTRANS R/W TO BE MAINTAINED BY THE CITY
- CALTRANS R/W LINE
- LIGHTING
- V VIDEO CAMERA

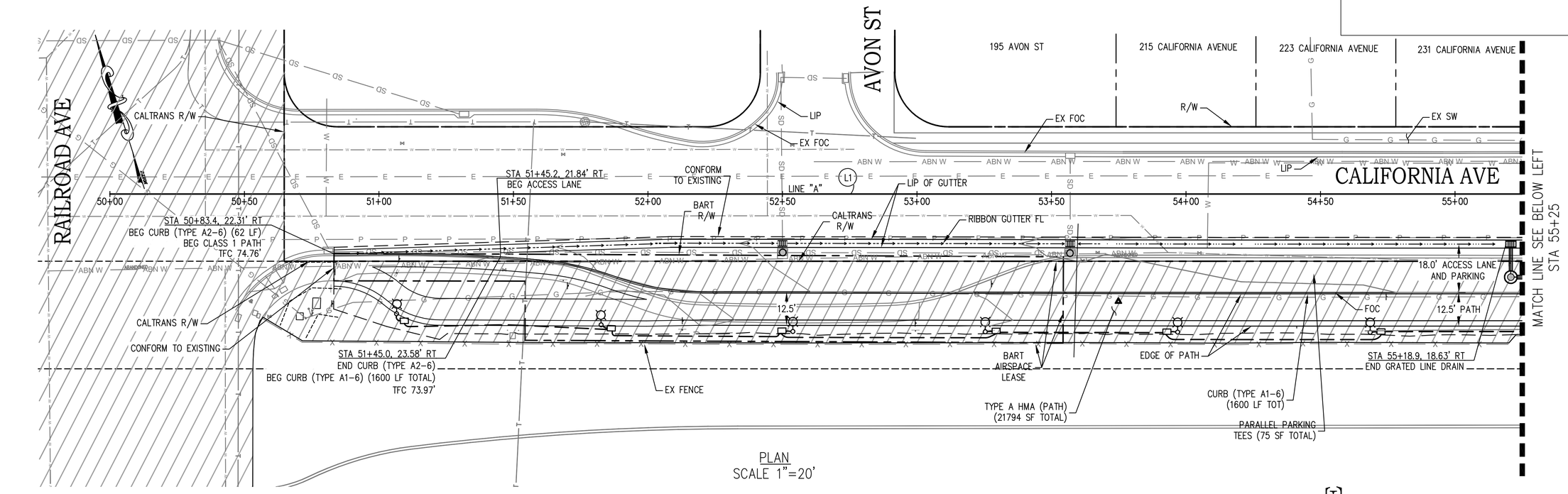
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REGISTERED CIVIL ENGINEER DATE

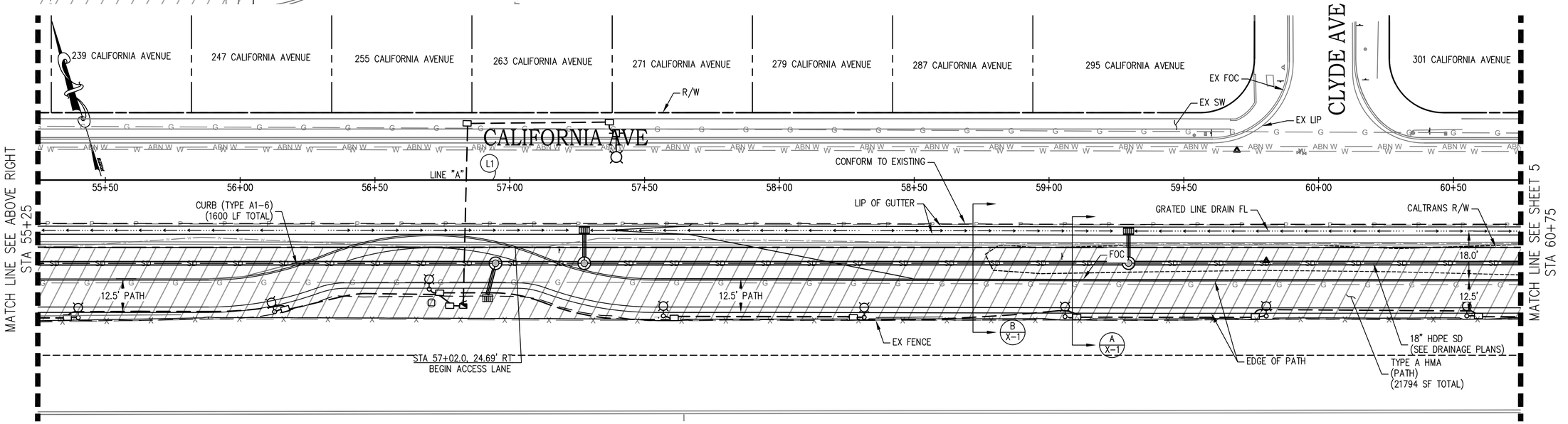
PLANS APPROVAL DATE

REGISTERED PROFESSIONAL ENGINEER — No. Exp. CIVIL — STATE OF CALIFORNIA

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.



PLAN
SCALE 1"=20'



PLAN
SCALE 1"=20'

EXHIBIT A

DESIGNED BY	CHECKED BY	DRAWN BY	CHECKED BY	DATE	REVISED BY	DATE REVISED
RANDELL HARRISON	RANDELL HARRISON			05/05/2022		05/05/2022

FUNCTIONAL SUPERVISOR: 05-05-22

STATE OF CALIFORNIA – DEPARTMENT OF TRANSPORTATION

Caltrans

LAST REVISION: 05-05-22

DATE PLOTTED => 5-May-2022
TIME PLOTTED => 12:38

BORDER LAST REVISED 8/1/2010

USERNAME => erik
DWG FILE => 13-bpbc-l-1 caltrans agreement.dwg

RELATIVE BORDER SCALE IS IN INCHES 0 1 2 3

UNIT

PROJECT NUMBER & PHASE 0421000238

EA 2W580

NOTES:

1. FOR FULL EXTENT OF RIGHT OF WAY TO BE MAINTAINED BY CITY, SEE FREEWAY MAINTENANCE AGREEMENT DATED OCTOBER 17, 2006.

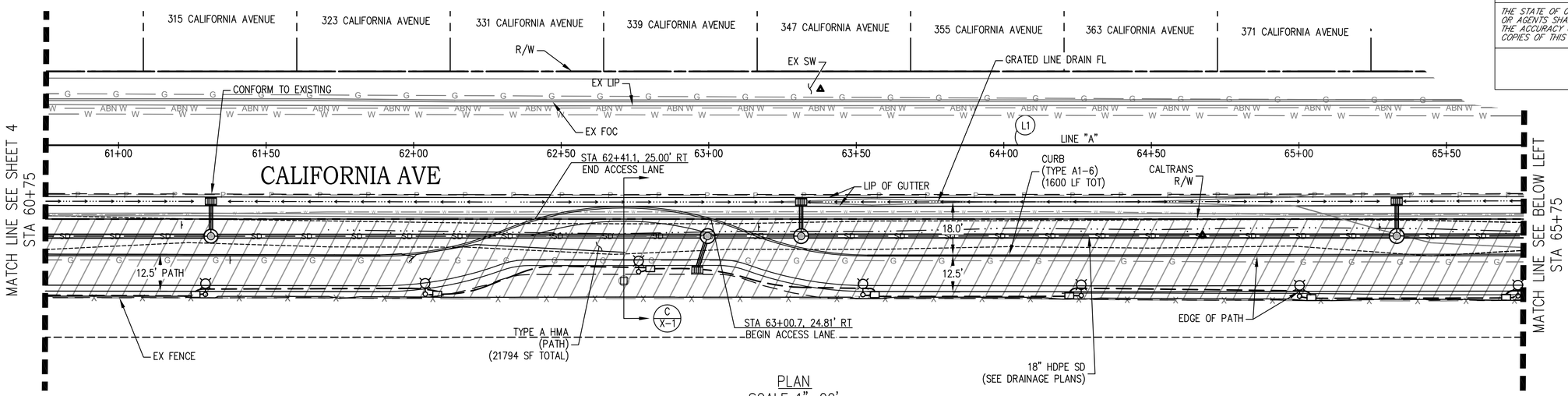
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REGISTERED CIVIL ENGINEER DATE

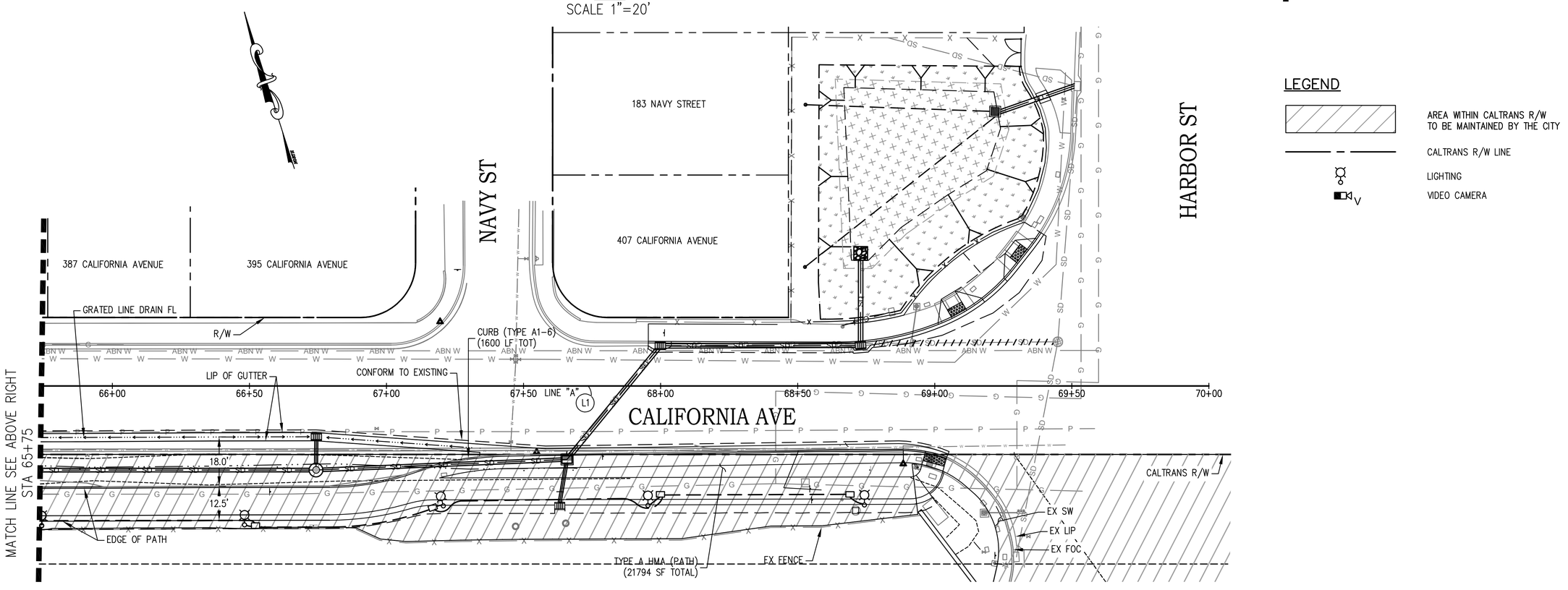
PLANS APPROVAL DATE

REGISTERED PROFESSIONAL ENGINEER — No. Exp. CIVIL — STATE OF CALIFORNIA

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.



PLAN
SCALE 1"=20'



PLAN
SCALE 1"=20'

LEGEND

- AREA WITHIN CALTRANS R/W TO BE MAINTAINED BY THE CITY
- CALTRANS R/W LINE
- LIGHTING
- V VIDEO CAMERA

EXHIBIT A

DESIGNED BY	CHECKED BY	FUNCTIONAL SUPERVISOR	STATE OF CALIFORNIA – DEPARTMENT OF TRANSPORTATION
RANDELL HARRISON	RANDELL HARRISON	05–05–22	Caltrans

DATE	REVISED BY	DATE REVISED
05/05/2022	RANDELL HARRISON	05/05/2022

LAST REVISION 05–05–22
DATE PLOTTED => 5–May–2022
TIME PLOTTED => 12:39

BORDER LAST REVISED 8/1/2010 | USERNAME => erik | DWG FILE => 13–bpbc–l–1 caltrans agreement.dwg | RELATIVE BORDER SCALE IS IN INCHES 0 1 2 3 | UNIT | PROJECT NUMBER & PHASE 0421000238 | EA 2W580

NOTES:

1. FOR FULL EXTENT OF RIGHT OF WAY TO BE MAINTAINED BY CITY, SEE FREEWAY MAINTENANCE AGREEMENT DATED OCTOBER 17, 2006.

LEGEND

- AREA WITHIN CALTRANS R/W TO BE MAINTAINED BY THE CITY
- CALTRANS R/W LINE
- LIGHTING
- VIDEO CAMERA

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
04	CC	04	23.0–24.4	6	7

REGISTERED CIVIL ENGINEER DATE

PLANS APPROVAL DATE

REGISTERED PROFESSIONAL ENGINEER — No. Exp. CIVIL — STATE OF CALIFORNIA

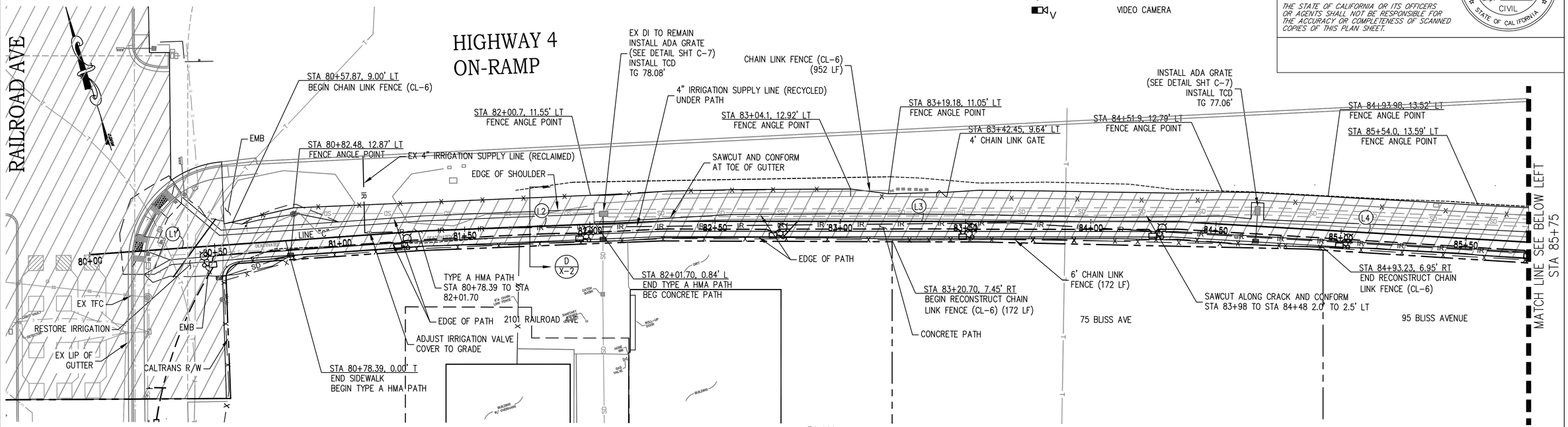
THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

DATE	REVISED BY
05/05/2022	RANDELL HARRISON

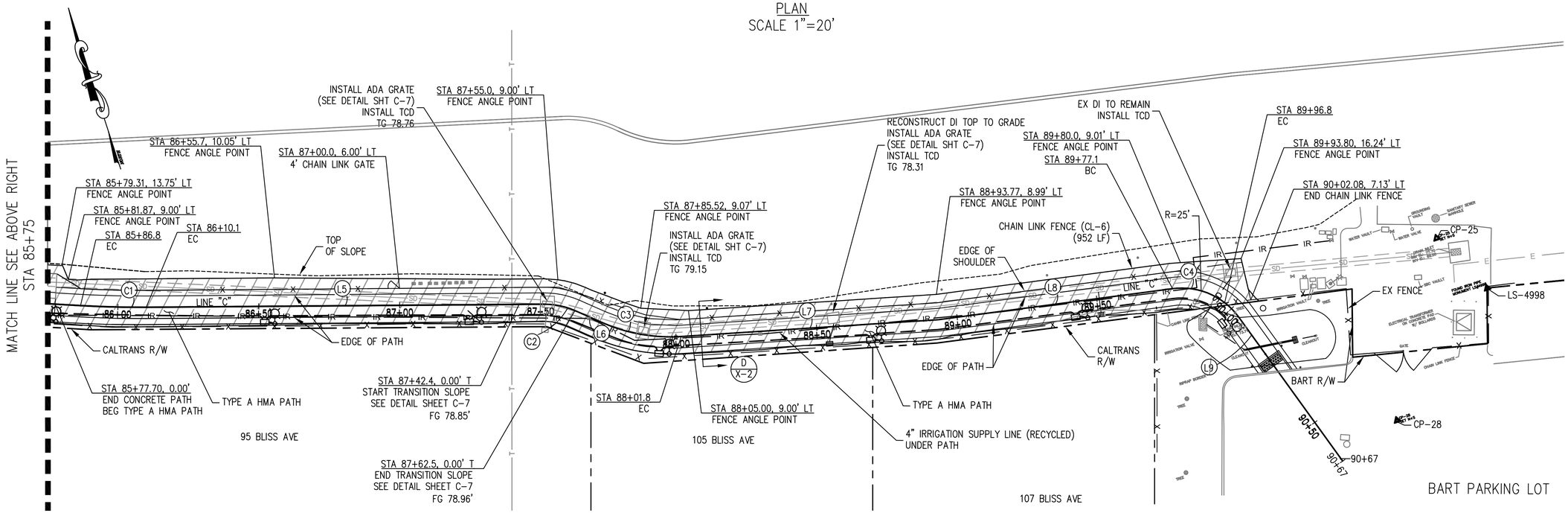
DESIGNED BY RANDELL HARRISON
CHECKED BY

FUNCTIONAL SUPERVISOR 05-05-22

STATE OF CALIFORNIA – DEPARTMENT OF TRANSPORTATION



PLAN
SCALE 1"=20'



PLAN
SCALE 1"=20'

EXHIBIT A

LAST REVISION	DATE PLOTTED => 5-May-2022
05-05-22	TIME PLOTTED => 12:44

BORDER LAST REVISED 8/1/2010

USERNAME => erik
DWG FILE => 18-bppc-l-3 caltrans.dwg

RELATIVE BORDER SCALE IS IN INCHES 0 1 2 3

UNIT PROJECT NUMBER & PHASE 0421000238 EA 2W580

NOTES:

1. FOR FULL EXTENT OF RIGHT OF WAY TO BE MAINTAINED BY CITY, SEE FREEWAY MAINTENANCE AGREEMENT DATED OCTOBER 17, 2006.

LEGEND

- AREA WITHIN CALTRANS R/W TO BE MAINTAINED BY THE CITY
- CALTRANS R/W LINE
- LIGHTING
- V VIDEO CAMERA

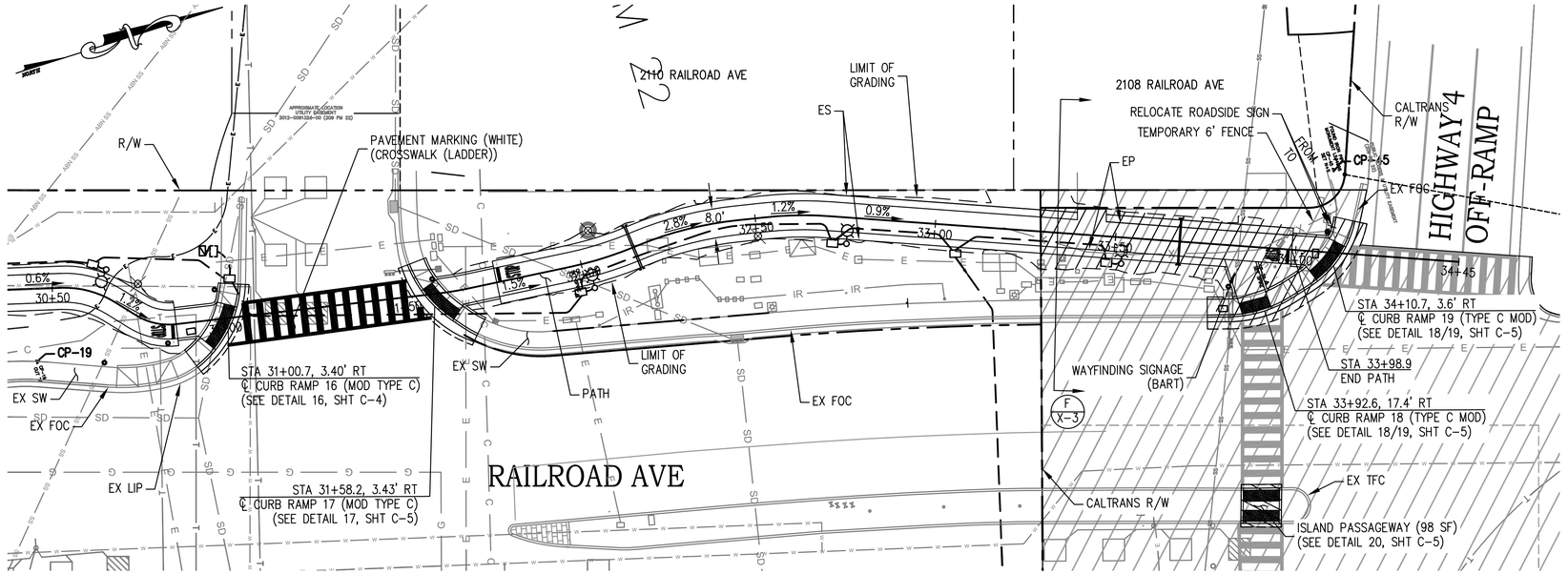
Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
04	CC	04	23.0–24.4	7	7

REGISTERED CIVIL ENGINEER DATE

PLANS APPROVAL DATE

REGISTERED PROFESSIONAL ENGINEER — No. Exp. CIVIL — STATE OF CALIFORNIA

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.



PLAN
SCALE 1"=20'

EXHIBIT A

DESIGNED BY	CHECKED BY	DATE	REVISED BY	DATE REVISED
RANDELL HARRISON	RANDELL HARRISON	05/05/2022		05/05/2022

STATE OF CALIFORNIA – DEPARTMENT OF TRANSPORTATION
Caltrans
FUNCTIONAL SUPERVISOR 05-05-22

LAST REVISION 05-05-22
DATE PLOTTED => 5-May-2022
TIME PLOTTED => 12:47

BORDER LAST REVISED 8/1/2010
USERNAME => erik
DWG FILE => 20-bppbc-l-4 caltrans.dwg
RELATIVE BORDER SCALE IS IN INCHES 0 1 2 3
UNIT PROJECT NUMBER & PHASE 0421000238 EA 2W580

EXHIBIT B – LETTER OF CERTIFICATE OF CITY OF PITTSBURG STATEMENT OF SELF INSURANCE

MUNICIPAL POOLING AUTHORITY
GENERAL & AUTO LIABILITY

DECLARATIONS

Subject to the terms of the Memorandum of Coverage, we agree with the Member to provide the coverages as described in these Declarations.

These Declarations and the underlying Memorandum of Coverage are issued under and pursuant to the terms, conditions, covenants and stipulations of the Joint Exercise of Powers Agreement dated April 1, 2005 between the Members stated herein and Municipal Pooling Authority (MPA) and any amendments thereto. MPA provides $1 million in primary coverage, including the member's Self-Insured Retention (SIR) while the CARMA excess pool provides $29 million in excess coverage, including MPA's $1 million SIR. All terms and conditions of said Agreement are incorporated herein by reference. In the event that any provision of this Memorandum of Coverage is in conflict or inconsistent with the Joint Exercise of Powers Agreement, the terms and conditions of such Joint Exercise of Powers Agreement shall prevail and take precedence to the extent of such conflict or inconsistency.

MEMBERS: Municipal Pooling Authority, and
Cities of Antioch; Brentwood; Clayton; El Cerrito: Gilroy; Hercules; Lafayette; Manteca; Martinez; Oakley ; Orinda; Pinole; Pittsburg; Pleasant Hill; San Pablo; San Ramon; Walnut Creek ; and Towns of Danville and Moraga

COVERAGE PERIOD: July 1, 2022 through June 30, 2023

PRIMARY LIABILITY: **MUNICIPAL POOLING AUTHORITY**
POLICY # MPA22-23

TYPE OF COVERAGE		LIMIT OF COVERAGE PER OCCURRENCE
A.	Bodily Injury or Property Damage:	$1,000,000.00
	Member SIR:	*See Below*
B.	Personal Injury:	$1,000,000.00
	Member SIR	*See Below*
C.	Public Officials Errors & Omissions:	$250,000.00
	Member SIR (All)	*$25,000.00*

MEMBERS	SIR PER OCCURRENCE
Cities of Manteca & Walnut Creek	$100,000.00
Cities of Antioch & Gilroy	$50,000.00
Cities of Martinez, Oakley, Pinole, Pittsburg & Pleasant Hill	$25,000.00
Cities of Brentwood, Hercules & San Pablo; Town of Moraga	$10,000.00
Cities of Clayton, El Cerrito, Lafayette, Orinda & San Ramon; Town of Danville	$5,000.00

EXCESS LIABILITY: **California Affiliated Risk Management Authorities (CARMA)**
POLICY NUMBER: CARMA 2023-GL

TYPES OF COVERAGE	LIMIT OF COVERAGE PER OCCURRENCE
Bodily Injury, Personal Injury, Property Damage, Employment Liability, and Errors & Omissions:	$29,000,000.00
MPA Self-Insured Retention	*$1,000,000.00*

THESE DECLARATIONS, TOGETHER WITH THE MEMORANDUM OF COVERAGE FOR GENERAL & AUTO LIABILITY, ANY ENDORSEMENTS ATTACHED THERETO, AND THE JOINT EXERCISE OF POWERS AGREEMENT, COMPLETE THE COVERAGE PROVIDED.

LIABILITY CLAIMS SERVICING ORGANIZATION:

Municipal Pooling Authority
P.O. Box 67
Walnut Creek, CA 94597
(925) 943-1100 FAX: (925) 946-4183

ISSUED BY:

Linda Cox, Chief Administrative Officer

GL Dec Page FY23

Final Audit Report 2022-06-20

Created:	2022-06-20
By:	Erwin Chang (echang@mpa-nc.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAxoxL-pKYpXHh9SOUnf5Xzp7FDH4wd4sG

"GL Dec Page FY23" History

Document created by Erwin Chang (echang@mpa-nc.com)
2022-06-20 - 7:53:58 PM GMT- IP address: 71.202.232.101

Document emailed to Linda Cox (lcox@mpa-nc.com) for signature
2022-06-20 - 7:54:13 PM GMT

Email viewed by Linda Cox (lcox@mpa-nc.com)
2022-06-20 - 10:39:05 PM GMT- IP address: 71.202.77.27

Document e-signed by Linda Cox (lcox@mpa-nc.com)
Signature Date: 2022-06-20 - 10:39:28 PM GMT - Time Source: server- IP address: 71.202.77.27

Agreement completed.
2022-06-20 - 10:39:28 PM GMT

Adobe Acrobat Sign

California Affiliated Risk Management Authorities

1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833
916-244-1100

Liability Certificate of Coverage

Additional Covered Party

Certificate Number: 70063874

Certificate Holder: State of California
Department of Transportation District 4

111 Grand Avenue
Oakland, CA 94623

Covered Party: MPA-City of Pittsburg

Description of Covered Activity: As respects the Agreement CC-04-PM23.0/24.4 between State of California and the City of Pittsburg regarding the construction of the Bay Area Rapid Transit Pedestrian and Bicycle Connectivity Project alongside SR 4; The State of California, its officers, agents, and employees are additional covered parties with regard to any negligent acts or omissions of City of Pittsburg, its officers, agents, and employees, as pertains to Agreement CC-04-PM23.0/24.4.

Memorandum of Coverage Number: CARMA 2022-GL **Effective Date:** 7/1/2022 **Expiration Date:** 7/1/2023

Limits: $4,000,000 (per occurrence)

Excess of: $1,000,000

The Following Coverage is in effect: General and automobile liability as defined in the Memorandum of Coverage on file with the covered party named above.

Pursuant to the definition of Covered Party in the Liability Memorandum of Coverage, the certificate holder named above is an additional covered party for covered claims arising out of the covered activity stated above and is subject to the limits stated above.

This is to certify that the coverage listed above has been issued to the Covered Party named above for the coverage period indicated, notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The coverage afforded as described herein is subject to all the terms, exclusions, and conditions of the Liability Memorandum of Coverage of the Covered Party named above as well as to all the terms, exclusions, and conditions of the Liability Memorandum of Coverage of the California Affiliated Risk Management Authorities, which are available for your review upon request.

Coverage is in effect from 12:01 a.m. Pacific Time of effective date to 12:01 a.m. Pacific Time of expiration date as stated above and will not be canceled, limited, or allowed to expire except upon 30-day notice to the certificate holder.

Date Issued: 8/31/2022

Renewal: Yes **Underlying Certificate Issued:** Yes

Authorized Representative Signature:

This certificate cancels and supersedes ALL previously issued certificates.

CERTIFICATE OF COVERAGE

NAME AND ADDRESS OF AGENCY:

Municipal Pooling Authority of Northern California

P.O. Box 67
Walnut Creek, CA 94596
(925) 943-1100 * FAX (925) 946-4183

ORGANIZATION AFFORDING COVERAGE:

Municipal Pooling Authority of Northern California

NAME AND ADDRESS OF COVERED ENTITY:

City of Pittsburg
Nhat Phan

65 Civic Avenue
Pittsburg, CA 94565

This is to certify that coverage agreements listed below have been issued to the covered parties named above and are in force at this time. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the coverage afforded by the coverage agreements described herein is subject to all the terms, exclusions, and conditions of such coverage agreements.

TYPE OF COVERAGE	COVERAGE AGREEMENT NUMBER	COVERAGE AGREEMENT EXPIRATION	LIMITS OF LIABILITY per occurrence
General Liability	MPA22-23	6/30/2023	Bodily Injury, Property Damage, Personal Injury Combined $1,000,000
Auto Liability			Bodily Injury, Property Damage, Personal Injury Combined $0
Auto *Collision and Comprehensive*			$3,000 Deductible Police Vehicles $2,000 All Other Vehicles Limit of Liability = $250,000
Workers' Compensation and Employers Liability			SIR $500,000 Workers' Comp = Statutory Employers' Liability =$4.5 million

Description of Operations/Locations/Vehicles/Event/Restrictions/Special Items:

It is hereby agreed that the State of California, its officers, agents, and employees is named as additional covered parties for General Liability with respect to the BART Ped & Bike Connectivity Project (CC-04-PM23.0/24.4) with the City of Pittsburg (City), but only to the extent assumed by the City of Antioch under the permit agreement, subject to the Memorandum of Coverage terms, conditions, and exclusions.

Cancellation: Should any of the above described coverage agreements be canceled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the below named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the Authority, it's agents or representatives.

CERTIFICATE HOLDER (name and address):

State of California
California Department of Transportation District 4
Attn: Pariz Lashai
111 Grand Avenue
Oakland, CA 94623

Date Issued: May 24, 2022

Erwin Chang, CPCU, ARM - Claims Manager

Certificate ID: 2697 : 2022-23 FY LB
Prepared By: mp

STATE HIGHWAY RELINQUISHMENT AGREEMENT

This AGREEMENT, executed from effective from _____(date)_____, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

City of Pittsburg, a body politic and municipal corporation or chartered city of the State of California, referred to hereinafter as CITY.

RECITALS

1. CALTRANS and CITY, pursuant to California Streets and Highways Code Section 73, are authorized to enter into a cooperative agreement in order to relinquish to CITY a portion of a State Highway within CITY's jurisdiction.

2. CALTRANS intends to relinquish to CITY that portion of State Route 4 consisting of Class I Bikeway south of California Avenue between Railroad Avenue and Harbor Street as shown in Exhibit A, which is attached to and made a part of this agreement, referred to hereinafter as RELINQUISHED FACILITIES. This relinquishment is based on non-motorized transportation facilities. CITY is willing to accept said RELINQUISHED FACILITIES upon approval by the California Transportation Commission (CTC) of a Resolution of Relinquishment and CALTRANS's recording of said Resolution with the County Recorder's Office.

3. CALTRANS and CITY agree that RELINQUISHED FACILITIES are currently in a state of good repair.

4. CALTRANS and CITY, collectively referred to as PARTIES, herein intend to define the terms and conditions under which relinquishment of the RELINQUISHED FACILITIES is to be accomplished.

SECTION I

CITY AGREES:

1. Execution of this AGREEMENT constitutes CITY's waiver of CALTRANS's obligation to provide ninety (90) days prior notice of CALTRANS's "Intention to Relinquish" as set forth in Streets and Highways Code Section 73.

2. To accept ownership, including all of CALTRANS's current obligations, rights, title and interest in RELINQUISHED FACILITIES upon recordation of the CTC's Resolution of Relinquishment in the County Recorder's Office and to thereafter operate, maintain, and be liable for RELINQUISHED FACILITIES at no additional cost to CALTRANS.

3. To accept the RELINQUISHED FACILITIES in their current environmental condition and setting, including but not limited to, the presence of hazardous materials as described in the Environmental Disclosure Memo dated May 4, 2022. CITY has received and reviewed a copy of the above-referenced Environmental Disclosure Memo. Upon recordation of the CTC's Resolution of Relinquishment in the County Recorder's Office, CALTRANS will not be responsible for any present or future remediation of said hazardous materials.

SECTION II

CALTRANS AGREES:

1. To relinquish, upon the approval of the CTC's Resolution of Relinquishment, the RELINQUISHED FACILITIES.

2. To submit the CTC Resolution of Relinquishment to the County Recorder's Office for recording.

3. Upon CITY's specific request, to transfer to CITY's within sixty (60) days of such request, copies of available CALTRANS records and files for the RELINQUISHED FACILITIES, such as plans, survey data and right-of-way information.

SECTION III

IT IS MUTUALLY AGREED:

1. All portions of this AGREEMENT, including the Recitals Section, are enforceable.

2. All obligations of CALTRANS under the terms of this AGREEMENT are subject to the appropriation of resources by the Legislature, State Budget Act authority, programming of funds by the California Transportation Commission (CTC) and the allocation thereof by the CTC.

3. CALTRANS reserves the right to enter, at no cost to CALTRANS, the RELINQUISHED FACILITIES, to modify or add signage, drainage, and other improvements necessary for State Highway operations. CITY agrees to allow CALTRANS access to operate,

maintain, add, remove, or modify CALTRANS' facilities retained in those RELINQUISHED FACILITIES.

4. CITY shall fully defend, indemnify and save harmless CALTRANS and all of its officers and employees from all claims, suits or actions related to environmental theories or assertions of liability, including but not limited to, claims or lawsuits related to the presence of hazardous materials as described in the Environmental Disclosure Memo dated May 4, 2022, provided that the actions, events, injuries, damages, or losses giving rise to any claims, suits or actions occurred on or arise after the date of the recordation of the CTC's Resolution of Relinquishment.

5. CALTRANS shall fully defend, indemnify and save harmless CITY and all of its officers and employees from all claims, suits or actions related to environmental theories or assertions of liability, including, but not limited to, claims or lawsuits related to the presence of hazardous materials as described in the Environmental Disclosure Memo dated May 4, 2022, provided that the actions, events, injuries, damages, or losses giving rise to any claims, suits or actions occurred or arose before the date of recordation of the CTC's Resolution of Relinquishment.

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

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

8. No alteration of the terms of this AGREEMENT shall be valid unless made in writing and signed by the PARTIES hereto. No oral understanding or agreement not incorporated herein shall be binding on any of the PARTIES hereto.

9. This AGREEMENT shall terminate upon recordation of the CTC's Resolution of Relinquishment for the RELINQUISHED FACILITIES in the County Recorder's Office except for those provisions which relate to indemnification, ownership, operation, and maintenance, which shall remain in effect until terminated or modified in writing by mutual agreement.

CONTACT INFORMATION

The information provided below indicates the primary contact information for each PARTY to this AGREEMENT. PARTIES will notify each other in writing of any personnel or location changes. Contact information changes do not require an amendment to this AGREEMENT.

CITY OF PITTSBURG

Associate Engineer: Nhat Phan

Phone Number: (925) 252-4857

E-mail: NPhan@ci.pittsburg.ca.us

Billing Address: 65 Civic Avenue CA 94565

CALTRANS

Project Manager: Samuel Woldesemayat

Phone Number: (510) 290-7202

E-mail: samuel.woldesemayat@dot.ca.gov

SIGNATURES

PARTIES are authorized to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and hereby covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT. By signing below, the PARTIES each expressly agree to execute this AGREEMENT electronically.

The PARTIES acknowledge that executed copies of this AGREEMENT may be exchanged by facsimile or email, and that such copies shall be deemed to be effective as originals.

STATE OF CALIFORNIA
DEPARTMENT OF
TRANSPORTATION

By: _____
Helena (Lenka) Culik-Caro
Deputy District Director, Design

VERIFICATION OF FUNDS &
AUTHORITY:

By: _____
Jeffrey Kuehnel
District Budget Manager

APPROVED AS TO FORM AND
PROCEDURE:
By: _____
Meera Danday
Attorney

CITY OF PITTSBURG

By: _____
Name
Title

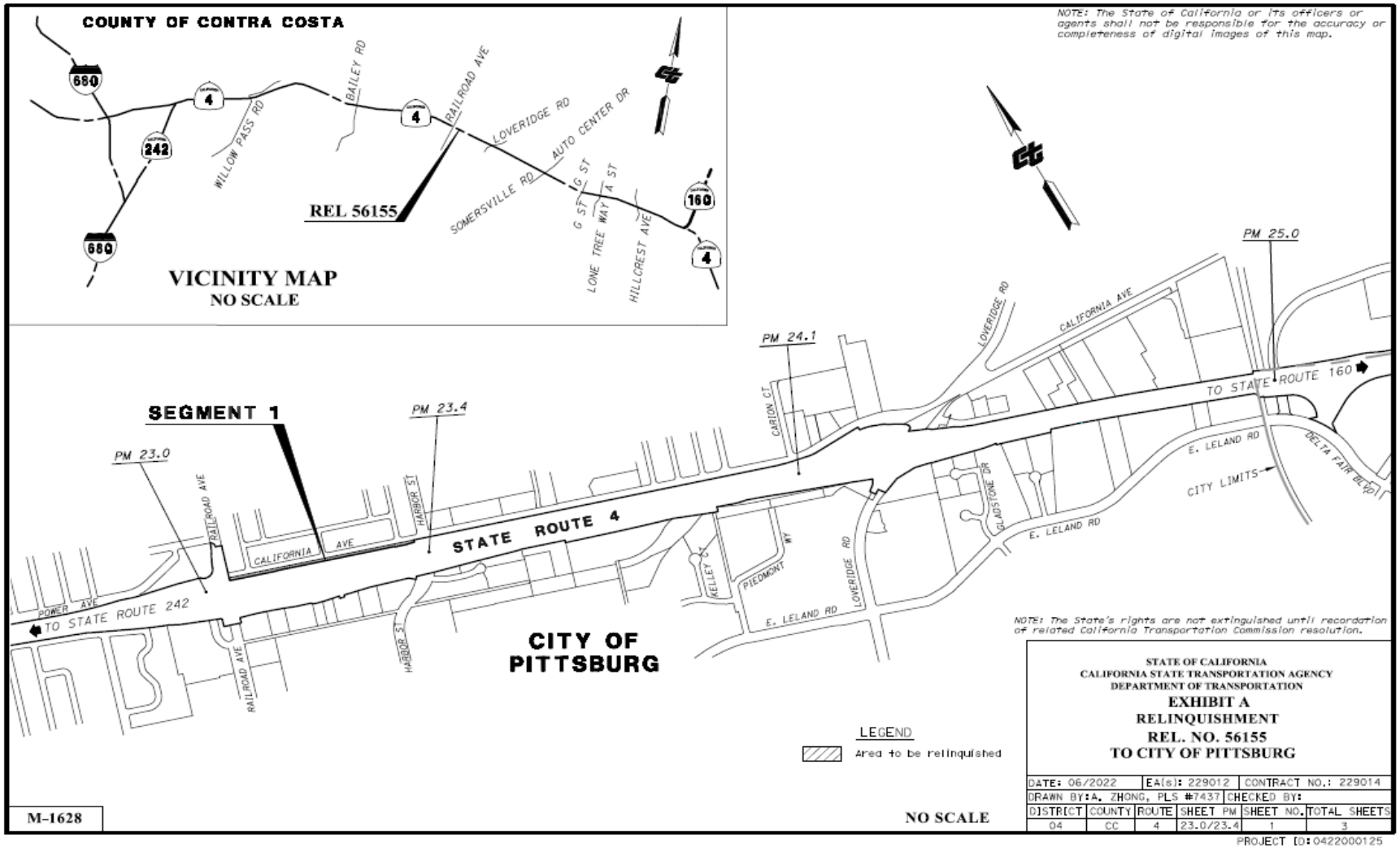
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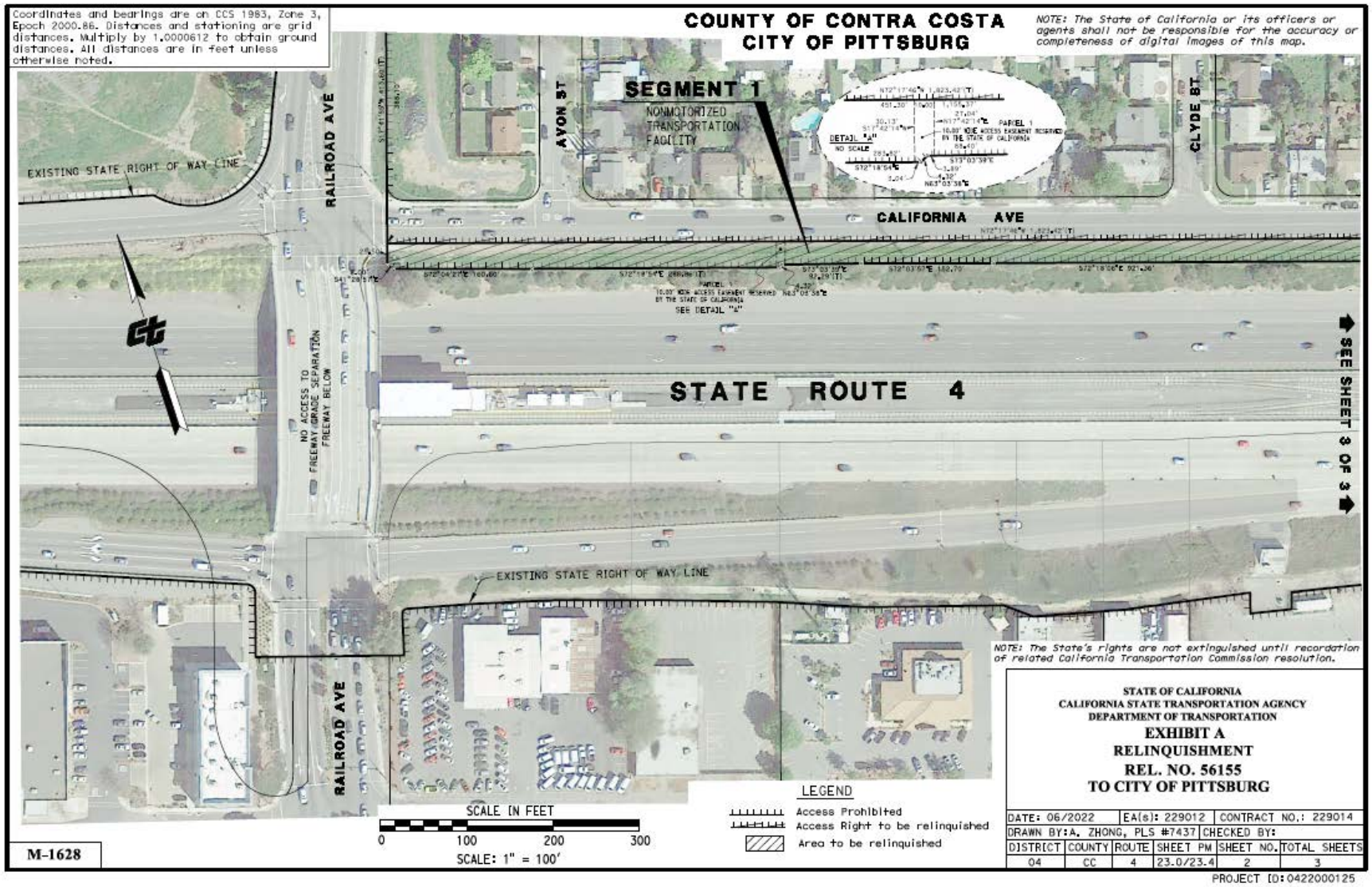
By: _____
Name
Title

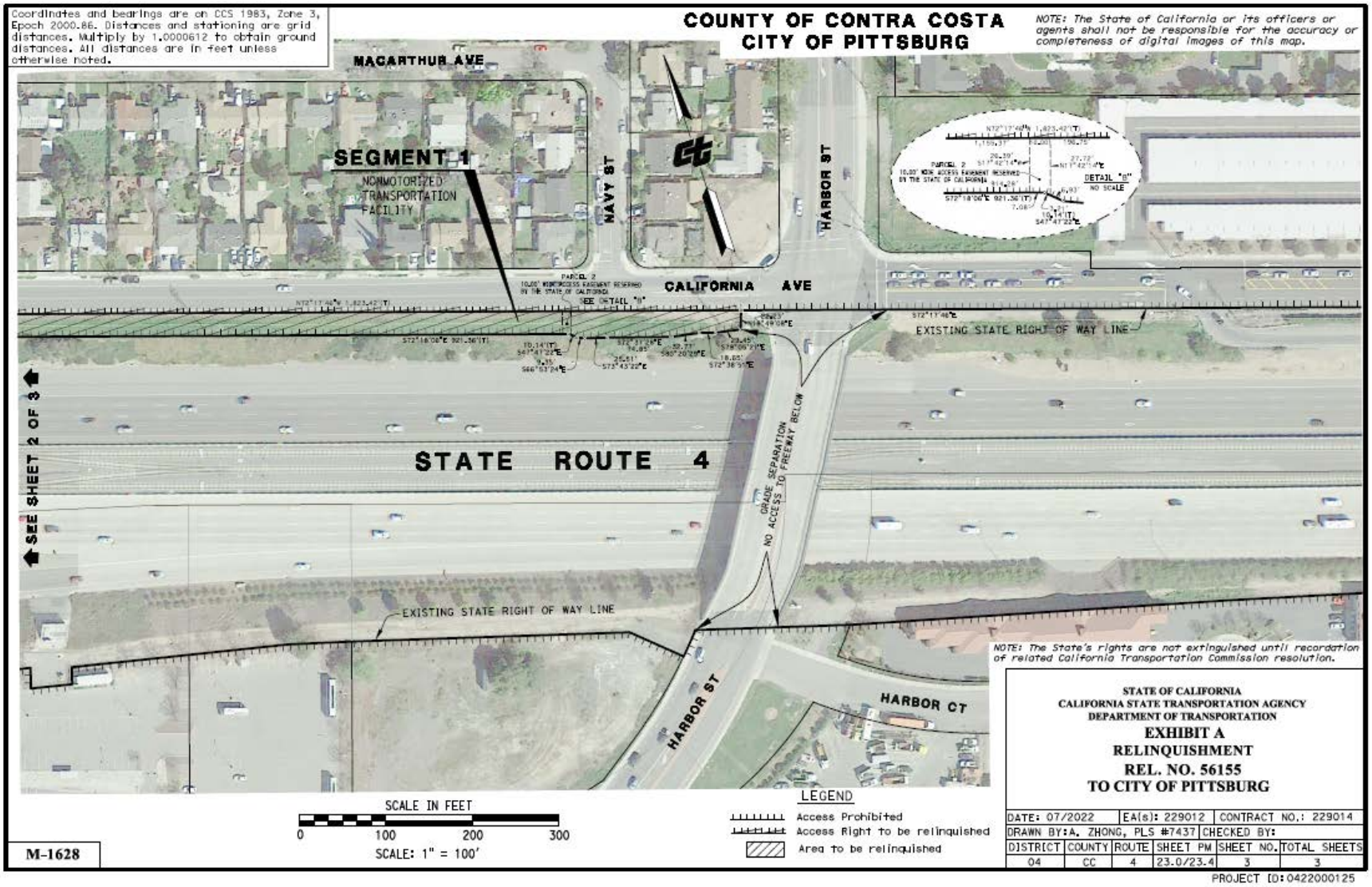
APPROVED AS TO FORM AND
PROCEDURE:

By: _____
Name
Title

EXHIBIT A – Relinquishment Map




Coordinates and bearings are on CCS 1983, Zone 3, Epoch 2000.86. Distances and stationing are grid distances. Multiply by 1.0000612 to obtain ground distances. All distances are in feet unless otherwise noted.
COUNTY OF CONTRA COSTA
CITY OF PITTSBURG
NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.
SEGMENT 1
NONMOTORIZED TRANSPORTATION FACILITY
AVON ST
CLYDE ST
CALIFORNIA AVE
RAILROAD AVE
EXISTING STATE RIGHT OF WAY LINE
NO ACCESS TO FREEWAY/GRADE SEPARATION FREEWAY BELOW
STATE ROUTE 4
SEE SHEET 3 OF 3
SEE DETAIL "A"
DETAIL "A"
NO SCALE
NOTE: The State's rights are not extinguished until recordation of related California Transportation Commission resolution.
STATE OF CALIFORNIA
CALIFORNIA STATE TRANSPORTATION AGENCY
DEPARTMENT OF TRANSPORTATION
EXHIBIT A
RELINQUISHMENT
REL. NO. 56155
TO CITY OF PITTSBURG
LEGEND
Access Prohibited
Access Right to be relinquished
Area to be relinquished
SCALE IN FEET
0 100 200 300
SCALE: 1" = 100'
M-1628
DATE: 06/2022 | EA(s): 229012 | CONTRACT NO.: 229014
DRAWN BY: A. ZHONG, PLS #7437 | CHECKED BY:
DISTRICT | COUNTY | ROUTE | SHEET PM | SHEET NO. | TOTAL SHEETS
04 | CC | 4 | 23.0/23.4 | 2 | 3
PROJECT ID: 0422000125


Coordinates and bearings are on CCS 1983, Zone 3, Epoch 2000.86. Distances and stationing are grid distances. Multiply by 1.0000612 to obtain ground distances. All distances are in feet unless otherwise noted.
COUNTY OF CONTRA COSTA
CITY OF PITTSBURG
NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.
MACARTHUR AVE
SEGMENT 1
NONMOTORIZED TRANSPORTATION FACILITY
NAVY ST
HARBOR ST
CALIFORNIA AVE
DETAIL "B"
NO SCALE
EXISTING STATE RIGHT OF WAY LINE
SEE SHEET 2 OF 3
STATE ROUTE 4
GRADE SEPARATION NO ACCESS TO FREEWAY BELOW
EXISTING STATE RIGHT OF WAY LINE
HARBOR ST
HARBOR CT
NOTE: The State's rights are not extinguished until recordation of related California Transportation Commission resolution.
STATE OF CALIFORNIA
CALIFORNIA STATE TRANSPORTATION AGENCY
DEPARTMENT OF TRANSPORTATION
EXHIBIT A
RELINQUISHMENT
REL. NO. 56155
TO CITY OF PITTSBURG
SCALE IN FEET
0 100 200 300
SCALE: 1" = 100'
LEGEND
Access Prohibited
Access Right to be relinquished
Area to be relinquished
M-1628
DATE: 07/2022 EA(s): 229012 CONTRACT NO.: 229014
DRAWN BY:A. ZHONG, PLS #7437 CHECKED BY:
DISTRICT COUNTY ROUTE SHEET PM SHEET NO. TOTAL SHEETS
04 CC 4 23.0/23.4 3 3
PROJECT ID:0422000125

AMENDMENT NUMBER 1 TO FREEWAY MAINTENANCE AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND THE CITY OF PITTSBURG

This Amendment Number 1 to the Freeway Maintenance Agreement identified below (AMENDMENT), entered into and effective on _____, is between the State of California, acting by and through the Department of Transportation, hereinafter referred to as ("STATE"), and City of Pittsburg, a municipal corporation, hereinafter referred to as ("CITY"), acting by and through its Mayor. CITY and STATE together are hereafter referred to as "PARTIES".

RECITALS:

1. PARTIES, entered into an agreement on October 17, 2006, entitled "Freeway Maintenance Agreement" hereafter referred to as ("AGREEMENT"), AGREEMENT defined the terms and conditions applicable to CITY's maintenance duties of vehicular overcrossings, soundwalls, concrete barriers and bicycle paths within STATE right of way along State Route 4, as shown in Exhibit "A" of AGREEMENT.

2. AGREEMENT by its terms provides that it may be modified and amended at any time upon mutual consent of the PARTIES.

3. The purpose of this AMENDMENT is to assign and expand the maintenance responsibilities of shared bikeway.

4. PARTIES to amend AGREEMENT as provided herein.

IT IS THEREFORE MUTUALLY AGREED:

5. Existing Article 7 is deleted and New Article 7 is hereby added and made a part of AGREEMENT to read as follows:

   "7. BICYCLE PATHS, LANES, CYCLE TRACKS constructed as permitted encroachments within STATE's right of way, CITY is solely responsible for all permitted improvements, including but not limited to the delineation, fencing, guard railing, drainage facilities, slope and structural adequacy. CITY will maintain, at CITY expense, a safe facility for bicycle travel along the entire length of the path/lane/cycle track by providing sweeping and debris removal when necessary; and all signing and striping, crosswalks, non-STATE standard materials, and pavement markings required for the direction and operation of that non-motorized facility."

6. EXHIBIT "A"; Sheet 5 is hereby deleted and replaced by EXHIBIT "A"; Sheet 5 (REVISION 1).

7. EXHIBIT "A"; Sheet 5a is added as a new sheet to EXHIBIT "A" and made a part of AGREEMENT. In all other respects, AGREEMENT shall remain in full force and effect.

8. All other terms and conditions of AGREEMENT shall remain in full force and effect.

9. AMENDMENT is hereby deemed to be included and made a part of AGREEMENT.

IN WITNESS WHEREOF, PARTIES hereto have set their hands and seals the day and year first above written.

THE CITY OF PITTSBURG

By: _____
HOLLAND BARRETT WHITE
City Mayor

Initiated and Approved:

By: _____
GARRETT EVANS
City Manager

ATTEST:

By: _____
ALICE E. EVENSON
City Clerk

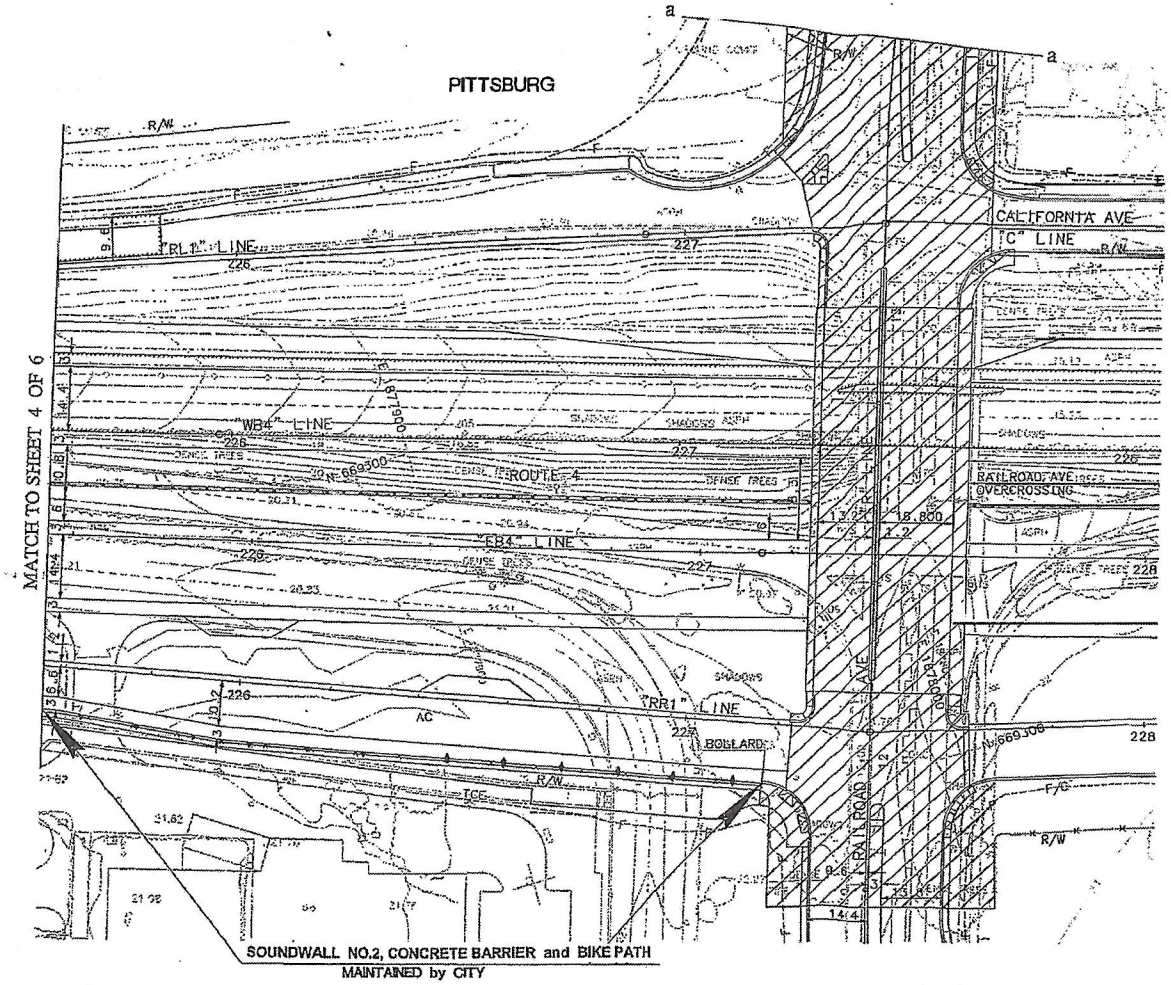
By: _____
DONNA MOONEY
City Attorney

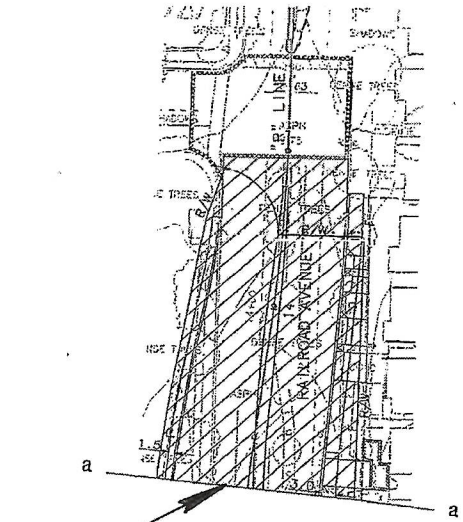
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATON

By: _____
Leah Budu Date
Deputy District Director
Maintenance

EXHIBIT "A"

AMENDMENT No. 1





Referred to Sheet 5a for more details on this section.

MAINTAINED by CITY

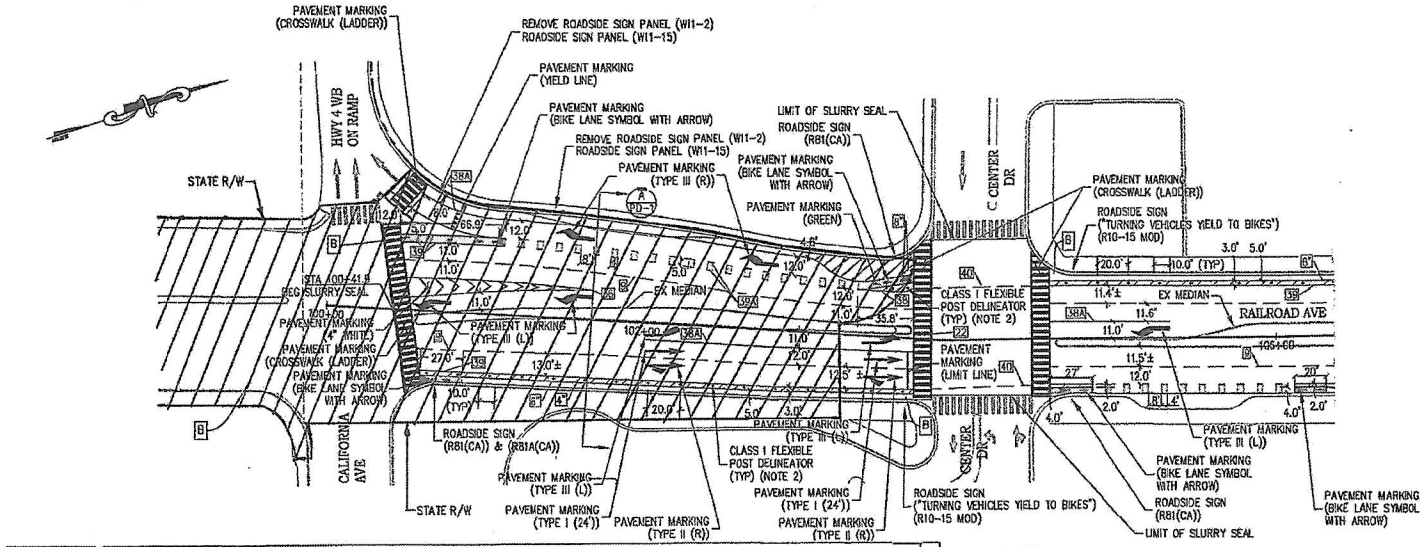
Sheet **5 (REVISION 1)** of **6**

FREEWAY MAINTENANCE AGREEMENT with THE CITY of PITTSBURG

04 – CC – 4 POST MILES 22.0/24.2 Date: 5/2022

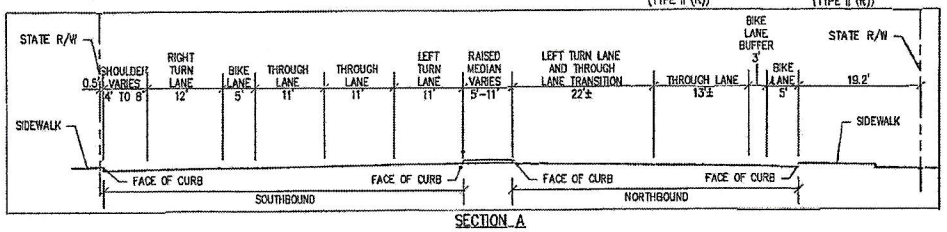
EXHIBIT "A"

AMENDMENT No. 1



PLAN

SCALE 1"=40'



SECTION A

SCALE 1"=10'

MAINTAINED by CITY

Sheet **5a** of **6**

FREEWAY MAINTENANCE AGREEMENT with THE CITY of PITTSBURG

04 – CC – 4 POST MILES 22.0/24.2 Date: 5/2022