REGULAR MEETING OF THE MADERA CITY COUNCIL

205 W. 4th Street, Madera, California 93637

NOTICE AND AGENDA

Wednesday, December 18, 2024 **Council Chambers**
6:00 p.m. **City Hall**

The Madera City Council meetings are open to the public. This meeting will also be available for public viewing and participation through Zoom. Members of the public may also observe the live-streamed meeting on the City's website at www.madera.gov/live. Members of the public may comment on agenda items at the meeting or remotely through an electronic meeting via phone by dialing (669) 900-6833 enter ID: 829 3653 5942 #. Comments will also be accepted via email at citycouncilpubliccomment@madera.gov or by regular mail at 205 W. 4th Street, Madera, CA 93637.

CALL TO ORDER:

ROLL CALL: Mayor Cece Gallegos
Mayor Pro Tem Jose Rodriguez, District 2
Vacant, District 1
Councilmember Steve Montes, District 3
Councilmember Anita Evans, District 4
Councilmember Elsa Mejia, District 5
Councilmember Artemio Villegas, District 6

INVOCATION: Pastor Dave Hawes, 4th Street Church

PLEDGE OF ALLEGIANCE:

APPROVAL OF AGENDA:

PRESENTATIONS:

1. **Learning more about Madera Irrigation District (MID) - Tommy Greci, General Manager MID**

PUBLIC COMMENT:

The first 15 minutes of the meeting are reserved for members of the public to address the Council on items which are within the subject matter jurisdiction of the Council. Speakers shall be limited to three minutes. Speakers will be asked, but are not required, to identify themselves and state the subject of their comments. If the subject is an item on the Agenda, the Mayor has the option of asking the speaker to hold the comment until that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Council is prohibited by law from taking any action on matters

discussed that are not on the agenda, and no adverse conclusions should be drawn if the Council does not respond to public comment at this time.

A. PUBLIC HEARINGS:

A-1 Ordinance Text Amendment (OTA) 2024-02, for the amendment of Chapter 3 of Title X: Planning and Zoning of the City Municipal Code

Recommendation: The Planning Commission and staff recommend the City Council conduct a public hearing and take action as follows:

1. Waive full reading and introduce by title only an Ordinance of the City Council of the City of Madera determining the project is exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines and amending Chapter 3 of Title X: Planning and Zoning of the City Municipal Code regarding housing-related definitions, procedures, and regulated uses in zone districts that allow housing (Report by Will Tackett)

B. CONSENT CALENDAR:

Matters listed under the Consent Calendar are considered routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, a member of the public or a member of the Council may request an item be removed from the Consent Calendar and it will be considered separately.

B-1 Minutes – November 20, 2024 and December 4, 2024

Recommendation: Approve the City Council Minutes of November 20, 2024 and December 4, 2024 (Report by Alicia Gonzales)

B-2 Informational Report on Register of Audited Demands

Recommendation: Review Register of Audited Demands Report for November 23, 2024, to December 6, 2024 (Report by Michael Lima)

B-3 Informational Report on Personnel Activity

Recommendation: This report is submitted for informational purposes only and there is no action requested from the City Council (Council) (Report by Wendy Silva)

B-4 Adoption of Updated City of Madera Full Time Salary Schedules

Recommendation: Adopt a Resolution Approving Revised City of Madera Full Time Salary Schedules effective December 3, 2024; December 4, 2024; and December 28, 2024 (Report by Wendy Silva)

B-5 Transfer of Road Maintenance Rehabilitation Account (RMRA) appropriations from the existing Highway Users Tax Account (HUTA) fund to a new RMRA Fund

Recommendation: Adopt a Budget Amendment Resolution Authorizing the Transfer of RMRA Appropriations from the existing HUTA Fund to a new RMRA Fund (Report by Keith Helmuth)

B-6 Accepting Improvements for the Ellis & D Street Subdivision (Tract No. 19-S-07)

Recommendation: Adopt a Resolution:
1. Accepting improvements for the Ellis & D Street Subdivision (Tract No. 19-S-07); and
2. Authorize the filing of the Notice of Acceptance for said subdivision improvements (Report by Keith Helmuth)

B-7 City of Madera FY 2022-2026 Transit Asset Management (TAM) Plan Update

Recommendation: Adopt a Resolution Approving the updated City of Madera FY 2022-2026 Transit Asset Management (TAM) Plan (Report by Michael Lima)

B-8 Piggyback Purchase Agreements for Fleet Division-Related Purchases

Recommendation: Adopt a Resolution approving piggyback purchase agreements of:
1. A 5-yard all-electric dump truck for Public Works from PB Loader Corporation for$218,398; and
2. A 5-yard dump truck for the Parks Department from PB Loader Corporation for $197,288 (Report by Michael Lima)

B-9 Banking Services Contract Award

Recommendation: Adopt a Resolution Awarding a Five (5) Year Contract with Four (4) One-Year Extensions to US Bank for Banking Services (Report by Michael Lima)

B-10 Edward Byrne Memorial Justice Assistance Grant (JAG) Program 2024/25 Grant Award Acceptance

Recommendation: Adopt a Resolution accepting the $20,491 grant award and amending the City's 2024/25 Adopted Budget to reflect revenues and expenditures related to the grant (Report by Giachino Chiaramonte)

B-11 Agreement with Union Pacific Railroad Company for the Water Main Replacement under the Fresno River project, Project W-00009

Recommendation: Adopt a Resolution approving a Pipeline Crossing Agreement (Agreement) between the Union Pacific Railroad Company and the City of Madera for the water main replacement across the Fresno River (Report by Keith Helmuth)

B-12 Extension of Agreement with Backflow Solutions, Inc.

Recommendation: Adopt a Resolution Extending the Existing Agreement with Backflow Solutions, Inc., for one additional year (Report by Arnoldo Rodriguez)

B-13 Consider an Amendment to the Professional Services Agreement with Fire Safety Solutions

Recommendation: Adopt a Resolution approving a Second Amendment to the Professional Services Agreement with Fire Safety Solutions, Inc. for Building and Fire Plan Review and Inspection Services (Report by Will Tackett)

B-14 Award of Agreement for Professional Recruiting Services

Recommendation: Adopt a Resolution Approving a Professional Services Agreement with CPS HR Consulting for Recruiting Services (Report by Wendy Silva)

B-15 Annual Local Appointment List on City Boards, Commissions, and Committees

Recommendation: Approve a Minute Order Authorizing the City Clerk to File the 2025 Annual Local Appointments List (Report by Alicia Gonzales)

C. WORKSHOP: None

D. PETITIONS, BIDS, RESOLUTIONS, ORDINANCES, AND AGREEMENTS:

D-1 Purchase of New Tasers for the Police Department

Recommendation: Adopt Resolutions:

1. Approving the purchase of 71 Tasers from Axon Enterprises, Inc. for $265,686.35; and
2. Approving a Budget Amendment to the Fiscal Year 2024/25 Operating Budget to appropriate Measure K fund balance funds for the purchase of the Tasers (Report by Giachino Chiaramonte)

D-2 Contract Award for Fairgrounds Lift Station Modifications, City Project SS-00006

Recommendation: Adopt a Resolution:

1. Approving the contract award for the Fairgrounds Lift Station Modifications, City Project SS-00006 for $1,902,002 to Telstar Instruments; and
2. Authorizing a contingency of 10 percent of the contract amount; and
3. Adopting a CEQA Class 2 Replacement or Reconstruction Categorical Exemption per Section 15302 (c) (Report by Keith Helmuth)

D-3 Approval of an Agreement with Wordly for Translation Services

Recommendation:

1. Adopt a Resolution approving the agreement with Wordly for the provision of AI-powered translation services at City Council meetings; and
2. Adopt a Resolution approving a budget amendment for the amount of $9,950 (Report by Alicia Gonzales)

D-4 City Council Appointment to Fill Vacancy in Council District 1

Recommendation: It is recommended that the City Council:

1. Consider the applications for the City Council District 1 seat and, after deliberation, adopt a Resolution appointing a candidate to fill the vacancy; or
2. Direct staff to prepare a Resolution calling for a special election to fill the vacancy, with the election to be held no later than Sunday, February 2, 2025, as required by applicable law (Report by Alicia Gonzales)

E. ADMINISTRATIVE REPORTS:

E-1 Informational Report on Attendance of City Board, Commission, Committee Members

Recommendation: Staff recommends that the City Council receive and review this report as an informational item (Report by Arnoldo Rodriguez)

E-2 Seek Direction Regarding the Regular City Council Meetings Scheduled for 2025

Recommendation: Direction on, and Adoption of, a Meeting Schedule for Council (Report by Arnoldo Rodriguez)

F. FUTURE AGENDA ITEMS:

This portion of the meeting is reserved (i) to initiate new matters and to request updates, and (ii) and to initiate new agenda items. No single item may exceed one minute. All votes shall be conducted electronically, with the results announced by the Chair. If voting is not available by electronic methods, another method may be used by the Chair unless otherwise determined by a majority of the Councilmembers present. Under this section the Council may take action only on items specifically agendized and which meet other requirements for action.

G. COUNCILMEMBER COMMUNICATIONS (REPORTS/ANNOUNCEMENTS):

This portion of the meeting is reserved for the Mayor and Councilmembers (i) to make brief reports on boards, committees, and other public agencies, and at public events, and (ii) to make announcements.

H. CLOSED SESSION: None

UPCOMING MEETING DATES:

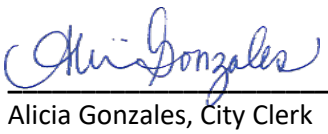
- Wednesday, January 15, 2025
- Wednesday, February 5, 2025

ADJOURNMENT:

- The meeting room is accessible to the physically disabled. Requests for accommodations for persons with disabilities such as signing services, assistive listening devices, or alternative format agendas and reports needed to assist participation in this public meeting may be made by calling the City Clerk's Office at (559) 661-5405 or emailing cityclerkinfo@madera.gov . Those who are hearing impaired may call 711 or 1-800-735-2929 for TTY Relay Service. Requests should be made as soon as practicable as additional time may be required for the City to arrange or provide the requested accommodation. Requests may also be delivered/mailed to: City of Madera, Attn: City Clerk, 205 W. 4th Street, Madera, CA 93637. At least seventy-two (72) hours' notice prior to the meeting is requested but not required. When making a request, please provide sufficient detail that the City may evaluate the nature of the request and available accommodations to support meeting participation. Please also provide appropriate contact information should the City need to engage in an interactive discussion regarding the requested accommodation.
- The services of a translator can be made available. Please contact the City Clerk's Office at (559) 661-5405 or emailing cityclerkinfo@madera.gov to request translation services for this meeting. Those who are hearing impaired may call 711 or 1-800-735-2929 for TTY Relay Service. Requests should be submitted in advance of the meeting to allow the City sufficient time to provide or arrange for the requested services. At least seventy-two (72) hours' notice prior to the meeting is requested but not required.
- Please silence or turn off cell phones and electronic devices while the meeting is in session.
- Regular meetings of the Madera City Council are held the 1st and 3rd Wednesday of each month at 6:00 p.m. in the Council Chambers at City Hall.
- Any writings or documents provided to a majority of the City Council within 72 hours of the meeting regarding any item on this agenda will be made available for public inspection at the City Clerk's office located at 205 W. 4th Street, Madera, CA 93637 and on the City website at www.madera.gov

- Questions regarding the meeting agenda or conduct of the meeting, please contact the City Clerk's Office at (559) 661-5405.
- Para asistencia en español sobre este aviso, por favor llame al (559) 661-5405.

I, Alicia Gonzales, City Clerk for the City of Madera, declare under penalty of perjury that I posted the above agenda for the Regular Meeting of the Madera City Council for December 18, 2024, near the front entrances of City Hall and on the City's website www.madera.gov at 5:00 p.m. on December 13, 2024.



Alicia Gonzales, City Clerk

REPORT TO THE CITY COUNCIL

Approved by:

_____
Will Tackett, Community Development Director

_____
Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: A-1

SUBJECT:

Ordinance Text Amendment (OTA) 2024-02, for the amendment of Chapter 3 of Title X: Planning and Zoning of the City Municipal Code

RECOMMENDATION:

The Planning Commission and staff recommend the City Council conduct a public hearing and take action as follows:

1. Waive full reading and introduce by title only an Ordinance of the City Council of the City of Madera determining the project is exempt pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines and amending Chapter 3 of Title X: Planning and Zoning of the City Municipal Code regarding housing-related definitions, procedures, and regulated uses in zone districts that allow housing.

SUMMARY:

On December 2, 2015, the City adopted the 2016-2024 Housing Element (5th Cycle), which included an evaluation of the City's regulations and practices, and recommended programs (referred to as action items in this version of the Housing Element) to demonstrate compliance with State-mandated requirements related to housing. Of these action items, Action Item H-1.1.3, H-1.1.4, H-1.3.1, and H-4.6.1 were developed and adopted with the intention of modifying the zoning ordinance to not only come into compliance with State law but to minimize governmental constraints for a variety of housing options, especially housing for special needs groups. The City is now in the process of updating its 6th Cycle Housing Element for the 2024-2032 planning period, which includes similar programs requiring amendments to the City's zoning ordinance for compliance with recent State legislation.

As a result, the City has initiated an Ordinance Text Amendment (OTA) 2024-02 to Chapter 3 of Title X of the City's Municipal Code. OTA 2024-02 proposes to make the necessary modifications

to implement the Housing Element, in addition to accommodating other State of California housing-related regulations that have taken effect over the last several years.

City Municipal Code (CMC) Section 10-3.1500 et seq. provides that a public hearing shall be held before the Planning Commission (Commission) for proposed amendments the Zoning Regulations of the CMC (Chapter 3, Title X); and, after the conclusion of the public hearing, the Commission shall render a recommendation to the City Council (Council). Accordingly, the Commission held a public hearing on December 10, 2024, to consider the proposed changes to Chapter 3 of Title X of the Madera Municipal Code and voted to recommend that the City Council approve the amendments. Following the recommendation made by the Commission, the Council shall take action pursuant to CMC Section 10-3.1509.

BACKGROUND:

Under California law, all cities and counties are required to adopt and maintain a General Plan (Government Code [GC] Section 63500, et seq.). The General Plan must contain eight mandatory elements (topical areas): land use, circulation, housing, conservation, open space, noise, safety, and environmental justice. The Housing Element is the only element that must be updated on a specified schedule. Each city or county is required to update its Housing Element every eight years. Each eight-year planning period is referred to as a "cycle." The current cycle is the 6th Cycle, which runs from 2024-2032. The County of Madera, as well as all of the other San Joaquin Valley counties, are each making updates to their Housing Elements within the 2024-2032 cycle. GC Sections 65580-65589.11 specify the contents for Housing Elements along with the update schedule. A Housing Element must identify and analyze the jurisdictions existing and projected housing needs to ensure adequate housing exists for all economic segments of the community.

As discussed above, the Housing Element is required to have programs which implement the Housing Element. Some of these programs have specific timelines that are required to be met in order for the City to be in compliance with State Housing Element Law. In the case of Madera, the Housing Element states that the City will review and revise the City's zoning ordinance within one year of the adoption deadline for the City's 6th cycle housing element (or by December 31, 2024). The intent of these zoning ordinance changes are to affirmatively further fair housing practices that reduce barriers for special needs groups and low-income individuals to find housing within the City. While the zoning ordinance changes do not in themselves create housing products, they would streamline housing production for many housing types by making them by-right uses. Additionally, definitions relating to housing are updated within the zoning ordinance, accessory dwelling unit regulations are revised to encourage housing that would help the City meet its Regional Housing Needs Allocation, and housing developments are streamlined in general to encourage "Missing Middle Housing".

On December 6, 2023, the Council adopted Resolution No. 23-204 approving a master agreement between the Madera County Transportation Commission (MCTC) and the City to apply, received, perform and utilize suballocated Regional Early Action Plan (REAP) funds to review and assess local ordinances and regulations and to amend zoning regulations which demonstrate a nexus to

increasing housing, accelerating production and/or facilitating compliance to implement the 6th Cycle Housing Element Update. The proposed amendments to the Zoning Regulations are a result of this agreement and subsequent efforts.

ANALYSIS:

OTA 2024-02 would add or clarify procedures, definitions, and use regulations for housing-related uses in zones that allow for residential uses within the City. The amendments proposed under OTA 2024-02 comply with State housing laws designed to reduce the amount of subjectivity and discretion that agencies, including the City, can impose on certain housing developments. Following is a summary of the amendments reflected in OTA 2024-02, included as Exhibit "A" to the attached Resolution (Attachment 1).

Procedures

The following procedures for the items listed below have been updated or added to the zoning ordinance. Each of these procedures are required for compliance with specific State legislation.

- Reasonable Accommodations (City Municipal Code [CMC] Section 10-3-5.201 et. seq.)
    - The existing Reasonable Accommodations language in the zoning ordinance has been updated to reflect the latest requirements of State law.
- Administrative Plan Review (CMC Section 10-3-4.201 et. seq.)
    - State law requires that certain uses be ministerially approved, so long as they meet the required standards. The Administrative Plan Review process has been added in order to establish an approval process for ministerial projects.

Accessory Dwelling Unit Provisions (CMC Section 10-3.513)

The zoning ordinance amendments now reflect the most recent requirements for accessory dwelling units, including the number and type of accessory dwelling units allowed and the objective standards applicable to accessory dwelling units. Review of accessory dwelling units is required to be ministerial, which is also reflected in the amendments. The number and type of accessory dwelling units allowed, as proposed in the zoning ordinance amendments, are described in further detail below. The proposed amendments are consistent with State law and in some cases allow for additional flexibility in the allowance of accessory dwelling units.

Multifamily Residential

Senate Bill 1211, which takes effect January 1, 2025, allows for existing multifamily developments to have up to eight total detached accessory dwelling units, with the stipulation that the development may have one detached accessory dwelling unit for every primary unit in the existing development up to a maximum of eight. Proposed multifamily development projects may have up to two detached accessory dwelling units. As proposed, the amended zoning ordinance would allow both existing and proposed multifamily developments to allow one detached accessory dwelling unit for every primary unit, up to a maximum of eight accessory dwelling units on a site.

Single Family Residential

As proposed, the amended zoning ordinance would allow single-family residential lots to provide one junior accessory dwelling unit, one attached accessory dwelling unit, and one detached accessory dwelling unit, which is consistent with State law. Additionally, the amended zoning ordinance would allow for "bonus" accessory dwelling units in excess of the maximum allowed on a single-family lot pursuant to State law. Bonus accessory dwelling units would apply specifically to single family residential zoned lots. Bonus accessory dwelling units would be granted based on affordability. Should a single-family lot deed restrict an accessory dwelling unit, it would qualify for one bonus accessory dwelling unit, which would be in addition to the number of accessory dwelling units allowed under State law. If a single-family lot provides two deed restricted accessory dwelling units, they would be granted another bonus accessory dwelling unit for a total of two bonus accessory dwelling units so long as the second bonus accessory dwelling unit meets certain accessibility requirements consistent with the American Disability Act (ADA). Single family residential lots would be allowed to provide a combination of units, including the primary unit, a junior accessory dwelling unit, and accessory dwelling units, not to exceed eight total units on a given lot. These provisions would provide an innovative way to encourage housing across the City, promote senior housing, and seek to lower housing costs with a large housing stock available to City residents. All units would still be required to meet applicable development standards for the property.

State Density Bonus Law Provisions (CMC Section 10-3-5.101 et. seq.)

The affordable housing density bonus provisions in the existing zoning ordinance have been updated to meet the most recent version of these regulations, consistent with State law.

Definitions (CMC Section 10-3.201)

The following definitions have been added to or amended in the zoning ordinance for consistency with State mandated requirements.

- Accessory Dwelling Units
- Emergency Shelters
- Employee Housing
- Family
- Farmworker Housing
- Group Residential Facility, Small and Large
- Low Barrier Navigation Centers
- Manufactured Home
- Mobile Home Park
- Residential Care Facilities
- Single Room Occupancy
- Supportive Housing
- Transit Corridor
- Transit Stop

Allowed Uses

The following uses have been added as permitted or conditionally permitted uses within the noted zone districts.

- Permitted uses with Administrative Plan Review approval in Residential Districts (R-1, R-2, R-3)
    - Accessory Dwelling Units
    - Mobilehomes
    - Multifamily housing types (duplexes, triplexes, fourplexes, etc.)
    - Transitional Housing
    - Supportive Housing
- Permitted uses Commercial and Industrial Districts (PO, C-1, C-2, C-R, C-N, I)
    - Low Barrier Navigation Centers
    - Supportive Housing
    - Transitional Housing
- Conditionally permitted uses in Commercial Districts (PO, C-1, C-2, C-N)
    - Single Room Occupancy Units

Other Changes

Changes made outside of those required by State Law include what is listed below.

- Removal of the Zoning Administrator role and assignment of the Zoning Administrator duties to the Planning (Community Development) Director.
    - The Zoning Administrator role is found not to be a necessary piece of the zoning ordinance and contrary to efforts to streamline processes, including housing production in some zone districts. As a result, the duties of the Zoning Administrator and uses subject to Zoning Administrator approval have been alternatively assigned. This will decrease any potential for confusion in processual requirements and contribute to the streamlining of application processing.
- Procedures for amendments to previously approved permits
    - Processes for revisions to previously approved permits have been added, allowing changes that meet certain thresholds to be approved at staff level. Changes that exceed the set thresholds must be considered by the original approval authority for the permit. This will streamline approvals for changes to permits that are minor or routine in nature.
- Expansion of language regarding interpretation
    - The existing zoning ordinance contains language regarding where interpretation of the ordinance applies, however it does not provide the authority to interpret. The interpretation language has therefore been expanded to allow the Planning Director to make interpretations of the zoning ordinance. An interpretation made by the Planning Director may be appealed to the Planning Commission.

- Codification of a General Plan Amendment process
    - The City processes General Plan Amendments via recommendation by the Planning Commission and approval by the City Council, but the process and level of authority is not outlined in the existing ordinance. Language has been added to outline the process.
- Other changes which were made on the basis of clarifying existing language or processes and to eliminate redundancies in the existing zoning ordinance

ENVIRONMENTAL REVIEW:

The first step in complying with the California Environmental Quality Act (CEQA) is to determine whether the activity in question constitutes a "project" as defined by CEQA (Public Resources Code Section 21000, et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, Section 15000, et seq.). A "project" consists of the whole of an action (i.e., not the individual pieces or components) that may have a direct or reasonably foreseeable indirect effect on the environment. The second step is to determine whether the project is subject to or exempt from the statute. This proposal qualifies as a project under CEQA because it involves an amendment to the zoning ordinance as described in CEQA Guidelines Section 15378(a)(1).

OTA 2024-02 does not authorize any particular activity. Any proposed future development would be subject to CEQA analysis if subject to discretionary approvals. Therefore, staff supports a finding consistent with CEQA Guidelines Section 15061(b)(3). Under this general "common sense" rule, it can be shown with certainty that the project does not have the potential to have a significant effect on the environment, and therefore it is not subject to further environmental review.

COUNCIL ACTION:

The Council will be acting on OTA 2024-02. Staff recommends that the Council:

1. Waive full reading and introduce by title only an Ordinance of the City Council of the City of Madera determining the project is exempt pursuant to Section 15061(b)(1) of the California Environmental Quality Act (CEQA) Guidelines and amending Chapter 3 of Title X: Planning and Zoning of the City Municipal Code regarding housing-related definitions, procedures, and regulated uses in zone districts that allow housing.

ALTERNATIVES:

As an alternative, the Council may elect to:

1. Move to refer the item back to staff and/or continue the public hearing to a future City Council meeting at a date and time certain with direction to staff to return with an updated staff report and/or Ordinance (Council to specify and articulate reasons for referral/continuance).
2. Move to deny the request based on specified findings: (Council to articulate reasons for recommended denial).

3. Provide staff with other alternative directives.

ATTACHMENTS:

1. Planning Commission Resolution (Recommendation)
2. City Council Ordinance
   Exhibit “A” – OTA 2024-02 Draft Ordinance

ATTACHMENT 1

Planning Commission Resolution
(Recommendation)

RESOLUTION NO. 2012

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA RECCOMENDING THE CITY COUNCIL OF THE CITY OF MADERA ADOPT AN ORDINANCE AMENDING CHAPTER 3 OF TITLE X: PLANNING AND ZONING OF THE CITY MUNICIPAL CODE REGARDING HOUSING-RELATED DEFINITIONS, PROCEDURES, AND REGULATED USES IN ZONE DISTRICTS THAT ALLOW HOUSING

WHEREAS, pursuant to the authority granted to the City of Madera ("City") by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote public health, public morals, or public safety; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property within the City lie within the City's police power; and

WHEREAS, the City is in the process of preparing its 6th Cycle Housing Element, which would contain implementation programs requiring the City to make updates to its Zoning Ordinance that would affirmatively further fair housing practices and streamline housing processes within the city in order to comply with State law; and

WHEREAS, on December 6, 2023, the Council adopted Resolution No. 23-204 approving a master agreement between the Madera County Transportation Commission (MCTC) and the City to apply, received, perform and utilize suballocated Regional Early Action Plan (REAP) funds to review and assess local ordinances and regulations and to amend zoning regulations which demonstrate a nexus to increasing housing, accelerating production and/or facilitating compliance to implement the 6th Cycle Housing Element Update; and

WHEREAS, Ordinance Text Amendment (OTA) 2024-02 that would amend Chapter 3 of Title X of the Madera Municipal Code (Planning and Zoning) in order to comply with State Housing Element Law and implement the Madera General Plan and implement procedures consistent with refinements to State law; and

WHEREAS, State law requires that OTA 2024-02 be adopted on or prior to December 31, 2024; and

WHEREAS, OTA 2024-02 will have a positive impact on the City and its citizens by providing opportunities for additional housing options at a variety of income levels and will bring the City into compliance with recent State legislation; and

WHEREAS, the City has determined that the project is exempt under the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061(b)(3) and that no additional environmental analysis is required; and

WHEREAS, under the City's Municipal Code, the Planning Commission (Commission) is a recommending body for Ordinance Text Amendments and will forward a recommendation to the Madera City Council (Council) on OTA 2024-02; and

WHEREAS, the City provided notice of the Commission hearing as required by law on October 30, 2024; and

WHEREAS, at the November 12, 2024, Planning Commission hearing, the Commission continued the item to the December 10, 2024, Planning Commission hearing; and

WHEREAS, the Commission received and independently reviewed OTA 2024-02 at a duly noticed meeting on December 10, 2024; and

WHEREAS, at the December 10, 2024, Commission meeting, a public hearing was held, the public was provided an opportunity to comment, and evidence, both written and oral, was considered by the Commission; and

WHEREAS, the Commission has independently completed its review of the staff report and documents submitted for OTA 2024-02, evaluated the information contained within the report and documents submitted, and considered testimony received as part of the public hearing process; and

WHEREAS, after due consideration of the items before it, the Commission now desires to adopt Resolution recommending that the Council adopt OTA 2024-02.

NOW, THEREFORE, be it resolved by the Planning Commission of the City of Madera as follows:

1. Recitals: The above recitals are true and correct and are incorporated herein.

2. CEQA: A preliminary environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The Planning Commission recommends the City Council determine the project is exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines. The activity is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Here, OTA 2024-02 does not authorize any particular activity, and is primarily being updated to address and implement changes to State law and to and add refinements to local policies that are within the scope of the State law. Any proposed future development would be subject to CEQA analysis if subject to discretionary approvals. No further environmental analysis is required.

3. Recommendation: The Commission hereby recommends that the Council approve OTA 2024-02, amending the sections of Chapter 3 of Title X of the City Municipal Code enumerated herein and in substantially the form contained in Exhibit "A" attached hereto with deletions shown in ~~strikethrough~~ and additions shown in underline.

The following sections have been proposed for amendment:

- 10-3.201 DEFINITIONS.
- 10-3.301 ESTABLISHMENT.
- 10-3.302 ZONING MAPS.
    - Subsection(s): (B)
- 10-3.304 ZONE BOUNDARIES.
- 10-3.401 INTERPRETATION.
- 10-3.405 USES.
    - Subsection(s): (I), (J), (L)
- 10-3.406 NONCONFORMING BUILDINGS AND USES.
    - Subsection(s): (H)
- 10-3.412 FENCES, WALLS, AND HEDGES.
    - Subsection(s): (C)
- 10-3.415 DWELLING ON FRONT OF LOTS
- 10-3.416 OUTDOOR RETAIL SALES.
    - Subsection(s): (B)
- 10-3.4.0101 PURPOSES.
- 10-3.4.0105 REVIEW AND ACTION.
    - Subsection(s): (A), (B), (C)
- 10-3.40106 APPROVAL DETERMINATIONS.
- 10-3.4.017 CONDITIONS OF APPROVAL.
- 10-3.4.0108 STREET DEDICATIONS AND IMPROVEMENTS.
    - Subsection(s): (A), (B), (D), (E)
- 10-3.4.0110 RELATIONSHIP TO ENVIRONMENTAL ASSESSMENT PROCEDURES.
- 10-3.4.0113 BUILDING PERMIT.
- 10-3.4.0114 LAPSE OF SITE PLAN APPROVAL.
- 10-3.4.0115. OCCUPANCY.
    - Subsection(s): (A)

- 10-3.4.0116 APPEAL TO THE PLANNING COMMISSION.
- 10-3.4.0117 APPEAL TO THE CITY COUNCIL.
    - Subsection(s): (B), (D), (E)
- 10-3.501 R ZONES; PURPOSE AND APPLICATION.
- 10-3.504 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
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- 10-3-9.102 PERMITTED USES.
    - Subsection(s): (A), (C)

- 10-3-9.102.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
- 10-3-9.202 PERMITTED USES.
- 10-3-9.202.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
- 10-3-9.203 CONDITIONAL USES.
- 10-3-9.302.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
- 10-3.1002 USES PERMITTED.
    - Subsection: (A), (B), (D)
- 10-3.11.503.1 USES REQUIRING AN ADMINISTRATIVE APPROVAL
- 10-3.1202 PARKING SPACES REQUIRED.
- 10-3.1306 PUBLIC HEARINGS.
    - Subsection(s): (A)
- 10-3.1307 ACTION BY COMMISSION.
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- 10-3.1309 APPEALS.
- 10-3.1310 ACTION ON APPEALS BY COUNCIL.
    - Subsection(s): (D)
- 10-3.1502 INITIATION OF PROCEDURE.
    - Subsection(s): (B)
- 10-3.1506 NOTICES.
    - Subsection(s): (A), (B)
- 10-3.1508 FINDINGS OF THE COMMISSION.
- 10-3.1601 INTERPRETATION
    - Subsection(s): (B) and (E) [for deletion]
- 10-3.1605 COMMENCEMENT OF PROCEEDINGS.

The following section would be added:

- 10-3.402 APPLICABILITY.
- 10-3.417 AMENDMENTS TO PREVIOUSLY APPROVED PERMITS
- 10-3.423 SINGLE ROOM OCCUPANCY
- 10-3.4.0111 AMENDMENT OF APPROVED PLANS.
- 10-3-4.201 PURPOSE
- 10-3-4.202 APPLICABILITY

- 10-3-4.203 APPLICATION REQUIREMENTS
- 10-3-4.204 REVIEW AND ACTION
- 10-3-4.205 APPROVAL FINDINGS
- 10-3-4.206 NOTICE OF DECISION
- 10-3-4.207 APPEALS
- 10-3-4.208 LAPSE OF APPROVAL & EXTENSIONS
- 10-3-4.209 AMENDMENTS
- 10-3.502 DENSITY.
- 10-3.503 PERMITTED USES.
- 10-3-5.102 APPLICABILITY
- 10-3-5.103 ELIGIBILITY FOR BONUS, INCENTIVES, OR CONCESSIONS.
- 10-3-5.104 APPLICATION
- 10-3-5.105 DENSITY BONUS ALLOWANCES FOR QUALIFIED HOUSING DEVELOPMENTS
- 10-3-5.106 DENSITY BONUS ALLOWANCES FOR TARGET POPULATION HOUSING
- 10-3-5.107 DENSITY BONUS ALLOWANCES FOR QUALIFIED LAND DONATIONS
- 10-3-5.108 INCENTIVES AND CONCESSIONS
- 10-3-5.109 WAIVERS OR REDUCTIONS OF DEVELOPMENT STANDARDS
- 10-3-5.110 PARKING STANDARD MODIFICATIONS
- 10-3-5.111 AFFORDABLE HOUSING AGREEMENT
- 10-3-5.207 AMENDMENTS
- 10-3-5.208 CONSIDERATION FACTORS
- 10-3.603 (RESERVED).
- 10-3.604 (RESERVED).
- 10-3.1801 NECESSITY
- 10-3.1802 APPLICABILITY
- 10-3.1803 APPLICATION AND FEES
- 10-3.1804 APPROVAL AUTHORITY
- 10-3.1805 PUBLIC HEARING AND NOTICING
- 10-3.1806 CONDITIONS OF APPROVAL
- 10-3.1807 FINDINGS FOR APPROVAL

- 10-3.1808 APPEALS
- 10-3.1809 AMENDMENTS
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- 10-3.1908 APPEALS
- 10-3.1909 EXPIRATION AND TIME EXTENSION
- 10-3.1910 AMENDMENTS
- 10-3.1911 FREQUENCY OF AMENDMENTS
- 10-3.1912 ADDITIONAL NOTICE REQUIRED

The following sections would be deleted (and reserved as appropriate):

- 10-3.402 LESS RESTRICTIVE LESS PROHIBITED.
- 10-3.415.1 (Reserved).
- 10-3.417 ZONING ADMINISTRATOR
- 10-3.419 TELECOMMUNICATION TOWERS, ANTENNAS AND STRUCTURES (REPEALED)
- 10-3.4.0111 REVISIONS OF APPROVED PLANS.
- 10-3-4.301 ENVIRONMENTAL REVIEW
- 10-3.502 R; PERMITTED USES
- 10-3.503 R; DENSITY
- 10-3.504.1 R; USES ALLOWED WITH ZONING ADMINISTRATOR'S PERMIT.
- 10-3-5.104 ALLOWED INCENTIVES OR CONCESSIONS.
- 10-3-5.1056 DENSITY BONUS ALLOWANCES FOR TARGET POPULATION HOUSING
- 10-3-5.106 DENSITY BONUS ALLOWANCES FOR QUALIFIED LAND DONATIONS
- 10-3-5.104 ALLOWED INCENTIVES OR CONCESSIONS.
- 10-3-5.106 PARKING REQUIREMENTS IN DENSITY BONUS PROJECTS.
- 10-3-5.106 BONUS AND INCENTIVES FOR DEVELOPMENTS WITH CHILD CARE FACILITIES.
- 10-3-5.107 CONTINUED AVAILABILITY.

- 10-3-5.108 LOCATION AND TYPE OF DESIGNATED UNITS.
- 10-3-5.109 DENSITY BONUS AGREEMENT.
- 10-3-5.110 CONTROL OF RESALE.
- 10-3-5.111 JUDICIAL RELIEF, WAIVER OF STANDARDS.
- 10-3.603 RCO PERMITTED USES; ADMINISTRATIVE APPROVAL (REPEALED)
- 10-3.604 RCO CONDITIONAL USES; COMMISSION APPROVAL (REPEALED)

4. Effective Date: This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 10th day of December 2024, by the following vote:

AYES: Commissioners Rohi Zacharia, Bobby Sheikh, Balwinder Singh, Saim Mohammad, Vice Chairperson Ramon Lopez, Chairperson Robert Gran Jr.

NOES: None

ABSTENTIONS: Commissioner Jose Eduardo Chavez

ABSENT: None

Robert Gran Jr.
Planning Commission Chairperson

Attest:

Will Tackett
Community Development Director

Exhibit "A" – OTA 2024-02 Draft Ordinance.

ATTACHMENT 2

City Council Ordinance

Including:

Exhibit “A”: OTA 2024-02

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA DETERMINING THE PROJECT IS EXEMPT PURSUANT TO SECTION 15061(b)(3) OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES AND AMENDING CHAPTER 3 OF TITLE X: PLANNING AND ZONING OF THE CITY MUNICIPAL CODE REGARDING HOUSING-RELATED DEFINITIONS, PROCEDURES, AND REGULATED USES IN ZONE DISTRICTS THAT ALLOW HOUSING

WHEREAS, pursuant to the authority granted to the City of Madera ("City") by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote public health, public morals, or public safety; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property within the City lie within the City's police power; and

WHEREAS, the City is in the process of preparing its 6th Cycle Housing Element, which would contain implementation programs requiring the City make updates to its Zoning Ordinance that would affirmatively further fair housing practices and streamline housing processes within the city in order to comply with State law; and

WHEREAS, on December 6, 2023, the Council adopted Resolution No. 23-204 approving a master agreement between the Madera County Transportation Commission (MCTC) and the City to apply, received, perform and utilize suballocated Regional Early Action Plan (REAP) funds to review and assess local ordinances and regulations and to amend zoning regulations which demonstrate a nexus to increasing housing, accelerating production and/or facilitating compliance to implement the 6th Cycle Housing Element Update; and

WHEREAS, Ordinance Text Amendment (OTA) 2024-02 would amend Chapter 3 of Title X of the Madera Municipal Code (Planning and Zoning) in order to comply with State Housing Element Law and implement the Madera General Plan and implement procedures consistent with refinements to State law; and

WHEREAS, a preliminary environmental assessment was performed and the proposed project was found to be exempt pursuant to Section 15063(b)(3) (General Rule/Common Sense) of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, under the Section 10-3.1508 of the City's Municipal Code (CMC), the Planning Commission (Commission) is a recommending body for Ordinance Text Amendments; and

WHEREAS, the Commission held a duly noticed public hearing for OTA 2024-02 on December 10, 2024, the Commission received and independently reviewed OTA 2024-02 and after due consideration of all the items before it, voted to recommend that the Council adopt the environmental determination for purposes of CEQA and approve OTA 2024-02; and

WHEREAS, under the Section 10-3.1509 of the City's Municipal Code, the Council shall take action upon receiving a recommendation from the Commission in regard to a proposed ordinance text amendment at a subsequent public hearing; and

WHEREAS, State law requires that OTA 2024-02 be adopted on or prior to December 31, 2024; and

WHEREAS, the City provided notice of the Council hearing as required by law on December 7, 2024; and

WHEREAS, the Council received and independently reviewed OTA 2024-02 at the regularly scheduled meeting of the Council held on December 18, 2024; and

WHEREAS, at the December 18, 2024, Council meeting, a public hearing was held, the public was provided an opportunity to comment, and evidence, both written and oral, was considered by the Council; and

WHEREAS, after due consideration of the items before it, the Council now desires to adopt OTA 2024-02.

NOW THEREFORE, the City Council of the City of Madera ordains as follows:

SECTION 1. Recitals. The City Council hereby finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.

SECTION 2. CEQA Determination. A preliminary environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA). The City Council has determined the project is exempt pursuant to Section 15061(b)(3) (Common Sense) of the CEQA Guidelines. The activity is covered by the general rule common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. OTA 2024-02 does not authorize any particular activity. Any proposed future development would be subject to CEQA analysis if subject to discretionary approvals. No further environmental analysis is required.

SECTION 3. Approval of OTA 2024-02. The Council hereby approves OTA 2024-02, amending the sections of Chapter 3 of Title X of the City Municipal Code enumerated herein and in substantially the form contained in Exhibit "A" attached hereto with deletions shown in ~~strikethrough~~ and additions shown in underline.

The following sections have been proposed for amendment:

- 10-3.201 DEFINITIONS.
- 10-3.301 ESTABLISHMENT.
- 10-3.302 ZONING MAPS.
    - Subsection(s): (B)
- 10-3.304 ZONE BOUNDARIES.
- 10-3.401 INTERPRETATION.
- 10-3.405 USES.

    - Subsection(s): (I), (J), (L)
- 10-3.406 NONCONFORMING BUILDINGS AND USES.
    - Subsection(s): (H)
- 10-3.412 FENCES, WALLS, AND HEDGES.
    - Subsection(s): (C)
- 10-3.415 DWELLING ON FRONT OF LOTS
- 10-3.416 OUTDOOR RETAIL SALES.
    - Subsection(s): (B)
- 10-3.4.0101 PURPOSES.
- 10-3.4.0105 REVIEW AND ACTION.
    - Subsection(s): (A), (B), (C)
- 10-3.40106 APPROVAL DETERMINATIONS.
- 10-3.4.017 CONDITIONS OF APPROVAL.
- 10-3.4.0108 STREET DEDICATIONS AND IMPROVEMENTS.
    - Subsection(s): (A), (B), (D), (E)
- 10-3.4.0110 RELATIONSHIP TO ENVIRONMENTAL ASSESSMENT PROCEDURES.
- 10-3.4.0113 BUILDING PERMIT.
- 10-3.4.0114 LAPSE OF SITE PLAN APPROVAL.
- 10-3.4.0115. OCCUPANCY.
    - Subsection(s): (A)
- 10-3.4.0116 APPEAL TO THE PLANNING COMMISSION.
- 10-3.4.0117 APPEAL TO THE CITY COUNCIL.
    - Subsection(s): (B), (D), (E)
- 10-3.501 R ZONES; PURPOSE AND APPLICATION.
- 10-3.504 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
- 10-3.505 CONDITIONAL USES; COMMISSION APPROVAL.
- 10-3.506 FENCES, WALLS, AND HEDGES.
- 10-3.507 MINIMUM SITE AREA AND DIMENSIONS.
- 10-3.508 YARD REQUIREMENTS.
- 10-3.509 MINIMUM OPEN SPACE.
- 10-3.510 BUILDING HEIGHT.
- 10-3.512 MULTIPLE SINGLE-FAMILY DWELLING UNITS.

- 10-3.513 ACCESSORY DWELLING UNITS.
- 10-3-5.101 PURPOSE.
- 10-3-5.201 PURPOSE.
- 10-3-5.202 APPLICABILITY.
    - Subsection(s): (A)
- 10-3-5.203 PROCEDURE.
    - Subsection(s): (A), (C), (D), (E)
- 10-3-5.204 APPROVAL FINDINGS.
- 10-3-5.205 CONDITIONS OF APPROVAL.
- 10-3-5.206 APPEALS.
    - Subsection(s): (A), (B), (F)
- 10-3.752 USES PERMITTED.
    - Subsection(s): (A), (B), (C)
- 10-3.802 USES PERMITTED.
    - Subsection(s): (A), (B), (C)
- 10-3.902 USES PERMITTED.
    - Subsection(s): (A), (B), (C)
- 10-3-9.102 PERMITTED USES.
    - Subsection(s): (A), (C)
- 10-3-9.102.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
- 10-3-9.202 PERMITTED USES.
- 10-3-9.202.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
- 10-3-9.203 CONDITIONAL USES.
- 10-3-9.302.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL.
- 10-3.1002 USES PERMITTED.
    - Subsection: (A), (B), (D)
- 10-3.11.503.1 USES REQUIRING AN ADMINISTRATIVE APPROVAL
- 10-3.1202 PARKING SPACES REQUIRED.
- 10-3.1306 PUBLIC HEARINGS.
    - Subsection(s): (A)
- 10-3.1307 ACTION BY COMMISSION.
    - Subsection(s): (B)

- 10-3.1309 APPEALS.
- 10-3.1310 ACTION ON APPEALS BY COUNCIL.
    - Subsection(s): (D)
- 10-3.1502 INITIATION OF PRODECURE.
    - Subsection(s): (B)
- 10-3.1506 NOTICES.
    - Subsection(s): (A), (B)
- 10-3.1508 FINDINGS OF THE COMMISSION.
- 10-3.1601 INTERPRETATION
    - Subsection(s): (B)
- 10-3.1605 COMMENCEMENT OF PROCEEDINGS.

The following section would be added:

- 10-3.402 APPLICABILITY.
- 10-3.417 AMENDMENTS TO PREVIOUSLY APPROVED PERMITS
- 10-3.423 SINGLE ROOM OCCUPANCY
- 10-3.4.0111 AMENDMENT OF APPROVED PLANS.
- 10-3-4.201 PURPOSE
- 10-3-4.202 APPLICABILITY
- 10-3-4.203 APPLICATION REQUIREMENTS
- 10-3-4.204 REVIEW AND ACTION
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- 10-3.503 PERMITTED USES.
- 10-3-5.102 APPLICABILITY
- 10-3-5.103 ELIGIBILITY FOR BONUS, INCENTIVES, OR CONCESSIONS.
- 10-3-5.104 APPLICATION
- 10-3-5.105 DENSITY BONUS ALLOWENCES FOR QUALIFIED HOUSING DEVELOPMENTS
- 10-3-5.106 DENISTY BONUS ALLOWANCES FOR TARGET POPULATION HOUSING

- 10-3-5.107 DENISTY BONUS ALLOWANCES FOR QUALIFIED LAND DONATIONS
- 10-3-5.108 INCENTIVES AND CONCESSIONS
- 10-3-5.109 WAIVERS OR REDUCTIONS OF DEVELOPMENT STANDARDS
- 10-3-5.110 PARKING STANDARD MODIFACTIONS
- 10-3-5.111 AFFORDABLE HOUSING AGREEMENT
- 10-3-5.207 AMENDMENTS
- 10-3-5.208 CONSIDERATION FACTORS
- 10-3.603 (RESERVED).
- 10-3.604 (RESERVED).
- 10-3.1801 NECESSITY
- 10-3.1802 APPLICABILITY
- 10-3.1803 APPLICATION AND FEES
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- 10-3.1910 AMENDMENTS
- 10-3.1911 FREQUENCY OF AMENDMENTS
- 10-3.1912 ADDITIONAL NOTICE REQUIRED

The following sections would be deleted:

- 10-3.402 LESS RESTRICTIVE LESS PROHIBITED.
- 10-3.415.1 (Reserved).

- 10-3.417 ZONING ADMINISTRATOR
- 10-3.419 TELECOMMUNICATION TOWERS, ANTENNAS AND STRUCTURES (REPEALED)
- 10-3.4.0111 REVISIONS OF APPROVED PLANS.
- 10-3-4.301 ENVIRONMENTAL REVIEW
- 10-3.502 R; PERMITTED USES
- 10-3.503 R; DENSITY
- 10-3.504.1 R; USES ALLOWED WITH ZONING ADMINISTATOR'S PERMIT.
- 10-3-5.104 ALLOWED INCENTIVES OR CONCESSIONS.
- 10-3-5.1056 DENSITY BONUS ALLOWANCES FOR TARGET POPULATION HOUSING
- 10-3-5.106 DENSITY BONUS ALLOWANCES FOR QUALIFIED LAND DONATIONS
- 10-3-5.104 ALLOWED INCENTIVES OR CONCESSIONS.
- 10-3-5.106 PARKING REQUIREMENTS IN DENSITY BONUS PROJECTS.
- 10-3-5.106 BONUS AND INCENTIVES FOR DEVELOPMENTS WITH CHILD CARE FACILITIES.
- 10-3-5.107 CONTINUED AVAILABILITY.
- 10-3-5.108 LOCATION AND TYPE OF DESIGNATED UNITS.
- 10-3-5.109 DENSITY BONUS AGREEMENT.
- 10-3-5.110 CONTROL OF RESALE.
- 10-3-5.111 JUDICIAL RELIEF, WAIVER OF STANDARDS.
- 10-3.603 RCO PERMITTED USES; ADMINISTRATIVE APPROVAL (REPEALED)
- 10-3.604 RCO CONDITIONAL USES; COMMISSION APPROVAL (REPEALED)
- 10-3.1601 INTERPRETATION
    - Subsection(s): (E)

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 5. Publication. The City Clerk shall certify to the passage and adoption of this Ordinance by the City Council of the City of Madera and shall cause this Ordinance to be published or posted in accordance with Government Code Section 36933 as required by law.

SECTION 6. Effective Date of Ordinance. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.

* * * * *

EXHIBIT “A”

OTA 2024-02

CHAPTER 3: ZONING

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PURPOSE AND TITLE

§ 10-3.101 PURPOSE.

An official land use plan for the city is adopted and established to promote the growth of the city in an orderly manner and to promote and protect the public health, safety, peace, comfort, and general welfare, and to provide the economic and social advantages resulting from an orderly planned use of land resources.

§ 10-3.102 SHORT TITLE.

This chapter shall be known as the "Zoning Regulations."

DEFINITIONS

§ 10-3.201 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. Part of the main building or a detached subordinate building located on the same lot or building site, the use of which is customarily incidental to that of the main building or to the main use of the land. Where a substantial part of the wall of an accessory building is a part of the main building, or where an accessory building is attached to the main building in a substantial manner by a roof, such accessory building shall be counted as part of the main building.

ACCESSORY DWELLING UNIT. An attached or a detached dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the primary dwelling unit is situated. An accessory dwelling unit also includes an efficiency unit, as defined in California Health and Safety Code Section 17958.1, and a manufactured home, as defined in California Health and Safety Code Section 18007.

ACCESSORY USE. A use naturally and normally incidental to, subordinate to, and devoted exclusively to the principal use of the premises.

ALLEY. A public thoroughfare or way not less than ten feet nor more than 20 feet in width, serving as a secondary means of access to abutting property, and which has been deeded or dedicated to the city.

APARTMENT. A room or suite of two or more rooms in a multiple dwelling occupied or suitable for occupancy as a residence for one family.

APARTMENT HOUSE. See definition in this subchapter, DWELLING, MULTIPLE.

AUTOMOBILE COURT. A group of two or more attached, detached, or semi-detached buildings containing individual sleeping or living units designed for or used primarily for the accommodation of transient automobile travelers, with garage attached or parking space conveniently located to each unit, including tourist courts, motels, or motor lodges.

BOARDING HOUSE. A dwelling other than a hotel where lodging and/or meals for three or more persons are provided for compensation. COMPENSATION shall include compensation in money, services, or other things of value.

BILLBOARD. Any sign containing advertising, not appurtenant to any permitted use, over six square feet in area.

BUILDING. Any structure having a roof supported by columns or by walls and designed for the housing or enclosure of any person, animal, or chattel.

BUILDING, HEIGHT OF. The vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof.

BUILDING, MAIN. A building in which is conducted the principal use of the lot on which it is situated. In any R zone, any dwelling shall be deemed to be a main building on the lot on which the same is situated.

BUILDING SITE. See definition in this subchapter, LOT.

CAMP, TRAILER. Any area or tract of land used or designed to accommodate ten or more automobile trailers or ten or more camping parties, including cabins, tents, or other camping outfits.

COMMISSION. The Planning Commission of the city.

DUPLEX. A building containing not more than two kitchens, designed and/or used to house not more than two families, living independently of each other, including all necessary employees of each family.

DWELLING. A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family, and multiple dwellings, but not including hotels, clubs, or boarding houses or any institution such as an asylum, hospital, or jail where human beings are housed by reason of illness or under legal restraint.

DWELLING GROUPS. One or more buildings containing dwelling units occupying a parcel of land, in one ownership, and arranged around a yard or court, including one-family, two-family, and multiple dwellings, but not including automobile courts.

DWELLING, MULTIPLE. A building, or portion thereof, used, designed, or intended as a residence for three or more families living independently of each other, and doing their own cooking in the building, including apartment houses, apartment hotels and flats, but not including automobile courts.

DWELLING, ONE-FAMILY. A building designed and/or used exclusively for occupancy by one family, living independently of any other family.

DWELLING, TWO-FAMILY. A building designed and/or used exclusively for occupancy by two families, living independently of each other (see definition in this subchapter, DUPLEX).

DWELLING UNIT. Two or more rooms in a dwelling or an apartment hotel designed for occupancy by one family for living and sleeping purposes and having only one kitchen.

EMERGENCY SHELTER. Housing, as defined in California Health and Safety Code Section 50801, with minimal supportive services for families or individuals experiencing homelessness, where occupancy is limited to sixth months or less. Medical assistance, counseling, and meals may be provided~~Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay~~.

EMPLOYEE HOUSING. Living quarters including dwellings, railroad maintenance cars, trailer coaches, or other housing accommodations maintained in connection with any work or place where work is being performed and the site on which they are located, excepting farm employee housing as defined in this section.

ERECTED. Shall include built, built upon, added to, altered, constructed, reconstructed, moved upon, or any physical operation upon the land required for a building.

FAMILY. One or more persons living ~~as a single housekeeping unit~~ in a dwelling unit.~~, including necessary domestic servants. FAMILY shall not include such groups as customarily occupy a hotel, club, fraternity, or sorority house.~~

FARMWORKER HOUSING. Living accommodations for employees and their immediate families employed for the exclusive purpose of agricultural pursuits either on the premises or off-site. It includes single- or multi-unit dwellings, including mobile homes.

GARAGE, PUBLIC. A building used for the care, repair, or equipment of automobiles, or where such vehicles are parked or stored for remuneration, hire, or sale.

GARAGE, PRIVATE. A detached accessory building or portion of a main building for the parking or temporary storage of automobiles of the occupants of the premises.

GARAGE SPACE. Permanently maintained space of not less than 8½ × 19 feet for the parking of automobiles off the street. Such space shall be located and arranged for an accessory building and with adequate ingress and egress.

GROUP RESIDENTIAL FACILITY. Shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. Facilities are typically licensed by the State of California. This classification includes clean and sober living facilities, other types of organizational housing, private residential clubs, and farmworker housing, but excludes bed and breakfasts, dormitories, fraternity and sorority houses, boarding homes, rest homes, hotels, motels, and residential care facilities.

Small. A facility that houses six or fewer persons.

Large. A facility that houses seven or more persons

HOME OCCUPATION. The conduct of an art or profession, the offering of a service, or the conduct of a business, or the handcraft manufacture of products within a house or garage in a residential district, which use is clearly incidental and secondary to the use of a structure for dwelling purposes and which use does not change the character thereof.

HOTEL. Any building, or portion thereof, containing six or more guest rooms used, designed, or intended to be used, let, or hired out to be occupied or which are occupied as the more or less temporary abiding place of six or more individuals who are lodged with or without meals for compensation, whether the compensation for hire is paid directly or indirectly, and in which no provision is made for cooking in any individual room or suite.

HOUSING FIRST. Unconditional housing provided as quickly as possible to homeless people, with supportive services offered.

JUNK YARD. The use of more than 200 square feet of the area of any lot or the use of any portion of that half of any lot, which half adjoins any street for the storage of junk, including scrap metals or other scrap materials, or for the dismantling or wrecking of automobiles, other vehicles, or machinery, whether for sale or storage.

LOADING SPACE. A permanently maintained space of not less than 8 × 18 feet located off the street with access for the parking of vehicles. Whenever the provisions of this chapter shall require loading space, such space shall be in addition to any required parking space and/or garage space.

LOT. Any area or parcel of land held under separate ownership and occupied, or to be occupied, by a main building or by a dwelling group, together with such yards, open spaces, lot width, and lot area as are required by this chapter and having its principal frontage on a public street, road, or highway.

LOT, CORNER. A lot situated at the intersection of two or more intersecting streets.

LOT DEPTH. The horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.

LOT LINE, FRONT. The property line dividing a lot from a street. On a corner lot the shorter street frontage shall be considered the front lot line.

LOT, INTERIOR. A lot other than a corner lot.

LOT, KEY. The first lot to the rear of a reversed corner lot, whether or not separated by an alley.

LOT LINE. The lines bounding a lot.

LOT LINE, REAR. The line opposite the front lot line.

LOT, REVERSED CORNER. A corner lot which rears upon the side of another lot, whether separated by an alley or not.

LOT LINE, SIDE. Lot lines other than front lot lines or rear lot lines.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH. The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

LOW BARRIER NAVIGATION CENTER. A Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

MANUFACTURED HOME. A factory-built structure that is manufactured or constructed under authority of 42 U.S.C. Sec. 5403, National Manufactured Housing Construction and Safety Standards Act of 1974, and/or California law and is to be used as a place for human habitation. The structure is manufactured either in whole or in substantial part at an off-site location, transported to the site, assembled on-site, and placed on a permanent foundation. For the purpose of this Development Code, a manufactured home shall be considered the same as any site-built, single-family detached dwelling. Manufactured home is not inclusive of a mobile home unless the mobile home has been converted to real property and is taxed as a site-built dwelling.

MOBILEHOME. A structure, transportable in one or more sections, designed to be used with or without a permanent foundation, which contains not more than one dwelling unit, and which is not a recreational vehicle, commercial coach or factory-built house.

MOBILE HOME PARK. Any area or tract of land where two or more lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate mobile homes used for human habitation.

NONCONFORMING BUILDING. A building or structure or portion thereof lawfully existing on September 15, 1954, which was designed, erected, or structurally altered for a use that does not conform to the use regulations of the zone in which it is located, or a building or structure that does not conform to all the height or area regulations of the zone in which it is located.

NONCONFORMING USE. A use which lawfully occupied a building or land on September 15, 1954, and which does not conform with the use regulations of the zone in which it is located.

OPEN SPACE. As required in the R and PD zones shall mean area available and accessible to residents for active and passive recreation including landscaped areas, walkways, patios, yards, and recreation facilities. To qualify as open space, an area must have a minimum dimension of 10 feet except that balconies may qualify as open space when the minimum dimension is five feet. Parking areas (spaces and driveways) may not be included in open space calculations.

PARKING SPACE. Permanently maintained space at least 8½ × 19 feet located off the street with access for the parking of automobiles.

PROFESSIONAL OFFICES. An office for the conduct of any one of the following uses: accountant, architect, attorney, chiropractor, civil engineer or surveyor's drafting office, collection agency, cosmetologist, dentist, doctor, funeral parlor, insurance, private detective, real estate, social worker or similar use; but shall not include the following uses: advertiser, barber shop, contractor, pest control, pharmacy, or veterinary.

ROOMING HOUSE. See definition subsection in this subchapter, BOARDING HOUSE.

RESIDENTIAL CARE FACILITY. Facilities that are licensed by the State of California to provide permanent living accommodations and 24-hour primarily nonmedical care and supervision for persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions, including hospices, nursing homes, convalescent facilities, assisted living facilities, and group homes for minors, persons with disabilities and people in recovery from alcohol or drug addictions. This use classification excludes transitional housing and social service facilities. Residential Care Facilities are further divided into three class types as follows:

Small. A facility providing care for six or fewer persons.

Large. A facility providing care for more than six persons.

Elderly. A housing arrangement chosen voluntarily by the resident or by the resident's guardian, conservator, or other responsible person; where residents are 60 years of age or older; and where varying levels of care and supervision are provided as agreed to at the time of admission or as determined necessary at subsequent times of reappraisal. This classification includes continuing care retirement communities and life care communities licensed for residential care by the State of California."

SINGLE ROOM OCCUPANCY. A residential facility containing housing units that may have individual or shared kitchen and/or bathroom facilities and are guest rooms or efficiency units as defined by the California Health and Safety Code. Each housing unit is offered on a monthly rental basis or longer.

STREET. A public thoroughfare or road easement not less than 20 feet in width, which affords principal means of access to abutting property, but not including an alley.

STREET LINE. The boundary between a street and property.

STRUCTURE. Anything constructed or erected, the use of which requires more or less permanent location on or in the ground or attachment to something having a permanent location on or in the ground, including site built swimming pools. This definition does not include walls and fences less than three feet in height when located in front yards, or less than six feet in height when located in side or rear yards, nor other improvements of a minor character.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams, girders, floor joists, or roof joists, for which a building permit is required.

SUPPORTIVE HOUSING. Housing with no limit on length of stay that is occupied by the target population and that is linked to onsite or offsite services that assist residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. ~~Housing with no limit on length of stay, that is occupied by the target population and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone~~.

TARGET POPULATION. Persons with low incomes who have one or more disabilities, including mental illness, HIV and AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Development Disabilities Services Act (Division 4.5 (commencing with ~~§~~ Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

TRANSIT CORRIDOR. An area within one-quarter mile of a route on which the level of service is at or above the average for the transit system as a whole, according to the transit operator serving the area, and on which regularly scheduled public mass transit service stops are located, or within one-quarter mile of an existing or planned public mass transit guideway or busway station, or within one-quarter mile of a multimodal transportation terminal serving public mass transit operations. “Level of service,” unless otherwise defined by the transit operator, means the frequency of headways and the number of vehicles per day.

TRANSIT STOP. A site containing an existing rail or fixed route bus station, a rail terminal, or an intersection of two or more fixed route bus routes.

TRANSITIONAL HOUSING. Buildings configured as rental housing, but operating under program requirements that require the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months from the beginning of the assistance. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

USE. The purpose for which land or premises or a building thereon is designed, arranged, or intended, or for which it is or may be occupied or maintained.

YARD. An open space, other than a court, on the same lot with a building, which open space is unoccupied and unobstructed from the ground upward, except as otherwise permitted in this chapter.

YARD, FRONT. A yard extending across the front of the lot between the inner side yard lines and measured between the front lot line and the nearest line of the main building.

YARD, REAR. A yard extending across the full width of the lot and measured between the rear line of the lot and the nearest line or point of the main building nearest the rear line of the lot.

YARD, SIDE. A yard on each side of a building between the building and the side line of the lot and extending from the front line to the rear yard.

ZONE. A portion of the city within which certain uses of land and buildings are permitted or prohibited and within which certain yards and other open spaces are required and certain height limited are established for buildings, all as set forth and specified in this chapter. ~~ZONE~~ Zone shall mean and include a "zone district," "zoning district," "land use district," or "district," any of which may be used interchangeably in this chapter as warranted by the context. ~~the word DISTRICT.~~

ZONES

§ 10-3.301 ESTABLISHMENT.

(A) In order to classify, regulate, restrict, and segregate the uses of land and buildings, to regulate and restrict the height and bulk of buildings, and to regulate the area of yards and other open spaces about buildings, and to promote the public health, safety, peace, comfort and general welfare, 16~~3~~ classes of land use zones are established to be known as follows:

(1) PD. Planned Development Zones
(2) R. Residential Zones
(3) RCO. Resource Conservation and Open Space Zone
(4) PF. Public Facilities Zone
(5) PO. Public Office Zone
(6) C-1. Light Commercial Zone
(7) C-2 Heavy Commercial Zone
(8) C-R. Restricted Commercial Zone
(9) WY. West Yosemite Avenue Overlay Zone
(10) I. Industrial Zone
(11) UR. Urban Reserve Zone
(12) U. Unclassified Zone
(13) IP. Industrial Park Zone
(14) N-C. Neighborhood Commercial Zones
(15) H-C. Highway Commercial Zones
(16) SP. Specific Plan Zone

(B) An "S" subdesignation may be added to a zone classification applied to a parcel or parcels of land when deemed appropriate by the City Council, upon recommendation of the Planning Commission, for the purpose of setting forth special provisions for the use of such land on an interim or transitional basis. Such use may be one that would otherwise not be permitted by the regular zoning classification. The "S" subdesignation shall be established by ordinance, after due public hearing processes, and the ordinance shall set forth the circumstances of the subdesignation, including but not limited to the purpose and time period for the special provisions. Upon the termination of the specified time period the special provisions shall automatically become null and void and the subdesignation shall be duly deleted from the zoning map of the city without further hearing.

§ 10-3.302 ZONING MAPS.

(A) Adoption. The boundaries of the various land use districts within the City of Madera are shown upon the map designated as the "City of Madera Zoning Map", sometimes referred to in this chapter as

"zoning map," signed and on file in the office of the City Clerk, which map is hereby adopted and made a part of this chapter, and said map and all of the notations, references, and other information shown thereon shall be as much a part of this chapter as if the matters and information set forth by said map were all duly described in this chapter.

(B) Amendments. If amendments are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the City Council. The revised zoning map, reflecting all amendments and changes, shall then be refiled with the City Clerk within ~~ten~~ 10 days after City Council approval. No amendment to this title which involves matter portrayed on the official zoning map shall become effective until after such change and entry has been made on the zoning map.

(C) Format. The official zoning map shall be the printed and signed copy on file in the office of the City Clerk, including any adopted amendments. Electronic files used to create the map are not the official map. The official zoning map shall be printed for viewing and interpretation at a scale of at least one to twenty thousand (1:20,000).

§ 10-3.303 ANNEXATION POLICY.

(A) All territory to be annexed to the city shall, prior to being considered by the Madera Local Agency Formation Commission, be prezoned by amendment of the official zoning map and shall be automatically in effect upon the certificate of completion for annexation of the area into the city being recorded by the County Clerk.

(B) Prezoned land shall carry a "PZ" prefix before the zone classification(s) and shall be so designated on the official zoning map. The zone(s) established by prezoning shall become effective and the "PZ" prefix shall be automatically removed when the property is annexed. Failure to complete the annexation process for any reason shall render any prezoning zone classification(s) on the official zoning map to be null and void, and the zoning designation(s) shall be removed for the official zoning map. The subject property will be considered to be not prezoned, not within the city limits of the City of Madera, and instead subject to the zoning ordinance of the County of Madera.

§ 10-3.304 ZONE BOUNDARIES.

The designations, locations, and boundaries of the land use zones established by Section~~§~~ 10-3.301 of this subchapter are as set forth and indicated on City of Madera Zoning Map which is on file in the office of the City Clerk. The zoning map designations are intended to generally follow parcel lines. Interpretation may be needed to determine the exact boundaries of a land use classification where parcel lines are unclear, have been moved, have been deleted, or do not correspond with a zone district boundary.

Where uncertainty exists as to the boundaries of any zone shown on the zoning map, the following rules shall apply:

(A) Street, alley, or lot lines. Where zone boundaries are indicated as approximately following street lines, alley lines, or lot lines, such lines shall be construed to be such boundaries.

(B) Unsubdivided land. In unsubdivided property or where the zone boundary line divides a lot, the location of such boundary, unless the same is indicated by specific dimensions, shall be determined by use of the scale appearing on the zoning map.

(C) Vacated street or alley. Where any public street or alley or other public right-of-way is officially vacated or abandoned, the land formerly in such street, alley, or right-of-way shall be included within the zone of adjoining property on either side thereof. In the event such street, alley, or right-of-way was a zone boundary line between two or more different zones, the new zone boundary line shall be the former center line of such vacated or abandoned street, alley, or right-of-way.

(D) Determination. When a determination is requested due to an uncertainty as to the location of a zone district boundary, the Planning Director shall utilize the official zoning map to make a determination. Where a determination of the Planning Director is contested, the contestant may make application for a determination by the Planning Commission.

§ 10-3.305 CONFORMANCE TO ZONE REGULATIONS.

(A) Except as provided in this chapter:

(1) Use. No building shall be erected, reconstructed, or structurally altered in any manner, nor shall any land, building, or premises be used, designed, or intended to be used for any purpose or in any manner other than a use listed in this chapter as permitted in the specific zone in which such land, building, or premises are located, and then only after applying for, and securing, all permits and licenses required by law.

(2) Height. No building shall be erected, reconstructed, or structurally altered in any manner to exceed in height the limit established by this chapter for the zone in which such building is located.

(3) Area. No building shall be erected, reconstructed, or structurally altered in any manner, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner except in conformity with the building site requirements and the area and yard regulations established by this chapter for the zone in which such building is located.

(B) No required yard or other open space provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building or structure; nor shall any required yard or other open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected.

GENERAL PROVISIONS

§ 10-3.401 INTERPRETATION.

(A) —When interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Except as specifically herein provided, it is not intended by the adoption of this chapter to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of any law or ordinance, or any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the erection, construction, establishment, moving, alteration, or enlargement of any building or improvement; nor is it intended by this chapter to interfere with, abrogate, or annul any easement, covenant, or other agreement between parties; provided, however, that in cases in which this chapter imposes more stringent requirements, regulations, restrictions, or limitations on the erection, construction, establishment, moving, alteration, or enlargement of buildings or the use of any such buildings or premises in the several zones or any of them than is imposed by or required by existing provisions of law or ordinance or by such rules, regulations, or permits or by such easements, covenants, or agreements, the provisions of this chapter shall control.

(B) Authority to Interpret. Where uncertainty exists regarding the interpretation of any provision of this chapter or its application to a specific site, the Planning Director shall have the authority and responsibility to interpret such terms, provisions, and requirements.

(C) Record of Interpretation. Code interpretations shall be made in writing and shall state the facts upon which the Planning Director relied to make the determination. The Planning Department shall keep a record of interpretations made pursuant to this section on file for future reference.

(D) Applicability of Interpretation. Code interpretations shall be applied in all future cases, provided that any interpretation may be superseded by a later interpretation when the Planning Director determines that the earlier interpretation was in error or no longer applicable under the current circumstances.

~~(A)~~(E) Right to Appeal. A Code interpretation by the Planning Director may be appealed to the Planning Commission as provided in Section § 10-3.1601 (Interpretation).

§ 10-3.402 APPLICABILITY.

Should any standard or provision of this title conflict with the allowances or requirements of State law, such allowances or requirements shall prevail.

~~**§ 10-3.402 LESS RESTRICTIVE USES PROHIBITED.**~~

~~The express enumeration and authorization in this chapter of a particular class of building, structure, premises, or use in a designated zone shall be deemed a prohibition of such building, structure, premises, or use in all zones of a more restrictive classification~~

§ 10-3.403 ADDITIONAL PERMITTED USES.

Uses other than those specifically mentioned in this chapter as uses permitted in each of the zones also may be allowed therein, provided such additional uses are similar to those mentioned and are, in the opinion of the Commission as evidenced by resolution of record, not more obnoxious or detrimental to the welfare of the community than the permitted uses specifically mentioned for the respective zones.

§ 10-3.404 ADDITIONAL EXCLUDED USES.

Uses other than those specifically mentioned in this chapter as uses excluded from any zone also may be excluded therefrom, provided such additional uses are, in the opinion of the Commission as evidenced by resolution of record, equally or more obnoxious or detrimental to the welfare of the community than the excluded uses specifically mentioned for the respective zones.

§ 10-3.405 USES.

(A) No circus, carnival, amusement park, open air theater, race track, private recreation center, or similar establishment shall be established in any zone unless and until a use permit is first secured for the establishment, maintenance, and operation of such use.

(B) No dance hall, road house, nightclub, commercial club, or establishment where liquor is served or sold for consumption on or off the premises, or commercial place of amusement or recreation, or any such place or any other place where entertainers are provided, whether as social companions or otherwise, shall be established in any zone where such uses may be otherwise allowed unless a use permit shall first have been secured for the establishment, maintenance, and operation of such use.

(C) Accessory uses and buildings in any C or I zone may be permitted where such uses or buildings are incidental to, and do not alter the character of, the premises in respect to their use for purposes permitted in the zone. Such accessory buildings shall be allowed only when constructed concurrent with or subsequent to the main building.

(D) Public or private parking lots for automobiles may be permitted in any R zone adjacent to any C or I zone provided a use permit shall first be obtained in each case.

(E) Churches, schools, hospitals, parks, playgrounds, and public utility and public and quasi-public buildings, except cemeteries and their appurtenant uses, may be permitted in any R zone provided a use permit shall first be obtained in each case.

(F) The removal of minerals, earth, and other natural materials may be permitted in any zone provided a use permit shall first be obtained in each case.

(G) The provisions of this chapter shall not be construed to limit or interfere with the installation, maintenance, and operation of public utility pipelines and electric or telephone transmission lines or railroads when located in accordance with the applicable rules and regulations of the Public Utilities Commission of the state within rights-of-way, easements, franchises, or ownerships of such public utilities.

(H) Home occupations shall be permitted in all R zones subject to the determination by the Commission of what activities are within the definition of home occupations as set forth in § 10-3.201 of this chapter. The determination of the Commission of what conduct may be allowed under the definition of home occupation shall be set forth in a resolution of the Commission on file in the office of the Planning Director. In the event of a dispute regarding the issue of whether or not the use of any property is or is not a home occupation, the Planning Director shall set the matter for hearing by the Commission, and the Commission's determination of such issue shall be final and conclusive. In conjunction with any such hearing, the Commission may attach such conditions to the use of the property which may be necessary to insure that the limitations set forth in this chapter and any resolutions adopted by the Commission concerning the conduct of home occupations are met. All home occupations shall be registered with the Planning Director.

(I) Recycling facilities.

(1) Recycling facilities as hereinafter described are permitted as set forth in this subsection. Recycling facilities are either collection facilities or processing facilities. A COLLECTION FACILITY shall not complete any processing except limited bailing, batching, and the sorting of materials and shall be classified as either SMALL, which occupies an area of not more than 100 square feet and includes bins, boxes, cans, kiosk-type units, bulk reverse vending machines, and/or other containers or receptacles, or LARGE, which occupies an area of more than 100 square feet and includes bins, boxes, cans, kiosktype units, bulk reverse vending machines, and/or other containers or receptacles. Any and all motorized vehicles and trailers except those used to transfer recyclable materials to a collection or processing facility are deemed to be large collection facilities. A processing facility is a building or space used for the collection and processing of recyclable materials and processed by such means as flattening, sorting, settling, compacting, bailing, shredding, grinding, and crushing. Recyclable materials are reusable material including aluminum, glass, plastic, paper, and used motor oil.

(2) Recycling facilities are permitted as follows:

(a) A small collection facility may be permitted in any C, I, IP, or RCO zone and in an R zone when the site is the location of an appropriate non-profit agency. In each case, approval must first be secured from the Planning Director.

(b) A large collection facility may be permitted in any zone after first securing a use permit.

(c) A processing facility may be permitted in a C-2, I, or IP use zone after first securing a use permit.

(3) Applications for recycling facilities shall be evaluated for propriety of location and consideration shall be given to the need for facility screening, landscaping, circulation/parking, noise, odor, and sanitation control to assure compatibility with surrounding land uses.

(J) Cardrooms.

(1) Cardrooms as hereinafter described and regulated are permitted as set forth in this subsection. A cardroom is any room open to the public for the lawful playing of cards, regardless of whether the tables, chairs and other furniture and fixtures are temporary or permanent or at times used for other purposes.

(a) It is the stated purpose of this division (J) to regulate cardrooms in the city concurrently with the state, and to impose local controls and regulations upon cardrooms as permitted in the "Gambling Control Act".

(b) Cardrooms, subject to the licensing requirements and limitation in number cited at § 6-~~140~~ 301 et. seq. of this code are permitted in any C-1, C-2, CH, or I zone except as otherwise prohibited. In each case, a Use Permit must be approved by the Planning Commission. Application for a Use Permit shall be made in accordance with §§ 10-3.1301 et seq. of this code.

(c) Applications for establishment of cardrooms shall be evaluated for propriety of location and consideration shall be given to the need for landscaping, circulation/parking, noise, intrusive lighting and health and safety considerations to ensure compatibility with surrounding land uses.

(d) The exterior wall structure of each business or premises lawfully occupied by a cardroom shall be located not less than:

1. 1,000 feet from the exterior property limits of any public or private elementary school, junior high school or high school; and
2. 1,000 feet from the exterior property limits of any church or place of worship; and
3. 1,000 feet from the exterior property limits of any zoning district where residential use is the principal permitted use; and
4. 1,000 feet from the exterior wall structure of each business or premises lawfully occupied by another cardroom, a massage establishment, adult entertainment establishment, or any other adult oriented business establishment.
5. All distances referred to in division (J)(1)(d) of this section shall be measured in a straight line without regard to intervening structures, from the closest exterior structural wall of the cardroom. Said distance standards shall be applied regardless of jurisdictional boundaries.

(e) Exempt organizations.

1. Exempt organizations may provide card tables and card games for the exclusive use of their members and shall be exempted from obtaining a cardroom license pursuant to this section, whether or not a fee or any other charge is made to the players, as long as the exempt organization is not required to register under the Gaming Registration Act, and providing that such exempt organization complies with all of the subsections of this section.
2. An authorized representative of the exempt organization shall file a Declaration of Exemption executed under penalty of perjury with the Chief of Police that sets forth the name and address of the exempt organization, the number of tables to be operated, and a declaration that the exempt organization and its members qualify for exemption from the Gaming Registration Act and from licensing hereunder; the Declaration of Exemption shall be accompanied by proof of the valid and unrevoked tax exempt status of the exempt organization granted by the Franchise Tax Board and/or the Internal Revenue Service. No registration fees shall be required.
3. No exempt organization shall operate, conduct, or carry on legal gaming as defined in this chapter more than one day of any calendar week.
4. No exempt organization shall operate, conduct, or carry on legal gaming as defined in § 6-~~140~~ 301 et. seq. of this code within any building, structure, lot, or premises within any calendar week, if any other exempt organization has conducted, carried on, or operated legal gaming within such building, structure, lot or premises during the same calendar week.

(K) Garage and yard sales.

(1) Purpose and intent. The purpose of this subsection is to establish land use standards that will protect the character of single-family residential neighborhoods in order to preserve public safety and welfare. The intent is to regulate those activities which in the most technical sense have business or commercial characteristics, but which, because of the manner in which they are conducted or the purposes for which they are being operated, are truly non-commercial in nature. These regulations are intended to prevent the expansion of such non-commercial operations into truly commercial operations and to regulate the method of conducting the activity so that it will be confined to a non-commercial type of operation. It is the purpose of this subsection to prevent such activities from unfairly competing with

permitted revenue-producing commercial and business enterprises; to prevent the conduct of commercial enterprises upon other than commercially zoned property; and to curb the evasion of business permit fees and sales taxes.

(2) Definitions. For the purpose of this subsection, a GARAGE SALE or YARD SALE is a sale conducted by an individual homeowner or occupant of a home, or apartment owner, occupant of an apartment unit, or owner or occupant of any other residential or dwelling unit. These sales are for the purpose of selling, trading, bargaining, exchanging or otherwise disposing of unwanted or surplus household furnishings or goods, or other tangible items. They are usually conducted in a garage, on a patio or porch, upon a driveway or in a yard, and are sales for which no inventory or permanent or detailed records are kept on the transactions thus carried out. They may at times be conducted by a combination of residential dwellers at a single location. All sales designated "lawn sale", "attic sale", "rummage sale ", "moving sale", "estate sale" or other terms of similar or like intent and having the foregoing characteristics and purposes are hereby declared GARAGE or YARD SALES for the purpose of regulation by this subsection.

(3) Time limits of sales. Sales events conducted at any residential dwelling unit, apartment complex, or residentially zoned property may only be held on the first Saturday and/or Sunday of each month. No event may be held for more than two consecutive days. The time limit for conducting the sale shall be between the hours of 8:00 a.m. and 4:00 p.m., including the time for set-up and takedown. The driveway, yard area, or other space used for the purposes of the sale shall be restored to its normal residential character at the conclusion of the sale.

(4) Limitations on items for sale. Goods offered for sale shall be the personal property of the person conducting the sale, as well as persons participating in the sale. All of the goods must be used or secondhand. Selling goods which have been acquired specifically for the purpose of resale is prohibited. The sale of the goods shall not violate any federal, state, or local laws.

(5) Display of property. Except where a special events or encroachment permit has been issued, the display of personal property offered for sale shall not be displayed on any public right-of- way, including, but not limited to, sidewalks, parkways, streets and/or alleys, or on any other residentially zoned property other than that owned or rented by the person conducting the sale.

(6) Sign displays. A sign no larger than six square feet in area may be displayed on the premises announcing the sale during the time period allowed for such events. No sign shall be displayed at any location outside of, or off the premises without the expressed written permission of the owner. Placing signs in the public right-of-way is prohibited. No sign shall be placed any earlier than 12:00 p.m. on the day before the sale starts and shall be removed by 4:00 p.m. on the termination day of the sale.

(7) Violation - penalty. Violations of any provisions of this subsection shall subject the violator to suit for civil remedy, criminal penalty, administrative enforcement, or any combination thereof. The criminal penalty for a first or second offense shall be punishable as an infraction. The criminal penalty for a third offense or more shall be punishable as a misdemeanor.

(8) Non-profit organizations shall be permitted to hold no more than two garage or yard sales on non-residential property within a 12 month period. Non-profits holding such garage or yard sales must obtain a permit from the Neighborhood Revitalization Department prior to holding the event.

(L) No treatment center, counseling center, psychiatric facility, or other clinic or business which primarily serves or treats sex offenders, including those persons who are required to register pursuant to California~~.~~ Penal Code § 290, or any similar establishment shall be established in any zone unless and until a use permit is first secured for the establishment, maintenance, and operation of such use. Under no circumstances shall a permit issue or, any such facility shall be permitted to locate or operate within 2,000 feet of any public or private school or park, or any facility where children gather.

§ 10-3.406 NONCONFORMING BUILDINGS AND USES.

The following regulations shall apply to all nonconforming buildings and structures, or parts thereof, and uses existing on September 15, 1954:

(A) Land only. The lawful use of land only, existing on September 15, 1954, although such does not conform to the regulations specified in this chapter for the zone in which such land is located, may be continued provided no such use shall be enlarged or increased nor be extended to occupy a greater area than that occupied by such use on September 15, 1954, and if any use ceases, the subsequent use of such land shall be in conformity to the regulations specified by this chapter for the zone in which such land is located.

(B) Buildings or structures. A building or structure in existence, or a use lawfully occupying a building or structure on September 15, 1954, or on the effective date of an applicable amendment to this chapter, which building or use does not conform to the regulations for the district in which the building or use is located, shall be deemed to be a nonconforming building or use, and may be continued as provided in this section:

(1) The lawful use of buildings or structures may be continued although such building or use does not conform to the regulations specified for the zone in which such building or structure is located.

(2) The nonconforming use of a portion of a building or structure may be extended throughout the building provided in each case a use permit shall be first approved by the Planning Commission.

(3) The nonconforming use of a building or structure may be changed to a use of the same or more restricted nature provided in each case a use permit shall first be approved by the Planning Commission.

(4) If the nonconforming use of a building or structure ceases for a continuous period of six months, it shall be considered abandoned and shall thereafter be used only in accordance with the regulations for the zone in which such building or structure is located and the nonconforming right shall be lost. Provided, however, that if a use permit is approved by the Planning Commission within an additional six months from the date of termination, the use may be reestablished.

(C) Maintenance or repairs. Ordinary maintenance and repairs may be made to any non- conforming building providing no structural alterations are made and providing such work does not exceed 15% of the appraised value of the building or structure in any one-year period. Other repairs or alterations may be permitted provided a use permit shall first be secured in each case.

(D) Reconstruction of damaged nonconforming building. Nothing in this chapter shall prevent the reconstruction, repair, or rebuilding and continued use of any nonconforming building or structure partially damaged by fire, collapse, explosion, or act of God, wherein the expense of such reconstruction, repair, or rebuilding does not exceed 75% of the appraised value of the building or structure according to an independent appraisal completed by an appraiser certified by the state at the time such damage occurred. All such reconstruction shall be performed under one building permit and started within a period of one year from the date of damage and be diligently prosecuted to completion. In the event the aforementioned damage is in excess of 75% of the appraised value, the building or structure may be restored only if made to conform to all the regulations of the zone in which it is located, or through approval of a use permit by the Planning Commission.

(E) Changes to conforming use to be permanent. Any part of a building, structure, or land occupied by such a nonconforming use which is changed to, or replaced by, a use conforming to the provisions of this chapter, as they apply to the particular zone, shall not thereafter be used or occupied by a nonconforming use.

(F) Nonconforming uses resulting from amendments. The foregoing provisions of this section shall apply also to buildings, structures, land, or uses which hereafter become nonconforming by reason of any reclassifications of zones or any subsequent changes to the provisions of this chapter as of the effective date of such amendment.

(G) Exceptions; powers of eminent domain. No parcel of land in single ownership on September 15, 1954, shall be considered non-conforming solely as the result of the taking of a part of such land for street widening or public utility purposes under the power of eminent domain.

(H) Billboards. All ~~BILLBOARDS~~ billboards defined in § 10-3.201 of this chapter are declared to be non- conforming uses in any zone and shall be prohibited, and such billboards shall be removed from the premises where located on or before January 15, 1975, or within three calendar years after the effective date of any ordinance annexing the territory upon which any such sign is located, whichever is the latter; provided, however, the provisions of this section shall not apply to official notices issued by any court, public body, or officer in the performance of a public duty, or by any person in giving any legal notice, or to any directional, warning, or informational sign required by or authorized by law or by federal, state, or local authority.

§ 10-3.407 LOCATION OF DWELLINGS.

Except in multiple dwelling developments or where otherwise provided for in this chapter, every dwelling shall face or front upon a street or permanent means of access to a street.

§ 10-3.408 HEIGHT OF BUILDINGS.

Chimneys, cupolas, water tanks, ventilating fans, towers, steeples, smokestacks, and similar structures and mechanical appurtenances may be permitted in excess of height limits specified in the individual zones provided a use permit is first obtained in each case. In order to encourage shared use of telecommunication towers and the use of alternative tower structures or stealth antennas, the Community Development Director/City Engineer and may approve an exception to the height restrictions specified in the individual zones by an amount not to exceed 20 feet.

§ 10-3.409 BUILDING SITE AREA.

Any lot or parcel of land under one ownership and of record on September 15, 1954, where no adjoining land is owned by the same person may be used as a building site even when of less area or width than that required by the regulations for the zone in which it is located.

§ 10-3.410 THROUGH LOTS.

On through lots, either lot line separating such lot from a public thoroughfare may be designated by the owner as the front line. In such cases, the minimum rear yard shall be the average of the yards on lots next adjoining. If such lots next adjoining are undeveloped, the minimum rear yard shall conform to the front yard setback for the zone in which the property is located.

§ 10-3.411 YARD ENCROACHMENTS.

Where yards are required by this chapter, they shall be not less in depth or width than the minimum dimension specified for any yard, and they shall be at every point open and unobstructed from the ground upward, except as follows:

(A) Architectural features. Fireplaces, bay windows, balconies, cornices, canopies, and eaves, not providing additional floor space within the building, may extend into a required front, side, or rear yards not to exceed two feet.

(B) Porches.

(1) Covered porches, landing spaces, or outside stairways, which do not extend above the level of the entrance floor of the building may project into any required side yard not more than three feet and not

exceeding six feet into any required front yard. An open work railing, not more than 30 inches in height, may be installed or constructed on any such porch or landing space.

(2) Open porches, landing spaces, or outside stairways, if unroofed and unenclosed, which do not extend above the level of the entrance floor of the building to a maximum of 30 inches, is not limited as to its projection into front and side yards, provided it is not more than 120 square feet in area. Projections into a required rear yard are subject to the same limitations as a deck.

(C) Decks. When larger than 120 square feet or when the deck is constructed higher than 30 inches above finish grade, a wood deck may occupy up to 30% of a required rear yard area, but may not extend any closer than three feet to the rear or side property lines. Except as provided under open porches above, such a deck may not be located in the front setback area.

(D) Accessory buildings and structures. Except as provided elsewhere in this title, the following regulations shall apply to the location of accessory buildings:

(1) Attached accessory building. Where an accessory building is attached to and made a part of the main building, it shall be made structurally an integral part of, and have a common wall with, the main building and shall comply in all respects with the requirements of this chapter applicable to the main building.

(2) Detached accessory buildings. A detached accessory building or structure to be constructed in an R-1, R-2, R-3, or PD zone (unless otherwise provided by an approved precise plan) shall be subject to the following standards:

(a) Buildings designed for residential occupancy, or detached accessory structures larger than 1,000 square feet in size or higher than 12 feet shall be located at least ten feet from any dwelling building existing or under construction on the same lot or any adjacent lot. Such accessory building shall conform to the setback requirements for the primary dwelling unit on the lot.

(b) Structures not designed for residential occupancy, such as patio covers, gazebos, cabanas, and pool shelters, less than 1,000 square feet in area and less than 12 feet in height, shall be located as follows:

1. For structures with walls, at least a three-foot separation from the walled side to any building on the same lot is required. A three-foot separation from any side or rear lot line must be maintained.

2. For structures with wall surfaces of less than 10%, no separation is required from other buildings on the same lot, except at windows where three feet must be maintained. A three-foot separation from any side or rear lot line must also be maintained.

3. In the case of a corner lot, such structure shall meet the street side yard setback requirements for the primary dwelling unit on the lot.

§ 10-3.412 FENCES, WALLS, AND HEDGES.

(A) No fence, wall, or screen planting of any kind shall be constructed or grown to exceed a maximum of six feet in height between the rear property line of a lot and the front line of the main building or along any rear property line, nor to exceed three feet in height in any required front or street side yard or within 25 feet of any street corner except as may otherwise be permitted under this chapter.

(B) In R-1, R-2, and R-3 zones, or any Planned Development zone, no barbed wire shall be used or maintained in or about the construction of a fence, wall, hedge, or screen planting along the front, side or rear lines of any lot, or within three feet of the lines, and no sharp wire or point shall project at the top of any fence or wall.

(C) A fence may only be constructed of permanent building materials, such as wood, chain link, stone, rock, concrete block, masonry brick, brick, decorative wrought iron or other similar building materials approved by the Planning Department. A fence may not be constructed of cast-off, secondhand, or other material not originally intended to be used for constructing or maintaining a fence, including, but not limited to plywood less than five-eighths inches thick, particle board, cardboard, paper, visqueen plastic, plastic tarp, scrap wood, scrap metal, or similar material.

(D) All fences shall be properly maintained so as not to create a hazard, public nuisance or blight in the surrounding neighborhood.

(E) Any fence that is constructed, replaced or repaired in a manner that is inconsistent with the provisions of this section as of the effective date of Ordinance No. 809 C.S. shall constitute a violation of this section.

§ 10-3.413 STORAGE OF COMMERCIAL VEHICLES.

The storage or parking of commercial vehicles in the R-1, R-2, and R-3 zones, except for loading and unloading purposes, or the storage of materials, supplies, or equipment used for commercial purposes is prohibited.

§ 10-3.414 AUTOMOTIVE STORAGE OR PARKING SPACE.

For each main building erected or structurally altered in any R-1, R-2 or R-3 zone there shall be provided and maintained minimum off-street parking accommodations with adequate provisions for ingress and egress by standard size automobiles as provided in the Off-Street Parking Regulations subchapter of this chapter.

§ 10-3.415 DWELLING ON FRONTS OF LOTS.

Except as may otherwise be permitted within the applicable base zone district, ~~Any~~ any lot upon which a legal non-conforming dwelling has been constructed ~~on the rear half thereof prior to September 15, 1954~~, may have a second dwelling constructed ~~on the front half of the lot~~ upon the issuance of a use permit.

~~§ 10-3.415.1 (RESERVED).~~

§ 10-3.416 OUTDOOR RETAIL SALES.

This section sets standards for the conduct of outdoor retail sales activities, including but not limited to: farmer's market, home sales, pushcarts or peddle carts, sales from vehicles, seasonal sales, and sidewalk sales. The regulations provide for the pleasure and convenience of the community while protecting the public health and safety. A needed service is allowed through these provisions, as well as ensuring land use compatibility and attractive facilities.

(A) Definitions. The following definitions shall apply to this section:

LUNCH WAGON. A motor vehicle from which beverages and/or ready-to-eat food items are sold.

MOBILE FOOD PREPARATION UNIT. Any vehicle or portable food service unit upon which food is prepared for service, sale and distribution at retail, other than a lunch wagon or unprepared food vending vehicle, bakery truck, or ice cream product truck.

MOBILE VENDOR. Any person not having an established location who is engaged in transient business for the purpose of selling any type of merchandise or for the purpose of taking orders, or providing a service.

OPERATOR'S PERMIT. The permit issued to a mobile vendor, under the provisions of § 6-1.53 of the Municipal Code, who sells products, provides services, operates a lunch wagon, mobile food preparation unit, or pushcart on any sidewalk, street, alley, or highway, or on public or private property for the purpose of vending a product to the public.

OUTDOOR RETAIL. The conducting of activities including but not limited to sales, merchandising, display, exhibition, vending, demonstration or distribution of any product or service outside of a fully enclosed structure built in accordance with the provisions of the Madera Municipal Code.

PUSHCART. Any wagon, cart, or similar wheeled container, which is not a vehicle as defined in the State Vehicle Code, from which a product is offered for sale to the public.

SEMI-PERMANENT. The selling, giving away, displaying or offering for sale any product or service from any location for a period of time in excess of 30 minutes.

STAND. Any newsstand, table, bench, booth, rack or any other fixture or device which is used for the display or storage of articles offered for sale by a vendor.

TEMPORARY USE PERMIT. The land use permit issued by the Planning Director to a vendor authorizing the holder to engage in the business of vending a product from a lunch wagon, stand, mobile food preparation unit, pushcart, or any other business at a fixed location on any sidewalk, street, alley, or highway, or on public or private property, on a seasonal or temporary basis.

USE PERMIT. The land use permit issued to a vendor by the Planning Commission authorizing the holder to engage in the business of vending a product from a lunch wagon, stand, mobile food preparation unit, pushcart, or any other business at a fixed location on any sidewalk, street, alley, or highway, or on public or private property, on a long term or permanent basis.

VENDOR. A person who sells any type of merchandise at any fixed location other than within a permanent building or structure.

(B) Exceptions. All merchandise or displays and all storage or sales areas shall be within a permanent and completely enclosed building or structure, except that the following may be conducted outdoors:

(1) Newspaper vending from coin operated machines.

(2) Flower stands, plants and floral displays, subject to the requirements for a temporary use permit specified at division (F) (5) below and the standards specified in division (C) (6) below.

(3) Those outdoor land uses and activities specifically allowed by other sections of this code.

(4) Vehicular fuel sales in conjunction with approved service stations and mini-market operations.

(5) Vending machines, subject to the standards specified in division (F) (6) (a) below.

(6) Sales of Christmas trees and fireworks as further regulated by division (C) (6) below.

(7) Garage or yard sales at single or multiple family residences.

(8) Special events and sales activities conducted at city-owned facilities as may be authorized by the appropriate city department director.

(9) Outdoor fund-raising sales and activities conducted by schools, charitable or non-profit organizations if the sale is carried on wholly by the organization and it will derive, both directly and indirectly, any and all profits from the sale, except that events held on private property shall be subject to ~~administrative approval by the~~ Planning Director Approval.

(10) Mobile vendors as authorized in this section.

(C) General provisions. The following regulations shall apply generally to all outdoor retail sales activities authorized in this section.

(1) The sale of raw or processed foodstuffs is subject to applicable regulations of the County Health Department, State Health Codes, and California Food and Agriculture Codes, including but not limited to obtaining and displaying a current proof of health inspection sticker.

(2) All food preparation and vending units shall be inspected at least annually by the County Health Officer or designated representative and shall display a current sticker issued by and as directed by that agency.

(3) Sale of food products or beverages from any portable box, bag or similar container, other than a County Health Department approved container shall be prohibited, except that food previously inspected by a duly appointed government inspector, prepackaged in sealed containers may be displayed or offered for sale if otherwise in compliance with all applicable health and safety regulations.

(4) No vendor shall operate within 300 feet of any school ground prior to 4:00 p.m. on any day school is in session.

(5) No more than two vendors shall assemble, gather, collect or otherwise join for any purpose at any location except as otherwise authorized by approved conditional use permit.

(6) In no case shall a vendor operate in the following described areas except as permitted in writing by the City Council or it's authorized representative:

(a) Within 15 feet of any crosswalk or fire hydrant:

(b) In marked diagonal parking spaces:

(c) On any sidewalk or street adjacent to a curb which has been designated as a white, yellow, blue, green or red zone:

(d) Within 12 feet of the outer edge of any entrance way to any building or facility used by the public measured in each direction parallel to the building;

(e) At a location where pedestrian passage will be reduced to less than six feet:

(f) At any location where such operation may create a traffic hazard. For the purpose of this section, the judgment of a Madera police officer shall be deemed conclusive as to whether the operation is creating a hazard.

(g) Vendors shall not be permitted to operate at any publicly-owned off-street location in the Downtown Business District, including but not limited to parking lots and pocket parks. This section shall not be construed to prohibit vendors from operating on privately-owned property in the Downtown Business District pursuant to a valid use permit.

(7) Vendors shall be restricted from parking and or conducting business at any location within the public right-of-way designated by the City Engineer that represents a public peace, safety, health or welfare concern.

(D) The following additional regulations shall apply to pushcart, lunch wagon and mobile food preparation units.

(1) Each unit shall have affixed to it in plain view or available for immediate inspection a Madera City Business License, Health Certificate and any other permit required by this or any other applicable code.

(2) The maximum dimensions of any pushcart shall be six feet in length and four feet in width.

(3) The only signs used in conjunction with any unit shall be signs affixed to or painted on the unit or its canopy, with a maximum area of eight square feet.

(4) The operator of any unit, if such a person is an employee, contractee, or lessee of an owner, shall carry his operator's permit upon his person.

(5) No artificial lighting of any pushcart is permitted except as required by the California Vehicle Code.

(6) A refuse bin of at least one cubic foot shall be provided in or on the unit and shall be accessible by customers.

(7) No shouts, calls, horns or other noise nor amplified sound which can be heard 50 or more feet from the unit shall be permitted.

(8) No person shall stop, park or cause any lunchwagon or mobile food preparation unit or motor vehicle from which is offered food beverages, goods or merchandise to remain stopped in any public right-of-way within 75 feet of any street intersection.

(9) No person shall stop, park or cause any unit from which is offered food, beverages, goods or merchandise to remain stopped in any public right-of-way for more than 30 minutes except pursuant to the order of a lawful authority or for the purpose of making emergency repairs to the vehicle. In no event shall any person sell or give away any food or beverage product from a lunchwagon, pushcart or mobile food preparation unit vehicle while on any other public property including parking lots or pocket parks except as otherwise allowed in this code.

(10) No person shall stop, park or cause a lunchwagon, pushcart or mobile food preparation unit to remain on any private property for the purpose of selling, giving away, displaying or offering for sale any food or beverage product to any person other than the owner, his agents or employees without first securing a use permit for such activity. Permission for sales only to the owner, his agents or employees

must be granted by the owner of such property and must be in writing and shall be carried by the vendor and/or exhibited in the unit and shall not exceed the time limits established by § 10-3.416(D)(17).

(11) All mobile food preparation units, lunchwagons or pushcarts shall comply with all applicable regulations set forth in Articles 10 and 10.1 of Title 17 of the California Administrative Code.

(12) Each mobile food preparation unit shall be equipped with a fully charged fire extinguisher in good operating condition and with a current inspection tag. The driver shall be advised of the location of the type of extinguisher used and instructed in its operation.

(13) No cooking or food preparation shall be done while the mobile food preparation unit is in motion.

(14) Waste water shall not be discharged from a unit except at an approved disposal site.

(15) All units shall clearly exhibit the name of the owner of the unit, business address and business phone number of the person, firm, association, organization, company or corporation.

(16) Removal of trash. The operator of each unit shall be responsible for collection and proper disposal of all trash and debris accumulated by reason of any vending operation.

(17) Units may stop at sites or businesses (on-site) for no more than 30 minutes without moving to a new business location or site and may not return to that location for a period of one hour.

(E) The following requirements and standards shall apply only to mobile food preparation units, catering trucks and lunchwagons seeking to apply for a conditional use permit to operate on private property on a semi-permanent basis.

(1) Units proposing to operate on private property on a semi-permanent basis in the city shall not be allowed in the Residential or Professional Office Zones.

(2) No unit will be authorized to operate on private property on a semi-permanent basis in any established shopping center in the city.

(3) A unit may be authorized to operate on a property occupied by another land use, with the authorization of both the land-owner and the operator of the primary business, and as accessory to the primary land use.

(4) Except for restroom facilities, a unit on private property must operate as a separate and independent land use. The primary land use must continue to function without infringement on its access, circulation and parking requirements.

(5) The unit must comply with standard yard area and open space requirements as required by the zone for the primary business operation.

(6) Minimum site area for a unit shall be based on the setback requirements and on-site parking requirements for the operation and in no case shall be less than 1,000 square feet.

(7) A minimum of three standard on-site parking spaces in conformance with city standards shall be required in conjunction with the location of a unit on private property on a semi-permanent basis.

(8) The site on which the unit shall be located must be paved with asphalt concrete in accordance with city standards.

(9) A unit operating on private property on a semi-permanent basis shall be limited in its operation to daylight hours only, except as otherwise allowed by approved use permit.

(F) Permit requirements. The following permit procedures shall apply generally to outdoor retail sales activities as specified:

(1) Business license. Every vendor shall obtain a business license in accordance with the provisions of Title 6 of this Code.

(2) Use permit. No vendor may stop, stand or park at a fixed location for the purpose of vending or exhibiting merchandise at or on any publicly or privately-owned property or conduct sales activity outside a building or structure without first securing a use permit in accordance with Article 13 of this Code.

(3) Operators permit. No itinerant vendor shall operate without first obtaining a license under the provisions of § 6-1.53 of this Code.

(4) No person except the holder of a business license pursuant to § 6-1.53 of this code may be issued a use permit. No person may be issued such use permit unless he or she has obtained any required approvals from the County Health Department.

(5) Temporary use permits. The temporary use of land for those activities permitted in this section may be authorized for a limited and specified period of time not to exceed one year in duration as set by the Planning Director within the terms and conditions of each particular temporary use of land permit. The Planning Director may consider and take appropriate action on a request for extension of a temporary use of land permit for one additional one-year period upon review of a written request to be submitted no later than 30 days prior to the expiration of the approved temporary use of land permit. Outside sales of seasonal merchandise (Christmas trees, fireworks, pumpkins, produce stands, flower stands and the like) in one location may be permitted up to a maximum cumulative total of 90 days within a calendar year on a single property, with a limitation of no more than three non-consecutive separate events of a maximum of 30 days per each event.

(6) For applications for temporary use of land permits which allow for a vendor, the following minimum provisions and conditions shall also be applicable:

(a) A vendor sales stand and/or use shall not be located upon the paved or any unpaved portion of a public right-of-way nor impede the free and unobstructed use of any sidewalk or right-of-way. Push carts may use the public sidewalk as long as the cart does not impede the movement of pedestrians.

(b) The vendor sales activity, including the display of all related merchandise or products for sale, shall be limited to the immediate confines of the temporary street side stand, trailer, vehicle or other enclosure approved as part of the permit.

(c) All uses shall be located in such a manner that will not impede the normal use of driveways serving the property where the use is proposed nor in such a manner that encourages customers to stop in the street or driveway to obtain vendor service.

(d) Uses providing for temporary street side stands, trailers, or vehicles shall comply with the setback/yard provisions of the specific commercial or industrial zone the use is proposed to be located in. Temporary outdoor promotional/sales event for a commercial business may be allowed by conditional use permit.

(7) In authorizing an application for a temporary use of land permit, the Planning Director shall include as conditions of approval the following minimum provisions:

(a) The use will be limited to the dates and times (or period of time), nature and extent prescribed by the Planning Director.

(b) All works including building, electrical, and plumbing will conform to all requirements of applicable codes and regulations:

(c) Provisions for fire protection and fire vehicle access will be made as prescribed by the Fire Chief:

(d) Signage will be limited to that approved by the Planning Director;

(e) The site will be continuously maintained free of weeds, litter and debris:

(f) Within three days after removal of the temporary use the site will be completely cleaned: all trash debris signs and sign supports, and temporary electrical service and other equipment will be removed:

(g) Any additional limitations or conditions as required by the Planning Director as conditions of approval.

(G) Enforcement. Any person or business operating contrary to the provisions of this section shall be, and the same is hereby declared to be, unlawful and a public nuisance, and the city attorney may, in addition to or in lieu of prosecuting a criminal action thereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal or enjoinment thereof in the manner provided by law, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from selling products, providing services or operating a lunch wagon, mobile food preparation unit or pushcart contrary to the provisions of this article.

(H) Application fees. Application fees for any permit required by any provision of this section shall be as established by separate City Council Resolution.

§ 10-3.417 ~~ZONING ADMINISTRATOR~~AMENDMENTS TO PREVIOUSLY APPROVED PERMITS

(A) **Applicability.** Any person holding a permit granted under this chapter may request an amendment to that permit. For the purpose of this section, the amendment of a previously approved permit may include amendment of the terms of the permit itself, amendment to project design, or the waiver or alteration of conditions imposed in the granting of the permit.

(B) **Request for Amendment.** An applicant may request an amendment to a permit after the effective date of the permit. An application shall be made on forms provided by the City and shall be accompanied by the applicable fee.

(C) **Review Process.** An amendment to a permit may be granted only when the designated approving authority makes all findings required for the original approval. The designated approving authority for an amendment to a previously approved permit shall be determined as follows:

(1) Minor amendment.

(a) **Applicability.** A minor amendment is a non-substantive change of a previously approved permit, including:

1. Structural additions to non-residential projects of more than 200 square feet and less than 2,500 square feet or 10 percent of existing square footage, whichever is less. Square footage shall be the aggregate of all proposed structures. Successive projects of the same type in the same place over time may be referred to the Major Amendment process, as determined by the Director.

2. Structural additions or alterations to existing residential projects that add no more than four units or 10% of the existing units, whichever is less.

3. Expansion of existing parking lots that add fewer than 25 parking spaces on an existing site.

4. Changes to parking areas or circulation patterns or reduction of the number of parking spaces.

5. Landscape modifications which do not alter the general concept or reduce the effective amount of landscaping.

6. Architectural, exterior material, or color changes which do not alter or conflict with the basic architectural form and theme of an existing building or change the location of windows or doors.

7. Other requests like the above-listed minor amendments, as determined by the Director.

(b) **Review process.** The Director is the designated approval authority for minor amendments. No public hearing shall be required. A written notice of decision shall be issued to the applicant in the same manner as the original permit. Minor amendments to discretionary permits may be appealed.

(2) **Major amendments.** Major amendments to a previously approved permit shall be processed as follows:

(a) **Applicability.** A major amendment is a substantive change of a previously approved permit, including:

1. Structural additions to non-residential projects of equal to or greater than 2,500 square feet or 10 percent of existing square footage, whichever is less. Square footage shall be the aggregate of all proposed structures.

2. Structural additions or alterations to existing residential projects that add more than four units or 10% of the existing units, whichever is less.

3. Expansion of existing parking lots that add 25 parking spaces or more on any existing site.

4. A modification in the approved access to the project site.

5. Changes in the allowed uses established for an approved Planned Development.

6. Expansion of use over 50 percent of square footage.

7. Other requests that cannot be classified as a minor amendment.

(b) Review process. The original approving authority shall be the designated approving authority for major amendments. A major amendment shall be processed in the same manner and subject to the same standards, as either may be updated by these zoning regulations, as the original application. Major amendments of discretionary permits may be appealed as authorized by this chapter for the specific permit type.

(3) Substantial Conformance. The Director may approve minor changes to a previously approved permit at the administrative level if the proposed changes are in substantial conformance with the existing permit and would not require any additional environmental analysis. Such proposed changes shall not significantly affect the design, intensity, or intent of the approved project or reduce any requirement intended to mitigate an environmental effect; alter any public improvement or facility or conditions for which other properties or developments may rely; nor have an adverse effect upon public health, safety, or welfare.

(a) A substantial conformance determination may include:

1. Structural additions to non-residential projects of less than 200 square feet. Square footage shall be the aggregate of all proposed structures.

2. Structural additions or alterations to existing residential projects that add no additional units.

3. Changes to off-street parking and circulation configurations which do not reduce the number of required parking spaces.

4. Landscape modifications which do not reduce the number of trees or reduce the amount of plantings.

5. Architectural or exterior material or color changes which do not change the basic form and theme of an existing building, do not change the location of windows or doors, or conflict with the original approved architectural form and theme of an existing building.

6. Other requests similar to the above-listed changes, as determined by the Director.

7. No notice of decision is required for determinations of substantial conformance.

(D) **Permit Expiration.** Granting of an amendment to a previously approved permit does not extend the permit expiration date. A permit extension must be reviewed and approved by the corresponding approval authority prior to expiration of the previously approved permit.

~~(A) Zoning Administrator created; authority.~~

~~(1) There is hereby created a Zoning Administrator for the city.~~

~~(2) The Zoning Administrator shall be the Community Development Director/City Engineer or his~~

designated appointee.

(3) Any matter considered by the Zoning Administrator shall be subject to such conditions as will assure that the adjustments or modifications thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and Zone District in which subject property is situated, and such other conditions as deemed necessary to carry out the purposes of this section.

(B) Matters considered by Zoning Administrator.

(1) The Zoning Administrator shall have and decide the following matters:

(a) Applications for modifications pursuant to the provisions of this section;

(b) Land use approvals as specified by this section and the provisions of this Code pertaining to the various zoning districts;

(c) Minor modifications of lawfully issued and effective Use Permits when no change in development conditions are necessary, i.e., adequate parking, loading zone and landscaping conditions exist per this chapter;

(d) Appeal from administrative acts of Planning Division personnel where it is alleged by the appellant that there is error in any order, requirement, permit, decision or determination made by an administrative official in the administration or enforcement of this chapter, in which matters the Zoning Administrator shall have the authority.

(2) The Zoning Administrator may grant modifications to certain requirements specified in this chapter to the following extent, if the Zoning Administrator's findings are as provided in this section.

(a) Front and rear yard setback modifications not exceeding five feet.

(b) Side yard setback modifications not exceeding two feet.

(c) Building site coverage modifications not exceeding 10% of the minimum open space requirements specified by the Municipal Code.

(d) Open space modifications not exceeding 10% of the minimum open space requirements specified by the Municipal Code.

(e) Excessive building height adjustments not exceeding two feet.

(3) The Zoning Administrator may grant land use approvals as specified by the provisions of this Code pertaining to various zoning districts.

(C) Appeals from the Zoning Administrator's decision.

(1) The Zoning Administrator shall render the decision in writing on any matter properly presented, within 30 days following the date of application. The granting of any matter when conforming to the provisions of this division (C) is hereby declared to be an administrative function, the authority and responsibility for performing such is imposed upon the Zoning Administrator and the action thereon by the Administrator shall be deemed to be final and conclusive except in the event of appeal that is herein provided.

(2) In case the applicant, or other interested parties are not satisfied with the action of the Zoning Administrator, they may within ten days appeal in writing to the Planning Commission for further action.

(3) The Planning Commission shall consider such appeal at the next regular meeting for which proper notification may be provided in accordance with the provisions of this section.

(4) In case the applicant, or other interested parties are not satisfied with the action of the Planning Commission, they may within ten days, appeal in writing to the City Clerk for further action.

(5) The City Council shall consider such appeal at the next regular meeting for which proper notification may be provided in accordance with the provisions of this section.

(D) Rules and procedures.

(1) The general rules and procedures necessary or convenient for the conduct of business of said Zoning Administrator shall be adopted by the City Council.

(E) Application for and initiation of hearings.

(1) Hearings on minor Use Permit modifications or adjustments shall be initiated in any of the following manners:

~~(a) By verified application of any interested person or persons;~~

~~(b) By resolution of the City Council or Planning Commission requesting the Zoning Administrator to hear the same.~~

~~(2) Hearings on minor Use Permit modifications or adjustments shall be noticed in the following manner:~~

~~(a) Not less than ten days before such public hearing, one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the hearing.~~

~~(b) Direct mailing to the owners and occupants of the property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.~~

~~(c) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.~~

~~(d) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this section.~~

~~(F) Term of permit; expiration.~~

~~(1) The Zoning Administrator may in the granting of any permit modification or adjustment impose upon the permit a term of such period of time as is found to be consistent with the proposed use and necessary to safeguard the public safety, health and welfare.~~

~~(2) The Zoning Administrator may in the granting of any permit modification or adjustment specify the time within which the proposed use must be undertaken and actively and continuously pursued.~~

~~(3) Any permit modification or adjustment shall become null and void at the expiration of the term thereof, or if not undertaken and actively and continuously pursued within the time specified in the permit or within one year if no time be specified therein.~~

~~(G) When Zoning Administrator action is final.~~

~~(1) Upon expiration of the time within which an appeal therefrom may be filed, and no appeal being filed within such time, the decision of the Zoning Administrator shall be deemed final; but if an appeal is filed within such time, the decision of the Zoning Administrator shall be stayed pending determination of the appeal or its withdrawal by the appellant.~~

~~(2) Until the decision of the Zoning Administrator, Planning Commission, or City Council has become final, as herein provided, no permit or license shall be issued for any city dependent upon the granting of adjustment.~~

~~(Ord. 689 C.S., passed 8-5-98)~~

§ 10-3.418 RIGHT TO FARM.

(A) The City Council hereby finds that where nonagricultural land uses extend into agricultural areas or exist side-by-side, agricultural operations often become the subject of nuisance complaints. As a result, some agricultural operations are forced to cease or curtail operations, others are discouraged from making investments in farm improvements, and efficient agricultural production is generally discouraged due to burdensome litigation against farmers.

(B) It is the intent of the city to conserve, protect and encourage the development, improvement and continued viability of its agricultural land and industries for the long-term production of food and other agricultural products, and for the economic well-being of the city's and county's residents. It is also the intent of the city to balance the rights of farmers to produce food and other agricultural products with the rights of non-farmers who own, occupy or use land within or adjacent to agricultural areas. It is the intent of this chapter to reduce the loss to the city's and county's agricultural resources by limiting the circumstances under which agricultural operations may be deemed to constitute a nuisance. Nothing in this chapter shall be construed to limit the right of any owner of real property to request that the city

consider a change in the zoning classification of his property in accordance with the procedures set forth in the Municipal Code.

(C) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGRICULTURAL ACTIVITY, OPERATION OR FACILITY, OR APPURTENANCES THERETO. Includes, but is not limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of an agricultural commodity, including timber, viticulture, apiculture or horticulture, the raising of livestock, fur-bearing animals, fish or poultry, and dairy practices performed by a farmer or on a farm as incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

(D) Consistent with Cal. Civ. Code § 3482.5 (agricultural activity not a nuisance), no agricultural activity, operation or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and allowed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than one year if it was not a nuisance at the time it began.

(E) This section shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code of the State of California, if the agricultural activity, operation or facility, or appurtenances thereof, constitutes a nuisance, public or private, as specifically defined or described in any such provision.

(F) This section is not to be construed so as to modify or abridge the state law set out in the California Civil Code relative to nuisances, but rather it is only to be utilized in the interpretation, enforcement, and implementation of the provisions of the Municipal Code.

(G) The Planning Director shall cause the following notice to be recorded in the Office of the County Recorder for any prezoning application process under § 10-3.1501 of this code, and may require such notice to be recorded for any subdivision proposed under § 10-2.101 of this code for land within 300 feet of land zoned for agricultural uses or in agricultural operation:

"The undersigned in consideration of the approval of a land use development application by the City of Madera, do hereby covenant and agree with the City of Madera's declared policy to preserve, protect, and encourage development and continued operation of its agricultural lands consistent with California Civil Code Section 3482.5 (agricultural activity not a nuisance). Said policy provides that no agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes in the City or the unincorporated area of the County, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than one (1) year, if it was not a nuisance at the time it began. The term "agricultural activity, operation, or facility, or appurtenance thereof" includes, but is not limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity, including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur-bearing animals, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market. Residents of property in or near agricultural districts should be prepared to accept the inconveniences and discomfort associated with normal farm activities. This covenant shall run with the land and be binding upon all future owners, heirs, successors, and assigns to such property."

(H) The city may cause to be mailed to all property owners of real property within the city with the annual tax bill the following notice: "The City of Madera has declared it a policy to protect and encourage agricultural operations. If your property is located near an agricultural operation, you may at some times be subject to inconvenience or discomfort arising from agricultural operations. If conducted in a manner consistent with proper and accepted standards, said inconveniences and discomforts are hereby deemed not to constitute a nuisance for purposes of the Municipal Code."

(I) If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared severable.

~~§ 10-3.419 TELECOMMUNICATION TOWERS, ANTENNAS AND STRUCTURES. (REPEALED)~~

~~(Ord. 698 C.S., passed 3-17-99)~~
~~Editor's note:~~

~~§ This section, containing provisions regarding telecommunication towers, antennas and structures, was repealed by Ord. 998 C.S., passed 4-19-23~~**(RESERVED).**

§ 10-3.420 DESIGN AND DEVELOPMENT GUIDELINES.

The city shall adopt, and amend as needed, by resolution of the Planning Commission, Design and Development Guidelines consistent with the General Plan and the stated purpose of this chapter.

§ 10-3.421 INTERIM AGRICULTURAL.

(A) In all residential, commercial, and industrial zone districts in the city, when various factors combine to make the development of a property infeasible for a period of time anticipated to be in excess of five years, a use permit may be granted by the Planning Commission to allow for agricultural activities on an interim basis, until such time as development consistent with the underlying zone district becomes viable.

(B) INTERIM AGRICULTURE shall be defined as the tilling of the soil for the raising of grains, crops, orchards, horticulture and/or viticulture. Interim agriculture shall not include small livestock farming, dairying and/or animal husbandry, nor any other uses customarily incidental thereto such as slaughter houses, fertilizer yards, or rendering plants.

(C) In order to approve a conditional use permit for interim agricultural activities, the Planning Commission must make the following findings:

(1) The establishment, maintenance, or operation of the interim agricultural use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city.

(2) The interim agricultural use will not be detrimental or injurious to the infrastructure of the city. Interim agriculture shall use techniques to maximize water efficiency and minimize erosion. All grading and/or excavation shall be compatible with the city's Storm Drain Master Plan.

(D) Applications for a conditional use permit for interim agricultural uses of land shall include the following information:

(1) A justification of necessity for interim agricultural use;
(2) A total acreage calculation;
(3) A description of what crops will be grown and what their water usage will be;
(4) A description of irrigation technique(s) to be implemented on the subject property; and
(5) A plan for eventual conversion of the property to its planned use.

(E) The Planning Commission may apply conditions of approval whenever necessary to ensure compatibility with surrounding land uses and compliance with § 10-3.421(C).

(F) Approval of a conditional use permit for interim agricultural uses of land shall be approved for an initial period of no more than five years. Extension of interim agricultural uses after the initial approval period shall require the approval of an application for amendment to the conditional use permit from the Planning Commission. Each approved extension shall not exceed a period of five years.

§ 10-3.422 EMERGENCY SHELTERS

~~§ 10-3.422 STANDARDS.~~

~~—~~In additional to the development standards in the underlying zoning district, the following standards apply to emergency shelters and each emergency shelter shall comply with the standards set forth in this section. In the event of conflict between these standards and the underlying zoning district regulations, the provisions of this section shall apply. Nothing in this section modifies the requirements for approval of a religious facility as otherwise provided in this Code.

(A) Facility compliance with applicable state and local standards and requirements.

(1) Federal, state and local licensing as required for any program incidental to the emergency shelter.

(B) ~~–~~Physical characteristics.

(1) Compliance with applicable state and local uniform housing and building code requirements.

(2) The facility shall have on-site security during all hours when the shelter is open.

(3) Facilities shall provide exterior lighting on pedestrian pathways and parking lot areas on the property. Lighting shall reflect away from residential areas and public streets.

(4) Facilities shall provide secure areas for personal property.

(C) Limited number of beds per facility. Emergency shelters shall not exceed 50 beds.

(D) Limited terms of stay. The maximum term of staying at an emergency shelter is six months in a consecutive 12-month period.

(E) Parking. The emergency shelter shall provide on-site parking at a rate of two spaces per facility for staff plus one space per six occupants allowed at the maximum capacity.

(F) Emergency shelter management. A management plan is required for all emergency shelters to address management experience, good neighbor issues, transportation, client supervision, client services, and food services. Such plan shall be submitted to and approval by the planning, inspections, and permitting department prior to operation of the emergency shelter. The plan shall include a floor plan that demonstrate compliance with the physical standards of this chapter. The operator of each emergency shelter shall annually submit the management plan to the planning, inspections and permitting department with updated information for review of the required management plan. The City Council may establish a fee by resolution, to cover the administrative cost of review of the required management plan.

§ 10-3.423 SINGLE ROOM OCCUPANCY

Single Room Occupancy (SRO) facilities shall be developed and operated in compliance with the following standards:

(A) Living Unit Standards

(1) **Maximum Occupancy.** Each SRO living unit shall be designed to accommodate a maximum of two (2) persons.

(2) **Unit Floor Area.** An SRO living unit shall have at least one hundred fifty (150) square feet of floor area, excluding closet and bathroom. No individual unit may exceed four hundred (400) square feet.

(3) **Minimum Width.** An SRO of one (1) room shall not be less than twelve (12) feet in width.

(4) **Bathrooms.** SRO units shall have individual bathrooms containing a sink, a toilet, and a shower or bath per Housing and Building Code requirements. Units may have only one (1) sink by the cooking area and may omit the bathroom sink. Each unit shall provide a minimum of one sink within the unit.

(B) Community Facility Standards

(1) **Entrances.** All SRO units shall be independently accessible from a single main entry, excluding emergency and other service support exits.

(2) **Lobby/Meeting Area.** Each SRO facility shall provide ample ground floor entry area that provides a central focus for tenant social interaction and meetings. The lobby/meeting area shall be designed to accommodate at least twenty-five (25) percent of the tenants at one (1) time using an average of fifteen (15) square feet per person and a minimum four hundred (400) square feet for up to fifty (50) SRO units, excluding janitorial storage, laundry facilities, and hallways.

(3) **Ground Floor Use.** Ground floor area next to public rights-of-way shall be dedicated for public use such as lobby/meeting areas or resident-serving commercial uses. No SRO units shall be on the street level adjacent to public rights-of-way. If any SRO units are at ground level, they shall face into a private open area such as an interior courtyard.

(C) **Cooking Facilities.** Cooking facilities shall be provided either in individual units or in a community kitchen. Where cooking is in individual SRO units, SRO units shall have a sink with hot and cold water; a counter with dedicated electrical outlets and a microwave oven or properly engineered cook top unit pursuant to Building Code requirements; a refrigerator; and cabinets for storage. Where cooking facilities are in a community kitchen, the community kitchen shall be a minimum of one hundred fifty (150) square feet and designed to provide a minimum of two (2) linear feet of counter space for fifty (50) percent of the maximum number of tenants.

(D) **Management Plan.** A management plan shall be submitted with the permit application for all SRO projects. At minimum, the management plan shall include the following:

(1) **Security/Safety.** Proposed security and safety features such as lighting, security cameras, defensible space, central access, and user surveillance;

(2) **Management Policies.** Management policies including desk service, visitation rights, occupancy restrictions, and use of cooking appliance;

(3) Rental Procedures.

(4) **Staffing and Services.** Information regarding all support services, such as job referral and social programs;

(5) **Maintenance.** Maintenance provisions, including sidewalk cleaning and litter control, recycling programs, general upkeep, and the use of durable materials; and

(6) Facility Management.

(a) **Ten or More Guests.** The facility shall provide on-site management. The manager shall live on-site however the manager's unit shall not count as one of the 10 guests.

(b) **Less Than ten Guests.** There shall be an on-site manager's office. The office shall be staffed for a minimum of six hours per day between the hours of 7 a.m. and 8 p.m., six days a week. The manager's hours shall be posted in a conspicuous location.

SITE PLAN REVIEW

§ 10-3.4.0101 PURPOSES.

The City Council declares that in order to insure that use and development of property in the city is in conformity with the intent and provisions of the zoning regulations of the city and other applicable provisions of the City Municipal Code and ordinances codified therein, review of proposed site plan developments by the Community Development Director or, as may be applicable, the Planning Commission, is necessary and desirable. More specifically, site plan review is necessary to insure that new, expanded, or changed uses of property are regulated to insure that structures, parking areas, walks, landscaping, street improvements, and other forms of development are properly related to the proposed sites and surrounding sites and structures, to prevent excessive grading of land and creation of drainage hazards, to prevent indiscriminate clearing of property and destruction of trees and shrubs of ornamental value, to avoid unsightly or hazardous site development and to encourage originality in site design and development in a manner which will enhance the physical appearance and attractiveness of the community. ~~The site plan review process is intended to provide for expeditious review of environmental impact assessments as may be required by official policy of the city.~~ The Community Development Director will be responsible for the coordination of the site plan review process with input from city department heads. It is the intent that the site plan review process be implemented with a cooperative spirit between project proponents and the city. Further, it is recognized that the size or nature of a project may necessitate a meeting of the project proponent, affected city department heads, and applicable review agencies to review the proposal. Where such a meeting would aid in the implementation of the process, the Community Development Director shall schedule the meeting and inform the affected parties at the earliest possible time. A project proponent may request such a meeting when it can be shown to benefit the expeditious processing of the project.

§ 10-3.4.0102 APPLICABILITY.

~~—~~The provisions of this subchapter shall apply to all new, expanded, or changed uses of property which involve the construction or placement of new structures or buildings on the site, new uses which necessitate on-site improvements to comply with the provisions of the City Municipal Code, uses subject to a use permit, precise plans, variance, or any other particular zoning permits applicable to the proposed development.

§ 10-3.4.0103 APPLICATION REQUIREMENTS.

~~—~~Site plan review shall be required of all new, expanded, or changed uses of property which involve construction or placement of new structures or building additions on the site or new uses which

necessitate on-site improvements, including uses subject to a use permit, precise plan, or application for variances. Single-family and duplex structures and additions thereto not exceeding two units per parcel in R zones, minor accessory additions and structures and other uses for which administrative approval is authorized under the provisions of the City Municipal Code, provided the structures and uses meet all of the requirements of the City Municipal Code, are specifically exempt from site plan review. However, issuance of a building permit for single-family and duplex structures in residential and planned development zones, including, but not limited to additions which expand or intensify the residential use, such as secondary or second dwelling units, shall be subject to the standard street dedication and improvement requirements specified herein.

§ 10-3.4.0104 DRAWINGS TO BE SUBMITTED.

(A) The applicant shall submit sets of prints to the Planning Division of the Community Development Department as prescribed below. The applicant is encouraged to submit two sets of preliminary site plans for Planning Division review for completeness and accuracy prior to making formal application. For purposes of this chapter, site plan shall mean all plans pertinent to the development as prescribed below including but not limited to site plan, generalized landscape plan, and building elevations. Applicants will be notified of the status of the application at the earliest possible time to facilitate timely processing.

(B) A submittal shall consist of the application form, filing fee, and eight complete sets of plans. Two additional sets of plans are required for projects which require review by the Planning Commission. A complete application shall consist of plans with all information required in this section, a completed application form and the filing fee. Incomplete applications will be returned to the applicant and will not be acted upon.

(C) Plans shall be drawn to scale and shall indicate clearly and with full dimensions, the following information:

(1) Project information.

(a) Project name; street address; Assessor's parcel number;

(b) Name, address, phone number of applicant, property owner, and contact person;

(c) Vicinity map;

(d) North arrow and scale;

(2) Lot or site dimensions;

(3) All existing and proposed buildings and structures, including location, size, lot coverage, height, proposed use;

(4) Location of all existing facilities, including pavement, curbs, gutters, sidewalks, utility lines, and existing street lights and fire hydrants within 100 feet of site;

(5) Yards and space between buildings;

(6) Walls and fences, including location, height, and materials;

(7) Trash receptacles and enclosures, including location, height, and materials;

(8) Off-street parking and off-street loading, including location, dimensions of parking and loading areas, internal circulation pattern, plus a notation of the number of required and proposed spaces, including compact and handicapped parking spaces;

(9) Pedestrian, vehicular, and service ingress and egress to site and structures;

(10) Generalized indication of size, height, and location of all signs;

(11) Location and general nature and hooding devices of on-site lighting;

(12) Street dedications and improvements on adjacent streets and alleys (detailed improvement plans shall be required at the building permit stage);

(13) Proposed on-site fire protection requirements, including stand pipes, hydrants, turnarounds, and the like;

(14) Location and size of landscaping areas with notations on use of mounds, berms, retention walls, and general type of plant materials to be used (a detailed landscape and irrigation plan shall be required at the building permit stage of the project);

(15) General indication of grades, direction of drainage flow, and drainage facilities (a detailed site grading and drainage plan shall be required at the building permit safe of the project);

(16) Elevations of all sides of structure(s), notation of building and roofing materials, building heights;

(17) Such other data pertaining to site development as may be required by the Community Development Director to make the required findings.

§ 10-3.4.0105 REVIEW AND ACTION.

(A) Applications for site plan review which do not require action by the Planning Commission will be processed on a weekly basis. Complete applications received by 10:00 a.m. on Mondays will be processed and acted upon within eight working days. When the Monday is a holiday, submittals received by 10:00 a.m. on the preceding Friday will be processed in the stated time frame. The Community Development Director shall disperse plans to affected city departments and review agencies and coordinate the review process. On the eighth working day the Community Development Director shall notify the applicant in writing of approval, conditional approval, or disapproval of the application. The action of the Community Development Director ~~Director~~ shall be final unless appealed to the Planning Commission. The approved site plan, with any conditions shown thereon, or attached thereto, shall be dated and signed by the Community Development Director~~Director~~, with one copy mailed to the applicant and one copy filed with the Buildings Official.

(B) Applications for which Planning Commission approval is required ~~or for which a negative declaration is mandatory,~~ shall be submitted no later than 10:00 a.m. 29 calendar days prior to a regularly scheduled meeting. Applicants must be present at the Planning Commission meeting unless other arrangements are made. Written notification of the action of the Planning Commission will be mailed to the applicant within three working days following the meeting.

(C) Whenever required by the provisions of this chapter, or whenever deemed advisable by the Planning Commission or Community Development Director, a public hearing shall be held on an application. Public notice procedures shall be as follows:

(1) By one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the action or hearing.

(2) Direct mailing to the owners and occupants of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.

(3) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during, the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.

~~(4) The public review period for the environmental determination (negative declaration) shall not be less than 21 calendar days (30 days if State Clearinghouse review is required).~~

(~~5~~4) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

(D) While coordination of the review process is the responsibility of the Community Development Director, there may be circumstances, in the interest of expeditious review, where another department head may be requested to contact the project proponent regarding details of the site plan.

§ 10-3.4.0106 APPROVAL DETERMINATIONS.

Before approving a proposed site plan, ~~the Director~~the Community Development Director shall determine that the proposed action is in compliance with all applicable provisions of the City Municipal Code, City General Plan, any applicable specific plans, all rules and regulations applicable to the proposed development, that facilities and improvements, vehicular and pedestrian ingress, egress, and internal circulation, location of structures, services, walls, landscaping, and drainage of the site are so arranged that traffic congestion is avoided, that pedestrian and vehicular safety and welfare are protected, that there will not be adverse effects on surrounding property, that proposed lighting is so arranged as to deflect the light away from adjoining properties or public streets and that adequate provision is made to reduce adverse or potentially adverse environmental impacts to acceptable levels. In making such determination the Community Development Director ~~Director~~ shall establish that approvals are consistent with established legislative policies relating to traffic safety, street dedications, street improvements, and environmental quality. In situations where a project could have adverse impacts on traffic or circulation outside the immediate project area, the Community Development Director ~~Director~~, with input from City Department Heads, may find that additional improvements are required.

§ 10-3.4.0107 CONDITIONS OF APPROVAL.

In approving a site plan, the Community Development Director ~~Director~~ or Planning Commission shall state those conditions of approval necessary to protect the public health, safety, and general welfare. Such conditions may include, but are not limited to, consideration of the following:

(A) Special yards, spaces, and buffers;
(B) Fences and walls;
(C) Surfacing of parking areas and provisions for water drainage subject to city specifications;
(D) Street dedications and improvements, subject to the provisions of § 10-3.4.0108 including service roads or alleys where applicable;
(E) Regulation of points of vehicular ingress and egress;
(F) Regulation of signs, in accordance with the standards prescribed under Chapter 6 of this title;
(G) Maintenance of grounds;
(H) Landscaping and maintenance thereof;
(I) Regulation of noise, vibration, odors, and other similar characteristics;
(J) Measures necessary to eliminate or to effect mitigation to acceptable levels of adverse environmental impacts;
(K) Regulation of time for certain activities to be conducted on the site;
(L) Time period within which the proposed use and/or improvement shall be completed;
(M) A bond, deposit of money, recorded lien secured by deed of trust, or letter of credit for the completion of street improvements and other facilities, or for the removal of such use within a specified period of time, to assure conformance with the intent and purposes set forth in this title;
(N) Periodic formal review of the project.

§ 10-3.4.0108 STREET DEDICATIONS AND IMPROVEMENTS.

Because of changes which may occur in the local neighborhood as the result of development requiring a site plan review and/or issuance of a building permit for single-family and duplex structures and additions not exceeding two units per parcel in residential and planned development zones, including, but not limited to additions which expand or intensify the residential use, such secondary or second dwelling units authorized under the provisions of the municipal code, including but not necessarily limited to increases in vehicular or pedestrian traffic generated by the development, changes in drainage conditions, utility service requirements, and other impacts that are determined by the Community Development Director ~~Director~~ to be the result of the project under consideration, the following dedications and

improvements may be deemed necessary by the Community Development Director ~~Director~~ and may be required as a condition to the approval of any site plan and the issuance of any building permit for any building projects subject to site plan review and/or issuance of a building permit for single-family and duplex structures and additions not exceeding two units per parcel in residential and planned development zones, including, but not limited to additions which expand or intensify the residential use, such as secondary or second dwelling units authorized under the provisions of the municipal code.

(A) No building permit shall be issued for any building or structure to be erected, altered, expanded, or enlarged on any lot to the extent that the cost of such work exceeds 50% of the estimated current cost as determined by the Community Development Director ~~Director~~ to replace the present building or structure in kind, unless half of any right-of-way contiguous thereto has been dedicated and improvements to city standard specifications thereon have been provided for as provided in subsection § 10-3.4.0108(D) below.

(B) Plan lines.

(1) Right-of-way dedications shall be made of all land necessary to widen an existing street or alley or create a new street made necessary by a development and shall be granted in accordance with adopted general, specific, or precise plans, plan lines, and the city's standard specifications for rights- of-way. If a conflict exists among plans, the adopted specific plan or plan line shall take precedence.

(2) In the event official plan lines have not been established, the Community Development Director ~~Director~~ shall determine all street widths for dedication to protect the public interest, safety, and general welfare, provided, however, the applicant for the permit may appeal the determination of the Community Development Director ~~Director~~ in the manner provided in this subchapter.

(C) Improvements.

(1) Street and alley right-of-way improvements adjacent to, or traversing, a development shall be improved to city standards including but not limited to pavement, curb, gutter, parkstrip, street trees and landscaping, sidewalk, street lights, fire hydrants, street signs, water, sewer, storm drainage and other utility lines and related appurtenances, driveway approaches, and handicap ramps. Such improvements are required on the principle that they are necessary because of the traffic, utility and other demands generated by the proposed development and the orderly development of the area.

(2) Where it is found to be essential to the accommodation of storm drainage runoff and/or traffic generated by the project, improvement of all or part of rights-of-way abutting adjacent properties may be required in conjunction with the subject project with reimbursement provisions incorporated in conditions imposed.

(D) Improvement criteria.

(1) Projects which abut on an existing or new street where development is anticipated to occur on both sides of the street shall be required to provide all improvements for a ½ right-of-way width on the project's respective frontages. In the event that it is found by the Community Development Director ~~Director~~ or Planning Commission that the standard improvements do not provide sufficient pavement width for two travel lanes and a parking lane, the review body may require additional pavement width or posting for no on-street parking. This determination shall be based on the adequacy of on-site parking and adjacent land uses both existing and planned.

(2) Projects which encompass an existing or new street shall be required to provide all right- of-way improvements.

(3) Projects abutting a frontage street shall be required to provide all right-of-way improvements provided that some adjustment from standard improvements may be permitted when such improvements will compliment the overall development of the area and provide for safe vehicular and pedestrian circulation. Where median or parkstrips are required, the property owner shall be responsible for the maintenance thereof subject to provisions of a maintenance agreement.

(4) Projects which abut upon or encompass major arterial streets shall be required to provide pavement improvements equivalent to a collector street as specified in subsections § 10-3.4.0108(D)(1), (D)(2), and (D)(3) above.

(5) Projects which abut upon or encompass an alley shall be required to provide all alley improvements to full width adjacent to the project site.

(E) All improvements shall be constructed to city standards existing at the time of the approval of the development plan and shall be installed at the time of the proposed development based upon improvement plans approved and encroachments permits obtained in connection with the issuance of a building permit. Where it is determined by the Community Development Director ~~Director~~ that it is impractical to put in any or all improvements at the time of the development, an agreement to defer such improvements may be entered into in lieu thereof where it is found that the improvements are not immediately essential to the circulation pattern of the area, safe movement of vehicular and pedestrian traffic, drainage area runoff or other factors. When the deferral is granted the applicant shall enter into an agreement with the city which shall become a matter of record in a form approved by the City Attorney and which agreement shall constitute a lien on the property for the cost of the improvements. A deposit in the form of cash or letter of credit or performance bond in an amount equal to 100% of the estimated cost of improvements, as determined by the City Engineer may be required as a guarantee to the making of such improvements when necessary.

§ 10-3.4.0109 REIMBURSEMENT PROVISIONS.

(A) Each developer of property has the responsibility for improvement of not less than ½ of the right-of-way including city utility lines that abut a parcel. In the event the development necessitates extension of service lines or other right-of-way improvements beyond those immediately abutting the developing parcel, the cost of such improvements shall be reimbursable at the time of development of benefitting parcels which abut such improvements. An agreement for reimbursement must have been entered into with the city prior to occupancy of the structure(s) or use of the property unless written exception is given by the City Engineer.

(B) Property owners whose properties benefit from extension of city utility lines and other right-of-way improvements by other developers will be required to reimburse the cost of the improvements that have been installed along their right-of-way frontages at time of development of their property as determined by the City Engineer.

§ 10-3.4.0110 RELATIONSHIP TO ENVIRONMENTAL ASSESSMENT PROCEDURES.

(A) A site plan approved pursuant to the provisions of this chapter shall be considered in relation to requirements of city policy governing the preparation of environmental impact assessments. It is the intent of this subchapter that an Environmental Impact Assessment (EIA) be made concurrently with, and as part of, the site plan review process, and that a site plan may be approved with conditions that will permit the applicable review body to find that the proposed project will not have a significant effect on the environment and that a negative declaration should be prepared.

(B) Where it is determined that an Environmental Impact Report (EIR), if required by law, is required for a proposed project, action on a proposed site plan shall be deferred until such time as the EIR has been prepared and reviewed pursuant to provisions of the city's guidelines and state law. The Planning Commission and City Council shall, at the completion of the EIR review, attach such conditions to the approval of the site plan as in their judgment will mitigate or reduce to acceptable levels any of the environmental impacts identified during review of the EIR. The Planning Commission or City Council may deny a plan if it is found that such mitigation or reduction of environmental impacts is not feasible.

§ 10-3.4.0111 ~~REVISIONS~~ AMENDMENT OF APPROVED PLANS.

An applicant may request an amendment to an approved Site Plan Review after the final written decision is issued and the permit becomes effective. Amendments to an approved Site Plan Review shall be processed in accordance with section 10-3.417 (Amendments to Previously Approved Permits)
~~Revisions by the applicant of an approved plan shall be presented to the Director in the manner required for drawings first submitted. Resubmittals shall be accompanied by the prescribed filing fee unless the revisions are determined by the Director to be of a minor nature.~~
~~('61 Code, § 10-3.4.0111) (Ord. 507 C.S., passed 10-19-88)~~

§ 10-3.4.0112 ACKNOWLEDGMENT AND ACCEPTANCE OF CONDITIONS.

Upon receipt of the approved copy of a site plan and prior to applications for a building permit, the applicant/owner shall execute an acknowledgment and acceptance of the terms and conditions of the site plan and an agreement with the city certifying such acceptance and agreement to be bound thereby.

§ 10-3.4.0113 BUILDING PERMIT.

In addition to such other matters required by law, applications for a building permit shall include three sets of plans including building, site, landscaping, irrigation, right-of-way improvements, grading, and drainage, as applicable, along with other information as may be required by the Building Official. Plans must reflect the conditions of site plan approval. Before a building permit shall be issued for any building, structure, or sign proposed as part of an approved site plan, the Community Development Director ~~Director~~ shall determine that the proposed building location, facilities, and improvements are in conformity with the approved site plan and all required dedications and agreements have been recorded.

§ 10-3.4.0114 LAPSE OF SITE PLAN APPROVAL.

A site plan approval shall be void one year following the date on which approval by the Community Development Director, Planning Commission, or City Council became effective unless, prior to the expiration of one year, a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the site or structures which were the subject of the site plan. Approval may be extended for one year periods of time, upon written application to the Community Development Director ~~Director~~ before expiration of the approval.

§ 10-3.4.0115. OCCUPANCY.

Before any building, structure, or use that is subject to site plan review may be occupied, both the Building Official (for on-site improvements) and the City Engineer (for off-site improvements) shall have certified that all required improvements have been completed. Under special circumstances of hardship or conditions beyond the control of the applicant/developer, additional time may be granted by the applicable official for completion of required improvements provided that the following provisions are met:

(A) The total time extension does not exceed six months.

(B) The site, use, and circulation system, both on and off-site are functional, and the temporary lack of such improvements is not detrimental to the health and safety of occupants, the general public, or the surrounding area.

(C) An agreement is entered into with the city and if deemed necessary, recorded.

(D) The agreement is secured by either cash deposited with the city, cash deposited in irrevocable escrow approved by the City Attorney, or other financial security approved by the City Attorney as the

equivalent thereof. Such security shall be in the amount of 100% of the estimated cost of completion as determined by the Building Official in the case of on-site improvements and the City Engineer in the case of off-site improvements. In the event such work is not completed within the period provided, the city shall be authorized to take all necessary action to enforce the agreement, including the use of the security to cause the completion of all required improvements. Monies deposited with the city or in escrow may be partially released to the depositor by the Building Official in the case of on-site improvements and the City Engineer in the case of off-site improvements during the progress of the work, so long as the same ratio of security is maintained on the deposit to secure all uncompleted work.

§ 10-3.4.0116 APPEAL TO THE PLANNING COMMISSION.

(A) Within ten calendar days following the date of a decision by the Community Development Director, the decision may be appealed in writing to the Planning Commission by the applicant or any other interested party. Such an appeal shall be filed with the Community Development Director ~~Director~~ and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the Community Development Director ~~Director~~ or wherein the decision is not supported by evidence in the record. Appeals shall be accompanied by an appeal fee as prescribed by Resolution of the City Council. The appeal fee shall be refunded if the appeal is granted by the Planning Commission. Additional copies of the plans may be required by the Community Development Director ~~Director~~.

(B) The Community Development Director shall give notice to the applicant and to the appellant (if the appellant is not the applicant) of the date, time, and place the appeal will be considered by the Planning Commission.

(C) The Planning Commission shall hear the appeal at its next regular meeting to be held not earlier than 14 calendar days after the filing of the appeal. The Commission may affirm, modify, or reverse a decision of the Community Development Director ~~Director~~, provided that if the decision is modified or reversed, the Commission shall, on the basis of the record and such additional evidence as may be submitted, make the applicable findings prerequisite to the approval of a site plan as prescribed in § 10-3.4.0106 of this subchapter. The decision of the Commission shall be final unless appealed to the City Council.

§ 10-3.4.0117 APPEAL TO THE CITY COUNCIL.

(A) Within ten calendar days following the date of a decision of the Planning Commission on a site plan application, the decision may be appealed to the City Council by the applicant or any other interested party. Such an appeal shall be filed with the City Clerk and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the Commission or wherein its decision is not supported by evidence in the record and shall be accompanied by the appeal fee as prescribed by Resolution of the City Council.

(B) Within five days of the filing of an appeal, the Community Development Director ~~Director~~ shall transmit to the City Clerk the drawings of the site plan and all other data filed therewith, the findings of the Planning Commission, and its decision on the application for review and action. The Community Development Director ~~Director~~ may require submittal of additional copies of the plans by the applicant.

(C) The City Clerk shall give notice to the applicant and to the appellant (if the applicant is not the appellant) of the time, date, and place when the appeal will be considered by the City Council.

(D The City Council shall hear the appeal and consider the matter de novo based on the requirements for a site plan prescribed in § 10-3.4.0106 of this subchapter~~) The City Council shall hear the appeal at its next regular meeting held not less than seven calendar days after the filing of the appeal. The City Council may affirm, reverse, or modify a decision of the Planning Commission, provided that if a decision is modified or reversed, the City Council shall, on the basis of the record transmitted and such~~

~~additional evidence as may be submitted, make the applicable findings prerequisite to the approval of a site plan as prescribed in § 10-3.4.0106 of this subchapter~~.

(E) The decision of the City Council on the site plan shall become effective immediately and shall be final~~A site plan which has been the subject of an appeal to the City Council shall become effective immediately following the date on which the site plan is affirmed or modified by the City Council~~.

PLANNED DEVELOPMENT ZONES

§ 10-3-4.101 P-D ZONES.

(A) The purpose of the P-D zones is to authorize and regulate density of condominiums, cooperatives, planned developments, and other residential subdivisions. The district is intended to allow use of special design criteria for maximum utility of the site and to allow maximum design flexibility within the density limitations provided in § 10-3-4.102 of the subchapter.

(B) Special residential developments such as clustering and density transfers are encouraged, and variations from normal zoning standards may be considered, such as zero side yard and common wall developments. Through the Planned Development process, special residential design standards may be established which regulate the subdivision rather than the typical residential standards of the Municipal Code.

(C) All developments in P-D zones are subject to the provisions of Chapters 2 and 3 of Title 10 of the City Municipal Code. As such, any subdivision in the P-D zone requiring public maintenance shall also be subject to the City's Standard Specifications, with modifications to be approved only by action of the City Council.

§ 10-3-4.102 DENSITY.

The maximum density shall be determined by a sub-designation permitting one residential unit per square footage of site area exclusive of streets and public and private rights-of-way as determined by the Planning Director as follows:

Density
Density
P-D (1500)
One unit for each 1,500 square feet of site area.
P-D (2000)
One unit for each 2,000 square feet of site area.
P-D (3000)
One unit for each 3,000 square feet of site area.
P-D (4500)
One unit for each 4,500 square feet of site area.
P-D (6000)
One unit for each 6,000 square feet of site area.
P-D (8000)
One unit for each 8,000 square feet of site area.
P-D(12000)
One unit for each 12,000 square feet of site area.

§ 10-3-4.103 PLANNING COMMISSION APPROVAL.

(A) No construction, grading, or new development activity shall commence in any P-D Zone prior to the approval of a precise plan of the development by the Planning Commission. The precise plan shall be processed under the provisions for use permits as set forth in MMC § 10-3.13.

(B) Any precise plan approved in conjunction with a residential subdivision shall remain valid only while the approved tentative map remains valid. Once the subdivision map is recorded, the precise plan shall remain valid until such time that it is amended or repealed.

(C) All other precise plans approved by the Planning Commission as provided herein shall be utilized within 12 months after the effective date of its approval. Failure to utilize such approval within such 12-month period shall render the permit null and void unless a written request for extension is submitted to the Planning Commission prior to the expiration of the permit. The Planning Commission shall review the request, and may grant or conditionally grant an extension as it deems appropriate.

§ 10-3-4.104 PRECISE PLAN APPLICATION.

A precise plan application for development in a P-D district shall include:

(A) A boundary map and complete legal description of the property.

(B) The gross land area of the development and the location of all existing easements, structures, and improvements on the property.

(C) A plot plan showing to scale the following details:

(1) Location and use proposed for each existing and proposed structure in the development, the number of stories, gross building area, and approximate location of entrances.

(2) All existing and proposed driveway approaches, driving lanes, parking areas, and loading and service areas.

(3) All pedestrian walks and open areas for the use of the occupants of the proposed development.

(4) A detailed plan for the landscaping of the development including the location and height of all proposed walls, fences, and screen planting and a statement setting forth the method by which they will be preserved and maintained.

(5) The location of hydrants, utilities, drainage facilities, and recreation facilities.

(6) All existing and proposed easements.

(7) Elevations or architectural renderings of the project to indicate architecture and materials of construction.

(D) Such additional data as may be required by the Director of Planning.

§ 10-3-4.105 (RESERVED)

§ 10-3-4.106 OPEN SPACE.

For each residential unit in a planned residential development there shall be provided a minimum 750 square feet of open space exclusive of drives and off-street parking areas.

§ 10-3-4.107 YARD ENCROACHMENTS.

Unless special standards are established through approval of the Precise Plan, the provision of § 10-3.411, Yard Encroachments, shall apply to all residential projects containing single family dwellings on individual lots.

ADMINISTRATIVE PLAN REVIEW

§ 10-3-4.201 PURPOSE

The purpose of this section is to define the procedures for review and approval of permitted uses and associated site development. This section establishes a ministerial review process to facilitate permitted uses considered minor in nature and those uses required to be approved through a ministerial permit process while allowing the City to ensure conformance with all applicable local standards, ordinances, and other applicable plans and policies.

§ 10-3-4.202 APPLICABILITY

An Administrative Plan Review is required prior to establishment of any permitted use indicated as approved under an Administrative Plan Review within the zone districts established in this chapter.

§ 10-3-4.203 APPLICATION REQUIREMENTS

(A) Application Filing and Processing. Applications for a Administrative Plan Review shall be filed and processed in accordance with the applicable procedures:

(1) Applications for Administrative Plan Review must be submitted in writing to the Planning Director along with any applicable fees.

§ 10-3-4.204 REVIEW AND ACTION

(A) Applications for a Administrative Plan Review shall be reviewed and approved by the Planning Director. As the approving authority, the Director is authorized to approve, alter, or deny an application for a Administrative Plan Review.

(B) In approving an application for a Administrative Plan Review, the approving authority may impose reasonable and appropriate standards to achieve the purposes of this title, ensure consistency with the goals and policies of the adopted General Plan and any applicable specific plan, and justify making the necessary findings.

§ 10-3-4.205 APPROVAL FINDINGS

Prior to approving an application for a Administrative Plan Review, the Director shall make all the following findings:

(A) The proposed project is consistent with the adopted General Plan and any applicable specific plan.

(B) The proposed project meets all applicable standards for development and provisions of this tTitle.

§ 10-3-4.206 NOTICE OF DECISION

A written notice of decision on the Administrative Plan Review shall be provided within three business days of the date of decision to the applicant and any interested party having specifically requested such

notices of the specific action in writing. The notice of decision shall include:

(A) The application request as acted upon by the approving authority.

(B) The action taken by the approving authority.

(C) Findings for the permit

§ 10-3-4.207 APPEALS

The Director's decision on Administrative Plan Reviews are not subject to appeal and shall immediately be final.

§ 10-3-4.208 LAPSE OF APPROVAL & EXTENSIONS

Approval of an Administrative Plan Review shall be void within two years following the date on which approval by the Planning Director became effective unless, prior to the expiration, a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion of the site or structures which were the subject of the site plan. Approval may be extended for one year periods of time, upon written application to the Director before expiration of the approval.

§ 10-3-4.209 AMENDMENTS

An applicant may request an amendment to an approved Administrative Plan Review after the final written decision is issued and the permit becomes effective. Amendments to an approved Administrative Plan Review shall be processed in accordance with section 10-3.417 (Amendments to Previously Approved Permits)~~ENVIRONMENTAL REVIEW~~

~~§ 10-3-4.301~~

RESIDENTIAL ZONES

§ **10-3.501 R ZONES; PURPOSE AND APPLICATION.**

To provide specific areas in the city where residential developments of varying densities may be developed as specified in the land use element of the General Plan. To promote and encourage a suitable living environment; to provide space for community facilities needed to complement urban residential areas and for institutions compatible with a residential environment; to promote the orderly flow of residential traffic and restrict commercial and industrial traffic in residential areas; to provide the opportunity for suitable housing at affordable prices for all segments of the community. The standards contained within this article shall apply except as otherwise explicitly required by State law.

§ **10-3.502 ~~R; PERMITTED USES~~DENSITY.**

The maximum density shall be fixed by a sub-designation as follows:
(A) R(A). One unit for each 12,000 square feet of site area.
(B) R(1). One unit for each 6,000 square feet of site area.

(C) R(2). One unit for each 2,178square feet of site area.
(D) R(3). One unit for each 871 square feet of site area.

§ 10-3.503 ~~R; DENSITY~~PERMITTED USES.

(A) The following uses shall be permitted in the Residential Zone.
(1) Residential uses together with the accessory buildings customary to such use, including garages, carports, and storage sheds, except that single family dwellings shall not be allowed in the R-3 zone district.
(2) Flower and vegetable gardens, orchards, the raising of tree crops, berry, or bush crops for the purpose of prolongation and culture, including wholesaling crops raised on the premises; provided, no signs, displays, or stands are used in conjunction therewith.
(3) Swimming pools for either individual, family, or communal use on an exclusive non- commercial basis.
~~The maximum density shall be fixed by a sub-designation as follows:~~

~~(A) R(A). One unit for each 12,000 square feet of site area.~~
~~(B) R(1). One unit for each 6,000 square feet of site area.~~
~~(C) R(2). One unit for each 3,000 square feet of site area.~~
~~(D) R(3). One unit for each 1,800 square feet of site area.~~
~~('61 Code, § 10-3.503) (Ord. 380 C.S., passed 9-21-81; Am. Ord. 607 C.S., passed 12-15-93)~~

§ 10-3.504 ~~R; PERMITTED USES;~~USES ALLOWED WITH ADMINISTRATIVE APPROVAL.

(A) Subject to obtaining ~~an administrative~~an Administrative Plan Review approval thereof, the following uses shall also be permitted:
(1) Enclosed, temporary construction materials storage yards required in connection with the development of a subdivision, and temporary subdivision sales offices and signs and model home display areas.
(2) Accessory dwelling units and junior accessory dwelling units subject to the standards contained in § 10-3.513.

(3) Manufactured housing.
(4) Multiple single family dwelling units on the same R-1 zoned lot subject to the standards contained in § 10-3.512.
(5) One level Duplexes, triplexes, townhomes not exceeding four units, cottage housing not exceeding four units, fourplexes, and sixplexes.
(6) Stacked duplexes (4 units), stacked triplexes (6 units), stacked townhomes not exceeding 8 units, and stacked fourplexes (8 units).
(7) Home occupations.
(8) Foster homes, rehabilitation facilities, day care centers, and other related facilities which provide housing for six or fewer unrelated persons.
(9) Accessory uses and buildings normally incidental to any of the permitted or conditionally permitted uses. This provision shall not be construed as permitting any commercial use or occupation other than those specifically listed.
(10) Supportive Housing.
(11) Transitional Housing.
(12) Mobile homes.

~~§ 10-3.504.1 R; USES ALLOWED WITH ZONING ADMINISTRATOR'S PERMIT.~~

~~(A) The following uses shall be permitted subject to the approval by the Zoning Administrator:~~
~~(1) Accessory dwelling units and junior accessory dwelling units subject to the standards contained in § 10-3.513.~~
~~(2) Manufactured housing.~~
~~(3) Home occupations (appealed).~~
~~(4) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.~~
~~(B) Other approvals as per Zoning Administrative Code Section.~~
~~(Ord. 690 C.S., passed 8-5-98; Am. Ord. 949 C.S., passed 12-6-17)~~

§ 10-3.505 ~~R;~~ CONDITIONAL USES; COMMISSION APPROVAL.

(A) The following uses are allowed subject to obtaining approval of a Use Permit from the Planning Commission:

(1) Private non-profit schools and colleges; churches, parsonages, and other religious institutions.

(2) Foster homes, rehabilitation facilities, and other related facilities which provide housing for more than six unrelated persons.

(3) Private clubs and lodges.

(4) On-site parking for commercial vehicles exceeding two-ton capacity.~~.~~

~~(5) Multiple single family dwelling units on the same R-1 zoned lot subject to the standards contained in § 10-3.512.~~

(5~~6~~) Large family day care homes as defined in and subject to the standards contained in § 10-3.1312.

(B) The following uses are permitted only in the R-3 zone and are subject to first securing a use permit in each case:

(1) Hotels, motels, rooming or boarding houses, bungalow courts, and dwelling groups.

(2) Professional offices.

(3) Community centers, social halls, lodges, clubs, cemeteries, and their appurtenant uses.

(4) Rest homes and convalescent hospitals.

§ 10-3.506 ~~R;~~ FENCES, WALLS, AND HEDGES.

Fences, walls, and continuous hedges will be limited as follows:

(A) A maximum height of six (6') feet in any rear or interior side yard exclusive of the front setback area.

(B) A maximum height of three (3') feet in any front or street side yard setback area, except that, subject to the approval of the Community Development Director/City Engineer, a six (6') foot fence may be erected on the street side yard property line of any fifty (50') foot wide corner lot located in the R. Residential Zone, which is situated adjacent to an eighty (80') foot City right-of-way designated as a Local Street on the General Plan. These approvals shall take into consideration site distance requirements adjacent to alleys and where driveways cross the street side yard property line.

(C) A maximum height of six (6') feet to within ten (10') feet of any exterior side property line, exclusive of the front setback. The Community Development Director/City Engineer may grant approval of an encroachment permit for construction of a fence higher than three (3') feet within the required street side yard setback area subject to the following standards:

(1) The maximum height shall not exceed six (6') feet in any street side yard area to within twenty-five (25) feet of the front property line, or projection thereof.

(2) No encroachment permit shall be approved for corner lots with an alley along the rear property line (ten (10') foot setback required).

(3) No encroachment permit shall be approved for corner lots adjacent to a street along the rear property line (ten (10') foot setback required).

(4) Encroachment permits shall take into account sight distance requirements in reverse corner lot situations, where driveway approaches on adjacent lots may be near the rear property line.

(5) Fences along a residential access street (fifty (50') foot right-of-way) shall be set back a minimum of five (5') feet from the exterior side property line.

(6) Design criteria for fences constructed along street side yard property lines shall be as follows (not applicable for fences constructed in accordance with building setback standards except as required in § 10-3.506(C)(5)(d)):

(a) All fences shall be masonry, wrought iron, solid wood, or a combination thereof.

(b) Wood shall be of cedar quality or better and all wood surfaces are to be treated with waterproofing. All posts shall be set in concrete.

(c) Unless the standard setback of ten (10') feet is utilized, all fences along collector streets shall be masonry.

(d) All fences constructed along arterial streets, regardless of setbacks, shall be masonry.

(e) Fence construction along any rear property line adjacent to a Collector or Arterial Street shall be masonry.

(f) Construction of fencing along all designated Collector and Arterial Streets is mandatory. Installation shall be required in conjunction with building permits issued for adjoining lots, and completion required prior to the granting of final occupancy on the permit.

(g) The design criteria for construction of fences along Collector and Arterial Streets shall not apply to any subdivision recorded prior to December 18, 1991, the effective date of Ordinance 580 C.S.

(h) The Planning Commission may grant exceptions on a subdivision-wide basis to the masonry wall requirements along Collector and Arterial Streets specified in this section.

(D) The Planning Commission may approve encroachments into the ten foot (10') street side yard setback not authorized by the Community Development Director/City Engineer, subject to the provisions of the Building Code and City Standards. The Planning Commission may permit a greater height not to exceed a maximum height of eight feet (8') for that portion of a yard to the rear of the front forty feet (40') upon a determination that a greater height will not be detrimental to the public welfare or to abutting property. The Planning Commission may also require the installation of masonry block walls higher than eight feet (8') for the purpose of mitigating noise impacts in conjunction with new residential development. The requirements shall be established as a condition of approval for Tentative Subdivision Maps in conjunction with an acoustical analysis prepared by a qualified independent consultant.

§ 10-3.507 ~~R;~~ MINIMUM SITE AREA AND DIMENSIONS.

Each lot shall be no less than 80 feet in depth. Each interior lot shall have a minimum width of 50 feet. Each corner lot shall have a minimum width of 60 feet. The width of any lot fronting on a cul-de-sac on the radius of a curve shall be measured at the building setback line. The minimum site area for creation of new lots in a Residential Zone shall be ~~6~~5,000 square feet for interior lots, and 5~~6~~,500 square feet for corner lots.

§ 10-3.508 ~~R;~~ YARD REQUIREMENTS.

Except as provided for in subsection § 10-3.508(E) below, the following yard requirements shall be met:

(A) Front yards. No building shall be constructed nearer than 15 feet to the front property line, however in no case shall garages with doors facing the street or carports be set back less than 20 feet.

(B) Interior side yards. The minimum setback for any required interior side yard shall be not less than five feet provided the Planning Commission may approve encroachment into the five foot setback subject to the provisions of the Building Code.

(C) Exterior side yards. The required exterior side yard shall be not less than ten feet. Garages or carports facing an exterior side yard shall be not less than 20 feet from the property line.

(D) Rear yards. Rear yards shall be provided as follows:

(1) Fifteen feet where windows face the rear property line plus five feet per story for each story over two stories.

(2) Ten feet where no windows face the rear property line.

(3) In R-3 zones, the rear yard need not exceed ten feet except where the rear property line abuts an R or PD zone, in which case subsections § 10-3.508(D)(1) and (2) above shall apply.

(4) Where the rear property line abuts an alley, the setback shall be measured to the centerline of the alley. Parking spaces which utilize the alley for access must be set back seven feet to provide a 27-foot backup distance.

(E) Within multiple family projects of three or more units, the setback for any two-story building or structure from any property line immediately adjacent to an existing or planned single-family dwelling or low density project or any R-1 zone shall be 15 feet. The setback for any three-story structure shall be 25 feet plus five feet for each additional story over three. The Site Plan Review process shall also take the following factors into consideration:

(1) The relationship of second-story windows, doors, exterior stairways, exterior balconies, sun decks, and the like, with the privacy of the adjoining property.

(2) The relationship of building mass with the neighbors use and enjoyment of their yard areas.

(3) The relationship of building mass with the neighbor's accessories such as solar collectors and satellite antennas.

(F) Units on the same lot.

(1) Distances between dwelling units on the same lot shall be as follows:

(a) Units side to side shall be 10 feet.

(b) Units front to back shall be 25 feet.

(c) Units back to back shall be 20 feet.

(d) Units front to side shall be 20 feet.

(2) Exceptions to this setback requirement may be granted through a use permit approved by the Planning Commission.

§ 10-3.509 ~~R;~~ MINIMUM OPEN SPACE.

(A) R; minimum open space.

(1) Minimum useable open space for each individual unit shall be provided for each dwelling unit as follows:

R-Minimum Open Space
R(A)
2,000 square feet
R(1)
1,000 square feet
R(2)
750 square feet
R(3)
500 square feet

(2) To qualify as useable private open space the minimum dimension must be ten feet, provided, however, that balconies can qualify when the minimum dimension is five feet. Required off- street parking areas (spaces and driveways) may not be used in calculating required open space, and only a maximum of 50% of required yard areas under § 10-3.508 (A), (B), (C), and (D) may be used in calculating required open space.

(B) Projects of 50 or more units shall provide one or more amenities as a part of the main recreation area, including, but not limited to, the following: swimming pool, tennis court, putting green, lawn bowling, tot lot, or outdoor cooking facilities or barbecues.

(C) All outdoor common recreational areas, except community gardens, shall be landscaped with lawn, trees, shrubs, or other plant materials and shall be permanently maintained in a neat and orderly manner.

(D) Floor area.

(1) In addition to the minimum open space requirements above, buildings located on a lot in an R-1 Zone shall not exceed a cumulative floor area of 1,400 square feet plus 20% of the site area on which those building are located.

(2) For the purpose of the section, ~~FLOOR AREA~~floor area shall mean the area of all floors and levels enclosed by exterior walls by more than 50% and that part of any upper level separated from the lower level by a floor/ceiling assemble, but shall not include basements, and up to 400 square feet of garage area.

§ 10-3.510 ~~R;~~ BUILDING HEIGHT.

(A) Maximum height of buildings shall be as follows:

R(A), R(1), R(2)	35 feet
R(3)	50 feet
Accessory buildings	15 feet

(B) To conform zoning with General Plan policies a zoning designation a (HL) may be placed on any R designated district indicating a height limitation of 20 feet.

§ 10-3.511 PARKING ON UNPAVED SURFACES PROHIBITED.

(A) No person shall keep, store or park any trailer, boat, motorcycle or motor vehicle on any portion of a front yard or corner lot side yard of a property designed or used as a residence, except on an area that is paved with either asphalt, concrete, gravel or similar substance.

(B) No owner, tenant, manager, or occupant of property designed or used as a residence shall allow or suffer another person to keep, store or park any trailer, boat or motor vehicle on any portion of a front yard or corner lot side yard of a property, except on an area that is paved with either asphalt, concrete, gravel, or similar substance.

(C) Parking upon the lawn area or area intended for landscaping is prohibited.

(D) The first violation of any provision of this section is an infraction and is punishable by a fine not exceeding $75. A second violation within one calendar year of the first shall be punishable by a fine not exceeding $200. A third and each subsequent violation within one calendar year of the first, shall be punishable by a fine not to exceed $500.

§ 10-3.512 MULTIPLE SINGLE-FAMILY DWELLING UNITS.

Multiple single family dwelling units on the same R-1 zoned lot may be allowed through approval of a ~~use permit~~Administrative Plan Review subject to the following standards:

(A) All dwelling units shall conform to the parking, height, open space, lot coverage, and setback requirements of the R-1 zone, along with other requirements of the zoning code and other applicable city codes.

~~(B) In addition to the 6,000 square foot minimum site area for the primary residence, an extra 8,000 square feet shall be required for each subsequent single-family residence.~~

~~(C) Multiple single-family dwelling units shall be subject to the additional setback/height restriction of five extra feet of rear and side yard area for each story over one.~~

(~~D~~B) The remaining single-family unit(s) may be for rental purposes, but no unit may be sold separately.

(C~~E~~) The single-family dwelling units shall provide separate, independent living quarters for only one family.

(D~~F~~) Utilities.

(1) All units shall have completely separate utilities, such as sewer, water, gas, and garbage.

(2) All utilities shall be adequate to serve all residential units.

(3) No unit shall be located over underground utilities serving any other unit.

§ 10-3.513 ACCESSORY DWELLING UNITS.

Accessory dwelling units shall comply with the requirements of this section.

(A) ~~(A)~~ For the purposes of this chapter, the following definitions shall apply:

ACCESSORY DWELLING UNIT. An attached or detached dwelling unit that provides complete independent living facilities on ~~the same~~a parcel ~~was a legal single family residence~~ith a proposed or existing primary residence, including permanent provisions for living, sleeping, eating, cooking and sanitation. An accessory dwelling unit may be located within the living space of an existing primary ~~single family~~ residence, may be an efficiency dwelling as defined in § 17958.1 of the Cal. Health and Safety Code, and may be a manufactured home, as defined in § 18007 of the Cal. Health and Safety Code. Accessory dwelling units are not accessory uses as defined in this section.

JUNIOR ACCESSORY DWELLING UNIT. A unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure, ~~and utilizing an existing bedroom,~~ and containing an efficiency kitchen. A JUNIOR ACCESSORY DWELLING UNIT may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(B) ~~(B)~~ Purpose

~~.~~The provisions of this section are intended to set standards, in compliance with Cal. Gov't Code §§ 66310-66342~~65582.1, 65852.2, and 65852.22~~, for the development of accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring that such housing remains compatible with the existing neighborhood. It is not the intent of this chapter to override lawful use restrictions as set forth in Conditions, Covenants and Restrictions.

(C) ~~(C)~~ Applicability

Any construction, establishment, alteration, enlargement, or modification of an accessory dwelling unit shall comply with the requirements of this chapter and the City's Building and Fire Codes. For purposes of this chapter, accessory dwelling units include detached, attached, conversion, and junior accessory dwelling units.

(D) General ~~requirements. An accessory dwelling unit~~Development and Operational Standards:

The following standards shall apply to detached accessory dwelling units, attached accessory dwelling units, conversion accessory dwelling units, and junior accessory dwelling units

(1) ~~(1) May be located on any R (Residential) Zone District lot that allows single-family or multifamily dwellings and that contains only one single-family detached dwelling~~Development standards~~;~~

(a) **Foundation.** A permanent foundation shall be required for all accessory dwelling units.

(b) **Passageway.** No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(c) **Access.** Every accessory dwelling unit shall have direct exterior access independent of the exterior access of the primary dwelling.

(d) **Design.** Accessory dwelling units shall be compatible with the architectural style of the primary dwelling. No bare metal, unpainted or unfinished structures are allowed. To determine architectural compatibility, the accessory dwelling unit structure must possess at least three of the following traits in common with the primary dwelling on-site:

1. Wall covering materials.
2. Roofing material.
3. Roofing pitch.
4. Structural eaves.
5. Mass and scale of structure relative to structural height.
6. Window characteristics.
7. Decorative treatments.

(e) **Manufactured and Tiny Homes.** A manufactured home or a structure licensed and registered with the California Department of Motor Vehicles, meeting ANSI 119.2 or 119.5 requirements, is towable by a bumper hitch, frame-towing hitch, or fifth-wheel connection and which is a detached self-contained unit which includes basic functional areas that support normal daily routines such as cooking, sleeping, and toiletry; and is designed and built to look like a conventional building structure may be used as an accessory dwelling unit provided it meets the standards for new detached accessory dwelling units in this section.

(f) **Fire Sprinklers.** Fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary dwelling(s). The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in an existing single-family or multifamily dwelling.

(g) **Utility Connection.** All accessory dwelling units shall be connected to public utilities or their equivalent, including water, electric, and sewer services.

1. Except as noted in subsection (g)(ii) below, the City may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Government Code Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

2. No separate connection between the accessory dwelling unit and the utility shall be required for units created within a single-family dwelling, unless the accessory dwelling unit is being constructed in connection with a new single-family dwelling

(2) Occupancy and Conveyance Requirements

(a) **Long-Term Rentals Only.** Rental of the accessory dwelling unit created pursuant to this section shall be for a term longer than 30 days.

(b) **Sale and Conveyance.** An accessory dwelling unit may be sold or conveyed separately from the primary residence to a qualified buyer if all the requirements of Government Code Section 66341 are met.

~~(2) May be located on any PD (Planned Development) Zone District lot wherein a Precise Plan allowing for the construction of accessory dwelling units has been approved. In all cases, the Precise Plan shall provide that only one accessory dwelling unit shall be permitted per parcel;~~

~~(3) Is not subject to the density requirements of the General Plan, but shall otherwise be consistent with the General Plan's principles, goals and policies.~~

~~(4) Shall not be allowed on, or adjacent to, real property that is listed in the California Register of Historic Places.~~

~~(5) Shall not be used for rentals with terms of less than 30 days.~~

~~(6) Shall not be sold separate from the primary residence.~~

~~(D) Permit requirements. An application for an accessory dwelling unit that complies with all applicable requirements of this section shall be approved ministerially.~~

(E) ~~(E)~~ DETACHED ACCESSORY DWELLING UNITS

(1) **Location.** Detached accessory dwelling units must be accompanied by a proposed or existing single-family or multifamily dwelling. Detached accessory dwelling units may be located in an existing accessory structure.

(2) Maximum Number of Detached Accessory Dwelling Units

(a) When accompanied by a proposed or existing single-family dwelling, the maximum number of detached accessory dwelling units shall be one. The detached accessory dwelling unit may be in addition to an existing or proposed attached accessory dwelling unit and an existing or proposed junior accessory dwelling unit.

(b) Multi-family developments may have one detached accessory dwelling unit for each primary dwelling unit provided within an existing or proposed multifamily development, up to a maximum of eight detached accessory dwelling units. Primary dwelling units within an existing multifamily development shall exclude any unit created as a conversion accessory dwelling unit.

(c) Bonus accessory dwelling units may be allowed for lots zoned for single family residential uses pursuant to the requirements of Section 10-3.513(I).

(3) Floor Area

(a) The minimum floor area shall be 150 square feet, or the equivalent of an efficiency unit, whichever is greater.

(b) When accompanied by an existing or proposed single-family dwelling, the maximum floor area shall be no more than 1,200 square feet.

(c) When an existing accessory structure is converted to a detached accessory dwelling unit, the maximum square feet may exceed 1,200 square feet to an amount equal to the square footage of the existing accessory structure to be converted.

(4) **Minimum Setbacks.** The minimum side, street side, and rear yard setback shall be 4 feet, except when converting or replacing an existing accessory structure that is less than 4 feet from the side, street side, or rear yard.

(5) **Maximum Height.** The maximum height of detached accessory dwelling units shall be as follows:

(a) For one story detached accessory dwelling units, the maximum height shall be 16 feet. Where the detached accessory dwelling unit is located within one-half mile walking distance of a transit stop or a transit corridor or with an existing or proposed multifamily dwelling of more than one story, the maximum height shall be 18 feet.

(b) For two story detached accessory dwelling units, the maximum height shall be 25 feet.

(c) Height Exceptions.

1. An additional two feet in height shall be allowed to accommodate a roof pitch on an accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

2. When an existing accessory structure is converted to a detached accessory dwelling unit, the maximum height may exceed the limits of Section 10-3.513(E)(5) to an amount equal to the height of the existing accessory structure to be converted.

(6) **Parking.** One parking space shall be required for use by the detached accessory dwelling unit in addition to the minimum parking required for the primary single-family or multifamily dwelling(s). The surface of the parking space shall be improved and may be covered or uncovered. No parking shall be required in any of the following circumstances:

(a) The detached accessory dwelling unit is located within one-half mile walking distance of public transit.

(b) The detached accessory dwelling unit is located within an architecturally and historically significant historic district.

(c) The detached accessory dwelling unit is converting an existing accessory structure.

(d) On-street parking permits are required but not offered to the occupant of the detached accessory dwelling unit.

(e) There is a car share vehicle located within one quarter mile of the detached accessory dwelling unit.

(7) **Development Standards.** Detached accessory dwelling units shall comply with all applicable base zone district development standards, including lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, unless application of any one or more of these standards precludes construction of at least an 800 square foot detached accessory dwelling unit.

(F) ATTACHED ACCESSORY DWELLING UNITS

(1) **Location.** Attached accessory dwelling units must be accompanied by a proposed or existing single-family or multifamily dwelling.

(2) Maximum Number of Attached Accessory Dwelling Units

(a) When accompanied by a proposed or existing single-family dwelling, the maximum number of attached accessory dwelling units shall be one. The attached accessory dwelling unit may be in addition to an existing or proposed detached accessory dwelling unit and an existing or proposed junior accessory dwelling unit.

(b) Bonus accessory dwelling units may be allowed for lots zoned for single family residential uses pursuant to the requirements of Section 10-3.513(I).

(3) Floor Area

(a) The minimum floor area shall be 150 square feet, or the equivalent of an efficiency unit, whichever is greater.

(b) The maximum floor area shall be 50% of the primary dwelling unit floor area, or 1,200 square feet, whichever is greater.

(4) **Minimum Setbacks.** The minimum side, street side, and rear yard setback shall be 4 feet, except when converting or replacing an existing accessory structure that is less than 4 feet from the side, street side, or rear yard.

(5) **Maximum Height.** The maximum height of attached accessory dwelling units shall be two stories and 25 feet or the maximum height specified by the base zone district, whichever is lower.

(6) **Parking.** No parking shall be required for the attached accessory dwelling unit.

(7) **Development Standards.** Attached accessory dwelling units shall comply with all applicable base zone district development standards, including lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, unless application of any one or more of these standards precludes construction of at least an 800 square foot attached accessory dwelling unit.

(G) CONVERSION ACCESSORY DWELLING UNITS

(1) **Location.** Conversion accessory dwelling units are permitted within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

~~(1)~~ **Maximum Number of Conversion Accessory Dwelling Units.** The maximum number of conversion accessory dwelling units allowed shall be no more than 25% of the number of existing or proposed multifamily units. However, in no case shall less than one conversion accessory dwelling unit be allowed.

(2) Floor Area

(a) The minimum floor area shall be 150 square feet, or the equivalent of an efficiency unit, whichever is greater.

(b) The maximum floor area shall be 50% of the primary dwelling unit floor area, or 1,200 square feet, whichever is greater.

(3) **Minimum Setbacks**. The minimum side, street side, and rear yard setback shall be 4 feet, except when converting or replacing an existing accessory structure that is less than 4 feet from the side, street side, or rear yard.

(4) **Parking**. No additional parking shall be required.

(H) JUNIOR ACCESSORY DWELLING UNITS

(1) **Location.** Junior accessory dwelling units must be accompanied by a proposed or existing single-family dwelling on a lot zoned for single-family use. A junior accessory dwelling unit must be located within the walls of the primary single-family dwelling, including but not limited to, an attached garage.

(2) Maximum Number of Junior Accessory Dwelling Units

(a) When accompanied by a proposed or existing single-family dwelling, the maximum number of junior accessory dwelling units shall be one. The junior accessory dwelling unit may be in addition to an existing or proposed detached accessory dwelling unit and an existing or proposed attached accessory dwelling unit.

(b) Bonus accessory dwelling units may be allowed for lots zoned for single family residential uses pursuant to the requirements of Section 10-3.513(I).

(3) Floor Area

(a) The minimum floor area shall be 150 square feet, or the equivalent of an efficiency unit, whichever is greater.

(b) The maximum floor area shall be 500 square feet.

(4) **Parking.** No parking shall be required for the junior accessory dwelling unit.

(5) **Exterior Access.** Access shall be provided to the junior accessory dwelling unit independent from the primary dwelling.

(6) **Sanitation Facilities.** Sanitation facilities may be separate or shared with the primary dwelling. If shared with the primary dwelling, the junior accessory dwelling unit shall provide an interior entry to the living area of the primary dwelling, separate from the exterior access required to the junior accessory dwelling unit.

(7) **Kitchen Features.** An efficiency kitchen shall be provided, including the following minimum features:

(a) A cooktop, refrigerator, and compact sink. A removable hot plate may be considered a cooktop for purposes of this requirement. Appliances shall require no more than a 120-volt electrical connection.

(b) Food preparation counter space of a minimum 24 inches in width and a minimum of one food storage cabinet of a minimum 24 inches in width.

(8) **Occupancy.** Owner-occupancy shall be required in either the remaining portion of the primary dwelling or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(9) **Deed Restriction.** A deed restriction shall be recorded on the property which shall run with the land, and a copy of which shall be provided to the planning department. The deed restriction shall include both of the following:

(a) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family dwelling, including a statement that the deed restriction may be enforced against future purchasers.

(b) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(I) BONUS ACCESSORY DWELLING UNITS

(1) Accessory Dwelling Unit Bonus for Affordable Accessory Dwelling Units.

(a) One additional accessory dwelling unit shall be permitted for every accessory dwelling unit on a lot zoned for single family residential that is set aside as affordable to

very low income and low income households for a period of not less than 10 years, or as affordable to moderate income households for a period of not less than 15 years, guaranteed through a written agreement and a deed of trust securing the agreement, entered into by the applicant and the Director.

1. In no case shall the total number of primary dwelling and accessory dwelling units (including attached, detached, and junior accessory dwelling units) exceed eight on any given lot zoned for single-family residential uses.

2. Very low income shall mean 30 percent to 50 percent of the Area Median Income.

3. Low income shall mean 50 percent to 80 percent of the Area Median Income.

4. Moderate income shall mean 80 percent to 120 percent of the Area Median Income.

(2) Accessory Dwelling Unit Bonus for Accessible Accessory Dwelling Units.

(a) For development utilizing the accessory dwelling unit bonus for affordable accessory dwelling units in accordance with section 10-3.513(I), a maximum of one additional accessible accessory dwelling unit shall be permitted if the development includes:

1. At least two accessory dwelling units are deed restricted in accordance with section 10-3.513(I).

2. The accessible accessory dwelling unit shall comply with the following:

a. Accessibility requirements in Chapter 11A of the California Building Code, including at least one accessible bathroom, one accessible kitchen, and one accessible bedroom; and

b. The accessible accessory dwelling unit shall be located on an accessible route, as defined by the California Building Code.

~~(C)~~(J) APPLICATION AND PROCESSING REQUIREMENTS~~.~~

~~(1) (1) Step one~~ Applications for accessory dwelling units shall be processed in accordance with section 10-3-4.201 et. seq. ~~Application~~ ~~submittal. An application for a Ministerial Review Approval Zoning Administrator Permit to allow for an accessory dwelling unit shall be submitted to the Planning Department concurrent with an application for a building permit. In addition to the standard submittal requirements for a building permit, an application for a Zoning Administrator~~Ministerial Review ~~Permit~~ Approval ~~to allow for an accessory dwelling unit shall include all of the following: (except as noted in subsection (1)(i) below):~~

~~a. (a) Plot~~ plan. ~~A plot plan, drawn to scale, showing the dimensions of the perimeter of the parcel proposed for the accessory dwelling unit; the location and dimensioned setbacks of all existing and proposed structures on the site and structures located within 50 feet of the site; all easements, building envelopes, and special requirements of the subdivision as shown on the Final Map and improvement plans, if any; and average slope calculations for the site.~~

~~b. (b) Floor plan. A floor plan, drawn to scale, showing the dimensions of each room, and the resulting floor area. The use of each room shall be identified, and the size and location of all windows and doors shall be clearly shown.~~

c. (c) Elevations. Architectural elevations of each side of the proposed structure showing all openings, exterior finishes, original and finish grades, stepped footing outline, and roof pitch.

d. (d) Materials and color board. A materials and color board for the existing residence and the proposed second dwelling unit.

e. (e) Cross sections. Building cross sections including structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.

f. (f) Photographs. Color photographs of the site and adjacent properties, taken from each property line of the site, to show the project site and adjacent sites. Label each photograph and reference to a separate site plan indicating the location and direction of each photograph.

g. (g) Deed restrictions. When required, dDeed restrictions completed, signed and ready for recordation.

h. (h) Fee. A fee corresponding to the fee for a Zoning Administrator PermitMinisterial Review shall be paid at time of submittal.

(i) Applications for accessory dwelling units which do not modify a building's exterior are not required to submit (c), (d), or (f) above.

(2) Step two-Ministerial decision. The Department shall act on the application for Zoning Administrator Permitapproval to allow for an accessory dwelling unit within 120 60 days of submittal of a complete application. The Zoning Administrator Permitapproval shall be issued only if the proposed accessory dwelling unit complies with all applicable standards in this section.

(3) Utility connection fees.

(a) Except as provided in subsection (3)(b), a separate new utility connection and payment of a connection fee or capacity charge pursuant to state law and city fee schedule will be required for any new accessory dwelling unit.

(b) No new or separate utility connection or related connection fee or capacity charge will be required for accessory dwelling units that are internal conversions of existing space within a single family residence or permitted accessory structure constructed as habitable space.

(F) Development standards. A Zoning Administrator Permit to allow for an accessory dwelling unit shall be issued only if the unit complies with the following development standards:

(1) Setbacks.

(a) R (Residential) Zone District. An accessory dwelling unit shall comply with the setback requirements of the applicable residential zoning district for the primary dwelling, except as follows:

1. A new detached single-story accessory dwelling unit shall observe a front setback of 20 feet, a rear setback of five feet, an interior side setback of five feet, and a corner side setback of 15 feet.

2. A new detached two-story accessory dwelling unit shall observe a front setback of 20 feet, a rear setback of 15 feet, an interior side yard setback of five feet for a one-story portion, and ten feet for a two-story portion, and a corner side yard setback of 15 feet.

3. An accessory dwelling unit that is fully contained within the existing space of a single-family residence or within an approved accessory structure and has independent exterior access from the existing residence or structure shall adhere to the setback requirements of the residential zone it is

~~located within.~~

~~4. No portion of an attached or detached accessory dwelling unit shall be closer than ten feet to a primary dwelling on an adjacent lot.~~

~~5. A setback of no less than five feet from the side and rear property lines is required for any accessory dwelling unit. No existing nonconforming structures built within less than five feet of any property line may be converted to an accessory dwelling unit.~~

~~6. A detached accessory dwelling unit shall always be located within 100 feet of the primary dwelling, but never closer to the primary dwelling than permitted by the California Building Code.~~

~~(b) PD (Planned Development) Zone District. An accessory dwelling unit shall comply with the setback requirements as defined within the approved Precise Plan applicable to the primary dwelling.~~

~~*(2) Maximum floor area.*~~

~~*(a) New detached unit. No newly constructed detached accessory dwelling unit may contain floor area in excess of 1,200 square feet.*~~

~~*(b) New attached unit. No newly constructed attached accessory dwelling unit may contain floor area in excess of 50% of the existing residential square footage or 1,200 square feet, whichever is less.*~~

~~*(c) Internal conversion. An accessory dwelling unit created entirely by the internal conversion of an existing single family dwelling shall not occupy more than 45% of the existing floor area of the residence, excluding the garage, nor shall it exceed 1,200 square feet, or a maximum of 1,200 square feet for detached accessory structures.*~~

~~*(3) Height limit. A one-story accessory dwelling unit shall not exceed a maximum height of 16 feet. A two-story accessory dwelling unit shall not exceed a maximum height of 27 feet.*~~

~~*(4) Open space. An accessory dwelling unit shall provide an additional 500 square feet of open space, in addition to the open space requirements of the primary residential dwelling on the parcel.*~~

~~*(5) Architectural compatibility. If visible from a public street, an accessory dwelling unit shall incorporate the same or substantially similar architectural features, building materials and colors as the main dwelling unit and/or compatible dwellings located on adjacent properties.*~~

~~*(6) Privacy. A balcony, window or door of a second story accessory dwelling unit shall be designed to lessen privacy impacts to adjacent properties. Appropriate design techniques may include obscured glazing, window placement above eye level, screening treatments, or locating balconies, windows and doors toward the existing on-site residence.*~~

~~*(7) Existing development. A single-family dwelling must already exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.*~~

~~*(8) Number per lot. A maximum of one accessory dwelling unit and one junior accessory dwelling unit shall be permitted on any lot.*~~

~~*(9) Parking. One off-street parking space is required for an accessory dwelling unit, except as set forth below. The off-street parking shall be permitted uncovered, compact, tandem and in setback areas, unless the review authority determines that tandem parking or parking within a setback is not feasible due to specific site or topographical or fire and life safety conditions. No off-street parking shall be required if one or more of the following circumstances exist:*~~

~~*(a) The accessory dwelling unit is 750 square feet or less in area.*~~

~~*(b) The accessory dwelling unit is located within one-half mile of public transit.*~~

~~*(c) The accessory dwelling unit is located within a historic preservation district.*~~

~~*(d) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.*~~

~~*(e) When on-street parking permits are required but not offered to the occupant of an accessory dwelling unit.*~~

~~*(f) When there is a car share vehicle located within one block of the accessory dwelling unit.*~~

~~*(g) To qualify for an exception, the applicant must provide supporting evidence, such as a map illustrating the location of the accessory dwelling unit and its proximity to a public transit stop or car*~~

~~*share vehicle or its location within a historic preservation district, or proof of local parking permit requirements.*~~

~~*(h) If a garage, carport, or covered parking is demolished or converted in conjunction with the construction of an accessory dwelling unit, replacement parking spaces must be provided in any configuration on the lot, including as uncovered, compact, tandem parking and within a setback area.*~~

~~*(10) Deed restrictions. Prior to occupancy of an accessory dwelling unit, the property owner shall file with the County Recorder a deed restriction containing a reference to the deed under which the property was acquired by the owner and stating that:*~~

~~*(a) The accessory dwelling unit shall not be sold separately from the single family residence;*~~

~~*(b) The accessory dwelling unit shall not exceed 1200 square feet and shall comply with the development standards in subsection (E);*~~

~~*(c) The accessory dwelling unit shall be considered legal only so long as either the primary residence or the accessory dwelling unit is occupied by the owner of record of the property. Such owner-occupancy, however, shall not be required if the property owner is a governmental agency, land trust or non-profit housing organization; and*~~

~~*(d) The restrictions shall run with the land and be binding upon any successor in ownership of the property. Lack of compliance shall void the approval of the accessory dwelling unit and may result in legal action against the property owner.*~~

~~*(e) The developer of a subdivision that includes accessory dwelling units shall record the deed restrictions required by this subsection prior to the recordation of the Final Map or Parcel Map. Each lot with an accessory dwelling unit shall remain unoccupied until the property transfers ownership, allowing for compliance with the recorded owner-occupancy restriction.*~~

~~*(G) Junior accessory unit. The following provisions are intended to set standards, in compliance with Cal. Gov't Code § 65852.22, for the development of junior accessory dwelling units so as to increase the supply of smaller and affordable housing while ensuring that such housing remains compatible with the existing neighborhood. It is not the intent of this section to override lawful use restrictions as set forth in Conditions, Covenants and Restrictions.*~~

~~*(1) General requirements. A junior accessory dwelling unit:*~~

~~*(a) May be located on any R (Residential) Zone District lot that allows single-family or multi-family dwellings and that contains only one single-family detached dwelling. Only one junior accessory dwelling unit and one standard accessory dwelling unit shall be permitted per parcel;*~~

~~*(b) May be located on any PD (Planned Development) Zone District lot wherein a Precise Plan allowing for the construction of junior accessory dwelling units has been approved. In all cases, the Precise Plan shall provide that only one junior accessory dwelling unit shall be permitted per parcel;*~~

~~*(c) Is not subject to the density requirements of the General Plan, but shall otherwise be consistent with the General Plan's principles, goals and policies.*~~

~~*(d) Shall not be allowed on, or adjacent to, real property that is listed in the California Register of Historic Places.*~~

~~*(e) Shall not be used for rentals with terms of less than 30 days.*~~

~~*(f) Shall not be sold separate from the primary residence.*~~

~~*(2) Permit requirements. An application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit that complies with all applicable requirements of this section shall be approved ministerially.*~~

~~*(3) Application and processing requirements.*~~

~~*(a) Step one submittal. The application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit shall be submitted to the Planning Department concurrent with an application for a building permit. In addition to the standard submittal requirements for a building permit, an application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit shall include all of the following:*~~

~~*1. Plot plan. A plot plan, drawn to scale, showing the dimensions of the perimeter of the parcel proposed for the junior accessory dwelling unit; the location and dimensioned setbacks of all*~~

~~*existing and proposed structures on the site and structures located within 50 feet of the site; all easements, building envelopes, and special requirements of the subdivision as shown on the Final Map and improvement plans, if any; and average slope calculations for the site.*~~

~~*2. Floor plan. A floor plan, drawn to scale, showing the dimensions of each room, the area devoted to the junior accessory dwelling unit, and the resulting floor areas of the junior accessory dwelling unit and of the primary residence. The use of each room shall be identified, and the size and location of all windows and doors shall be clearly shown. The plan shall identify whether separate or shared sanitation facilities are proposed.*~~

~~*3. Deed restrictions. Deed restrictions completed, signed and ready for recordation.*~~

~~*4. Fee. A fee corresponding to the fee for a Zoning Administrator Permit shall be paid at time of submittal.*~~

~~*(b) Step two-decision. The Department shall act on an application for a Zoning Administrator Permit to allow for a junior accessory dwelling unit within 120 days of submittal of a complete application. A Zoning Administrator Permit to allow for a junior accessory dwelling unit shall be issued only if the proposed junior accessory dwelling unit complies with all applicable standards in this section.*~~

~~*(c) Utility connection fees. No new or separate utility connection and no connection fee for water, sewer, or power is required for a junior accessory dwelling unit.*~~

~~*(4) Development standards. A Zoning Administrator Permit to allow for a junior accessory dwelling unit shall be issued only if the unit complies with the following development standards:*~~

~~*(a) Maximum floor area. The junior accessory dwelling unit shall not exceed 500 square feet in area.*~~

~~*(b) Existing development. The junior accessory dwelling unit shall be contained entirely within the existing walls of an existing single-family dwelling and shall utilize one of the existing bedrooms.*~~

~~*(c) Kitchen. The junior accessory dwelling unit must contain an efficiency kitchen with the minimum criteria:*~~

~~*—*~~

~~*1. A sink with a maximum waste line diameter of 1.5 inches.*~~

~~*2. A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.*~~

~~*3. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.*~~

~~*(d) Sanitation. Bathroom facilities may be separate from or shared with the single-family dwelling.*~~

~~*(e) Entrance. The junior accessory dwelling unit shall include an exterior entrance separate from the main entrance to the single-family dwelling, and an interior entry into the main living area. The junior accessory dwelling unit may include a second interior doorway for sound attenuation.*~~

~~*(f) Parking. Off-street parking shall not be required for junior accessory dwelling units that meet the development standards.*~~

~~*(5) Deed restrictions. Prior to occupancy of a junior accessory dwelling unit, the property owner shall file with the County Recorder a deed restriction containing a reference to the deed under which the property was acquired by the owner and stating that:*~~

~~*(a) The junior accessory dwelling unit shall not be sold separately from the single-family residence;*~~

~~*(b) The junior accessory dwelling unit shall not exceed 500 square feet and shall comply with the development standards in subsection (F);*~~

~~*(c) The junior accessory dwelling unit shall be considered legal only so long as either the primary residence or the junior accessory dwelling unit is occupied by the owner of record of the property. Such owner-occupancy, however, shall not be required if the property owner is a governmental agency, land trust or non-profit housing organization; and*~~

~~*(d) The restrictions shall run with the land and be binding upon any successor in ownership of the property. Lack of compliance shall void the approval of the junior accessory dwelling unit and may result in legal action against the property owner.*~~

~~*(e) The developer of a subdivision that includes junior accessory dwelling units shall record the deed restrictions required by this subsection prior to the recordation of the Final Map or Parcel Map. Each lot with a junior accessory dwelling unit shall remain unoccupied until the property transfers ownership, allowing for compliance with the recorded owner-occupancy restriction.*~~

~~*(Ord. 607 C.S., passed 12-15-93; Am. Ord. 752 C.S., passed 5-21-03; Am. Ord. 949, C.S., passed 12-6-17)*~~

AFFORDABLE HOUSING DENSITY BONUS

§ 10-3-5.101 PURPOSE.

As required by Cal. Gov't Code § 65915-65918, this subchapter offers density bonuses, and incentives or concessions for the development of housing that is affordable to the types of households and qualifying residents identified in § 10-3-5.102 below. This chapter is intended to implement the requirements of Cal. Gov't Code § 65915 et seq., and the Housing Element of the General Plan.

§ 10-3-5.102 APPLICABILITY

The provisions of this chapter shall apply to all housing developments, including mixed-use developments, providing a minimum of 5 residential units. If any provision of this chapter conflicts with State Density Bonus Law, the latter shall govern.

§ 10-3-5.103 ELIGIBILITY FOR BONUS, INCENTIVES, OR CONCESSIONS.

(A) **Eligibility.** Eligibility for density bonus allowances and incentives are determined based on the provision of a minimum number of affordable units within the projects as specified by project type and income level, as specified in Section 10-3-5.104 (Density Bonus Allowances for Housing Developments), Section 10-3-5.105 (Density Bonus Allowances for Target Population Housing), and Section 10-3-5.106 (Density Bonus Allowances for Qualified Land Donations).

(B) **Ineligibility.** An applicant shall be ineligible for density bonus allowances or incentives if the housing development meets any of the following, unless the proposed housing development replaces those units, and also meets either of the criteria specified in Government Code 65915(c)(3)(A):

(1) The housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are located or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low-income or very low-income.

(2) The housing development is subject to any other form of rent or price control through a public entity's valid exercise of its police power.

(3) The housing development is occupied by lower or very low-income households.

~~In order to be eligible for a density bonus and other incentives or concessions as provided by this subchapter, a proposed housing development shall comply with the following requirements and shall satisfy all other applicable provisions of this Zoning Ordinance, except as provided by § 10-3-5.104.~~

~~(A) Resident requirements. A housing development proposed to qualify for a density bonus shall be designed and constructed so that it includes at least any one of the following:~~

~~(1) Ten percent (10%) of the total number of proposed units are for lower income households, as defined in Cal. Health and Safety Code § 50079.5;~~

~~(2) Five percent (5%) of the total number of proposed units are for very low income households, as defined in Cal. Health and Safety Code § 50105;~~

~~(3) The project is a senior citizen housing development as defined in Cal. Civil Code §§ 51.3 and 51.12, or is a mobile home park that limits residency based on age requirements for housing older persons in compliance with Cal. Civil Code §§ 798.76 or 799.5; or~~

~~(4) Ten percent (10%) of the total dwelling units in a common interest development as defined in Cal. Civil Code § 1351 are for persons and families of moderate income, as defined in Cal. Health and Safety Code § 50093, provided that all units in the development are offered to the public for purchase.~~

~~(B) Applicant selection of basis for bonus. For purposes of calculating the amount of the density bonus in compliance with § 10-3-5.103, below, the applicant who requests a density bonus shall elect whether the bonus shall be awarded on the basis of subsections (A)(1), (2), (3), or (4), above.~~

~~(C) Bonus units shall not qualify a project. A density bonus granted in compliance with § 10-3-5.103, below, shall not be included when determining the number of housing units that is equal to the percentages required by subsection (A), above.~~

~~(D) Minimum project size to qualify for density bonus. The density bonus provided by this subchapter shall be available only to a housing development of five or more dwelling units.~~

~~(E) Condominium conversion projects. A condominium conversion project for which a density bonus is requested shall comply with the eligibility and other requirements specified in Cal. Gov't Code § 65915.5.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

§ 10-3-5.104~~3~~ APPLICATION

(A) **Application Filing.** When an applicant seeks a density bonus for a housing development that provides at least the minimum number of affordable units required, the affordable housing developer shall comply with all the following:

(1) File an application for a density bonus on a form provided by the City. Such application shall be submitted in conjunction with the project application and shall be processed concurrently with all other applications required for the project.

(2) State in the application the specific minimum affordable housing units, income levels, and/or target populations, as applicable, proposed for the housing development.

(3) If an applicant is requesting an incentive or concession in accordance with Section 10-3-5.107 (Incentives and Concessions), the application shall:

(a) Include a specific written proposal for the requested incentive or concession.

(b) Establish that each requested incentive or concession would result in identifiable, financially sufficient, and actual cost reductions for the qualified housing development.

(4) If the applicant is requesting a waiver or reduction in accordance with Section 10-3-5.108 (Waivers or Reductions of Development Standards), the application shall:

(a) Include a specific written proposal for the requested waiver or reduction.

(b) Demonstrate how the waiver or reduction is necessary for construction of the housing development at the densities or with the concessions or incentives permitted in accordance with this c~~C~~hapter.

(5) If the applicant is requesting a parking standard in accordance with Section 10-3-5.109 (Parking Standard Modifications), the application shall include a specific written statement noting the request.

(B) **Completeness Review.** The City shall review the submitted application for completeness in accordance with Government Code Section 65943. Upon review, the City shall provide the applicant with a determination as to the following matters:

(1) The amount of density bonus for which the applicant is eligible.

(2) Whether the applicant has provided adequate information for the City to make a determination as to the incentives, concessions, or waiver or reduction of development standards, if requested.

(3) The parking ratio for which the applicant is eligible, if requested.

(C) **Meeting with City Upon Request.** An applicant for a density bonus, incentive and concession, waiver or reduction of development standards, or parking standard request pursuant to this c~~C~~hapter may request a meeting with the Community ~~and Economic~~ Development Director, or designee, to review the proposal.

§ 10-3-5.105 DENSITY BONUS ALLOWENCES FOR QUALIFIED HOUSING DEVELOPMENTS

~~ALLOWED DENSITY BONUSES.~~

~~The review authority shall determine the amount of a density bonus allowed in a housing development in compliance with this section. For the purposes of this subchapter, DENSITY BONUS means a density increase over the otherwise maximum allowable residential density under the applicable General Plan Land Use designation and zone as of the date of application by the applicant to the city.~~

~~(A) Density bonus. A housing development that complies with the eligibility requirements specified in § 10-3-5.102(A) above, shall be entitled to density bonuses as follows, unless a lesser percentage is proposed by the applicant.~~

~~(1) Bonus for units for lower income households. A housing development that is eligible for a bonus in compliance with the criteria specified in § 10-3-5.102(A)(1), (10% of units for lower income households) shall be entitled to a density bonus calculated as follows:~~

~~TABLE 103.1 - BONUS FOR LOWER INCOME HOUSEHOLDS~~

~~Percentage of Low-Income Units Proposed~~	~~Percentage of Density Bonus~~
~~Percentage of Low-Income Units Proposed~~	~~Percentage of Density Bonus~~
~~10~~	~~20~~
~~11~~	~~21.5~~
~~12~~	~~23~~
~~13~~	~~24.5~~
~~14~~	~~26~~
~~15~~	~~27.5~~
~~16~~	~~29~~
~~17~~	~~30.5~~
~~18~~	~~32~~
~~19~~	~~33.5~~
~~20~~	~~35~~

(2) Bonus for units for very low-income households. A housing development that is eligible for a bonus in compliance with the criteria specified in § 10-3-5.102(A)(2), 5% of units for very low-income households) shall be entitled to a density bonus calculated as follows:

TABLE 103.2 - BONUS FOR VERY LOW-INCOME HOUSEHOLDS

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) Bonus for senior citizen development. A housing development that is eligible for a bonus in compliance with the criteria in § 10-3-5.102(A)(3), (senior citizen development or mobile home park) shall be entitled to a density bonus of 20%.

(4) Bonus for moderate income units in common interest development. A housing development that is eligible for a bonus in compliance with the criteria specified in § 10-3-5.102(A)(4), (10% of units in a common interest development for persons and families of moderate income) shall be entitled to a density bonus calculated as follows:

TABLE 103.3 - BONUS FOR MODERATE INCOME HOUSEHOLDS

Percentage of Moderate-Income Units Proposed	Percentage of Density Bonus
Percentage of Moderate-Income Units Proposed	Percentage of Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18

24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) Density bonus for land donation. When an applicant for a tentative map, parcel map, or other residential development approval donates land to the city in compliance with this subsection, the applicant shall be entitled to a density bonus for the entire development as follows; provided, that nothing in this subsection shall be construed to affect the authority of the city to require a developer to donate land as a condition of development.

(a) Basic bonus. The applicant shall be entitled to a 15% increase above the otherwise maximum allowable residential density under the applicable Land Use Plan designation and zone for the entire development, and an additional increase as follows.

TABLE 103.4 - BASIC BONUSES

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25

~~21~~
~~22~~
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~~**(b) Increased bonus. The increase identified in Table 103.4 above shall be in addition to any increase in density required by subsections (A)(1) through (A)(4), up to a maximum combined mandated density increase of 35% if an applicant seeks both the increase required in compliance with this subsection (A)(5), as well as the bonuses provided by subsections (A)(1) through (A)(4).**~~

~~**(c) Eligibility for increased bonus. An applicant shall be eligible for the increased density bonus provided by this subsection if all of the following conditions are met:**~~

~~**1. The applicant donates and transfers the land no later than the date of approval of the final map, parcel map, or residential development application.**~~

~~**2. The developable acreage and zoning classification of the land being transferred are sufficient to allow construction of units affordable to very low income households in an amount not less than 10% of the number of residential units of the proposed development.**~~

~~**3. The transferred land is at least one acre in size, or of sufficient size to allow development of at least 40 units; has the appropriate Land Use Plan designation; is appropriately zoned for development as affordable housing; and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.**~~

~~**4. No later than the date of approval of the final map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than Building Permits, necessary for the development of the very low income housing units on the transferred**~~

~~**land, except that the city may subject the proposed development to subsequent design review to the extent authorized by Cal. Gov't Code § 65583.2(i) if the design is not reviewed by the city before the time of transfer.**~~

~~**5. The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with § 10-3.5.107, which shall be recorded on the property at the time of dedication.**~~

~~6. The land is transferred to the city or to a housing developer approved by the city. The city may require the applicant to identify and transfer the land to the approved housing developer.~~

~~7. The transferred land shall be within the boundary of the proposed development or, if the city agrees, within one-quarter mile of the boundary of the proposed development.~~

~~(B) Greater or lesser bonuses. The city may choose to grant a density bonus greater than provided by this section for a development that meets the requirements of this section, or grant a proportionately lower density bonus than required by this section for a development that does not fully comply with the requirements of this section.~~

~~(C) Density bonus calculations. The calculation of a density bonus in compliance with this section that results in fractional units shall be rounded up to the next whole number, as required by state law. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels.~~

~~(D) Requirements for amendments or discretionary approval. The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.~~

~~(E) Location of bonus units. The developer may locate density bonus units in the housing project in areas other than where the units for the lower income households are located.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

(A) ~~10-3-5.104 ALLOWED INCENTIVES OR CONCESSIONS.~~ **Density Bonus Allowance.** Density bonus allowances are determined based on the percent and type of affordable housing units provided within a housing development, as identified in Table 10-3-5.105~~4~~-1: Density Bonus Allowance by Affordability. The applicant may also elect to accept a lesser percentage of density bonus.

(B) Calculations.

(1) For the purpose of calculating a density bonus, residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels.

(2) All density calculations resulting in fractional units shall be rounded up to the next whole number.

Table 10-3-5.105-1: Density Bonus Allowance by Affordability

Affordability Level of Units Provided[1]	Percentage of Affordable Units Provided		Density Bonus Allowance[4]		Incremental Increase in Density Bonus Allowance[7]
	Minimum[2]	Maximum[3]	Minimum Density Bonus[5]	Maximum Density Bonus[6]	
Very Low Income	5%	15%	20%	50%	2.50%
Low Income	10%	24%	20%	50%	1.50%

Moderate Income, For-Sale	10%	44%	5%	50%	1%

[1] Income category of affordable housing units provided within the housing development.
[2] Minimum percentage of affordable housing units required within the housing development to qualify for a density bonus.
[3] Maximum percentage of affordable housing units required within the housing development to qualify for the maximum density bonus.
[4] Density bonus allowances are determined based on the percentage and income category of the affordable units provided. Density bonuses are percent increases beyond the maximum residential density allowed.
[5] Minimum density bonus allowance to be provided. The minimum density bonus is provided only once the minimum percentage of affordable housing units is provided within the related income category.
[6] Maximum density bonus allowance to be required. The maximum density bonus is provided only once the maximum percentage of affordable housing units is provided within the related income category.
[7] For every 1 percent increase in the affordable housing units provided within the housing development beyond the minimum percentage of affordable units specified within the applicable income category, the minimum density bonus allowance shall increase by the stated increment to the maximum density bonus allowed.

(C) **Additional Density Bonus Allowance for 100 Percent Affordable Housing.** Notwithstanding the maximum density bonus allowance specified in Table 10-3-5.105-1: Density Bonus Allowance by Affordability, housing developments providing 100 percent affordable housing units at either the very low-income, low-income, or moderate-income category, or any combination thereof, shall be eligible for a density bonus of 80 percent.

(D) Additional Density Bonus Allowance for Provision of Childcare Facilities.

(1) **Eligibility.** Housing developments providing a childcare facility located on the premises, as a part of, or adjacent to the housing development and meeting, or are conditioned to meet, both of the following requirements shall be eligible for an additional density bonus allowance as specified in Section 10-3-5.105(D)(3), Childcare Facility Density Bonus Allowance.

(a) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the affordable units are required to remain affordable pursuant to Government Code Section 65915(c).

(b) Of the children who attend the childcare facility, the children of very low-income households, low-income households, or moderate-income households shall constitute a percentage that is equal to or greater than the percentage of dwelling units that are required under the respective minimum affordable housing component income category for which the density bonus is sought.

(2) **Adequate Facilities.** The City is authorized to not provide a density bonus as provided in this section upon substantial evidence that the community has adequate childcare facilities.

(3) **Childcare Facility Density Bonus Allowance.** A density bonus allowance shall be granted in the amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility. This density bonus allowance is in addition to the density bonus allowance provided under Section 10-3-5.1054(A), Density Bonus Allowance.

(E) Additional Density Bonus Allowance for Mixed-Income Housing.

(1) **Eligibility.** Housing developments providing the following percent and type of affordable housing units are eligible for an additional density bonus allowance as specified in Section 10-3-5.1054(E)(2), Mixed-Income Density Bonus Allowance.

(a) Housing developments providing at least 15 percent affordable housing units at the very low-income category and providing additional affordable units at the income category and percentages specified in Table 10-3-5.1054-2: Mixed-Income Density Bonus Allowance by Affordability.

(b) Housing developments providing at least 24 percent affordable housing units at the low-income category and providing additional affordable units at the income category and percentages specified in Table 10-3-5.1054-2: Mixed-Income Density Bonus Allowance by Affordability.

(c) Housing developments providing at least 44 percent affordable housing units at the moderate-income category and providing additional affordable units at the income category and percentages specified in Table 10-3-5.1045-2: Mixed-Income Density Bonus Allowance by Affordability.

(2) **Additional Mixed-Income Density Bonus Allowance.** Additional density bonus allowances are determined based on the percent and type of additional affordable housing units provided within a housing development, as identified in Table 10-3-5.1054-2: Mixed-Income Density Bonus Allowance by Affordability.

(3) **Maximum on Affordable Units.** No more than 50 percent of the resulting housing development, inclusive of the units awarded through a density bonus, shall be income restricted to the very low-income, low-income, or moderate-income category.

Table 10-3-5.105-2: Mixed-Income Density Bonus Allowance by Affordability

Affordability Level of Additional Units Provided[1]	Percentage of Additional Affordable Units Provided		Density Bonus Allowance[4]		Incremental Increase in Density Bonus Allowance[7]
	Minimum[2]	Maximum[3]	Minimum Density Bonus[5]	Maximum Density Bonus[6]	
Very Low Income	5%	10%	20%	38.75%	3.75%
Moderate Income, For-Sale or For-Rent	5%	15%	20%	50%	2.5%

[1] Income category of affordable housing units provided within the housing development in addition to the percent of affordable housing units provided to qualify for a density bonus allowance in accordance with Section 10-3-5.105(A) (Density Bonus Allowance) ("additional affordable units").

[2] Minimum percentage of additional affordable housing units required within the housing development to qualify for the mixed-income density bonus.

[3] Maximum percentage of additional affordable housing units required within the housing development to qualify for the maximum mixed-income density bonus.

[4] Density bonus allowances are determined based on the percentage and income category of the additional affordable units provided. Density bonuses are percent increases beyond the number of housing units excluding any density bonus awarded by this Chapter.

[5] Minimum density bonus allowance to be provided. The minimum density bonus is provided only once the minimum percentage of additional affordable housing units is provided within the related income category.

[6] Maximum density bonus allowance to be required. The maximum density bonus is provided only once the maximum percentage of additional affordable housing units is provided within the related income category.

[7] For every 1 percent increase in the additional affordable housing units provided within the housing development beyond the minimum percentage of additional affordable units specified within the applicable income category, the minimum density bonus allowance shall increase by the stated increment to the maximum density bonus allowed.

~~(A) Applicant request and city approval.~~

~~(1) An applicant for a density bonus in compliance with this subchapter may submit to the city a proposal for the specific incentives or concessions listed in subsection (C), below, that the applicant requests in compliance with this section, and may request a meeting with the Director. The applicant may file a request either before filing an application for city approval of a proposed project or concurrently with an application for project approval. The review authority shall grant an incentive or concession request that complies with this section unless the review authority makes either of the following findings in writing, based upon substantial evidence:~~

~~(a) The incentive or concession is not required to provide for affordable housing costs, as defined in Cal. Health and Safety Code § 50052.5, or for rents for the targeted units to be set as specified in § 10-3-5.107(B); or~~

~~(b) The incentive or concession would have a specific adverse impact, as defined in Cal. Gov't Code § 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.~~

~~(2) The applicant shall show that a waiver or modification of development standards is necessary to make the housing units economically feasible.~~

~~(B) Number of incentives. The applicant shall receive the following number of incentives or concessions.~~

~~(1) One incentive or concession. One incentive or concession for a project that includes at least 10% of the total units for lower income households, at least 5% for very low income households, or at least 10% for persons and families of moderate income in a common interest development.~~

~~(2) Two incentives or concessions. Two incentives or concessions for a project that includes at least 20% of the total units for lower income households, at least 10% for very low income households, or at least 20% for persons and families of moderate income in a common interest development.~~

~~(3) Three incentives or concessions. Three incentives or concessions for a project that includes at least 30% of the total units for lower income households, at least 15% for very low income households, or at least 30% for persons and families of moderate income in a common interest development.~~

~~(C) Type of incentives. For the purposes of this chapter, concession or incentive means any of the following:~~

~~(1) A reduction in the site development standards of this Zoning Ordinance (e.g., site coverage limitations, setbacks, reduced parcel sizes, and/or parking requirements) (see also § 10-3-5.105), or a modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Cal. Health and Safety Code § 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions;~~

~~(2) Approval of mixed-use land uses not otherwise allowed by this Zoning Ordinance in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;~~

~~(3) Other regulatory incentives proposed by the applicant or the city that will result in identifiable,~~

financially sufficient, and actual cost reductions; and/or

(4) In its sole and absolute discretion, a direct financial contribution granted by the review authority, including writing-down land costs, subsidizing the cost of construction, or participating in the cost of infrastructure.

(D) Effect of incentive or concession. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

(Ord. 920 C.S., passed 5-20-15)

10-3-5.1056 DENSITY BONUS ALLOWANCES FOR TARGET POPULATION HOUSING

Senior Housing. Senior citizen housing developments or mobile home parks that limit residency based on age requirements for housing for older persons pursuant to Civil Code Section 798.76 or 799.5, are eligible for a 20 percent density bonus allowance. The density bonus shall be calculated based on the number of senior housing units provided.

Transitional Foster Youth, Disabled Veterans, or Homeless Persons. Housing developments providing a minimum of 10 percent of units for individuals qualifying as transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541 of the Government Code, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), are eligible for a 20 percent density bonus allowance beyond the maximum density allowed. Housing units provided for transitional foster youth, disabled veterans, and homeless persons shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.

Student Housing. Housing developments providing a minimum of 20 percent of units for lower income students as defined by Government Code Section 65915(b)(1)(F)(I) and meeting all the following criteria shall be eligible for a 35 percent density bonus allowance. The density bonus shall be calculated based on the number of student housing units provided.

The rent provided in the lower income student housing units equals 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

The housing development gives priority to lower income students experiencing homelessness.

For purposes of calculating a density bonus pursuant to this Section, the term "unit" means one rental bed and its pro rata share of associated common area facilities.

(A) Applicability. This section applies to a development that meets the requirements of § 10-3-5.102, above, but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section in compliance with § 10-3-5.104, above.

(B) Number of parking spaces required.

(1) At the request of the applicant, the city shall require the following vehicular parking ratios for a project that complies with the requirements of § 10-3-5.102, above, inclusive of handicapped and guest parking.

(a) Zero to one bedroom: One on-site parking space.

(b) Two to three bedrooms: Two on-site parking spaces.

(c) Four and more bedrooms: Two and one half on-site parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

(C) Location of parking. For purposes of this section, a development may provide on-site parking through uncovered parking, but not through on-street parking.

(Ord. 920 C.S., passed 5-20-15)

10-3-5.106 DENSITY BONUS ALLOWANCES FOR QUALIFIED LAND DONATIONS

10-3-5.104 ALLOWED INCENTIVES OR CONCESSIONS. (A) Applicant request and city approval.

(1) An applicant for a density bonus in compliance with this subchapter may submit to the city a proposal for the specific incentives or concessions listed in subsection (C), below, that the applicant requests in compliance with this section, and may request a meeting with the Director. The applicant may file a request either before filing an application for city approval of a proposed project or concurrently with an application for project approval. The review authority shall grant an incentive or concession request that complies with this section unless the review authority makes either of the following findings in writing, based upon substantial evidence:

(a) The incentive or concession is not required to provide for affordable housing costs, as defined in Cal. Health and Safety Code § 50052.5, or for rents for the targeted units to be set as specified in § 10-3-5.107(B); or

(b) The incentive or concession would have a specific adverse impact, as defined in Cal. Gov't Code § 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(2) The applicant shall show that a waiver or modification of development standards is necessary to make the housing units economically feasible.

(B) Number of incentives. The applicant shall receive the following number of incentives or concessions.

(1) One incentive or concession. One incentive or concession for a project that includes at least 10% of the total units for lower income households, at least 5% for very low income households, or at least 10% for persons and families of moderate income in a common interest development.

(2) Two incentives or concessions. Two incentives or concessions for a project that includes at least 20% of the total units for lower income households, at least 10% for very low income households, or at least 20% for persons and families of moderate income in a common interest development.

(3) Three incentives or concessions. Three incentives or concessions for a project that includes at least 30% of the total units for lower income households, at least 15% for very low income households, or at least 30% for persons and families of moderate income in a common interest development.

(C) Type of incentives. For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in the site development standards of this Zoning Ordinance (e.g., site coverage limitations, setbacks, reduced parcel sizes, and/or parking requirements) (see also § 10-3-5.105), or a modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Cal. Health and Safety Code § 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions;

(2) Approval of mixed-use land uses not otherwise allowed by this Zoning Ordinance in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;

(3) Other regulatory incentives proposed by the applicant or the city that will result in identifiable, financially sufficient, and actual cost reductions; and/or

(4) In its sole and absolute discretion, a direct financial contribution granted by the review authority, including writing-down land costs, subsidizing the cost of construction, or participating in the cost of infrastructure.

(D) Effect of incentive or concession. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

(Ord. 920 C.S., passed 5-20-15)

§ 10-3-5.1056 DENSITY BONUS ALLOWANCES FOR TARGET POPULATION HOUSINGPARKING REQUIREMENTS IN DENSITY BONUS PROJECTS.

(A) Senior Housing. Senior citizen housing developments or mobile home parks that limit residency based on age requirements for housing for older persons pursuant to Civil Code Section 798.76 or 799.5, are eligible for a 20 percent density bonus allowance. The density bonus shall be calculated based on the number of senior housing units provided.

(B) Transitional Foster Youth, Disabled Veterans, or Homeless Persons. Housing developments providing a minimum of 10 percent of units for individuals qualifying as transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541 of the Government Code, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), are eligible for a 20 percent density bonus allowance beyond the maximum density allowed. Housing units provided for transitional foster youth, disabled veterans, and homeless persons shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low-income units.

(C) Student Housing. Housing developments providing a minimum of 20 percent of units for lower income students as defined by Government Code Section 65915(b)(1)(F)(I) and meeting all the following criteria shall be eligible for a 35 percent density bonus allowance. The density bonus shall be calculated based on the number of student housing units provided.

(1) The rent provided in the lower income student housing units equals 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(2) The housing development gives priority to lower income students experiencing homelessness.

(3) For purposes of calculating a density bonus pursuant to this section, the term "unit" means one rental bed and its pro rata share of associated common area facilities.

~~(A) Applicability. This section applies to a development that meets the requirements of § 10-3-5.102, above, but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section in compliance with § 10-3-5.104, above.~~

~~(B) Number of parking spaces required.~~

~~(1) At the request of the applicant, the city shall require the following vehicular parking ratios for a project that complies with the requirements of § 10-3-5.102, above, inclusive of handicapped and guest parking.~~

~~(a) Zero to one bedroom: One on-site parking space.~~

~~(b) Two to three bedrooms: Two on-site parking spaces.~~

~~(c) Four and more bedrooms: Two and one half on-site parking spaces.~~

~~(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.~~

~~(C) Location of parking. For purposes of this section, a development may provide on-site parking through uncovered parking, but not through on-street parking.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

§ 10-3-5.1076 DENSITY BONUS ALLOWANCES FOR QUALIFIED LAND DONATIONS ~~BONUS AND INCENTIVES FOR DEVELOPMENTS WITH CHILD CARE FACILITIES.~~

(A) Eligibility. For a density bonus for a qualified land donation to be granted, all the following requirements shall be met.

(1) The applicant is applying for a tentative subdivision map, tentative parcel map, or other residential development approval.

(2) The applicant agrees to donate and transfer qualified land, which is land that meets both the following criteria:

(a) The developable acreage and zoning classification of the land being transferred must be sufficient to permit construction of units affordable to very low-income households in an amount equal to not less than 10 percent of the number of residential units of the proposed development.

(b) The transferred land shall be at least 1 acre in size or of sufficient size to permit development of at least 40 units, have the appropriate General Plan land use designation, be appropriately zoned with development standards for development at a minimum density of 20 dwelling units per acre, in accordance with Government Code Section 65583.2(c)(3), and be or will be served by adequate public facilities and infrastructure.

(3) The qualified land shall be transferred to the City or to a housing developer approved by the City no later than the date of approval of the final subdivision map, parcel map, or residential development application. The City may require the applicant to identify and transfer the land to an approved housing developer.

(4) The qualified land has all of the permits and approvals, other than building permits, necessary for the development of the very low-income affordable housing units on the qualified land, not later than the date of approval of the final subdivision map, parcel map, or residential development application filed. However, the City may subject the proposed development to subsequent design review to the extent authorized by Government Code Section 65583.2(i) if the design is not reviewed by the City prior to the time of transfer.

(5) The qualified land and the affordable units are subject to a deed restriction ensuring continued affordability of the units for 55 years, which must be recorded against the qualified land at the time of the transfer.

(6) The qualified land is within the boundary of the proposed development or, if approved by the City, within one-quarter mile of the boundary of the proposed development.

(7) A proposed source of funding for the very low-income affordable housing units shall be identified no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) Qualified Land Donation Density Bonus Allowance. If all requirements of Section 10-3-5.106(A), Eligibility, are met, the applicant shall be entitled to a density bonus allowance, as specified in Table 10-3-5.106–1: Qualified Land Donation Density Bonus Allowance.

Table 10-3-5.106–1: Qualified Land Donation Density Bonus Allowance

Percent of Units for Very Low-Income	Density Bonus Allowance
10%	15%
11%	16%
12%	17%
13%	18%
14%	19%

Percent of Units for Very Low-Income	Density Bonus Allowance
15%	20%
16%	21%
17%	22%
18%	23%
19%	24%
20%	25%
21%	26%
22%	27%
23%	28%
24%	29%
25%	30%
26%	31%
27%	32%
28%	33%
29%	34%
30% - 100%	35%

~~(A) Housing developments. A housing development that complies with the resident and project size requirements of § 10-3-5.102(A) and (B), above, and also includes as part of that development a child care facility other than a large or small family day care home, that will be located on the site of, as part of, or adjacent to the development, shall be subject to the following additional bonus, incentives, and requirements.~~

~~(1) Additional bonus and incentives. The city shall grant a housing development that includes a child care facility in compliance with this section either of the following:~~

~~(a) An additional density bonus that is an amount of floor area in square feet of residential space that is equal to or greater than the floor area of the child care facility; or~~

~~(b) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.~~

~~(2) Requirements to qualify for additional bonus and incentives.~~

~~(a) The city shall require, as a condition of approving the housing development, that:~~

~~1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable in compliance with § 10-3-5.107, below; and~~

~~2. Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income in compliance with § 10-3-5.102(A), above.~~

~~(b) The city shall not be required to provide a density bonus for a child care facility in compliance with this section if it finds, based upon substantial evidence, that the community has adequate child care facilities.~~

~~(B) Commercial and industrial developments. A developer of a commercial or industrial development project, containing at least 50,000 square feet of floor area, may be granted a density bonus when that developer agrees to set aside at least 2,000 square feet of interior floor area and 3,000 outdoor square footage to be used for a child care facility, other than a large or small family day care home, in compliance with Cal. Gov't Code § 65917.5.~~

~~(1) Allowable density bonuses. The allowable density bonus may be one of the following:~~

~~(a) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility located in an existing child care facility; or~~

~~(b) A maximum of ten square feet of floor area for each one square foot of floor area contained in the~~

~~child care facility located in a new child care facility.~~

~~(2) Requirements. Requirements to qualify for the additional density bonus shall include all of the following:~~

~~(a) For purposes of calculating the allowable density bonus under this subsection, both the total area contained within the exterior walls of the child care facility and all outdoor areas devoted to the use of the facility in compliance with applicable state child care licensing requirements shall be considered.~~

~~(b) The child care facility shall be of a sufficient size to comply with all applicable state licensing requirements in order to accommodate at least 40 children.~~

~~(c) This facility may be located either on the project site or may be located off-site as agreed upon by the developer and the city.~~

~~(d) If the child care facility is not located on the site of the development project, the city shall determine whether the location of the child care facility is appropriate and whether it complies with the purpose and intent of this section.~~

~~(e) The granting of a density bonus shall not preclude the city from imposing necessary conditions on the development project or on the additional square footage in compliance with Cal. Gov't Code § 65917.5.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

10-3-5.108~~7~~ INCENTIVES AND CONCESSIONS~~CONTINUED AVAILABILITY.~~

(A) Qualifications for Incentives and Concessions. An applicant for a density bonus pursuant to this chapter may request incentives or concessions in association with the housing development or land donation qualifying for such density bonus.

(B) Number of Incentives or Concessions. The following number of incentives or concessions may be granted, based on the number and income level of affordable housing units of the housing development.

(1) One incentive for qualified housing development projects that include at least 5 percent of the total units for very low-income households, at least 10 percent for low-income households, or at least 10 percent for persons and families of moderate-income households in a common interest development.

(2) Two incentives for qualified housing development projects that include at least 10 percent of the total units for very low-income households, at least 17 percent for low-income households, or at least 20 percent for persons and families of moderate-income households in a common interest development.

(3) Three incentives for qualified housing development projects that include at least 15 percent of the total units for very low-income households, at least 24 percent for low-income households, or at least 30 percent for persons and families of moderate-income households in a common interest development.

(4) Four incentives for qualified housing developments that include 100 percent of total units, exclusive of a manager's unit or units, for lower income households, except that up to 20 percent of the total units in the development may be for moderate-income households.

(5) Additional incentives or concessions. Projects meeting either of the following criteria shall receive incentives and concessions in addition to the number specified above.

(a) If the project is within 1/2 mile of a major transit stop, the project shall also receive a height increase of up to three additional stories, or 33 feet.

(b) A qualified housing development proposal that includes a childcare facility shall be granted an additional incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

(C) Types of Incentives or Concessions. Incentive or concession means any of the following:

(1) A reduction in site development standards or a modification of development code requirements or design guidelines that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code that would result in identifiable and actual cost reductions to provide for affordable housing costs.

(2) Approval of mixed-use zoning in conjunction with the qualified housing development if commercial, office, industrial, or other land uses will reduce the cost of the qualified housing development and if the commercial, office, industrial, or other land uses are compatible with the qualified housing development and the existing or planned development in the area where the proposed qualified housing development will be located.

(3) Other regulatory incentives proposed by the affordable housing developer or the City that result in identifiable, financially sufficient, and actual cost reductions to provide for affordable housing costs.

(4) Nothing in this section limits or requires the provision of direct financial incentives by the City for the qualified housing development, including the provision of publicly owned land, or the waiver of fees or dedication requirements.

(D) Criteria for Denial of Incentives and Concessions. Except as otherwise provided in this chapter or by State law, the City shall grant the incentive(s) or concession(s) requested unless a written finding, based upon substantial evidence, is made with respect to any of the following, in which case the City may refuse to grant the incentive(s) or concession(s):

(1) The incentive or concession is not required in order to provide affordable housing costs or affordable rents for the affordable units subject to the qualified housing development application.

(2) The incentive or concession would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health and safety and, if such a specific, adverse impact exists, there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(3) The incentive or concession would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

(4) The incentive or concession would be contrary to State or federal law.

~~The units that qualified the housing development for a density bonus and other incentives and concessions shall continue to be available as affordable units in compliance with the following requirements, as required by Cal. Gov't Code § 65915(c). See also § 10-3-5.110.~~

~~(A) Duration of affordability. The applicant shall agree to, and the city shall ensure, the continued availability of the units that qualified the housing development for a density bonus and other incentives and concessions, as follows.~~

~~(1) Low- and very low-income units. The continued affordability of all low- and very low-income qualifying units shall be maintained for 30 years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program, or by city policy or ordinance.~~

~~(2) Moderate income units in common interest development. The continued availability of moderate-income units in a common interest development shall be maintained for a minimum of 10 years, or a~~

~~longer time if required by city policy or ordinance.~~

~~(B) Unit cost requirements. The rents and owner-occupied costs charged for the housing units in the development that qualify the project for a density bonus and other incentives and concessions, shall not exceed the following amounts during the period of continued availability required by this section:~~

~~(1) Lower income units. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Cal. Health and Safety Code § 50053; and~~

~~(2) Owner-occupied units. Owner-occupied units shall be available at an affordable housing cost as defined in Cal. Health and Safety Code § 50052.5.~~

~~(C) Occupancy and resale of moderate-income common interest development units. An applicant shall agree to, and the city shall ensure that the initial occupant of moderate income units that are directly related to the receipt of the density bonus in a common interest development as defined in Cal. Civil Code § 1351, are persons and families of moderate income, as defined in Cal. Health and Safety Code § 50093, and that the units are offered at an affordable housing cost, as defined in Cal. Health and Safety Code § 50052.5. The city shall enforce an equity sharing agreement unless it is in conflict with the requirements of another public funding source or law. The following requirements apply to the equity sharing agreement.~~

~~(1) Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation.~~

~~(2) The city shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Cal. Health and Safety Code § 33334.2(e) that promote home ownership. For the purposes of this section:~~

~~(a) The city's initial subsidy shall be equal to the fair market value of the home at the time of initial sale, minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value; and~~

~~(b) The city's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

§ 10-3-5.108~~9~~ WAIVERS OR REDUCTIONS OF DEVELOPMENT STANDARDS ~~LOCATION AND TYPE OF DESIGNATED UNITS.~~

(A) Qualifications for Waivers or Reductions. An applicant for a density bonus pursuant to this chapter may request a waiver or reduction in development standards in association with the housing development or land donation qualifying for such density bonus.

(B) Effect of Proposal for Waiver or Reduction of Development Standards. A proposal for the waiver or reduction of development standards shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled to pursuant to Section 10-3-5.107 (Incentives or Concessions).

(C) Findings for Approval of Waiver or Reduction of Development Standards. All of the following findings shall be made to approve the requested waiver or reduction of development standard.

(1) The development standard for which a waiver or reduction is requested will have the effect of physically precluding the construction of the proposed qualified housing development at the densities or with the incentives permitted under this chapter.

(2) The requested waiver or reduction of a development standard will not have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health and safety or, if such a specific, adverse impact exists, there is a feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(3) The requested waiver or reduction of a development standard will not have an adverse impact on any real property that is listed in the California Register of Historical Resources.

(4) The requested waiver or reduction of a development standard is not contrary to State or federal law.

~~(A) Location/dispersal of units. Designated units shall be reasonably dispersed throughout the project where feasible, shall contain on average the same number of bedrooms as the non-designated units in the project, and shall be compatible with the design or use of remaining units in terms of appearance, materials, and finish quality.~~

~~(B) Phasing. If a project is to be phased, the density bonus units shall be phased in the same proportion as the non-density bonus units, or phased in another sequence acceptable to the city.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

§ 10-3-5.11~~09~~ PARKING STANDARD MODIFICATIONS ~~DENSITY BONUS AGREEMENT.~~

(A) Maximum Parking Standard Upon Request. In addition to any incentives or concessions pursuant to Section 10-3-5.107 (Incentives and Concessions) or any waivers or reductions pursuant to Section 10-3-5.108 (Waivers or Reductions), an applicant for a density bonus pursuant to this c~~C~~hapter may request the following maximum parking rates, inclusive of handicap and guest parking, for a qualified housing development or land donation:

(1) Zero to one bedroom: 1 on-site parking space

(2) Two to three bedrooms: 1.5 on-site parking spaces

(3) Four and more bedrooms: 2.5 on-site parking spaces

(B) Exceptions. The maximum parking standards shall be as follows for projects meeting the specified criteria. Such parking standards shall apply, inclusive of handicap and guest parking, to the entire housing development, unless a citywide parking study has been prepared in accordance with Government Code Section 65915(p)(7).

(1) A maximum of 0.5 parking spaces per unit shall apply for projects meeting all the following criteria:

(a) The development includes at least 20 percent low-income units or at least 11 percent very low-income units.

(b) The development is located within 0.5 miles of a major transit stop, as defined in subdivision (b) of Section 21155 of the California Public Resources Code.

(c) There is unobstructed access to the major transit stop from the development. A development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(2) A maximum of 0.5 spaces per bedroom shall apply for projects meeting all the following criteria:

(a) The development includes at least 40 percent moderate-income for-sale units.

(b) The development is located within 0.5 miles of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(c) There is unobstructed access to the major transit stop from the development. A development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) No vehicular parking requirement shall be imposed on any projects providing 100 percent affordable units and meeting all applicable criteria as specified in Government Code Section 65915(p)(3).

(C) If the total number of parking spaces required for the qualified housing development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this Section, "on-site parking" may be provided through tandem parking or uncovered parking, but not through on-street parking.

(D) Except as otherwise provided in this Section, all other provisions of this Title, including the standards of Chapter 10-3.12 (Off-Street Parking Regulations) applicable to residential development, shall apply.

~~(A) Agreement required. An applicant requesting a density bonus shall agree to enter into a density bonus agreement (referred to as the "agreement") with the city in the city's standard form of agreement. The applicant shall prepare the draft agreement for submission to the city for review.~~

~~(B) Agreement provisions.~~

~~(1) Project information. The agreement shall include at least the following information about the project:~~

~~(a) The total number of units approved for the housing development, including the number of designated dwelling units;~~

~~(b) A description of the household income group to be accommodated by the housing development, and the standards and methodology for determining the corresponding affordable rent or affordable sales price and housing cost consistent with the California Department of Housing and Urban Development (HUD) Guidelines;~~

~~(c) The marketing plan for the affordable units;~~

~~(d) The location, unit sizes (square feet), and number of bedrooms of the designated dwelling units;~~

~~(e) Tenure of the use restrictions for designated dwelling units of the time periods required by § 10-3-5.107;~~

~~(f) A schedule for completion and occupancy of the designated dwelling units;~~

~~(g) A description of the additional incentives and concessions being provided by the city;~~

~~(h) A description of the remedies for breach of the agreement by the owners, developers, and/or successors-in-interest of the project; and~~

~~(i) Other provisions to ensure successful implementation and compliance with this chapter.~~

~~(2) Minimum requirements. The agreement shall provide, at minimum, that:~~

~~(a) The developer shall give the city the continuing right-of-first-refusal to lease or purchase any or all of the designated dwelling units at the appraised value;~~

~~(b) The deeds to the designated dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign, lease, rent, sell, sublet, or otherwise transfer any interests for designated units without the written approval of the city;~~

~~(c) When providing the written approval, the city shall confirm that the price (rent or sale) of the designated dwelling unit is consistent with the limits established for low and very low-income households, as published by HUD;~~

~~(d) The city shall have the authority to enter into other agreements with the developer, or purchasers of the designated dwelling units, to ensure that the required dwelling units are continuously occupied by eligible households;~~

~~(e) Applicable deed restrictions, in a form satisfactory to the City Attorney, shall contain provisions for the enforcement of owner or developer compliance. Any default or failure to comply may result in foreclosure, specific performance, or withdrawal of the Certificate of Occupancy;~~

~~(f) In any action taken to enforce compliance with the deed restrictions, the City Attorney shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the city's costs of action including legal services; and~~

~~(g) Compliance with the agreement will be monitored and enforced in compliance with the measures included in the agreement.~~

~~(3) For-sale housing conditions. In the case of a for-sale housing development, the agreement shall provide for the following conditions governing the initial sale and use of designated dwelling units during the applicable restriction period:~~

~~(a) Designated dwelling units shall be owner-occupied by eligible households, or by qualified residents in the case of senior housing; and~~

~~(b) The initial purchaser of each designated dwelling unit shall execute an instrument or agreement approved by the city which:~~

~~1. Restricts the sale of the unit in compliance with this chapter, or other applicable city policy or ordinance, during the applicable use restriction period;~~

~~2. Contains provisions as the city may require to ensure continued compliance with this chapter and state law; and~~

~~3. Shall be recorded against the parcel containing the designated dwelling unit.~~

~~(4) Rental housing conditions. In the case of a rental housing development, the agreement shall provide for the following conditions governing the use of designated dwelling units during the applicable restriction period:~~

~~(a) The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining the designated dwelling units for qualified tenants;~~

~~(b) Provisions requiring owners to annually verify tenant incomes and maintain books and records to demonstrate compliance with this chapter;~~

~~(c) Provisions requiring owners to submit an annual report to the city, which includes the name, address, and income of each person occupying the designated dwelling units, and which identifies the bedroom size and monthly rent or cost of each unit; and~~

~~(d) The applicable use restriction period shall comply with the time limits for continued availability in § 10-3-5.107, above.~~

~~(C) Execution of agreement.~~

~~(1) Following approval of the agreement, and execution of the agreement by all parties, the city shall record the completed agreement on the parcels designated for the construction of designated dwelling units, at the County Recorder's Office.~~

~~(2) The approval and recordation shall take place at the same time as the final map or, where a map is not being processed, before issuance of Building Permits for the designated dwelling units.~~

~~(3) The agreement shall be binding on all future owners, developers, and/or successors-in-interest.~~

~~(Ord. 920 C.S., passed 5-20-15)~~

§ 10-3-5.111~~0~~ AFFORDABLE HOUSING AGREEMENT ~~CONTROL OF RESALE.~~

No density bonus pursuant to this chapter shall be granted unless and until the applicant and the City enters into an affordable housing agreement and, if applicable, an equity sharing agreement, in compliance with Government Code Section 65915(c)(1) or (2), as applicable. The affordable housing agreement shall be recorded prior to, or concurrently with, final map recordation or, where the qualified housing development does not include a map, prior to issuance of a building permit for any structure on the site.

~~In order to maintain the availability of for-sale affordable housing units constructed in compliance with this chapter, the following resale conditions shall apply.~~

~~(A) Limits on resale price. The price received by the seller of an affordable unit shall be limited to the purchase price plus an increase based on the local consumer price index, an amount consistent with the increase in the median income since the date of purchase, or the fair market value, whichever is less.~~ ~~Before offering an affordable housing unit for sale, the seller shall provide written notice to the city of~~

their intent to sell. The notice shall be provided by certified mail to the Community Development Director, or his or her designee.

(B) Units to be offered to the city. Home ownership affordable units constructed, offered for sale, or sold under the requirements of this section shall be offered to the city or its assignee for a period of at least 90 days from the date of the notice of intent to sell is delivered to the city by the first purchaser or subsequent purchasers. Home ownership affordable units shall be sold and resold from the date of the original sale only to households as determined to be eligible for affordable units by the city in compliance with this section. The seller shall not levy or charge any additional fees nor shall any "finder's fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.

(C) Declaration of restrictions. The owners of any affordable unit shall attach and legally reference in the grant deed conveying title of the affordable ownership unit a declaration of restrictions provided by the city, stating the restrictions imposed in compliance with this section. The grant deed shall afford the grantor and the city the right to enforce the declaration of restrictions. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this section.

(D) City to monitor resale of units. The city shall monitor the resale of ownership affordable units. The city or its designee shall have a 90-day option to commence purchase of ownership affordable units after the owner gives notification of intent to sell. Any abuse in the resale provisions shall be referred to the city for appropriate action.

(Ord. 920 C.S., passed 5-20-15)

§ 10-3-5.111 JUDICIAL RELIEF, WAIVER OF STANDARDS.

(A) Judicial relief. As provided by Cal. Gov't Code § 65915(d)(3), the applicant may initiate judicial proceedings if the city refuses to grant a requested density bonus, incentive, or concession.

(B) Waiver of standards preventing the use of bonuses, incentives, or concessions.

(1) As required by Cal. Gov't Code § 65915(e), the city shall not apply a development standard that will have the effect of precluding the construction of a development meeting the criteria of § 10-3-5.102(A), above, at the densities or with the concessions or incentives allowed by this chapter.

(2) An applicant may submit to the city a proposal for the waiver or reduction of development and zoning standards that would otherwise inhibit the utilization of a density bonus on a specific site, including minimum parcel size, side setbacks, and placement of public works improvements.

(3) The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.

(C) City exemption. Notwithstanding the provisions of subsections (A) and (B), above, nothing in this section shall be interpreted to require the city to:

(1) Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have a specific, adverse impact, as defined in Cal. Gov't Code § 65589.5(d)(2), upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; or

(2) Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

(Ord. 920 C.S., passed 5-20-15)

REASONABLE ACCOMMODATION

§ 10-3-5.201 PURPOSE.

It is the policy of the City, pursuant to the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act (hereafter "fair housing laws"), to provide individuals with disabilities reasonable accommodation in rules, policies, practices, and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities. This chapter establishes a procedure for making requests for reasonable accommodation in land use, zoning, and building regulations, policies, practices, and procedures of the City to comply fully with the intent and purpose of fair housing laws.

~~This purpose of this chapter is to provide a procedure for individuals with disabilities to request reasonable accommodation in seeking equal access to housing under the federal Fair Housing Act and the California Fair Employment and Housing Act (hereafter "Acts") in the application of zoning laws and other land use regulations, policies, and procedures.~~

§ 10-3-5.202 APPLICABILITY.

(A) A request for reasonable accommodation may be made by any person with a disability or their representative, when the application of a requirement of this zoning code or other city requirement, policy, or practice acts as a barrier to fair housing opportunities. For the purposes of this chapter, a "person with a disability" is any person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This chapter is intended to apply to those persons who are defined as disabled under the ~~Acts~~fair housing laws.

(B) A request for reasonable accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

(C) A reasonable accommodation is granted only to the household that needs the accommodation and does not apply to successors in interest to the site.

(D) A reasonable accommodation may be granted in compliance with this chapter without the need for the approval of a variance.

§ 10-3-5.203 PROCEDURE.

(A) A request for reasonable accommodation shall be submitted ~~on an application form provided by~~to the Community Development Department or in the form of a letter to the Director of Community Development Department, and shall contain the following information:

(1) The applicant's name, address, and telephone number;

(2) Address of the property for which the request is being made;

(3) The current use of the property;

(4) The basis for the claim that the individual is considered disabled under the Acts, including verification of such claim;

(5) The zoning code provision, regulation, or policy from which reasonable accommodation is being requested; and

(6) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.

(B) If the project for which the request for reasonable accommodation is being made requires some other discretionary approval (including use permit, design review, etc.), then the applicant shall file the information required by subsection (A) of this section for concurrent review with the application for discretionary approval.

(C) A request for reasonable accommodation shall be reviewed by the Director of Community Development Department or his or her designee, if no approval is sought other than the request for reasonable accommodation. The Community Development Director or his or her designee shall make a determination on the application for Reasonable Accommodation within 30 days from receipt of the application. Should additional information, consistent with fair housing laws, be requested from the applicant, the 30-day time period for making a determination on the application shall be suspended until the additional information is provided. If the Community Development Director fails to make a determination within the effective 30 days, the application shall be deemed approved. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.~~written determination within 45 days of the application being deemed complete and either grant, grant with modifications, or deny a request for reasonable accommodation.~~

(D) Written notice of decision shall be provided within three business days of the date of decision to the applicant and interested parties who have requested notices in writing. The notice shall include:

1. The application request as acted upon by the Community Development Director.
2. The action taken by the Community Development Director.
3. Findings as listed for the permit.
4. The deadlines, criteria, and fees for filing an appeal.

(E) A request for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the Planning Commission. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the Planning Commission in compliance with the applicable review procedure for the discretionary review.

§ 10-3-5.204 APPROVAL FINDINGS.

The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

(A) The housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws. ~~Whether the housing in the request will be used by a person with a disability under the Acts;~~

(B) ~~Whether t~~The request for reasonable accommodation is necessary to make specific housing available to a person with a disability protected under the fair housing laws~~under the Acts.;~~

(C) ~~Whether the requested reasonable accommodation would impose an undue financial, administrative or enforcement burden on the city~~The requested accommodation would not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in fair housing laws.~~;~~

(D) The requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in fair housing laws and interpretive case law.~~Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a city program or law, including but not limited to land use and zoning;~~

(E) The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.~~Potential impact on surrounding uses;~~

~~(F) Physical attributes of the property and structures; and~~

~~(G) Other reasonable accommodations that may provide an equivalent level of benefit.~~
~~(Ord. 920 C.S., passed 5-20-15)~~

§ 10-3-5.205 CONDITIONS OF APPROVAL.

~~–~~In granting a request for reasonable accommodation, the Director of Community Development Department or his or her designee, or the Planning Commission as the case might be, may impose any conditions of approval in order to achieve the purposes of this title, ensure consistency with the goals and policies of the adopted General Plan, and justify making the necessary findings ~~deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings~~. The conditions shall also state whether the accommodation granted shall be removed in the event that the person for whom the accommodation was requested no longer resides on the site.
(Ord. 920 C.S., passed 5-20-15)

§ 10-3-5.206 APPEALS.

(A) Any person dissatisfied with any action of the Director of the Community Development Department pertaining to this chapter may appeal to the Planning Commission within ~~ten~~ 30 days ~~after written notice of the Director's decision is sent to the applicant~~from the day of decision. The appeal is taken by filing a written notice of appeal with the Director of Community Development Department and shall specify the reasons for the appeal and the grounds asserted for relief.

(B) Any person dissatisfied with any action of the Planning Commission pertaining to this chapter may appeal to the City Council within ~~ten~~ 30 days after the rendition of the decision of the Planning Commission. The appeal is taken by filing a written notice of appeal with the Director of Community Development Department and shall specify the reasons for the appeal and the grounds asserted for relief.

(C) The City Council shall, by resolution, adopt and from time to time amend a fee for the filing of appeals. Such fee shall be for the sole purpose of defraying costs incurred for the administration of appeals. The fee for an appeal shall be paid at the time of and with the filing of an appeal. No appeal shall be deemed valid unless the prescribed has been paid.

(D) If an appeal is not filed within the time or in the manner prescribed in this section, the right to review of the action against which the complaint is made shall be deemed to have been waived.

(E) After filing an appeal, the appropriate hearing body shall conduct a public hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date and place of hearing shall be given to the appellant, and to any other persons who have filed a written request for notice. Such notices shall be mailed to the appellant and the applicant at least ten days prior to the hearing.

(F) The appropriate hearing body ~~Planning Commission or City Council~~ shall review de novo the entire proceeding or proceedings relating to the decision, and may make any order it deems just and equitable, including the approval of the application. Any hearing may be continued from time to time.

(G) At the conclusion of the hearing, the hearing body shall prepare a written decision which either grants or denies the appeal and contains findings of fact and conclusions. The written decision, including a copy thereof shall be provided to the appellant and the project applicant.

§ 10-3-5.207 AMENDMENTS

Any amendments affecting an approved Reasonable Accommodation shall be handled as a new application.

§ 10-3-5.208 CONSIDERATION FACTORS

(A) Necessity of Accommodation. The City may consider, but is not limited to, the following factors in determining whether the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling:

(1) Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability;

(2) Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation;

(3) In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants; and

(4) In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.

(B) Fundamental Alteration to Zoning Program. The City may consider, but is not limited to, the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program:

(1) Whether the requested accommodation would fundamentally alter the character of the neighborhood;

(2) Whether the requested accommodation would result in a substantial increase in traffic or insufficient parking;

(3) Whether the requested accommodation would substantially undermine any express purpose of either the City's general plan or an applicable specific plan; and

(4) In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.

RCO; RESOURCE CONSERVATION AND OPEN SPACE ZONING

§ 10-3.601 RCO; PURPOSES AND APPLICATION.

This zoning is intended to provide for permanent open spaces in areas of the community which exhibit significant vegetation, scenic qualities, wildlife, or recreational potential, including areas designated as open space on the General Plan, drainage ponds for recreational use, and areas reserved to reduce conflicts between land uses.

§ 10-3.602 RCO; PERMITTED USES.

The land uses permitted within the RCO zone are herein defined and delineated by location within the RCO zone and the required permit approval procedure.

(A) P. Permitted use.
(B) CUP. Conditional use permit required.
(C) AA. Administrative approval required.
(D) NP. Not permitted.

LOCATION WITHIN RCO ZONE

	Airport Clear Zone	***Airport Approach Zone***	***Other RCO Areas***
Raising of field crops	P	P	P
Orchard and vineyards	NP	CUP	P
Raising of livestock and rangeland	NP	CUP	P
Flood control channels, water pumping station, ditches, and canals	CUP	CUP	P

LOCATION WITHIN RCO ZONE

	Airport Clear Zone	Airport Approach Zone	Other RCO Areas
Reservoirs, settling, and water conservation recharge basins	NP	CUP	P
Streets and roads	CUP	CUP	P
Off-street parking and landscaping	NP	CUP	AA
Bikeways and pedestrian trails	NP	CUP	AA
Drainage ponds	NP	CUP	AA
Recreation areas, parks, playgrounds, wildlife preserves, and related buildings, structures, and facilities	NP	CUP	CUP
One-family dwelling related to agricultural and recreational uses	NP	CUP	CUP
Incidental and accessory structures and uses on site of a conditional use	NP	CUP	CUP
Cemeteries	NP	CUP	CUP
Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communication equipment and facilities, public service pumping stations, and elevated pressure tanks	NP	CUP	CUP

§ **10-3.603 ~~RCO-PERMITTED USES; ADMINISTRATIVE APPROVAL~~ (~~REPEALED~~RESERVED).**

§ **10-3.604 ~~RCO-CONDITIONAL USES; COMMISSION APPROVAL~~ (~~REPEALED~~RESERVED).**

§ **10-3.605 RCO; DISTANCES BETWEEN STRUCTURES.**

The minimum distance between a one-family dwelling and another structure shall be ten feet, provided, however, that no structure housing animals shall be closer than 25 feet to any dwelling on the site or to any side yard property line.

§ **10-3.606 RCO; BUILDING HEIGHT.**

No building or structure shall have a height greater than 65 feet, provided that additional height may be permitted if a use permit is first secured.

PF; PUBLIC FACILITIES ZONE

§ **10-3-6.501 PF; PURPOSE AND APPLICATION.**

This zone is designed to retain and provide land areas for public use and to place the public and all elected officials and public agencies on notice of proposed changes in the use of such land.

§ **10-3-6.502 PF; PERMITTED USES.**

(A) All city, county, state, and federal offices or facilities, including, but not limited to civic centers, fire and police stations, libraries, and post offices.

(B) All city, county, state, and federal offices or facilities leased from private individuals or other government agencies for a period of more than five years.

(C) All city, county, state, or federally owned or operated parks, playgrounds, recreation areas, open spaces, sumps, and landfills.

(D) All offices and facilities owned or operated by public school districts including state colleges and junior colleges.

(E) The offices and facilities owned or operated by any public governmental agency, or any body of persons charged with the responsibility of administering publicly owned or operated property including, but not limited to redevelopment agencies, water districts, school districts, and recreation districts.

§ **10-3-6.503 PF; CONDITIONAL USES; COMMISSION APPROVAL.**

Property located in the PF zone may be used for private purposes when a conditional use permit has been granted in accordance with the provisions of the Interpretation, Enforcement, Violations, and Penalty subchapter. In no case shall a conditional use permit be issued for a period exceeding five years from the date of issuance.

Property located in the PF, Public Facility Zone, may also be used for gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communication equipment and facilities, public service pumping stations, and elevated pressure tanks provided a use permit is first secured.

§ 10-3-6.504 PF; REQUIRED CONDITIONS.

A conditional use permit shall not be granted unless the Planning Commission makes the following determinations:

(A) The use is compatible with, and will not adversely affect, the adjacent uses.

(B) That no permanent structure shall be provided with such use.

(C) That adequate landscaping, fencing, paving, and other improvements be provided to protect and/or enhance the overall appearance of the area in which such uses are situated.

§ 10-3-6.505 PF; BUILDING HEIGHT.

No building or structure shall have a height greater than 65 feet, provided that additional height may be permitted if a use permit is first secured.

PROFESSIONAL OFFICE ZONES

§ 10-3.751 PROFESSIONAL OFFICE ZONES.

The Professional Office zone is intended to provide opportunities for the location of professional and commercial offices and their related uses in close relationship to one another outside of commercial districts; to provide adequate space to meet the needs of such offices for off-street parking and loading space; and to protect such offices from noise, disturbances, traffic hazards, and other objectionable influences incidental to commercial and industrial uses. The Professional Office zone is also intended for application to those areas of the city where it is necessary and desirable to encourage the full development of properties which lie between residential and nonresidential districts and which, because of neighborhood conditions, amount of vehicular traffic, and location factors, cannot be practically included within residential districts as provided by this chapter.

§ 10-3.752 USES PERMITTED.

(A) The following uses shall be permitted in the Professional Office zone:

(1) Offices which deal primarily in professional services in which goods, wares, and merchandise are not commercially created, sold, or exchanged;

(2) Administrative and business offices;

(3) Medical and dental buildings;

(4) Existing residential buildings;

(5) Accessory structures and uses, not including warehouses, on the same site as a permitted use; and

(6) Signs subject to the provisions of Chapter 6 of this title.

(7) Low Barrier Navigation Centers

(8) Supportive Housing.

(9) Transitional Housing.

(B) The following uses shall be allowed with ~~approval by the~~an Administrative Approval ~~Zoning Administrator~~;

(1) The office use of buildings once used for residential purposes.

(2) Mortuaries.

(3) Art galleries.

(4) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.

(C) A use permit shall be secured for each of the following:

(1) New residential uses, except single family dwellings, and the expansion of existing residential uses, if such expansion results in new family dwelling units or increases the capacity in a boardinghouse or similar quarters;

(2) Public and private charitable institutions, general hospitals, sanitariums, and nursing and convalescent homes;

(3) Public parks, playgrounds, and other public recreation facilities;

(4) Private clubs and lodges;

(5) Churches and other religious institutions;

(6) Public and private libraries and museums; and

(7) Accessory structures and uses located on the same site as a conditional use, including, but not limited to:

(a) Enclosed restaurants (no drive-through restaurants);

(b) Tobacco, candy, newspaper, and magazine counters; and

(c) Prescription pharmacies;

(8) Dance studios;

(9) Banks, savings and loans, credit unions, and other financial institutions; and

(10) Beauty shops and barbershops, including a minor amount of retail sales activity associated with the operation of the shop, and which is accessory and incidental to, and does not alter the nature or character of the primary use. Accessory retail sales shall not exceed 30% of the total revenues for the business in any period.

(11) Single Room Occupancy Units

§ 10-3.753 SITE AREA.

The minimum lot area for interior lots shall be 5,000 square feet for each building or group of buildings with a minimum lot width of 50 feet. The minimum lot area for corner lots shall be 6,000 square feet.

§ 10-3.754 HEIGHT OF STRUCTURES.

Structures shall be limited to a single story not to exceed 35 feet, unless otherwise authorized by the Commission. The maximum height for accessory buildings shall be 15 feet.

§ 10-3.755 LOT COVERAGE.

A maximum of 75% of the lot area shall be permitted for aggregate building coverage, including both main and accessory buildings.

§ 10-3.756 YARD REQUIREMENTS.

(A) Front yard. Where all the frontage between two intersecting streets is located in a Professional Office zone, there shall be a front yard of not less than ten feet. Where the frontage is located partially in any R zone block, the front yard requirement of the R zone shall apply to the Professional Office zone; provided, however, where two or more lots in a block have been improved with buildings, the minimum required front yard setback shall be the average of all improved lots.

(B) Side yards. The minimum interior side yard setback shall be five feet except that a zero setback shall be permitted along the common interior lot line of structures which are developed as a unit. The minimum street side yard on corner lots shall be ten feet except that the street side yard on the rear ½ of a corner lot shall not be less than the front yard required on the adjacent lot where such lot fronts onto the adjacent street.

(C) Rear yard. The minimum rear yard space required shall be five feet except that the Community Development Director may approve an encroachment into the setback with such conditions as the Director may deem appropriate when the adjacent property is located in any PO, C, or I zone.

LIGHT COMMERCIAL ZONES

§ 10-3.801 C-1 ZONES.

The regulations set forth in this subchapter shall apply in the C-1 Light Commercial zone, unless otherwise provided in this chapter.

§ 10-3.802 USES PERMITTED.

(A) The following retail stores selling new merchandise exclusively and personal service establishments within a building, including:

(1) Appliance stores, sales and repair;
(2) Bakeries, limited to retail sales on the same premises;
(3) Banks;
(4) Barber shops;
(5) Beauty parlors;
(6) Bicycle repair and sales;
(7) Book stores;
(8) Candy stores;
(9) Department stores;
(10) Dressmaking or millinery shops;
(11) Drug stores;
(12) Dry goods or notions stores;
(13) Florist shops;
(14) Food stores (groceries, fruits, and vegetables);
(15) Hardware stores;
(16) Insurance offices;
(17) Jewelry stores;
(18) Meat markets or delicatessens;
(19) Nurseries (plant material and supplies);
(20) Offices, business or professional;

(21) Service stations, but not including auto engine and transmission overhauling, tire rebuilding, or battery manufacture;
(22) Restaurants and cafes;
(23) Shoe shops, sales and repair;
(24) Stationery stores;
(25) Studios, photographic;
(26) Tailor shops;
(27) Single bay, fully automatic car wash accessory to a permitted use; and
(28) Apparel stores and boutiques;
(29) Art galleries;
(30) Arts and craft studios;
(31) Automobile parts and supply stores;
(32) Clinics (medical and dental);
(33) Electrical appliance repair shop (small appliances only);
(34) Hobby supplies and craft sales;
(35) Laundries;
(36) Laundromat, self serve;
(37) Locksmith and key shops;
(38) Newspaper and magazine stands;
(39) Pet shops;
(40) Pharmacies;
(41) Video arcades of five or fewer games;
(42) Cannabis and cannabis product retail sales as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.
(43) Other retail businesses or retail commercial enterprises which are similar in character or rendering neighborhood commercial services and are not more detrimental to the welfare of the neighborhood in which located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.
(44) Low Barrier Navigation Centers
(45) Supportive Housing.
(46) Transitional Housing.
(B) The following uses shall be permitted subject to ~~approval by the Zoning Administrator~~an Administrative Approval:
(1) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.
(2) Mortuaries;
(3) Secondhand sales;
(4) Temporary outdoor display of merchandise and sales activities.
(C) A use permit shall be secured for each of the following:
(1) Animal hospitals;
(2) Automobile repair shops;
(3) Bakeries, wholesale;
(4) Drive-thru restaurants;
(5) Drive-thru banks;
(6) Major cleaning and dyeing centers (does not include local drop-off establishments);
(7) Creameries;
(8) Outdoor markets;
(9) Outdoor sales establishments;
(10) Public garages;
(11) Theaters;

(12) Used car sales lots;
(13) Full-service car washes as independent and primary land uses; ~~and~~
(14) Billiard parlors;
(15) Bowling lanes;
(16) Liquor stores (packaged);
(17) Martial arts studios;
(18) New car sales;
(19) Video arcades of more than five games; ~~and~~
(20) Other uses which, in the opinion of the Commission, are of a similar nature;
(21) Any use permitted in any R zone, except single family dwellings;~~.~~
(22) Single Room Occupancy Units.

(D) The stores, shops, and businesses specified in this section shall be retail establishments selling merchandise exclusively and shall be permitted only under the following conditions:

(1) Products made incidental to a permitted use shall be sold at retail on the premises; and

(2) All public entrances to such stores, shops, or businesses shall be from the principal street upon which the property abuts or within 50 feet thereof, except that a rear or side entrance from the building to a public parking area may be provided; and

(E) Signs appurtenant to any permitted use may be erected in the C-1 zone subject to all the laws, rules, and regulations of the city pertaining to signs.

§ 10-3.803 SITE AREA.

The minimum lot area for each main building shall be 2,000 square feet.

§ 10-3.804 HEIGHT OF STRUCTURES.

The maximum height of any building shall be 50 feet.

§ 10-3.805 YARD REQUIREMENTS.

(A) Front yards. There shall be no requirements for front yards, except where the frontage in a block is partially in an zone, in which case the front yard shall be the same as required in such R zone.

(B) Side yards. There shall be no requirements for side yards, except where the side of a lot abuts upon the side of a lot in a R zone, in which case the side yard shall be not less than ten feet.

(C) Rear yards. There shall be no requirements for rear yards, except where the rear of a lot abuts on a R zone, in which case the rear yard shall be not less than ten feet.

HEAVY COMMERCIAL ZONES

§ 10-3.901 C-2 ZONES.

The regulations set forth in this subchapter shall apply in the C-2 Heavy Commercial zone, unless otherwise provided in this chapter.

§ 10-3.902 USES PERMITTED.

(A) The following uses shall be permitted in the C-2 zone:

(1) Any use permitted in the C-1 zone.

(2) Wholesale stores and storage within buildings.

(3) Building material yards.

(4) Lumber yards.

(5) Used secondhand merchandise within enclosed buildings.

(6) Emergency shelter as provided in § 10-3.422.

(7) Cannabis and Cannabis Product Retail Sales as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(8) Low Barrier Navigation Centers.

(9) Supportive Housing.

(10) Transitional Housing.

(B) The following uses shall be permitted subject to ~~approval by the~~ an Administrative Approval ~~Zoning Administrator~~:

(1) Temporary outdoor display of merchandise and sales activities.

(2) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.

(C) The following uses subject to first securing a Use Permit in each case:

(1) Auto wrecking;

(2) Bottling works;

(3) Contractor's yards;

(4) Farm supply store;

(5) Junk yards;

(6) Machine shops;

(7) Planing mills;

(8) Outdoor storage of goods and materials;

(9) Trailer coach camps;

(10) Auction facilities;

(11) Self-service car washes as either a primary or accessory use;

(12) Any use permitted in any R zone;

(13) Adult oriented businesses as provided in § 10-7.01 of this title; and

(14) Other uses, which in the opinion of the Commission are of a similar nature;~~.~~

(15) Single Room Occupancy Units.

(D) Light manufacturing, including the manufacture of clothing, novelties, and toys, and uses which in the opinion of the Commission are of a similar nature, and all subject to first securing a use permit in each case; and

(E) Signs appurtenant to any permitted use may be erected in the C-2 zone subject to all the laws, rules, and regulations of the city pertaining to signs.

§ 10-3.903 SITE AREA.

The minimum lot area for each main building shall be 2,000 square feet.

§ 10-3.904 HEIGHT OF STRUCTURES.

The maximum height of any building shall be 65 feet, provided that additional height may be permitted if a use permit is first secured.

§ 10-3.905 YARD REQUIREMENTS.

The requirements for front, side, and rear yards shall be the same as apply in C-1 zones.

§ 10-3.906 TRAILER CAMP SITE REQUIREMENTS.

No trailer coach shall be used as a place of habitation upon any premises other than a site capable of serving at least ten trailer coaches. The site shall provide for each of the trailer coaches an unoccupied rectangular space of not less than 25 × 25 feet, or its equivalent of 500 square feet when arranged in rows abutting or facing upon a driveway or clear unoccupied space of not less than 20 feet in width, which driveway or space shall have an unobstructed access to a public street or alley. When so arranged, no trailer coach shall be within 25 feet of any public street, alley, or exterior boundary of any campground area.

RESTRICTED COMMERCIAL ZONE

§ 10-3-9.101 C-R ZONE; PURPOSE AND APPLICATION.

This zone is designed to provide limited commercial development complimentary to, and compatible with, residential neighborhoods. Uses are limited and standards are provided to encourage commercial uses beneficial to the immediate neighborhood. It is generally intended that this zone be applied to properties along collector streets on a limited basis.

§ 10-3-9.102 PERMITTED USES.

(A) Residential structures as provided for in the R-1 zone, other than single family dwellings, along with customary accessory buildings;

(B) Professional offices;

(C) Retail sales of new merchandise exclusively and personal service establishments within a building, wherein the floor area of an individual business does not exceed 3,000 square feet and the total floor area of a structure(s) does not exceed 8,000 square feet per parcel and including the following uses:

(1) Bakeries, limited to retail sales on the same premises;
(2) Barber shops;
(3) Beauty salons;
(4) Bicycle repair and sales;
(5) Book and video rental stores;
(6) Clothing stores and boutiques;
(7) Candy stores;
(8) Dressmaking, tailor, and millinery shops;
(9) Dry cleaners and laundries, non-industrial;
(10) Florist shops;
(11) Food stores;
(12) Home occupations pursuant to § 10-3.405(H);
(13) Laundromats;
(14) Locksmiths;
(15) Pharmacies;
(16) Small appliance repair;
(17) Art galleries;

(18) Hobby, craft, and ceramic shops in which items are sold on the premises;
(19) Shoe sale and repair shops; ~~and~~
(20) Other retail businesses or retail commercial enterprises which are similar in character or render neighborhood commercial services, and are not more detrimental to the welfare of the neighborhood in which located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.
(21) Low Barrier Navigation Centers;
(22) Supportive Housing; and
(23) Transitional Housing.

§ 10-3-9.102.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL~~ZONING ADMINISTRATOR'S PERMIT~~.

(A) The following uses shall be permitted subject to an Aadministrative Aapproval~~approval by the Zoning Administrator~~:
(1) Commercial use of buildings once used for residential purposes.
(2) Gas and electric transmission lines, electrical transmission and distribution substations, gas regular stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.
(3) Temporary outdoor display of merchandise and outdoor sales activities.

§ 10-3-9.103 CONDITIONAL USES.

(A) The following uses shall be permitted in the Restricted Commercial Zone with a Use Permit:
(1) Residential structures as provided for in the R-2 zone along with customary accessory buildings;
(2) Day care and child care centers;
(3) Liquor stores;
(4) Restaurants and cafes; sales of alcoholic beverages permitted only with the service of food;
(5) Sale of fuel, only in conjunction with food stores;
(6) Structure(s) in excess of 8,000 square feet of floor area but no greater than 12,000 square feet per parcel;
(7) Businesses with floor area in excess of 3,000 square feet.

§ 10-3-9.104 SITE AREA.

The minimum lot area for interior lots shall be 5,000 square feet for each building or group of buildings with a minimum lot width of 50 feet. The minimum lot area of corner lots shall be 6,000 square feet.

§ 10-3-9.105 BUILDING HEIGHT.

No building or structure shall have a height greater than 24 feet.

§ 10-3-9.106 YARD REQUIREMENTS.

(A) Front yard. Ten feet;
(B) Street side yard. Ten feet;
(C) Interior side yard. None except when adjacent to an R or PD zone or adjacent to a residential use in which case the setback shall be five feet;

(D) Rear yard. There shall be no minimum rear yard provided, however, that when a C-R zone abuts an R or PD zone, a rear yard shall be provided as specified in § 10-3.508.

§ 10-3-9.107 OUTSIDE EQUIPMENT.

All roof and wall appurtenances, such as ducts and vents, all mechanical equipment, electrical boxes, meters, pipes, transformers, air conditioners, and all other equipment on the roof or walls of any building shall be completely screened from view with materials compatible with the main buildings on the subject property. Such equipment shall be constructed in such a manner that noise emanating from them shall not be discernible beyond the property lines of the subject property.

§ 10-3-9.108 ENCLOSURE OF TRASH AND STORAGE AREAS.

All trash and storage areas shall be screened from view by a decorative masonry block wall or other materials architecturally compatible with the main buildings of the development. Access to such areas shall be closed at all times except during loading and unloading.

§ 10-3-9.109 TIME FOR PICK-UP AND DELIVERY.

Pick-ups, deliveries, and parking lot sweeping shall be allowed only between 7:00 a.m. and 10:00 p.m. where residential uses abut the property.

§ 10-3-9.110 LANDSCAPING.

(A) In addition to parkstrips in the public right-of-way, perimeter landscaping shall be provided in front and street-side yards at an average width of eight feet along street frontages, exclusive of driveways and walkways, but in no case may the landscape area width be less than four feet.

(B) In addition to perimeter landscape areas, 5% of all parking areas shall be landscaped.

(C) The provisions of the City's Approved Street Tree List for tree types and spacing shall be followed for tree planting in parkstrips and perimeter landscape areas unless an alternate plan, consistent with the intent of this provision, is approved by the Community Development Director.

(D) All landscape areas shall be planted so as to have at least 75% vegetative coverage within three years of planting.

(E) All landscape areas shall be fitted with an automatic irrigation system.

(F) All landscape areas shall be maintained.

NEIGHBORHOOD COMMERCIAL ZONES

§ 10-3-9.201 C-N ZONES; PURPOSE AND APPLICATION.

The regulations set forth in this subchapter shall apply in the C-N, Neighborhood Commercial zone, unless otherwise provided in the chapter. Neighborhood commercial centers are intended primarily to meet the everyday convenience needs of people residing within surrounding residential neighborhoods for

retail convenience goods and personal services. A NEIGHBORHOOD CENTER would typically be anchored by a supermarket, with other stores and shops for drugs, liquor, deli, bakery goods, ice cream shop, gift shop, coffee shop, café, fast food, sandwich shop, or hardware. Services might include small appliance repair, barber, beauty salon, self-service laundry, dry cleaning, shoe repair, and exercise and diet centers. Office services might include medical, dental, accounting, insurance, and a variety of other business and professional services oriented toward household needs. Public and semi-public uses might include a branch library, senior center, day care, lodges, churches, and small education and training centers.

§ **10-3-9.202 PERMITTED USES.**

(A) The following retail stores of less than 10,000 square feet gross floor area, offices, and services:

(1) Apparel stores and boutiques;
(2) Art galleries;
(3) Arts and crafts studios;
(4) Automobile parts and supply stores;
(5) Bakeries (retail sales on premises);
(6) Barber shops and beauty salons;
(7) Bicycle sales and repair shops;
(8) Book stores;
(9) Candy stores;
(10) Clothes cleaning establishments (pickup and delivery only);
(11) Clinics (medical and dental);
(12) Electrical appliance repair shops (small appliances only);
(13) Florists;
(14) Food stores and delicatessens;
(15) Garden supplies and plant nurseries;
(16) Hardware stores;
(17) Hobby supplies and crafts stores;
(18) Locksmith and key shops;
(19) Newspaper and magazine stands;
(20) Pharmacies;
(21) Photography studios;
(22) Professional offices;
(23) Restaurants and cafes;
(24) Self-service laundry establishments;
(25) Shoe sales and repair shops;
(26) Tailoring and dressmaking shops;
(27) Video tape rentals and sales stores;
(28) Variety stores;
(29) Video arcades of five or fewer games.
(30) Residential uses on the same site as a permitted commercial use, consisting of a ~~one-family~~two residential dwelling units above the first floor or on the rear half of the same lot;
(31) Other retail businesses or retail commercial enterprises or services which are similar in character or meet the intent of the zone, and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.
(32) Low Barrier Navigation Centers.
(33) Supportive Housing.

(34) Transitional Housing.

§ 10-3-9.202.1 USES ALLOWED WITH ~~A~~ ADMINISTRATIVE APPROVAL~~ZONING ADMINISTRATOR'S PERMIT~~.

(A) The following uses shall be permitted subject to ~~approval by the~~an Administrative Approval ~~Zoning Administrator~~.

(1) ~~Detached S~~single-family dwelling in conjunction with a principle permitted use.

(2) Gas and electric transmission lines, electrical transmission and distribution substations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.

(3) ~~(3)~~ Temporary outdoor display of merchandise and outdoor sales activities.

(4) Residential uses on the same site as a permitted commercial use, consisting of up to six residential dwelling units above the first floor or on the rear half of the same lot.

§ 10-3-9.203 CONDITIONAL USES.

(A) The following uses shall be permitted in the Neighborhood Commercial Zone with a Use Permit:

(1) Retail stores listed above containing more than 10,000 square feet of gross floor area;

(2) Local governmental offices;

~~(3) One single-family dwelling not in conjunction with a principal permitted use;~~

(~~4~~3) Service stations (no engine repair);

(~~5~~4) Parks, playgrounds, schools;

(~~6~~5) Bowling lanes;

(~~7~~6) Churches;

(~~8~~7) Private clubs and lodges;

(~~9~~8) Fast food restaurants with drive-through facilities;

(~~10~~9) Liquor stores (packaged);

(~~11~~10) Video arcades of more than five games; and

(~~12~~11) Other retail businesses or retail commercial enterprises or services determined by the Planning Commission to be similar in character or meet the intent of the zone, and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.

(13) Single Room Occupancy Units.

(14) Residential uses on the same site as a permitted commercial use, consisting of up to ten residential dwelling units above the first floor or on the rear half of the same lot.

§ 10-3-9.204 LIMITATIONS ON USE.

(A) No businesses dealing in wholesale or used goods or commodities shall be permitted, except in the case of articles taken in trade on sale of new merchandise on the same premises.

(B) All business shall be conducted entirely within a wholly enclosed building, excepting uses customarily conducted in the open.

(C) No products shall be made on site unless incidental to a permitted use and sold at retail on the same premises.

§ 10-3-9.205 SITE AREA.

The minimum lot area for interior lots shall be 5,000 square feet for each building or group of buildings with a minimum lot width of 50 feet. The minimum lot area for corner lots shall be 6,000 square feet.

§ 10-3-9.206 BUILDING HEIGHT.

No building structure shall have a height greater than 35 feet.

§ 10-3-9.207 YARD REQUIREMENTS.

(A) Front yard. Ten feet, except when adjacent to an R or PD zone or adjacent to a residential use, in which case the setback shall be 15 feet.

(B) Street-side yard. Ten feet, except when adjacent to the front yard of a residential use or a property in an R or PD zone, in which case the setback shall be 15 feet.

(C) Interior side yard. None, except when adjacent to an R or PD zone, in which case the setback shall be five feet.

(D) Rear yard. None, except when immediately adjacent to an R or PD zone, in which case a rear yard shall be provided as specified in § 10-3.508(D).

§ 10-3-9.208 OUTSIDE EQUIPMENT.

(A) All roof and wall appurtenances, such as mechanical equipment, electrical transformers, air conditioners, and all other equipment on the roof or walls of any building shall be completely screened from view from public streets with materials compatible with the main buildings on the subject property. Such equipment shall be constructed in such a manner that noise emanating from them shall not be discernible beyond the property lines of the subject property.

(B) All trash and storage areas shall be screened from view from public streets by a decorative masonry block wall or other materials architecturally compatible with the main buildings of the development. Access to such areas shall be closed at all times, except during loading and unloading.

§ 10-3-9.209 LANDSCAPING AND FENCING.

(A) In addition to any landscaping in the public right-of-way, perimeter landscaping shall be provided in front and street side yards at an average width of eight feet along the street frontages, exclusive of driveways and walkways, but in no case may the landscape area width be less than four feet.

(B) In addition to perimeter landscape areas, 5% of all parking areas shall be landscaped.

(C) The provisions of the City's Approved Street Tree List for tree types and spaces shall be followed for tree planting in parkstrips and perimeter landscape areas unless an alternative plan is approved by the Community Development Director.

(D) All landscape areas shall be planted so as to have at least 75% coverage within three years of planting.

(E) All landscape areas shall be fitted with an automatic irrigation system.

(F) Perimeter masonry fencing with a minimum height of eight feet shall be required adjacent to any R or PD zone in accordance with § 10-3.412.

HIGHWAY COMMERCIAL ZONES

§ 10-3-9.301 C-H ZONES; PURPOSE AND APPLICATION.

The regulations set forth in this subchapter shall apply in the C-H, Highway Commercial zone, unless otherwise provided in the chapter. This zone is designed to provide for businesses or services which rely on visibility from highways and/or serve the needs of the traveling public. It is intended to encourage development of open, uncrowded, and attractive projects that will enhance the major thoroughfares on which they are located. Small scale businesses and general commercial uses that do not fit this criteria would not be allowed. Uses that generally are dependent on a regional as well as the local population for their support are allowed. It is intended that areas with this designation would have good highway access and would not be developed until all urban services are available.

§ 10-3-9.302 PERMITTED USES.

(A) The following uses shall be permitted in the Highway Commercial Zone:
(1) Hotels, motels;
(2) Restaurants, coffee shops;
(3) Motorcycle sales and service shops;
(4) Auto service stations with accessory repair and maintenance;
(5) Bus depots and transit stations;
(6) Automotive sales new and used;
(7) RV sales and service facilities;
(8) Mini-storage facilities;
(9) Utility trailer sales establishments;
(10) Boat sales and service centers;
(11) Furniture and large appliance stores;
(12) Factory outlet shopping centers;
(13) Mobile homes sale establishments (new only);
(14) Government or other public services establishments that require convenient freeway access:
(15) Single bay, fully automatic car wash accessory to a permitted use;
(16) Full-service car washes as independent and primary land uses; and
(17) Other retail businesses or retail commercial enterprises or services which are similar in character and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.

§ 10-3-9.302.1 USES ALLOWED WITH ADMINISTRATIVE APPROVAL~~ZONING ADMINISTRATOR PERMIT~~.

(A) The following uses shall be permitted subject to an Administrative Approval~~approval by the Zoning Administrator~~:
(1) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.

§ 10-3-9.303 CONDITIONAL USES.

(A) The following uses shall be permitted with a Use Permit:
(1) Drive-in theaters;

(2) Overnight RV and travel trailer parks;
(3) Truck stops and terminals;
(4) Truck sales and services establishments;
(5) Auto repair garages and car washes;
(6) Bowling lanes;
(7) Fuel storage and distribution facilities;
(8) Farm machinery sales and services establishments;
(9) Fast food restaurants with drive-through facilities;
(10) Self-service car wash facilities as either primary or accessory uses; and
(11) Other retail businesses or retail commercial enterprises or services determined by the Planning Commission to be similar in character and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.

§ 10-3-9.304 ACCESSORY USES.

The following structures and uses shall be permitted in Highway Commercial zones when accessory to a use permitted by the provisions of this subchapter:
(A) Incidental sales in connection with a permitted use;
(B) Accessory uses and structures customarily appurtenant to a permitted use; and
(C) Recreational facilities for employees and guests.

§ 10-3-9.305 LIMITATIONS ON USE.

(A) No uses shall be permitted in a C-H zone which may be obnoxious or offensive by reason of odor, dust, gas, smoke, noise, vibration, heat, glare, or hazards of similar nature.
(B) All sales activities, other than vehicular related businesses, shall be conducted entirely within a wholly enclosed building.

§ 10-3-9.306 SITE AREA.

The minimum lot area for interior lots shall be 5,000 square feet for each building or group of buildings with a minimum lot width of 50 feet. The minimum lot area for corner lots shall be 6,000 square feet.

§ 10-3-9.307 BUILDING HEIGHT.

No building or structure shall have a height greater than 50 feet, provided that additional height may be permitted if a use permit is first approved.

§ 10-3-9.308 YARD REQUIREMENTS.

(A) Front yard. Ten feet, except when adjacent to an R or PD zone or adjacent to a residential use, in which case the setback shall be 15 feet.
(B) Street side yard. Ten feet, except when adjacent to the front yard of a residential use or a property in an R or PD zone, in which case the setback shall be 15 feet.
(C) Interior side yard. None, except when adjacent to an R or PD zone or adjacent to a residential use, in which case the setbacks hall be five feet.
(D) Rear yard. None, except when immediately adjacent to an R or PD zone, in which case a rear yard shall be provided as specified in § 10-3.508(D).

(E) Whenever the side rear of a lot is adjacent to the right-of-way of Highway 99, the appearance of proposed uses must be considered relative to their orientation, architecture, building heights, lighting provisions, and sign programs. Such yard area shall be a minimum of 40 feet.

§ 10-3-9.309 OUTSIDE EQUIPMENT.

(A) All roof and wall appurtenances, such as mechanical equipment, electrical transformers, air conditioners, and all other equipment on the roof or walls of any building shall be completely screened from view from public streets with materials compatible with the main buildings on the subject property. Such equipment shall be constructed in such a manner that noise emanating from them shall not be discernible beyond the property lines of the subject property.

(B) All trash and storage areas, except from vehicular sales display areas, shall be screened from view from public streets by a decorative masonry block wall or other materials architecturally compatible with the main buildings of the development. Access to such areas shall be closed at all times, except during loading and unloading.

§ 10-3-9.310 LANDSCAPING AND FENCING.

(A) In addition to any landscaping in the public right-of-way, perimeter landscaping shall be provided in front and street side yards at an average width of eight feet along the street frontages, exclusive of driveways and walkways, but in no case may the landscape area width be less than four feet.

(B) In addition to perimeter landscape areas, 5% of all parking areas shall be landscaped.

(C) The provisions of the City's Approved Street Tree List for tree types and spacing shall be followed for tree planting in parkstrips and perimeter landscape areas unless an alternate plan is approved by the Community Development Director.

(D) All landscape areas shall be planted so as to have at least 75% coverage within three years of planting.

(E) All landscape areas shall be fitted with an automatic irrigation system.

(F) Perimeter masonry fencing with a minimum height of eight feet shall be required adjacent to any R or PD zone in accordance with § 10-3.412.

WEST YOSEMITE AVENUE OVERLAY ZONE (WY)

§ 10-3-9.401 PURPOSE.

The purpose and intent of this WY Overlay zone is:

(A) To provide for the orderly transition of the West Yosemite Avenue area from residential to nonresidential uses consistent with the General Plan;

(B) To recognize, maintain, and enhance the West Yosemite Avenue streetscape and architectural character of the neighborhood;

(C) To maximize the compatibility of uses and maintain the value of property during the transition period through the establishment of development standards and review procedures.

§ 10-3-9.402 APPLICABILITY.

(A) This zone is intended to be applied to all properties adjacent to West Yosemite Avenue between J and Q Streets for a lot depth not to exceed 175 feet.

(B) To accomplish the stated purpose and intent, this overlay zone shall be combined with all zones except the R-1 zone. It is to be applied in conjunction with any zone change in the applicable area.

(C) Any property rezoned from R-1 prior to the effective date of the subchapter shall not be further rezoned nor shall a new use be made of the property until the WY Zone is applied.

§ 10-3-9.403 USE PERMITS REQUIRED.

(A) In addition to uses which require a use permit in the underlying zone, all new construction, major exterior change, alteration, or addition shall be subject to a use permit. Applications for use permits shall be accompanied by detailed site and landscape plans. Building elevation and a list of exterior building materials will be required for new construction, exterior remodeling, and building additions.

(B) The Planning Commission will review applications for their compliance with the purpose and development standards of the zone.

§ 10-3-9.404 DEVELOPMENT STANDARDS.

The following development standards apply to all properties in the WY Overlay zone and shall supersede the requirements of the underlying zone.

(A) Setbacks.

(1) Front yard. 15 feet.

(2) Side yard.

(a) Interior five feet, exterior street side yard ten feet.

(b) Except in no event may any structure or parking area be placed within 15 feet of the West Yosemite right-of-way.

(3) Rear yard. Ten feet with no windows or two feet per vertical foot of building height measured at the top of highest window, whichever is greater.

(B) Parking.

(1) Off-street parking space requirements shall be those set forth in the Off-Street Parking Regulations subchapter of this chapter, however, in no case shall there be less than five off-street spaces provided for nonresidential uses.

(2) No parking shall be provided in the required front yard or within the West Yosemite Avenue setback.

(3) No parking shall be permitted within the required landscape areas except as provided in subsection § 10-3-9.404(C) below.

(4) Parking areas shall be constructed to city standards.

(5) Access shall be provided between parking areas and business entries by means of a walkway of not less than three feet in width.

(6) Lighting shall be arranged to reflect away from premises on which any dwelling unit is located.

(C) Landscaping. The following minimum standards shall apply to properties in this zone:

(1) All required front yards and street-side yard setback areas, exclusive of walkways and driveways, shall be landscaped except that parking may encroach five feet into a required street side yard setback.

(2) A landscaped area of not less than four feet in width shall be provided along all interior side and rear property lines except where this requirement conflicts with an access driveway leading to the rear of the lot, such landscaping requirement may be reduced to assure adequate access with Planning Commission approval; or when adjacent parcels share driveways and or parking areas, the landscaping along affected portions of common lot lines may be waived.

(3) Screen planting and a six-foot solid fence or wall shall be provided along all interior side and rear property lines abutting an R zone. Shrubs and fences may not exceed three feet in the required front or street-side-yard.

(4) In addition to landscaping required in paragraphs § 10-3-9.404(C)(1) and (2) above, 5% of the parking area shall be landscaped.

(5) Shade trees shall be planted within the parking area to provide 40% shade at high noon with full foliage within five years of planting.

(6) Trees shall be a minimum size of five gallons at planting; shrubs shall be a minimum of one gallon.

(7) Retention and maintenance of existing trees is encouraged. No tree, located in the street right-of-way nor in a required front yard, which exceeds four feet in circumference at a height of three feet in height shall be removed without first obtaining the approval of the Planning Commission. In the event of an emergency, where the tree poses a threat to persons or property, the Planning Director may authorize the immediate removal of the tree.

(8) Vegetative matter shall cover 75% of the landscaped areas.

(9) All landscaping areas shall be fitted with an irrigation system and shall be maintained in accordance with the approved plan.

(10) All trash areas shall be enclosed utilizing materials compatible with the structure.

(D) Architectural character. Structural style, scale, and quality of design shall be such that it blends with and is complementary to adjacent structures and the character of the area. Building colors and materials; roof pitch height and materials; screening of exterior appurtenances; lighting; and window placement will be factors considered in the architectural review element of the use permit. It is not the intent of this zone to control architecture style so rigidly that individual initiative is hindered, but rather it is the intent that any control exercised be the minimum necessary to achieve the purpose and intent of this zone.

(E) Signs.

(1) The protection of the character of the streetscape is a stated purpose of this subchapter. Signage is to be kept to a minimum to protect the streetscape while allowing for adequate identification.

(2) Placement of signs if governed under § 10-6.05 (A) of this chapter except as otherwise specified in this section.

(3) The following sign criteria is established:

(a) Ground signs. One non-illuminated double-face ground sign for each parcel subject to the following provisions:

1. Maximum sign area and dimensions. Ground signs may not exceed eight square feet in area. The message area, including background area, shall not exceed a vertical height of two feet. The maximum sign height shall not exceed four feet above average ground level.

2. Sign placement. Perpendicular to the street; a minimum of three feet behind sidewalk.

3. Street number. Every ground sign must incorporate the street number into the message area. Such numbers may not be less than four inches in height and must be compatible with the style of the sign message.

4. Letters. Routed or raised-wood letters; color is at the option of the applicant/owner.

(b) Wall/window sign. One wall or window sign not exceeding three square feet in area for each business at each major business entrance door.

(c) Directional sign. To encourage maximum use of the off-street parking located at the rear of a parcel, a directional sign not exceeding two square feet shall be provided adjacent to the driveway or in conjunction with the ground sign. The materials shall be compatible with those of the ground sign and the sign height shall not exceed four feet.

(d) Nonconforming signs. Signs which became nonconforming upon application of the West Yosemite zone shall be brought into compliance at the time of any change to the sign other than routine maintenance.

§ 10-3.1001 I ZONES.

The regulations set forth in this subchapter shall apply in all I industrial zones unless otherwise provided in this chapter.

§ 10-3.1002 USES PERMITTED.

(A) The following uses shall be permitted in I zones:

(1) Animal hospitals, kennels and veterinarians;

(2) Automobile dismantling and use parts storage, provided such must be conducted wholly within a building;

(3) Boat-building works;

(4) Building materials, sales and storage;

(5) Dairy products processing;

(6) Dwelling for a caretaker or security guard and his immediate family, necessary and incidental to a use located in such zone;

(7) Electrical and electronic instruments, devices and appliances, manufacture and assembly;

(8) Garment manufacture;

(9) Ice and cold storage plants;

(10) Laboratory, experimental and testing;

(11) Machine shops;

(12) Pharmaceuticals and drugs, manufacture;

(13) Prefabrication of buildings;

(14) Stone monument works;

(15) Textile manufacturing;

(16) Accessory buildings and uses customarily incidental to any of the above uses;

(17) Cultivation, distribution, manufacturing, testing labs as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(18) Retail only in conjunction with vertical integration business as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(19) Other retail and wholesale stores or storage and service establishments, light industrial and manufacturing uses determined by the Planning Commission to be similar in character and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.

(20) Low Barrier Navigation Centers;

(21) Supportive Housing; and

(22) Transitional Housing.

(B) Uses permitted with an Administrative Approval ~~Zoning Administrator's permit~~:

(1) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks.

(2) Food products manufacturing;

(3) Frozen food processing and storage;

(4) Fruit and vegetable canning, packing and processing;

(5) Furniture manufacture;

(6) Hatcheries;

(7) Wood products manufacturing, and;

(C) Any of the following industrial or manufacturing uses provided that those uses which in the opinion of the Commission may be of objectionable nature by reason of production of offensive odor, dust, smoke, fumes, noise, bright light, vibration, or involving the storage or handling of explosive or dangerous materials, and all the uses listed in this subsection, may be permitted only if a use permit is first secured in each case:

(1) All uses permitted in any R zone;

(2) Drilling for and/or removal of oil, gas, or other hydrocarbon substances;

(3) Commercial excavations of building or construction materials;

(4) Manufacture or storage of acid, cement, gas, inflammable fluids, glue, gypsum, lime or plaster of paris, refining of petroleum or its products, smelting of iron, tin, zinc, or other ores;

(5) Junk yards;

(6) Brewery;

(7) Poultry and rabbit processing;

(8) Automobile dismantling and use parts storage; and

(9) Nurseries (plant materials and supplies);

(10) Adult oriented businesses as provided in § 10-7.01 of this title;

(D) ~~Any type of dwelling~~A multifamily dwelling subject to first securing a use permit in each case; and

(E) Signs appurtenant to any permitted use may be erected in I zones subject to all the laws, rules, and regulations of the city pertaining to signs, including, but not necessarily limited to, the terms and provisions of § 10-3.415 of the General Provisions subchapter of this chapter pertaining to architectural control.

§ 10-3.1003 HEIGHT OF STRUCTURES.

The maximum height of any building shall be 65 feet; provided, however, additional height may be permitted if a use permit is first secured.

§ 10-3.1004 YARD REQUIREMENTS.

(A) Front yards. There shall be no requirements for front yards except where the frontage in a block is partially in a R zone in which case the front yard shall be the same as required in such R zone.

(B) Side yards. There shall be no requirements for side yards except where the side of a lot abuts upon the side of a lot in a R zone in which case the side yard shall not be less than ten feet.

(C) Rear yard. There shall be no requirements for rear yards except where the rear of a lot abuts on an R zone in which case the rear yard shall be not less than ten feet.

URBAN RESERVE ZONES (UR)

§ 10-3.10.501 UR ZONES.

The regulations in this subchapter shall apply in all Urban Reserve (UR) zones unless otherwise provided in this chapter.

§ 10-3.10.502 USES PERMITTED.

(A) The following uses shall be permitted in UR zones:

(1) Grazing and the raising of field crops, fruit and nut trees, vines, vegetables, horticultural specialties, and livestock;

(2) The curing, processing, packaging, and shipping of agricultural products produced upon the premises where such activity is carried on in conjunction with, or as part of, a bona fide agricultural operation;

(3) Single-family residences and farm employee housing which are incidental to a permitted use or conditional use;

(4) Incidental and accessory structures and uses located on the same site with a permitted use, including barns, stables, coops, tank houses, storage tanks, wind machines, windmills, silos, and other farm outbuildings; private garages and carports; one guest house or accessory living quarters without a kitchen for each residence on the site; and storehouses, garden structures, greenhouses, and the storage of petroleum products for the use of persons residing on the site;

(5) Irrigation and flood control facilities; and

(6) Home occupations.

(B) The following uses may be permitted by the Commission by the issuance of a conditional use permit:

(1) Agricultural service establishments primarily engaged in performing animal husbandry or horticultural services on a fee or contract basis, including plant nurseries and landscape gardening; landscape contracting; offices of veterinarians; animal hospitals; poultry farms; boarding and training horses; feed lots; and hog farms;

(2) Public and private charitable institutions, hospitals, sanitariums, rest homes, nursing homes, and cemeteries;

(3) Commercial stables and riding academies;

(4) Public and quasi-public uses of an educational, administrative, recreational, public service, cultural, or religious type;

(5) Private and noncommercial clubs and lodges;

(6) Sewage treatment plants;

(7) Signs appurtenant to any permitted use may be erected in UR zones subject to all the laws, rules, and regulations of the city pertaining to signs, including, but not necessarily limited to, the terms and provisions of § 10-3.415 of the General Provisions subchapter of this chapter pertaining to architectural control; and

(8) Trailer parks, subject to the limitations of § 10-3.906 of the Heavy Commercial zones of this chapter, providing public water and sewer systems are utilized.

§ 10-3.10.503 SPECIAL CONDITIONS.

(A) Any use involving a business, service, or process not completely enclosed in a structure shall be screened by a solid fence or masonry wall or a compact growth of natural plant materials six feet in height if the Commission finds such use to be unsightly.

(B) No conditional use shall be permitted and no process, equipment, or materials shall be used which are found by the Commission to be objectionable or injurious to property, crops, or livestock in the vicinity by reason of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, or unsightliness, or to involve any hazard of fire or explosion.

§ 10-3.10.504 SITE AREA.

(A) The minimum site area shall be 20 acres for permitted uses.

(B) On conditional uses the minimum site area shall be specifically stated on the use permit.

(C) Each site shall have not less than five acres of lot area for each dwelling unit located on the site. This shall not be construed to disallow the placing of the permitted dwelling units all in one area of the site.

§ 10-3.10.505 YARD REQUIREMENTS.

(A) Front yard. The minimum front yard shall be 50 feet.
(B) Side yard. The minimum side yard shall be five feet except that on the street side of a corner lot the yard shall be not less than 40 feet.
(C) Rear yard. The minimum rear yard shall be 20 feet.

§ 10-3.10.506 HEIGHT OF STRUCTURES.

(A) The maximum height of a building or structure for a permitted use shall be 35 feet subject to the exception that barns, tank houses, storage tanks, windmills, and silos may exceed 35 feet in height.
(B) The maximum height of a structure occupied by a conditional use and its accessory structures shall be determined by the provisions of the use permit.

§ 10-3.10.507 DISTANCE BETWEEN BUILDINGS.

The minimum distance between dwellings or dwellings and accessory structures shall be ten feet. The minimum distance between dwellings and accessory structures in which livestock or poultry is kept shall be 50 feet.

UNCLASSIFIED ZONES (U)

§ 10-3.1101 U ZONES.

The regulations set forth in this subchapter shall apply in all Unclassified (U) zones unless otherwise provided in this chapter. (Any land within the city and not designated or indicated on the zoning maps shall be in the U zone.)

§ 10-3.1102 USES PERMITTED.

All uses not otherwise prohibited by law shall be permitted provided that a use permit shall first be secured for any use to be established in any U zone.

§ 10-3.1103 SITE AREA; HEIGHT OF STRUCTURES; YARD REQUIREMENTS.

Building site area requirements, building height limits, and yard requirements shall be as specified in the use permit.

INDUSTRIAL PARK ZONES (IP)

§ 10-3.11.501 IP ZONES.

The regulations set forth in this subchapter shall apply in all Industrial Park (IP) zones unless otherwise provided in this chapter.

§ 10-3.11.502 PURPOSE.

The purpose of the regulations set forth in this subchapter is to provide a set of regulations which will insure the creation of an environment exclusively for, and conducive to, the development and protection of modern, large-scale administrative facilities, research institutions, specialized manufacturing organizations, and distributions centers for major retail outlets, all of a type in which the architecture, landscaping, and operations of the uses are such that each is a credit to the other, and investments in well-designed and maintained plants and grounds are secured by the maintenance of the highest standards throughout the district.

§ 10-3.11.503 PERMITTED USES.

(A) The following uses shall be permitted in IP zones:

(1) Apparel and other finished products made from fabrics and similar materials;

(2) Books, newspaper and magazine printing and publishing and allied industries;

(3) Electrical and electronic instruments, machinery, equipment and supplies manufacturing;

(4) Furniture and fixture manufacturing;

(5) Fabricated metal products manufacturing, except ordnance machinery and transportation equipment;

(6) Leather and leather products;

(7) Textile mill products;

(8) Professional, scientific, and controlling instruments;

(9) Photographic and optical goods;

(10) Watches and clocks.

(11) Cultivation, distribution, manufacturing, testing labs as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(12) Retail only in conjunction with vertical integration business as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

§ 10-3.11.503.1 USES REQUIRING AN ADMINISTRATIVE APPROVAL ~~ZONING PERMIT~~.

(A) Uses permitted with an Administrative ~~Zoning Administrator's permit~~Approval:

(1) Gas and electric transmission lines, electrical transmission and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and elevated pressure tanks;

(2) Chemicals and allied product manufacturing;

(3) Rubber and miscellaneous plastics manufacturing;

(4) Processing, warehousing and wholesale distribution of food and kindred products manufacture.

§ 10-3.11.504 ACCESSORY USES.

The following structures and uses shall be permitted in IP zones when accessory to a use permitted by the provisions of this subchapter:

(A) Incidental sales in connection with a permitted use;

(B) Accessory uses and structures customarily appurtenant to a permitted use; and

(C) Recreational facilities for employees and guests.

§ 10-3.11.505 USES REQUIRING USE PERMITS.

(A) The following uses shall be permitted with a Use Permit:

(1) Warehousing and wholesale distribution of manufactured or assembled products; and

(2) Any research or light manufacturing use which is determined by the Commission to be consistent with the purposes of this subchapter, which will not impair the present or potential uses or values of adjacent parties nor be detrimental to the public health, safety, peace, morals, comfort, or general welfare of the community, and which conforms to the performance standards set forth in this subchapter.

§ 10-3.11.506 PERFORMANCE STANDARDS.

All uses in IP zones shall meet the following performance standards.

(A) Noise. The maximum sound pressure level of activities other than street or highway transportation, temporary construction work, or temporary oil or gas drilling or exploration operations, as determined by the City Engineer, shall not exceed the standards for octave bands within the frequency limits given below after applying the correction factors:

(1) Noise at zone boundaries. At no point on the boundary of an IP zone shall the sound pressure level of any individual operation, use, or plant exceed the decibel levels in the designated octave bands set forth below:

Octave Band Cycles Per Second	Maximum Permitted Sound Level in Decibels (.0002 Dynes/cm2)

Octave Band Cycles Per Second	Maximum Permitted Sound Level in Decibels (.0002 Dynes/cm2)
0 - 75	72
75 - 150	67
150 - 300	59
300 - 600	52
600 - 1,200	46
1,200 - 2,400	40
2,400 - 4,800	34
Above 4,800	32

(2) Noise at property lines. At no point on the lot lines of any property shall the sound pressure level of any individual operation, use or plant exceed the decibel levels in the designated octave bands shown below:

Octave Band Cycles Per Second	Maximum Permitted Sound Level in Decibels (.0002 Dynes/cm2)

Octave Band Cycles Per Second	Maximum Permitted Sound Level in Decibels (.0002 Dynes/cm2)
0 - 75	80
75 - 150	75
150 - 300	70
300 - 600	64
600 - 1,200	58
1,200 - 2,400	53
2,400 - 4,800	49
Above 4,800	46

(3) Corrective factors in noise measurement. To any irregular or impulsive noise, one or more of the following corrective factors shall be added to the values permitted sound level:

Character of Noise	Correction in Decibels
Occurs between 10:00 p.m. and 7:00 a.m.	Minus 10
Noise source operates less than a total of 30 minutes in any day	Plus 10
Noise of impulsive character, such as hammering	Minus 5

(B) Air pollution. There shall be no discharge into the atmosphere, from any source, of particulate matter in excess of 0.3 grams per cubic foot of gas at standard conditions. There shall be no emission of gas, smoke, particulate material, dust, or other air contaminants for a period or periods aggregating more than three minutes in any one hour which contaminants are:

(1) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart as published by the US Bureau of Mines; or

(2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection § 10-3.11.506(B)(1) of this subsection.

(C) Odor. Odors from gases shall not be in such quantity as to be offensive beyond the lot lines of the use.

(D) Vibration. Vibration from any machine, operation, or process shall not cause a perceptible motion at the lot lines.

(E) Glare and heat. Glare and heat from any source shall not be produced beyond the lot lines.

(F) Radioactivity and electrical disturbances. The use of radioactive materials within IP zones shall be limited to measuring, gauging, and calibration devices, such as tracer elements in X-ray and like apparatus, and in connection with the processing and preservation of foods. All electrical and electronic devices and equipment shall be suitably wired, shielded, and controlled so that in operation they shall not, beyond the lot lines, emit any electrical impulses or waves which will adversely affect the operation and control of any other electrical or electronic devices and equipment.

§ 10-3.11.507 HEIGHT REGULATIONS.

No structure in the IP zones shall exceed 50 feet in height except upon approval of a conditional use permit by the Planning Commission.

§ 10-3.11.508 LOT AREA.

The minimum building site area in IP zones shall be one acre.

§ 10-3.11.509 LOT WIDTH.

The minimum lot width in IP zones shall be 150 feet.

§ 10-3.11.510 LOT DEPTH.

The minimum average lot depth in IP zones shall be 150 feet.

§ 10-3.11.511 LOT COVERAGE.

Not more than 50% of the lot area in IP zones shall be covered with buildings.

§ 10-3.11.512 YARD REQUIREMENTS.

The following yards shall be required in IP zones:

(A) Front yards. Front yards shall have a minimum depth of 50 feet.

(B) Side yards. There shall be a minimum combined side yard width of 40 feet for both sides, and no one side yard shall have a width of less than ten feet. For every one foot the building exceeds 30 feet in height, one additional foot of side yard shall be required on each side. Side yards on the street side of corner lots shall be equal in depth to the front yard requirements set forth in subsection § 10-3.11.512(A) of this section.

(C) Rear yards. Rear yards shall have a minimum depth of 20 feet.

§ 10-3.11.513 USES IN BUILDINGS.

All uses in IP zones shall be conducted wholly within a completely enclosed building, except for off-street parking and loading, store age, and the disposal of trash and refuse.

§ 10-3.11.514 DISPOSAL FACILITIES.

Trash and refuse collection and disposal facilities in IP zones shall be enclosed by a solid fence or hedge no lower in height than the facilities themselves.

§ 10-3.11.515 OFF-STREET PARKING.

All vehicle parking, including trucks, trailers, and employee and visitor parking, in IP zones shall be provided on the premises. All parking areas shall be paved. Parking shall not be located in the required front yard or street side yard of a corner lot, except that a visitor parking area shall be permitted in the required front yard.

§ 10-3.11.516 STORAGE.

Outside storage in IP zones shall not be permitted unless concealed from the view from a public street by a solid fence or hedge.

§ 10-3.11.517 FENCES.

No fence shall be permitted in the required front yard or in the required side yard for the street side of corner lots in IP zones.

§ 10-3.11.518 OFF-STREET LOADING.

Off-street loading in IP zones shall be within the building or in side or rear yards separated and protected from any traveled way by a fence or hedge not less than six feet in height.

§ 10-3.11.519 LANDSCAPING.

A minimum of 15 feet of front and street side yards in IP zones shall be permanently landscaped.

§ 10-3.11.520 TYPE OF FUEL.

Manufacturing and industrial processes in IP zones shall use only natural gas or electricity as fuel unless otherwise authorized by a use permit.

§ 10-3.11.521 BUILDINGS.

(A) All buildings, except as noted in subsection § 10-3.11.521(B), (C), and (D) below, shall be subject to review and shall be approved by the Development Review Committee.

(B) Temporary buildings for temporary construction purposes are a permitted use.

(C) Temporary or portable-type buildings for uses other than that specified in subsection § 10-3.11.521(B) may be permitted subject to approval of a use permit by the Planning Commission. The use permit review shall consider the need for the building, the time frame for its use, the location of the building, its compatibility with surrounding uses, and provision of skirting and screening of axles and mechanical equipment.

(D) Notwithstanding subsection § 10-3.11.521(C), temporary buildings for a short-term use, not to exceed a total of nine months, may be permitted with approval from the Planning Director subject to the review considerations set forth in subsection § 10-3.11.521(C) above.

§ 10-3.11.522 SIGNS.

Each parcel of land in IP zones shall be permitted a maximum of two signs, with a total aggregate surface area of 250 square feet but not to exceed 150 square feet per sign. The sign height shall be 15 feet. Signs shall only identify the on-site operation and products. All signs shall be subject to review and shall be approved by the Development Review Committee. All signs shall be subject to review and approval as required by Chapter 6 of this title.
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SPECIFIC PLAN ZONES (SP)

§ 10-3.11.601 PURPOSE AND APPLICATION.

The purpose of the SP zone is to accomplish the following:
(A) To provide a framework for how to analyze project level development standards and permitted uses in the SP zone district; and
(B) To provide a framework and requirements for approving specific plans proposed in the city by establishing a development review framework for comprehensibly planned communities pursuant to Cal. Gov't Code §§ 65450 to 65457 for the preparation of specific plans.

§ 10-3.11.602 APPLICABILITY.

(A) For properties already zoned SP, the allowed uses, allowed density, and required property development standards shall be as outlined in the applicable specific plan. Where the regulations of a specific plan are silent or not specifically referenced, the comparable regulations of these zoning regulations and all adopted ordinances, regulations, standards, and guidelines of the city shall apply, subject to the Planning Director's discretion, unless otherwise declared by the Planning Commission.
(B) For properties proposed to be rezoned to the SP zone, a specific plan meeting the requirements outlined below is required and must be submitted concurrently with the rezone request. The SP zone, including all standards and processes, is available to all new development proposals within the city, except those areas within the city limits already regulated by an existing adopted specific plan and approved prior to the adoption of this subchapter. Those areas shall be exempt from this chapter, and all activities within such areas shall be subject to the existing standards and procedures of the applicable specific plan.
(C) All new SP zones must encompass an area of no less than five acres of contiguous property.

§ 10-3.11.603 SPECIFIC PLAN REQUIRED ELEMENTS.

A specific plan shall provide regulations and design standards governing the minimum and maximum development parameters of all real property within the proposed SP zone district. All specific plans prepared and adopted under §§ 10-3.11.601 et seq. shall be consistent with the requirements of Cal. Gov't Code § 65450 as amended, and shall include, at a minimum, the following:
(A) Purpose. State the relationship to the goals and policies of the General Plan.

(B) Setting. State the existing and regional setting to establish the conditions and reasons for the project.

(C) Proposed land uses. Establish the distribution, type, definitions of, and regulations for all proposed land uses. The uses described within the specific plan shall be designed and developed in a manner consistent with the General Plan and § 10-3.11.604 below.

(D) Development standards. Establish all regulating policies and include all of the following for all building types:

(1) Building height, setbacks, massing, and design standards;

(2) Lot area, width, depth, and structural limitations;

(3) Maximum number of dwelling units and the maximum residential density (of the Specific Plan area and any individual site or portion);

(4) Usable open space provisions and requirements within the development;

(5) Off-street parking and loading facilities;

(6) Design and development standards (architectural, landscape, streetscape, street furniture, utilities, fence/wall types, and the like), which may include design themes or similar architectural treatments to control future construction of buildings on parcels covered by the Specific Plan. Site planning at the perimeter of the zone boundaries shall provide for the mutual protection of the zone and the surrounding property;

(7) Signage requirements shall be addressed, either through Chapter 6 of Title 10 (Sign Regulations) or by a unique sign program codified in the specific plan; and

(8) All areas for storage of vehicles, maintenance equipment, refuse and collection facilities, manufactured products, or other similar materials used by or in a manufacturing/fabricating process on-site shall be prohibited or shall be enclosed by a decorative, block, or brick wall and/or landscape screening in combination.

(E) Site planning. Establish a comprehensive map of all major streets, open spaces, private and public property, and land uses for all affected property, consistent with the intent of the General Plan.

(1) Consider and preserve environmentally sensitive resources (water courses, view sheds, drainage areas, wooded areas, rough terrain [canyons, ravines, steep slopes, ridges, knolls, promontories], and other similar natural features) and make provisions to retain natural features and amenities found on-site.

(2) Provide landscape architectural concept plans and standards, including project entries, streetscapes, fencing details, lighting, signage, utility, and street furniture.

(F) Infrastructure. Identify the proposed distribution, extent, intensity, and location of major components of public and private circulation/transportation, drainage, energy, sewers, solid waste disposal, water, and other essential facilities proposed.

(1) Include written analysis detailing plans for the construction, improvement, or extension of transportation facilities, public utilities, and all other public facilities/services required to serve the properties.

(2) Dedicate all public right-of-ways and public park spaces within or abutting the development to applicable city specifications.

(3) Private streets and alleys shall be designed to public street standards (where applicable), or propose modifications, and be privately owned and maintained for their intended purpose without public cost or maintenance responsibility.

(4) Consideration of other forms of access, such as pedestrian ways, paseos, courts, plazas, driveways, horse trails, bike trails, or open public parking areas, may be made at the time of specific plan consideration by the city.

(G) Maintenance. Provisions assuring the continued maintenance of private property, grounds, and all common areas shall be required.

(H) Phasing. Specific plans developed in phases or neighborhoods over a period of time, not developed in a consecutive and uninterrupted manner, shall be required to process each phase or neighborhood through separate entitlement processes.

§ 10-3.11.604 ALLOWED LAND USES.

(A) All use of lands within the SP zones shall be compatible with the purpose and intent of these zoning regulations.

(B) All use of lands within the SP zones shall be consistent or made consistent with the General Plan Land Use Map, which may include varying densities of residential, commercial, and/or industrial development.

(C) A new specific plan shall be processed using the same procedure as a General Plan amendment as well as a change of zone boundaries per §§ 10-3.1501 et seq.

OFF-STREET PARKING REGULATIONS

§ 10-3.1201 GENERAL REQUIREMENTS.

(A) It is the purpose of this section to allow evaluation of off-street parking requirements for vehicles to prevent or lessen the traffic congestion and parking problems on public streets and to leave street parking available to persons making short-term visits for shopping, personal business and related activities. Off-street parking and off-street loading facilities shall be provided incidental to new land uses and major alterations and enlargements of existing land uses. Major land use development proposals will be expected to meet on-site parking requirements and, for customer satisfaction, should want to provide parking for their convenience. On-site parking is a normal part of land use development and satisfying Code requirement will be the rule and not the exception. Allowing large scale or high intensity land uses an exception to Code requirements, or to pay in-lieu fees, may have a tendency to over-load the city's existing parking inventory on at least a short-term basis, and in the case of some areas, exceed the city's ability to satisfy long-term needs. The number of parking spaces and the number of loading berths prescribed in this subchapter, or to be prescribed by the Planning Commission, shall be proportional to the need for such facilities created by the particular type of land use. Off-street parking and loading areas shall be laid out in a manner that will ensure their usefulness, protect the public safety, and, where appropriate, insulate surrounding land uses from their impact. The provisions of this subchapter are intended to:

(1) Provide clear standards for parking requirements;

(2) Provide parking requirements that are appropriate for specified land uses;

(3) Provide for flexibility in meeting parking requirements;

(4) Ensure that parking requirements are consistent with the land use goals of the community; and

(5) Discourage unnecessary curb cuts and the loss of on-street parking spaces through the construction of driveways downtown.

The provisions of this subchapter are also intended to deal with major problems, conditions, and needs which are apparent in attempting to provide sufficient off-street parking facilities in areas of intense commercial development, including:

(1) The difficulty in assembling land by private means;

(2) The often excessive time required in assembling land by private means;

(3) The varying financial capabilities and traffic generating characteristics among the various types of commercial enterprises;

(4) The importance of avoiding the development of a fragmented pattern of off-street parking facilities which may bear little relation to the needs of a commercial area as a whole;

(5) The importance of prescribing regulations which will not inadvertently discourage private investment within the community while alleviating or preventing traffic congestion; and

(6) The importance of achieving a reasonable distribution of burden among private interests and the public at large consistent with their individual and collective responsibilities to provide off-street parking and loading facilities.

(B) Every building hereafter erected in the city shall be provided with parking spaces as provided in § 10-3.1202 of this subchapter, subject to the other provisions of this subchapter. Such parking spaces shall be made available and shall be maintained for parking purposes according to the required use of the building.

(C) Every building hereafter reconstructed, remodeled, or structurally altered shall be provided with parking spaces as required by the new use of the building. The parking spaces required by this subsection shall be determined by subtracting the number of parking spaces required by the provisions of § 10-3.1202 of this subchapter for the building as used prior to its reconstruction, remodeling, or structural alteration from the number of spaces required by § 10-3.1202 for the building for its proposed use after its reconstruction, remodeling, or structural alteration. Such parking spaces shall be made available and shall be maintained for parking purposes according to the required use of the building. For buildings other than dwellings, if the number of parking spaces thus determined does not exceed the number of spaces required by the provisions of § 10-3.1202 for the building as used prior to its reconstruction, remodeling, or structural alteration by at least 10% or by five spaces, whichever is greater, no additional parking space need be provided by reason of the reconstruction, remodeling, or structural alteration of the building. In the event it is not possible to determine the number of parking spaces required for a particular building in the manner set forth in this subsection, the Commission shall determine an adequate number of parking spaces for such a building based on standards comparable to those set forth in § 10-3.1202.

§ 10-3.1202 PARKING SPACES REQUIRED.

Except as provided in § 10-3.1205 of this subchapter, the number of off-street parking spaces required shall be as follows:

Use	Parking Spaces Required	Downtown Parking District Standards
Residential Dwellings	1 space for each bachelor or one bedroom dwelling unit and 1.5 spaces for dwelling unit having more than one bedroom, with one covered space per unit.	Same
Multi-Family Housing Projects	In addition to parking spaces required in residential dwellings above, all projects with six or more units shall also provide off-street parking for visitors at locations reasonably central to the units to be served at a rate of one space for the first five units and one space for each five units thereafter.	Same
Senior citizen housing projects under § 10-3.5.1 Affordable Housing Density Bonus	One covered parking space for each unit, plus one guest parking space provided at the rate of one space for every four units, which shall be located in close	Same

proximity and easily accessible to the units they are designated to serve. Employee parking shall be provided at a rate of one space per every two employees. Parking for a manager's quarters shall be required at the standard residential rate. Sufficient additional open space area shall be provided to allow for compliance with standard residential rates should the project be converted in whole, or in part, for occupancy by other than senior citizens.

Use	Parking Spaces Required	owntown Parking District Standards
esidential Dwellings	aces for each bachelor or one bedroom dwelling unit and 1.5 spaces for dwelling unit having more than one bedroom. In each instance one space per unit must be covered.	Same
ılti-Family Housing Projects	dition to parking spaces required in residential dwellings above, all projects with six or more units shall also provide off-street parking for visitors at locations reasonably central to the units to be served.	Same
nior citizen housing projects under § 10-3.5.1 Affordable Housing Density Bonus	e cover parking space for each unit, plus one guest parking space provided at the rate of one space for every four units, which shall be located in close proximity and easily accessible to the units they are designated to serve. loyee parking shall be provided at a rate of one space per every two employees. Parking for a manager's quarters shall be required at the standard residential rate. fficient additional open space area shall be provided to allow for compliance with standard residential rates should the project be converted in whole, or in part, for occupancy by other than senior citizens.	Same

Use
Parking Spaces Required
Downtown Parking District Standards
Residential uses
Residential dwellings
1½ spaces for each bachelor or one bedroom dwelling unit and two spaces for dwelling unit having more than one bedroom. In each instance one space per unit must be covered.
Same

~~Multi-family housing projects~~

~~In addition to parking spaces required in residential dwellings above, all projects with six or more units shall also provide off-street parking for visitors at locations reasonably central to the units to be served at a rate of one space for the first four units and one space for each four units thereafter.~~

~~Same~~

~~Senior citizen housing projects under § 10-3.5.1 Affordable Housing Density Bonus~~

~~One cover parking space for each unit, plus one guest parking space provided at the rate of one space for every four units, which shall be located in close proximity and easily accessible to the units they are designated to serve.~~

~~Same~~

~~Employee parking shall be provided at a rate of one space per every two employees. Parking for a manager's quarters shall be required at the standard residential rate.~~

~~Sufficient additional open space area shall be provided to allow for compliance with standard residential rates should the project be converted in whole, or in part, for occupancy by other than senior citizens.~~

Use	Parking Spaces Required	Downtown Parking District Standards
Use	Parking Spaces Required	Downtown Parking District Standards
Rooming and lodging houses, fraternity and sorority houses, and private clubs having sleeping rooms	One space for each sleeping room.	Same
Motels	One space for each sleeping room, plus one space for each two employees.	Same
Hotels	One space for each three beds.	Same
Commercial and industrial uses		
Banks	One space for each 250 square feet of gross floor area.	Same
Business and professional offices	One space for each 300 square feet of gross floor area.	One space for each 450 square feet of gross floor area
Retail food stores	One space for each 250 square feet of gross floor area	One space for each 375 square feet of gross floor area
All other retail stores and personal service establishments, such as barber, beauty, and repair shops	One space for each 300 square feet of gross floor area	One space for each 450 square feet of gross floor area
Retail stores which handle only bulky merchandise, such as furniture, appliances, hardware, and similar establishments	One space for each 400 square feet of gross floor area, plus one space for each two employees.	One space for each 600 square feet of gross floor area

Motor vehicle sales, machinery sales, and auto repair garages	One space for each 400 square feet of gross floor area, plus one space for each two employees.	One space for each 600 square feet of gross floor area

Use	Parking Spaces Required	Downtown Parking District Standards

Use	Parking Spaces Required	Downtown Parking District Standards

Manufacturing, warehouses, storage uses, and wholesale houses	One space for each two employees, plus one space for each 300 square feet of office space and customer net floor area, plus one loading space for each 10,000 square feet of gross floor area.	One space for each two employees, plus one space for each 450 square feet of office space and customer net floor area, plus one loading space for each 10,000 square feet of gross floor area.
Places of assembly		
Establishments for the sale and consumption of food and beverages on the premises	One space for each three seats of a fixed nature, plus one space for each 50 square feet of net floor area available for non-fixed seating.	Same
Drive-in restaurants	One space for each three seats.	Same
Auditoriums	One space for each three seats.	Same
Theaters	One space for each five seats.	Same
Churches	One space for each four seats.	Same
Skating rinks, dance halls, and similar establishments	One space for each 50 square feet of net floor area used for dancing or skating or one space for each 200 square feet of gross floor area, whichever is greater.	Same
Libraries and museums	One space for each 400 square feet of gross floor area, plus one space for each two employees.	One space for each 600 square feet of gross floor area, plus one space for each two employees.
Mortuaries and funeral homes	One space for each vehicle used in conjunction with the establishment, plus one space for each two employees, plus one space for each four seats in the main chapel.	Same

Use	Parking Spaces Required	Downtown Parking District Standards

Use	Parking Spaces Required	Downtown Parking

		District Standards
All places of assembly without fixed seating, other than those uses set forth in establishments for the sale and consumption of food and beverages on the premises	One space for each 25 square feet of gross floor area used for assembly.	Same
Educational uses		
Elementary and junior high schools	One space for each faculty member and employee.	Same
High schools	One space for each individual employed on the campus, plus one space for each five students.	Same
Junior colleges, colleges, universities, and trade and draft schools	One space for each individual employed on the campus, plus one space for each two students not residing on the premises.	Same
Day care and nursery schools	One space for each employee	Same
School auditoriums, assembly halls, stadiums, and gymnasiums	One space for each three seats if such number will provide a greater number of spaces than set forth in elementary and junior high schools, high schools, and junior colleges, colleges, universities, and trade and draft schools.	Same
Health		
Medical and dental offices and clinics	Four spaces for each doctor, plus one space for each employee or one space for each 250 square feet of gross floor area, whichever is greater.	Same

Use	Parking Spaces Required	Downtown Parking District Standards
Use	Parking Spaces Required	Downtown Parking District Standards
Asylums, sanitariums, old-age homes, orphanages, convalescent homes, nursing homes, and children's homes	One space for each three beds plus one space for each two employees on the largest shift.	Same
Hospitals	One space for each two employees, plus one space for each doctor, plus one space for each three beds or one space for each 1,000 square feet of gross floor area, whichever is greater.	Same
Animal veterinary hospitals and clinics	Four spaces for each doctor, plus one space for each two employees.	Same

Public uses		
City, county, special districts, state, and federal administrative offices, excluding places of assembly	One space for each two employees, plus one space for each vehicle used in conjunction with the establishment, and one space for each 300 square feet of gross floor area.	Same
Public buildings and grounds, other than administrative offices and educational uses	One space for each two employees on the maximum work shift, plus the number of additional spaces prescribed by the Commission.	Same
Utility uses		
Electric distribution and transmission substations, gas regulator stations, sewage treatment plants, and other utility buildings and uses	One space for each two employees on the maximum work shift, plus one space for each 300 square feet of net floor open to the public.	Same

Use	Parking Spaces Required	Downtown Parking District Standards
Transportation facilities		
Airports, heliports, bus stations, truck terminals, and railroad stations and yards	One space for each two employees on the maximum work shift, plus the number of additional spaces prescribed by the Commission.	Same

§ 10-3.1203 PARKING REQUIREMENTS FOR USES NOT SPECIFIED.

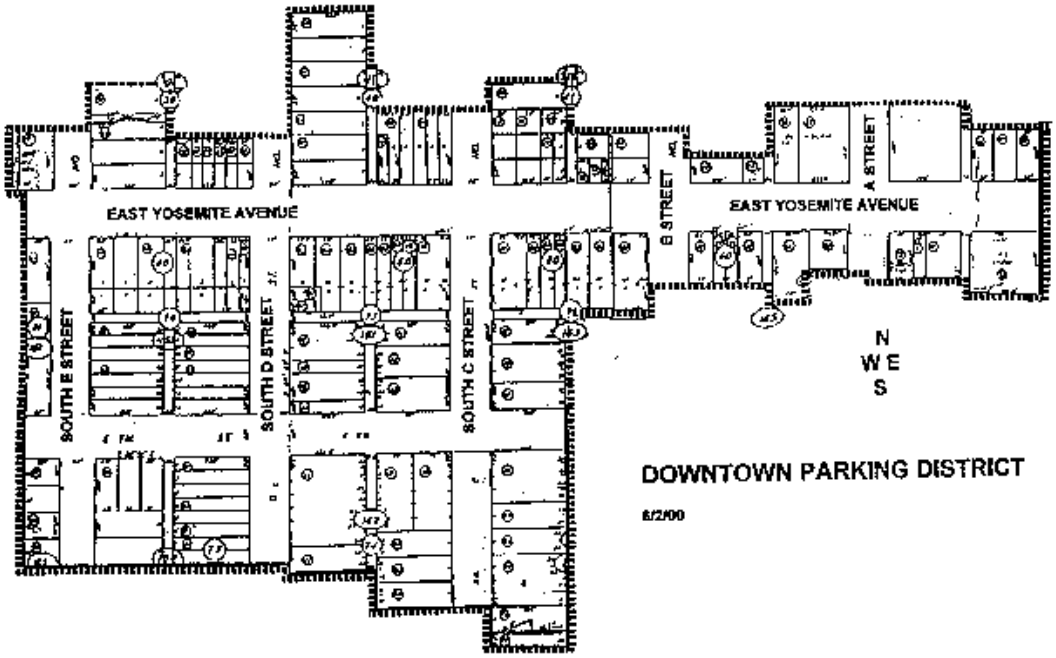
Where the parking requirements for a use are not specifically defined by this subchapter, the parking requirements for such use shall be determined by the Commission, and such determination shall be based upon the requirements for the comparable use specified in this subchapter.

§ 10-3.1204 IN LIEU PAYMENTS.

Within any parking district created under the Parking District Act of 1951 or any other Parking District Act approved by the City Council, in lieu of furnishing the parking spaces required by the provisions of this subchapter in case of the reconstruction, remodeling, or structural alteration of an existing building which has no existing off-street parking facilities or insufficient off-street parking facilities for its existing use, the parking requirements for such new, different, or expanded use may be satisfied by the payment to the city, prior to the issuance of a building permit, of the sum of $4,500 per parking space for each parking space required by the provisions of this subchapter. Such funds shall be deposited with the city in a special fund and shall be used and expended exclusively for the purpose of acquiring and developing off-street parking facilities located, insofar as practical, in the general vicinity of the buildings for which

the in lieu payments were made. Said parking fee shall be adjusted as required by the City Council based on the yearly increase in the Federal Consumers Price Index, or to more accurately reflect the cost of constructing off-street public parking facilities. Funds paid to the city for in-lieu parking shall not be refundable, in case of destruction or removal of the structure or land use for which the funds were paid. All in-lieu parking fees shall be paid prior to issuance of the first permit (any business license or building permit) for which the in-lieu fees are required.

(A) Downtown parking district.



(B) The determination for allowing payment of in-lieu fees for all or a part of the on-site parking otherwise required by the provisions of this subchapter shall be made by the Planning Commission on an individual basis in response to a request for exception filed by the applicant for the proposed new, different or expanded use. Parking adjustments provided under these provisions shall not decease the number of parking spaces otherwise required by this subchapter.

(C) Payment of in-lieu fees will generally be allowed only as a special exception, or applicable only under special circumstances.

(D) The Planning Commission will utilize the followings guidelines when evaluating a request for on-site parking exceptions:

(1) Payment of in-lieu fees may be considered for additions, expansions, or intensification.

(2) Payment of in-lieu fees may be considered when parcel size, shape, location, or limitations on access prevent development of on-site parking that would meet the design standards of this subchapter.

(3) If it is determined that providing parking on some sites will result in the loss of existing or potential on-street parking spaces due to the location of driveways or other improvements, the Planning Commission will consider the cumulative effect of providing off-street parking relative to the net gain in total parking spaces.

(4) Requests for exceptions involving properties that would otherwise be able to provide on-site parking meeting the requirements of this subchapter may be approved subject to meeting specific conditions, including but not limited to:

(a) Providing sufficient on-site parking to meet employee demands based on the maximum number on a peak shift or peak hour;

(b) Providing sufficient on-site handicapped parking spaces to meet standard requirements based on the number of spaces which would otherwise be required by this subchapter without consideration of in-lieu fees;

(c) Provide loading spaces that would otherwise be required for the proposed use based on the provisions of this subchapter.

(5) The following uses shall be excluded from requesting an exception to the parking provisions of this subchapter:

(a) All residential uses;

(b) All places of assembly (theaters, churches, lodges, etc.);

(c) All educational uses;

(d) All public uses.

(E) In granting an exception from the parking requirements of this subchapter and authorizing the payment of in-lieu fees, the Planning Commission must make at least one or more of the following findings:

(1) The project site for which the parking requirement applies is 5,000 square feet or less in size and has less than fifty feet (50') of street frontage.

(2) The construction of required driveway(s) for on-site parking would result in the excessive loss of curb parking on street.

(3) Because of special circumstances applicable to the property, including size, shape, location, or surroundings, the proposed use cannot conform with the strict application of the parking regulations and the property would be deprived of privileges enjoyed by other property in the vicinity.

(4) The applicant, as determined by the Planning Commission, has diligently pursued meeting the parking requirements both on-site and off-site, but has been unsuccessful in meeting the requirements.

(5) Exceptions shall be granted only when the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city.

(6) Any exception granted may be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

§ 10-3.1205 EXEMPTIONS FROM PARKING SPACE REQUIREMENTS.

(A) Existing buildings and uses. None of the requirements of this subchapter for off-street parking spaces shall apply to the use of a building in existence on August 1, 1978. No building, as it is used on August 1, 1978, shall be deemed to be nonconforming solely by reason of the lack of off-street parking spaces, provided that any portion of the premises available for off-street parking in connection with such building shall not be utilized for any purpose other than off-street parking if necessary to meet the requirements of this subchapter.

(B) Parking districts. None of the provisions of this subchapter which require the provisions of off-street parking spaces in connection with the use of property for commercial or industrial purposes shall apply to any parcel of existing improved property which is located within any parking district formed and existing under the Parking District Act of 1951 or any other parking district act approved by the Council, except any area within any such district which is available for off-street parking shall not be improved or changed without payment of the in lieu fees provided in § 10-3.1204. Determination of an area available for parking shall be made by the Planning Director whose determination shall be subject to review by the Planning Commission.

(C) Vacant parcels demolition and new facilities. None of the exemptions provided for in this section apply to vacant parcels of property or on parcels where existing buildings are demolished and a new facility is constructed, either in or out of a parking district.

§ 10-3.1206 REQUIRED IMPROVEMENT AND MAINTENANCE OF PARKING AREA.

Every lot used as a public or private parking area and having a capacity of five or more vehicles shall be developed and maintained in the following manner:

(A) Surface of parking area. Off-street parking areas shall be paved or otherwise surfaced and maintained so as to eliminate dust or mud and shall be so graded and drained as to dispose of all surface water. In no case shall such drainage be allowed to cross sidewalks, unless approved by the City Engineer.

(B) Border barricades, screening, and landscaping.

(1) Every parking area not separated by a fence from any street or alley property line upon which it abuts shall be provided with a suitable concrete curb or timber barrier not less than six inches in height, located not less than two feet from such street or alley property lines, and such curb or barrier shall be securely installed and maintained; provided, however, no such curb or barrier shall be required across any driveway or entrance to such parking area.

(2) Every parking area abutting property located in any R or PD zone shall be separated from such property by a solid wall, view-obscuring fence, or compact evergreen hedge a maximum of eight feet in height measured from the grade of the finished surface of such parking lot closest to the contiguous R or PD zone property, and a minimum of six feet in height as measured from the finished grade of the adjacent residential property; provided, however, no fence over three feet in height shall be constructed or grown to the front of any adjacent dwelling or within 25 feet of the street corner of any corner lot.

(3) The lights provided to illuminate any parking area or used car sales area permitted by this subchapter shall be arranged so as to reflect the light away from any premises upon which a dwelling unit is located.

(C) Entrances and exits. The location and design of all entrances and exits shall be subject to the approval of the City Engineer.

§ 10-3.1207 GENERAL REGULATIONS AND CONDITIONS.

The following regulations and conditions shall apply to all off-street parking facilities:

(A) Size and access. Each off-street parking space shall have a width of not less than nine feet and a length of not less than 19 feet except that up to 25% of the required parking spaces may be designated for compact car use in parking lots provided for uses other than residential dwelling units and having at least ten spaces. Compact car spaces shall have a minimum width of eight feet and a minimum length of 16 feet. Every space designated to accommodate compact cars shall be clearly marked as a compact space. Each space shall have adequate ingress and egress. Parking lot dimensions shall be set forth in the city standard specifications. When the required covered parking space for a dwelling unit is converted into a different use and occupancy, such required car space shall be relocated and covered by a garage or carport in accordance with the provisions of this chapter.

(B) Location. Off-street parking facilities shall be located as follows (where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facility to the nearest point of the building such facility is required to serve):

(1) For single or multiple-family dwellings, parking facilities shall be located on the same lot or building site as the buildings they are required to serve;

(2) For hospitals, sanitariums, rest homes, asylums, orphanages, rooming houses, lodging houses, club rooms, and fraternity and sorority houses, not more than 150 feet from the buildings they are required to serve; and

(3) For uses other than those set forth in subsections § 10-3.1207(B)(1) and (2) of this subsection, not over 300 feet from the building they are required to serve.

(C) Mixed occupancies in a building. In the case of mixed uses in a building or on a lot, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. The off-street parking facilities for one use shall not be considered as providing the required parking facilities for any other use, except as set forth in subsection § 10-3.1207(D) of this section for joint use.

(D) Joint use. The Building Department, upon an application by the owner or lessee of any property, may authorize the joint use of parking facilities by the following uses or activities under the conditions set forth:

(1) Up to 50% of the parking facilities required by this subchapter for a use considered to be primarily a daytime use may be provided by the parking facilities of a use considered to be primarily a nighttime use; up to 50% of the parking facilities required by this subchapter for a use considered to be primarily a nighttime use may be provided by the parking facilities of a use considered to be primarily a daytime use, provided such reciprocal parking area shall be subject to the conditions set forth in subsection § 10-3.1207(D)(4) of this section.

(2) Up to 100% of the parking facilities required by this subchapter for a church or for an auditorium incidental to a public or parochial school may be supplied by parking facilities of a use considered to be primarily a daytime use, provided such reciprocal parking area shall be subject to the conditions set forth in subsection § 10-3.1207(D)(4) of this section.

(3) The following uses are typical daytime uses: banks, business offices, retail stores, personal service shops, clothing or shoe repair or service shops, manufacturing or wholesale buildings and similar uses. The following uses are typical of nighttime and/or Sunday uses: auditoriums incidental to a public or parochial school, churches, dance halls, theaters, and bars.

(4) Conditions required for joint use:

(a) The building or use for which application is being made for authority to utilize the existing off-street parking facilities provided by another building or use shall be located within 150 feet of such parking facility;

(b) The applicant shall show that there is no substantial conflict in the principal operating hours of the building or uses for which the joint use of off-street parking facilities is proposed; and

(c) If the building, structure, or improvement requiring parking space is in one ownership, and the required parking space provided in another ownership, partially or wholly, there shall be a recording in the office of the County Recorder of a covenant by such owner for the benefit of the city in the form first approved by the city that such owner will continue to maintain such parking space so long as the building, structure, or improvement is maintained within the city. The covenant herein provided shall stipulate that the title to and right to use the lots upon which the parking space is to be provided will be subservient to the title to the premises upon which the building is to be erected and that it is warranted that such lots are not and will not be made subject to any other covenant or contract for use without the prior written consent of the city as authorized by the Council.

(E) Common facilities. Common parking facilities may be provided in lieu of the individual requirements contained herein, but such facilities shall be approved by the Building Department as to size, shape, and relationship to business sites to be served, provided the total of such off-street parking spaces, when used together, shall not be less than the sum of the various uses computed separately.

(F) Plans. Plans of the proposed parking area shall be submitted to the Building Department at the time of an application for a building permit for any building to which the parking area is accessory. The plans shall clearly indicate the proposed development, including the location, size, shape, design, curb cuts, lighting, landscaping, and other features and appurtenances of the proposed parking lot.

(G) Accessibility. Parking spaces shall be easily accessible by standard-size automobiles, shall be so designed as to be accessible from a public street or alley, and shall be located so that sufficient area is available for maneuvering purposes.

(H) Stalls. No parking space shall be so located as to require the moving of any vehicle on the premises in order to enter into or proceed out of any other stall; provided, however, this provision need not apply in the event the parking facility has an attendant at all times during the use of such facility.

(I) Backing onto streets. Automobile parking so arranged as to require the backing of motor vehicles from a parking space, garage, or other structure onto a major street, as designated by the Council, shall be prohibited when either or both of the following conditions exist:

(1) The property is adjacent to, and contiguous to, a public alley; or

(2) The width of the lot and/or the nature of the design of the existing and/or proposed structures is such that vehicles leaving the property may do so by moving in a forward direction with relation to the street.

(J) Fractional spaces. When units of measurements determining the number of required parking spaces result in a requirement of a fractional space, any fraction of ½ or greater shall require one parking space.

(K) Waiting areas. Adequate ingress, egress, and waiting areas for such uses as drive-in movies, banks, and restaurants shall be provided on the subject lot as required by the City Traffic Engineer.

(L) Loading spaces.

(1) In any zone, in connection with every building, or part thereof, erected on, or after, August 4, 1978, having a floor area of 5,000 square feet or more, which building is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale storage, market, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same parcel with such building at least one off-street loading space, plus one additional loading space for each additional 20,000 square feet, or fraction thereof, of gross floor area.

(2) Each loading space shall be not less than ten feet in width, 35 feet in length, and 14 feet in height.

(3) No such space shall be located closer than 50 feet to any parcel in any R zone, unless wholly within a completely enclosed building, or unless screened by a solid wall not less than eight feet in height.

§ 10-3.1208 PARKING IN THE R ZONES.

Every parking area located in an R zone shall be governed by the following provisions in addition to those required by § 10-3.1206 of this subchapter:

(A) Such parking area shall be incidental to, and accessory to, a use permitted in the zone in which the property is located or shall be incidental to, and accessory to, a commercial or industrial use located in a commercial or industrial zone immediately adjacent to the zone in which the property is located.

(B) Such parking area shall be so located that its boundary shall be adjacent to the site of the establishment to which it is accessory, except that the parking area may be separated from such site by an alley.

(C) Such parking area shall be used solely for the parking of private passenger vehicles.

(D) No sign of any kind, other than one designating entrances, exits, or conditions of use, shall be maintained on any such parking lot. Any such sign shall not exceed eight square feet in area.

USE PERMITS

§ 10-3.1301 USE PERMIT PREREQUISITE TO BUILDING PERMIT.

No building permit shall be issued in any case where a use permit is required by the terms of this chapter unless and until such permit has been granted by the Commission or Council and then only in accordance with the terms and conditions of the use permit granted. Use permits, revocable, conditional, or valid for a term period, may be issued for any of the uses or purposes for which such permits are required or permitted by the provisions of this chapter.

§ 10-3.1302 APPLICATION.

Applications for use permits shall be made in writing to the Commission on a form prescribed by the Commission. The applications shall be filed with the Planning Director. The Planning Division shall provide forms for such purposes and may prescribe the information to be provided in such application. Such applications shall be numbered consecutively in the order of their filing and become a part of the permanent official records of the city.

§ 10-3.1303 FILING FEE.

Each application for a use permit shall be accompanied by a fee as established by resolution of the City Council; provided, however, public agencies shall not be required to pay such fee.

§ 10-3.1304 INFORMATION REQUIRED WITH APPLICATION.

The application for a use permit shall set forth in detail such facts as may be required by the Commission.

§ 10-3.1305 INVESTIGATION OF APPLICATION.

The Commission shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon the application as will serve to provide all necessary information to assure that the action on each application is consistent with the intent and purposes of this chapter.

§ 10-3.1306 PUBLIC HEARINGS.

(A) Whenever required by the provisions of this subchapter, or whenever deemed advisable by the Planning Commission, a public hearing shall be held on an application for a use permit. Not less than ten days before such public hearing, notice shall be given of such hearing in the following manner:

(1) By one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the action or hearing.

(2) Direct mailing to the owners and occupants of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.

(3) In addition, for new commercial uses to be located in an existing tenant space in any commercial area, a notice shall also be conspicuously posted on the window or door of the establishment. The notice shall be a minimum of 11 × 17 inches, contain the information specified in § 10-3.1306(A) above, and shall be brightly colored as a means of attracting attention to its content.

(4) Notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.

(5) The public review period for the environmental determination shall be consistent with the requirements of the California Environmental Quality Act ~~(negative declaration) shall not be less than 21 calendar days (30 days if State Clearinghouse review is required)~~.

(6) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

(B) The hearing shall be held pursuant to the rules for conduct established by the Planning Commission.

§ 10-3.1307 ACTION BY COMMISSION.

(A) The action by the Commission upon the application for a use permit shall be by a majority of the members of the Commission present at the meeting where such application is considered.

(B) In order to grant any use permit, the ~~findings of the~~ Commission shall first find that all of the following apply~~be that the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city. For the purposes of this section the establishment, maintenance or operation of the use or building shall be deemed to be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city if any of the following conditions can be found or can be reasonably expected to exist after establishment~~:

(1) The proposal is consistent with the General Plan and Zoning Ordinance. ~~The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.~~

(2) The proposed use will be compatible with the surrounding properties. ~~The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.~~

(3) The establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the City. ~~The sustaining by the subject premises of an administrative suspension or revocation or other such sanction as may be imposed by the California State Department of Alcoholic Beverage Control, including payment in lieu of such suspension or revocation.~~

~~(4) The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on notice by the official of the city that such conditions exist. Such official may include, but not be limited to the: Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passers by, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.~~

(C) The Commission may designate such conditions in connection with the use permit as it deems necessary to secure the purpose of this chapter and may require such guarantees and evidence that such conditions are being or will be complied with.

(D) Use permits issued authorizing the sale of alcoholic beverages for consumption on the premises shall include a requirement that such permits shall be subject to annual review by the Planning Commission for determination of compliance with the terms and conditions of the issuance of such permits and for termination thereof, as more particularly provided in § 10-3.1311 of this code.

§ 10-3.1308 EFFECTIVE DATE.

No use permit granted by the Commission shall become effective until after an elapsed period of 10~~5~~ days from the date of the action by the Commission.

§ 10-3.1309 APPEALS.

During the period of 10~~5~~ days referred to in § 10-3.1308 of this subchapter, written appeal from the action of the Commission may be taken to the Council by any person aggrieved or affected by any determination by the Commission in connection with any application for a use permit or upon failure of the Commission to make its determination on any application within 30 days from the date of receipt by the Commission from the Planning Director of the application. Such appeal shall be filed in triplicate with the City Clerk and shall state the grounds therefor and wherein the Commission failed to conform to the requirements of this chapter. The City Clerk shall forthwith transmit one copy of the appeal to the Planning Director. The appeal shall stay all proceedings in furtherance of the action appealed from until the determination of the appeal, and the use permit shall not become effective until the determination of the appeal.

§ 10-3.1310 ACTION ON APPEALS BY COUNCIL.

(A) The Council, at its next duly held meeting, shall set a date and time for a public hearing on the appeal and shall cause notice of such hearing to be posted in the vicinity of the property described in the application.

(B) The Commission shall submit to the Council a report setting forth the reasons for the action taken by the Commission, or a member of the Commission shall be present at such public hearing to represent the Commission.

(C) The Council shall render its decision within 60 days after the filing of such appeal.

(D) Review by the Council is de novo. The Council may, by resolution, affirm, reverse, or modify, in whole or in part, any decision, determination, or requirement of the Commission but before granting any appealed petition which was denied by the Commission, or before changing any of the conditions imposed by the Commission in a use permit granted by the Commission~~, the Council shall make a written finding of fact setting forth wherein the Commission's findings were in error.~~

(E) A five-sevenths vote of the whole of the Council shall be required to grant, in whole or in part, any appealed application denied by the Commission.

§ 10-3.1311 TERMINATION AND REVOCATION.

(A) Any use permit granted by the city as herein provided shall be conditioned upon the privileges granted therein being utilized within 12 months after the effective date thereof. Failure to utilize such permit within such 12-month period shall render the permit null and void unless a written request for extension is submitted to the Planning Commission prior to the expiration of the permit. The Planning Commission shall review the request at its next regular meeting and may grant or conditionally grant an extension as it deems appropriate. Use permits utilized but later abandoned for a period of 12 consecutive months shall automatically terminate unless a written request for extension is submitted and approved as described in this section.

(B) All use permits which have been granted as provided in this chapter may be revoked by the Commission after a hearing as set forth below in the event the user of such permit, or his or its successor in interest to the real property in favor of which the permit was granted, breaches or fails to abide by any of the conditions designated in such permit, or conducts any use or activity on such property contrary to the provisions of this code, provided, however, special rules and regulations apply to use permits issued authorizing the sale of alcoholic beverages. Use permits which have been granted as provided in this chapter authorizing the sale of alcoholic beverages for consumption on [or off] the premises shall be subject to annual review for a determination of compliance with all of the terms and conditions of the issuance of the permit and to determine the existence of conditions or occurrences that are or may contribute to the detriment of the health, safety, peace, morals, comfort and general welfare of the persons

residing or working in the neighborhood of the use or detrimental or injurious to property and improvements in the neighborhood or general welfare of the city. For the purposes of this section the establishment, maintenance or operation of the use or building shall be deemed to be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city if any of the following conditions can be found to exist:

(1) The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.

(2) The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.

(3) The sustaining by the subject premises of an administrative suspension or revocation or other such sanctions as may be imposed by the California State Department of Alcoholic Beverage Control, including payment in lieu of such suspension or revocation or other sanction.

(4) The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on notice by the official of the city that such conditions exist. Such official may include, but not be limited to the: Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passers by, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.

If at such annual review the Planning Commission finds based on the evidence presented that there have been three or more incidents as described above, the use permit issued for such premises may be revoked.

(C) No use permit shall be revoked without the Commission's having first held a hearing thereon after having delivered written notice of such hearing at least five days prior thereto to the permittee at the address of the property which is the subject of such permit, or, if the property is unimproved, to the address of the owner thereof as shown on the last equalized assessment roll in the office of the Assessor of the county.

(D) The City Staff is hereby authorized and directed to monitor the uses of property where alcoholic beverages are sold for consumption on or off the premises for which a use permit has not been issued because of their existence before use permits were required but which uses have been continued as legal non-conforming uses. Such monitoring shall include an annual review of such operations as required by Section 10-3.1311 of the Municipal Code. If the Planning Commission finds the existence of the matters set forth in Section 10-3.1311 of the Municipal Code, such findings shall constitute a determination that such use of the property is detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such use and is detrimental or injurious to property and improvements in the neighborhood and general welfare of the city, and the Commission shall, at their discretion, refer the matter to the Code Enforcement Officer for abatement, submit a letter to the State Alcoholic Beverage Commission for initiation and/or inclusion in a nuisance file for the subject property, or submit to the Council the Commission's recommendation for abatement of such use as a public nuisance. For the purposes of this section the establishment, maintenance or operation of the use or building shall be deemed to be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or general welfare of the city if any of the following conditions can be found or can be reasonably expected to exist after establishment:

(1) The commission of three or more violent felonies (crimes against the person) and/or narcotic or dangerous drug sales within the subject premises or in the area immediately adjacent thereto.

(2) The arrest of the owner and/or an employee for violations occurring within the subject premises, or in the area immediately adjacent thereto, which violations can be found to be reasonably related to the operation of the business.

(3) The sustaining by the subject premises of an administrative suspension or revocation or other such sanctions as may be imposed by the California State Department of Alcoholic Beverage Control, including payment in lieu of such suspension or revocation.

(4) The failure by the owner or other person responsible for the operation of the premises to take reasonable steps to correct objectionable conditions after having been placed on notice by an official of the city that such conditions exist. Such official may include, but not be limited to the Code Enforcement Officer, Police Chief, Fire Marshall or City Attorney. Objectionable conditions may include, but not be limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passers by, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking or excessive loud noise. Such conduct shall be attributable to the subject premises whether occurring within the subject premises or in the area immediately adjacent thereto.

(E) The City Council shall, upon receipt of a recommendation for action on or against an establishment from the Planning Commission, set the item for a public hearing at the earliest opportunity. Such action on or against an establishment may include, but not be limited to, the endorsement and forwarding of a letter addressed to the local field office of the State Alcoholic Beverage Commission, outlining a specific complaint or complaints against an establishment, or direction to staff to commence abatement of the establishment as a public nuisance, or referral of the matter to the Code Enforcement Division. Commencement of such action shall not prevent the City Council from ordering the City Attorney to commence civil action to abate a nuisance in addition to, or in conjunction with, the proceedings set forth above; nor shall anything in this chapter prevent the city from commencing a criminal action with respect to the nuisance in addition to, or in conjunction with the proceedings set forth in this chapter.

§ 10-3.1312 USE PERMIT - LARGE FAMILY DAY CARE HOMES.

(A) Application procedure.

(1) Applications for large family day care homes shall be processed in accordance with the provisions of this section. For the purposes of this section, LARGE FAMILY DAY CARE HOME(S) shall mean a day care home which provides care consistent with Cal. Health and Safety Code § 1596.78(b).

(2) The applicant shall pay a fee as set forth in the Madera Planning Processing Fee Schedule as set by resolution of the City Council.

(3) Application for a large family day care home use permit shall be filed with the Planning Department in accordance with the requirements of § 10-3.1302.

(4) No less than ten days prior to the date on which the decision will be made on the application, the Planning Director, or his or her designee, shall give notice of the proposed use by mail to all owners shown on the last equalized assessment roll as owning real property within 100 feet of the exterior boundaries of the site of the proposed use.

(5) If no hearing is requested by the applicant, or other affected person, the Planning Director shall approve, approve in modified form, or deny the application. The Planning Director shall grant the use permit if the proposed large family day care home, as applied for or as conditioned, complies with the standards set forth in this section.

(6) If a hearing is requested by the applicant, or other affected person, a public hearing shall be held before the Planning Commission prior to a decision being made. No public hearing shall be held unless such a hearing is requested.

(7) Upon close of the public hearing, if a hearing has been requested, the Planning Commission shall approve, approve in modified form, or deny the application. The Planning Commission shall grant the use permit if the proposed large family day care home, as applied for or as conditioned, complies with the standards set forth in this section.

(8) Any action of the Planning Director on the application of a use permit for a large family day care home may be appealed to the Planning Commission. Any action on the application of a use permit for a large family day care home of the Planning Commission may be appealed to the City Council.

(9) No person shall operate a large family day care home in any single-family residential zone without first obtaining a use permit in compliance with the standards as set forth in division (B) of this section.

(B) Large family day care standards. The Planning Director or Planning Commission shall grant an application for a use permit to operate a large family day care home if it finds that all of the following standards have been met, and shall require that such standards be met at all times and maintained throughout the use of the permit by the proposed operator:

(1) The operator shall reside in the home, and the home shall be the operator's legal principal residence. The operator shall provide adequate written evidence of its residency.

(2) The use of the home as a large family day care home shall be clearly incidental and secondary to the primary residential use of the home and property.

(3) The property and home shall not have been altered or structurally changed in a way which is adverse to the character or appearance of the neighborhood or residential zone.

(4) One off-street parking space shall be provided for each non-resident employee. Such parking space shall be in addition to the minimum parking requirements applicable to the property consistent with the provisions of this chapter, including, but not limited to, provisions applicable to legal, non-conforming residential buildings. The residential driveway is acceptable so long as the parking space does not conflict with any required child drop-off/pickup area and does not block the public sidewalk or right-of-way.

(5) The garage shall not be used for any purpose relating to the care giving of the children unless it has been converted in accordance with the provisions of this chapter. Replacement parking (if needed) shall be sufficient to comply with the requirements of this chapter, including the provisions of this section.

(6) Sufficient procedures for the loading and unloading of children from vehicles shall have been submitted by applicant. If there is not sufficient on-street parking to allow for the safe loading and unloading of children from vehicles, the driveway shall be used for this purpose. The public sidewalk and/or right-of-way shall not be blocked while completing the loading and unloading process. Double parking in the street is prohibited. The applicant shall be responsible for the safe loading and unloading of children and shall distribute a notice of loading and unloading procedures to all persons that utilize services of the large family day care home. The day care provider is responsible for adherence to these rules.

(7) If the residence is located on a major arterial street, there must be a drop-off/pickup area designed to prevent vehicles from backing onto the major arterial roadway.

(8) No signs or other indicia may be used to identify the residence as a large family day care home, and no such signs or indicia may be visible from the right-of-way.

(9) There shall be a minimum distance of 300 feet between the parcel on which the large family day care home is located and the nearest parcel containing a licensed large family day care home.

(10) No more than one large family day care home shall be permitted within a 500 foot radius of any child day care facility or elementary school.

(11) The applicant shall be in compliance with all applicable regulations of the Fire Department and the Building Official regarding health and safety requirements.

(12) The applicant shall have applied for a large family day care home license from the State of California, Department of Social Services.

(13) The applicant shall not allow smoking within the residence when any of the children being cared for are present in the residence.

(14) Large family day care homes shall not create noise levels in excess of those allowed in single-family residential areas in the noise element of the General Plan. The Planning Commission may impose

reasonable limits on the hours of operation of the large family day care home in order to ensure that these limits are met.

VARIANCES

§ 10-3.1401 NECESSITY.

(A) Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this chapter may result from the strict and literal application of any of the provisions of this chapter, a variance may be granted as provided in this subchapter. All acts of the Commission and Council under the provisions of this subchapter shall be construed as administrative acts performed for the purpose of assuring that the intent and purposes of this chapter shall apply in special cases, as provided in this subchapter, and shall not be construed as amendments to the provisions of this chapter or the zoning maps.

(B) No variance shall be granted to authorize the use of land which is not in conformity with the use regulations specified for the district in which the land is located.

§ 10-3.1402 NECESSARY CONDITIONS.

Variances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the zoning regulations deprives such property of privileges enjoyed by other property in the vicinity under identical zoning classifications. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

§ 10-3.1403 APPLICATIONS.

Applications for variances shall be made in writing to the Commission on forms prescribed by the Commission. The application shall be filed with the Planning Director. The Planning Division shall provide forms for such purposes and may prescribe the information to be provided in such application. Such applications shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the city. Copies of all notices, reports, and actions pertaining to the application shall be attached.

§ 10-3.1404 FILING FEE.

Each application for a variance shall be accompanied by a fee in an amount as established by resolution of the City Council. The requirement of the filing fee shall not apply to public agencies.

§ 10-3.1405 INFORMATION REQUIRED WITH APPLICATION.

The application for a variance shall set forth in detail such facts as may be required by the Commission and as may relate to the conditions specified in § 10-3.1402 of this subchapter and shall be accompanied by:

(A) A legal description of the property involved and the proposed use, with plot plans showing locations of all proposed buildings or facilities as well as existing buildings and a description of the proposed use;

(B) A reference to the specific provisions of this chapter from which such property is sought to be excepted; and

(C) Evidence of the ability and intention of the applicant to proceed with actual construction work in accordance with such plans within 90 days from the date of granting the application.

§ 10-3.1406 INVESTIGATION OF APPLICATIONS.

The Commission shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon such application as will serve to provide all necessary information to assure that the action on each such application is consistent with the intent and purposes of this chapter and with previous amendments, variances, or modifications.

§ 10-3.1407 NOTICE OF PUBLIC HEARING.

(A) Whenever required by the provisions of this subchapter, or whenever deemed advisable by the Planning Commission, a public hearing shall be held on an application for a variance. Not less than ten days before such public hearing, notice shall be given of such hearing in the following manner:

(1) By one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the action or hearing.

(2) Direct mailing to the owners and occupants of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.

(3) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.

(4) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

(B) The hearing shall be held pursuant to the rules for conduct established by the Planning Commission.

§ 10-3.1408 PUBLIC HEARING.

Public hearings for variance applications shall be held before the Commission at the time and place for which public notice has been given. The Commission may establish its own rules for the conduct of such hearing. Any such hearings may be continued, provided, prior to the adjournment or recess thereof, the presiding officer at such hearing announces the time and place to which such hearing will be continued.

§ 10-3.1409 ACTION BY THE COMMISSION.

Within 30 days after the conclusion of the public hearing thereon, the Commission shall grant the variance with such conditions as it deems necessary or shall deny the variance. In the event of the granting of a variance, the Planning Director shall notify the applicant therefor of such granting in writing, and such variance shall be effective upon execution by the applicant of an acceptance thereof and agreement to abide by all the conditions attached thereto.

§ 10-3.1410 APPEALS TO THE COUNCIL.

Any applicant for a variance aggrieved by the action of the Commission upon such application may appeal the decision of the Commission to the Council. Such appeal shall be made within ten calendar days after receipt of notice of the action of the Commission and shall be submitted in writing to the City Clerk. Thereafter, the Council may affirm, modify, or reverse the decision of the Commission as it deems fit. Failure of the Council to take action upon such appeal within 30 days after consideration of any such appeal at a Council meeting shall constitute an affirmance of the action of the Commission unless specifically otherwise stated by minute order of the Council before the expiration of such 30-day period.

§ 10-3.1411 TERMINATION.

If the use authorized by any variance is or has been unused, abandoned, or discontinued for a period of six months, or if the conditions of the variance have not been complied with, the variance shall become null and void and of no effect; excepting that where construction of buildings, structures, and/or facilities is necessary, work on such construction shall be actually commenced within the aforesaid six-month period and shall be diligently prosecuted to completion; otherwise the variance shall be automatically null and void and of no effect.

ZONING TEXT AND MAP AMENDMENTS

§ 10-3.1501 NECESSITY.

Whenever the public necessity, convenience, general welfare, or good zoning practices require, this chapter may be amended by changing the zone boundaries or by changing any other provisions hereof.

§ 10-3.1502 INITIATION OF PROCEDURE.

An amendment may be initiated by:

(A) Resolution of intention of the Council;

(B) Resolution of intention of the Commission or the Director; or

(C) The verified application of one or more of the owners of the property within the area proposed to be changed.

§ 10-3.1503 APPLICATION FOR CHANGE.

Applications for any change of zone boundaries or reclassification of zones or change of any other provision of this chapter shall be filed with the Planning Director. Such applications shall be upon forms and accompanied by such data and information as may be prescribed for that purpose by the Commission so as to assure the fullest practicable presentation of facts for the permanent record.

§ 10-3.1504 FILING FEE.

Each application for any change of zone boundaries shall be accompanied by a fee as established by resolution of the City Council, no part of which shall be returnable to the applicant.

§ 10-3.1505 INVESTIGATION.

The Commission shall cause to be made by its own members, or members of its staff, such investigation of facts bearing upon such application as will serve to provide all necessary information to assure that the action on each such application is consistent with the intent and purposes of this chapter. Any failure to conduct an investigation will not invalidate any proceedings for amendment of this chapter.

§ 10-3.1506 NOTICES.

(A) Any amendment to this title, other than an amendment which changes any property from one zone to another, or which imposes any regulation relating to the use of buildings, structures, and land, or the location, height, sizes of buildings, or sizes of yards, courts, and open spaces, or which establishes building setback lines along any street, road, or alley, shall be considered by the Planning Commission at a public hearing for the purpose of providing a recommendation to the City Council. Not less than ~~ten~~ 20 days prior to a public hearing of the Planning Commission and not less than 10 days before such public hearing of the City Council, notice shall be given of such hearing in the following manner: by one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, the environmental determination, and the time and place of the action or hearing.

(B) In the event a proposed amendment changes any property form one zone to another, or imposes any regulation relating to the use of buildings, structures, and land, or the location, height, sizes of buildings, or sizes of yards, courts, and open spaces, or which establishes building setback lines along any street, road, or alley, the following additional notice shall be provided for a public hearing:

(1) Direct mailing to the owners and occupants of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.

(2) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.

(3) The public review period for the environmental determination ~~(negative declaration) shall not be less than 21 calendar days (30 days if State Clearinghouse review is required)~~ shall be consistent with the requirements of the California Environmental Quality Act.

(4) Substantial compliance with these provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

§ 10-3.1507 PUBLIC HEARING.

Public hearings, as required by the provisions of this subchapter, shall be held before the Commission which may establish its own rules for the conduct thereof. Any such hearing may be continued by oral pronouncement prior to its close and such pronouncement shall serve as sufficient notice of such continuance and without recourse to the form and manner of public notice as provided for in this subchapter.

§ 10-3.1508 FINDINGS OF THE COMMISSION.

After the conclusion of the public hearings, the Commission shall render a report and recommendation to the Council within 90 days after the notice of the first of such hearings provided that such time limit may be extended upon the mutual agreement of the parties having an interest in the proceedings. Failure of the Commission so to report within 90 days without the aforesaid agreement shall be deemed to constitute ~~an~~ a recommendation of approval of the proposed amendment by the Commission.

§ 10-3.1509 ACTION BY COUNCIL.

(A) Upon receipt of such report from the Commission or upon the expiration of 90 days, the Council shall set the matter for public hearing, notice of which shall be given by one publication not less than ten days before the date of the hearing in a newspaper of general circulation within the city; provided, however, if the matter under consideration concerns the change of property from one zone to another, and the Commission has recommended against the adoption of such amendment, the Council need not take any further action thereon unless the Council so desires or unless an interested party shall request a hearing thereon by filing a written request with the City Clerk within five days after the Commission files its recommendations with the Council.

(B) After the conclusion of such hearing, the Council may adopt the amendment, or any part thereof, set forth in the petition in such form as the Council may deem to be advisable.

§ 10-3.1510 USE PERMITS REQUIRED.

From and after the date of adoption of the Resolution of Intention by the Council or the Commission, or on the date of filing of the verified application with the Commission for a proposed change of zone or zone boundaries, all uses within the area proposed to be changed shall be permitted only upon first securing in each case a use permit from the Commission. All uses permitted pursuant to such use permits shall be limited to the uses allowable within the existing zone of such area. In the event the proposal to change the zone is for a more restricted zone, the Commission may restrict the uses within such area to the more restricted proposed zone.

§ 10-3.1511 SPECIAL ZONING EXCEPTIONS.

Notwithstanding any other provisions of this chapter, if an application for a change of zone boundaries or reclassification of zones is filed with the Commission, accompanied by a proposal for the use of such property as hereinafter set forth, the Commission may recommend that the Council, instead of granting or denying such application, authorize the issuance of a special zoning exception which will permit the development or use of such property in accordance with such proposed development Before consideration by the Commission or Council of the granting of a special zoning exception, an applicant shall submit all of the following information:

(A) Three prints of a site plan drawn to scale which shall contain the following information:

(1) Lot dimensions;

(2) Location, elevations, size, height, and the proposed use of all buildings and structures;

(3) Location and dimensions of yards and spaces between buildings;

(4) Location, height, and type of construction of walls and fences;

(5) Location of off-street parking facilities, including the number of spaces, the dimensions of the parking area, and the internal circulation pattern;

(6) Access points for pedestrians, vehicular and service traffic, and internal circulation;

(7) Location, size, and height of any proposed signs;

(8) Loading areas, including the dimensions, the number of spaces, and the internal circulation;

(9) Location and general nature and hooding devices for lighting;

(10) Dedications for public use and proposed improvements; and

(11) Landscaping and such other data as may be required by the Planning Engineer or the Commission; and

(B) Facts which will enable the Commission to find all of the following:

(1) That if a special zoning exception is granted, there will be compliance with all the applicable provisions of this code; and

(2) That the public health, safety, and welfare will not be affected or that damage or prejudice to other property or improvements in the vicinity will not result if a special zoning exception is allowed.

§ 10-3.1512 EXCEPTIONS PROCEDURE.

If an application is submitted to the Planning Engineer in accordance with the provisions of § 10-3.1511 of this subchapter, all other provisions of this subchapter shall apply to the processing of the application for the proposed change in zone boundaries; provided, however, if a special zoning exception is authorized by the Council, after the conclusion of the public hearing upon the application for the change in zone boundaries, no action shall be taken by the Council to effectuate any such change until it has been determined that all of the conditions of the granting of the special exception have been met. Each special zoning exception shall specify a certain date on, or before, which work upon the proposed use of the land shall have been commenced to the satisfaction of the Planning Engineer. The failure of an applicant or his or her successor in interest to the property involved to commence such work within such time shall nullify the special zoning exception, and the application for the change of zone shall be deemed denied.

§ 10-3.1513 CONDITIONS.

Special zoning exceptions may be granted in accordance with this subchapter subject to any or all of the conditions hereinafter set forth by way of example only and not by way of limitation:

(A) Construction of special yards, spaces, and buffers;

(B) Construction of fences and walls;

(C) Surfacing of parking areas to city specifications;

(D) Dedication of property for public use and completion of improvements, including service roads or alleys;

(E) Regulation of points of vehicular ingress and egress;

(F) Regulation of signs;

(G) Completion of landscaping and provisions for the maintenance thereof;

(H) The establishment of restrictions to control noise, vibration, odors, and other similar characteristics;

(I) The posting of faithful performance and labor and materials' bonds in amounts recommended by the City Engineer to insure completion of any public improvements which are required to be made as a condition of the granting of the zoning exception. Such work shall be completed within the time specified by the Council; provided, however, if no time is specified by the Council, such work shall be completed in one year from the date the special zoning exception is approved; and

(J) Such other conditions as will make possible the development of the city in an orderly and efficient manner in conformity with the intent and purposes set forth in this chapter.

§ 10-3.1514 BUILDING PERMITS.

Before any building permit shall be issued for any building or structure proposed as part of the approved site plan referred to in § 10-3.1511 of this subchapter, the Building Inspector shall secure written approval from the Planning Engineer that the proposed building location is in conformity with the site plan and conditions approved by the Council. Before a building may be occupied, the Building Inspector shall certify to the Planning Engineer that the site has been developed in conformity with the site plan and conditions approved by the Council.

§ 10-3.1515 REZONING UPON COMPLETION OF WORK.

Upon the development and use of property in accordance with the provisions of § 10-3.1513 of this subchapter, the district, or part thereof, for which the special zoning exception was granted shall be thereupon rezoned, altered, amended, and established in accordance with the original application, or as set forth in the order of the Council made at the time such zoning exception was granted.

INTERPRETATION, ENFORCEMENT, VIOLATIONS, AND PENALTIES

§ 10-3.1601 INTERPRETATION.

(A) The Commission shall have the power to hear and decide appeals based on the enforcement or interpretation of the provisions of this chapter.

(B) In the event an applicant is not satisfied with the action of the Commission on any particular matter, he or she may, within 10 days from the date of such action, appeal in writing to the Council.

(C) The appeal to the Council shall set forth specifically wherein the Commission's findings were in error and wherein the public necessity, convenience, and welfare or good zoning practices require such change.

(D) Notice shall be given to the Commission of such appeal, and a report shall be submitted by the Commission to the Council setting forth the reasons for action taken by the Commission, or the Commission shall be represented at the Council meeting.

~~(E) The Council shall render its decision within 30 days following the filing of such appeal.~~

§ 10-3.1602 ENFORCEMENT.

(A) Issuance of permits and licenses. All departments, officials, and public employees of the city vested with the duty or authority to issue permits and licenses shall conform to the provisions of this chapter. No permit or license for uses, buildings, or purposes in conflict with the provisions of this chapter shall be issued. Any permit or license issued in conflict with the provisions of this chapter shall be null and void. It shall be the duty of the Planning Director to enforce the provisions of this chapter pertaining to the erection, construction, reconstruction, moving, conversion, alteration, or addition to any building by structure.

(B) Approval of Planning Director. Before issuing a business license for any new business, or before issuing a business license for a new location of any existing business activity, the Finance Department shall obtain the approval of the Planning Director respecting compliance with the provisions of this chapter.

§ 10-3.1603 VIOLATIONS OF CHAPTER; DECLARATION OF NUISANCE.

(A) Any person, whether as principal, agent, employee, owner, occupant, tenant, lessee or otherwise, violating or causing the violation of any of the provisions of this chapter, except §§ 10-3.1603(B)(12), (B)(13) or (B)(17) is specifically declared to be guilty of a misdemeanor. Any person, whether as principal, agent, employee, owner, occupant, tenant, lessee or otherwise, violating or causing the violation of any of the provisions of §§ 10-3.1603(B)(12), (B)(13) or (B)(17) of this chapter is specifically declared to be guilty of an infraction. Any building or structure set up, erected, constructed, operated, or maintained contrary to the provisions of this chapter, and any use of any land, building or premises established, conducted, operated, or maintained contrary to the provisions of this chapter and any uses of real property as hereinafter set forth shall be and are declared unlawful and a public nuisance.

(B) In addition and supplemental to the terms and provisions of this chapter, the hereinafter activities of any person owning, leasing, occupying, or having charge or possession of real property in this city are declared a public nuisance and shall be abated as hereinafter set forth. The conduct consists of the following:

(1) The maintenance of any building or property in such a manner as to constitute a fire hazard or danger to human life or the maintenance or failure to maintain the property so as to constitute a fire hazard or a likely habitat for vermin or to maintain property, the topography or configuration of which, whether a natural state or as a result of grading operations, causes or will cause erosion, subsidence, or surface water run-off problems which will or may be injurious to the public health, safety, and welfare to adjacent or nearby properties;

(2) To maintain or fail to maintain property or any building or structure thereon, so that it is found, as provided in this chapter, to be defective, unsightly, defaced, or in such condition of deterioration or disrepair that it causes or will cause an ascertainable diminishment of the property values of surrounding properties or is otherwise materially detrimental to adjacent and nearby properties and improvements. The term DEFACED as used herein includes, but is not limited to, writings, inscriptions, figures, scratches, or other markings commonly referred to as GRAFFITI;

(3) To abandon or vacate any structure so that it becomes readily available to unauthorized persons, including, but not limited to, juveniles and vagrants. Such abandonment or vacation shall be presumed when a building or structure which is uninhabited or unused is unsecured and when the public can gain entry without consent of the owner or is a partially constructed, reconstructed, or demolished building or structure upon which work is abandoned, such abandonment being deemed to exist when there is no valid and current building or demolition permit or where there has not been any substantial work on the project for a period of six months or more;

(4) The maintenance or the failure to maintain any real property, structures, or uses or activities thereon in violation of any of the provisions of titles 3, 4, 5, 7, 9 and 10 of the City Municipal Code, or as specified in Cal. Health & Safety Code §§ 17920.3 et seq., or of the State Housing Law or § 104 of the Uniform Code for Building Conservation or the storage, discharge, holding, handling, maintaining, using, or otherwise dealing with hazardous substances as defined by the State Health and Safety Codes or the Superfund Amendments and Reauthorization Act of 1986, Title 3 or other federal laws relating thereto in violation of such regulations;

(5) The maintenance of or allowing to be maintained on any real property, any labor supply camp, labor camp, or temporary labor camp as defined in the Health and Safety Code of the State unless specifically authorized in the zoning district in which the property is located;

(6) The keeping or maintaining of any animal, reptile, fowl, insect, or other living thing in such a manner as to pose a threat, disturbance, danger, or menace to persons or property of another, including public property;

(7) The maintenance or operation of any machinery which by reason of dust, exhaust, or fumes creates a health or safety hazard;

(8) The parking, storage, or maintenance of any of the following items in residential areas except as otherwise allowed in this code;

(a) Any airplane or other aircraft or parts thereof in any front or side yard;

(b) Any construction or commercial equipment, machinery, vehicles, or material except such equipment or material temporarily located on the property as may be required for construction or installation of improvements or facilities on the property;

(c) Special mobile equipment as defined in Cal. Veh. Code § 575 or other sections for any period in excess of 72 consecutive hours in a front or side yard unless such items are either in an accessory building constructed in accordance with the provisions of the City Municipal Code or in any area which provides for a five foot set-back from any property lines. In no event shall any such equipment be parked, stored, or kept within five feet of any exit, including exit windows.

(9) The keeping, operating, or maintaining any motor vehicle which has been wrecked, dismantled, or disassembled or any part thereof on any property in a residential zone in excess of 72 consecutive

hours unless the same is either in an accessory building constructed in accordance with the provisions of the City Municipal Code or completely concealed from public view behind a solid fence or wall constructed in accordance with the provisions of the Municipal Code;

(10) The keeping, maintenance, or storage of any refrigerator, washing machine, sink, stove, heater, boiler, tank, or any other household equipment, machinery, or furniture other than furniture designed for use in outdoor activities for a period in excess of 72 consecutive hours, on any property, provided, however, this prohibition shall not preclude the maintenance of machinery installed in the rear set-back area of property for household or recreational use, furniture designed and used for outdoor activities, and items stored or kept within an enclosed storage structure or unit;

(11) The wrecking, dismantling, disassembling, manufacturing, fabricating, building, remodeling, assembling, repairing, painting, washing, cleaning, or servicing in any set-back area of any airplane, aircraft, motor vehicle, boat, trailer, machinery, equipment, appliance or appliances, furniture, or other personal property;

(12) The use of any trailer, camper, recreational vehicle, or motor vehicle for living or sleeping quarters in any place in the city outside of a lawfully operated mobile home park or travel trailer park. This shall not prevent bona fide guests of a city resident from occupying a trailer, camper, or recreation vehicle on residential premises with the consent of the resident or land-owner for a period not to exceed 72 hours. Any such trailer, camper, or recreational vehicle so used shall not discharge any waste or sewerage into the city sewer system except through the residential discharge connection of the residential premises on which such trailer, camper, or recreation vehicle may be parked. No such trailer, camper, or recreation vehicle shall be stored in such a way as to encroach upon, extend over, or remain in any public right-of-way or in any area so as to cause an impedance to passage or traffic hazard, or be allowed to remain in any place or in such a way that it will or may be injurious to the public health, safety, or welfare. No person shall park or leave standing a recreational vehicle trailer, including but not limited to any camp trailer, vehicle transportation trailer, trailer coach or boat trailer, regardless of width, on any street, alley or public right-of-way in the city for a period exceeding 72 hours.

(13) The placing, hanging, affixing, maintaining or otherwise displaying upon any fence, wall, tree, bush, plant, or any other structure or portion thereof, any clothes, linens, rugs, fabrics, carpets, rags, or any other similar item except upon a clothesline apparatus constructed and maintained for the purpose of placing such items outside for drying. The placement of such clothesline(s) shall be prohibited within any required front yard or street side yard setback area;

(14) The maintaining of any condition, instrumentality or machine located outside of any structure on any premises, which is or may be unsafe or dangerous to children by reason of their inability to appreciate the peril therein, and which may reasonably be expected to attract children to the premises and risk injury by playing with, in, or on it, including but not limited to abandoned, broken or neglected equipment, machinery, appliances, refrigerators and freezers, hazardous pools or ponds, uncapped or otherwise dangerous wells, and excavations. This subsection shall not apply to equipment or machinery which is being temporarily used for repair or maintenance of a structure or premises, and which is under the direct supervision of the person(s) performing such maintenance or repair. This subsection shall not apply to swimming pools which are properly constructed and maintained in conformance with applicable regulations, laws and ordinances;

(15) The maintaining of unpainted buildings and those having dry rot, warping or termite infestation or the maintaining of any building on which the condition of the paint has become so deteriorated as to permit decay, excessive checking, cracking peeling, chalking, dry rot, warping or termite infestation as to render the building unsafe or in a state of disrepair inconsistent with the condition of the surrounding neighborhood;

(16) The maintaining of buildings with windows containing broken glass or no glass at all, where the window is of a type which normally contains glass;

(17) The maintaining of trees, weeds, or other types of vegetation that are dead, decayed, infested, diseased, overgrown, likely to harbor rats, vermin or other nuisances or which obstruct the view of drivers on public streets or private driveways, or which impede, obstruct or deny pedestrian or other lawful travel

on sidewalks, walkways, or other public rights-of-way. The following conditions of vegetation shall be deemed to be a non-exclusive list of nuisances:

(a) A tree with limbs overhanging a street or sidewalk where such limbs are less than ten feet above such street or sidewalk;

(b) A hedge, bush or shrub overhanging a street or sidewalk;

(c) A hedge, bush or shrub on a corner lot within the triangular area formed by a line connecting points 20 feet from the intersection of projected street property lines with the point of the intersection of street property lines if such hedge, bush or shrub is more than 30 inches high from the surface of the ground;

(d) The limb of a tree or a hedge, bush or shrub which is so situated in or above the space between a sidewalk and the curb, as to obscure and impair the reading by motorists in the abutting portion of the street, of stop signs or other traffic signs or control devices;

(e) Turf in excess of eight inches in height. For purposes of this section, the term TURF shall mean a thick-matted groundcover material consisting of one or several types of grasses, which is grown on open space areas.

§ 10-3.1604 ABATEMENT.

Any public nuisance found, as provided in this chapter, to exist on or be associated with any real property, shall be abated by the procedures set forth in this chapter.

§ 10-3.1605 COMMENCEMENT OF PROCEEDINGS.

Whenever the Director or Chief, as appropriate, of a responsible department (hereinafter DIRECTOR) reasonably believes a nuisance exists, he or she shall commence abatement proceedings. The Director of Community Development shall have responsibility for abating nuisance pertaining to the building and zoning ~~ordinances~~ regulations of the City, Titles 9 and 10, respectively, of the City Municipal Code; and the Director of Public Works, City Engineer, Fire Chief, or Police Chief shall have responsibility for abating all other nuisances under code sections for which they are directly responsible.

§ 10-3.1606 HEARING; NOTICE.

(A) Where the Director finds that the nuisance exists, he or she shall give not less than seven days written notice of a hearing to determine whether a nuisance exists to the owners of affected properties as shown on the latest equalized tax assessment roll by mailing the same to the owner's address as indicated thereon by certified letter, and further, by conspicuously posting on the affected premises a copy of the notice.

(B) The notice shall indicate the nature of the alleged nuisance, the description of the property involved, and the designation of the time and place of the hearing to determine whether the same constitutes a nuisance, and the manner of its proposed abatement if the same is found to be a nuisance.

(C) The failure of any person to receive the notice shall not affect the validity of any proceedings under this subchapter.

§ 10-3.1607 HEARING CONDUCT.

The hearing to determine whether a nuisance exists shall be conducted by the City Administrator or a duly authorized representative, who shall act as the Hearing Officer. At the hearing, the Hearing Officer shall consider all relevant evidence, including but not limited to applicable staff reports. He or she shall give any interested person a reasonable opportunity to be heard in conjunction therewith. Based upon the

evidence so presented, the Hearing Officer shall determine whether a nuisance within the meaning of this chapter exists.

§ 10-3.1608 ORDER OF ABATEMENT.

(A) The decision of the Hearing Officer shall be final and conclusive in the absence of an appeal as provided in the Municipal Code.

(B) The Hearing Officer shall, within five working days, give written notice of his or her decision to the owner and to any other person requesting the same. The notice shall contain an order of abatement, if a nuisance is determined to exist, directed to the owner of the affected property or the person in control and/or in charge of the property, and shall set forth the nature of the nuisance, its location and the time and manner for its abatement.

(C) Where an appeal is filed as provided in this code, the order of abatement shall be suspended pending the review of the determination in the manner set forth in this subchapter.

§ 10-3.1609 APPEAL.

(A) The owner of the property or any other person in possession or claiming any legal or equitable interest therein shall have the right of appeal to the City Council.

(B) The appeal shall be filed with the City Clerk within five working days following the decision of the Hearing Officer. The appeal shall be in writing and shall state the grounds for the appeal.

(C) The City Clerk shall set the matter for a public hearing before the Council at a date and time not less than ten nor more than 35 days following the filing of the appeal. The City Clerk shall then notify the appellant, by mail, of the date and time of the hearing. The City Council may continue the hearing date where necessary.

(D) The Council may, by resolution, establish a fee for the processing of an appeal.

§ 10-3.1610 COUNCIL ACTION.

(A) At the time and place set for such hearing, the City Council shall review the decision of the Hearing Officer and shall afford the appellant a reasonable opportunity to be heard in connection therewith.

(B) If the City Council finds from the relevant evidence presented at the hearing that the action taken was in conformity with the provisions of the code, it shall require compliance with the order of abatement within 30 days after the mailing of a copy of its order to the affected property owner unless a period of time in excess of 30 days is specifically authorized within which to abate the nuisance.

(C) If the nuisance is not abated within the 30-day period or within such longer period as the Council may provide, the Director of the responsible Department is expressly authorized and directed to enter upon the premises for the purpose of abating the nuisance after obtaining the permission of the owner of the equitable interest therein, or after obtaining a warrant or court order specifically authorizing entrance upon the premises for the express purpose of abating the nuisance.

§ 10-3.1611 NOTICE OF COUNCIL DECISION.

A copy of the Council's order shall be mailed to the owner, and to any other person requesting the same, by the City Clerk within five working days after the adoption thereof. The Council's decision shall be final and conclusive. Pursuant to Code of Cal. Civ. Proc. § 1094.6, any action to review the decision of the Council shall be commenced not later than 19 days after the date the Council's order is adopted.

§ 10-3.1612 COST OF ABATEMENT.

Where the Director is required to cause the abatement of a public nuisance pursuant to the provisions of this chapter, he or she shall keep an accounting of the cost thereof, including incidental expenses for the abatement. The term INCIDENTAL EXPENSES includes but is not limited to the actual expenses and costs of the city in the preparation of notices, specifications, and contracts, inspection of the work, and the costs of printing and mailings required under this chapter. Upon conclusion of the abatement, he or she shall submit an itemized statement of costs to the city and set the same for a hearing before the Hearing Officer. The Director shall cause notice of the time and place of the hearing to be given to the owners of the property to which the same relate, and to any other interested person requesting the same, by US mail, postage prepaid, addressed to the person at his or her last known address at least five days in advance of the hearing.

§ 10-3.1613 REPORT; HEARING AND PROCEEDINGS.

At the time and place fixed for receiving and considering the report, the Hearing Officer shall hear and pass upon the report of the Director together with any objections or protests raised by any of the persons liable to be assessed for the cost of abating the nuisance. Thereupon, the City Manager shall make such revision, correction, and modification to the report, as he or she may deem just, after which the report is submitted, or as revised, corrected, or modified, shall be confirmed. The hearing may be continued from time to time. The decision of the Hearing Officer shall be subject to an appeal to the City Council in the time and manner set forth in §§ 10-3.1707 and 10-3.1708.

§ 10-3.1614 ASSESSMENT OF COSTS AGAINST PROPERTY.

The confirmed cost of abatement of a nuisance upon any lot or parcel of land shall constitute a special assessment against the respective lot or parcel of land to which it relates; and, after due notice and recordation, as thus made and confirmed, the same shall constitute a lien on the property in the amount of the assessment. After the confirmation of the report, a copy thereof shall be transmitted to the Tax Collector for the county, whereupon it shall be the duty of the Tax Collector to add the amounts of the assessment, or assessments, to the next regular bills of taxes levied against the respective lots and parcels of land for municipal purposes; and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure for foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

§ 10-3.1615 ALTERNATIVES.

Nothing in this chapter shall be deemed to prevent the City Attorney from commencing a civil action to abate a nuisance, including bringing an action to enjoin the nuisance, in addition to, alternatively to, or in conjunction with the proceedings set forth in this chapter; nor shall anything in this chapter be deemed to prevent the city from commencing a criminal action with respect to the nuisance in addition to, alternatively to, or in conjunction with the proceedings set forth in this chapter.

§ 10-3.1616 EMERGENCY ABATEMENT.

Notwithstanding any other provision of this subchapter with reference to the abatement of public nuisance, whenever the Director of a responsible department determines that property, a building, or structure is structurally unsafe, or constitutes a fire hazard, or is otherwise dangerous to human life, and such condition constitutes an immediate hazard or danger, he or she shall, without observing the

provisions of this chapter with reference to abatement procedures, immediately and forthwith abate the existing public nuisance.

§ 10-3.1617 VIOLATION; PENALTY.

(A) The owner or other person having charge or control of any such buildings or premises who maintains any public nuisance defined in this subchapter, or who violates an order of abatement made pursuant to § 10-3.1706 is guilty of a misdemeanor.

(B) Any occupant or lessee in possession of any building or structure in violation of an order given as provided in this chapter is guilty of a misdemeanor.

(C) No person shall obstruct, impede, or interfere with any representative of the City Council or with any representative of a city department or with any person who owns or holds any estate or interest in a building which has been ordered to be vacated, repaired, rehabilitated, or demolished and removed, or with any person to whom any such building has been lawfully sold pursuant to the provisions of this code whenever any such representative of the City Council, representative of the city, purchaser, or person having any interest or estate in the building is engaged in vacating, repairing, rehabilitating, or demolishing and removing any such building pursuant to the provisions of this chapter, or in performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant to this subchapter.

DEVELOPMENT AGREEMENTS

§ 10-3.1701 AUTHORITY FOR ADOPTION.

These regulations are adopted under the authority of Cal. Gov't Code §§ 65864 through 65869.5. All development agreements entered into pursuant to this subchapter shall be approved by ordinance of the City Council.

§ 10-3.1702 FORMS AND INFORMATION.

The Community Development Director shall prescribe the form for each application, notice and documents provided for or required under these regulations for the preparation and implementation of development agreements. The Community Development Director may require an applicant to submit such information and supporting data as the Community Development Director considers necessary to process the application. An applicant requesting consideration and adoption of a development agreement shall at a minimum include the following information:

(A) The nature of the applicant's legal or equitable interest in the subject real property and a legal description of the property sufficient for recordation;

(B) A description of the development project sufficient to enable the Community Development Department and other departments and agencies to review the application for legality, compliance with standards, consistency with applicable plans, and environmental assessment requirements. The Planning Division may require the description to include site and building plans, architectural elevations, a description of the project's relationship to adjacent properties and land uses;

(C) A listing of each discretionary or ministerial action, permit and/or entitlement necessary for, or previously obtained with respect to, the project, including actions, permits, and/or entitlements issued by, or to be obtained from agencies other than the city. The listing will describe and distinguish between

those elements of the development project which are proposed to be fixed by the development agreement and those which may be subject to further review;

(D) The proposed duration of the development agreement;

(E) The density and or intensity of the uses to be permitted;

(F) The maximum height and size of the proposed buildings;

(G) Provisions for reservation or dedication of land for public purposes, as applicable;

(H) Any proposed conditions, terms, restrictions or requirements to be applicable to subsequent discretionary actions, provided that the proposed conditions, terms, restrictions or requirements shall not be construed to prevent development of the land for the uses and to the density or intensity of development set forth in the development agreement, unless specifically and expressly provided in the development agreement;

(I) A date by which construction shall have been commenced;

(J) Proposed phasing of the development project and of the construction of public facilities, including estimated and mandatory completion dates, interim progress milestones, and performance standards for periodic review of the development agreement;

(K) The manner in which the applicant proposes to finance and provide security for the construction of public facilities, and provisions for reimbursement, if any;

(L) A provision including as terms of the development agreement all mitigation measures previously adopted pursuant to the California Environmental Quality Act with respect to discretionary actions, permits and/or entitlements for the project granted by the city or other agencies, and a provision committing the applicant to incorporate as terms of the development agreement, to the extent required by the California Environmental Quality Act, all future mitigation measures necessary to avoid or substantially lessen significant environmental effects which can be feasibly mitigated, provided that nothing in this subchapter shall preclude the preparation of statements of overriding considerations when deemed appropriate and lawful by the city or other agencies;

(M) A clause requiring the applicant to indemnify the city against claims arising out of the development process and to provide insurance in an amount and form acceptable to the city attorney to assure the applicant's ability to satisfy its indemnification duty.

§ 10-3.1703 QUALIFICATION AS AN APPLICANT.

Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement. Applicant includes an authorized agent. The Community Development Director may require an applicant to submit proof (including but not limited to a title report) of his/her interest in the real property and of the authority of the agent to act for the applicant. Before processing the application, the Community Development Director shall obtain the opinion of the City Attorney as to the sufficiency of the applicant's interest in the real property to enter into the agreement.

§ 10-3.1704 PROPOSED FORM OF AGREEMENT.

Each application shall be accompanied by the form of development agreement proposed by the applicant. This requirement may be met by utilizing the city's standard form of development agreement adopted by the Community Development Director, and including specific proposals for changes in, or additions to the language of the standard form.

§ 10-3.1705 FEES.

Fees to be imposed for the filing and processing of each application, required consideration, and adoption of a development agreement shall be as prescribed by resolution adopted by the City Council. No such application shall be deemed complete unless it is accompanied by the current filing and processing fee. The filing and processing fee shall be in addition to any other required fees for permits or capital improvements relating to the development project, and shall be for the purpose of defraying the costs incurred by the city during review and action upon the development agreement application and during periodic review thereof.

§ 10-3.1706 REVIEW OF APPLICATION.

(A) The Community Development Director shall endorse the application on the date it is received. He or she shall review the application and may reject it if it is incomplete or inaccurate for processing. If he or she finds that the application is complete, he or she shall accept it for filing. The Director shall review the application and determine the additional requirements necessary to complete the agreement.

(B) Upon acceptance of a complete application, the development agreement and supporting information shall be circulated to each city department or local agency having an interest in the project. Each such department or agency shall review, comment upon, and recommend such changes to the proposed development agreement as may be necessary or desirable.

(C) After receiving responses from other departments or agencies, the Director shall prepare a staff report and recommendation and shall state whether or not the agreement proposed, or in an amended form, would be consistent with the general plan and any applicable specific plan.

§ 10-3.1707 COORDINATION OF APPLICATIONS.

To the extent practicable, applications requesting consideration and adoption of development agreements will be made and considered concurrently with the review of other discretionary permit applications within the city's control. It is the city's intent to avoid duplicative hearings and the repetition of information and effort. The development agreement shall not constitute a substitute for, or an alternative to, any other required permit or approval, and the applicant must comply with all other procedures required for development approval.

§ 10-3.1708 HEARING NOTICE.

(A) The Community Development Director shall give notice of the city's intention to consider adoption of the development agreement and of any other public hearing required by law or the municipal code.

(B) The form of the notice of intention to consider adoption of development agreement shall contain:

(1) The time and place of the hearing;

(2) The identity of the hearing body;

(3) A general explanation of the matter to be considered including a general description and location of the area affected; and

(4) Other information required by specific provision of these regulations or which the Community Development Director considers necessary or desirable.

(C) The time and manner of giving notice is by both of the following:

(1) Publication at least once in a newspaper of general circulation, published and circulated in the city, not less than ten days prior to the date of the hearing.

(2) Mailing of the notice to all persons shown on the last equalized assessment roll as owning real property within 300 feet of the property which is the subject of the proposed development agreement, not less than ten days prior to the date of the hearing.

(D) The Planning Commission or City Council, as the case may be, may direct that notice of the public hearing to be held before it, shall be given in a manner that exceeds the notice requirements prescribed by state law or this article.

(E) The failure of any person, entitled to notice as required by law or this chapter , to receive such notice does not affect the authority of the city to enter into a development agreement or the validity thereof.

§ 10-3.1709 RULES GOVERNING CONDUCT OF HEARING.

The public hearing shall be conducted as nearly as may be in accordance with the procedural standards adopted for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement.

§ 10-3.1710 IRREGULARITY IN PROCEEDINGS.

No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to a petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatsoever unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury was done if error is shown.

§ 10-3.1711 DETERMINATION BY PLANNING COMMISSION.

(A) The Planning Commission shall conduct a public hearing on the proposed development agreement, which may be continued from time to time. The Commission shall consider the staff report, as well as comments from the applicant and members of the public. Upon conclusion of the hearing, the Commission shall report its recommendation to the City Council in the form of a resolution. The Commission may recommend that the development agreement be adopted as proposed, or with such amendments as the Commission deems to be necessary or desirable to further the purposes of the municipal code, or otherwise in the public interest; or the Commission may recommend that the development agreement be rejected. The recommendation shall include the Planning Commission's determination whether or not the development agreement proposed:

(1) Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;

(2) Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;

(3) Is in conformity with public convenience, general welfare and good land use practice;

(4) Will not be detrimental to the health, safety and general welfare; and

(5) Will not adversely affect the orderly development of property or the preservation of property values.

The recommendation shall also include the reasons for the recommendation.

(B) Upon action by the Planning Commission, the proposed development agreement, shall be forwarded to the City Clerk for scheduling as the introduction of an ordinance at the next available meeting of the City Council.

§ 10-3.1712 DECISION BY CITY COUNCIL.

(A) Upon receipt of the Planning Commission's recommendation, the City Clerk shall schedule the proposed development agreement on the next available meeting of the City Council as the introduction and first reading of an ordinance.

(B) Not less than five days after the successful introduction of the ordinance, a public hearing and second reading of the proposed development agreement shall be held. Notice of the public hearing shall be provided in accordance with § 10-3.1708.

(C) After the City Council completes the public hearing, which may be continued from time to time, it may accept, modify or disapprove the recommendation of the Planning Commission. It may, but need not, refer matters not previously considered by the Planning Commission during its hearing, back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the City Council.

(D) The City Council shall not approve the development agreement unless it finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan.

(E) The City Council has sole discretion to either approve or not approve a development agreement, and there is no right to have such an agreement approved even if the City Council determines that it is in the best interests of the city.

(F) Approval of a development agreement by the City Council shall be by the adoption of an ordinance which shall be effective 31 days after adoption.

§ 10-3.1713 RECORDATION OF DEVELOPMENT AGREEMENT.

(A) Within ten days after the city enters into a development agreement, the City Clerk shall have the agreement recorded with the County Recorder. Upon the effective date of the ordinance adopting the development agreement, the agreement shall be effective and binding upon, and the benefits of the agreement shall inure to, the parties and all successors in interest to the parties to the agreement.

(B) If the parties to the development agreement or their successors in interest amend or cancel the development agreement as provided above, or if the city terminates or modifies the agreement for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall cause notice of such action to be recorded with the County Recorder.

§ 10-3.1714 AMENDMENT AND CANCELLATION OF AGREEMENT.

(A) Either party may propose an amendment to or cancellation in whole or in part of the development agreement previously entered into.

(B) The procedure for proposing and adoption of an amendment to or cancellation in whole or in part of the development agreement is the same as the procedure for entering into a development agreement. However, where the city initiates the proposed amendment to or cancellation in whole or in part of the development agreement based on its annual review thereof, it shall first give notice to the property owner at least 30 days prior to the hearing by the City Council to consider such amendment or cancellation.

§ 10-3.1715 PERIODIC REVIEW.

(A) The city shall review each development agreement every 12 months from the date the agreement is entered into. The time for review may be modified to be more frequent either by agreement between the parties or by initiation in one or more of the following ways:

(1) Affirmative vote of at least four members of the Planning Commission; or,

(2) Affirmative vote of at least three members of the City Council.

(B) The Community Development Director shall begin the review proceeding by giving notice that the city intends to undertake a periodic review of the development agreement to the property owner. Notice shall be provided at least ten days in advance of the time at which the matter will be considered by the Planning Commission.

(C) Annual review of development agreements shall be conducted by the Planning Commission at a public hearing at which the property owner shall demonstrate good faith compliance with the terms of development agreement. The burden of proof on this issue is upon the property owner.

(D) The Planning Commission shall determine upon the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the development agreement.

(E) If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the Commission shall by resolution adopt a statement of compliance certifying such compliance in a form suitable for recording in the County Recorder's Office. Upon recording of a statement of compliance, the review for that period is concluded. A resolution adopting a statement of compliance shall be final ten days after the Planning Commission decision, unless a notice of appeal has been filed pursuant to the provisions of the municipal code.

(F) If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with the terms and conditions of the agreement during the period under review, the Planning Commission may recommend to the City Council that the development agreement be modified or terminated.

(G) The procedure for modifying or terminating a development agreement shall be the same as the procedure for entering into a development agreement, except that the owner shall be given at least 30

§ 10-3.1716 STATEMENT OF COMPLIANCE APPEALS.

(A) The applicant, City Council, or any affected person may appeal the Planning Commission's resolution adopting a statement of compliance in accordance with the provisions of the municipal code. The appellant shall bear the burden of demonstrating, on the basis of substantial evidence, that the applicant or successor in interest has not complied with the terms and conditions of the adopted development agreement.

(B) The City Council may uphold the statement of compliance, amend and approve the Planning Commission recommendation or statement of compliance, or reject it. The City Council may unilaterally terminate or modify the development agreement upon a determination based upon substantial evidence that the applicant or successor in interest has not complied with the terms and conditions of the agreement. Such determination shall be final and conclusive.

§ 10-3.1717 PROCEDURES FOR MODIFICATION OR TERMINATION.

(A) If, upon a finding under § 10-3.1715, the city determines to proceed with modification or termination of the development agreement, the city shall give notice to the property owner of its intention so to do. The notice shall contain:

(1) The time and place of the hearing;

(2) A statement as to whether or not the city proposes to terminate or to modify the development agreement; and

(3) Other information which the city considers necessary to inform the property owner of the nature of the proceeding.

(B) At the time and place set for the hearing on modification or termination, the property owner shall be given an opportunity to be heard. The City Council may refer the matter back to the Planning Commission for further proceedings or for report and recommendation. The City Council may impose those conditions to the action it takes as it considers necessary to protect the interests of the city. The decision of the City Council is final.

§ 10-3.1718 CERTAINTY OF DEVELOPMENT AGREEMENTS.

(A) An adopted development agreement and any terms, conditions, maps, notes, references, or regulations which are a part of the agreement shall be considered enforceable elements of the city's municipal code. In the event of an explicit conflict with any other provisions of the municipal code, the development agreement shall take precedence. Unless otherwise provided by the development agreement, the city's ordinances, resolutions, rules and regulations, and official policies governing permitted land uses, density, design, improvement and construction standards shall be those city's ordinances, resolutions, rules and regulations, and official policies in force at the time of final approval of the development agreement.

(B) All development agreements shall be subject to the laws, statutes, regulations or court decisions of the state and federal government. In the event any such laws, statutes, regulations or court decisions made or enacted after a development agreement has been entered into prevents or precludes compliance with one or more provisions of the development agreement, such provisions of the development agreement shall be modified or suspended as may be necessary to assure compliance by the city, applicant or successor in interest with such laws, statutes, regulations or court decisions. Nothing in this section shall be deemed to affect the validity of fees, conditions, or other exactions imposed and confirmed by the terms of the agreement.

MINOR DEVIATIONS

§ 10-3.1801 NECESSITY

Exceptions to development standards may be necessary to allow creative design solutions and to accommodate unique site conditions. The Minor Deviation process allows minor exceptions from certain requirements of this chapter to be approved at the administrative level to provide relief from the unintended consequences of the strict application of development standards.

§ 10-3.1802 APPLICABILITY

Minor Deviations do not apply to land use or density and shall not waive or modify a specific prohibition or procedural requirement. A Minor Deviation may be applied to the following development standards in any zone to the maximum reduction or increase as specified.

(A) Reduce area or lot dimension requirements to a maximum exception of 10 percent.

(B) Front and rear yard setback modifications not exceeding five feet.

(C) Side yard setback modifications not exceeding two feet.

(D) Building site coverage modifications not exceeding 10% of the minimum open space requirements specified by the Municipal Code.

(E) Excessive building height adjustments not exceeding two feet.

(F) Minor exceptions as determined by the Planning Director that provide relief of no more than 10 percent from the identified standard and meet the intent and purpose of this chapter.

§ 10-3.1803 APPLICATION AND FEES

(A) Applications for Minor Deviations shall be filed with the Planning Director. The Planning Division shall provide forms for such purposes and may prescribe the information to be provided in such application. Such applications shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the city.

(B) Each application for a Minor Deviation shall be accompanied by a fee in an amount as established by resolution of the City Council. The requirement of the filing fee shall not apply to public agencies.

§ 10-3.1804 APPROVAL AUTHORITY

Applications for a Minor Deviation shall be reviewed and approved by the Planning Director. As the designated approving authority, the Director is authorized to approve, conditionally approve, or deny an application for a Minor Deviation.

§ 10-3.1805 PUBLIC HEARING AND NOTICING

No public hearing is required prior to taking action on an application for a Minor Deviation.

§ 10-3.1806 CONDITIONS OF APPROVAL

In approving an application for a Minor Deviation, the Planning Director may impose reasonable and appropriate conditions in order to achieve the purposes of this Title, ensure consistency with the goals and policies of the adopted General Plan, and justify making the necessary findings.

§ 10-3.1807 FINDINGS FOR APPROVAL

(A) The proposed development is compatible with existing and proposed land uses in the surrounding area.

(B) Any exceptions to or deviations from the requirements or development standards of this chapter result in the creation of appropriate and necessary project design solutions that would not otherwise be possible.

(C) Granting the Minor Deviation will not adversely affect the interests of the public or residents and property owners in the vicinity of the project.

(D) The proposed development is consistent with the purposes of the General Plan or any applicable specific plan or development agreement

§ 10-3.1808 APPEALS

In case the applicant, or other interested parties are not satisfied with the action of the Planning Director, they may within ten days appeal in writing to the Planning Commission for further action by filing an appeal with the Planning Director.

§ 10-3.1809 AMENDMENTS

Any amendments affecting an approved Minor Deviation shall be handled as a new application.

GENERAL PLAN AMENDMENTS

§ 10-3.1901 NECESSITY

This chapter establishes guidelines and procedures for amending the General Plan. The General Plan and these procedures are to be consistent with S~~s~~tate planning laws (California Government Code Section 65300 et seq.).

§ 10-3.1902 APPLICABILITY

A General Plan Amendment is required for any change to General Plan goals, policies, action items, or any change to General Plan land use diagrams or designations contained in the General Plan.

§ 10-3.1903 APPLICATION AND FEES

(A) Applications for a General Plan Amendment shall be made in writing to the Commission on forms prescribed by the Commission. The application shall be filed with the Community Development Director. The Planning Division shall provide forms for such purposes and may prescribe the information to be provided in such application. Such applications shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the city. Copies of all notices, reports, and actions pertaining to the application shall be attached.

(B) Each application for G~~g~~eneral P~~p~~lan A~~a~~mendment shall be accompanied by a fee as established by resolution of the City Council, no part of which shall be returnable to the applicant.

§ 10-3.1904 APPROVING AUTHORITY

Applications for a General Plan Amendment shall be reviewed and approved by the designated authority as follows:

(A) Recommending Authority. The Planning Commission shall review and make recommendations, as appropriate, to the approving authority for an application for a General Plan Amendment.

(B) Approving Authority. The City Council is authorized to approve, alter, or deny an application for a General Plan Amendment.

§ 10-3.1905 PUBLIC HEARING AND NOTICE

(A) The Planning Commission shall hold a public hearing to make a recommendation on applications for a General Plan Amendment. The Planning Commission's recommendation shall be forwarded to the City Council. The City Council shall hold a public hearing prior to taking action on an application for a General Plan Amendment.

(B) Any proposed General Plan Amendment shall be considered by the Planning Commission at a public hearing for the purpose of providing a recommendation to the City Council. Not less than ten days

before such public hearing, notice shall be given of such hearing in the following manner: by one publication in a newspaper of general circulation in the city. Such notice shall state the name of the applicant, nature of the request, location of the property, and the time and place of the action or hearing. The following additional notice shall be provided for a public hearing:

(1) Direct mailing to the owners and occupants of property located within 300 feet of the boundaries of the project site, as shown on the latest equalized assessment roll.

(2) In addition, notice shall also be given by first class mail to any person who has filed a written request with the Community Development Department. Such a request may be submitted at any time during the calendar year and shall apply for the balance of such calendar year. The city may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.

§ 10-3.1906 FINDINGS OF APPROVAL

Prior to approving a General Plan Amendment, the City Council shall make all the following findings, which shall be made by resolution:

(A) The amendment is consistent with the intent of the General Plan vision statement and supporting principles, goals, and policies.

(B) The amendment prescribes reasonable controls and standards for affected land uses to ensure compatibility and integrity of those uses with other established uses.

(C) The amendment provides for the protection of the general health, safety, and/or welfare of the community.

§ 10-3.1907 NOTICE OF DECISION

Written notice of decision of City Council shall be provided to the applicant and all parties requesting such notification. Notices of decision are not required for actions of a recommending body. The notice of decision shall be provided as follows

(A) A written notice of decision shall be mailed within 10 days of the date of decision and shall include:

(1) The application request as acted upon by the City Council.

(2) Any conditions of approval or other requirements applied to the decision.

(3) The action taken by the City Council

§ 10-3.1908 APPEALS

Actions taken by the City Council are final and are not subject to appeal.

§ 10-3.1909 EXPIRATION AND TIME EXTENSION

No extensions of time are necessary as an approved General Plan Amendment does not expire.

§ 10-3.1910 AMENDMENTS

Any amendments affecting an approved General Plan Amendment shall be handled as a new application.

§ 10-3.1911 FREQUENCY OF AMENDMENTS

Pursuant to Government Code Section 65358, no mandatory element of the General Plan may be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time and may include more than one change to the General Plan.

§ 10-3.1912 ADDITIONAL NOTICE REQUIRED

Pursuant to Government Code Section 65352, at least 45 days prior to Council action on a proposed General Plan Amendment, the Community Development Director shall notify the County, the Local Agency Formation Commissions (LAFCO), any applicable Native American Tribes, and any area-wide planning agency or federal agency whose operations may be significantly affected by the proposed action and each governmental body, commission, or board, including those of any school or special districts, whose jurisdiction lies wholly or partially within the City whose functions include recommending, preparing plans for, or constructing major public works projects.

Item:	B-1
Minutes for:	12/04/2024
Adopted:	12/18/2024

Minutes of a Regular Meeting of the Madera City Council

December 4, 2024 **Council Chambers**
6:00 p.m. **City Hall**

The Madera City Council meetings are open to the public. This meeting will also be available for public viewing and participation through Zoom. Members of the public may also observe the live-streamed meeting on the City's website at www.madera.gov/live. Members of the public may comment on agenda items at the meeting or remotely through an electronic meeting via phone by dialing (669) 900-6833 enter ID: 847 7137 8598 #. Comments will also be accepted via email at citycouncilpubliccomment@madera.gov or by regular mail at 205 W. 4th Street, Madera, CA 93637.

CALL TO ORDER: Meeting was called to order at 6:00 p.m.

ROLL CALL:

Present: Mayor Santos Garcia
Mayor Pro Tem Cece Gallegos, District 1
Councilmember Jose Rodriguez, District 2
Councilmember Steve Montes, District 3 (Arrived at 6:41 p.m.)
Councilmember Anita Evans, District 4
Councilmember Elsa Mejia, District 5
Councilmember Artemio Villegas, District 6

Others present were City Manager Arnoldo Rodriguez, City Clerk Alicia Gonzales, City Attorney Shannon L. Chaffin, Chief Building Official Rafael Magallan, City Engineer Keith Helmuth, Community Development Director Will Tackett, Director of Financial Services Michael Lima, Grants Administrator Marcela Zuniga, Director of Human Resources Wendy Silva, Director of Information Technology Gary Price, Director of Parks and Community Services Joseph Hebert, Police Commander Josiah Arnold, Assistant Engineer Jonathan Gramajo and Wastewater Treatment Plant Manager Gabriel Bostan.

INVOCATION: Pastor Roger Leach, Valley West Christian Center

PLEDGE OF ALLEGIANCE: Councilmember Villegas

APPROVAL OF AGENDA:

ON MOTION BY COUNCILMEMBER RODRIGUEZ AND SECONDED BY MAYOR PRO TEM GALLEGOS, THE AGENDA REMOVING ITEM B-10 WAS APPROVED BY A 6/0 VOTE. ABSENT: COUNCILMEMBER MONTES.

COUNCIL REORGANIZATION:

1. **Declaring the Results of the 2024 General Election, Oaths of Office, and Annual Reorganization**

   Recommendation: Council reviews the Madera County Elections Office Canvass for Elected Official positions and take the following action:

1. By Motion, Adopt a Resolution Declaring the Results of the 2024 General Election as Certified by the Madera County Elections Office; and;
2. Performance of Ceremonial Oaths of Office; and
3. Council to Recognize Elected Officials for their Years of Service (Report by Alicia Gonzales)

ON MOTION BY COUNCILMEMBER RODRIGUEZ AND SECONDED BY MAYOR PRO TEM GALLEGOS, REORGANIZATION ITEM 1 WAS APPROVED BY A 6/0 VOTE. ABSENT: COUNCILMEMBER MONTES.

RES 24-195 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA DECLARING THE RESULTS OF THE NOVEMBER 5, 2024 ELECTION AS REQUIRED BY LAW

Mayor Gallegos introduced former Mayor Garcia and thanked him for his service during his time on the Council and as Mayor. Former Mayor Garcia gave an outgoing speech.

2. Consideration of Selection of Mayor Pro Tem to Serve a One-Year Term

Recommendation: Council to accept nominations for Mayor Pro Tem and make appointment by motion to serve a one-year term (Report by Alicia Gonzales)

ON MOTION BY COUNCILMEMBER EVANS AND SECONDED BY COUNCILMEMBER MEJIA, REORGANIZATION ITEM 2 TO APPOINT COUNCILMEMBER RODRIGUEZ AS MAYOR PRO TEM TO SERVE A ONE-YEAR TERM WAS APPROVED BY A 5/0 VOTE. ABSENT: COUNCILMEMBER MONTES. VACANT: DISTRICT 1

Mayor Gallegos announced that Councilmember Montes had arrived. She also called for a short recess and invited everyone to join them for cake and refreshments to celebrate the newly elected officials. The meeting will resume following the recess.

PRESENTATIONS:

1. Proclamation Recognizing Assemblywoman Esmeralda Soria

Assemblywoman Soria was presented with a Proclamation recognizing her work and contributions to the City.

She also presented each of the newly elected officials with a certificate of recognition.

PUBLIC COMMENT:

The first 15 minutes of the meeting are reserved for members of the public to address the Council on items which are within the subject matter jurisdiction of the Council. Speakers shall be limited to three minutes. The Council is prohibited by law from taking any action on matters discussed that are not on the agenda, and no adverse conclusions should be drawn if the Council does not respond to public comment at this time.

Bobby Kahn, EDC Interim Executive Director introduced the new EDC Executive Director Kristina Gallagher.

No further Public Comment was presented. Public Comment was closed.

A. PUBLIC HEARINGS: None

B. CONSENT CALENDAR:

Matters listed under the Consent Calendar are considered routine and will be enacted by one motion and one vote.

ON MOTION BY COUNCILMEMBER EVANS AND SECONDED BY COUNCILMEMBER MONTES, THE CONSENT CALENDAR WAS APPROVED BY A 6/0 VOTE. VACANT: DISTRICT 1

B-1 Informational Report on Register of Audited Demands

Recommendation: Review Register of Audited Demands Report for November 9, 2024 to November 22, 2024 (Report by Michael Lima)

B-2 Informational Report on Contract City Attorney Services and Litigation Expenditures

Recommendation: This report is submitted for informational purposes only and there is no action requested from the City Council (Report by Arnoldo Rodriguez)

B-3 Update of the City of Madera's Public Transportation Agency Safety Plan for the Madera Metro Transit System

Recommendation: Adopt a Resolution adopting the updated Madera Metro Public Transportation Agency Safety Plan (Report by Michael Lima)

RES 24-196 A RESOLUTION OF THE CITY COUNCIL, OF THE CITY OF MADERA, CALIFORNIA, APPROVING THE UPDATE TO MADERA METRO PUBLIC TRANSPORTATION AGENCY SAFETY PLAN

B-4 Amendment to the Agreement with Westwood Professional Services, Inc., Formally O'Dell Engineering, regarding R-94 Bid Package 3 – Sidewalk Improvements at Various Locations

Recommendation: Adopt a Resolution Amending the Agreement with Westwood Professional Services, Inc., Formally O'Dell Engineering, in the Amount of $15,900 for the Design of Additional Sidewalk Segments at Various Locations (Report by Keith Helmuth)

RES 24-197 AMENDMENT NO. 1 TO THE AGREEMENT WITH WESTWOOD PROFESSIONAL SERVICES, INC. (FORMALLY O'DELL ENGINEERING) FOR THE DESIGN OF ADDITIONAL SIDEWALK, CITY PROJECT NO. R-94 BID PACKAGE 3 SIDEWALK IMPROVEMENTS AT VARIOUS LOCATIONS, AHSC PROJECT NO. 19-AHSC-12760

B-5 Adjustment of Planning Manager Assigned Salary Range

Recommendation: Adopt a Resolution Modifying the Assigned Salary Range for the Classification of Planning Manager (Report by Wendy Silva)

RES 24-198 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA MODIFYING THE ASSIGNED SALARY RANGE FOR THE PLANNING MANAGER POSITION

B-6 Madera Elks Lodge Fee Waiver Request for the Annual Hoop Shoot Event

Recommendation: Adopt a Resolution waiving the rental fees of the John Wells Youth Center on January 4, 2025, related to a Hoop Shoot Contest hosted by the Madera Elks Lodge #1918, at an anticipated fee rental of $500 (Report by Joseph Hebert)

RES 24-199 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA WAIVING THE RENTAL FEES OF THE JOHN WELLS YOUTH CENTER ON JANUARY 4, 2025, RELATED TO A HOOP SHOOT CONTEST HOSTED BY THE MADERA ELKS LODGE #1918, AT AN ANTICIPATED FEE RENTAL OF $500

B-7 Fresno-Madera Area Agency on Aging for Fiscal Year 2024-25 for Title lll C1 Congregate Nutrition Program for Older Adults

Recommendation:

1. Adopt a Resolution Approving a Contract Between the City and the Fresno-Madera Area Agency on Aging (FMAAA) for Fiscal Year (FY) 2024/2025 for the Title lll C1 Congregate Nutrition Program (CNP) for Older Adults, not to exceed $56,000, and Authorize the Mayor to Execute the Contract on Behalf of the City; and
2. Adopt a Resolution Amending the City's FY 2024/25 Operating Budget approving related revenue and expenditure line items related to the execution of the FMAAA FY 2024/2025 Title lll C1 CNP for Older Adults Contract (Report by Joseph Hebert)

RES 24-200 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING A CONTRACT BETWEEN THE CITY OF MADERA AND THE FRESNO-MADERA AREA AGENCY ON AGING (FMAAA) FOR FISCAL YEAR (FY) 2024/2025 FOR THE TITLE III C1 CONGREGATE NUTRITION PROGRAM FOR OLDER ADULTS, NOT TO EXCEED $56,000, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

RES 24-201 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA AMENDING THE FISCAL YEAR 2024/25 OPERATING BUDGET APPROVING RELATED REVENUE AND EXPENDITURE LINE ITEMS RELATED TO SENIOR SITE MANAGEMENT AGREEMENT BETWEEN FRESNO-MADERA AREA AGENCY ON AGING AND THE CITY OF MADERA

B-8 Consideration of California Conservation Corps (CCC) Sponsor Agreements

Recommendation:

1. Adopt a Resolution Approving an Agreement with the California Conservation Corps for the Performance of Tree Trimming for Project Number P-24-2653-14067; and
2. Adopt a Resolution Approving an Agreement with the California Conservation Corps for the Performance of Landscape Maintenance for Project Number P-24-2652-14383 (Report by Joseph Hebert)

RES 24-202 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING AN AGREEMENT WITH THE CALIFORNIA CONSERVATION CORPS FOR THE PERFORMANCE OF TREE TRIMMING FOR PROJECT NUMBER P-24-2653-14067

RES 24-203 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING AN AGREEMENT WITH THE CALIFORNIA CONSERVATION CORPS FOR THE PERFORMANCE OF TREE TRIMMING FOR PROJECT NUMBER P-24-2652-14383

B-9 2024 Supplemental Carbon Reduction Program (CRP) Call for Projects

Recommendation: Adopt a Resolution approving a project to be nominated for federal transportation funding under the 2024 Supplemental CRP Call for Projects and supporting the implementation of Assembly Bill 1012, "Timely Use of Funding" for Federal Funding of projects (Report by Keith Helmuth)

RES 24-204 RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA, SUPPORTING IMPLEMENTATION OF AB 1012 "TIMELY USE OF FUNDING" REQUIREMENTS, APPROVING PROPOSED PROJECT FOR FEDERAL TRANSPORTATION FUNDING UNDER THE 2024 SUPPLEMENTAL CRP CALL FOR PROJECTS, AND AUTHORIZING THE CITY ENGINEER TO SUBMIT THE PROJECT APPLICATION TO THE MADERA COUNTY TRANSPORTATION COMMISSION

B-10 Madera High School Athletics Department Fee Waiver Request for the Freshman/Junior Varsity Girls Basketball Tournament

Recommendation: Adopt a Resolution waiving the rental fees of the John Wells Youth Center Gym on December 13 and 14 for a Freshman/Junior Varsity Girls Basketball Tournament hosted by the Madera High School Athletic Department (MHS) at an anticipated fee rental of $935.00 (Report by Joseph Hebert)

This item was removed from the agenda during the Agenda Approval section.

C. <u>WORKSHOP</u>: None

D. <u>PETITIONS, BIDS, RESOLUTIONS, ORDINANCES, AND AGREEMENTS:</u>

D-1 2024 Wastewater Treatment Plant Improvements Project WWTP 24-01

Recommendation: Adopt a Resolution

1. Adopting a Class 1 (Existing Facilities) and Class 2 (Replacement and Reconstruction) Categorical Exemption under California Environmental Quality Act (CEQA) Guidelines Section 15301 and 15302; and
2. Approving the contract award for the 2024 Wastewater Treatment Plant Improvements Project WWTP 24-01 for $8,738,195 to Gateway Pacific Contractors; and
3. Authorizing a contingency of 15 percent of the contract amount. (Report by Keith Helmuth)

ON MOTION BY COUNCILMEMBER EVANS AND SECONDED BY COUNCILMEMBER MONTES, ITEM D-1 WAS APPROVED BY A 6/0 VOTE. VACANT: DISTRICT 1

RES 24-205 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING THE CONTRACT AWARD FOR THE WASTEWATER TREATMENT PLANT IMPROVEMENT PROJECT, CITY PROJECT WWTP 24-01 IN THE AMOUNT OF $8,738,195 TO GATEWAY PACIFIC CONTRACTORS, INC. AND ADOPTING A CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CLASS 1 (EXISTING FACILITIES)

AND CLASS 2 (REPLACEMENT OR RECONSTRUCTION) CATEGORICAL EXEMPTION

E. ADMINISTRATIVE REPORTS:

E-1 City Council Discussion of Options Regarding the Process for Filling of a Potential Vacancy on the City Council

Recommendation: Discussion and direction from Council as appropriate.

(Note: The Elections Code has strict timelines regarding filling of vacancies. However, elections results are not anticipated to be certified by the County until just before the Council meeting, and well after Agenda is published. As a result, it is unknown at this time if a vacancy may be created or not. To preserve all options for the Council, this item is included on the Agenda as a placeholder and may be removed if not warranted.) (Report by Shannon Chaffin)

Victor Montes, a County resident stated that having an election for a person who is only going to serve for one year would be a waste of resources.

No further Public Comment was presented. Public Comment was closed.

Mayor Pro Tem Rodriguez nominated Rohi Zacharia and Councilmember Evans seconded.

Mayor Gallegos nominated Tim Riche and Councilmember Montes seconded.

Councilmember Mejia would like the public to be able to get information through the City social media, etc.

Mayor Gallegos opened public comment.

A citizen of District 1 asked if there was a process where a representative of District 1 to be involved in the nomination. City Attorney Shannon Chaffin stated that only the City Council can make appointments, however they can establish groups to make recommendations to the Council, however due to time constraints, that would be difficult to accomplish.

Member of public, asked that for transparency purposes, the public have an open period to respond if they are interested.

No further Public Comment was presented. Public Comment was closed.

ON MOTION BY MAYOR GALLEGOS AND SECONDED BY COUNCILMEMBER EVANS THERE ARE TWO (2) NOMINEES, NOMINATIONS ARE CLOSED, NOMINEES ARE ASKED TO ATTEND THE DECEMBER 18TH COUNCIL MEETING FOR AN INTERVIEW AND COUNCIL RESERVES ITS AUTHORITY TO CONSIDER OTHER NOMINATIONS IF THE MAJORITY OF COUNCIL AGREE. MOTION WAS APPROVED BY A 5/1 VOTE. NAY: COUNCILMEMBER MEJIA. VACANT: DISTRICT 1

After discussion, City Manager Arnoldo Rodriguez summarized that the expectation is that nominees will submit a written response by December 11th which will be public and will be included in the meeting packet for the December 18th Council meeting. At the December 18th Council meeting, the nominees will have a maximum of five (5) minutes to introduce themselves and then the City Council will conduct the interviews and ask them questions. All interviews will be public record and will take place during the December 18th Council meeting inside the Council Chamber.

Mayor Pro Tem Rodriguez stated that if needed during the December 18th meeting and if Council agrees, those interested in being considered for nomination may submit a resume and interview at that time.

F. FUTURE AGENDA ITEMS:

This portion of the meeting is reserved (i) to initiate new matters and to request updates, and (ii) and to initiate new agenda items.

Mayor Pro Tem Rodriguez requested a review of the member selection process for the Airport Advisory Committee, including a discussion of alternative methods for selecting members. This request stems from the committee's inability to meet due to a lack of quorum, preventing any business from being conducted. Mayor Gallegos noted that the Council voted 5/1 to place this item on a future agenda, with one councilmember voting in opposition.

G. COUNCILMEMBER COMMUNICATIONS (REPORTS/ANNOUNCEMENTS):

This portion of the meeting is reserved for the Mayor and Councilmembers (i) to make brief reports on boards, committees, and other public agencies, and at public events, and (ii) to make announcements.

Councilmember Evans invited everyone to the December 22nd Christmas Extravaganza. She congratulated her colleagues in their election/re-election.

Councilmember Montes congratulated his colleagues on their election/re-election. He thanked everyone for participating.

Councilmember Villegas had nothing to report.

Mayor Pro Tem Rodriguez congratulated his colleagues on their election/re-election. He is honored to serve on the Council for the next four (4) years.

Councilmember Mejia congratulated her colleagues on their election/re-election. She thanked all the candidates who had the courage to run for office. She looks forward to tomorrow's Candlelight Parade.

Mayor Gallegos thanked everyone for attending. She looks forward to moving the Council with positive leadership. She stated that the Candlelight Parade starts at 6:00 p.m.

H. CLOSED SESSION: None

UPCOMING MEETING DATES:

- Wednesday, December 18, 2024
- Wednesday, January 15, 2025

ADJOURNMENT: Meeting was adjourned at 8:33 p.m.

_____ _____

ALICIA GONZALES, City Clerk CECELIA K. GALLEGOS, Mayor

_____

MINUTES PREPARED BY
ZELDA LEÓN, Deputy City Clerk

Item:	B-1
Minutes for:	11/20/2024
Adopted:	12/18/2024

Minutes of a Regular Meeting of the Madera City Council

November 20, 2024 **Council Chambers**
6:00 p.m. **City Hall**

The Madera City Council meetings are open to the public. This meeting will also be available for public viewing and participation through Zoom. Members of the public may also observe the live-streamed meeting on the City's website at www.madera.gov/live. Members of the public may comment on agenda items at the meeting or remotely through an electronic meeting via phone by dialing (669) 900-6833 enter ID: 825 7119 6760 #. Comments will also be accepted via email at citycouncilpubliccomment@madera.gov or by regular mail at 205 W. 4th Street, Madera, CA 93637.

CALL TO ORDER: Meeting was called to order at 6:00 p.m.

ROLL CALL:

Present: Mayor Santos Garcia
Mayor Pro Tem Cece Gallegos, District 1
Councilmember Jose Rodriguez, District 2
Councilmember Steve Montes, District 3
Councilmember Anita Evans, District 4
Councilmember Elsa Mejia, District 5 (Arrived at 6:05 p.m.)
Councilmember Artemio Villegas, District 6

Others present were City Manager Arnoldo Rodriguez, City Clerk Alicia Gonzales, City Attorney Shannon L. Chaffin, City Engineer Keith Helmuth, Community Development Director Will Tackett, Director of Financial Services Michael Lima, Division Fire Chief Justin Macomb, Fire Battalion Chief Ralph Duran, Grants Administrator Marcela Zuniga, Director of Human Resources Wendy Silva, Director of Information Technology Gary Price, Director of Parks and Community Services Joseph Hebert, Chief of Police Giachino Chiaramonte, Public Works Director Ismael Hernandez, Deputy City Engineer Ellen Bitter, Assistant Engineer Jonathan Gramajo and Communication Specialist Joseph Carrello.

INVOCATION: Pastor Roger Leach, Valley West Christian Center

PLEDGE OF ALLEGIANCE: Councilmember Evans

APPROVAL OF AGENDA:

ON MOTION BY COUNCILMEMBER MONTES AND SECONDED BY COUNCILMEMBER VILLEGAS, THE AGENDA WAS APPROVED UNANIMOUSLY BY A 6/0 VOTE. ABSENT: COUNCILMEMBER MEJIA.

PRESENTATIONS:

1. **Proclamation Recognizing Madera Cleaners and Laundry for Small Business Saturday**
2. **Proclamation Recognizing Plaza Flower Shop for Small Business Saturday**
3. **Proclamation Recognizing The Vineyard Restaurant for Small Business Saturday**

4. **Proclamation Recognizing Taco Express for Small Business Saturday**

5. **Proclamation Recognizing Casa de Tacos Neza for Small Business Saturday**

6. **Recognition of Ismael Hernandez, Public Works Director**

PUBLIC COMMENT:

The first 15 minutes of the meeting are reserved for members of the public to address the Council on items which are within the subject matter jurisdiction of the Council. The Council is prohibited by law from taking any action on matters discussed that are not on the agenda, and no adverse conclusions should be drawn if the Council does not respond to public comment at this time.

A resident of Madera, Yolanda Contreras requested that the Splash Pad item be moved to the top of the agenda.

No further Public Comment was presented. Public Comment was closed.

Mayor Garcia asked for and received a consensus of the Council to hear Item E-4 Informational Report on Potential Splash Pad Project at Lions Town & Country Park following this announcement.

Item E-4 was presented to Council.

A. PUBLIC HEARINGS:

A-1 Reallocation of Community Development Block Grant (CDBG) program funds from program years 2020 - 2023 in the amount of $225,936.54

Recommendation: Adopt a Minute Order Initiating the Reallocation process, which proposes to:

1. Approve the reallocation of $65,172.23 to the 2023/24 Frank Bergon Senior Center Improvement Project; and
2. Approve the reallocation of $160,764.31 to the 2023/24 Clinton Street Sewer and Water Improvement Project; and
3. Approve the amendment of the 2023/24 CDBG Annual Action Plan to increase the allocations for the Frank Bergon Senior Center Improvement Project and the Clinton Street Sewer and Water Improvement Project; and
4. Set a public Hearing for January 15, 2025 (Report by Michael Lima)

ON MOTION BY MAYOR PRO TEM GALLEGOS AND SECONDED BY COUNCILMEMBER MEJIA, ITEM A-1 WAS APPROVED BY A 6/0 VOTE. ABSENT: COUNCILMEMBER EVANS.

B. CONSENT CALENDAR:

Matters listed under the Consent Calendar are considered routine and will be enacted by one motion and one vote.

ON MOTION BY COUNCILMEMBER MEJIA AND SECONDED BY COUNCILMEMBER VILLEGAS, THE CONSENT CALENDAR WAS APPROVED UNANIMOUSLY BY A 6/0 VOTE. ABSENT: COUNCILMEMBER EVANS.

B-1 Minutes – October 30, 2024

Recommendation: Approve the City Council Minutes of October 30, 2024 (Report by Alicia Gonzales)

B-2 Informational Report on Register of Audited Demands

Recommendation: Review Register of Audited Demands Report for October 19, 2024 to November 8, 2024 (Report by Michael Lima)

B-3 Informational Report on Personnel Activity

Recommendation: This report is submitted for informational purposes only and there is no action requested from the City Council (Council) (Report by Wendy Silva)

B-4 Madera County Department of Behavioral Health Services Fee Waiver Request for the Annual Staff Appreciation and End of the Year Celebration

Recommendation: Adopt a Resolution waiving the rental fees of the Pan American Center on Friday, December 6, 2024, related to an Annual Staff Appreciation and End of the Year Celebration hosted by the Madera County Department of Behavioral Health Services Staff Activities Committee, at an anticipated fee rental of $910.00 (Report by Joseph Hebert)

RES 24-178 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA WAIVING THE RENTAL FEES OF THE PAN-AMERICAN CENTER FOR FRIDAY, DECEMBER 6, 2024, RELATED TO THE MADERA COUNTY DEPARTMENT OF BEHAVIORAL HEALTH SERVICES ANNUAL STAFF APPRECIATION AND END OF THE VEAR CELEBRATION, AT AN ANTICIPATED FEE RENTAL OF $910.00

B-5 Madera County Master Gardeners Fee Waiver Request for the Annual Tea Party

Recommendation: Adopt a Resolution waiving the rental fees of the Frank Bergon Senior Center on Saturday, January 25, 2025, related to an Annual Tea Party hosted by the Madera County Master Gardeners, at an anticipated fee rental of $565.00 (Report by Joseph Hebert)

RES 24-179 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA WAIVING THE RENTAL FEES OF THE FRANK BERGON SENIOR CENTER FOR SATURDAY, JANUARY 25, 2025, RELATED TO THE MADERA COUNTY MASTER GARDENERS ANNUAL TEA PARTY, AT AN ANTICIPATED FEE RENTAL OF $565.00

B-6 Madera Omega LEO Club Fee Waiver Request for Exhibition Game at the John Wells Youth Center

Recommendation: Adopt a Resolution waiving the rental fees of the John Wells Youth Center on Saturday, November 23, 2024, related to a Basketball Exhibition Game, between the Madera Omega LEO Club and the Valley Children's Adaptive Sports Fresno Wheelers at an anticipated fee rental of $425 (Report by Joseph Hebert)

RES 24-180 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA WAIVING THE RENTAL FEES OF THE JOHN WELLS YOUTH CENTER FOR SATURDAY, NOVEMBER 23, 2024, RELATED TO A BASKETBALL EXHIBITION GAME, BETWEEN THE LEO CLUB AND THE VALLEY CHILDREN'S ADAPTIVE SPORTS FRESNO WHEELERS AT AN ANTICIPATED FEE RENTAL OF $425

B-7 Improvement Agreement Amendment No. 3 for the Iveywood I Subdivision (Tract No. 19 S-03) Allowing Reimbursement of Expenses Incurred to Date

Recommendation: Adopt a Resolution Approving Amendment No. 3 to the Improvement Agreement Authorizing Reimbursement of Expenses Incurred to Date (Report by Keith Helmuth)

RES 24-181 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING AMENDMENT NO. 3 TO THE IMPROVEMENT AGREEMENT AUTHORIZING REIMBURSEMENT OF EXPENSES INCURRED TO DATE

B-8 Consultant Services Agreement with Madera Unified School District for Fiscal Year 2024/2025 Winter Camp

Recommendation:
1. Adopt a Resolution approving the Consultant Services Agreement with the Madera Unified School District (MUSD) for the Fiscal Year (FY) 2024/2025 Winter Enrichment STEAM Camp not to exceed $27,552.50; and
2. Adopt a Resolution Amending the City's FY 2024/25 Operating Budget approving related revenue and expenditure line items related to the execution of the MUSD FY 2024/2025 Winter Enrichment STEAM Camp (Report by Joseph Hebert)

RES 24-182 RESOLUTION APPROVING A CONSULTANT SERVICES AGREEMENT WITH MADERA UNIFIED SCHOOL DISTRICT FOR THE FISCAL YEAR 2024/2025 WINTER ENRICHMENT STEAM CAMP PROGRAM NOT TO EXCEED $27,552.50

RES 24-183 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA,CALIFORNIA AMENDING THE FISCAL YEAR 2024/25 OPERATING BUDGET APPROVING RELATED REVENUE' AND EXPENDITURE LINE ITEMS RELATING TO THE CONSULTANT SERVICES AGREEMENT BETWEEN MADERA UNIFIED SCHOOL DISTRICT AND THE CITY FOR A WINTER ENRICHMENT STEAM CAMP

B-9 Request by Steven King for Connection to the City's Water System

Recommendation: Adopt a Resolution Approving an Agreement for Outside City Limits Water Connection for 16250 N Lake Street (APN 038-090-034) (Report by Keith Helmuth)

RES 24-184 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING AGREEMENT FOR OUTSIDE CITY LIMITS WATER CONNECTION FOR 16250 N LAKE STREET (APN 038-090-034)

B-10 Purchase of Video Wall Display for Police Department Communications Center

Recommendation: Adopt Resolutions:
1. Approving the purchase of Samsung monitors for Police Department communications center video wall display from Zones LLC for $7,013.15; and
2. Approving a Budget Amendment to the Fiscal Year 2024/25 Operating Budget to appropriate Supplemental Law Enforcement

fund balance funds for the purchase of Samsung monitors (Report by Giachino Chiaramonte)

RES 24-186 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA AUTHORIZING AND APPROVING AN AMENDMENT TO THE CITY OF MADERA FISCAL VEAR 2024/2025 BUDGET TO APPROPRIATE SUPPLEMENTAL LAW ENFORCEMENT FUNDS FOR THE PURCHASE OF SAMSUNG MONITORS FOR THE POLICE DEPARTMENT'S COMMUNICATION CENTER

B-11 Electric Vehicle Training and Grant Application

Recommendation: Adopt a Resolution approving training with the Kingsburg Truck Center for Electrical Vehicle Maintenance Training and submittal of an application to the San Joaquin Valley Air Pollution Control District for reimbursement of this training through the Remove II Program (Report by Michael Lima)

RES 24-187 RESOLUTION APPROVING TRAINING WITH KINGSBURG TRUCK CENTER FOR ELECTRICAL VEHICLE TRAINING AND SUBMITTAL OF AN APPLICATION TO THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT FOR REIMBURSEMENT FOR ABOVE TRAINING THROUGH THE REMOVE II PROGRAM

B-12 Accepting Donation of $4,000 from Force of Nature Activist Union for the Fire Department

Recommendation: Adopt a Resolution accepting $4,000 from Force of Nature Activist Union and deposit of said monies into the Fire Department Fiscal Year 2024/25 Budget (Report by Justin Macomb)

RES 24-188 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, ACCEPTING $4000 IN DONATION FUNDS FROM FORCE OF NATURE ACTIVIST UNION

RES 24-189 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA AMENDING THE FISCAL YEAR 2024/25 BUDGET APPROVING RELATED REVENUE AND EXPENDITURE LINE ITEMS RELATING TO THE $4,000 DONATION MADE BY FORCE OF NATURE ACTIVIST UNION

C. <u>WORKSHOP</u>: None

D. <u>PETITIONS, BIDS, RESOLUTIONS, ORDINANCES, AND AGREEMENTS:</u>

D-1 Law Enforcement Services Agreement with the Madera Unified School District

Recommendation: Adopt a Resolution approving a Law Enforcement Services Agreement between the Madera Unified School District and the City (Report by Giachino Chiaramonte)

ON MOTION BY COUNCILMEMBER EVANS AND SECONDED BY COUNCILMEMBER MONTES, ITEM D-1 WAS APPROVED UNANIMOUSLY BY A 7/0 VOTE.

RES 24-190 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPROVING A LAW ENOFORCEMENT SERVICES AGREEMENT BETWEEN THE MADERA UNIFIED SCHOOL DISTRICT AND THE CITY OF MADERA

D-2 Piggyback purchase agreement for Police Department Mobile Command Post

Recommendation: Adopt a Resolution approving Houston-Galveston Area Council (H-GAC) piggyback agreement AM10-23 for the purchase of a Mobile Command Post from Braun Northwest, Inc. for $580,595.84 (Report by Giachino Chiaramonte)

ON MOTION BY MAYOR PRO TEM GALLEGOS AND SECONDED BY COUNCILMEMBER MONTES, ITEM D-2 WAS APPROVED UNANIMOUSLY BY A 7/0 VOTE.

RES 24-191 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPROVING HOUSTON-GALVESTON AREA COUNCIL PIGGYBACK AGREEMENT AMl0-23 FOR THE PURCHASE OF A MOBILE COMMAND POST FROM BRAUN NORTHWEST, INC. FOR $580,595.84

D-3 Agreement with California Conservation Corps for Fresno River Clean-up Assistance

Recommendation: Adopt a Resolution Approving an Agreement with California Conservation Corps for the Fresno River Clean-up Assistance (Report by Joseph Hebert)

ON MOTION BY COUNCILMEMBER MONTES AND SECONDED BY COUNCILMEMBER MEJIA, ITEM D-3 WAS APPROVED UNANIMOUSLY BY A 7/0 VOTE.

RES 24-192 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING A SPONSOR AGREEMENT WITH CALIFORNIA CONSERVATION CORPS FOR PERFORMANCE OF WORK PROJECTS

D-4 Contract Award for Lake & Sherwood Traffic Signal City Project No. TS-35

Recommendation: Adopt a Resolution approving the contract award for the Lake and Sherwood Traffic Signal, City Project No. TS-35 in the amount of $664,690.40 to C3 Electric, Inc. (Report by Keith Helmuth)

ON MOTION BY COUNCILMEMBER EVANS AND SECONDED BY COUNCILMEMBER MONTES, ITEM D-4 WAS APPROVED UNANIMOUSLY BY A 7/0 VOTE.

RES 24-193 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING THE CONTRACT AWARD FOR THE LAKE AND SHERWOOD TRAFFIC SIGNAL PROJECT IN THE AMOUNT OF $664,690.40 AND AUTHORIZING CONSTRUCTION CONTINGENCIES RELATING TO THE CONTRACT

D-5 Fifth Amendment to the City Clerk At-Will Employment Agreement

Recommendation: This report has been prepared at the direction of the City Council (Council), therefore there is no staff recommendation provided. Council is asked to consider and determine whether to adopt the Resolution approving a Fifth Amendment to the City Clerk At-Will Employment Agreement (Report by Wendy Silva)

ON MOTION BY COUNCILMEMBER RODRIGUEZ AND SECONDED BY MAYOR PRO TEM GALLEGOS, ITEM D-5 WAS APPROVED UNANIMOUSLY BY A 7/0 VOTE.

RES 24-194 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPROVING A FIFTH AMENDMENT TO THE CITY CLERK AT-WILL EMPLOYMENT AGREEMENT

E. ADMINISTRATIVE REPORTS:

E-1 Mid Valley Disposal Annual Update

Recommendation: This report is submitted for informational purposes only and there is no action requested from the City Council (Council) (Report by Mid Valley Disposal)

E-2 Informational Report on Downtown Holiday Decorations

Recommendation: This report is submitted for informational purposes. Staff will receive comments and direction from the City Council (Council) as may be offered. (Report by Arnoldo Rodriguez)

E-3 Parks & Community Services Department Fiscal Year 2024/25 Quarter 1 Recap

Recommendation: This report is submitted to provide the City Council with an informational report on the status of the Parks & Community Services (PCS) Department Fiscal Year 2024/25 Quarter 1 Recap (Report by Joseph Hebert)

E-4 Informational Report on Potential Splash Pad Project at Lions Town & Country Park

Recommendation: This report is submitted for informational purposes. Staff will receive comments and direction as may be offered from the City Council (Council) (Report by Joseph Hebert)

A member of the public requested that this item be moved to the top of the agenda. Council heard this item following the Public Comment section.

E-5 Code Enforcement Staffing Update

Recommendation: This report is submitted for informational purposes only and there is no action requested from the City Council (Report by Giachino Chiaramonte)

E-6 Informational Report on the Madera Metro Transit System

Recommendation: This report is submitted for informational purposes and there is no action requested from the City Council (Council) (Report by Michael Lima)

F. FUTURE AGENDA ITEMS:

This portion of the meeting is reserved (i) to initiate new matters and to request updates, and (ii) and to initiate new agenda items.

Councilmember Rodriguez asked and received Council consensus (6/1 Mayor Garcia voted Nay) to add an agenda item next year regarding the Community Choice Aggregate for buying energy.

Mayor Garcia asked and received unanimous Council consensus (7/0) to recognize and thank with a proclamation the Federal and State representatives that have helped the City throughout the year.

G. COUNCILMEMBER COMMUNICATIONS (REPORTS/ANNOUNCEMENTS):

This portion of the meeting is reserved for the Mayor and Councilmembers (i) to make brief reports on boards, committees, and other public agencies, and at public events, and (ii) to make announcements.

Mayor Pro Tem Gallegos invited everyone to the Santa Fe Park Ribbon Cutting on Saturday. She congratulated the Big Brothers & Big Sisters organization as they were donated $1 Million by George and Melody Rogers who donate $1 Million annually to non-profits.

Councilmember Rodriguez attended a Focus on the Future conference through MCTC where they discussed SB 743. He stated that he attended a Golf Course Advisory Committee meeting. The restrooms have been completed, one HVAC was replaced and another was repaired, and new doors were installed as needed. He wished everyone a Happy Thanksgiving.

Councilmember Montes thanked the community for participating in the election. He wished everyone a good Thanksgiving. He stated that the Food Bank will be distributing food this weekend at the Fairgrounds starting at 8:00 am.

Councilmember Evans wished everyone a Happy Thanksgiving. She stated that last Friday, Assemblywoman Soria presented Mrs. Ochoa (James Monroe Elementary teacher) with a proclamation recognizing her for all the things she has done.

Councilmember Mejia joined the Fire Department on Wednesday, November 6th where the Fire Department received a $4,000 donation from the Nature Activist Union.

Councilmember Villegas joined Assemblywoman Soria last Monday at the Turkey Give Away where more than 300 people received free turkeys. He wished everyone Happy Holidays and Happy Thanksgiving.

Mayor Garcia stated he gave the State of the City presentation recently and thanked City Manager Arnoldo Rodriguez and Communication Specialist Joseph Carrello for their help with the presentation. He was also at the Assemblywoman Soria Turkey Give Away. He attended a Cadet Graduation today where the cadet received a certificate of achievement from Council and where former Councilmember Holley gave the invocation.

H. **CLOSED SESSION**: None

H-1 **Conference with Labor Negotiators pursuant to Government Code §54957.6**

Agency Designated Representatives: Arnoldo Rodriguez and Wendy Silva

Employee Organizations: Mid Management Employee Group and Law Enforcement Mid Management Employee Group

Unrepresented Employee: Planning Manager

City Attorney Shannon Chaffin made the closed session announcement at 9:45 p.m. Mr. Chaffin and Council returned from Closed Session at 10:07 p.m. Mr. Chaffin stated there was no reportable action.

UPCOMING MEETING DATES:

- Wednesday, December 4, 2024
- Wednesday, December 18, 2024

ADJOURNMENT: Meeting was adjourned at 10:07 p.m.

_____ _____

ALICIA GONZALES, City Clerk CECELIA K. GALLEGOS, Mayor

_____

MINUTES PREPARED BY
ZELDA LEÓN, Deputy City Clerk

REPORT TO CITY COUNCIL

Approved by:

Michael Lima, Director of Financial Services

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-2

SUBJECT:

Informational Report on Register of Audited Demands

RECOMMENDATION:

Review Register of Audited Demands Report for November 23, 2024, to December 6, 2024

SUMMARY:

The Register of Audited Demands for the City covering obligations paid during the period of November 23, 2024, to December 6, 2024 is summarized in the following tables. Attachment A contains Warrants while Table 2 is a summary of the wire transfers.

Table 1: *Warrant Distribution Summary*		
Description	*Check #'s*	*Amount*
General Warrants	40974 – 41180	$1,766,259.62

Table 2: *Wire Transfer Summary*		
Description	*Vendor*	*Amount*
Payroll and Taxes	US Bank	$679,108.00
SDI	EDD	$2,621.48
CalPERS Payment	CalPERS	$149,340.19

DISCUSSION:

Warrant requests are processed weekly based on the Fiscal Year 2024/2025 Adopted Budget and released for payment every Monday. Each demand has been audited and the Finance Director hereby certifies as to their accuracy and that there were sufficient funds for their payment. Per

the request of City Council, we have included the departments from which each of the respective warrants were requested as well as the fund/division description from which they were paid.

FINANCIAL IMPACT:

Demands for payments are made within the constraints of the Fiscal Year 2024/2025 Adopted Budget.

ALTERNATIVES:

Informational only.

ATTACHMENTS:

Register of Audited Demands

CITY OF MADERA

REGISTER OF AUDITED DEMANDS FOR BANK #1 - US BANK GENERAL ACCOUNT

December 18, 2024

CHECK	PAY DATE	DEPARTMENT	PAID FROM ORG	ISSUED TO	DESCRIPTION	AMOUNT
40974	11/26/2024	ENGINEERING	MEAS T - ENVIRO	MOORE TWINING ASSOCIATES, INC	TESTING ALY-01 & ALY-03	548.00
40975	11/26/2024	PW ADMIN	AIRPORT OPS	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	475.65
40975	11/26/2024	PW ADMIN	Central Admin	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	3,977.86
40975	11/26/2024	PW ADMIN	Comm & Rec Centers	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	7,667.01
40975	11/26/2024	PW ADMIN	Engineering	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	2,731.42
40975	11/26/2024	PW ADMIN	Finance	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	237.47
40975	11/26/2024	PW ADMIN	INTERMODAL BLDG	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	568.33
40975	11/26/2024	PW ADMIN	Parks	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	250.00
40975	11/26/2024	PW ADMIN	Sewer Mtnc/Operations	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	733.72
40975	11/26/2024	PW ADMIN	SOLID WASTE	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	733.72
40975	11/26/2024	PW ADMIN	TRANS - FIXED	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	948.94
40975	11/26/2024	PW ADMIN	TRANS - DAR	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	948.94
40975	11/26/2024	PW ADMIN	UB - Garbage	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	237.46
40975	11/26/2024	PW ADMIN	UB - Sewer	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	237.47
40975	11/26/2024	PW ADMIN	UB - Water	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	474.92
40975	11/26/2024	PW ADMIN	Water Quality Control	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	237.43
40975	11/26/2024	PW ADMIN	WWTP	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	1,057.84
40975	11/26/2024	PW ADMIN	MEAS K - PD	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	636.68
40975	11/26/2024	PW ADMIN	PD Operations	SERVICEMASTER BY J&C BROWN	JANITORIAL SERVICES 11/24	4,618.22
40976	11/26/2024	PD OPERATIONS	MEAS K - PD	HARRY D. WILSON INC.	BMW 1250 - SERVICE	438.28
40977	11/26/2024	PW ADMIN	WWTP	MARIN, RICHARD	REIMBURSEMENT - CERTIFICATION FEES	203.00
40978	11/26/2024	PD OPERATIONS	PD Operations	RAUL R. HERRERA JR.	POLYGRAPHS	250.00
40979	11/26/2024	PD OPERATIONS	PD Operations	DIEBERTS CREATIVE COPY INC	BUSINESS CARDS - PD	151.55
40980	11/26/2024	FINANCE	Finance	SEABURY COPLAND & ANDERSON INSURANCE	CRIME POLICY RENEWAL - THREE YEAR PREMIUM	2,694.33
40980	11/26/2024	FINANCE	General Fund	SEABURY COPLAND & ANDERSON INSURANCE	CRIME POLICY RENEWAL - THREE YEAR PREMIUM	13,471.67
40981	11/26/2024	PD OPERATIONS	PD Operations	TIM J LAW	EMPLOYMENT BACKGROUND	4,800.00
40982	11/26/2024	GRANTS	TRANS - FIXED	MV TRANSPORTATION, INC.	TRANSIT OPERATOR 10/24	97,870.72
40982	11/26/2024	GRANTS	TRANS - DAR	MV TRANSPORTATION, INC.	TRANSIT OPERATOR 10/24	71,009.08
40983	11/26/2024	ENGINEERING	Water Capital Outlay	BEYAZ & PATEL, INC.	PROFESSIONAL ENGINEERING SVS	13,965.70
40984	11/26/2024	ENGINEERING	Water Capital Outlay	BEYAZ & PATEL, INC.	PROFESSIONAL ENGINEERING SVS	994.00
40985	11/26/2024	CITY ADMIN	Central Admin	CRISCOM PUBLIC RELATIONS, INC.	CONSULTANT SERVICES	4,000.00
40986	11/26/2024	PD OPERATIONS	PD Operations	TRILOGY MEDWASTE WEST LLC	REUSABLE TUB - MEDICAL WASTER	201.51
40987	11/26/2024	CITY CLERK'S OFFICE	City Clerk's Office	GENERAL LOGISTICS SYSTEMS US INC	OVERNIGHT MAIL - CITY ATTORNEY	7.73
40988	11/26/2024	PD OPERATIONS	PD Operations	CV FORENSIC NURSING SPECIALISTS	EXAM - 24M-06652	1,000.00
40989	11/26/2024	HR/RISK MGT	HR/RISK MGT	SIJ HOLDINGS LLC	RECRUITMENT ADS	3,156.56
40990	11/26/2024	ENGINEERING	Water Capital Outlay	THE MADERA MAIL DROP	SPEC BOOK PRINTING	160.25
40990	11/26/2024	ENGINEERING	Sewer Capital Outlay	THE MADERA MAIL DROP	PALN & SPEC PRINTING	523.70
40991	11/26/2024	FLEET MAINTENANCE	Fleet Maintenance	ADVANCED AUTOMOTIVE LLC	SMOG CHECK - #1011	48.00
40991	11/26/2024	FLEET MAINTENANCE	Fleet Maintenance	ADVANCED AUTOMOTIVE LLC	SMOG CHECK - #361	48.00
40991	11/26/2024	FLEET MAINTENANCE	Fleet Maintenance	ADVANCED AUTOMOTIVE LLC	SMOG CHECK - #1014	48.00
40992	11/26/2024	PD OPERATIONS	PD Operations	LAW DOG K9	K9 VENDOR TRAINING	900.00
40993	11/26/2024	ENGINEERING	Sewer Capital Outlay	MKN & ASSOCIATES	PROFESSIONAL ENGINEERING SVS	9,573.96
40994	11/26/2024	PD OPERATIONS	PD Operations	CINTAS CORPORATION	MEDICAL SUPPLIES MEDICAL SUPPLIES	142.73
40995	11/26/2024	FACILITIES	Facilities Maintenance	MESA ENERGY SYSTEMS, INC	HVAC MAINTENANCE - CITY HALL	1,951.88
40996	11/26/2024	FINANCE	AIRPORT OPS	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	105.75
40996	11/26/2024	FINANCE	AIRPORT OPS	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	84.60

CHECK	PAY DATE	DEPARTMENT	PAID FROM ORG	ISSUED TO	DESCRIPTION	AMOUNT
40996	11/26/2024	FINANCE	Central Admin	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	170.65
40996	11/26/2024	FINANCE	Central Admin	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	136.52
40996	11/26/2024	FINANCE	Comm & Rec Centers	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	669.40
40996	11/26/2024	FINANCE	Comm & Rec Centers	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	535.52
40996	11/26/2024	FINANCE	COMPUTER MAINT	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	17.50
40996	11/26/2024	FINANCE	COMPUTER MAINT	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	14.00
40996	11/26/2024	FINANCE	Engineering	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	124.30
40996	11/26/2024	FINANCE	Engineering	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	99.44
40996	11/26/2024	FINANCE	Facilities Maintenance	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	1,085.85
40996	11/26/2024	FINANCE	Facilities Maintenance	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	936.50
40996	11/26/2024	FINANCE	Fleet Maintenance	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	546.45
40996	11/26/2024	FINANCE	Fleet Maintenance	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	458.33
40996	11/26/2024	FINANCE	Parks	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	815.61
40996	11/26/2024	FINANCE	Parks	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	760.71
40996	11/26/2024	FINANCE	STREETS	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	871.17
40996	11/26/2024	FINANCE	STREETS	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	744.12
40996	11/26/2024	FINANCE	Sewer Mtnc/Operations	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	354.05
40996	11/26/2024	FINANCE	Sewer Mtnc/Operations	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	284.98
40996	11/26/2024	FINANCE	Street Cleaning	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	86.90
40996	11/26/2024	FINANCE	Street Cleaning	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	69.52
40996	11/26/2024	FINANCE	UB - Water	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	56.85
40996	11/26/2024	FINANCE	UB - Water	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	45.48
40996	11/26/2024	FINANCE	Water Mtnc/Operations	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	899.30
40996	11/26/2024	FINANCE	Water Mtnc/Operations	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	597.38
40996	11/26/2024	FINANCE	Water Quality Control	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	219.40
40996	11/26/2024	FINANCE	Water Quality Control	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	175.52
40996	11/26/2024	FINANCE	WWTP	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	959.77
40996	11/26/2024	FINANCE	WWTP	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	1,077.25
40996	11/26/2024	FINANCE	PD Operations	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 08/24	170.30
40996	11/26/2024	FINANCE	PD Operations	PRUDENTIAL OVERALL SUPPLY	UNIFORM SERVICES 09/24	136.24
40997	11/26/2024	ENGINEERING	Transportation Impact Fee	CORNERSTONE STRUCTURAL ENGINEERING GROUP	B-02 DESIGN SERVICES FOR WESTBERRY BRIDGE	27,256.07
40998	11/26/2024	HR/RISK MGT	PD Operations	SARAH SARQUIZ	TUITION REIMBURSEMENT	675.00
40999	11/26/2024	ENGINEERING	Engineering	INSTITUTE OF TRANSPORTATION ENGINEERS	ANNUAL MEMBERSHIP - 2025	175.50
40999	11/26/2024	ENGINEERING	General Fund	INSTITUTE OF TRANSPORTATION ENGINEERS	ANNUAL MEMBERSHIP - 2025	179.50
41000	11/26/2024	FACILITIES	Facilities Maintenance	MD PROFESSIONAL PAINTING, INC.	IT ROOM PAINT	3,426.54
41001	11/26/2024	PW ADMIN	AIRPORT OPS	EAGLESHIELD PEST CONTROL	PEST CONTROL SERVICES 10/24	39.00
41001	11/26/2024	PW ADMIN	Central Admin	EAGLESHIELD PEST CONTROL	PEST CONTROL SERVICES 10/24	39.00
41001	11/26/2024	PW ADMIN	Comm & Rec Centers	EAGLESHIELD PEST CONTROL	PEST CONTROL SERVICES 10/24	351.00
41001	11/26/2024	PW ADMIN	Engineering	EAGLESHIELD PEST CONTROL	PEST CONTROL SERVICES 10/24	78.00
41001	11/26/2024	PW ADMIN	Fire	EAGLESHIELD PEST CONTROL	PEST CONTROL SERVICES 10/24	117.00
41001	11/26/2024	PW ADMIN	INTERMODAL BLDG	EAGLESHIELD PEST CONTROL	PEST CONTROL SERVICES 10/24	78.00
41001	11/26/2024	PW ADMIN	Parks	EAGLESHIELD PEST CONTROL	PEST CONTROL SERVICES 10/24	39.00
41001	11/26/2024	PW ADMIN	Sewer Mtnc/Operations	EAGLESHIELD PEST CONTROL	PEST CONTROL SERVICES 10/24	19.50
41001	11/26/2024	PW ADMIN	Water Mtnc/Operations	EAGLESHIELD PEST CONTROL	PEST CONTROL SERVICES 10/24	19.50
41001	11/26/2024	PW ADMIN	WWTP	EAGLESHIELD PEST CONTROL	PEST CONTROL SERVICES 10/24	39.00
41001	11/26/2024	PW ADMIN	PD Operations	EAGLESHIELD PEST CONTROL	PEST CONTROL SERVICES 10/24	39.00
41002	11/26/2024	STREETS	CDBG Public Improvement	ISMAEL VALENZUELA	TREE REMOVAL	4,500.00
41003	11/26/2024	FINANCE	AIRPORT OPS	AT&T	SERVICE 831-000-6408-576 08/24	505.52
41003	11/26/2024	FINANCE	AIRPORT OPS	AT&T	SERVICE 831-000-6408-576 09/24	505.52

CHECK	PAY DATE	DEPARTMENT	PAID FROM ORG	ISSUED TO	DESCRIPTION	AMOUNT
41003	11/26/2024	FINANCE	AIRPORT OPS	AT&T	SERVICE 831-000-6408-576 10/24	505.52
41003	11/26/2024	FINANCE	Building	AT&T	SERVICE 831-000-6408-576 08/24	102.87
41003	11/26/2024	FINANCE	Building	AT&T	SERVICE 831-000-6408-576 09/24	102.87
41003	11/26/2024	FINANCE	Building	AT&T	SERVICE 831-000-6408-576 10/24	102.87
41003	11/26/2024	FINANCE	City Attorney	AT&T	SERVICE 831-000-6408-576 08/24	33.51
41003	11/26/2024	FINANCE	City Attorney	AT&T	SERVICE 831-000-6408-576 09/24	33.51
41003	11/26/2024	FINANCE	City Attorney	AT&T	SERVICE 831-000-6408-576 10/24	33.51
41003	11/26/2024	FINANCE	City Clerk's Office	AT&T	SERVICE 831-000-6408-576 08/24	28.21
41003	11/26/2024	FINANCE	City Clerk's Office	AT&T	SERVICE 831-000-6408-576 09/24	28.21
41003	11/26/2024	FINANCE	City Clerk's Office	AT&T	SERVICE 831-000-6408-576 10/24	28.21
41003	11/26/2024	FINANCE	Code Enforcement	AT&T	SERVICE 831-000-6408-576 08/24	563.71
41003	11/26/2024	FINANCE	Code Enforcement	AT&T	SERVICE 831-000-6408-576 09/24	563.71
41003	11/26/2024	FINANCE	Code Enforcement	AT&T	SERVICE 831-000-6408-576 10/24	563.71
41003	11/26/2024	FINANCE	Comm & Rec Centers	AT&T	SERVICE 831-000-6408-576 08/24	1,574.74
41003	11/26/2024	FINANCE	Comm & Rec Centers	AT&T	SERVICE 831-000-6408-576 09/24	1,574.74
41003	11/26/2024	FINANCE	Comm & Rec Centers	AT&T	SERVICE 831-000-6408-576 10/24	1,574.74
41003	11/26/2024	FINANCE	COMPUTER MAINT	AT&T	SERVICE 831-000-6408-576 08/24	106.39
41003	11/26/2024	FINANCE	COMPUTER MAINT	AT&T	SERVICE 831-000-6408-576 09/24	106.39
41003	11/26/2024	FINANCE	COMPUTER MAINT	AT&T	SERVICE 831-000-6408-576 10/24	106.39
41003	11/26/2024	FINANCE	Engineering	AT&T	SERVICE 831-000-6408-576 08/24	236.30
41003	11/26/2024	FINANCE	Engineering	AT&T	SERVICE 831-000-6408-576 09/24	236.30
41003	11/26/2024	FINANCE	Engineering	AT&T	SERVICE 831-000-6408-576 10/24	236.30
41003	11/26/2024	FINANCE	Finance	AT&T	SERVICE 831-000-6408-576 08/24	80.53
41003	11/26/2024	FINANCE	Finance	AT&T	SERVICE 831-000-6408-576 09/24	80.53
41003	11/26/2024	FINANCE	Finance	AT&T	SERVICE 831-000-6408-576 10/24	80.53
41003	11/26/2024	FINANCE	Fire	AT&T	SERVICE 831-000-6408-576 08/24	1,011.62
41003	11/26/2024	FINANCE	Fire	AT&T	SERVICE 831-000-6408-576 09/24	1,011.62
41003	11/26/2024	FINANCE	Fire	AT&T	SERVICE 831-000-6408-576 10/24	1,011.62
41003	11/26/2024	FINANCE	GRANT OVERSIGHT	AT&T	SERVICE 831-000-6408-576 08/24	98.75
41003	11/26/2024	FINANCE	GRANT OVERSIGHT	AT&T	SERVICE 831-000-6408-576 09/24	98.75
41003	11/26/2024	FINANCE	GRANT OVERSIGHT	AT&T	SERVICE 831-000-6408-576 10/24	98.75
41003	11/26/2024	FINANCE	HR/RISK MGT	AT&T	SERVICE 831-000-6408-576 08/24	67.01
41003	11/26/2024	FINANCE	HR/RISK MGT	AT&T	SERVICE 831-000-6408-576 09/24	67.01
41003	11/26/2024	FINANCE	HR/RISK MGT	AT&T	SERVICE 831-000-6408-576 10/24	67.01
41003	11/26/2024	FINANCE	Planning	AT&T	SERVICE 831-000-6408-576 08/24	86.41
41003	11/26/2024	FINANCE	Planning	AT&T	SERVICE 831-000-6408-576 09/24	86.41
41003	11/26/2024	FINANCE	Planning	AT&T	SERVICE 831-000-6408-576 10/24	86.41
41003	11/26/2024	FINANCE	UB - Garbage	AT&T	SERVICE 831-000-6408-576 08/24	196.32
41003	11/26/2024	FINANCE	UB - Garbage	AT&T	SERVICE 831-000-6408-576 09/24	196.32
41003	11/26/2024	FINANCE	UB - Garbage	AT&T	SERVICE 831-000-6408-576 10/24	196.32
41003	11/26/2024	FINANCE	UB - Sewer	AT&T	SERVICE 831-000-6408-576 08/24	196.33
41003	11/26/2024	FINANCE	UB - Sewer	AT&T	SERVICE 831-000-6408-576 09/24	196.33
41003	11/26/2024	FINANCE	UB - Sewer	AT&T	SERVICE 831-000-6408-576 10/24	196.33
41003	11/26/2024	FINANCE	UB - Water	AT&T	SERVICE 831-000-6408-576 08/24	392.66
41003	11/26/2024	FINANCE	UB - Water	AT&T	SERVICE 831-000-6408-576 09/24	392.66
41003	11/26/2024	FINANCE	UB - Water	AT&T	SERVICE 831-000-6408-576 10/24	392.66
41003	11/26/2024	FINANCE	City Manager	AT&T	SERVICE 831-000-6408-576 08/24	33.51
41003	11/26/2024	FINANCE	City Manager	AT&T	SERVICE 831-000-6408-576 09/24	33.51
41003	11/26/2024	FINANCE	City Manager	AT&T	SERVICE 831-000-6408-576 10/24	33.51

CHECK	PAY DATE	DEPARTMENT	PAID FROM ORG	ISSUED TO	DESCRIPTION	AMOUNT
41003	11/26/2024	FINANCE	PD Operations	AT&T	SERVICE 831-000-6408-576 08/24	563.71
41003	11/26/2024	FINANCE	PD Operations	AT&T	SERVICE 831-000-6408-576 09/24	563.71
41003	11/26/2024	FINANCE	PD Operations	AT&T	SERVICE 831-000-6408-576 10/24	563.71
41004	11/26/2024	PD OPERATIONS	PD Operations	AT&T	09/24 FIRSTNET SVS 9391031566	155.55
41004	11/26/2024	PD OPERATIONS	PD Operations	AT&T	09/24 FIRSTNET SVS 93910315780	156.74
41005	11/26/2024	BUILDING	Building	AMERICAN BUSINESS MACHINES	COPIER LEASE	103.88
41005	11/26/2024	BUILDING	Building	AMERICAN BUSINESS MACHINES	PRINTER FINANCE CHARGE	9.50
41005	11/26/2024	ENGINEERING	Engineering	AMERICAN BUSINESS MACHINES	PLOTTER LEASE	278.00
41005	11/26/2024	ENGINEERING	Engineering	AMERICAN BUSINESS MACHINES	ANNUAL COPIER LEASE	1,674.00
41006	11/26/2024	GRANTS	Home Program Income	MEADOWS MOBILE HOME PARK	SPACE RENTAL #19 12/24	871.41
41007	11/26/2024	GRANTS	Home Program Income	MEADOWS MOBILE HOME PARK	SPACE RENTAL #23 12/24	833.86
41008	11/26/2024	GRANTS	Home Program Income	MEADOWS MOBILE HOME PARK	SPACE RENTAL #86 12/24	812.38
41009	11/26/2024	SEWER MTNC/OPERATIONS	WWTP	BSK ASSOCIATES	PERMIT COMPLIANCE LAB	199.00
41009	11/26/2024	WWTP	WWTP	BSK ASSOCIATES	PERMIT COMPLIANCE LAB	1,015.00
41010	11/26/2024	FIRE	Fire	BETTS TRUCK PARTS	REPAIRS - CFD E-56	5,497.33
41011	11/26/2024	HR/RISK MGT	HR/RISK MGT	CA DEPARTMENT OF JUSTICE	PRE-EMPLOYMENT SVS	448.00
41011	11/26/2024	PD OPERATIONS	PD Operations	CA DEPARTMENT OF JUSTICE	BLOOD ALCOHOL ANALYSIS	1,015.00
41011	11/26/2024	PD OPERATIONS	PD Operations	CA DEPARTMENT OF JUSTICE	MISCELLANEOUS SERVICES	757.00
41012	11/26/2024	ENGINEERING	LTF - Streets	CA DEPARTMENT OF TRANSPORTATION	R-96 CALTRANS PAVEMENT PRESERVATIONR	69,116.92
41013	11/26/2024	PD OPERATIONS	SUPP LAW ENF	CEDAR VETERINARY HOSPITAL, INC	VETERINARY SERVICES - BONNIE	3,402.33
41013	11/26/2024	PD OPERATIONS	PD Operations	CEDAR VETERINARY HOSPITAL, INC	VETERINARY SERVICES - BONNIE	26.00
41014	11/26/2024	PURCHASING	AIRPORT OPS	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	76.01
41014	11/26/2024	PURCHASING	Building	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	183.54
41014	11/26/2024	PURCHASING	City Clerk's Office	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	278.26
41014	11/26/2024	PURCHASING	Engineering	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	760.84
41014	11/26/2024	PURCHASING	Finance	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	1,258.75
41014	11/26/2024	PURCHASING	HR/RISK MGT	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	406.48
41014	11/26/2024	PURCHASING	Parks Administration	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	612.74
41014	11/26/2024	PURCHASING	Planning	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	378.42
41014	11/26/2024	PURCHASING	Sewer Mtnc/Operations	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	232.34
41014	11/26/2024	PURCHASING	SOLID WASTE	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	232.34
41014	11/26/2024	PURCHASING	TRANS - FIXED	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	278.26
41014	11/26/2024	PURCHASING	TRANS - DAR	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	278.26
41014	11/26/2024	PURCHASING	Water Mtnc/Operations	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	232.34
41014	11/26/2024	PURCHASING	Water Quality Control	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	289.69
41014	11/26/2024	PURCHASING	WWTP	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	311.46
41014	11/26/2024	PURCHASING	PD Operations	CANON FINANCIAL SERVICES	COPIER LEASE COPIER LEASE	377.65
41014	11/26/2024	PURCHASING	PD Operations	CANON FINANCIAL SERVICES	MPD COPIER 10/24	200.26
41015	11/26/2024	FINANCE	PAYROLL TRUST	COLONIAL LIFE & ACCIDENT INSURANCE CO	#E700482-3 FOR 11/08/2024 PAYROLL	888.13
41016	11/26/2024	FINANCE	PAYROLL TRUST	COLONIAL LIFE & ACCIDENT INSURANCE CO	#E700482-3 FOR 11/22/2024 PAYROLL	888.13
41017	11/26/2024	PD OPERATIONS	PD Operations	COMMUNITY MEDICAL CENTER	LEGAL BLOOD DRAWS - 08/24	175.00
41018	11/26/2024	HR/RISK MGT	HR/RISK MGT	OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA	PRE-EMPLOYMENT SERVICES	204.00
41018	11/26/2024	HR/RISK MGT	WWTP	OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA	ANNUAL AUDIOGRAMS	71.00
41018	11/26/2024	HR/RISK MGT	PD Operations	OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA	ANNUAL AUDIOGRAMS	71.00
41019	11/26/2024	PD OPERATIONS	Code Enforcement	CORELOGIC INFORMATION SOLUTIONS INC	REALQUEST SERVICES 09/24	87.50
41019	11/26/2024	PD OPERATIONS	UB - Garbage	CORELOGIC INFORMATION SOLUTIONS INC	REALQUEST SERVICES 09/24	21.88
41019	11/26/2024	PD OPERATIONS	UB - Sewer	CORELOGIC INFORMATION SOLUTIONS INC	REALQUEST SERVICES 09/24	21.88
41019	11/26/2024	PD OPERATIONS	UB - Water	CORELOGIC INFORMATION SOLUTIONS INC	REALQUEST SERVICES 09/24	43.74
41020	11/26/2024	INFORMATION SERVICES	Finance	DELL COMPUTER CORPORATION	32" MONITORS	988.02

CHECK	PAY DATE	DEPARTMENT	PAID FROM ORG	ISSUED TO	DESCRIPTION	AMOUNT
41021	11/26/2024	PARKS ADMINISTRATION	Comm & Rec Centers	DIAMOND COMMUNICATIONS	ALARM REPORT - FBSC	135.00
41021	11/26/2024	PW ADMIN	Facilities Maintenance	DIAMOND COMMUNICATIONS	SECURITY ALARM MONITORING - PW	165.00
41021	11/26/2024	PW ADMIN	STREETS	DIAMOND COMMUNICATIONS	SECURITY ALARM MONITORING - PW	165.00
41021	11/26/2024	PW ADMIN	Sewer Mtnc/Operations	DIAMOND COMMUNICATIONS	SECURITY ALARM MONITORING - PW	165.00
41021	11/26/2024	PW ADMIN	Water Mtnc/Operations	DIAMOND COMMUNICATIONS	SECURITY ALARM MONITORING - PW	165.00
41021	11/26/2024	WWTP	WWTP	DIAMOND COMMUNICATIONS	MONITORING - WWTP	225.00
41021	11/26/2024	WWTP	WWTP	DIAMOND COMMUNICATIONS	SERVICE/TESTING - WWTP	339.50
41022	11/26/2024	PARKS ADMINISTRATION	Comm & Rec Centers	ENVIRO CLEAN	FLOOR MACHINE SERVICE	711.97
41023	11/26/2024	FLEET ACQUISITION	Fleet Acquisition	LEHR AUTO ELECTRIC	PD UPFIT PARTS #6037 - #6039	864.26
41023	11/26/2024	FLEET ACQUISITION	Fleet Acquisition	LEHR AUTO ELECTRIC	PD UPFIT PARTS #6037 - #6037	864.26
41024	11/26/2024	HR/RISK MGT	INS/RISK MGT	LIEBERT CASSIDY WHITMORE	LEGAL SERVICES	1,936.00
41025	11/26/2024	FINANCE	WATER CONSERV	CITY OF MADERA	MULCH REBATE - 6018106	75.43
41025	11/26/2024	FINANCE	WATER CONSERV	CITY OF MADERA	CLOTHES WASHER REBATE - 9189235	200.00
41025	11/26/2024	FINANCE	Water Mtnc/Operations	CITY OF MADERA	RWMG ANNUAL MEMBERSHIP DUES	1,550.00
41026	11/26/2024	FINANCE	PAYROLL TRUST	M.C.E.A.	MONTHLY DUES 11/24	310.00
41027	11/26/2024	GRANTS	CDBG Public Services	MADERA COALITION FOR COMM JUSTICE	CDBG FY 23/24 Q4	13,752.66
41028	11/26/2024	CITY COUNCIL	City Clerk's Office	MADERA COUNTY E D C	EDC STATE OF THE CO LUNCHEON - 2024	40.00
41028	11/26/2024	CITY COUNCIL	City Council	MADERA COUNTY E D C	EDC STATE OF THE CO LUNCHEON - 2024	200.00
41028	11/26/2024	CITY COUNCIL	Fire	MADERA COUNTY E D C	EDC STATE OF THE CO LUNCHEON - 2024	80.00
41028	11/26/2024	CITY COUNCIL	HR/RISK MGT	MADERA COUNTY E D C	EDC STATE OF THE CO LUNCHEON - 2024	40.00
41028	11/26/2024	CITY COUNCIL	Parks Administration	MADERA COUNTY E D C	EDC STATE OF THE CO LUNCHEON - 2024	40.00
41028	11/26/2024	CITY COUNCIL	STREETS	MADERA COUNTY E D C	EDC STATE OF THE CO LUNCHEON - 2024	40.00
41028	11/26/2024	CITY COUNCIL	SUPP LAW ENF	MADERA COUNTY E D C	EDC STATE OF THE CO LUNCHEON - 2024	160.00
41028	11/26/2024	CITY COUNCIL	City Manager	MADERA COUNTY E D C	EDC STATE OF THE CO LUNCHEON - 2024	40.00
41029	11/26/2024	FINANCE	PAYROLL TRUST	M P O A	MONTHLY DUES 11/24	8,405.44
41030	11/26/2024	PARKS	Prop 68 Grant	O'DELL ENGINEERING, INC.	PROP 68 - OLIVE/TAUBERT PARK	5,602.94
41030	11/26/2024	PARKS ADMINISTRATION	Special Legislative Grant	O'DELL ENGINEERING, INC.	DESIGN SVS - LTC TRAILS	3,861.88
41031	11/26/2024	PLANNING	Planning	PROVOST & PRITCHARD CONSULTING	PROFESSIONAL CONSULTING SVS	325.40
41032	11/26/2024	GRANTS	Home Program Income	RANEY PLANNING & MANAGEMENT, INC.	ANNUAL HOME MONITORING	8,395.20
41033	11/26/2024	PW ADMIN	WWTP	RUSSELL, CHRIS	REIMBURSEMENT - WWTP OPERATOR	203.00
41034	11/26/2024	PW ADMIN	Facilities Maintenance	SCROGGINS, COLE	REIMBURSEMENT - GENERAL ELECTRICIAN	100.00
41035	11/26/2024	PW ADMIN	Water Mtnc/Operations	STATE WATER RESOURCES CONTROL BOARD	EXAM FEES - WATER DISTRIBUTION OPERATOR	30.00
41036	11/26/2024	ENGINEERING	FAU CMAQ	TJKM TRANSPORTATION CONSULTANTS	CONSULTING SERVICES	796.34
41036	11/26/2024	ENGINEERING	LTF - Streets	TJKM TRANSPORTATION CONSULTANTS	CONSULTING SERVICES	88.48
41037	11/26/2024	ENGINEERING	Engineering	OTP - FINANCE	REIMBURSEMENT - PE EXAM	247.55
41038	11/26/2024	ENGINEERING	General Trust Fund	BOND ENCROACH	REIMBURSEMENT - BELLAVA & BERK	45,924.00
41039	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 10000695	93.24
41040	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9923009	284.43
41041	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9920660	78.70
41042	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9916841	203.81
41043	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9900247	218.03
41044	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9922303	226.94
41045	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9892043	90.93
41046	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9917300	252.44
41047	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9905819	118.75
41048	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9893611	52.41
41049	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9925863	227.34
41050	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9914191	316.75
41051	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9897715	106.43

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41052	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9905501	332.30
41053	11/26/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9917645	261.93
41054	11/27/2024	INFORMATION SERVICES	Computer Replacement	ZOHO CORPORATION	MANAGE ENGINE SOFTWARE LICENSE RENEWAL	12,210.00
41055	11/27/2024	FINANCE	Finance	MV CHENG & ASSOCIATES, INC.	CONSULTING SERVICES: FINANCE DIRECTOR	1,812.50
41056	11/27/2024	HR/RISK MGT	HR/RISK MGT	ALLIANT INSURANCE SERVICES, INC.	CONSULTING SERVICES - HEALTH AND WELFARE BENEFI	3,750.00
41057	11/27/2024	PD OPERATIONS	PD Operations	JARED MACIEL	PER DIEM - SWAT SCHOOL WEEK 1	494.50
41057	11/27/2024	PD OPERATIONS	PD Operations	JARED MACIEL	PER DIEM - SWAT SCHOOL WEEK 2	494.50
41058	11/27/2024	PD OPERATIONS	PD Operations	CODY LUGINBILL	PER DIEM - SWAT SCHOOL WEEK 1	494.50
41058	11/27/2024	PD OPERATIONS	PD Operations	CODY LUGINBILL	PER DIEM - SWAT SCHOOL WEEK 2	494.50
41059	11/27/2024	CITY ADMIN	PD Operations	CHIARAMONTE, GIACHINO	PER DIEM - CALCHIEF'S BOARD OF DIRECTORS MEETING	236.50
41060	11/27/2024	BUILDING	Building	FIRE SAFETY SOLUTIONS, LLC	FIRE PROTECTION SVS 10/16/24-10/31/24	15,330.00
41060	11/27/2024	BUILDING	Building	FIRE SAFETY SOLUTIONS, LLC	FIRE PROTECTION SVS 11/01/24-11/15/24	12,750.00
41061	11/27/2024	ENGINEERING	Sewer Capital Outlay	FLOYD JOHNSTON CONSTRUCTION CO., INC.	SS14 SEWER EMERGENCY	224,459.59
41062	11/27/2024	FINANCE	Finance	GOVERNMENT FINANCE OFFICERS ASSOC.	GFOA MEMBERSHIP RENEWAL GFOA MEMBERSHIP REN	266.88
41062	11/27/2024	FINANCE	General Fund	GOVERNMENT FINANCE OFFICERS ASSOC.	GFOA MEMBERSHIP RENEWAL GFOA MEMBERSHIP REN	190.62
41063	11/27/2024	GRANTS	INTERMODAL BLDG	CITY OF MADERA	11/24 UTILITY SERVICE 3040421	51.18
41063	11/27/2024	GRANTS	INTERMODAL BLDG	CITY OF MADERA	11/24 UTILITY SERVICE 3040431	95.86
41063	11/27/2024	GRANTS	INTERMODAL BLDG	CITY OF MADERA	11/24 UTILITY SERVICE 3040441	314.15
41064	11/27/2024	FLEET MAINTENANCE	Fleet Maintenance	MADERA COUNTY ENVIRONMENTAL HEALTH DEPT	PERMIT FEES	998.00
41065	11/27/2024	GRANTS	Permanent Local Housing	MADERA RESCUE MISSION, INC.	PLHA INVOICE 10/24	8,624.48
41066	11/27/2024	INFORMATION SERVICES	Computer Replacement	TYLER TECHNOLOGIES INC.	SOFTWARE RENEWAL	97,573.85
41067	11/27/2024	PD OPERATIONS	PD Operations	OTP - FINANCE	PER DIEM - SWAT SCHOOL WEEK 1	494.50
41067	11/27/2024	PD OPERATIONS	PD Operations	OTP - FINANCE	PER DIEM - SWAT SCHOOL WEEK 2	494.50
41068	12/05/2024	FIRE	MEAS K - FIRE	MUNICIPAL EMERGENCY SERVICES INC.	CARABINER MOUNT	4,288.62
41069	12/05/2024	FIRE	MEAS K - FIRE	ALLSTAR FIRE EQUIPMENT	MISC FIRE EQUIPMENT	4,221.49
41070	12/05/2024	ENGINEERING	Sewer Capital Outlay	STATEWIDE TRAFFIC SAFETY AND SIGNS INC	2024 SEWER EMERGENCY	3,975.00
41070	12/05/2024	ENGINEERING	Sewer Capital Outlay	STATEWIDE TRAFFIC SAFETY AND SIGNS INC	2024 SEWER EMERGENCY	10,240.00
41071	12/05/2024	FLEET ACQUISITION	Fleet Acquisition	GOVCONNECTION, INC.	PD DOCK STATION	2,843.54
41072	12/05/2024	PARKS ADMINISTRATION	Parks	ELITE MAINTENANCE AND TREE SERVICE	GROUP 2 NON-MEDIAN MAINTENANCE 11/24	5,678.40
41072	12/05/2024	PARKS ADMINISTRATION	MEDIAN LANDS	ELITE MAINTENANCE AND TREE SERVICE	GROUP 3 MEDIAN MAINTENANCE 11/24	12,560.80
41072	12/05/2024	PARKS ADMINISTRATION	Parking Dist Operation	ELITE MAINTENANCE AND TREE SERVICE	GROUP 1 DOWNTOWN MAINTENANCE 11/24	509.60
41073	12/05/2024	FINANCE	AIRPORT OPS	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	80.64
41073	12/05/2024	FINANCE	Animal Control	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	338.05
41073	12/05/2024	FINANCE	Code Enforcement	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	182.31
41073	12/05/2024	FINANCE	DRAINAGE	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	300.90
41073	12/05/2024	FINANCE	Engineering	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	345.21
41073	12/05/2024	FINANCE	Facilities Maintenance	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	50.77
41073	12/05/2024	FINANCE	Fleet Maintenance	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	49.75
41073	12/05/2024	FINANCE	Fleet Motor Pool	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	137.74
41073	12/05/2024	FINANCE	GRAFFITI ABATE	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	619.72
41073	12/05/2024	FINANCE	LMD Services	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	590.59
41073	12/05/2024	FINANCE	Parks	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	1,288.99
41073	12/05/2024	FINANCE	STREETS	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	1,959.65
41073	12/05/2024	FINANCE	Sewer Mtnc/Operations	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	1,058.90
41073	12/05/2024	FINANCE	Street Cleaning	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	2,065.96
41073	12/05/2024	FINANCE	TRANS - FIXED	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	2,978.72
41073	12/05/2024	FINANCE	TRANS - DAR	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	2,710.20
41073	12/05/2024	FINANCE	Water Mtnc/Operations	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	818.31
41073	12/05/2024	FINANCE	Water Quality Control	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	399.51

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41073	12/05/2024	FINANCE	PD Operations	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	6,998.15
41073	12/05/2024	FIRE	Fire	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	781.19
41073	12/05/2024	FIRE	MEAS K - FIRE	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	2,722.24
41073	12/05/2024	WWTP	WWTP	VAN DE POL ENTERPRISES, INC.	FUEL CITY VEHICLES 11/01/24-11/15/24	5,348.62
41074	12/05/2024	INFORMATION SERVICES	Computer Replacement	ZONES IT SOLUTIONS INC	VEEAM BACKUP SOFTWARE LICENSING	18,345.00
41075	12/05/2024	ENGINEERING	Engineering	FACILITY DESIGNS INC	ASIDE CASTERS	25.98
41075	12/05/2024	INFORMATION SERVICES	COMPUTER MAINT	FACILITY DESIGNS INC	OFFICE FURNITURE - IT	41,725.23
41076	12/05/2024	ENGINEERING	RSTP - FED EX	THE MADERA MAIL DROP	SPEC BOOK PRINTING	258.00
41077	12/05/2024	GRANTS	CDBG Public Services	OLIVE CHARITABLE ORGANIZATION	CDBG 24/25 - BENNET HOUSE Q2	1,040.60
41078	12/05/2024	FACILITIES	Facilities Maintenance	MESA ENERGY SYSTEMS, INC	HVAC MAINTENANCE - MPD	1,788.00
41078	12/05/2024	FACILITIES	Facilities Maintenance	MESA ENERGY SYSTEMS, INC	HVAC MAINTENANCE - FIRE #58	770.00
41079	12/05/2024	ENGINEERING	Transportation Impact Fee	CORNERSTONE STRUCTURAL ENGINEERING	B-02 DESIGN SERVICES FOR WESTBERRY BRIDGE	29,211.57
41080	12/05/2024	GRANTS	Home DAP	BACKOWSKI LAW GROUP, PC	LEGAL SERVICES - 2084.011	354.00
41081	12/05/2024	CITY ADMIN	City Attorney	ALESHIRE & WYNDER LLP	CONSULTING SVS CITY ATTORNEY	26,303.35
41082	12/05/2024	ENGINEERING	Transportation Impact Fee	DEPARTMENT OF WATER RESOURCES	WESTBERRY BRIDGE	3,500.00
41083	12/05/2024	PLANNING	Planning	MICHAEL BAKER INTERNATIONAL, INC.	CONSULTING SERVICES - HOUSING ELEMENT	73,370.00
41084	12/05/2024	ENGINEERING	RSTP - FED EX	TERRA WEST CONSTRUCTION INC	R-10 OLIVE AND KNOX WIDENING AND IMPROVEMENTS	66,167.50
41085	12/05/2024	PARKS	Parks	ZOOM RECREATION, INC	EQUIPMENT AT MCNALLY PARK	40,075.00
41086	12/05/2024	INFORMATION SERVICES	Computer Replacement	ABLEGOV, INC.	SOFTWARE RENEWAL	11,640.00
41087	12/05/2024	PD OPERATIONS	PD Operations	B & M SUPPLIERS LLC	NITRILE GLOVES	460.00
41088	12/05/2024	WATER QUALITY CONTROL	Water Quality Control	DELLAVALLE LABORATORY,INC.	MONTHLY SAMPLING	504.00
41088	12/05/2024	WATER QUALITY CONTROL	Water Quality Control	DELLAVALLE LABORATORY,INC.	WEEKLY SAMPLING WEEKLY SAMPLING	1,824.00
41088	12/05/2024	WATER QUALITY CONTROL	Water Quality Control	DELLAVALLE LABORATORY,INC.	WEEKLY SAMPLING WEEKLY SAMPLING	1,216.00
41089	12/05/2024	ENGINEERING	Sewer Capital Outlay	AECOM TECHNICAL SERVICES, INC.	SS-06 ONCALL FAIRGROUND LIFT STATION MODIFICATIC	12,330.00
41090	12/05/2024	ENGINEERING	Water Capital Outlay	AKEL ENGINEERING GROUP, INC.	PROFESSIONAL ENGINEERING SVS	7,498.25
41091	12/05/2024	ENGINEERING	Engineering	AMERICAN BUSINESS MACHINES	PLOTTER LEASE	139.00
41091	12/05/2024	ENGINEERING	Engineering	AMERICAN BUSINESS MACHINES	FINANCE CHARGE	27.20
41092	12/05/2024	SEWER MTNC/OPERATIONS	Sewer Mtnc/Operations	ARROW ELECTRIC MOTOR INC	LIFT STATION REPAIR - FAIRGROUNDS	1,589.70
41093	12/05/2024	ENGINEERING	FAU CMAQ	BLAIR CHURCH & FLYNN	PROFESSIONAL ENGINEERING SVS	12,321.99
41093	12/05/2024	ENGINEERING	LTF - Streets	BLAIR CHURCH & FLYNN	PROFESSIONAL ENGINEERING SVS	18,719.01
41093	12/05/2024	ENGINEERING	MEAS T - ENVIRO	BLAIR CHURCH & FLYNN	PROFESSIONAL ENGINEERING SVS	6,298.00
41093	12/05/2024	ENGINEERING	Sewer Capital Outlay	BLAIR CHURCH & FLYNN	PROFESSIONAL ENGINEERING SVS	3,766.00
41094	12/05/2024	HR/RISK MGT	HR/RISK MGT	CA DEPARTMENT OF JUSTICE	PRE-EMPLOYMENT SVSP	64.00
41095	12/05/2024	ENGINEERING	Engineering	CA SURVEYING AND DRAFTING SUPPLY	SERVICE CONTRACT - LICENSE RENEWAL	1,399.92
41095	12/05/2024	ENGINEERING	General Fund	CA SURVEYING AND DRAFTING SUPPLY	SERVICE CONTRACT - LICENSE RENEWAL	700.08
41096	12/05/2024	PURCHASING	AIRPORT OPS	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	73.62
41096	12/05/2024	PURCHASING	Building	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	90.74
41096	12/05/2024	PURCHASING	City Clerk's Office	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	41.95
41096	12/05/2024	PURCHASING	Engineering	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	270.63
41096	12/05/2024	PURCHASING	Finance	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	414.60
41096	12/05/2024	PURCHASING	HR/RISK MGT	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	74.43
41096	12/05/2024	PURCHASING	Parks Administration	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	167.79
41096	12/05/2024	PURCHASING	Planning	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	81.19
41096	12/05/2024	PURCHASING	Sewer Mtnc/Operations	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	41.14
41096	12/05/2024	PURCHASING	SOLID WASTE	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	41.14
41096	12/05/2024	PURCHASING	TRANS - FIXED	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	41.95
41096	12/05/2024	PURCHASING	TRANS - DAR	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	41.95
41096	12/05/2024	PURCHASING	Water Mtnc/Operations	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	41.14
41096	12/05/2024	PURCHASING	Water Quality Control	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	113.66

CHECK	PAY DATE	DEPARTMENT	PAID FROM ORG	ISSUED TO	DESCRIPTION	AMOUNT
41096	12/05/2024	PURCHASING	WWTP	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	189.19
41096	12/05/2024	PURCHASING	PD Operations	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	200.26
41096	12/05/2024	PURCHASING	PD Operations	CANON FINANCIAL SERVICES	COPIER LEASE 11/24	235.93
41097	12/05/2024	HR/RISK MGT	GRAFFITI ABATE	OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA,	ANNUAL AUDIOGRAMS	71.00
41097	12/05/2024	HR/RISK MGT	HR/RISK MGT	OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA,	PRE-EMPLOYMENT SERVICES	1,067.00
41097	12/05/2024	HR/RISK MGT	Parks	OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA,	PRE-EMPLOYMENT SERVICES	71.00
41097	12/05/2024	HR/RISK MGT	Parks	OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA,	ANNUAL AUDIOGRAMS	142.00
41097	12/05/2024	HR/RISK MGT	STREETS	OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA,	ANNUAL AUDIOGRAMS	71.00
41097	12/05/2024	HR/RISK MGT	PD Operations	OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA,	PRE-EMPLOYMENT SERVICES	71.00
41097	12/05/2024	HR/RISK MGT	PD Operations	OCCUPATIONAL HEALTH CENTERS OF CALIFORNIA,	ANNUAL AUDIOGRAMS	71.00
41098	12/05/2024	PD OPERATIONS	DUI Enforcement & Aware	CEDERQUIST, BRENT	REIMBURSEMENT - MISC EQUIPMENT	920.10
41099	12/05/2024	FIRE	MEAS K - FIRE	DIAMOND COMMUNICATIONS	FIRE ALARM MONITORING - FIRE #58	35.00
41099	12/05/2024	GRANTS	INTERMODAL BLDG	DIAMOND COMMUNICATIONS	FIRE ALARM MONITORING - TRANSIT	80.00
41099	12/05/2024	PARKS ADMINISTRATION	Comm & Rec Centers	DIAMOND COMMUNICATIONS	FIRE ALARM INSPECTION - PANAM	759.50
41099	12/05/2024	PARKS ADMINISTRATION	Comm & Rec Centers	DIAMOND COMMUNICATIONS	ALARM CODE DELETE - FBSC	30.00
41099	12/05/2024	PARKS ADMINISTRATION	Comm & Rec Centers	DIAMOND COMMUNICATIONS	ALARM CODE DELETE - PANAM	30.00
41100	12/05/2024	FACILITIES	Facilities Maintenance	47TH PLACE- CARPET ONE	FLOORING INSTALL - PW	2,663.68
41101	12/05/2024	FACILITIES	Facilities Maintenance	GRAINGER, INC.	BUCKET TRUCK SUPPLIES	2,131.69
41102	12/05/2024	GRANTS	INTERMODAL BLDG	GUARDIAN WESTERN SWEEPING INC.	11/24 POWER SWEEPING	402.50
41102	12/05/2024	GRANTS	Parking Dist Operation	GUARDIAN WESTERN SWEEPING INC.	11/24 POWER SWEEPING	402.50
41103	12/05/2024	FACILITIES	Fire	INDUSTRIAL ELECTRICAL CO.	GENERATOR MAINTENANCE - FIRE #56	1,175.00
41103	12/05/2024	FACILITIES	Fire	INDUSTRIAL ELECTRICAL CO.	GENERATOR MAINTENANCE - FIRE #58	1,375.00
41103	12/05/2024	FACILITIES	Sewer Mtnc/Operations	INDUSTRIAL ELECTRICAL CO.	GENERATOR MAINTENANCE - MEADOWS LIFT	1,350.00
41103	12/05/2024	FACILITIES	UB - Water	INDUSTRIAL ELECTRICAL CO.	GENERATOR MAINTENANCE - CITY HALL	1,125.00
41103	12/05/2024	FACILITIES	Water Mtnc/Operations	INDUSTRIAL ELECTRICAL CO.	GENERATOR MAINTENANCE - PW	985.00
41103	12/05/2024	FACILITIES	Water Mtnc/Operations	INDUSTRIAL ELECTRICAL CO.	GENERATOR MAINTENANCE - WELL 18	1,725.00
41103	12/05/2024	FACILITIES	Water Mtnc/Operations	INDUSTRIAL ELECTRICAL CO.	GENERATOR MAINTENANCE - WELL 38	1,875.00
41103	12/05/2024	FACILITIES	PD Operations	INDUSTRIAL ELECTRICAL CO.	GENERATOR MAINTENANCE - PD	1,725.00
41103	12/05/2024	FACILITIES	PD Operations	INDUSTRIAL ELECTRICAL CO.	GENERATOR MAINTENANCE - PD SIU	1,225.00
41104	12/05/2024	FACILITIES	Facilities Maintenance	JAM SERVICES INC	SIGNAL BOX LIDS	934.20
41104	12/05/2024	FACILITIES	Facilities Maintenance	JAM SERVICES INC	STREET LIGHT FIXTURES	4,546.50
41105	12/05/2024	PD OPERATIONS	PD Operations	LEXIPOL LLC	RECORDS MGMT SYSTEM	10,169.25
41106	12/05/2024	PARKS ADMINISTRATION	Aquatics Programs	CHARLES LUECKER, AUTHORIZED SIGNER	CHLORINE FOR POOL	2,048.81
41107	12/05/2024	FINANCE	WATER CONSERV	CITY OF MADERA	MULCH REBATE - 9921153	77.74
41107	12/05/2024	FINANCE	WATER CONSERV	CITY OF MADERA	CW REBATE - 10000348	200.00
41107	12/05/2024	FINANCE	WATER CONSERV	CITY OF MADERA	CW REBATE - 9897315	200.00
41107	12/05/2024	FINANCE	WATER CONSERV	CITY OF MADERA	SIC REBATE - 9901032	172.67
41107	12/05/2024	FINANCE	WATER CONSERV	CITY OF MADERA	TOILET REBATE - 9891942	89.10
41107	12/05/2024	FINANCE	WATER CONSERV	CITY OF MADERA	DISHWASHER REBATE - 9904143	200.00
41108	12/05/2024	FINANCE	PD Operations	MADERA COUNTY TREASURER	COUNTY'S PORTION PARKING PENALTIES PAID 09/24	526.50
41109	12/05/2024	CITY CLERK'S OFFICE	City Clerk's Office	MADERA TRIBUNE	PUBLIC OFFICE NOMINEES	214.50
41109	12/05/2024	ENGINEERING	RSTP - FED EX	MADERA TRIBUNE	REQUEST FOR BID - TS-35	825.00
41109	12/05/2024	ENGINEERING	Water Capital Outlay	MADERA TRIBUNE	REQUEST FOR BID - W-32	847.00
41109	12/05/2024	ENGINEERING	Sewer Capital Outlay	MADERA TRIBUNE	REQUEST FOR BID - SS-06	814.00
41109	12/05/2024	HR/RISK MGT	HR/RISK MGT	MADERA TRIBUNE	JOB ADVERSTISEMENT	212.80
41110	12/05/2024	PD OPERATIONS	PD Operations	MADERA UNIFORM & ACCESSORIES	UNIFORM ACCESSORIES	131.96
41111	12/05/2024	PARKS ADMINISTRATION	Aquatics Programs	MAMMOTH OXYGEN	CO2 FOR POOL	111.60
41112	12/05/2024	PW ADMIN	STREETS	MID VALLEY DISPOSAL INC.	WASTE DISPOSAL	3,071.65
41112	12/05/2024	PW ADMIN	Street Cleaning	MID VALLEY DISPOSAL INC.	WASTE DISPOSAL	10,431.37

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41112	12/05/2024	PW ADMIN	WWTP	MID VALLEY DISPOSAL INC.	WASTE DISPOSAL	2,437.60
41112	12/05/2024	PW ADMIN	PW Safe & Clean Initiative	MID VALLEY DISPOSAL INC.	WASTE DISPOSAL	3,552.30
41113	12/05/2024	FLEET ACQUISITION	Fleet Acquisition	MOTOROLA SOLUTIONS INC.	PD PATROL VEHICLE RADIO	15,499.64
41114	12/05/2024	ENGINEERING	LTF - Streets	NICHOLS CONSULTING	ENGINEERING CONSULTING SVS	30,600.00
41115	12/05/2024	ENGINEERING	AFFORDABLE HOUSING	O'DELL ENGINEERING, INC.	DESIGN SERVICES R-000094	14,952.25
41116	12/05/2024	FINANCE	Finance	PHOENIX GROUP INFO SYS	CITATIONS 09/24	198.92
41116	12/05/2024	FINANCE	Parking Dist Operation	PHOENIX GROUP INFO SYS	CITATIONS 09/24	24.59
41117	12/05/2024	ENGINEERING	Water Capital Outlay	PROVOST & PRITCHARD CONSULTING	ON-CALL W-39, W-40, & W-41 WATER MAIN REPLACEMI	3,803.10
41117	12/05/2024	ENGINEERING	Water Capital Outlay	PROVOST & PRITCHARD CONSULTING	PROFESSIONAL CONSULTING SVS	975.60
41118	12/05/2024	GRANTS	INTERMODAL BLDG	TECH. MASTER PEST MANAGEMENT	SQUIRREL CONTROL - TRANSIT	150.00
41119	12/05/2024	ENGINEERING	Water Capital Outlay	UNION PACIFIC RAILROAD CO.	SR 145 WATER MAIN REPLACEMENT	10,000.00
41120	12/05/2024	BUILDING	Building	OTP - FINANCE	REIMBURSEMENT - CALBO EDUCATION WEEK	200.50
41121	12/05/2024	PW ADMIN	WATER CONSERV	OTP- REBATES	TURF REBATE - 9896114	3,000.00
41122	12/05/2024	PW ADMIN	WATER CONSERV	OTP- REBATES	TURF REBATE - 9919962	1,658.00
41123	12/05/2024	PW ADMIN	WATER CONSERV	OTP- REBATES	TURF REBATE - 9924493	1,800.00
41124	12/05/2024	PW ADMIN	WATER CONSERV	OTP- REBATES	TURF REBATE - 9923370	1,681.50
41125	12/05/2024	PW ADMIN	WATER CONSERV	OTP- REBATES	TURF REBATE - 9922527	2,532.00
41126	12/05/2024	PW ADMIN	WATER CONSERV	OTP- REBATES	TURF REBATE - 9895122	2,000.00
41127	12/05/2024	PW ADMIN	WATER CONSERV	OTP- REBATES	TURF REBATE - 9914984	3,000.00
41128	12/05/2024	PW ADMIN	WATER CONSERV	OTP- REBATES	TURF REBATE - 9919962	2,824.00
41129	12/05/2024	BUILDING	Building	BLDING/PLAN REFNDS	APPLICATION CANCELLED - REIMBURSE FEE	71.06
41129	12/05/2024	BUILDING	General Fund	BLDING/PLAN REFNDS	APPLICATION CANCELLED - REIMBURSE FEE	1.50
41130	12/05/2024	BUILDING	Building	BLDING/PLAN REFNDS	APPLICATION CANCELLED - REIMBURSE FEE	259.62
41130	12/05/2024	BUILDING	General Fund	BLDING/PLAN REFNDS	APPLICATION CANCELLED - REIMBURSE FEE	5.17
41131	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	CANCELLATION REIMBUREMENT	25.00
41132	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - ROTARY YOUTH HUT	50.00
41133	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - FBSC MULTI-ROOM	100.00
41134	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - SUNRISE ROTARY PAVILIONLION	50.00
41135	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - FBSC MULTI-ROOM	100.00
41136	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - PANAM PICINC SHELTER	50.00
41137	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - LTC BALL FIELD 9	50.00
41138	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - LTC PAVILLION	50.00
41139	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - SUNRISE ROTARY FIELD 1 & 2	50.00
41140	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - FBSC MULTI-ROOM	100.00
41141	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - LTC PAVILLION	50.00
41142	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - SUNRISE ROTARY PAVILION	50.00
41143	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - PANAM COMMUNITY EVENT	50.00
41144	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - SUNRISE ROTARY PAVILIONILION	50.00
41145	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - MCNALLY SHELTER	50.00
41146	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - SUNRISE ROTARY FIELD 1-3	50.00
41147	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - LTC PAVILLION	50.00
41148	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - MCNALLY BASKETBALL BALL	50.00
41149	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - ROTARY PAVILLION	50.00
41150	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - ROTARY PAVILLION	50.00
41151	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - LTC BALL FIELD 2	50.00
41152	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - LTC PAVILLION	50.00
41153	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - LTC PAVILLION	50.00
41154	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - LTC PAVILLION	50.00
41155	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - ROTARY PAVILLION	50.00

CHECK	PAY DATE	DEPARTMENT	PAID FROM ORG	ISSUED TO	DESCRIPTION	AMOUNT
41156	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - ROTARY PAVILLION	200.00
41157	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - ROTARY PAVILLION	165.00
41158	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - SUNRISE ROTARY FIELD 1-4	50.00
41159	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - POOL	100.00
41160	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - PANAM GYM	500.00
41161	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - LTC PICNIC AREA 2	50.00
41162	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - ROTARY PAVILLION	227.50
41163	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - LTC PAVILLION	50.00
41164	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - ROTARY PAVILLION	50.00
41165	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - SUNRISE ROTARY FIEL	112.50
41166	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - ROTARY PAVILLION	50.00
41167	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - MCNALLY SHELTER	50.00
41168	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - FBSC MULTI-ROOM	100.00
41169	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - FBSC MULTI-ROOM	100.00
41170	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - ROTARY PAVILLION	50.00
41171	12/05/2024	PARKS ADMINISTRATION	General Trust Fund	OTP- PARKS REFUNDS	DEPOSIT REFUND - LTC PAVILLION	50.00
41172	12/05/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9921777	169.92
41173	12/05/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9905869	34.22
41174	12/05/2024	FINANCE	Water Fund	OTP- UB REFUNDS	DEPOSIT FROM MAIS TO MUNIS - 9925732-514000	150.95
41175	12/05/2024	FINANCE	Water Utility	OTP- UB REFUNDS	UB TERM REFUND 9917458-553604	213.26
41176	12/05/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9919564	153.34
41177	12/05/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 10001120	444.99
41178	12/05/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9922092	499.97
41179	12/05/2024	FINANCE	Water Utility	OTP- UB REFUNDS	UB TERM REFUND 4615082-500652	11.58
41180	12/05/2024	UB - WATER	Water Fund	OTP- UB REFUNDS	UB TERM REFUND 9925178	177.53
583	11/25/2024	FINANCE	Sewer Fund	BANK OF NEW YORK MELLON	2015 WASTEWATER REV REF BOND PMT	226,764.17
584	11/25/2024	FINANCE	PAYROLL TRUST	NPC-ORCHARD TRUST COMPANY	PLAN #340227-01 FOR 11/15/2024	14,087.29
			BANK #1 - US BANK GENERAL ACCOUNT TOTAL			**$ 1,766,259.62**

REPORT TO CITY COUNCIL

Approved by:

Wendy Silva, Director of Human Resources

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-3

SUBJECT:

Informational Report on Personnel Activity

RECOMMENDATION:

This report is submitted for informational purposes only and there is no action requested from the City Council (Council)

SUMMARY:

The purpose of this report is to provide the Council an informational update on employment matters, including new hires, transfers, and terminations. This report represents activity since the prior report submitted on the November 20, 2024, City Council agenda.

DISCUSSION:

The Civil Service Commission (Commission) met on December 3, 2024, and approved eligibility lists for the following positions:

- Public Safety Dispatcher
- Neighborhood Preservation Specialist I

The following employees began employment with the City since our last report.

Table 1. *New Hires and Re-hires*

Name	Position	Department	Status*	Effective Date
Rene Ortiz-Carrillo	Park Aide	Parks & Community Services	PT	11/18/24
Izac Maravilla	Police Officer Trainee	Police Department	FT	11/18/24

Table 1. *New Hires and Re-hires, continued*				
Name	Position	Department	Status*	Effective Date
Brandon Cox	Police Officer Trainee	Police Department	FT	12/2/24

*Status: FT = Full Time, PT = Part Time, RA = Retired Annuitant

The following promotions, transfers, or assignment changes occurred since our last report.

Table 2. *Promotions, Transfers, or Assignment Changes*			
Name	Old Position	New Position	Effective Date
Aaron Mao	Police Officer Trainee	Police Officer I	11/22/24
Dayana Elms	Police Officer Trainee	Police Officer I	11/22/24
Roberto Saavedra	Police Officer Trainee	Police Officer I	11/22/24
Matthew Diaz	Police Officer Trainee	Police Officer I	11/22/24
Jeremy McCool	Police Officer I	Police Officer II	12/11/24
Matiaz Medina	Industrial Electrical Technician	Lead Electrician	12/16/24

The following employees separated from employment since our last report.

Table 3. *Separations*				
Name	Position	Department	Status*	Effective Date
Sylvia Falcon	Facility Aid	Parks & Community Services	PT	11/8/24
Luis Ibarra	Computer Technician I	Information Technology	FT	11/8/24
Ismael Hernandez	Public Works Operations Director	Public Works	FT	11/29/24
Joseph Kabeya	Lab Analyst/ Environmental Compliance Inspector	Public Works, Wastewater Treatment Plant	FT	11/29/24
Leah Resendez	Program Leader I/Head Lifeguard	Parks & Community Services	PT	12/5/24
Itzel Jimenez	Police Officer I	Police Department	FT	12/6/24

*Status: FT = Full Time, PT = Part Time, RA = Retired Annuitant

FINANCIAL IMPACT:

Funding for positions and employees to fill those positions is contemplated annually by the Council in the budget process. During the course of any given fiscal year, individual employees filling specific positions may change due to a number of various circumstances. All hiring and termination decisions are subject to the approval of the City Manager.

ALTERNATIVES:

This report is for informational purposes only.

ATTACHMENTS:

None

REPORT TO CITY COUNCIL

Approved by:

Wendy Silva, Director of Human Resources

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-4

SUBJECT:

Adoption of updated City of Madera Full Time Salary Schedules

RECOMMENDATION:

Adopt a resolution approving revised City of Madera Full Time Salary Schedules effective December 3, 2024; December 4, 2024; and December 28, 2024

SUMMARY:

The City is required by Government Code Sections 36506 and 37206 and the California Code of Regulations, title 2, §570.5 to publicly adopt its pay schedule. While the City publicly adopts individual actions such as agreements with labor units or classification plan amendments, the City also publicly adopts a consolidated schedule for all full time positions that is posted to the City's website. The requested action includes adoption of the City of Madera Full Time Salary Schedule for the following effective dates and reasons:

1. Effective December 3, 2024, reflecting at four percent (4%) Cost-of-Living Adjustment (COLA) for the position of City Manager only;
2. Effective December 4, 2024, reflecting the approved modification assigning the position of Planning Manager to Range 500 on Schedule M-30; and
3. Effective December 28, 2024, reflecting a two percent (2%) COLA pursuant to Memorandums of Understanding (MOUs) and subsequent Side Letter Agreements with the City's four (4) bargaining units, the adopted Standard Terms and Conditions for employment agreements with unrepresented department heads, and the At-Will Employment Agreement with the City Clerk.

DISCUSSION:

California Government Code §36506 and §37206 and California Code of Regulations, title 2, §570.5 require the City to publicly adopt its pay schedule. While the schedules are provided in individual MOUs or resolutions, the City typically adopts a consolidated schedule for all full time positions that is published on the City's website and provided to the California Public Employees' Retirement System (CalPERS) to ensure compliance with the above-noted code sections. As such, staff has prepared three updates to the adopted City of Madera Full Time Salary Schedule as detailed below.

Full Time Salary Schedule effective December 3, 2024

The City Council approved an employment agreement for the City Manager at its October 2, 2024, meeting. This agreement included a four percent (4%) COLA effective on the City Manager's hire anniversary date of December 3, 2024. Exhibit A to the resolution contemplated with this report reflects this COLA adjustment for the position of City Manager. This is the only change reflected on this iteration of the adopted salary schedule.

Full Time Salary Schedule effective December 3, 2024

The City Council approved modification of the assigned salary range for the position of Planning Manager at its December 4, 2024, meeting. Exhibit B to the resolution contemplated with this report reflects assignment of the Planning Manager position to Range 500 of Salary Schedule M-30. This is the only change reflected on this iteration of the adopted salary schedule.

Full Time Salary Schedule effective December 28, 2024

The City Council has previously adopted MOUs and subsequent Side Letter Agreements with all bargaining units, Standard Terms and Conditions for unrepresented department heads, and an individual At-Will Employment Agreement with the City Clerk that provided for a two percent (2%) COLA to be effective the pay period beginning December 28, 2024, with pay date January 17, 2025. Exhibit C to the resolution contemplated with this report reflects the pay rates for each position after the COLA is applied to positions approved for the increase via the previously referenced agreements and adopted standard terms. This two percent (2%) COLA applies to all positions on this iteration of the salary schedule except City Manager; the position of City Manager reflects no additional change beyond the above-noted December 3, 2024, adjustment.

FINANCIAL IMPACT:

The requested action is to adopt a consolidated public pay schedule; no new pay adjustments or increases are being requested besides those previously authorized by Council action. All negotiated pay increases were included when calculating salary and benefit projections in the adopted operating budget.

ALTERNATIVES:

Council may direct staff to modify the City's full time or part time salary schedules.

ATTACHMENTS:

1. Resolution adopting City of Madera Full Time Salary Schedules
    a. Exhibit A: City of Madera Full Time Salary Schedule effective December 3, 2024
    b. Exhibit B: City of Madera Full Time Salary Schedule effective December 4, 2024
    c. Exhibit C: City of Madera Full Time Salary Schedule effective December 28, 2024

Resolution No. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA ADOPTING THE CITY OF MADERA FULL TIME SALARY SCHEDULES EFFECTIVE DECEMBER 3, 2024; DECEMBER 4, 2024; AND DECEMBER 28, 2024

WHEREAS, the City Council has approved the City Manager's Employment Agreement to include a four percent (4%) cost-of-living adjustment effective December 3, 2024; and

WHEREAS, the City Council has approved modification of the assigned salary range for Planning Manager to City of Madera Schedule M-30, Range 500 effective December 4, 2024; and

WHEREAS, the City of Madera (City) has negotiated and adopted Memorandums of Understanding and subsequent Side Letter Agreements with its four bargaining units that include a two percent (2%) cost-of-living adjustment effective December 28, 2024; and

WHEREAS, the City has adopted revised Standard Terms and Conditions for unrepresented department heads that include a two percent (2%) cost-of-living adjustment effective December 28, 2024; and

WHEREAS, the City Council has amended the City Clerk's Employment Agreement to include a two percent (2%) cost-of-living adjustment effective December 28, 2024; and

WHEREAS, the City has prepared consolidated Full Time Salary Schedules that capture these changes to comply with California Government Code §36506 and §37206 and California Code of Regulations, title 2, §570.5, to be published on its website.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MADERA hereby resolves, finds, and orders as follows:

1. The above recitals are true and correct.
2. Effective December 3, 2024, the City of Madera Full Time Salary Schedule attached as Exhibit A and incorporated herein is approved.
3. Effective December 4, 2024, the City of Madera Full Time Salary Schedule attached as Exhibit B and incorporated herein is approved.
4. Effective December 28, 2024, the City of Madera Full Time Salary Schedule attached as Exhibit C and incorporated herein is approved.

5. This resolution is effective immediately upon adoption.

* * * * * * * * * * * * * *

Exhibit A

City of Madera Full Time Salary Schedule effective December 3, 2024

City of Madera Full Time Salary Schedule Effective 12/3/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate					
			A	B	C	D	E	F
Accountant (Junior)	GBU	282	$1,539.99	$1,617.04	$1,698.04	$1,782.97	$1,871.83	$1,965.76
Accounting Technician I	GBU	263	$1,401.06	$1,470.81	$1,544.49	$1,621.54	$1,702.53	$1,788.03
Accounting Technician II	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Accounting Technician III	GBU	300	$1,684.54	$1,768.90	$1,857.21	$1,950.01	$2,047.88	$2,150.25
Administrative Assistant	GBU	303	$1,709.85	$1,795.34	$1,885.33	$1,979.82	$2,078.81	$2,182.30
Animal Control Officer	GBU	290	$1,602.98	$1,682.85	$1,767.22	$1,855.52	$1,948.32	$2,045.63
Assistant Planner	GBU	352	$2,183.43	$2,292.54	$2,407.28	$2,527.65	$2,654.20	$2,786.94
Building Permit Technician	GBU	288	$1,586.67	$1,665.98	$1,749.22	$1,836.96	$1,928.64	$2,025.38
Combination Building Inspector	GBU	348	$2,140.12	$2,247.55	$2,359.48	$2,477.59	$2,601.89	$2,731.82
Computer Technician I	GBU	344	$2,097.94	$2,203.11	$2,313.35	$2,428.66	$2,550.15	$2,677.82
Computer Technician II	GBU	375	$2,448.91	$2,571.52	$2,699.76	$2,834.75	$2,976.48	$3,125.53
Construction Inspector I	GBU	322	$1,880.27	$1,974.20	$2,072.63	$2,176.12	$2,285.23	$2,399.41
Construction Inspector II	GBU	342	$2,077.13	$2,181.18	$2,290.29	$2,404.47	$2,524.84	$2,651.39
Deputy City Clerk	GBU	311	$1,779.59	$1,868.46	$1,961.82	$2,060.25	$2,163.18	$2,271.17
Electrician II	GBU	361	$2,283.54	$2,397.72	$2,518.09	$2,643.51	$2,775.69	$2,914.61
Electrician III	GBU	381	$2,523.15	$2,649.70	$2,790.31	$2,920.80	$3,067.04	$3,220.59
Engineering Technician I	GBU	302	$1,701.41	$1,786.90	$1,875.77	$1,969.70	$2,068.13	$2,171.62
Engineering Technician II	GBU	322	$1,880.27	$1,974.20	$2,072.63	$2,176.12	$2,285.23	$2,399.41
Engineering Technician III	GBU	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81
Facilities Maintenance Technician	GBU	289	$1,594.54	$1,674.41	$1,758.22	$1,845.96	$1,938.20	$2,035.50
Grants Specialist	GBU	299	$1,676.10	$1,759.90	$1,848.21	$1,940.45	$2,037.75	$2,139.56
Industrial Electrical Technician	GBU	381	$2,523.15	$2,649.70	$2,790.31	$2,920.80	$3,067.04	$3,220.59
Lead Electrician	GBU	401	$2,788.06	$2,927.55	$3,073.79	$3,227.34	$3,388.76	$3,558.06
Maintenance Technician	GBU	308	$1,753.16	$1,840.90	$1,933.14	$2,029.88	$2,131.12	$2,237.42
Mechanic I	GBU	286	$1,570.92	$1,649.66	$1,732.34	$1,818.96	$1,909.52	$2,005.13
Mechanic II	GBU	301	$1,692.97	$1,777.90	$1,866.77	$1,960.14	$2,058.00	$2,160.93
Mechanic III	GBU	321	$1,870.71	$1,964.07	$2,062.50	$2,165.43	$2,273.98	$2,387.60
Neighborhood Outreach Assistant	GBU	276	$1,494.43	$1,569.23	$1,647.98	$1,730.09	$1,816.71	$1,907.83
Neighborhood Outreach Coordinator	GBU	306	$1,735.72	$1,822.90	$1,914.02	$2,009.63	$2,109.75	$2,215.49
Neighborhood Preservation Specialist I	GBU	310	$1,770.59	$1,859.46	$1,952.26	$2,050.13	$2,152.49	$2,259.92
Neighborhood Preservation Specialist II	GBU	330	$1,956.76	$2,054.63	$2,156.99	$2,264.98	$2,378.04	$2,497.28
Neighborhood Preservation Specialist III	GBU	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81
Office Assistant I	GBU	263	$1,401.06	$1,470.81	$1,544.49	$1,621.54	$1,702.53	$1,788.03
Office Assistant II	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Parks Leadworker	GBU	323	$1,889.27	$1,983.76	$2,083.31	$2,187.37	$2,296.48	$2,411.22

City of Madera Full Time Salary Schedule Effective 12/3/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate					
			A	B	C	D	E	F
Parks Worker I	GBU	263	$1,401.06	$1,470.81	$1,544.49	$1,621.54	$1,702.53	$1,788.03
Parks Worker II	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Parks Worker III	GBU	303	$1,709.85	$1,795.34	$1,885.33	$1,979.82	$2,078.81	$2,182.30
Payroll Specialist	GBU	316	$1,824.59	$1,915.70	$2,011.88	$2,112.00	$2,217.74	$2,328.54
Plans Examiner	GBU	360	$2,272.30	$2,385.91	$2,505.15	$2,630.58	$2,762.19	$2,899.99
Public Works Equipment Operator	GBU	303	$1,709.85	$1,795.34	$1,885.33	$1,979.82	$2,078.81	$2,182.30
Public Works Maintenance Lead Worker	GBU	323	$1,889.27	$1,983.76	$2,083.31	$2,187.37	$2,296.48	$2,411.22
Public Works Maintenance Worker I	GBU	263	$1,401.06	$1,470.81	$1,544.49	$1,621.54	$1,702.53	$1,788.03
Public Works Maintenance Worker II	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Purchasing Assistant	GBU	280	$1,524.80	$1,600.73	$1,681.16	$1,764.97	$1,853.27	$1,946.07
Recreation/Community Programs Coordinator	GBU	313	$1,797.59	$1,887.58	$1,981.51	$2,081.06	$2,185.12	$2,294.23
Solid Waste/Recycling Assistant	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Solid Waste/Recycling Coordinator	GBU	313	$1,797.59	$1,887.58	$1,981.51	$2,081.06	$2,185.12	$2,294.23
Water Conservation Customer Service Representative	GBU	263	$1,401.06	$1,470.81	$1,544.49	$1,621.54	$1,702.53	$1,788.03
Water Conservation Specialist	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Water Quality Specialist II	GBU	340	$2,056.88	$2,159.24	$2,267.23	$2,380.85	$2,500.09	$2,624.95
Water Quality Specialist I	GBU	320	$1,861.14	$1,954.51	$2,052.38	$2,154.74	$2,262.73	$2,375.79
Water Quality Specialist In Training	GBU	293	$1,626.60	$1,708.16	$1,793.65	$1,883.08	$1,977.57	$2,076.56
Water System Lead Worker	GBU	365	$2,329.67	$2,446.09	$2,568.71	$2,696.95	$2,831.93	$2,973.67
Water System Technician	GBU	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81
Water System Worker I	GBU	293	$1,626.60	$1,708.16	$1,793.65	$1,883.08	$1,977.57	$2,076.56
Water System Worker II	GBU	320	$1,861.14	$1,954.51	$2,052.38	$2,154.74	$2,262.73	$2,375.79
Water System Worker III	GBU	340	$2,056.88	$2,159.24	$2,267.23	$2,380.85	$2,500.09	$2,624.95
WW Lab Analyst/Environmental Compliance Inspector I	GBU	345	$2,108.62	$2,213.80	$2,324.60	$2,441.03	$2,563.08	$2,691.32
WW Lab Analyst/Environmental Compliance Inspector II	GBU	365	$2,329.67	$2,446.09	$2,568.71	$2,696.95	$2,831.93	$2,973.67
WWTP Lead Operator	GBU	383	$2,548.46	$2,676.13	$2,810.00	$2,950.05	$3,097.97	$3,252.65
WWTP Mechanic	GBU	375	$2,448.91	$2,571.52	$2,699.76	$2,834.75	$2,976.48	$3,125.53
WWTP Operator I	GBU	322	$1,880.27	$1,974.20	$2,072.63	$2,176.12	$2,285.23	$2,399.41
WWTP Operator II	GBU	344	$2,097.94	$2,203.11	$2,313.35	$2,428.66	$2,550.15	$2,677.82
WWTP Operator III	GBU	364	$2,318.42	$2,434.28	$2,555.77	$2,683.45	$2,817.87	$2,958.48
WWTP Operator In Training	GBU	301	$1,692.97	$1,777.90	$1,866.77	$1,960.14	$2,058.00	$2,160.93
Communications Manager	M	456	$3,595.82	$3,775.58	$3,964.72	$4,162.68	$4,371.12	$4,589.48
Chief Building Official	M	464	$3,742.49	$3,929.43	$4,125.73	$4,332.52	$4,548.67	$4,776.41
Planning Manager	M	476	$3,972.99	$4,172.05	$4,380.49	$4,599.40	$4,829.35	$5,070.87
Director of Information Technology	M	500	$4,478.64	$4,702.52	$4,937.42	$5,184.46	$5,443.63	$5,716.03

City of Madera Full Time Salary Schedule Effective 12/3/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate					
			A	B	C	D	E	F
Public Works Operations Director	M	508	$4,660.61	$4,893.86	$5,138.69	$5,395.66	$5,665.30	$5,948.18
Director of Parks & Community Services	M	509	$4,684.32	$4,918.13	$5,164.06	$5,422.12	$5,693.42	$5,977.96
Director of Human Resources	M	513	$4,778.61	$5,017.38	$5,268.28	$5,531.86	$5,808.12	$6,098.72
City Engineer	M	525	$5,073.07	$5,326.73	$5,593.06	$5,872.63	$6,166.54	$6,474.79
Director of Financial Services	M	525	$5,073.07	$5,326.73	$5,593.06	$5,872.63	$6,166.54	$6,474.79
Director of Community Development	M	535	$5,332.79	$5,599.13	$5,879.25	$6,173.16	$6,481.95	$6,806.19
Police Chief	M	554	$5,862.71	$6,156.06	$6,463.76	$6,786.89	$7,126.01	$7,482.23
City Clerk	EXE	419	$2,873.71	$3,017.87	$3,168.39	$3,326.86	$3,493.29	$3,668.19
City Manager	EXE	587	$6,640.58	$6,972.76	$7,321.38	$7,687.47	$8,071.58	$8,475.29
Crime Analysis Technician	MPOA	306	$1,735.72	$1,822.90	$1,914.02	$2,009.63	$2,109.75	$2,215.49
Police Corporal	MPOA	383	$2,548.46	$2,676.13	$2,810.00	$2,950.05	$3,097.97	$3,252.65
Police Officer I	MPOA	363	$2,306.61	$2,421.91	$2,542.83	$2,669.95	$2,803.81	$2,943.86
Police Officer II	MPOA	373	$2,424.72	$2,545.65	$2,673.32	$2,806.62	$2,947.24	$3,094.60
Police Officer Trainee	MPOA	333	$1,986.01	$2,085.56	$2,189.62	$2,299.29	$2,414.03	$2,534.96
Police Sergeant	MPOA	426	$3,158.15	$3,316.20	$3,482.12	$3,655.92	$3,838.72	$4,030.51
Property & Evidence Officer	MPOA	296	$1,651.35	$1,734.03	$1,820.65	$1,911.77	$2,007.38	$2,107.50
Public Safety Dispatcher	MPOA	294	$1,635.04	$1,716.60	$1,802.65	$1,892.64	$1,987.13	$2,086.69
Records Clerk	MPOA	270	$1,450.56	$1,523.11	$1,599.04	$1,679.47	$1,763.28	$1,851.58

City of Madera Full Time Salary Schedule Effective 12/3/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate									
			A	B	C	D	E	F	F + 2.5%	F + 5%	F + 7.5%	F + 10%
Executive Secretary to the Chief of Police	LEMM	330	$1,956.76	$2,054.63	$2,156.99	$2,264.98	$2,378.04	$2,497.28	$2,559.71	$2,622.14	$2,684.57	$2,747.00
Police Auxiliary Services Supervisor	LEMM	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81	$2,827.78	$2,896.76	$2,965.73	$3,034.70
Police Commander	LEMM	504	$4,659.89	$4,893.31	$5,137.98	$5,394.45	$5,664.43	$5,947.34				
Police Lieutenant	LEMM	487	$4,281.37	$4,495.10	$4,720.08	$4,956.31	$5,203.78	$5,464.20				
Police Office Supervisor	LEMM	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81	$2,827.78	$2,896.76	$2,965.73	$3,034.70
Accountant I	MM	322	$1,880.27	$1,974.20	$2,072.63	$2,176.12	$2,285.23	$2,399.41	$2,459.39	$2,519.38	$2,579.37	$2,639.35
Accountant II	MM	362	$2,295.36	$2,410.10	$2,530.46	$2,657.01	$2,789.75	$2,929.24	$3,002.47	$3,075.70	$3,148.93	$3,222.16
Administrative Analyst I	MM	358	$2,249.80	$2,362.29	$2,480.40	$2,604.70	$2,734.63	$2,871.30	$2,943.09	$3,014.87	$3,086.65	$3,158.43
Administrative Analyst II	MM	386	$2,587.27	$2,716.63	$2,852.18	$2,995.04	$3,144.66	$3,301.58	$3,384.12	$3,466.66	$3,549.20	$3,631.74
Assistant Engineer	MM	392	$2,665.45	$2,798.75	$2,938.80	$3,085.60	$3,240.27	$3,402.26	$3,487.31	$3,572.37	$3,657.43	$3,742.48
Associate Civil Engineer	MM	445	$3,472.00	$3,645.80	$3,828.03	$4,019.26	$4,220.62	$4,431.54	$4,542.33	$4,653.12	$4,763.91	$4,874.69
Associate Planner	MM	368	$2,365.10	$2,483.21	$2,607.52	$2,737.44	$2,874.68	$3,018.10	$3,093.56	$3,169.01	$3,244.46	$3,319.91
Communications Specialist	MM	358	$2,249.80	$2,362.29	$2,480.40	$2,604.70	$2,734.63	$2,871.30	$2,943.09	$3,014.87	$3,086.65	$3,158.43
Construction Inspection Supervisor	MM	400	$2,774.00	$2,912.93	$3,058.60	$3,211.59	$3,371.88	$3,540.62	$3,629.14	$3,717.65	$3,806.17	$3,894.68
Deputy City Engineer	MM	495	$4,455.73	$4,678.46	$4,912.43	$5,157.66	$5,415.83	$5,686.36	$5,828.52	$5,970.68	$5,112.84	$6,255.00
Electrical and Facilities Operations Manager	MM	421	$3,080.54	$3,234.65	$3,396.07	$3,565.93	$3,744.23	$3,931.52	$4,029.81	$4,128.10	$4,226.39	$4,324.67
Engineering Project Manager	MM	419	$3,049.60	$3,202.59	$3,362.32	$3,530.50	$3,707.10	$3,892.71	$3,990.03	$4,087.35	$4,184.67	$4,281.98
Executive Secretary	MM	330	$1,956.76	$2,054.63	$2,156.99	$2,264.98	$2,378.04	$2,497.28	$2,559.71	$2,622.14	$2,684.57	$2,747.00
Executive Secretary to City Administrator	MM	330	$1,956.76	$2,054.63	$2,156.99	$2,264.98	$2,378.04	$2,497.28	$2,559.71	$2,622.14	$2,684.57	$2,747.00
Financial Services Manager	MM	446	$3,489.44	$3,663.80	$3,847.15	$4,039.51	$4,241.43	$4,453.48	$4,564.81	$4,676.15	$4,787.49	$4,898.82
Fleet Operations Manager	MM	404	$2,830.25	$2,971.42	$3,119.91	$3,276.27	$3,439.94	$3,612.05	$3,702.35	$3,792.65	$3,882.95	$3,973.26
Grant Administrator	MM	446	$3,489.44	$3,663.80	$3,847.15	$4,039.51	$4,241.43	$4,453.48	$4,564.81	$4,676.15	$4,787.49	$4,898.82
Grant Analyst	MM	358	$2,249.80	$2,362.29	$2,480.40	$2,604.70	$2,734.63	$2,871.30	$2,943.09	$3,014.87	$3,086.65	$3,158.43
Human Resources Technician	MM	290	$1,602.98	$1,682.85	$1,767.22	$1,855.52	$1,948.32	$2,045.63	$2,096.77	$2,147.91	$2,199.05	$2,250.19
Human Resources Technician II	MM	310	$1,770.59	$1,859.46	$1,952.26	$2,050.13	$2,152.49	$2,259.92	$2,316.42	$2,372.92	$2,429.42	$2,485.91
Neighborhood Preservation Supervisor	MM	380	$2,510.77	$2,636.20	$2,767.81	$2,906.74	$3,051.85	$3,204.28	$3,284.38	$3,364.49	$3,444.60	$3,524.70
Network Administrator	MM	389	$2,626.08	$2,757.13	$2,894.93	$3,040.04	$3,191.90	$3,351.64	$3,435.43	$3,519.22	$3,603.01	$3,686.80
Park Project Manager	MM	426	$3,158.15	$3,316.20	$3,482.12	$3,655.92	$3,838.72	$4,030.51	$4,131.28	$4,232.04	$4,332.80	$4,433.56
Parks Manager	MM	385	$2,574.33	$2,702.57	$2,838.12	$2,979.86	$3,128.91	$3,285.27	$3,367.40	$3,449.53	$3,531.66	$3,613.79
Parks Supervisor	MM	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81	$2,827.78	$2,896.76	$2,965.73	$3,034.70
Procurement Services Manager	MM	358	$2,249.80	$2,362.29	$2,480.40	$2,604.70	$2,734.63	$2,871.30	$2,943.09	$3,014.87	$3,086.65	$3,158.43
Program Manager-Grants	MM	366	$2,341.48	$2,458.47	$2,581.64	$2,710.44	$2,845.99	$2,988.29	$3,063.00	$3,137.71	$3,212.42	$3,287.12
Recreation/Community Programs Manager	MM	390	$2,639.01	$2,771.19	$2,909.55	$3,055.23	$3,207.65	$3,368.51	$3,452.72	$3,536.94	$3,621.15	$3,705.36
Recreation/Community Programs Supervisor	MM	353	$2,194.68	$2,304.36	$2,419.10	$2,540.02	$2,667.14	$2,800.44	$2,870.45	$2,940.46	$3,010.47	$3,080.48
Redevelopment Agency Secretary	MM	342	$2,077.13	$2,181.18	$2,290.29	$2,404.47	$2,524.84	$2,651.39	$2,717.67	$2,783.96	$2,850.24	$2,916.53
Redevelopment Manager	MM	427	$3,173.90	$3,332.51	$3,499.56	$3,674.48	$3,857.84	$4,050.76	$4,152.03	$4,253.30	$4,354.57	$4,455.84
Safety Officer	MM	358	$2,249.80	$2,362.29	$2,480.40	$2,604.70	$2,734.63	$2,871.30	$2,943.09	$3,014.87	$3,086.65	$3,158.43
Senior Civil Engineer	MM	475	$4,032.76	$4,234.12	$4,445.60	$4,668.33	$4,901.75	$5,146.41	$5,275.07	$5,403.73	$5,532.39	$5,661.06
Senior Planner	MM	429	$3,205.96	$3,366.26	$3,534.43	$3,711.04	$3,896.65	$4,091.26	$4,193.54	$4,295.82	$4,398.10	$4,500.38
Solid Waste Manager	MM	353	$2,194.68	$2,304.36	$2,419.10	$2,540.02	$2,667.14	$2,800.44	$2,870.45	$2,940.46	$3,010.47	$3,080.48
Streets & Storm Drainage Ops. Manager	MM	385	$2,574.33	$2,702.57	$2,838.12	$2,979.86	$3,128.91	$3,285.27	$3,367.40	$3,449.53	$3,531.66	$3,613.79
Streets & Storm Drainage Supervisor	MM	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81	$2,827.78	$2,896.76	$2,965.73	$3,034.70

City of Madera Full Time Salary Schedule Effective 12/3/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate									
			A	B	C	D	E	F	F + 2.5%	F + 5%	F + 7.5%	F + 10%
Tyler Munis Implementation Project Manager	MM	408	$2,887.05	$3,031.60	$3,182.90	$3,342.08	$3,509.12	$3,684.61	$3,776.72	$3,868.84	$3,960.95	$4,053.07
Utility Billing Supervisor	MM	334	$1,996.13	$2,095.69	$2,200.86	$2,310.54	$2,426.41	$2,547.33	$2,611.02	$2,674.70	$2,738.38	$2,802.07
Waste Water Treatment Plant Manager	MM	459	$3,723.42	$3,909.59	$4,104.76	$4,310.05	$4,525.47	$4,752.14	$4,870.94	$4,989.74	$5,108.55	$5,227.35
Wastewater Collection System Supervisor	MM	346	$2,119.31	$2,225.05	$2,336.41	$2,453.40	$2,576.02	$2,704.82	$2,772.44	$2,840.06	$2,907.68	$2,975.30
Water & Sewer Operations Manager	MM	423	$3,111.47	$3,266.71	$3,430.38	$3,601.93	$3,781.91	$3,970.89	$4,070.17	$4,169.44	$4,268.71	$4,367.98
Water Meter & Conservation Supervisor	MM	340	$2,056.88	$2,159.24	$2,267.23	$2,380.85	$2,500.09	$2,624.95	$2,690.58	$2,756.20	$2,821.82	$2,887.45
Water System Supervisor	MM	385	$2,574.33	$2,702.57	$2,838.12	$2,979.86	$3,128.91	$3,285.27	$3,367.40	$3,449.53	$3,531.66	$3,613.79

Exhibit B

City of Madera Full Time Salary Schedule effective December 4, 2024

City of Madera Full Time Salary Schedule Effective 12/4/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate					
			A	B	C	D	E	F
Accountant (Junior)	GBU	282	$1,539.99	$1,617.04	$1,698.04	$1,782.97	$1,871.83	$1,965.76
Accounting Technician I	GBU	263	$1,401.06	$1,470.81	$1,544.49	$1,621.54	$1,702.53	$1,788.03
Accounting Technician II	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Accounting Technician III	GBU	300	$1,684.54	$1,768.90	$1,857.21	$1,950.01	$2,047.88	$2,150.25
Administrative Assistant	GBU	303	$1,709.85	$1,795.34	$1,885.33	$1,979.82	$2,078.81	$2,182.30
Animal Control Officer	GBU	290	$1,602.98	$1,682.85	$1,767.22	$1,855.52	$1,948.32	$2,045.63
Assistant Planner	GBU	352	$2,183.43	$2,292.54	$2,407.28	$2,527.65	$2,654.20	$2,786.94
Building Permit Technician	GBU	288	$1,586.67	$1,665.98	$1,749.22	$1,836.96	$1,928.64	$2,025.38
Combination Building Inspector	GBU	348	$2,140.12	$2,247.55	$2,359.48	$2,477.59	$2,601.89	$2,731.82
Computer Technician I	GBU	344	$2,097.94	$2,203.11	$2,313.35	$2,428.66	$2,550.15	$2,677.82
Computer Technician II	GBU	375	$2,448.91	$2,571.52	$2,699.76	$2,834.75	$2,976.48	$3,125.53
Construction Inspector I	GBU	322	$1,880.27	$1,974.20	$2,072.63	$2,176.12	$2,285.23	$2,399.41
Construction Inspector II	GBU	342	$2,077.13	$2,181.18	$2,290.29	$2,404.47	$2,524.84	$2,651.39
Deputy City Clerk	GBU	311	$1,779.59	$1,868.46	$1,961.82	$2,060.25	$2,163.18	$2,271.17
Electrician II	GBU	361	$2,283.54	$2,397.72	$2,518.09	$2,643.51	$2,775.69	$2,914.61
Electrician III	GBU	381	$2,523.15	$2,649.70	$2,790.31	$2,920.80	$3,067.04	$3,220.59
Engineering Technician I	GBU	302	$1,701.41	$1,786.90	$1,875.77	$1,969.70	$2,068.13	$2,171.62
Engineering Technician II	GBU	322	$1,880.27	$1,974.20	$2,072.63	$2,176.12	$2,285.23	$2,399.41
Engineering Technician III	GBU	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81
Facilities Maintenance Technician	GBU	289	$1,594.54	$1,674.41	$1,758.22	$1,845.96	$1,938.20	$2,035.50
Grants Specialist	GBU	299	$1,676.10	$1,759.90	$1,848.21	$1,940.45	$2,037.75	$2,139.56
Industrial Electrical Technician	GBU	381	$2,523.15	$2,649.70	$2,790.31	$2,920.80	$3,067.04	$3,220.59
Lead Electrician	GBU	401	$2,788.06	$2,927.55	$3,073.79	$3,227.34	$3,388.76	$3,558.06
Maintenance Technician	GBU	308	$1,753.16	$1,840.90	$1,933.14	$2,029.88	$2,131.12	$2,237.42
Mechanic I	GBU	286	$1,570.92	$1,649.66	$1,732.34	$1,818.96	$1,909.52	$2,005.13
Mechanic II	GBU	301	$1,692.97	$1,777.90	$1,866.77	$1,960.14	$2,058.00	$2,160.93
Mechanic III	GBU	321	$1,870.71	$1,964.07	$2,062.50	$2,165.43	$2,273.98	$2,387.60
Neighborhood Outreach Assistant	GBU	276	$1,494.43	$1,569.23	$1,647.98	$1,730.09	$1,816.71	$1,907.83
Neighborhood Outreach Coordinator	GBU	306	$1,735.72	$1,822.90	$1,914.02	$2,009.63	$2,109.75	$2,215.49
Neighborhood Preservation Specialist I	GBU	310	$1,770.59	$1,859.46	$1,952.26	$2,050.13	$2,152.49	$2,259.92
Neighborhood Preservation Specialist II	GBU	330	$1,956.76	$2,054.63	$2,156.99	$2,264.98	$2,378.04	$2,497.28
Neighborhood Preservation Specialist III	GBU	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81
Office Assistant I	GBU	263	$1,401.06	$1,470.81	$1,544.49	$1,621.54	$1,702.53	$1,788.03
Office Assistant II	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Parks Leadworker	GBU	323	$1,889.27	$1,983.76	$2,083.31	$2,187.37	$2,296.48	$2,411.22

City of Madera Full Time Salary Schedule Effective 12/4/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate					
			A	B	C	D	E	F
Parks Worker I	GBU	263	$1,401.06	$1,470.81	$1,544.49	$1,621.54	$1,702.53	$1,788.03
Parks Worker II	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Parks Worker III	GBU	303	$1,709.85	$1,795.34	$1,885.33	$1,979.82	$2,078.81	$2,182.30
Payroll Specialist	GBU	316	$1,824.59	$1,915.70	$2,011.88	$2,112.00	$2,217.74	$2,328.54
Plans Examiner	GBU	360	$2,272.30	$2,385.91	$2,505.15	$2,630.58	$2,762.19	$2,899.99
Public Works Equipment Operator	GBU	303	$1,709.85	$1,795.34	$1,885.33	$1,979.82	$2,078.81	$2,182.30
Public Works Maintenance Lead Worker	GBU	323	$1,889.27	$1,983.76	$2,083.31	$2,187.37	$2,296.48	$2,411.22
Public Works Maintenance Worker I	GBU	263	$1,401.06	$1,470.81	$1,544.49	$1,621.54	$1,702.53	$1,788.03
Public Works Maintenance Worker II	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Purchasing Assistant	GBU	280	$1,524.80	$1,600.73	$1,681.16	$1,764.97	$1,853.27	$1,946.07
Recreation/Community Programs Coordinator	GBU	313	$1,797.59	$1,887.58	$1,981.51	$2,081.06	$2,185.12	$2,294.23
Solid Waste/Recycling Assistant	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Solid Waste/Recycling Coordinator	GBU	313	$1,797.59	$1,887.58	$1,981.51	$2,081.06	$2,185.12	$2,294.23
Water Conservation Customer Service Representative	GBU	263	$1,401.06	$1,470.81	$1,544.49	$1,621.54	$1,702.53	$1,788.03
Water Conservation Specialist	GBU	283	$1,547.86	$1,624.92	$1,706.47	$1,791.96	$1,881.39	$1,975.32
Water Quality Specialist II	GBU	340	$2,056.88	$2,159.24	$2,267.23	$2,380.85	$2,500.09	$2,624.95
Water Quality Specialist I	GBU	320	$1,861.14	$1,954.51	$2,052.38	$2,154.74	$2,262.73	$2,375.79
Water Quality Specialist In Training	GBU	293	$1,626.60	$1,708.16	$1,793.65	$1,883.08	$1,977.57	$2,076.56
Water System Lead Worker	GBU	365	$2,329.67	$2,446.09	$2,568.71	$2,696.95	$2,831.93	$2,973.67
Water System Technician	GBU	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81
Water System Worker I	GBU	293	$1,626.60	$1,708.16	$1,793.65	$1,883.08	$1,977.57	$2,076.56
Water System Worker II	GBU	320	$1,861.14	$1,954.51	$2,052.38	$2,154.74	$2,262.73	$2,375.79
Water System Worker III	GBU	340	$2,056.88	$2,159.24	$2,267.23	$2,380.85	$2,500.09	$2,624.95
WW Lab Analyst/Environmental Compliance Inspector I	GBU	345	$2,108.62	$2,213.80	$2,324.60	$2,441.03	$2,563.08	$2,691.32
WW Lab Analyst/Environmental Compliance Inspector II	GBU	365	$2,329.67	$2,446.09	$2,568.71	$2,696.95	$2,831.93	$2,973.67
WWTP Lead Operator	GBU	383	$2,548.46	$2,676.13	$2,810.00	$2,950.05	$3,097.97	$3,252.65
WWTP Mechanic	GBU	375	$2,448.91	$2,571.52	$2,699.76	$2,834.75	$2,976.48	$3,125.53
WWTP Operator I	GBU	322	$1,880.27	$1,974.20	$2,072.63	$2,176.12	$2,285.23	$2,399.41
WWTP Operator II	GBU	344	$2,097.94	$2,203.11	$2,313.35	$2,428.66	$2,550.15	$2,677.82
WWTP Operator III	GBU	364	$2,318.42	$2,434.28	$2,555.77	$2,683.45	$2,817.87	$2,958.48
WWTP Operator In Training	GBU	301	$1,692.97	$1,777.90	$1,866.77	$1,960.14	$2,058.00	$2,160.93
Communications Manager	M	456	$3,595.82	$3,775.58	$3,964.72	$4,162.68	$4,371.12	$4,589.48
Chief Building Official	M	464	$3,742.49	$3,929.43	$4,125.73	$4,332.52	$4,548.67	$4,776.41
Planning Manager	M	500	$4,478.64	$4,702.52	$4,937.42	$5,184.46	$5,443.63	$5,716.03
Director of Information Technology	M	500	$4,478.64	$4,702.52	$4,937.42	$5,184.46	$5,443.63	$5,716.03

City of Madera Full Time Salary Schedule Effective 12/4/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate					
			A	B	C	D	E	F
Public Works Operations Director	M	508	$4,660.61	$4,893.86	$5,138.69	$5,395.66	$5,665.30	$5,948.18
Director of Parks & Community Services	M	509	$4,684.32	$4,918.13	$5,164.06	$5,422.12	$5,693.42	$5,977.96
Director of Human Resources	M	513	$4,778.61	$5,017.38	$5,268.28	$5,531.86	$5,808.12	$6,098.72
City Engineer	M	525	$5,073.07	$5,326.73	$5,593.06	$5,872.63	$6,166.54	$6,474.79
Director of Financial Services	M	525	$5,073.07	$5,326.73	$5,593.06	$5,872.63	$6,166.54	$6,474.79
Director of Community Development	M	535	$5,332.79	$5,599.13	$5,879.25	$6,173.16	$6,481.95	$6,806.19
Police Chief	M	554	$5,862.71	$6,156.06	$6,463.76	$6,786.89	$7,126.01	$7,482.23
City Clerk	EXE	419	$2,873.71	$3,017.87	$3,168.39	$3,326.86	$3,493.29	$3,668.19
City Manager	EXE	587	$6,640.58	$6,972.76	$7,321.38	$7,687.47	$8,071.58	$8,475.29
Crime Analysis Technician	MPOA	306	$1,735.72	$1,822.90	$1,914.02	$2,009.63	$2,109.75	$2,215.49
Police Corporal	MPOA	383	$2,548.46	$2,676.13	$2,810.00	$2,950.05	$3,097.97	$3,252.65
Police Officer I	MPOA	363	$2,306.61	$2,421.91	$2,542.83	$2,669.95	$2,803.81	$2,943.86
Police Officer II	MPOA	373	$2,424.72	$2,545.65	$2,673.32	$2,806.62	$2,947.24	$3,094.60
Police Officer Trainee	MPOA	333	$1,986.01	$2,085.56	$2,189.62	$2,299.29	$2,414.03	$2,534.96
Police Sergeant	MPOA	426	$3,158.15	$3,316.20	$3,482.12	$3,655.92	$3,838.72	$4,030.51
Property & Evidence Officer	MPOA	296	$1,651.35	$1,734.03	$1,820.65	$1,911.77	$2,007.38	$2,107.50
Public Safety Dispatcher	MPOA	294	$1,635.04	$1,716.60	$1,802.65	$1,892.64	$1,987.13	$2,086.69
Records Clerk	MPOA	270	$1,450.56	$1,523.11	$1,599.04	$1,679.47	$1,763.28	$1,851.58

City of Madera Full Time Salary Schedule Effective 12/4/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate									
			A	B	C	D	E	F	F + 2.5%	F + 5%	F + 7.5%	F + 10%
Executive Secretary to the Chief of Police	LEMM	330	$1,956.76	$2,054.63	$2,156.99	$2,264.98	$2,378.04	$2,497.28	$2,559.71	$2,622.14	$2,684.57	$2,747.00
Police Auxiliary Services Supervisor	LEMM	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81	$2,827.78	$2,896.76	$2,965.73	$3,034.70
Police Commander	LEMM	504	$4,659.89	$4,893.31	$5,137.98	$5,394.45	$5,664.43	$5,947.34				
Police Lieutenant	LEMM	487	$4,281.37	$4,495.10	$4,720.08	$4,956.31	$5,203.78	$5,464.20				
Police Office Supervisor	LEMM	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81	$2,827.78	$2,896.76	$2,965.73	$3,034.70
Accountant I	MM	322	$1,880.27	$1,974.20	$2,072.63	$2,176.12	$2,285.23	$2,399.41	$2,459.39	$2,519.38	$2,579.37	$2,639.35
Accountant II	MM	362	$2,295.36	$2,410.10	$2,530.46	$2,657.01	$2,789.75	$2,929.24	$3,002.47	$3,075.70	$3,148.93	$3,222.16
Administrative Analyst I	MM	358	$2,249.80	$2,362.29	$2,480.40	$2,604.70	$2,734.63	$2,871.30	$2,943.09	$3,014.87	$3,086.65	$3,158.43
Administrative Analyst II	MM	386	$2,587.27	$2,716.63	$2,852.18	$2,995.04	$3,144.66	$3,301.58	$3,384.12	$3,466.66	$3,549.20	$3,631.74
Assistant Engineer	MM	392	$2,665.45	$2,798.75	$2,938.80	$3,085.60	$3,240.27	$3,402.26	$3,487.31	$3,572.37	$3,657.43	$3,742.48
Associate Civil Engineer	MM	445	$3,472.00	$3,645.80	$3,828.03	$4,019.26	$4,220.62	$4,431.54	$4,542.33	$4,653.12	$4,763.91	$4,874.69
Associate Planner	MM	368	$2,365.10	$2,483.21	$2,607.52	$2,737.44	$2,874.68	$3,018.10	$3,093.56	$3,169.01	$3,244.46	$3,319.91
Communications Specialist	MM	358	$2,249.80	$2,362.29	$2,480.40	$2,604.70	$2,734.63	$2,871.30	$2,943.09	$3,014.87	$3,086.65	$3,158.43
Construction Inspection Supervisor	MM	400	$2,774.00	$2,912.93	$3,058.60	$3,211.59	$3,371.88	$3,540.62	$3,629.14	$3,717.65	$3,806.17	$3,894.68
Deputy City Engineer	MM	495	$4,455.73	$4,678.46	$4,912.43	$5,157.66	$5,415.83	$5,686.36	$5,828.52	$5,970.68	$5,112.84	$6,255.00
Electrical and Facilities Operations Manager	MM	421	$3,080.54	$3,234.65	$3,396.07	$3,565.93	$3,744.23	$3,931.52	$4,029.81	$4,128.10	$4,226.39	$4,324.67
Engineering Project Manager	MM	419	$3,049.60	$3,202.59	$3,362.32	$3,530.50	$3,707.10	$3,892.71	$3,990.03	$4,087.35	$4,184.67	$4,281.98
Executive Secretary	MM	330	$1,956.76	$2,054.63	$2,156.99	$2,264.98	$2,378.04	$2,497.28	$2,559.71	$2,622.14	$2,684.57	$2,747.00
Executive Secretary to City Administrator	MM	330	$1,956.76	$2,054.63	$2,156.99	$2,264.98	$2,378.04	$2,497.28	$2,559.71	$2,622.14	$2,684.57	$2,747.00
Financial Services Manager	MM	446	$3,489.44	$3,663.80	$3,847.15	$4,039.51	$4,241.43	$4,453.48	$4,564.81	$4,676.15	$4,787.49	$4,898.82
Fleet Operations Manager	MM	404	$2,830.25	$2,971.42	$3,119.91	$3,276.27	$3,439.94	$3,612.05	$3,702.35	$3,792.65	$3,882.95	$3,973.26
Grant Administrator	MM	446	$3,489.44	$3,663.80	$3,847.15	$4,039.51	$4,241.43	$4,453.48	$4,564.81	$4,676.15	$4,787.49	$4,898.82
Grant Analyst	MM	358	$2,249.80	$2,362.29	$2,480.40	$2,604.70	$2,734.63	$2,871.30	$2,943.09	$3,014.87	$3,086.65	$3,158.43
Human Resources Technician	MM	290	$1,602.98	$1,682.85	$1,767.22	$1,855.52	$1,948.32	$2,045.63	$2,096.77	$2,147.91	$2,199.05	$2,250.19
Human Resources Technician II	MM	310	$1,770.59	$1,859.46	$1,952.26	$2,050.13	$2,152.49	$2,259.92	$2,316.42	$2,372.92	$2,429.42	$2,485.91
Neighborhood Preservation Supervisor	MM	380	$2,510.77	$2,636.20	$2,767.81	$2,906.74	$3,051.85	$3,204.28	$3,284.38	$3,364.49	$3,444.60	$3,524.70
Network Administrator	MM	389	$2,626.08	$2,757.13	$2,894.93	$3,040.04	$3,191.90	$3,351.64	$3,435.43	$3,519.22	$3,603.01	$3,686.80
Park Project Manager	MM	426	$3,158.15	$3,316.20	$3,482.12	$3,655.92	$3,838.72	$4,030.51	$4,131.28	$4,232.04	$4,332.80	$4,433.56
Parks Manager	MM	385	$2,574.33	$2,702.57	$2,838.12	$2,979.86	$3,128.91	$3,285.27	$3,367.40	$3,449.53	$3,531.66	$3,613.79
Parks Supervisor	MM	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81	$2,827.78	$2,896.76	$2,965.73	$3,034.70
Procurement Services Manager	MM	358	$2,249.80	$2,362.29	$2,480.40	$2,604.70	$2,734.63	$2,871.30	$2,943.09	$3,014.87	$3,086.65	$3,158.43
Program Manager-Grants	MM	366	$2,341.48	$2,458.47	$2,581.64	$2,710.44	$2,845.99	$2,988.29	$3,063.00	$3,137.71	$3,212.42	$3,287.12
Recreation/Community Programs Manager	MM	390	$2,639.01	$2,771.19	$2,909.55	$3,055.23	$3,207.65	$3,368.51	$3,452.72	$3,536.94	$3,621.15	$3,705.36
Recreation/Community Programs Supervisor	MM	353	$2,194.68	$2,304.36	$2,419.10	$2,540.02	$2,667.14	$2,800.44	$2,870.45	$2,940.46	$3,010.47	$3,080.48
Redevelopment Agency Secretary	MM	342	$2,077.13	$2,181.18	$2,290.29	$2,404.47	$2,524.84	$2,651.39	$2,717.67	$2,783.96	$2,850.24	$2,916.53
Redevelopment Manager	MM	427	$3,173.90	$3,332.51	$3,499.56	$3,674.48	$3,857.84	$4,050.76	$4,152.03	$4,253.30	$4,354.57	$4,455.84
Safety Officer	MM	358	$2,249.80	$2,362.29	$2,480.40	$2,604.70	$2,734.63	$2,871.30	$2,943.09	$3,014.87	$3,086.65	$3,158.43
Senior Civil Engineer	MM	475	$4,032.76	$4,234.12	$4,445.60	$4,668.33	$4,901.75	$5,146.41	$5,275.07	$5,403.73	$5,532.39	$5,661.06
Senior Planner	MM	429	$3,205.96	$3,366.26	$3,534.43	$3,711.04	$3,896.65	$4,091.26	$4,193.54	$4,295.82	$4,398.10	$4,500.38
Solid Waste Manager	MM	353	$2,194.68	$2,304.36	$2,419.10	$2,540.02	$2,667.14	$2,800.44	$2,870.45	$2,940.46	$3,010.47	$3,080.48
Streets & Storm Drainage Ops. Manager	MM	385	$2,574.33	$2,702.57	$2,838.12	$2,979.86	$3,128.91	$3,285.27	$3,367.40	$3,449.53	$3,531.66	$3,613.79
Streets & Storm Drainage Supervisor	MM	350	$2,162.06	$2,270.05	$2,383.66	$2,502.34	$2,627.76	$2,758.81	$2,827.78	$2,896.76	$2,965.73	$3,034.70

City of Madera Full Time Salary Schedule Effective 12/4/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate									
			A	B	C	D	E	F	F + 2.5%	F + 5%	F + 7.5%	F + 10%
Tyler Munis Implementation Project Manager	MM	408	$2,887.05	$3,031.60	$3,182.90	$3,342.08	$3,509.12	$3,684.61	$3,776.72	$3,868.84	$3,960.95	$4,053.07
Utility Billing Supervisor	MM	334	$1,996.13	$2,095.69	$2,200.86	$2,310.54	$2,426.41	$2,547.33	$2,611.02	$2,674.70	$2,738.38	$2,802.07
Waste Water Treatment Plant Manager	MM	459	$3,723.42	$3,909.59	$4,104.76	$4,310.05	$4,525.47	$4,752.14	$4,870.94	$4,989.74	$5,108.55	$5,227.35
Wastewater Collection System Supervisor	MM	346	$2,119.31	$2,225.05	$2,336.41	$2,453.40	$2,576.02	$2,704.82	$2,772.44	$2,840.06	$2,907.68	$2,975.30
Water & Sewer Operations Manager	MM	423	$3,111.47	$3,266.71	$3,430.38	$3,601.93	$3,781.91	$3,970.89	$4,070.17	$4,169.44	$4,268.71	$4,367.98
Water Meter & Conservation Supervisor	MM	340	$2,056.88	$2,159.24	$2,267.23	$2,380.85	$2,500.09	$2,624.95	$2,690.58	$2,756.20	$2,821.82	$2,887.45
Water System Supervisor	MM	385	$2,574.33	$2,702.57	$2,838.12	$2,979.86	$3,128.91	$3,285.27	$3,367.40	$3,449.53	$3,531.66	$3,613.79

Exhibit C

City of Madera Full Time Salary Schedule effective December 28, 2024

City of Madera Full Time Salary Schedule Effective 12/28/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate					
			A	B	C	D	E	F
Accountant (Junior)	GBU	282	$1,570.79	$1,649.38	$1,732.00	$1,818.62	$1,909.27	$2,005.08
Accounting Technician I	GBU	263	$1,429.08	$1,500.22	$1,575.38	$1,653.97	$1,736.59	$1,823.79
Accounting Technician II	GBU	283	$1,578.82	$1,657.42	$1,740.60	$1,827.80	$1,919.02	$2,014.83
Accounting Technician III	GBU	300	$1,718.23	$1,804.28	$1,894.35	$1,989.01	$2,088.84	$2,193.25
Administrative Assistant	GBU	303	$1,744.04	$1,831.25	$1,923.04	$2,019.42	$2,120.39	$2,225.95
Animal Control Officer	GBU	290	$1,635.04	$1,716.51	$1,802.56	$1,892.63	$1,987.29	$2,086.54
Assistant Planner	GBU	352	$2,227.10	$2,338.39	$2,455.43	$2,578.20	$2,707.28	$2,842.68
Building Permit Technician	GBU	288	$1,618.40	$1,699.29	$1,784.20	$1,873.70	$1,967.21	$2,065.89
Combination Building Inspector	GBU	348	$2,182.92	$2,292.50	$2,406.67	$2,527.14	$2,653.93	$2,786.45
Computer Technician I	GBU	344	$2,139.90	$2,247.18	$2,359.62	$2,477.23	$2,601.15	$2,731.38
Computer Technician II	GBU	375	$2,497.88	$2,622.95	$2,753.75	$2,891.44	$3,036.01	$3,188.04
Construction Inspector I	GBU	322	$1,917.87	$2,013.68	$2,114.08	$2,219.64	$2,330.94	$2,447.40
Construction Inspector II	GBU	342	$2,118.67	$2,224.80	$2,336.10	$2,452.56	$2,575.33	$2,704.42
Deputy City Clerk	GBU	311	$1,815.18	$1,905.83	$2,001.06	$2,101.46	$2,206.44	$2,316.59
Electrician II	GBU	361	$2,329.22	$2,445.68	$2,568.45	$2,696.38	$2,831.20	$2,972.91
Electrician III	GBU	381	$2,573.61	$2,702.69	$2,846.12	$2,979.22	$3,128.38	$3,285.00
Engineering Technician I	GBU	302	$1,735.44	$1,822.64	$1,913.28	$2,009.09	$2,109.49	$2,215.05
Engineering Technician II	GBU	322	$1,917.87	$2,013.68	$2,114.08	$2,219.64	$2,330.94	$2,447.40
Engineering Technician III	GBU	350	$2,205.30	$2,315.45	$2,431.33	$2,552.38	$2,680.32	$2,813.99
Facilities Maintenance Technician	GBU	289	$1,626.44	$1,707.90	$1,793.38	$1,882.88	$1,976.97	$2,076.22
Grants Specialist	GBU	299	$1,709.62	$1,795.10	$1,885.17	$1,979.26	$2,078.51	$2,182.35
Industrial Electrical Technician	GBU	381	$2,573.61	$2,702.69	$2,846.12	$2,979.22	$3,128.38	$3,285.00
Lead Electrician	GBU	401	$2,843.82	$2,986.10	$3,135.26	$3,291.88	$3,456.53	$3,629.22
Maintenance Technician	GBU	308	$1,788.22	$1,877.72	$1,971.80	$2,070.48	$2,173.74	$2,282.17
Mechanic I	GBU	286	$1,602.34	$1,682.66	$1,766.99	$1,855.34	$1,947.71	$2,045.24
Mechanic II	GBU	301	$1,726.83	$1,813.46	$1,904.11	$1,999.34	$2,099.16	$2,204.15
Mechanic III	GBU	321	$1,908.12	$2,003.35	$2,103.75	$2,208.74	$2,319.46	$2,435.35
Neighborhood Outreach Assistant	GBU	276	$1,524.32	$1,600.62	$1,680.94	$1,764.70	$1,853.05	$1,945.99
Neighborhood Outreach Coordinator	GBU	306	$1,770.43	$1,859.36	$1,952.30	$2,049.83	$2,151.94	$2,259.80
Neighborhood Preservation Specialist I	GBU	310	$1,806.00	$1,896.65	$1,991.31	$2,091.13	$2,195.54	$2,305.12
Neighborhood Preservation Specialist II	GBU	330	$1,995.90	$2,095.72	$2,200.13	$2,310.28	$2,425.60	$2,547.22
Neighborhood Preservation Specialist III	GBU	350	$2,205.30	$2,315.45	$2,431.33	$2,552.38	$2,680.32	$2,813.99
Office Assistant I	GBU	263	$1,429.08	$1,500.22	$1,575.38	$1,653.97	$1,736.59	$1,823.79
Office Assistant II	GBU	283	$1,578.82	$1,657.42	$1,740.60	$1,827.80	$1,919.02	$2,014.83
Parks Leadworker	GBU	323	$1,927.05	$2,023.43	$2,124.98	$2,231.11	$2,342.41	$2,459.45

City of Madera Full Time Salary Schedule Effective 12/28/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate					
			A	B	C	D	E	F
Parks Worker I	GBU	263	$1,429.08	$1,500.22	$1,575.38	$1,653.97	$1,736.59	$1,823.79
Parks Worker II	GBU	283	$1,578.82	$1,657.42	$1,740.60	$1,827.80	$1,919.02	$2,014.83
Parks Worker III	GBU	303	$1,744.04	$1,831.25	$1,923.04	$2,019.42	$2,120.39	$2,225.95
Payroll Specialist	GBU	316	$1,861.08	$1,954.02	$2,052.12	$2,154.24	$2,262.09	$2,375.11
Plans Examiner	GBU	360	$2,317.74	$2,433.63	$2,555.25	$2,683.19	$2,817.43	$2,957.99
Public Works Equipment Operator	GBU	303	$1,744.04	$1,831.25	$1,923.04	$2,019.42	$2,120.39	$2,225.95
Public Works Maintenance Lead Worker	GBU	323	$1,927.05	$2,023.43	$2,124.98	$2,231.11	$2,342.41	$2,459.45
Public Works Maintenance Worker I	GBU	263	$1,429.08	$1,500.22	$1,575.38	$1,653.97	$1,736.59	$1,823.79
Public Works Maintenance Worker II	GBU	283	$1,578.82	$1,657.42	$1,740.60	$1,827.80	$1,919.02	$2,014.83
Purchasing Assistant	GBU	280	$1,555.30	$1,632.75	$1,714.78	$1,800.27	$1,890.34	$1,985.00
Recreation/Community Programs Coordinator	GBU	313	$1,833.54	$1,925.33	$2,021.14	$2,122.68	$2,228.82	$2,340.12
Solid Waste/Recycling Assistant	GBU	283	$1,578.82	$1,657.42	$1,740.60	$1,827.80	$1,919.02	$2,014.83
Solid Waste/Recycling Coordinator	GBU	313	$1,833.54	$1,925.33	$2,021.14	$2,122.68	$2,228.82	$2,340.12
Water Conservation Customer Service Representative	GBU	263	$1,429.08	$1,500.22	$1,575.38	$1,653.97	$1,736.59	$1,823.79
Water Conservation Specialist	GBU	283	$1,578.82	$1,657.42	$1,740.60	$1,827.80	$1,919.02	$2,014.83
Water Quality Specialist II	GBU	340	$2,098.02	$2,202.43	$2,312.58	$2,428.47	$2,550.09	$2,677.45
Water Quality Specialist I	GBU	320	$1,898.37	$1,993.60	$2,093.43	$2,197.84	$2,307.99	$2,423.30
Water Quality Specialist In Training	GBU	293	$1,659.14	$1,742.32	$1,829.52	$1,920.74	$2,017.12	$2,118.09
Water System Lead Worker	GBU	365	$2,376.26	$2,495.01	$2,620.08	$2,750.88	$2,888.57	$3,033.14
Water System Technician	GBU	350	$2,205.30	$2,315.45	$2,431.33	$2,552.38	$2,680.32	$2,813.99
Water System Worker I	GBU	293	$1,659.14	$1,742.32	$1,829.52	$1,920.74	$2,017.12	$2,118.09
Water System Worker II	GBU	320	$1,898.37	$1,993.60	$2,093.43	$2,197.84	$2,307.99	$2,423.30
Water System Worker III	GBU	340	$2,098.02	$2,202.43	$2,312.58	$2,428.47	$2,550.09	$2,677.45
WW Lab Analyst/Environmental Compliance Inspector I	GBU	345	$2,150.80	$2,258.08	$2,371.10	$2,489.85	$2,614.34	$2,745.15
WW Lab Analyst/Environmental Compliance Inspector II	GBU	365	$2,376.26	$2,495.01	$2,620.08	$2,750.88	$2,888.57	$3,033.14
WWTP Lead Operator	GBU	383	$2,599.43	$2,729.66	$2,866.20	$3,009.05	$3,159.93	$3,317.70
WWTP Mechanic	GBU	375	$2,497.88	$2,622.95	$2,753.75	$2,891.44	$3,036.01	$3,188.04
WWTP Operator I	GBU	322	$1,917.87	$2,013.68	$2,114.08	$2,219.64	$2,330.94	$2,447.40
WWTP Operator II	GBU	344	$2,139.90	$2,247.18	$2,359.62	$2,477.23	$2,601.15	$2,731.38
WWTP Operator III	GBU	364	$2,364.79	$2,482.97	$2,606.89	$2,737.12	$2,874.23	$3,017.65
WWTP Operator In Training	GBU	301	$1,726.83	$1,813.46	$1,904.11	$1,999.34	$2,099.16	$2,204.15
Communications Manager	M	456	$3,667.73	$3,851.09	$4,044.01	$4,245.93	$4,458.54	$4,681.27
Chief Building Official	M	464	$3,817.34	$4,008.02	$4,208.25	$4,419.17	$4,639.65	$4,871.94
Planning Manager	M	500	$4,568.22	$4,796.57	$5,036.17	$5,288.15	$5,552.50	$5,830.35
Director of Information Technology	M	500	$4,568.22	$4,796.57	$5,036.17	$5,288.15	$5,552.50	$5,830.35

City of Madera Full Time Salary Schedule Effective 12/28/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate					
			A	B	C	D	E	F
Public Works Operations Director	M	508	$4,753.82	$4,991.74	$5,241.47	$5,503.57	$5,778.61	$6,067.14
Director of Parks & Community Services	M	509	$4,778.01	$5,016.49	$5,267.34	$5,530.57	$5,807.29	$6,097.52
Director of Human Resources	M	513	$4,874.19	$5,117.73	$5,373.64	$5,642.49	$5,924.28	$6,220.69
City Engineer	M	525	$5,174.54	$5,433.26	$5,704.93	$5,990.09	$6,289.87	$6,604.28
Director of Financial Services	M	525	$5,174.54	$5,433.26	$5,704.93	$5,990.09	$6,289.87	$6,604.28
Director of Community Development	M	535	$5,439.45	$5,711.11	$5,996.84	$6,296.62	$6,611.59	$6,942.31
Police Chief	M	554	$5,979.96	$6,279.19	$6,593.03	$6,922.63	$7,268.53	$7,631.88
City Clerk	EXE	419	$2,931.18	$3,078.23	$3,231.76	$3,393.40	$3,563.15	$3,741.55
City Manager	EXE	587	$6,640.58	$6,972.76	$7,321.38	$7,687.47	$8,071.58	$8,475.29
Crime Analysis Technician	MPOA	306	$1,770.43	$1,859.36	$1,952.30	$2,049.83	$2,151.94	$2,259.80
Police Corporal	MPOA	383	$2,599.43	$2,729.66	$2,866.20	$3,009.05	$3,159.93	$3,317.70
Police Officer I	MPOA	363	$2,352.74	$2,470.35	$2,593.69	$2,723.35	$2,859.89	$3,002.74
Police Officer II	MPOA	373	$2,473.21	$2,596.56	$2,726.79	$2,862.76	$3,006.18	$3,156.49
Police Officer Trainee	MPOA	333	$2,025.73	$2,127.27	$2,233.41	$2,345.28	$2,462.31	$2,585.66
Police Sergeant	MPOA	426	$3,221.32	$3,382.53	$3,551.77	$3,729.04	$3,915.49	$4,111.12
Property & Evidence Officer	MPOA	296	$1,684.38	$1,768.71	$1,857.06	$1,950.00	$2,047.53	$2,149.65
Public Safety Dispatcher	MPOA	294	$1,667.74	$1,750.93	$1,838.70	$1,930.50	$2,026.88	$2,128.42
Records Clerk	MPOA	270	$1,479.57	$1,553.58	$1,631.02	$1,713.06	$1,798.55	$1,888.62

City of Madera Full Time Salary Schedule Effective 12/28/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate									
			A	B	C	D	E	F	F + 2.5%	F + 5%	F + 7.5%	F + 10%
Executive Secretary to the Chief of Police	LEMM	330	$1,995.90	$2,095.72	$2,200.13	$2,310.28	$2,425.60	$2,547.22	$2,610.90	$2,674.58	$2,738.26	$2,801.94
Police Auxiliary Services Supervisor	LEMM	350	$2,205.30	$2,315.45	$2,431.33	$2,552.38	$2,680.32	$2,813.99	$2,884.34	$2,954.69	$3,025.04	$3,095.39
Police Commander	LEMM	504	$4,753.09	$4,991.18	$5,240.74	$5,502.34	$5,777.72	$6,066.29				
Police Lieutenant	LEMM	487	$4,366.99	$4,585.00	$4,814.48	$5,055.43	$5,307.86	$5,573.48				
Police Office Supervisor	LEMM	350	$2,205.30	$2,315.45	$2,431.33	$2,552.38	$2,680.32	$2,813.99	$2,884.34	$2,954.69	$3,025.04	$3,095.39
Accountant I	MM	322	$1,917.87	$2,013.68	$2,114.08	$2,219.64	$2,330.94	$2,447.40	$2,508.58	$2,569.77	$2,630.95	$2,692.14
Accountant II	MM	362	$2,341.26	$2,458.30	$2,581.07	$2,710.15	$2,845.55	$2,987.82	$3,062.52	$3,137.21	$3,211.91	$3,286.60
Administrative Analyst I	MM	358	$2,294.79	$2,409.53	$2,530.01	$2,656.80	$2,789.32	$2,928.73	$3,001.95	$3,075.17	$3,148.39	$3,221.60
Administrative Analyst II	MM	386	$2,639.01	$2,770.96	$2,909.23	$3,054.95	$3,207.55	$3,367.61	$3,451.80	$3,535.99	$3,620.18	$3,704.37
Assistant Engineer	MM	392	$2,718.76	$2,854.72	$2,997.57	$3,147.31	$3,305.08	$3,470.30	$3,557.06	$3,643.82	$3,730.57	$3,817.33
Associate Civil Engineer	MM	445	$3,541.44	$3,718.71	$3,904.59	$4,099.65	$4,305.03	$4,520.17	$4,633.18	$4,746.18	$4,859.18	$4,972.19
Associate Planner	MM	368	$2,412.40	$2,532.88	$2,659.67	$2,792.19	$2,932.17	$3,078.47	$3,155.43	$3,232.39	$3,309.35	$3,386.31
Communications Specialist	MM	358	$2,294.79	$2,409.53	$2,530.01	$2,656.80	$2,789.32	$2,928.73	$3,001.95	$3,075.17	$3,148.39	$3,221.60
Construction Inspection Supervisor	MM	400	$2,829.48	$2,971.18	$3,119.77	$3,275.82	$3,439.32	$3,611.43	$3,701.72	$3,792.00	$3,882.29	$3,972.58
Deputy City Engineer	MM	495	$4,544.84	$4,772.02	$5,010.68	$5,260.82	$5,524.14	$5,800.09	$5,945.09	$6,090.10	$6,235.10	$6,380.10
Electrical and Facilities Operations Manager	MM	421	$3,142.15	$3,299.34	$3,463.99	$3,637.25	$3,819.11	$4,010.15	$4,110.41	$4,210.66	$4,310.91	$4,411.17
Engineering Project Manager	MM	419	$3,110.59	$3,266.64	$3,429.57	$3,601.11	$3,781.25	$3,970.57	$4,069.83	$4,169.10	$4,268.36	$4,367.62
Executive Secretary	MM	330	$1,995.90	$2,095.72	$2,200.13	$2,310.28	$2,425.60	$2,547.22	$2,610.90	$2,674.58	$2,738.26	$2,801.94
Executive Secretary to City Administrator	MM	330	$1,995.90	$2,095.72	$2,200.13	$2,310.28	$2,425.60	$2,547.22	$2,610.90	$2,674.58	$2,738.26	$2,801.94
Financial Services Manager	MM	446	$3,559.23	$3,737.07	$3,924.10	$4,120.30	$4,326.26	$4,542.54	$4,656.11	$4,769.67	$4,883.24	$4,996.80
Fleet Operations Manager	MM	404	$2,886.85	$3,030.85	$3,182.31	$3,341.79	$3,508.74	$3,684.29	$3,776.40	$3,868.51	$3,960.61	$4,052.72
Grant Administrator	MM	446	$3,559.23	$3,737.07	$3,924.10	$4,120.30	$4,326.26	$4,542.54	$4,656.11	$4,769.67	$4,883.24	$4,996.80
Grant Analyst	MM	358	$2,294.79	$2,409.53	$2,530.01	$2,656.80	$2,789.32	$2,928.73	$3,001.95	$3,075.17	$3,148.39	$3,221.60
Human Resources Technician	MM	290	$1,635.04	$1,716.51	$1,802.56	$1,892.63	$1,987.29	$2,086.54	$2,138.71	$2,190.87	$2,243.03	$2,295.20
Human Resources Technician II	MM	310	$1,806.00	$1,896.65	$1,991.31	$2,091.13	$2,195.54	$2,305.12	$2,362.75	$2,420.38	$2,478.01	$2,535.63
Neighborhood Preservation Supervisor	MM	380	$2,560.99	$2,688.93	$2,823.17	$2,964.87	$3,112.89	$3,268.36	$3,350.07	$3,431.78	$3,513.49	$3,595.20
Network Administrator	MM	389	$2,678.60	$2,812.27	$2,952.83	$3,100.84	$3,255.74	$3,418.67	$3,504.14	$3,589.60	$3,675.07	$3,760.54
Park Project Manager	MM	426	$3,221.32	$3,382.53	$3,551.77	$3,729.04	$3,915.49	$4,111.12	$4,213.90	$4,316.68	$4,419.46	$4,522.24
Parks Manager	MM	385	$2,625.82	$2,756.62	$2,894.88	$3,039.45	$3,191.49	$3,350.97	$3,434.75	$3,518.52	$3,602.30	$3,686.07
Parks Supervisor	MM	350	$2,205.30	$2,315.45	$2,431.33	$2,552.38	$2,680.32	$2,813.99	$2,884.34	$2,954.69	$3,025.04	$3,095.39
Procurement Services Manager	MM	358	$2,294.79	$2,409.53	$2,530.01	$2,656.80	$2,789.32	$2,928.73	$3,001.95	$3,075.17	$3,148.39	$3,221.60
Program Manager-Grants	MM	366	$2,388.31	$2,507.64	$2,633.28	$2,764.65	$2,902.91	$3,048.06	$3,124.26	$3,200.46	$3,276.66	$3,352.87
Recreation/Community Programs Manager	MM	390	$2,691.79	$2,826.61	$2,967.74	$3,116.33	$3,271.80	$3,435.88	$3,521.78	$3,607.67	$3,693.57	$3,779.47
Recreation/Community Programs Supervisor	MM	353	$2,238.57	$2,350.44	$2,467.48	$2,590.82	$2,720.48	$2,856.44	$2,927.86	$2,999.27	$3,070.68	$3,142.09
Redevelopment Agency Secretary	MM	342	$2,118.67	$2,224.80	$2,336.10	$2,452.56	$2,575.33	$2,704.42	$2,772.03	$2,839.64	$2,907.25	$2,974.86
Redevelopment Manager	MM	427	$3,237.38	$3,399.16	$3,569.55	$3,747.97	$3,935.00	$4,131.78	$4,235.07	$4,338.36	$4,441.66	$4,544.95
Safety Officer	MM	358	$2,294.79	$2,409.53	$2,530.01	$2,656.80	$2,789.32	$2,928.73	$3,001.95	$3,075.17	$3,148.39	$3,221.60
Senior Civil Engineer	MM	475	$4,113.42	$4,318.80	$4,534.51	$4,761.70	$4,999.78	$5,249.34	$5,380.58	$5,511.81	$5,643.04	$5,774.28
Senior Planner	MM	429	$3,270.08	$3,433.59	$3,605.12	$3,785.26	$3,974.58	$4,173.08	$4,277.41	$4,381.74	$4,486.06	$4,590.39
Solid Waste Manager	MM	353	$2,238.57	$2,350.44	$2,467.48	$2,590.82	$2,720.48	$2,856.44	$2,927.86	$2,999.27	$3,070.68	$3,142.09

City of Madera Full Time Salary Schedule Effective 12/28/2024

Job Title	B/U	Range	Bi-Weekly Pay Rate									
			A	B	C	D	E	F	F + 2.5%	F + 5%	F + 7.5%	F + 10%
Streets & Storm Drainage Ops. Manager	MM	385	$2,625.82	$2,756.62	$2,894.88	$3,039.45	$3,191.49	$3,350.97	$3,434.75	$3,518.52	$3,602.30	$3,686.07
Streets & Storm Drainage Supervisor	MM	350	$2,205.30	$2,315.45	$2,431.33	$2,552.38	$2,680.32	$2,813.99	$2,884.34	$2,954.69	$3,025.04	$3,095.39
Tyler Munis Implementation Project Manager	MM	408	$2,944.79	$3,092.23	$3,246.56	$3,408.92	$3,579.31	$3,758.30	$3,852.26	$3,946.21	$4,040.17	$4,134.13
Utility Billing Supervisor	MM	334	$2,036.06	$2,137.60	$2,244.88	$2,356.75	$2,474.94	$2,598.28	$2,663.24	$2,728.19	$2,793.15	$2,858.11
Waste Water Treatment Plant Manager	MM	459	$3,797.88	$3,987.78	$4,186.85	$4,396.25	$4,615.98	$4,847.18	$4,968.36	$5,089.54	$5,210.72	$5,331.90
Wastewater Collection System Supervisor	MM	346	$2,161.70	$2,269.55	$2,383.14	$2,502.47	$2,627.54	$2,758.92	$2,827.89	$2,896.86	$2,965.84	$3,034.81
Water & Sewer Operations Manager	MM	423	$3,173.70	$3,332.04	$3,498.99	$3,673.97	$3,857.55	$4,050.31	$4,151.57	$4,252.83	$4,354.08	$4,455.34
Water Meter & Conservation Supervisor	MM	340	$2,098.02	$2,202.43	$2,312.58	$2,428.47	$2,550.09	$2,677.45	$2,744.39	$2,811.32	$2,878.26	$2,945.20
Water System Supervisor	MM	385	$2,625.82	$2,756.62	$2,894.88	$3,039.45	$3,191.49	$3,350.97	$3,434.75	$3,518.52	$3,602.30	$3,686.07

REPORT TO CITY COUNCIL

Approved by: _____

Keith Helmuth, P.E., Department Director

_____

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-5

SUBJECT:

Transfer of Road Maintenance Rehabilitation Account (RMRA) appropriations from the existing Highway Users Tax Account (HUTA) fund to a new RMRA Fund

RECOMMENDATION:

Adopt a budget amendment Resolution authorizing the transfer of RMRA appropriations from the existing HUTA Fund to a new RMRA Fund

SUMMARY:

The City receives several forms of funding that are designated as State Gas Tax Funds:

- Highway Users Tax Account (HUTA)
- Road Maintenance Rehabilitation Account (RMRA) and
- Local Partnership Program (LPP)

Historically, these monies have been kept in a single general ledger fund. However, due to the differences in use and reporting, staff proposes to create separate funds for each.

DISCUSSION:

As part of the California Streets and Highways Code, California motorists pay certain fuel, excise, and sales taxes, as well as vehicle registration fees used for road maintenance and safety. In 2017, the California State Senate passed Senate Bill 1 (SB1), known as the Road Repair and Accountability Act of 2017, which established a statewide RMRA program to address deferred maintenance on the State Highway system and local street and road systems. Local RMRA funds are apportioned to eligible cities and counties pursuant to Streets and Highways Code Section 2032(h)(2) for basic road maintenance, rehabilitation, and critical safety projects on the local streets and roads system.

Historically, with each funding source being considered a gas tax, HUTA and RMRA proceeds have been deposited into a single general ledger fund within the City's financial chart of accounts. However, each fund is utilized differently by the City. HUTA funds are used almost exclusively to fund activities of the Public Works Department. RMRA funds are solely used for Capital Improvement Projects that restore and rehabilitate roads in the City.

Both programs also have different reporting requirements. HUTA funds must be reported annually as part of the City's Annual Street Report submitted to the State Controller, per Streets & Highway Code section 2151. RMRA funding must be reported annually via the State of California's "CalSMART" system, per Streets & Highway Code section 2034(b).

The method in which funds are used also differs. HUTA funds can be used for any street or road purpose, and there are no restrictions on how the City elects to use these funds. These funds have historically been transferred to the Public Works Department to supplement the activities of the Streets Division.

RMRA funds can be used for road maintenance or rehabilitation, as well as for safety-related projects. However, one of the requirements of the RMRA program is that funds must be used in projects submitted annually to the California Transportation Commission (CTC) for approval. This approval process requires the City to develop projects that list specific streets or locations and any type of work being done at each street or area. Upon receipt, the CTC reviews and approves the project. In practical terms, this means that RMRA funds can only be spent on projects approved explicitly by the CTC.

Given the difference in reporting and eligibility of projects, there is no way to co-mingle the monies between the two sources reliably. There are currently $5,917,461 in RMRA funds within the Gas Tax account. The majority of RMRA monies are planned to be expended as part of multiple road rehabilitation projects starting next Spring.

FINANCIAL IMPACT:

This action would not have an impact on the City's General Fund. The recommended action is simply a movement of existing RMRA monies from one fund to another for improved accounting and tracking purposes. No new monies are proposed to be received as part of this action. The exact transfer amounts are outlined in Exhibit A.

ALTERNATIVES:

Council could not approve the request or suggest alternate options if desired.

ATTACHMENTS:

1. Resolution
    a. Exhibit A – Budget Amendment

Attachment 1

Resolution

RESOLUTION NO. 24-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA AMENDING THE CITY'S FISCAL YEAR 2024/25 BUDGET APPROVING TRANSFER OF ROAD MAINTENANCE REHABILITATION ACCOUNT (RMRA) APPROPRIATIONS FROM THE EXISTING HIGHWAY USERS TAX ACCOUNT (HUTA) FUND TO A NEW RMRA FUND

WHEREAS, the City Council previously adopted a City-wide Budget for the 2024/25 Fiscal Year; and

WHEREAS, it is necessary to transfer Road Maintenance Rehabilitation Account (RMRA) funds allocated pursuant to Streets and Highways Code Section 2032(h)(2) to a new, separate account for purposes of budgeting and reporting said funds; and

WHEREAS, an amendment to the City's Adopted Budget for the 2024/25 Fiscal Year, listed in Exhibit A, attached hereto, is necessary to move RMRA appropriations to a new account.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA HEREBY resolves, finds, determines, and orders as follows:

1. The above recitals are true and correct.

2. The appropriations for the items listed in Exhibit A, attached hereto, are approved.

3. The signed copy of this Resolution shall be placed on file in the office of the Director of Financial Services, who shall prepare the necessary entries to reflect the budget changes identified in the City's accounting system.

4. This resolution is effective immediately upon adoption.

* * * * * * * * * * *

Exhibit A

City of Madera Fiscal Year 2024/25 Budget Amendment to Establish RMRA Fund

FUND	ORG CODE	PROJECT	OBJECT CODE	DESCRIPTION	(+)	(-)
GAS TAX						
4130	41303310		4444	Gas Tax – RMRA	$1,680,548	
4130	41303310		4900	Budgetary Carryover		$1,510,356
4130	41303310		7050	Construction/Infrastructure		$4,407,105
4130	41303310		8200	Transfer Out	$4,236,913	
				TOTALS	**$5,917,461**	**$5,917,461**
RMRA						
4132	41320000		4355	Transfer In		$4,236,913
4132	41320000		4444	Gas Tax – RMRA		$1,680,548
4132	41320000		7050	Construction/Infrastructure	$5,917,461	
				TOTALS	**$5,917,461**	**$5,917,461**

REPORT TO CITY COUNCIL

Approved by:

Keith Helmuth, P.E., Department Director

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-6

SUBJECT:

Accepting Improvements for the Ellis & D Street Subdivision (Tract No. 19-S-07)

RECOMMENDATION:

Adopt a resolution:

1. Accept improvements for the Ellis & D Street Subdivision (Tract No. 19-S-07)
2. Authorize the filing of the Notice of Acceptance for said subdivision improvements

SUMMARY:

The Subdivider, Century Communities of California, LLC, a Delaware limited liability company (Subdivider), has completed the off-site public improvements associated with the Ellis & D Street Subdivision in accordance with the approved Improvement Agreement (Agreement) and improvement plans. The Subdivider has paid all required fees and submitted a warranty bond for the completed improvements. It is recommended that the City Council (Council) accept the improvements completed for the Ellis & D Street Subdivision (Subdivision).

DISCUSSION:

The Subdivision is a 61-lot residential development located on the southwest corner of Ellis Street and D Street. The Council approved the Agreement and Final Map on May 5, 2021.

It is appropriate for the Council to accept the completed improvements as the improvements have been completed and implemented in accordance with City Specifications and conform to current City standards and as required by the Conditions of Approval for the Subdivision. The improvements proposed for acceptance as part of the action represent the final acceptance of improvements associated with the Subdivision.

Acceptance of the public improvements required of the Subdivider is permitted per Section 10-2.712.3 of the Madera Municipal Code. The Subdivider has previously paid all required fees and

provided payment and performance bonds sufficient to cover uncompleted work. Performance bonds are returned following acceptance in accordance with 10-2.708.7.1 of the Madera Municipal Code. Payment bonds are returned six months following acceptance so long as no claims have been made against the bonds.

All required public improvements for this subdivision have been completed. In accordance with the Agreement, installation of sidewalks may be deferred and constructed with residential development subsequent to the acceptance of the subdivision improvements so long as each and every house has an ADA accessible route to a collector or arterial adjacent to the subdivision prior to occupancy of any house. This is common practice for new residential subdivisions to avoid damaging sidewalk as houses are being constructed.

FINANCIAL IMPACT:

Acceptance of this subdivision will result in the transfer of maintenance and resulting costs from the Subdivider to the City.

ALTERNATIVES:

If Council does not accept the completed improvements, the City will not provide regular maintenance that includes street sweeping, pavement maintenance, street light maintenance, etc.

ATTACHMENTS:

1. Resolution
    a. Exhibit A: Notice of Acceptance
2. Location Map

Attachment 1

Resolution

RESOLUTION NO. 24 - ___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, ACCEPTING IMPROVEMENTS REQUIRED TO BE INSTALLED IN CONNECTION WITH ELLIS & D STREET SUBDIVISION (TRACT NO. 19-S-07), AND AUTHORIZING THE FILING OF A NOTICE OF ACCEPTANCE FOR SUCH IMPROVEMENTS

WHEREAS, the Subdivider, Century Communities of California, LLC, a Delaware limited liability company (Subdivider), has requested acceptance of the improvements associated with the Ellis & D Street Subdivision, and has submitted the required Warranty Bond; and

WHEREAS, the improvements consist of street, storm drain and utilities within the subdivision; and

WHEREAS, the improvements also include off-site improvements such as the widening of Ellis and D Streets, installation of approximately 3,231 linear feet of sewer main, installation of approximately 564 linear feet of storm drain main, installation of approximately 1,009 linear feet of water main and modification to the traffic signal at Ellis and D Streets; and

WHEREAS, the City Engineer has certified to this Council that the required improvements for Ellis & D Street Subdivision, have been completed.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA HEREBY finds, orders, and resolves as follows:

1. The above recitals are true and correct.

2. The subdivider has completed the improvements for Ellis & D Street Subdivision.

3. The improvements for Ellis & D Street Subdivision are accepted.

4. The City Clerk is hereby authorized and directed to record a Notice of Acceptance as required by Section 10-2.712.2 of the Madera Municipal Code.

* * * * *

Exhibit A

Notice of Acceptance

Recording Requested By:
City of Madera
When Recorded, Return To:
City Clerk
City of Madera
205 W. 4th Street
Madera, CA 93637

Fee Waived Per Section 27383 of the Government Code

NOTICE OF ACCEPTANCE

OF SUBDIVISION IMPROVEMENTS

- NOTICE IS HEREBY GIVEN that on December 18, 2024, the City Council of the City of Madera confirmed the satisfactory completion of all subdivision improvements as shown on the plans for Ellis & D Street Subdivision (Tract No. 19-S-07) located on the southwest corner of Ellis Street and D Street in Madera, California.

Dated: _____

By: _____

Alicia Gonzales

City Clerk

Attachment 2

Location Map

CITY OF MADERA **ENGINEERING DEPARTMENT** **428 E. YOSEMITE AVE** **MADERA, CA 93638**	TRACT 19–S–07	DR BY: **RR** CH BY: DATE: **11/27/24** SCALE: **NTS** SHT **1** OF **1**

REPORT TO CITY COUNCIL

Approved by:

Michael Lima, Director of Financial Services

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-7

SUBJECT:

City of Madera FY 2022-2026 Transit Asset Management (TAM) Plan Update

RECOMMENDATION:

Adopt a Resolution Approving the updated City of Madera FY 2022-2026 Transit Asset Management (TAM) Plan

SUMMARY:

The Federal Transit Administration (FTA) performed a Triennial Review of the City's transportation system from August 20 – 21, 2024. During the review of the City's Madera Metro Fiscal Year (FY) 2022-2026 Transit Asset Management (TAM) Plan, the reviewers found that the performance targets included in the TAM Plan are not current. Staff was asked to revise the TAM Plan with current performance targets for Madera Metro's transit assets to determine if the City was meeting State of Good Repair goals. The updated TAM Plan addresses this issue identified by the FTA's reviewers.

DISCUSSION:

The Moving Ahead for Progress in the 21st Century Act (MAP-21) is Federal legislation with provisions intended to help the Federal Motor Carrier Safety Administration (FMCSA) in its intent to reduce crashes, injuries and fatalities involving large trucks and buses. MAP-21 required the US Secretary of Transportation to develop a system of monitoring and managing public transportation assets. The monitoring system should establish performance measures, improve safety, and increase reliability and performance.

As part of implementing MAP-21 on July 26, 2016, FTA published the Transit Asset Management (TAM) Final Rule. The Final Rule aims to help achieve and maintain a State of Good Repair (SGR) for the nation's public transportation assets. SGR is intended to ensure that transit operators

maintain the nation's transit infrastructure, such as buses and maintenance facilities, in optimal condition. Additionally, transit asset condition is used to guide the optimal prioritization of funding. The TAM Final Rule regulations apply to all transit providers that are recipients or subrecipients of Federal financial assistance under 49 U.S.C. Chapter 53 and which own, operate, or manage transit capital assets used in the provision of public transportation. Consequently, the City is subject to compliance. The City's TAM Plan outlines a strategic approach to managing fleet and facilities to optimize their performance and useful life, resulting in improved performance and reliable services to the community.

The 2022 TAM Plan was approved by Council on March 1, 2023 (Res. No. 23-20). The TAM Regulation, 49 CFR Part 625, states that an agency TAM Plan must be updated in its entirety every four years and include a horizon period of at minimum four years. In addition to that requirement, the SGR actual performance data must be compared to the goals and updated annually in the TAM Plan. During the recently completed Triennial Review of the City's Transit Program, reviewers noted that the SGR information had not been updated since the TAM Plan's approval in 2022. Staff has updated the TAM Plan to address this finding. The updated components of the TAM Plan are highlighted in Attachment A (pages 13 and 19). Approval of the updated TAM Plan by Council is required to finalize the City's response to FTA.

FINANCIAL IMPACT:

As a recipient of federal funds, conformance with TAM Plan requirements is mandatory to continue receiving FTA funds. Alternatively, the City is at risk of ineligibility for these funds.

ALTERNATIVES:

Alternatively, the Council may choose not to approve the resolution and TAM Plan Update. As a result, City of Madera Transit services would be out of compliance with the FTA and would not meet TAM Regulation, 49 CFR Part 625. In addition, Federal funding could be jeopardized, and staff would need to seek other revenue sources, including the General Fund, to offset the cost of continuing to provide public transit services.

ATTACHMENTS:

1. Attachment - Resolution
    - Exhibit A – City of Madera – FY 2022 - 2026 TAM Plan Update

RESOLUTION NO. 24-___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING THE UPDATED 2022-2026 TRANSIT ASSET MANAGEMENT (TAM) PLAN

WHEREAS, on July 26, 2016, Federal Transit Administration (FTA) published the Transit Asset Management (TAM) Final Rule; and

WHEREAS, the purpose of the FTA Final Rule for TAM is to help achieve and maintain a State of Good Repair (SGR) for all transit providers that are recipients or subrecipients of federal financial assistance under 49 U.S.C. Chapter 53 and own, operate, or manage transit capital assets used in the provisions of public transportation; and

WHEREAS, the City of Madera Metro Transit System operates public transit services and is a direct recipient of FTA 5307 and FTA 5339 financial assistance and subject to the FTA Final Rule; and

WHEREAS, the City Council approved the Madera Metro FY 2022-2026 Transit Asset Management Plan on March 1, 2023; and

WHEREAS, FTA reviewers as part of the Triennial Review of the City's Transit operations noted a change to the City's TAM Plan was needed to bring it into conformance with 49 CFR 625.45;

WHEREAS, the City has updated the TAM Plan as required by FTA.

NOW THEREFORE, the City Council of the City of Madera hereby finds, orders and resolves as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. The City Council adopts the 2022-2026 TAM Plan which is attached and incorporated herein by reference.
3. This resolution is effective immediately upon adoption.

* * *

ATTACHMENT A

CITY OF MADERA
MADERA METRO
TRANSIT ASSET MANAGEMENT (TAM) PLAN
FY 2022 – 2026
Updated 9/4/2024

_____

Marcela Zuniga,
Grants Administrator - Accountable Executive

Approved by City Council
XX/XX/2024

TRANSIT ASSET IMPROVEMENT TEAM

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Transit Advisory Board		
Transit Operator	Contracted	

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EXECUTIVE SUMMARY

TRANSIT ASSET MANAGEMENT PLAN

Federal law requires recipients and sub-recipients of Federal financial assistance to develop a Transit Asset Management (TAM) Plan. Accordingly, the City of Madera (Madera Metro) Transit Advisory Board and City Council has adopted the updated Transit Asset Management Plan which outlines the City's transit asset management approach and highlights key capital project and system enhancements.

To accomplish this, City staff have collaborated to form a Transit Asset Improvement Management Team to improve and modernize the City's transit system and deliver an updated TAM Plan that complies with the TAM regulation, 49 CFR Part 625. The Team includes key personnel from departments within the City that play a critical role in the City's Transit System.

Asset improvement management is an ever-changing environment with advances in technology, changes in regulation, funding availability, and asset management best practices. Therefore, the TAM Plan is considered a "living document" reviewed and revised as necessary. Revisions are implemented by the TAIM Team with inputs from various internal and external stakeholders.

MADERA METRO - SAFETY MANAGEMENT SYSTEM POLICY

The Federal Public Transportation Agency Safety Plan (PTASP) rule was implemented to improve public transportation safety by guiding transit agencies to more effectively and proactively manage safety risks in their systems.

The first component of the Madera Metro's Safety Management System (SMS) is the Safety Management Policy, which is the foundation of the SMS. It clearly states the organization's safety objectives and sets forth the policies, procedures, and organizational structures necessary to accomplish the safety objectives. The Safety Management Policy clearly defines management and employee responsibilities for safety throughout the organization. It also ensures that management is actively engaged in the oversight of the system's safety performance by requiring regular review of the Safety Management Policy, budget and program by the designated Accountable Executive.

Safety is a core value at Madera Metro, and managing safety is a core business function. Madera Metro will develop, implement, maintain, and continuously improve processes to ensure the safety of our customers, employees, and the public. Madera Metro's overall safety objective is to proactively manage safety hazards and their associated safety risk, with the intent to eliminate unacceptable safety risk in our transit operation.

Madera Metro will:

• Clearly, and continuously explain to all staff that everyone working within Madera Metro must take part and be responsible and accountable for the development and operation of the SMS.

• Work continuously to minimize safety risks. Work to comply with and, wherever possible, exceed legislative and regulatory requirements and standards for passengers and employees.

• Work to ensure that all employees are provided appropriate safety information and training, are competent in safety matters, and assigned tasks commensurate with duties and skills.

• Reaffirm that responsibility for making our operations safer for everyone lies with all employees – from executive management to frontline employees. Each manager is responsible for implementing the SMS in their area of responsibility and will be held accountable to ensure that all reasonable steps are taken to perform activities established through the SMS.

CAPITAL IMPROVEMENT DEVELOPMENT POLICY

The City of Madera 5-Year Capital Improvement Plan (CIP) is updated annually with new projects and revisions to current projects. As the CIP is approved, it is then presented to the Planning Commission anytime there are new projects for conformity with the General Plan.

PROCUREMENT POLICY – TRANSIT

The City of Madera is a recipient of FTA funding. Each FTA recipient is responsible for managing its programs and projects in compliance with applicable Federal requirements, and the FTA is responsible for ensuring that recipients comply with those requirements. This also applies to each subrecipient, under an FTA grant or cooperative agreement that enters into contracts with other parties financed with FTA assistance. Each recipient and subrecipient must comply with applicable Federal laws and regulations including, but not limited to, 2 CFR 200.318 through 2 CFR 200.327, and FTA Circular 4220, FTA regulations, and other Federal laws and regulations that contain requirements applicable to FTA recipients and their FTA assisted procurements. The following process was developed to assist the City's FTA funded procurements in complying with these federal requirements.

The City's Grants Division administers these FTA funded procurements with support from various staff, including the Procurement Services Manager. Except as otherwise indicated in these guidelines, all rights, powers, duties and authorities relating to the procurement of supplies,

services and construction are vested as indicated in the City's Purchasing Policy as adopted by the City Council of the City of Madera. It is expected that when guidance is needed for FTA funded procurements, responsible staff will make use of not only these Guidelines and City Purchasing Policies but also the source documents for FTA regulations – specifically the current and updated versions of Federal guidelines published in 49 CFR Part 18.36, "Procurement"; "FTA Circular E 4220.1F – Third Party Contracting Requirements; FTA Best Practices Procurement Manual; and FTA Circular C 5010.1D – Grant Management Guidelines. Authoritative polices relating to all procurements for the City are those authorized by the Madera City Council as the City of Madera Purchasing Policy. These Guidelines are intended to supplement the City's official purchasing policy by providing references and guidance based on FTA procurement requirements for FTA grant recipients.

Staff will use the City's procurement thresholds and methods when the City's requirements are more restrictive than FTA guidelines; otherwise, staff will use the most applicable FTA type of procurement method indicated below for specific purchases.

- Micro Purchase <$3,500
- Small Purchase >$3,500 and <$100,000
- Competitive Proposal (RFP)
- Competitive Sealed Bid (IFB)
- Sole Source Procurement
- Piggyback Procurement
- Qualifications Based Procurement (as required for Architectural and Engineering Services)
- Special Circumstances

INTRODUCTION

OVERVIEW OF MADERA METRO TRANSIT

The City of Madera (population 63,000) is located in central California in a region known as the San Joaquin Valley and is the largest incorporated city in Madera County (population 153,000). Madera Metro is the largest provider of transit services in the County, with over 140,000 annual boardings. Madera Metro operates Dial A Ride (DAR), ADA/Paratransit (ADAP), and three fixed routes within city limits.

Madera Metro has three major hubs: the Intermodal Bus Depot, Madera Community Hospital, and Madera Marketplace. The City strives to meet the community's need for effective and responsive transit services particularly due to population growth and a focus on reducing greenhouse gas emissions.

In April 2021, the Madera City Council approved an agreement with WSP USA, Inc for the Consulting of Transit Services for the development of the Madera Transit Plan. The goal in producing the Madera Transit Plan is to evaluate the City's transit system and devise operational and policy changes that will improve Madera Metro transit services. Goals include improving connectivity with other modes of transportation and systems to advance multi-modal transportation within the region. Other goals are to evaluate the changes (routes and service) that should be implemented or enhanced, in order to improve the efficiencies and the connectivity with current and planned transportation systems.

The Madera Transit Plan is scheduled to be completed April 2023 which will include the structuring of its three fixed routes, the introduction of a new North end service route, updating schedules, improving headways, reducing miles traveled, increasing ridership, and devise new service boundaries.

City of Madera Transit Mission Statement

The City of Madera Transit Mission seeks to provide transit customers in the City's transit service area with public transportation to specified destinations in a professional, courteous and timely manner with equipment that is accessible, affordable, and comfortable.

Transit Division Staffing

Transit program activities function under the supervision of the Grants Administrator which operates under the Finance Department. Madera Metro's Accountable Executive (AE) is Marcela Zuniga. The Accountable Executive is the single, identifiable person who has ultimate responsibility for carrying out this Agency's TAM Plan and the Public Transportation Agency Safety Plan (PTASP) and has control or direction over the human and capital resources needed

to develop and maintain both this Plan and the TAM Plan.

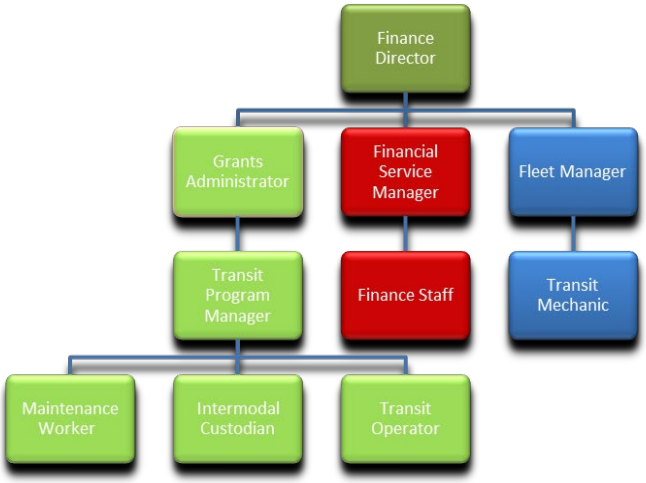
The following positions are assigned direct responsibilities within the Transit Division: Grants Administration, Transit Program Manager, and the Administrative Assistant.

The following positions are housed in other City departments are assigned direct responsibilities to assist the Transit Division: Financial Service Manager, Procurement Manager, Accountant II, Fleet Operations Manager, Maintenance Worker, and two Mechanic III.

Transit Assets

Madera Transit Center – 1951 Independence Drive
Madera Intermodal Transit Center – 123 N. E Street
Transit Vehicles - 19

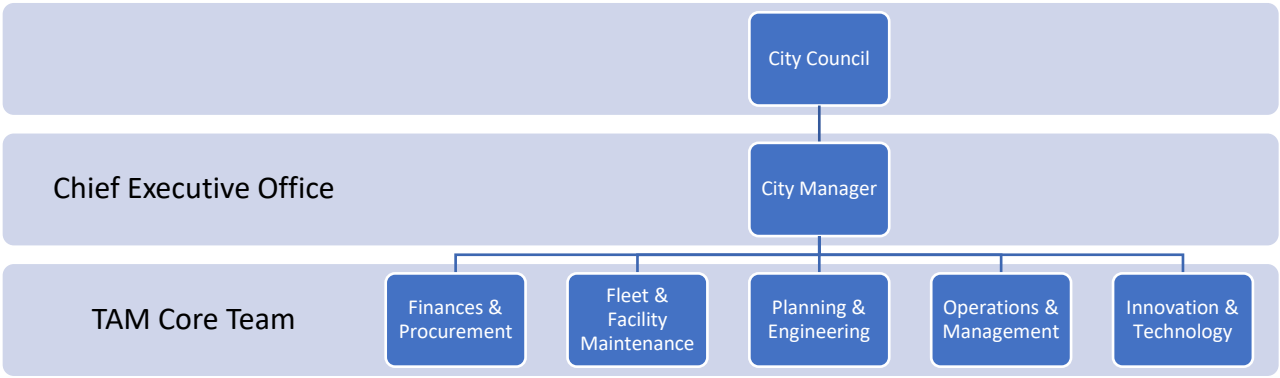
FIGURE 1 – City of Madera Finance Department Organizational Chart



TAM APPROACH

A Transit Asset Management Core Team was established to improve and modernize asset management programs and deliver an updated TAM Plan that complies with the FTA TAM Regulation and Board Policy No. 463. The TAM Core Team includes representation of key stakeholders from departments that play a critical role in the lifecycle management of the City of Madera CIP, Asset Management of the City's Transit System, and have leadership oversite of frontline managers and employees that execute deliverables of the TAM Plan.

FIGURE 2 – TAM Organizational Structure



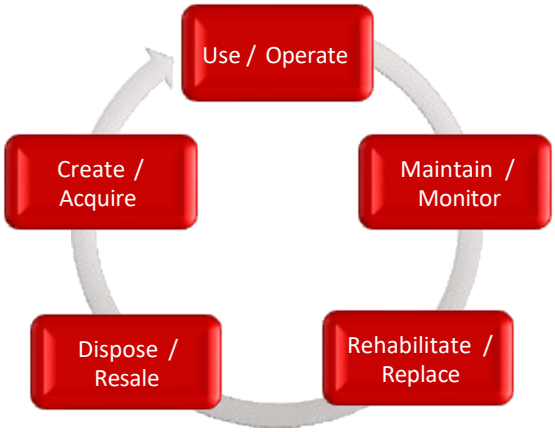
The City of Madera Transit System TAM Plan sets agency-wide objectives and strategies for delivering upon the commitments contained with Madera Metro Policy. In addition, this TAM Plan identifies activities to sustain Madera Metro's TAM performance and specifies the lifecycle management activities outlined in the Fleet and Facilities Maintenance Plans (FMP's) for each department that is responsible for the operations and/or maintenance of a given Asset Class.

TAM is a business model that uses the condition of assets to guide the optimal prioritization of funding at transit properties in order to keep our transit networks in a State of Good Repair (SGR). SGR is defined as the condition in which a capital asset is able to operate at a full level of performance. This means the assets:

- Is able to perform its designed function,
- Does not pose a known unacceptable safety risk, and
- Its lifecycle investment has been met or recovered.

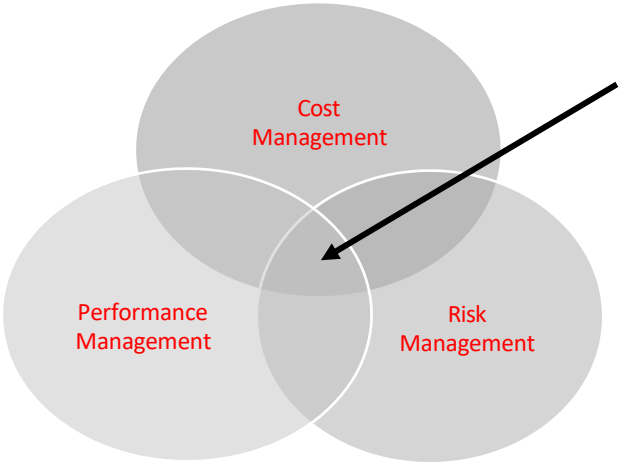
Madera Metro's objective is to provide safe, reliable, affordable, and sustainable transportation services to its passengers. To accomplish this, Madera Metro must continually seek areas of improvement to its management of fleet and facilities. When executed properly, the TAM Plan is designed to improve coordination of all departments across all phases of an asset's lifecycle as shown in Figure 4 to manage assets and required resources more efficiently.

FIGURE 3 - MADERA METRO TRANSIT ASSET LIFECYCLE



The TAM Plan aims to reduce maintenance costs and risks while simultaneously enhancing the performance of the City's transit system. In addition, the TAM Plan enhances the City of Madera ability to communicate with the public, City Council, Boards and Commissions, and stakeholders about the City's approach to asset management and the benefits of investing in the transit system and the consequences of underinvestment.

FIGURE 4 – ASSET MANAGEMENT OPTIMIZES COST, PERFORMANCE, AND RISK



Asset Management System- Delivering Balance

- Reduce Capital and O&M
- Reduce Safety and Service Risk
- Improve System-Wide Performance

TAM Plan Elements (Tier II)

The City of Madera (Madera Metro) TAM Plan complies with the FTA Regulation that meets the required TAM Elements as a Tier II Agency. These elements align with the TAM Policy and are described below and in this section.

TAM PLAN REQUIREMENTS

As a Tier II provider, Madera Metro must develop its own TAM Plan that includes all four (4) elements of the Final Rule. These elements must:

- Include the capital asset inventory
- Provide asset condition assessment information
- Describe the decision support tools used to prioritize capital investment needs
- Identify project-based prioritization of investments

In order to provide a visual of the federal regulations and elements listed above, Figure 5 below reflects the strategies that Madera Metro plans to implement. This figure also describes the criteria for TAM Plan that will be addressed in the initially submitted TAM Plan.

FIGURE 5 – TAM PLAN ELEMENTS

An Inventory of Assets	• A register of capital assets and information about those assets.
A Condidtion Assessment of Inventoried Assets	• A rating of the assets' physical state; to be completed for assets the agency has direct capital responsibility for; should be at a level of detail sufficient to monitor and predict performance of inventoried assets
Description of Decision Support Tools	• An analytic process or tool that: (1) assists in capital asset investment prioritization and/or (2) estimates capital needs over time (does not necessarily mean software)
A Prioritizing List of Investments	• A prioritized list of projects of programs to manage or improve the State of Good Repair (SGR) of capital assets

An Inventory of Assets

The TAM plan includes objectives and strategies that will optimize the management of Madera Metro's assets to ensure alignment with the FTA reporting requirements for the National Transit Database (NTD). Madera Metro's assets are monitored and services internally. Madera Metro currently uses excel spreadsheets to track and manage the vehicle asset lifecycle. During asset procurement and receipt or acceptance, specific asset identification, useful life, warranty and maintenance interval information data is collected from the Original Equipment Manufacturer (OEM). Fleet and facilities maintenance programs are updated with multiple scheduled maintenance activities required to meet OEM recommended maintenance intervals, along with safety and regulatory compliance. This practice ensures the asset data is properly recorded by personnel for effective and efficient lifecycle management. The City's Fleet Maintenance and Transit Section is currently researching Asset Management Software to better track the vehicle asset lifecycle. Table 1 illustrates an example of the City FTA Vehicle Assets that are recorded by personnel.

Condition Assessment of Inventoried Assets

In order to determine the facility asset's condition, the FTA's Transit Economic Requirements Model (TERM) scale is being used. A TERM scale condition rating ranges from (5) Excellent to (1) Poor. Per the FTA TAM Final Ruling, assets with a condition rating score of 3.0 and above are in a state of good repair. Assets with a condition score lower than 2.9 are not in a state of good repair and may require prioritization during capital programing to ensure safe, efficient, and reliable transit service. Tables 2 and 3 illustrate the condition of each asset.

TABLE 2 – VEHICLE ASSET CONDITION/USEFUL LIFE BENCHMARCH (ULB)

FY24/25 FLEET INVENTORY								
BUS #	**SERVICE**	**YEAR**	**MAKE**	**MODEL**	**FUEL TYPE**	**LENGTH**	**IN SERVICE**	**ULB**
39	DAR	2012	Ford E-450	Elkhart	GAS	26 FT	7/16/2012	-2
40	DAR	2012	Ford E-450	Elkhart	CNG	26 FT	7/16/2012	-2
43	DAR	2013	Ford E-450	Starcraft	CNG	26 FT	5/23/2014	-1
44	FR	2013	Ford E-450	Starcraft	CNG	26 FT	5/6/2014	-2
45	FR	2013	Ford E-450	Starcraft	CNG	26 FT	5/6/2014	-2
46	DAR	2013	Ford E-450	Starcraft	CNG	26 FT	5/23/2014	-1
47	FR	2019	Ford E-450	Starcraft	GAS	26 FT	1/22/2020	7
48	DAR	2019	Ford E-450	Starcraft	GAS	26 FT	1/22/2020	5
49	FR	2019	Chevy 4500	Arboc	GAS	26 FT	1/23/2020	7
50	FR	2019	Chevy 4500	Arboc	GAS	26 FT	1/23/2020	7
51	FR	2019	Chevy 4500	Arboc	GAS	26 FT	1/23/2020	7
52	FR	2020	International	Starcraft	Diesel	32 FT	4/27/2020	8
53	FR	2020	International	Starcraft	Diesel	32 FT	3/20/2020	8
54	FR	2019	Aero Elite 320	ElDorado	CNG	32 FT	4/20/2020	8
55	FR	2019	Ford F-550	ElDorado	CNG	32 FT	4/21/2021	8
56	DAR	2022	Dodge Voyager (Braun)	BraunAbility	Gas	Van	3/01/2024	8
57	DAR	2022	Dodge Voyager (Braun)	BraunAbility	Gas	Van	3/01/2024	8
58	DAR	2022	Dodge Voyager (Braun)	BraunAbility	Gas	Van	3/01/2024	8
59	FR	2023	Ford E-450	Starcraft	Gas	26 FT	1/06/2024	10
60	FR	2023	Ford E-450	Starcraft	Gas	26 FT	1/06/2024	10
61	FR	2023	Ford E-450	Starcraft	Gas	26 FT	1/06/2024	10

TABLE 3 – FACILITY ASSETS

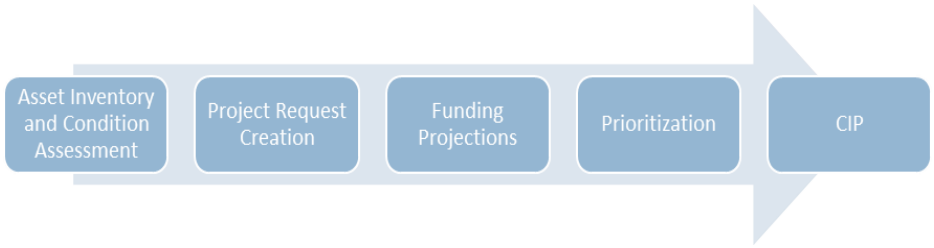
1	Facility Name: Madera City Hall Address: 205 W. 4th Street, Madera, Ca. 93637 Condition Assessment: 3 Facility Type: Administrative Year Built: 1967 Sq ft: 1,000
2	Facility Name: City Maintenance Yard Address:1030 S. Gateway Drive, Madera, Ca. 93637 Condition Assessment: 3 Facility Type: Maintenance Facility – Service and Inspection & Administration Year Built: 1970 Sq ft: 5,000
3	Facility Name: Madera Intermodal Transit Center Address:123 N. 3 Street, Madera, Ca. 93637 Condition Assessment: 3 Facility Type: Administrative Office, Transit Services Year Built: 1970 Sq ft: 1,000
4	Facility Name: Madera Transit Center Address: 1951 Independence Drive Condition Assessment: 5 Facility Type: Administration, Fleet Yard Year Built: 2019 Sq ft: 2,000

Decision Support Tools and Investment Prioritization

Part of the asset management process is optimizing how funds are allocated based on the assessed asset inventory to help achieve and maintain a state of good repair. This includes both capital and operating funds.

Madera Metro Capital Plan coincides with City of Madera Capital Improvement Plan (CIP). The CIP is presented to the City of Madera City Council annually. The basic process for assembling a CIP is shown below.

FIGURE 6 – 5-YEAR CAPITAL INVESTMENT PLAN PROCESS



Tables 6.A and 6.B illustrate the Transit CIP outline in the approved 2022/2027 City of Madera Capital Improvement Plan

FIGURE 6.A – TRANS 10, TRANSIT DEVELOPMENTS

Capital Improvement Program '22/'23 *thru* '26/'27
City of Madera, California

Department Transit Program
Contact Ivette Iraheta
Type Improvement
Useful Life 25
Category Transit

Project # Trans-10
Project Name Trans-10 AHSC Transit Developments

Phase:
Activity Type Transportation
Project Manager: Ivette Iraheta
Status Active
Total Project Cost: $593,000

Description

Development of:
One new bus stop
Bike racks at 6-8 locations
Enhancements at intermodal - installation of water fountain for water bottles, bike racks and possibly public restrooms
Technology Enhancements - AVL for fleet, large LED display at Intermodal
Bus stop signs (visibility, aesthetics and functionality at project area)

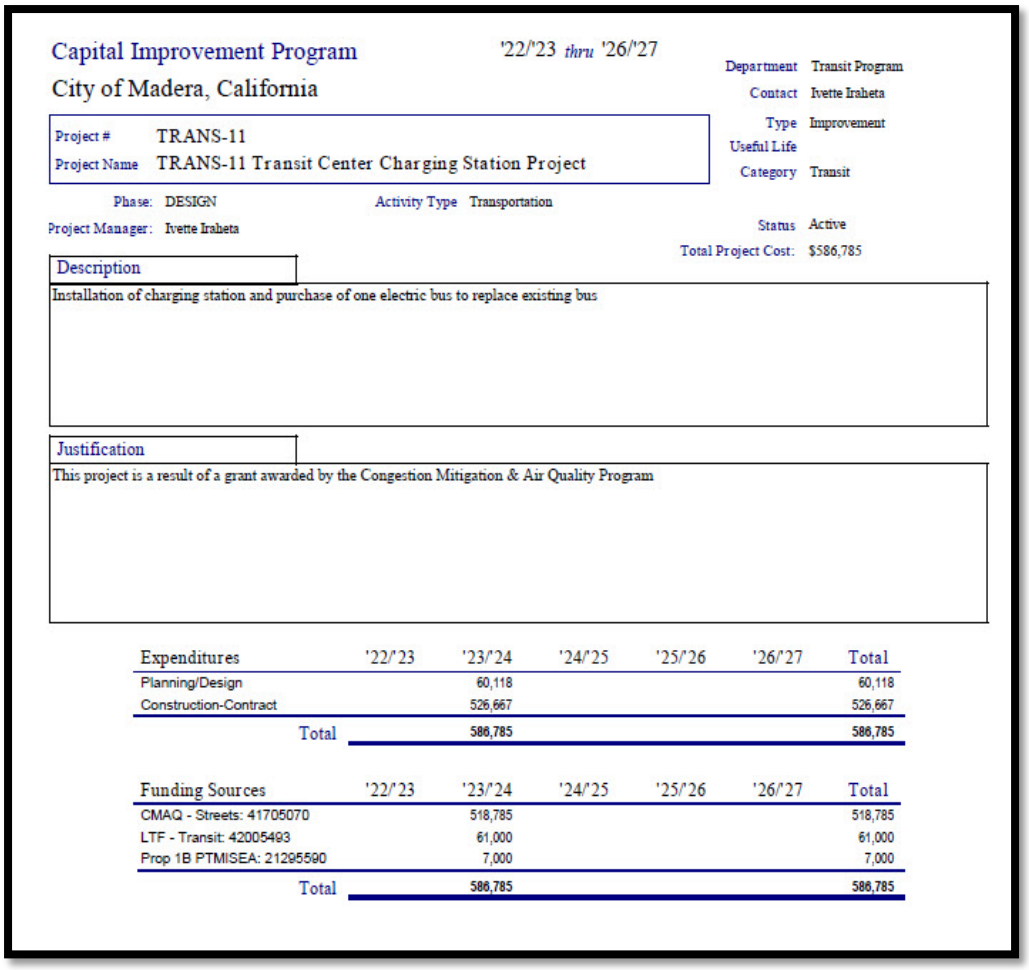
Justification

The project is a result of a grant awarded from the department of housing and community development as part of the round 4 Affordable Housing and Sustainable Communities Grant.

Expenditures	'22/'23	'23/'24	'24/'25	'25/'26	'26/'27	Total
Design-Consultant Engineering	112,000					112,000
Construction-Contract		346,000				346,000
Environmental	5,000					5,000
Construction Management-Staff		70,000				70,000
Design-Staff	60,000					60,000
Total	177,000	416,000				593,000

Funding Sources	'22/'23	'23/'24	'24/'25	'25/'26	'26/'27	Total
AHSC Grant (TRA): 40210000	177,000	416,000				593,000
Total	177,000	416,000				593,000

FIGURE 6.B – TRANS 11, TRANSIT CENTER CHARGING STATION PROJECT



Capital Improvement Program '22/'23 *thru* '26/'27

City of Madera, California

Department Transit Program
Contact Ivette Iraheta
Type Improvement
Useful Life
Category Transit

Project # TRANS-11
Project Name TRANS-11 Transit Center Charging Station Project

Phase: DESIGN Activity Type Transportation
Project Manager: Ivette Iraheta

Status Active
Total Project Cost: $586,785

Description

Installation of charging station and purchase of one electric bus to replace existing bus

Justification

This project is a result of a grant awarded by the Congestion Mitigation & Air Quality Program

Expenditures	'22/'23	'23/'24	'24/'25	'25/'26	'26/'27	Total
Planning/Design		60,118				60,118
Construction-Contract		526,667				526,667
Total		586,785				586,785

Funding Sources	'22/'23	'23/'24	'24/'25	'25/'26	'26/'27	Total
CMAQ - Streets: 41705070		518,785				518,785
LTF - Transit: 42005493		61,000				61,000
Prop 1B PTMISEA: 21295590		7,000				7,000
Total		586,785				586,785

Prioritizing List of Investments

Table 4 below illustrates the City of Madera's investment priorities for the Madera Metro Transit System through the FY2025/26.

TABLE 4 – PRIORITY LIST OF INVESTMENTS

Priority (By FY)	Project	Funding Source	Purpose
23/24	Vehicle Replacement	Section 5307	To replace fleet that is beyond it's ULB
23/24	Vehicle Replacement	Section 5307	To replace fleet that is beyond it's ULB
23/24	Vehicle Replacement	Section 5307	To replace fleet that is beyond it's ULB
23/24	Vehicle Replacement	Section 5307	To replace fleet that is beyond it's ULB
23/24	Vehicle Replacement	Section 5307	To replace fleet that is beyond it's ULB
23/24	Trans - 10	Affordable Housing Sustainable Community Grant	Review Figure 6.A
23/24	Trans - 11	Affordable Housing Sustainable Community Grant	Review Figure 6.B
24/25	Vehicle Replacement	Section 5307	To replace fleet that is beyond it's ULB
24/25	Vehicle Replacement	Section 5307	To replace fleet that is beyond it's ULB
24/25	Vehicle Replacement	Section 5307	To replace fleet that is beyond it's ULB
24/25	Vehicle Replacement	Section 5307	To replace fleet that is beyond it's ULB
25/26	Fleet Maintenance Facility	Unsecured	To modernize the City's fleet maintenance facility

STATE OF GOOD REPAIR (SGR) PERFORMANCE MEASURES

The TAM Rule requires that transit agencies establish SGR performance measures and targets for each asset class. As a Tier II provider, Madera Metro must report on the SGR measures for the following asset categories as defined by the FTA:

- Rolling stock (revenue vehicles): Percent of vehicles that have either met or exceeded their ULB – Seen in Table 6.A.
- Equipment (non-revenue service vehicles): Percent of vehicles that have either met or exceeded their ULB.
- Facilities: Percent of facilities rated below condition 3 on the FTA TERM scale – Seen in Table 6.B

Note: Infrastructure (rail fixed guideway, track, signals and systems) does not apply to Madera Metro because it is a bus-only transit property

TAM REPORTING REQUIREMENTS

The FTA requires transit providers to update TAM Plans in their entirety at least once every four (4) years, with the first completed TAM Plan required by October 1, 2018.

The TAM Rule requires that agencies annually report on their progress towards meeting SGR performance targets and any change in condition from the previous year

Reference: *49 CFR Part 625 Subpart E Section 625.55(a)(2) "Each provider must submit … (2) An annual narrative report to the National Transit Database that provides a description of any change in the condition of the provider's transit system from the previous year and describes the progress made during the year to meet the performance targets set in the previous reporting year."*

U.S. Title 49CFR§625.29 (a) states that a TAM Plan should cover a planning horizon of at least four (4) years. The District may amend the TAM Plan at any time, but this should be initiated following any major change to the asset inventory, condition assessment, or capital investment. The TAM Plan should also be updated following any change to the prioritization processes affecting the timing of future projects. Although TAM Plans are required to be updated in their entirety at least once every four (4) years, Madera Metro will review its TAM Plan annually and update it as needed to reflect current conditions.

In addition to the performance targets and TAM Plan, the TAM Final Rule requires that two (2) additional asset management reports be submitted to the NTD annually. The following reports are due to the NTD no later than four months after the City's fiscal year end:

- The **Data Report** should describe the condition of the transportation system currently and the SGR performance targets for the upcoming year.
- The **Narrative Report** should describe changes in the transportation system condition and report progress on meeting the performance targets from the prior year.

Figure 7 below shows an example of the National Transit Database, Transit Asset Management Plan, Performance Metrics and Targets Module Form A-90.

FIGURE 7 - NTD A-90 TAM TARGETS REPORT

Figure 7 – City of Madera 2024 NTD Annual Report (Actual Data Submitted, Form A-90)				
1. Rolling Stock – Percent of revenue vehicles that have met or exceeded their useful life benchmark				
Performance Measure	2024 Target (%)	2024 Performance (%)	2024 Difference	2025 Target (%)
BU – Bus	N/A	N/A	N/A	N/A
CU - Cutaway	47.00	36.84	-10.16	37.00
VN – Van	N/A	0	N/A	0
2. Equipment – Percent of service vehicles that have met or exceeded their useful life benchmark (N/A)				
3. Facility – Percent of facilities rated below 3 on the condition scale				
Passenger / Parking Facilities	0.00	0.00	0.00	0.00
Administrative / Maintenance Facilities	25.00	0.00	-25.00	0.00

TAM APPROACH AND VISION

Transit Asset Management is a strategic approach in managing fleet and facilities; to optimize their performance; their useful life; and to minimize the total cost of ownership. Madera Metro's commitment to its Mission and the TAM Vision are reflected in Table 5 – Madera Metro's TAM Vision. This table outlines Madera Metro's direction and vision to establish and continually improve asset management, strategies, and plans.

TABLE 5 – TAM VISION ELEMENTS

Commitment	TAM Vision Elements
Safety	Madera Metro TAM program intends to provide a safe and secure environment for the entire Madera community. To do that, we will foster a safety culture and align our asset and safety management practices and, will proactively review and communicate safety-related issues.
Ridership	Madera Metro strives to increase ridership by providing a transit system that is efficient, reliable, and clean. This goal is to increase usage as City residents and user's grow trust with the City's transit system.
Quality and Reliability	Through improved management of our assets, Madera Metro will enhance the customer experience We will deliver customer service through improved internal/external communications, service reliability, convenience, accessibility, while meeting all agreed standards of service.
Efficiency and Effectiveness	Madera Metro will employ effective asset management business practices and tools and ensure optimal asset performance and useful life. Quality data will be used to support transparent and cost-effective decision-making and accountability to community stakeholders. Madera Metro will utilize historical data to better inform future investment decisions by accurately capturing capital and operating costs to assess and optimize the total cost of ownership of the assets.
Communications	Madera Metro promotes its services through advertising, public outreach, and public information efforts. The efforts reflect Madera Metro's core values of providing safe, convenient, courteous, and reliable transit service to the public.

REPORT TO CITY COUNCIL

Approved by:

Michael Lima, Director of Financial Services

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-8

SUBJECT:

Piggyback purchase agreements for Fleet Division-related purchases

RECOMMENDATION:

Adopt a Resolution approving piggyback purchase agreements of:

1. A 5-yard all-electric dump truck for Public Works from PB Loader Corporation for $218,398
2. A 5-yard dump truck for the Parks Department from PB Loader Corporation for $197,288

SUMMARY:

Staff is proposing to replace three dump ducks with two, albeit new, dump trucks. One of the two new dump trucks will be all-electric, consistent with California Air Resources Board Advanced Clean Fleets Regulation, requiring the City to ensure 50 percent of their annual vehicle purchases per calendar year are zero-emissions beginning January 1,2024.

Appropriations for the proposed equipment purchases were included in the Fiscal Year (FY) 2024/25 Adopted Budget for the Fleet Replacement Fund (Org Unit 3065-0000), which Council approved on August 21, 2024. These appropriations cover various pieces of equipment as outlined in Table 1. Staff recommends using piggyback agreements through Sourcewell to purchase the equipment. This approach offers time and costs that would otherwise be incurred should an RFP for a stand-alone vehicle purchase be issued.

DISCUSSION:

A piggyback contract can be executed via another entity's agreement when the items or services have already been bid by other governmental agencies or special cooperative agreements, provided such contracts are the result of a competitive bidding process, that the competitive bidding process used and all terms and conditions are substantially the same as those used by the City, and that the competitive bidding process and terms and conditions contain a clause

allowing piggybacking by other public agencies. In some instances, this method provides the most efficient purchase method or the best cost savings for the quantities or type of goods or services utilized. These contracts are also encouraged when applicable for operational proficiencies and to minimize staff processing time when the goods or services being procured have limited availability.

Council approved Ordinance 996 C.S. on December 21, 2022, which amended the City's Municipal Code by adding Title II, Section 4 - Purchasing Procedures. This section allows the City to utilize piggyback purchasing procedures through the Purchasing Manager to purchase supplies, equipment, or services without completing the City's bidding or proposal process from any supplier who offers the goods or services at the same or better price, terms, and conditions as the supplier previously offered to another public agency as the lowest bidder pursuant to the competitive bidding or proposal process required by that other public agency.

The Fleet Division purchases various commodities in its daily operations, including vehicles, equipment, miscellaneous goods, and services throughout the year. Because of Fleet's variety and quantity of procurements, the division is a natural fit to utilize the piggyback procurement process.

Table 1 provides an overview of procurements that would be obtained through the piggyback process contingent upon Council action. These procurements have been budgeted in the current budget and approved by the Council on August 21, 2024. Table 1 outlines the items to be procured, the lead department, the vendor, and the cost.

Table 1: *List of proposed equipment (all costs are estimates)*

Item to Procure	*Lead Agency*	*Proposed Vendor*	*Amount*
5-yard all-electric dump truck – Graffiti Abatement/Streets	Sourcewell – 080521-PBL	PB Loader Corporation	$218,398
5-yard dump truck - Parks	Sourcewell – 080521-PBL	PB Loader Corporation	$197,288
Total			**$415,686**

As outlined in Table 2, staff recommends retiring three dump trucks and replacing them with two, as part of an ongoing effort to optimize fleet size and reduce redundancies. While staff is proposing to eliminate 3, staff is attempting to right-size its fleet, reduce duplicative equipment, and identify equipment that it currently does not possess as it better aligns its equipment with its service delivery model.

The identified existing fleet vehicles declared surplus upon the arrival of the new vehicles.

Table 2: *List of vehicles to be retired*			
New Equipment	*Equipment that will be retired*		
	Existing unit#	*Description*	*Department*
All-electric dump truck	336	2004 Stake side dump truck	Graffiti
	328	2004 5-yard dump truck	Streets
5-yard dump truck	274	2001 5-yard dump truck	Parks

Attachment 2 provides links to the Lead Agency piggyback agreements shown above.

After reviewing the available purchase options for these purchases, staff determined that using piggyback purchase agreements between public agencies and various vendors represents the most advantageous purchasing strategy. Procuring all the items in the table above with RFPs would use significant staff time. This strategy ensures the City receives excellent pricing with efficient use of staff time and resources.

FINANCIAL IMPACT:

Purchases under the recommended cooperative purchase agreements will be made from Fleet capital expense funds. Sufficient funding is available in the Fiscal Year 2024/25 Adopted Budget for purchases made through June 30, 2025.

ALTERNATIVES:

As an alternative, Council may suggest getting individual quotes from vendors per item or issuing a Request for Proposal per each. Either scenario, while feasible, would require staff resources with no guarantee that the prices obtained through this alternative process would be better than those obtained through piggybacking.

ATTACHMENTS:

1. Resolution approving Sourcewell piggyback purchase
2. Lead Agency piggyback agreement web links

RESOLUTION NO. _____

RESOLUTION APPROVING SOURCEWELL PIGGYBACK AGREEMENTS FOR THE PURCHASE OF I) AN ALL-ELECTRIC DUMP TRUCK FOR GRAFFITI ABATEMENT FROM PB LOADER CORPORATION IN THE AMOUNT OF $218,398, II) A 5 YARD DUMP TRUCK FOR THE PARKS DEPARTMENT FROM PB LOADER CORPORATION IN THE AMOUNT OF $197,288

WHEREAS, a piggyback contract can be executed via another entity's agreement when the items or services have already been bid by other governmental agencies or special co-operative agreements, provided such contracts are the result of a competitive bidding, and that the competitive bidding process used, and all terms and conditions are substantially the same as the City's competitive bidding process and terms and conditions; and

WHEREAS, the City Council ('Council') approved Ordinance 996 C.S. on December 21, 2022, which amended the City's Municipal Code, adding Title II Section 4 Purchasing Procedures; and

WHEREAS, Ordinance 996 C.S. allows the City to utilize piggyback purchasing procedures through the Purchasing Manager to purchase supplies, equipment, or services without completing the City's bidding or proposal process, from any supplier who offers the goods or services at the same or better price, terms, and/or conditions as the supplier previously offered to another public; and

WHEREAS, staff has conducted a due diligence and determined that piggyback purchases through the State of California best meet the City's interests.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA does hereby resolve, find, and order as follows**:**

1. The above recitals are true and correct and are incorporated herein by this reference.

2. The Council finds that the use of piggyback purchases per Council approved Ordinance 996 C.S. amending the City's municipal code, adding Title II Section 4 Purchasing Procedures is appropriate.

3. The Council approves the Sourcewell piggyback agreements for i) purchase of an all-electric dump truck for Graffiti Abatement from PB Loader Corporation in the amount of $218,398, ii) purchase of a 5 yard dump truck for the Parks Department from PB Loader Corporation in the amount of $197,288, consistent with the material terms of the Sourcewell PB Loader agreement. The City Manager is authorized to execute the same, including any non-material modifications, subject to approval as to legal form by the City Attorney.

4. This Resolution shall take effect immediately upon its adoption.

5.

* * *

ATTACHMENT 2

Lead Agency piggyback agreement web links

Sourcewell PB Loader - #080521-PBL

https://www.sourcewell-mn.gov/cooperative-purchasing/080521-pbl#tab-contract-documents

REPORT TO CITY COUNCIL

Approved by:

Michael Lima, Director of Financial Services

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-9

SUBJECT:

Banking Services Contract Award

RECOMMENDATION:

Adopt a Resolution awarding a five-year contract with four (4) one-year extensions to US Bank for banking services

SUMMARY:

The City has been operating without a banking services contract for several years. With the recent merger between United Bank (the City's previous banking services provider) and US Bank, staff took the opportunity to issue a Request for Proposal (RFP) with the purpose of securing banking services under contract terms. The RFP generated two responses. Staff evaluated those responses utilizing several criteria. Staff also conducted interviews with both respondents. After factoring all the information received through the RFP evaluation process, staff is recommending award of a five-year contract with four (4) one-year extensions to US Bank. Based on current activity levels, the cost of the contract is estimated to be approximately $101,300/year for the initial term of the contract.

DISCUSSION:

The City utilizes banking services for a variety of financial functions including:

- Check depositing
- Cash management, and
- Payment processing

Many government agencies codify their relationship with the bank that provides services through a contract. Such contracts are important as they define both the services that will be received and the costs that will be incurred during the contract's term. In the City's case, there has not

been a contract for banking services since 2015. Since the expiration of the previous contract, the City has been operating on a month-to-month arrangement with its bank. While this arrangement has provided the City with banking services, it has also left the City exposed to price adjustments that would otherwise not likely happen with a contract.

From 2015 to 2023, the City operated under a month-to-month arrangement with United Bank. With the December 2022 acquisition of United Bank by US Bank, US Bank became the City's provider of banking services. Upon completion of the acquisition, staff commenced a conversion process to move from United Bank's account numbers and banking functionality to those provided by US Bank. The conversion process was successfully completed in May 2023.

As a result of the acquisition and the absence of a contract, staff decided to commence an RFP process to secure a long-term contract for banking services. An RFP was issued on July 13, 2024. A notice was sent through PlanetBids to all potentially relevant bidders at the time the RFP was issued. Responses were due on August 12, 2024. At the end of the response period, the City received two responses to this RFP: US Bank and JP Morgan Chase Bank.

Upon receiving these responses, staff convened an RFP evaluation committee made up of four representatives of the City's Finance Department and one representative from the City's Building Division. The representatives scored the proposals based on the following criteria:

- Conformance to terms of RFP in preparing and submitting the proposal
- Operations requirements
- Firm experience
- Financial strength, security, and regulatory compliance
- Transition Plan
- Cost Proposal Rates

After scoring the proposals, staff interviewed representatives from both US Bank and JP Morgan Chase Bank on October 16, 2024. The interviews were intended to elicit additional information or clarification on the responses provided by both banks.

After evaluating both the RFP responses and the information gathered during the interviews, staff recommends award of the banking services contract to US Bank. The reasons for the recommendation to award a contract to US Bank are:

- Strong municipal government client base
- Existing familiarity with the City's banking requirements
- Committed a dedicated team to support the City's banking
- $25,000 retention allowance to be used to offset banking fees or purchase new banking equipment
- Banking fees reduced from amounts currently being paid by the City.
- Fee rates would not be adjusted during the initial five-year term of the agreement.

The amount that will be paid annually by the City under the proposed contract is made up of several charges; most of which are variable based on the City's banking activity level. However, based on current activity levels, it is estimated that the City will pay approximately $101,300 for banking services each year. This amount would be a reduction of approximately $16,200/year from what the City is currently paying for banking services.

It should be noted that JP Morgan Chase's proposal was projected to cost the City approximately $99,300/year. Additionally, JP Morgan Chase offered a $50,000 transition credit (to be used to offset fees or purchase equipment) if they were awarded the contract. While cognizant that the financial incentives were greater under the JP Morgan Chase proposal, staff believes these financial benefits would be more than offset by the value of the additional staff time associated with transitioning to a new bank. Also, staff is of the opinion that US Bank would be able to provide new services and functionality immediately upon commencement of the agreement due to their existing understanding of the City's banking needs. As a contrast, JP Morgan Chase indicated they would need to get a greater understanding of the City's banking needs before they would be able to offer new services and functionality.

Given all these factors, Staff recommends award of a five-year banking services contract with four (4) one-year extensions to US Bank.

FINANCIAL IMPACT:

The annual financial impact of this contract is estimated, as it is a variable amount based on City's banking activity. However, based on current activity levels, it is estimated the recommended contract will cost the City approximately $101,300 annually during the initial five-year term of the agreement. The annual payment is estimated to save the City approximately $16,200 annually from what it is currently paying for banking services. This amount is budgeted in the Finance Department's Fiscal Year 2024/2025 Adopted Budget. Amounts to be paid under this contract in future fiscal years will be budgeted in those fiscal years' budgets.

Additionally, the City will receive a $25,000 retention credit, which can be applied to fees or purchase new banking equipment in the first year of the agreement.

ALTERNATIVES:

As an alternative, Council may choose to award the contract to JP Morgan Chase. Additionally, Council may choose not to award the contract to either vendor and direct staff to reissue the RFP. In this latter scenario, the City will continue on a month-to-month agreement with US Bank and pay the higher fees associated with that agreement.

ATTACHMENTS:

1. Resolution - Authorizing approval of the contract.
   Exhibit 1 - Proposed agreement with US Bank

RESOLUTION NO. 24-___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING A CONTRACT FOR BANKING SERVICES BETWEEN THE CITY AND US BANK

WHEREAS, the City's previous banking services contract had reached the end of its term; and

WHEREAS, the City issued a Request for Proposals to secure a banking services contract on July 13, 2024; and

WHEREAS, the City received two responses to the Request for Proposals that it issued; and

WHEREAS, City staff evaluated both responses and conducted interviews with the respondents; and

WHEREAS, City staff reviewed all the material presented by the respondents, and made a recommendation that the City award a five-year with four one-year extensions for banking services to US Bank; and

WHEREAS, City staff has negotiated a draft contract with US Bank under the terms they proposed as part of their Request for Proposal response.

NOW THEREFORE, the City Council of the City of Madera hereby finds, orders and resolves as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. The City Council approves a contract for banking services with US Bank.
3. The City Manager or the Director of Financial Services are authorized to sign the contract as shown in Exhibit 1, and all related documents for service on behalf of the City and US Bank.
4. The City Manager or the Director of Financial Services are authorized to sign the extensions to the contract once the terms of those extensions become available.
5. This resolution is effective immediately upon adoption.

* * *

Exhibit 1

CITY OF MADERA
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is made and entered into the 12th day of November 2024, by and between the CITY OF MADERA, a municipal corporation of the State of California, hereinafter called "City" AND U.S. BANK NATIONAL ASSOCIATION, hereinafter called "Consultant".

RECITALS

A. City desires to obtain Banking Services and issued a Request for Proposals for said Services.

B. Consultant represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

C. City desires to retain Consultant to provide said Services, as detailed further herein.

D. City desires to retain Consultant, and Consultant desires to provide City with the Services, on the terms and conditions as set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual agreements herein, City and Consultant agree as follows:

AGREEMENT

1. Scope of Services. Consultant shall perform, to the satisfaction of City in accordance with this Agreement, the Consultant's specific Services in accordance with their proposal, attached hereto as **Exhibits A and B,** and incorporated by herein by this reference. Consultant shall at all times faithfully, competently and to the best of its ability, experience, and talent, perform all services described herein.

2. Commencement of Services; Term of Agreement. Consultant shall commence the Services upon City's issuance of a written "Notice to Proceed" and shall continue in full force and effect for five (5) year(s) unless otherwise terminated by the City. The term may be extended by the City Manager or Director of Financial Services in writing, if mutually agreed to at least 90 days in advance of expiration, for a period not to exceed four (4) additional one-year extensions.

(a) Continuity of Personnel. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors assigned to perform the Services under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors assigned to perform the Services under this Agreement.

(b) Additional Services. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to or outside of those set forth in this Agreement or listed in **Exhibit A** unless such additional services are authorized in advance and in writing by the City Manager of City. Consultant shall be compensated for any such additional services in the amounts and in the manner agreed to by the City and Consultant.

3. Compensation for Services. City shall compensate Consultant for rendering the Services as follows:

a. CITY agrees to compensate Consultant for services under this Agreement in compliance with the schedule set forth in **Exhibit B** which is attached hereto and incorporated herein by this reference. Fees are to be fixed for the term of this Agreement.
b. Consultant shall submit to the City monthly analysis of account activity and charges. The Consultant shall maintain appropriate and necessary documentation supporting the monthly analysis detailing the type of service provided. The analysis shall be submitted within fifteen (15) working days of the month following the period covered by the analysis.

4. Independent Contractor Status. Consultant and its subcontractors shall perform the Services as independent contractors and not as officers, employees, agents, or volunteers of City. Nothing contained in this Agreement shall be deemed to create any contractual relationship between City and Consultant's employees or subcontractors, nor shall anything contained in this Agreement be deemed to give any third party, including but not limited to Consultant's employees or subcontractors, any claim or right of action against City. Neither the City nor any of its employees shall have any control over the manner, mode, or means by which Consultant or its agents or employees perform the services under this Agreement.

5. Qualifications, and Professional Standards. Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, the following standards:

- Must be a United States-Chartered commercial banking institution that conducts business in California.
- A member of the Federal Reserve System and have access to all services.

- Maintain a branch in the City of Madera or near vicinity.
- Must be a qualified depository for public funds pursuant to California Government Code Section 53648.
- A Local Agency Investment Fund (LAIF) depository.
- Have a Community Reinvestment Act (CRA) rating of "Outstanding" or "Satisfactory" as determined by the appropriate regulatory body.
- Maintain a capital structure equal to or greater than the average of all moneys the City has with the bank during the term of the agreement pursuant to California Government Code Section 53638.

Consultant represents that to the extent Consultant utilizes subcontractors, such subcontractors are, and will be, qualified in their fields. Consultant also expressly represents that both Consultant and its subcontractors, if any, are now, and will be throughout their performance of the Services under this Agreement, properly licensed or otherwise qualified and authorized to perform the Services required and contemplated by this Agreement. Consultant and its subcontractors, if any, shall utilize the standard of care and skill customarily exercised by members of their profession, shall use reasonable diligence and best judgment while performing the Services, and shall comply with and keep themselves informed of all applicable laws and regulations.

6. Identity of Subcontractors and Subconsultants. Consultant shall before commencing any work under this Agreement provide to City in writing: (a) the identity of all subcontractors and subconsultants (collectively referred to as "subcontractors"), if any, which Consultant intends to utilize in Consultant's performance of this Agreement; and (b) a detailed description of the full scope of work to be provided by such subcontractors. Consultant shall only employ subcontractors preapproved by City and in no event shall Consultant replace an approved subcontractor without the advance written permission of City, with the understanding that City's permission will not be unreasonably withheld. Notwithstanding any other provisions in this Agreement, Consultant shall be liable to City for the performance of Consultant's subcontractors. The term "subcontractor" does not include vendors of the Consultant who do not provide a service directly to the City and are not hired by Consultant specifically for performance under the Agreement.

7. Subcontractor Provisions. Reserved. Government Flow-Down Provisions. If Supplier is providing Services or Deliverables in connection with this Agreement to any Customer that is a local, state, or federal government entity or institution, then Supplier agrees that all mandatory and discretionary flow-down provisions from Purchaser's contract with such government entity or institution are incorporated into this Agreement as if fully set forth herein. Such flow-down provisions may include, without limitation: audit, contract changes, default, termination, indemnification, funds limitation, and disputes.

8. Power to Act on Behalf of City. Consultant shall not have any right, power, or authority to create any obligation, express or implied, or make representations on behalf of City except as may be expressly authorized in advance in writing from time to time by City and then only

to the extent of such authorization.

9. Record Keeping; Reports. Consultant shall keep complete records showing the type of Services performed according to its record retention schedule and applicable law (the "Retention Period"). Consultant shall be responsible and shall require its subcontractors to keep similar records. Upon 90 days' written request, no more than once per calendar year, City shall be given reasonable access to the records of during normal business hours and in such a manner as to not interfere with normal business activities Consultant and its subcontractors for audit purposes during the Retention Period. Consultant's sensitive or confidential information can be viewed by the City at a Consultant location or via a video conference call, however the City may not record or create copies of Consultant sensitive or confidential information.

10. Ownership and Inspection of Documents. All work product protected by the United States Patent and Copyright Office and generated by or produced by Consultant in connection with the Services as a deliverable solely, and paid for by, City under this Agreement, including physical drawings and materials recorded on computer discs ("Work Product"), shall be and remain the property of City. City shall have the right to use, copy, modify, and reuse the Work Product as it sees fit. Upon City's request, Consultant shall make available for inspection and copying all such Work Product and all Work Product shall be turned over to City promptly at City's request or upon termination of this Agreement, whichever occurs first. Consultant shall not release any Work Product to third parties without prior written approval of the City Manager. This obligation shall survive termination of this Agreement and shall survive for four (4) years from the date of expiration or termination of this Agreement.

11. Confidentiality. All data, reports, conclusions, opinions, recommendations, and other work product prepared and performed by and on behalf of Consultant in connection with the Services performed pursuant to this Agreement shall be kept confidential and shall be disclosed only to City, unless otherwise provided by law or expressly authorized by City. Confidential information shall not include information disclosed by City to Consultant which is (i) in the public domain, (ii) known by Consultant as the time of disclosure of such information by City, (iii) subsequently received by the Consultant in good faith from a third party not known to Consultant to be bound by a duty of confidentiality, or (iv) independently generated by Consultant. Consultant shall not disclose or permit the disclosure of any confidential information acquired during performance of the Services, except to its agents, directors, officers, advisors, employees, affiliates, and subcontractors who need such confidential information in order to properly perform their duties relative to this Agreement. Consultant shall also require its subcontractors to be bound to these confidentiality provisions. However, Consultant may disclose confidential information without notice to City (i) to a bank regulatory agency in connection with an examination of Consultant's records, (ii) at the express direction of any other authorized government agency, (iii) pursuant to a subpoena or court order, or (iv) as required by law.

12. City Name and Logo. Consultant shall not use City's name or insignia, photographs

relating to the City projects for which Consultant's services are rendered, or any publicity pertaining to the Consultant's services under this Agreement in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

13. Conflicts of Interest. To the best of its knowledge, Consultant nor any of its employees providing Services directly under this Agreement have a present interest, which would conflict in any manner with the known non-political interests of the City or which would in any way hinder Consultant's performance of services under this Agreement. During the performance of the Services, Consultant shall not assign an employee who is employed by the City or a member of any City Board or Commission to the services. City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section. City understands and acknowledges that Consultant will, perform non-related services for other governmental agencies and private parties following the completion of the Services under this Agreement, and any such future service shall not be considered a conflict of interest for purposes of this section.

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

15. City Right to Employ Other Consultants. This Agreement is non-exclusive with Consultant. City reserves the right to employ other consultants in connection with the Services.

16. Termination of Agreement. This Agreement shall terminate upon completion of the Services, or earlier pursuant to the following.

a. For Convenience. This Agreement may be terminated by either party at its discretion upon thirty (30) days prior written notice to other party.

b. For Breach of Either Party. If for any cause either party fails to fulfill in a timely and proper manner its obligations under this Agreement (the "breaching party"), the other party (the "terminating party") shall have the right to terminate the Agreement by giving not less than five (5) working days' written notice to the breaching party of the intent to terminate and specifying the effective date thereof. The terminating party shall, however, provide the breaching party with a detailed statement of the grounds for termination. This statement shall include, as appropriate, references to specific provisions of this Agreement, dates, dollar amounts and other information relevant to the decision to terminate for cause. Consultant may also terminate or suspend any Services, or feature or function of any Services, immediately

without notice to City if any of the following occurs: (a) City becomes insolvent or files, or has filed against it, any bankruptcy or other insolvency, reorganization, liquidation or dissolution proceeding of any kind; (b) a material adverse change occurs in City business or financial condition; (c) Consultant has reason to believe that City has engaged in fraudulent or illegal activity; (d) City fails to maintain balances in accounts sufficient to cover overdrafts; (e) City violates, or is in default under, the terms of this Agreement or any other agreement with Consultant; (f) City fails to comply with security procedures or fails to provide information reasonably requested by Consultant; (g) Consultant has a reasonable basis to believe the confidentiality, integrity, or availability of City's data or information has been compromised; (h) Consultant determines it is impractical or illegal to provide any Services because of changes in laws, regulations or rules or due to regulatory guidance, demand or request; (i) Consultant, in good faith, is unable to satisfy itself that any Services have been properly authorized by City; or (j) Consultant, in good faith, deems itself insecure.

c. Compensation to Consultant Upon Termination. In the event termination provided conditions for payment have been met, Consultant shall be paid compensation for services performed prior to notice of termination. As to any phase partially performed but for which the applicable portion of Consultant's compensation has not become due, Consultant shall be paid the reasonable value of its services provided. However, in no event shall such payment when added to any other payment due under the applicable part of the work exceed the total compensation of such part as specified in Section 3 herein. In the event of termination due to Consultant's failure to perform in accordance with the terms of this Agreement through no fault of City, City may withhold an amount that would otherwise be payable as an offset to City's damages caused by such failure.

d. Effect of Termination. Upon receipt of a termination notice (or completion of this Agreement), Consultant shall: (i) promptly discontinue all Services affected (unless the notice directs otherwise); and (ii) deliver or otherwise make available to the City, without additional compensation, all data, documents, procedures, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Consultant in performing this Agreement, whether completed or in process. Following the termination of this Agreement for any reason whatsoever, City shall have the right to utilize such information and other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared under this Agreement by Consultant. Consultant may not refuse to provide such writings or materials for any reason whatsoever. Notwithstanding any termination, the terms of this Agreement shall apply to all transactions which have been initiated prior to termination.

17. Insurance. Consultant shall obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in **Exhibit "C"** attached hereto and incorporated herein by this reference. All insurance policies shall be subject to City approval as to form and content. Consultant shall provide City with copies of required certificates of insurance upon request.

18. Indemnity and Defense. Consultant shall indemnify, defend, and hold harmless the City, its officers, employees, agents and volunteers ("City indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), to the extent arising out of the Consultant's performance of its obligations under this agreement or out of the operations conducted by Consultant, except for such loss or damage to the extent arising from the negligence or willful misconduct of the City. The foregoing indemnification obligation of Consultant is contingent upon City promptly notifying Consultant in writing of such claim, permitting Consultant sole authority to control the defense or settlement of such claim, and providing Consultant reasonable assistance in connection therewith.

19. Compliance with All Laws. Consultant shall be familiar with and shall comply with all City, State, and Federal laws and regulations applicable to Consultant. In providing the services required under this Agreement, Consultant shall at all times comply with all laws, regulations, and resolutions of the United States, the State of California, and the City of Madera applicable to Consultant now in force and as they may be enacted, issued, or amended during the term of this Agreement.

20. Assignment. Except for assignments arising under operation of law following a merger or acquisition, neither this Agreement nor any duties or obligations hereunder shall be assignable by Consultant without the prior written consent of City. In the event of an assignment to which City has consented, the assignee shall agree in writing to personally assume and perform the covenants, obligations, and agreements herein contained. In addition, Consultant shall not assign the payment of any monies due Consultant from City under the terms of this Agreement to any other individual, corporation, or entity. City retains the right to pay any and all monies due Consultant directly to Consultant.

21. Form and Service of Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by certified mail, postage prepaid and return receipt requested, addressed as follows:

To City:	Director of Financial Services City of Madera Finance Department 205 W. Fourth Street Madera, CA 93637 Email: mlima@madera.gov
To Consultant:	U.S. Bank National Association Attn: Jamie OConnell 9467 Milliken Avenue Rancho Cucamonga, CA 91730-6004 Email: jamie.oconnell@usbank.com

Notice shall be deemed effective on the date personally delivered or transmitted electronically,

or if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

Either party may update their contact information, including but not limited to mailing address, email address, or phone number, at any time by providing written notice to the other party in accordance with the notice provisions set forth in this Agreement. Such updates shall take effect upon the other party's receipt of the written notice unless a later effective date is specified in the notice.

22. Entire Agreement. This Agreement, including the attachments and exhibits, along with Exhibit "D", Consultant's Master Services Agreement, Services Terms and Conditions, Deposit Account Agreement, and documents referenced or incorporated therein, represents the entire Agreement between City and Consultant, and supersedes all prior negotiations, representations, or agreements, either written or oral with respect to the subject matter herein. In the event of a conflict between this Agreement and Consultant's Master Services Agreement, Services Terms and Conditions, Deposit Account Agreement, and documents referenced or incorporated therein, this Agreement supersedes. This Agreement may be amended only by written instrument signed by both City and Consultant.

23. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

24. Authority. The signatories to this Agreement warrant and represent that they have the legal right, power, and authority to execute this Agreement and bind their respective entities.

25. Severability. In the event any term or provision of this Agreement is declared to be invalid or illegal for any reason, this Agreement will remain in full force and effect and will be interpreted as though such invalid or illegal provision were not a part of this Agreement. The remaining provisions will be construed to preserve the intent and purpose of this Agreement and the parties will negotiate in good faith to modify any invalidated provisions to preserve each party's anticipated benefits.

26. Applicable Law and Interpretation and Venue. This Agreement shall be interpreted in accordance with the laws of the State of California. The language of all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning, and not strictly for or against either party. This Agreement is entered into by City and Consultant in the County of Madera, California. Thus, in the event of litigation, venue shall only lie with the appropriate state or federal court in Fresno County.

27. Attorneys Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant, or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorneys' fees and legal expenses.

28. Amendments and Waiver. This Agreement shall not be modified or amended in any way, and no provision shall be waived, except in writing signed by the parties hereto or , to the extent only affecting the City, the City Manager. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. Failure of either party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of the remaining provisions of this Agreement.

29. Third Party Beneficiaries. Nothing in this Agreement shall be construed to confer any rights upon any party not a signatory to this Agreement.

30. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy or an original, with all signatures appended together, shall be deemed a fully executed Agreement.

31. Non-Discrimination. Consultant shall not discriminate on the basis of any protected class under federal or State law in the provision of the Services or with respect to any Consultant employees or applicants for employment. Consultant shall ensure that any subcontractors are bound to this provision. A protected class includes, but is not necessarily limited to race, color, national origin, ancestry, religion, age, sex, sexual orientation, marital status, and disability.

[**SIGNATURES ON FOLLOWING PAGE**]

IN WITNESS WHEREOF, the City and Consultant have executed this Agreement on the date(s) set forth below.

U.S. BANK NATIONAL ASSOCIATION

By: _____
Jamie OConnell, Senior VP

Date: _____

CITY OF MADERA

By: _____
Arnoldo Rodriguez, City Manager

Date: _____

APPROVE AS TO FORM:

_____
Shannon F. Chaffin, City Attorney

ATTEST:

_____
Alicia Gonzales, City Clerk

EXHIBIT A

SCOPE OF SERVICES

SCOPE OF SERVICES

Service Group 1: General Banking Services

The firm awarded the contract will be the City's primary cash management partner. This firm will process both deposits (both electronic and paper), handle payroll and accounts payable disbursements, and be the central point of cash management.

The City currently maintains three (3) traditional demand deposit accounts to collect and disburse funds. The City also uses one (1) zero-balance account ("ZBA") structure to concentrate funds automatically in the master depository account.

Minimum Acceptable Requirements include the following criteria and services:

- Be "Well Capitalized" as defined by the Federal Deposit Insurance Corporation (FDIC);
- Offer demand deposit accounts to meet the banking requirements of the City, and maintain accurate, detailed records of activity in those accounts;
- Offer ZBA cash concentration services;
- Offer an overnight investment sweep option or interest-bearing account option for balances;
- Continually comply with all applicable federal and state regulations regarding the provision of the proposed services;
- Provide a primary relationship contact and dedicated customer support; and
- Service-specific minimum requirements as noted in each section below.

A. Deposit Services

The City will require the firm to capture and provide online access to images of items received in the lockbox for at least seven (7) years from the date of the item

Lockbox required services include:

- Provide a lockbox solution for the City's payment and document collection needs;
- Process all payments and documents sent to a P.O. Box, including payments and documents that may require data entry;
- Process and image checks, remittance documents, and other forms/documents received including all attachments;
- Provide online reporting and download of transaction detail and summary, including account numbers and payment amounts in PDF and spreadsheet formats:
- Provide online exception item review and correction; and
- Provide electronic lockbox services.

B. Check Disbursements

The City disburses approximately 5,500 checks per year for accounts payable, payroll, and other disbursement needs. Accounts payable processing and payroll is processed bi-weekly on Thursdays for payment on Fridays. The City utilizes payee positive pay on all check writing accounts and check block services on all non-check writing accounts.

Positive pay files are generated by the City. These files are manually uploaded through the incumbent bank's online portal.

Check Disbursements required services include:

- Provide positive pay with payee validation services with online upload and manual keying of check details;
- Provide online positive pay exception item review and decisioning:
- Provide check block services on non-check writing accounts;
- Provide online stop payment services;
- Provide electronic archival of cleared checks (images of front and back) to meet the City's archival requirements; and
- Provide online access to cashed check images for at least seven (7) years from the date of item as noted above.

EXHIBIT B

SCHEDULE OF COMPENSATION

Service Group 1: General Banking Services				
AFP CODE	SERVICE DESCRIPTION	AVERAGE MONTHLY VOLUME	PROPOSED UNIT COST	TOTAL MONTHLY COST
	GENERAL ACCOUNT SERVICES			
010 020	ZBA Lead	1	15.00	15
010 000	Account Maintenance	5	10.00	50
010 100	Paper Debits	350	0.15	53
010 100	Electronic Debits	46	0.15	7
010 101	Paper Credits	134	0.15	20
010 101	Electronic Credits	20	0.15	3
010 021	ZBA Subsidiary	1	10.00	10
	LOCKBOX SERVICES			
050 000	LBX Monthly Maint-Extended	1	89.00	89
050 002	LBX PO Box Rental-Extended	155	1.00	155
050 100	LBX per Item-Extended	1,790	0.30	537
050 11L	LBX Batch Preparation-Extended	62	0.60	37
050 11R	LBX Image per Check-EXT	3,580	0.02	72
050 11R	LBX Image Document-Extended	3,877	0.05	194
050 11R	LBX Image Monthly-Extended	1	100.00	100
050 11R	LBX 7 Year Archive per Item-EX	7,457	0.02	112
050 126	LBX Data Keystroke-Extended	12,709	0.01	127
050 131	LBX Payee Verif (1-10)-EXT	1,790	-	-
050 13D	LBX Rejected Item-EXT	137	0.40	55
050 300	LBX Deposit-Extended	25	1.50	37
050 303	LBX Split Dep Maint-Extended	1	55.00	55
050 303	LBX Split Dep Item-Extended	1,790	0.10	179
050 401	LBX Data Trans per Mnth-Ext	1	110.00	55
050 401	LBX Data Tansm per Item-EXT	1,790	0.01	22
059 13F	LBX Invoice Balance-Extended	1,790	0.20	358
100 214	Lockbox Deposited Item	1,790	0.01	18
	DEPOSITORY SERVICES			
000 230	Deposit Coverage	21,732	0.13	2,803
100 000	Branch Deposit Processing Fee	9	1.50	14
100 011	Coin Deposited-per Roll	1	0.20	0
100 01Z	Cash Deposited-per $100	3,680	0.20	736
100 224	Deposited Item	112	0.10	11
100 400	Returned Deposited Items	8	8.00	60
100 401	Returned Item Reason Code	12	0.50	6
100 402	Redeposited Returned Item	5	4.50	21
100 405	Returned Item Special Instruc	3	1.00	3
101 300	EDM Monthly Maint - per Acct FIRST	1	10.00	10
101 300	EDM Monthly Maint - per Acct NEXT	1	10.00	10
101 300	EDM Monthly Maint - per Acct TOTAL	2	-	-
101 300	Web Monthly Maint - per Wrkstn	5	16.00	76
101 310	Image Check Item - Transit	3,052	0.10	305
101 311	Image Check Item - On-Us	219	0.10	22
101 320	Remittance Item	1	0.10	0
109 999	Night Dep Processing-per Dep	96	1.50	143
109 999	Deposit Credit	87	0.60	52
999 999	Image Quality Car/Lar & OCR	5	-	-

Service Group 1: General Banking Services				
AFP CODE	SERVICE DESCRIPTION	AVERAGE MONTHLY VOLUME	PROPOSED UNIT COST	TOTAL MONTHLY COST
	PAPER DISBURSEMENT SERVICES			
150 030	SP Positive Pay Monthly Maint	2	-	-
150 030	Full/Positive Pay Maint	2	50.00	100
150 101	Reject Checks Paid	2	-	-
150 120	Full/Positive Pay - per Item	350	0.04	14
150 310	SP Positive Pay Exceptions	15	4.75	72
150 322	SP Checks Returned	1	13.00	7
150 400	SP Stop/Inquiry ARP-per Item	2	0.10	0
150 410	SP Stop Payments Mo Maint FIRST	1	5.00	5
150 410	SP Stop Payments Mo Maint NEXT	4	-	-
150 410	SP Stop Payments Mo Maint TOTAL	5	-	-
150 410	SP Stop Payments-per Stop	2	8.00	14
151 350	SP Image Access Mo Maint	5	5.00	25
151 352	Image Retrieval - per Item	8	0.10	1
151 352	SP Short Term Imgs Retrieved	5	1.50	8
159 999	SP Issue Mnt Confirm-per File	9	1.00	9
	ACCOUNT RECONCILIATION SERVICES			
200 100	SP ARP Recon Report-per Item	7,270	0.04	291
200 201	SP Issue Maint Mo Maintenance FIRST	1	20.00	20
200 201	SP Issue Maint Mo Maintenance NEXT	1	-	-
200 201	SP Issue Maint Mo Maintenance TOTAL	2	-	-
200 201	Transmission Input	9	7.50	68
200 306	SP Account Recon Monthly Maint	1	-	-
200 306	SP ARP Recon Reports Maint	2	10.00	20
200 306	SP ARP Recon Outstanding Maint	1	10.00	10
200 306	SP ARP Daily Paid Monthly Main	1	10.00	10
	GENERAL ACH SERVICES			
250 000	ACH Monthly Maintenance	1	30.00	30
250 000	SP ACH Origination Mo Maint FIRST	1	20.00	20
250 000	SP ACH Origination Mo Maint NEXT	1	-	-
250 000	SP ACH Origination Mo Maint TOTAL	2	-	-
250 000	SP ACH Positive Pay Mo Maint	5	10.00	50
250 000	SP ACH Whse Mo Maint	1	15.00	15
250 102	ACH Orig Transit Item	1,931	0.05	97
250 102	ACH Originated On-US Item	141	0.05	7
250 102	SP ACH On-US Item	1	0.10	0
250 102	SP ACH Transit Item	3	0.10	0
250 202	ACH Received Item	157	0.30	47
250 220	ACH Received Addenda Item	186	0.04	7
250 302	ACH Return-per Item	17	4.25	70
250 501	ACH Process Run	3	3.00	10
250 505	SP ACH Process Run	3	3.00	9
250 611	SP ACH Adjustment Mo Maint	1	-	-
250 720	ACH Return and NOC Report FIRST	1	5.00	5
250 720	ACH Return and NOC Report NEXT	1	2.00	2
250 720	ACH Return and NOC Report TOTAL	2	-	-
250 720	ACH Return and NOC Report Curr	2	4.00	8

Service Group 1: General Banking Services				
AFP CODE	SERVICE DESCRIPTION	AVERAGE MONTHLY VOLUME	PROPOSED UNIT COST	TOTAL MONTHLY COST
251 070	ACH Notification of Change	1	3.50	4
	WIRE & OTHER FUNDS TRANSFER SERVICE			
350 000	Wire Monthly Maint Voice-Pin	1	10.00	10
350 000	SP Wires Monthly Maintena FIRST	1	20.00	20
350 000	SP Wires Monthly Maintena NEXT	4	-	-
350 000	SP Wires Monthly Maintena TOTAL	5	-	-
350 104	SP Fedwire Non-Repetitive	7	5.50	39
350 403	SP Wire Beneficiary Email	3	0.10	0
	INFORMATION SERVICES			
400 272	Sp Current Day Per Acct FIRST	1	40.00	40
400 272	Sp Current Day Per Acct NEXT	4	20.00	80
400 272	Sp Current Day Per Acct TOTAL	5	-	-
400 272	Sp Current Day Per Item	2,258	0.10	226
400 272	Sp Previous Day Per Acct FIRST	1	30.00	30
400 272	Sp Previous Day Per Acct NEXT	4	15.00	60
400 272	Sp Previous Day Per Acct TOTAL	5	-	-
400 272	Sp Previous Day Per Item	2,066	0.05	103
401 020	SP Token Monthly Maintenance	12	1.00	12
409 999	SP Current Day ACH Addenda	5	15.00	75
409 999	SP Previous Day ACH Addenda	5	10.00	50
409 999	Account Analysis Report PDF	5	-	-
409 999	Monthly DDA Statement PDF	5	-	-
409 999	SP Book Transfer Mo Maint FIRST	1	5.00	5
409 999	SP Book Transfer Mo Maint NEXT	4	-	-
409 999	SP Book Transfer Mo Maint TOTAL	5	-	-
409 999	SP Book Transfer-per Transfer	2	-	-
409 999	SP External Message Mo Maint FIRST	1	5.00	5
409 999	SP External Message Mo Maint NEXT	14	-	-
409 999	SP External Message Mo Maint TOTAL	15	-	-
409 999	SP External User Task Sent	38	-	-
	TOTAL ESTIMATED ANNUAL COST BASED ON CURRENT AVERAGE MONTHLY VOLUMES:			**$ 101,294.00**

Service Group 1: General Banking Services				
AFP CODE	SERVICE DESCRIPTION	AVERAGE MONTHLY VOLUME	PROPOSED UNIT COST	TOTAL MONTHLY COST
OPTIONAL SERVICES PROPOSED FOR SERVICE GROUP 1: GENERAL BANKING SERVICES				
	Commercial Money Fund Sweep		150.00	150
	E-LOCKBOX Maintenance		200.00	200
	ELBX Electronic Pymt RB Item		0.15	per volume
	E-LOCKBOX Returns and NOC		5.00	per volume
	VantagePoint Monthly		150.00	150
	Data Normalization - per Item		0.01	per volume
	VantagePoint Data Trans - per Transmission		12.00	per volume

BID PROPOSAL AUTHORIZATION

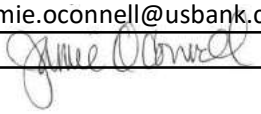
Date	9-Aug-24
Company Name	U.S. Bank National Association
Street Address	800 Nicollett Mall
City/State/Zip	Minneapolis, MN 55402
Federal Tax ID Number	31-0841368
Phone Number	949-963-8095
Person Preparing Proposal	Jamie OConnell
Title	Senior Vice President
Email Address	jamie.oconnell@usbank.com
Signature of Person Preparing Proposal	

EXHIBIT C

INSURANCE

A. Insurance Requirements

For General Banking Services and Merchant Card Processing Services, Contractor shall maintain limits no less than:

- $2,000,000 **General Liability** (including operations, products and completed operations) per occurrence, $4,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage form CG 00 01. General liability policies shall be endorsed using ISO form CG 20 10 that the City and its officers, officials, employees, and agents shall be additional insureds under such policies.

- Commercial Crime Insurance. Commercial crime insurance with limits of not less than $2,000,000 per occurrence and annual aggregate, to cover loss or damage to currency, coin, checks, securities, or other property placed into the care, custody and control of the Contractor by the City, whether in transit or storage resulting in or from:
    - The commission, or attempted commission of a crime,
    - The theft, disappearance or destruction money, securities, and property, including, the cost of check reconstruction,
    - dishonest or fraudulent acts, including forgery and alteration,
    - loss or damage to locked safe, vault, or cash box in the possession of the Contractor
- **Worker's Compensation** as required by the State of California and $1,000,000 **Employer's Liability** per accident for bodily injury or disease. Contractor shall submit to the City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.

- $2,000,000 per claim and in the aggregate **Professional Liability (Errors & Omissions)/Cyber Liability** per claim and in the aggregate. Contractor shall maintain Professional Liability, Technology Errors & Omissions Liability, and Network Security & Privacy Liability insurance that lists the City of Madera and its officers, officials, employees, and agents as additional insureds. Coverage shall include: (i) Failure to prevent unauthorized access to, use of or tampering with computer systems/networks, including denial of service, unless directly caused by a mechanical or electrical failure, (ii) Unauthorized disclosure of personal or confidential information, (iii) liability arising out of professional errors and/or omissions resulting in the introduction of a computer virus or other malicious code causing damage to Customer's computer system, network or similar related property and the data, software and programs thereon, (iv) liability for intellectual property infringement claims and for indemnification and legal defense of any claims of intellectual property infringement, including infringement of copyright, or trade mark, brought against the City for the Consultant's system, (v) government investigations and associated fines/penalties, if insurable by law, resulting from the alleged or actual disclosure of personal or confidential

information or security breach, (vi) liability for City's non-physical business interruption due to a security failure of Consultant's computer system, network, hardware or software or Consultant's professional services. The policy will have a retroactive date of no later than the effective date of this Agreement and coverage shall be maintained for an additional period of three (3) years following termination of the Agreement. The cost of such insurance shall be included in Consultant's bid.

EXHIBIT D

CONSULTANT'S MASTER SERVICES AGREEMENT, SERVICES TERMS AND CONDITIONS, DEPOSIT ACCOUNT AGREEMENT

U.S. Bank Master Services Agreement

Customer Tax Identification Number: Enter Tax ID

I, Enter Name, HEREBY CERTIFY that I am Enter Title of Enter Company Name ("Customer"),

Select Entity Type If applicable enter State

I further certify that I have full power and lawful authority to execute this Master Services Agreement ("MSA") on behalf of Customer. I further certify that Customer has taken all action required by its resolutions and other organizational documents, records, or agreements to authorize the individuals listed below to act on behalf of Customer in all transactions contemplated under this MSA. Customer shall not be bound by the terms and conditions for those specific services described, to the extent Customer elects not to use such service(s). Customer hereby agrees as follows:

DEPOSIT ACCOUNTS:

1. U.S. Bank National Association ("Bank") is hereby designated as Customer's banking depository. Customer has received a copy of the deposit account terms and conditions and agrees that such terms shall govern the deposit account services provided by Bank. All transactions between Customer and Bank involving any of Customer's accounts at Bank will be governed by the deposit account terms and conditions, this MSA and other disclosures provided to Customer. Customer agrees to provide Bank with a copy of documents requested by Bank.

2. Any one (1) of the persons whose names and signatures appear in Appendix A (individually, an "Account Signer") are hereby authorized to open, add, modify, or close accounts in the name of Customer or its subsidiaries or affiliates, or if applicable, as an agent for another entity, and to sign, on behalf of Customer, its subsidiaries or affiliates or as an agent for another entity, checks, drafts or other orders for the payment, transfer or withdrawal of any of the funds or other property of Customer, whether signed, manually or by use of a facsimile or mechanical signature or otherwise authorized, including those payable to the individual order of the person or persons signing or otherwise authorizing the same and including also those payable to the Bank or to any other person for application, or which are actually applied to the payment of any indebtedness owing to the Bank from the person or persons who signed such checks, drafts or other withdrawal orders or otherwise authorized such withdrawals; and are also authorized to endorse for deposit, payment or collection any check, bill, draft or other instrument made, drawn or endorsed to the accounts governed by this MSA for deposit into these accounts. The authorization contained in the preceding sentence includes transfers of funds or other property of Customer to accounts outside of those accounts Customer maintains at Bank. Any one of the Contract Signers (as defined below) is also authorized to execute any documentation that Bank may require to add or delete Account Signers.

3. Unless Customer otherwise advises Bank in writing and Bank has a reasonable opportunity to act on such writing, the Account Signers listed in Appendix A will be Account Signers on any future deposit accounts that Customer maintains with Bank.

4. Customer acknowledges and agrees that Bank is not required to obtain the consent of or otherwise contact an Account Signer for transactions other than those listed in paragraph 2 above, including, but not limited to, transfers between accounts Customer maintains at Bank, advances on loans Customer has with Bank and transfers to pay down loans Customer has with Bank.

TREASURY MANAGEMENT SERVICES:

5. Bank's treasury management services ("Treasury Management Service(s)") are described in the U.S. Bank Services Terms and Conditions, any supplements thereto, any implementation documents, user manuals, operating guides and other related documentation and disclosures provided by Bank, and any addendum to any of the foregoing (collectively the "Services Agreement"). Customer has received and reviewed the Services Agreement and desires to use one or more of the Treasury Management Services.

6. Any one (1) of the persons whose names and signatures appear in Appendix B (individually, a "Treasury Management Signer") are empowered in the name of and on behalf of the Customer to enter into all Treasury Management Services transactions contemplated in the Services Agreement including, but not limited to, selecting Treasury Management Services, appointing agents to act on behalf of Customer in the delivery of Treasury Management Services, signing additional documentation necessary to implement the Treasury Management Services and giving Bank instructions with regard to any Treasury Management Service, including without limitation, wire transfers, ACH transfers, and any other electronic or paper transfers from or to any account Customer may maintain with Bank. Bank may, at its discretion, require Customer to execute additional documentation to implement or amend certain Treasury Management Services. In such cases, documentation necessary to implement or amend such Services shall be signed by a Treasury Management Signer. Customer further acknowledges and agrees that Bank may implement or amend Services based on the verbal, written, facsimile, voice mail, email or other electronically communicated instructions that it believes in good faith to have been received from a Treasury Management Signer. Any one of the Contract Signers (as defined below) is also authorized to execute any documentation that Bank may require to add or delete Treasury Management Signers.

MONEY CENTER AND SAFEKEEPING SERVICES:

7. Any one (1) of the persons referenced in Appendix M (individually, a "Money Center Signer") are each authorized and empowered in the name of and on behalf of the Customer to transact any and all depository and investment business through the Bank's Money Center division (the "Money Center") and any securities custodial business through the Bank's Safekeeping Department (the "Safekeeping Department), which such person may at any time deem to be advisable, including, without limiting the generality of the foregoing, selecting any services that may from time to time be offered by the Money Center or the Safekeeping Department (collectively referred to herein as "Money Center Services" and "Safekeeping Services", respectively), appointing additional Money Center Signers or agents to act on behalf of Customer with respect to Money Center Services and Safekeeping Services, signing additional documentation necessary to implement the Money Center Services and Safekeeping Services and giving Bank instructions with regard to any Money Center Service and Safekeeping Service. Customer has received and reviewed the Services Agreement and may use one or more of the Money Center Services or Safekeeping Services from time to time. Bank may, at its discretion, require Customer to execute additional documentation to implement or amend certain Money Center Services or Safekeeping Services. In those cases, the required documentation shall be signed by a Money Center Signer. Customer further acknowledges and agrees that Bank may take any action with respect to any Money Center Services or Safekeeping Services requested by a Money Center Signer based on the verbal, written, facsimile, voice mail, email or other electronically communicated instructions that Bank believes in good faith to have been received from a Money Center Signer. Any one of the Money Center Signers is also authorized to execute any documentation that Bank may require to add or delete Money Center Signers.

FOREIGN EXCHANGE:

8. Bank is authorized by Customer to enter into foreign exchange transactions. Customer has received a copy of the Services Agreement and agrees that the terms contained in the Services Agreement, this MSA and other disclosures provided to Customer shall govern the foreign exchange services provided by Bank. Customer agrees to provide Bank with a copy of documents requested by Bank.

FOREIGN CURRENCY ACCOUNTS:

9. Bank is hereby designated as Customer's banking depository for one or more Foreign Currency Account(s) (the "Foreign Account(s)"). Any one (1) of the persons whose names and signatures appear in Appendix C (individually, a "Foreign Currency Account Signer") are hereby authorized to open, add, modify, or close any Foreign Account(s) in the name of Customer or its subsidiaries or affiliates and to make, on behalf of Customer, orders for payment or transfer of any of the funds or other property of Customer, whether signed, manually or by use of a facsimile or mechanical signature or otherwise authorized, including those payable to the individual order of the person or persons signing or otherwise authorizing the same. Customer hereby expressly authorizes and directs Bank to accept written and oral instructions any payment orders, by telephone or otherwise, consistent with the Services Agreement. Customer has received a copy of the Services Agreement and agrees that the terms contained in the Services Agreement, this MSA and other disclosures provided to Customer shall govern the Foreign Accounts. Any one of the Contract Signers (as defined below) is also authorized to execute any documentation that Bank may require to add or delete Foreign Currency Account Signers.

OTHER SERVICES:

10. A Contract Signer is authorized and empowered on behalf of Customer to transact any and all other depository and investment business with and through Bank, and, in reference to any such business, to make any and all agreements and to execute and deliver to Bank any and all contracts and other writings which such person may deem to be necessary or desirable.

GENERAL:

11. All Account Signers, Treasury Management Signers, Foreign Currency Account Signers and/or Money Center Signers (whether designated in this MSA or in a prior document [for example, a Certificate of Authority or a Treasury Management Services Agreement] executed by Customer) will remain in place until Bank receives written notice of any change and has a reasonable time to act upon Customer's written notice.

12. Any and all transactions by or in behalf of Customer with the Bank prior to the adoption of this MSA (whether involving deposits, withdrawals, Treasury Management Services, or otherwise) are in all respects ratified, approved and confirmed.

13. Customer agrees to furnish Bank with the names and signatures (either actual or any form or forms of facsimile or mechanical signatures adopted by the person authorized to sign) of the persons who presently are Account Signers, Treasury Management Signers, Foreign Currency Account Signers and/or Money Center Signers. Bank shall be indemnified and saved harmless by Customer from any claims, demands, expenses, loss or damage resulting from or growing out of honoring or relying on the signature or other authority (whether or not properly used and, in the case of any facsimile signature, regardless of when or by whom or by what means such signature may have been made or affixed) of any officer or person whose name and signature was so certified, or refusing to honor any signature or authority not so certified.

Each of the undersigned (individually and collectively, the "Contract Signers") certifies that, based on his or her review of Customer's books and records, Customer has, and at the time of adoption of this MSA had, full power and lawful authority to adopt the MSA and to confer the powers herein granted to the persons named, and that such persons have full power and authority to exercise the same.

Each of the Contract Signers further certifies that he or she has the full power and lawful authority to execute this MSA on behalf of Customer, its subsidiaries and affiliates, or if applicable, as an agent for another entity who has entered into an agreement with Customer authorizing Customer to act on such entity's behalf.

Each of the Contract Signers further certifies that the Account Signers, Treasury Management Signers, Foreign Currency Account Signers and/or Money Center Signers have been duly elected to and now hold the offices of Customer set opposite their respective names, and the signatures appearing opposite their names are the authentic, official signatures of the said signer.

Customer agrees that document electronic signatures or signatures that are transmitted by facsimile or other electronic means shall be binding as of the date signed and to the same extent as original signatures. The parties agree to accept a digital image of this Agreement, as executed, as a true and correct original and admissible as best evidence for the purpose of state law, federal or state rules of evidence, and similar statutes and regulations

The MSA shall be effective as of the last date of the undersigned Contract Signers:

Signature:		Signature:	
Print name:		Print name:	
Print title:		Print title:	
Email address:		Email address:	
Date:		Date:	
Signature:		Signature:	
Print name:		Print name:	
Print title:		Print title:	
Email address:		Email address:	
Date:		Date:	
Signature:		Signature:	
Print name:		Print name:	
Print title:		Print title:	
Email address:		Email address:	
Date:		Date:	
Signature:		Signature:	
Print name:		Print name:	
Print title:		Print title:	
Email address:		Email address:	
Date:		Date:	

For Internal Use Only:

Review: _____ Validation Method: _____ TL Review _____ Imaged: _____

U.S. Bank Services

Terms and Conditions

Thank you for choosing U.S. Bank Services. This document provides product information, disclosures and descriptions of the Global Treasury Management, Foreign Exchange, and Money Center and Safekeeping Services ("Services") available at U.S. Bank. Other documents may become part of our Agreement depending on the Services selected. Please read all documents carefully; they will govern the Services provided to you, the Customer.

Customer shall not be bound by the terms and conditions for specific Services to the extent Customer is not using such Service(s).

U.S. Bank National Association

Member FDIC

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I. INTRODUCTION

1. Definitions.

a. “Agent” means any director, officer, employee, representative, affiliate, third-party vendor or any other person or automation acting on behalf of the Customer with the actual, implied, or apparent authority of Customer. Bank may rely on any grant of authority until it receives written notice of its revocation and is given a reasonable amount of time to act upon such notice.

b. “Bank” means U.S. Bank National Association and each subsidiary or affiliate of U.S. Bank that provides Services to Customer.

c. “Business Day” means any day on which a majority of Bank’s offices are open to the public for substantially all banking functions. Saturdays, Sundays, federal or state holidays or any day recognized by a Federal Reserve Bank as a holiday shall not be considered a Business Day, even if Bank’s offices are open.

d. “Customer” means the business entity, and any parent company, subsidiary, or affiliate, for whom Bank provides a Service.

e. ”Internet Service” or “Internet Services” means one or more Services offered by Bank via the Internet.

f. “Service” or “Services” means one or more global treasury management, foreign exchange, or money center and safekeeping services offered by Bank.

g. “Terms of Use” means terms or rules of use posted by Bank governing Customer’s use of Internet Services.

h. "Written," "writing" and other like terms mean, unless otherwise provided or required by context, both paper and electronic forms of communication such as emails, faxes, digital images and copies, electronic notices capable of being stored and printed, and similar electronic versions. To the extent permitted under applicable law or regulation, signatures may be made and delivered electronically, whether digitally or otherwise, which shall have the same legal validity and enforceability as manually executed signatures and are binding on the parties. The parties may rely on electronic forms of documents subject to any applicable law, regulation, or rule.

2. Other Agreements, Laws, and Regulations. These terms and conditions and the Master Services Agreement (or existing Treasury Management Service Agreement or equivalent document executed by Customer) are collectively referred to herein as the “Agreement.” The Services are provided to Customer subject to the following other documents, laws, and regulations, which are hereby incorporated into and made part of this Agreement:

a. the setup materials, user guides, and any supplement thereto required by Bank to implement a specific Service (referred to in the Agreement as the “Implementation Documents”);

b. the most current fee and availability schedule and other fee disclosures provided to Customer, including account statements;

c. the provisions of the then-current deposit account agreement and accompanying disclosures, which govern deposit accounts and other depository services;

d. the Uniform Commercial Code, as enacted in the State of Minnesota;

e. any applicable automated clearinghouse operating rules, including, without limitation, the National Automated Clearing House Association Operating Rules and Guidelines (the “NACHA Rules”), the Real-Time Payments Operating Rules, and the rules promulgated by the Electronic Check Clearing House Organization (the "ECCHO Rules") and The Clearing House; and

f. federal, state and local laws and regulations applicable to Bank or Customer, including, without limitation, Regulation CC promulgated by the Board of Governors of the Federal Reserve System, 12 CFR Section 229.1, et seq. ("Regulation CC"), all Operating Circulars promulgated by the Board of Governors of the Federal Reserve System, and the regulations overseen by the Office of Foreign Assets Control (“OFAC”).

3. Change of Terms. Bank may change the terms of this Agreement at any time upon reasonable written notice to Customer or by any other method permitted by law. Customer’s continued use of the Services after the effective date of any change to the terms shall be deemed Customer’s consent to the revised terms. Any other variations to this Agreement must be in writing and executed by Bank. In the event performance of the Services in accordance with the terms of this Agreement would result in violation of any present or future statute, regulation, government policy, or relevant clearing or central bank agreements or settlement systems to which Bank is subject, and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation, policy, agreement or systems, and Bank shall incur no liability to Customer as a result of such violation or amendment. No course of dealing between Bank and Customer will constitute a modification of this Agreement or constitute an agreement between the Bank and Customer regardless of whatever practices and procedures Bank and Customer may use. Bank may change the Terms of Use for any Internet Service at any time by posting notice of such change via an alert or message on a broadcast or message page of the website (“Broadcast Message”). All changes shall have an effective date. Customer’s use of the Internet Service after the effective date of any such change shall constitute an acceptance of the revised Terms of Use by Customer. Customer is responsible for establishing an internal procedure for reviewing the Broadcast Message page on a regular basis to obtain timely notice of changes to the Terms of Use. In the event that a specific Internet Service does not have Broadcast Message capability, Customer will be notified of any changes in accordance with Section II.25 hereof.

4. No Third-Party Beneficiaries/Third-Party Claims. Services provided by Bank are for the sole and exclusive benefit of Customer, and no other persons or organizations shall have any of the rights and remedies arising under this Agreement. Customer agrees to defend, indemnify and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities and damages of third parties of any nature whatsoever, including, without limitation, reasonable attorney fees and court costs at trial or appeal arising directly or indirectly from any Service delivered to Customer pursuant to this Agreement.

6. Foreign Account Tax Compliance Act. If a payment made by either party under this Agreement is or could become subject to the U.S. Federal withholding tax imposed by Sections 1471 through 1474 of the Internal Revenue Code of 1986, as amended (“FATCA”), then (i) each party shall provide to the other party such information, and shall disclose to the applicable governmental authorities such information, as may be required in order for such party to comply with all applicable requirements of FATCA and to determine that the other party has complied with FATCA, and (ii) a party that fails to comply with FATCA shall indemnify the other party for all costs, damages, and liabilities arising out of such party’s failure to comply with FATCA. Customer is responsible for providing Bank with all necessary documentation to establish that payments to Customer are exempt from FATCA withholding.

7. Disclaimer of Warranties. BANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND OF MERCHANTABILITY, EITHER TO CUSTOMER OR TO ANY OTHER PARTY, WITH RESPECT TO THE SERVICES PROVIDED BY BANK OR ITS AGENTS OR WITH RESPECT TO SOFTWARE PRODUCTS PROVIDED OR MADE AVAILABLE TO THE CUSTOMER FOR ITS USE BY BANK IN CONNECTION WITH THIS AGREEMENT AND ANY SERVICE. BANK PROVIDES ALL INTERNET SERVICES ON AN “AS IS,” “AS AVAILABLE” BASIS AND MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE INTERNET SERVICES OR THE CONTENT OR SECURITY OF ANY WEBSITE. WITHOUT LIMITING THE FOREGOING, BANK DOES NOT WARRANT THAT THE OPERATION OF ANY WEBSITE WILL BE UNINTERRUPTED OR ERROR FREE. CUSTOMER IS RESPONSIBLE FOR TAKING APPROPRIATE PRECAUTIONS AGAINST DAMAGE TO ITS OPERATIONS WHICH COULD BE CAUSED BY INTERRUPTIONS OR MALFUNCTIONS OF ANY WEBSITE AND ASSUMES THE RISK OF SUCH OCCURRENCES.

II. TERMS APPLICABLE TO ALL GLOBAL TREASURY MANAGEMENT, FOREIGN EXCHANGE AND MONEY CENTER AND SAFEKEEPING SERVICES

1. Services. Bank may provide Services that are not specifically included in the Services section of this Agreement. By accepting and using any Service, Customer agrees that the Service will be governed by this Agreement and any other conditions communicated to Customer by Bank. Certain Services included in this Agreement may not be available or may not be provided in certain market areas. If requested by Customer and agreed to by Bank, Bank will grant Customer access to one or more of Bank's Internet Services in the manner established by Bank. Customer shall use its access to Internet Services and websites operated by or on behalf of Bank only to conduct its business through or with Bank and agrees to limit access to those Agents who require access to Internet Services. In addition to this Agreement and applicable law, Customer agrees that its use of the Internet Services shall be governed any applicable Terms of Use. In the event of a conflict between the Terms of Use and the rules set forth in this Agreement, the Terms of Use shall govern.

2. Proprietary Information. Customer acknowledges that this Agreement, all related documentation and computer programs and systems used in providing Services, and all information related thereto constitute proprietary property of Bank that is of great commercial value. Customer agrees that it shall not acquire any proprietary interest or rights therein as a result of its use of the Services and shall keep all such proprietary information strictly confidential.

3. Representations and Warranties. Customer and Bank each represent and warrant to the other, as of the date this Agreement is entered into and at the time any Service is used or performed, that: (a) it is validly existing and in good standing under the laws of the jurisdiction of its organization; (b) it has all requisite power and authority to execute and deliver, and to perform its obligations under, this Agreement and each Service used or performed by it; (c) this Agreement has been duly authorized and executed by it and constitutes its legal, valid and binding obligation; (d) any consent or authorization of any governmental authority or third party required to be obtained by it in connection with this Agreement or any Service used or performed by it has been obtained; and (e) the Services received are for business use only and are not primarily for personal, family or household use. In addition, Customer represents and warrants to Bank that this Agreement will not violate: (i) any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on Customer or Customer's use of any Services; or (ii) the provisions of any agreement to which Customer is a party or is subject, or by which it, or its assets, is bound, or conflict with or constitute a default thereunder. Customer represents and warrants that is has collected appropriate consents to provide its Agents' and other employees' personal information to Bank (and its subcontractors) to provide the Services, including generating the Codes (defined below). To the extent applicable to Customer, Customer represents and warrants that it is not using any of the Services in the delivery of Title IV funds under 34 C.F.R. § 668.

4. Financial Review. Bank's willingness to provide Services to Customer is dependent on the Customer's financial condition. Customer's financial condition is subject to review by Bank from time to time, and such reviews must be satisfactory to Bank in its sole discretion and opinion. Customer shall, upon request, provide to Bank any such information as Bank may require to perform any such review. Customer's failure to meet such standards or provide such information or assistance when requested shall constitute a breach of this Agreement and shall permit Bank to cease providing Services upon written notice to Customer.

5. Fees. Unless otherwise agreed to by Bank in writing, Customer shall pay Bank the fees, charges and assessments set forth for the Services provided in the most current fee schedules and other fee disclosures provided to Customer (including account statements), plus additional fees and expenses for extraordinary Services. The price schedule for each Service shall be deemed accepted by Customer upon provision of the Service to Customer. In addition, Customer shall pay Bank the amount of any taxes levied or leased on fees charged pursuant to this Agreement, including, without limitation, federal, state, or local privilege excise or sales taxes based on gross revenue, any taxes or amount in lieu thereof paid or payable by Bank, excluding Bank's income taxes and any assessments charged to Bank directly as a result of providing the Services. Bank may change the amount or type of service charges from time to time. Fees for Services used by Customer may be charged in full to Customer's account(s) or may be offset through account analysis by applying earnings credit to Customer's service charges to determine a single monthly net service charge. The applicable earnings credit rate is established by the Bank and will change from time to time without advance notice to Customer. Customer's net service charge could be zero if such earnings credit exceeds total charges in a given month, however excess earnings credits are not refundable as a payment and unused earnings credits shall be forfeited according to a schedule established by Bank or agreed to by the parties. If Customer's earnings credit is insufficient to offset the amount due hereunder, Customer agrees to pay such amount to Bank upon demand. If the earnings credit rate for Customer's account(s), or the index or other referenced rate upon which the earnings credit rate is based, is at any time less than zero percent, Customer agrees to pay all amounts of the negative earnings credit or fees imposed by Bank as compensation for the negative earnings credit rate. Customer authorizes Bank to debit Customer's account(s) with Bank for any and all fees, expenses or other charges owed by Customer to Bank under this Agreement.

6. Accounts.

a. Deposit Accounts. Most Services require that Customer maintain one or more deposit accounts with Bank. All checks, wire transfers, ACH payments and other items deposited into such accounts are provisionally credited and taken subject to later verification by Bank and Bank's receipt of final settlement. Deposited items that are deposited and later returned unpaid will be charged against the account without prior notice. Customer agrees to pay Bank for any overdraft or overpayment in any of Customer's accounts. If the interest rate for any of Customer's deposit accounts, or the index or other referenced rate upon which the interest rate for such accounts is based, is at any time less than zero percent, Customer agrees to pay Bank all amounts of the negative interest or fees that Bank imposes as compensation for the less-than-zero interest rate. Customer authorizes Bank to charge any account Customer maintains with Bank for any amount remaining due under this Section.

b. Virtual Accounts. If requested by Customer and agreed to by Bank, Customer may elect to open, close, and/or maintain one or more virtual subaccounts ("Virtual Account") in a structure beneath Customer's deposit account at Bank. Customer agrees that (i) Customer will be considered owner of the funds, including for tax purposes, within any Virtual Account, regardless of the subaccount structure created by Customer, and as such is responsible for any obligations arising from ownership of such funds; (ii) Customer is responsible for and assumes all liability for Agents of Customer granted access to any Virtual Account; (iii) Customer is responsible for compliance with any and all laws and regulations applicable to such Virtual Accounts; and (iv) unless approved in writing by Bank, Customer shall not assign any Virtual Account to any legal entity other than the legal entity to which the deposit account is titled.

7. Security Interest. Customer grants to Bank a consensual possessory security interest in Customer's deposit accounts maintained with Bank and the funds held therein to secure payment of all of Customer's obligations under this Agreement.

8. Accuracy and Timeliness of Information. Bank will use reasonable efforts to provide the information requested through the Services in a prompt fashion but shall not be liable for temporary failure to provide timely information. In such event, Customer shall be responsible for carrying out banking business through alternative delivery channels. Bank shall not be liable for any inaccurate or incomplete information with respect to transactions which have not been completely processed or posted to Bank's systems prior to being made available pursuant to the Services.

9. Authorized Signers, Authorized Users, and System Administrators. Customer shall appoint certain Authorized Signer(s) in the Master Services Agreement or in such other format or document as may be agreed by Bank. Customer agrees that Authorized Signers shall be authorized to act on behalf of Customer in all actions taken under this Agreement and may enter into all transactions contemplated in this Agreement, including, without limitation, selecting Services for the benefit of Customer, appointing initial system administrator(s), and signing

additional documentation that may be necessary to implement Services and giving instructions with regard to any Service, including, without limitation, wire transfers, ACH transfers and other electronic or paper transfers from or to any account Customer maintains with Bank. If Customer uses Internet-based services, Customer shall designate one or more system administrators ("System Administrator(s)"). The Authorized Signer(s) or System Administrator(s) shall appoint Agents to access or use the Services provided for the benefit of Customer ("Authorized Users"). Authorized Users may act on behalf of Customer for a particular Service in accordance with the relevant Implementation Documents or other document(s) establishing the Authorized Users' responsibilities or in accordance with the authority granted by Customer. An Authorized User may submit documents or forms to Bank via a secure communications channel offered by Bank, such as, but not limited to, encrypted email from a validated email address or a Bank platform requiring sign-on credentials. Bank may rely on any signature (electronic, facsimile, wet ink, etc.), including a signature other than that of the Authorized User, on a document or form, or image thereof, submitted via any such method. Customer may revoke the authority of or change the Authorized Signers at any time upon prior written notice and execution of additional documentation required by Bank. Such change or revocation shall not be binding upon Bank until it has received the required written notice and has had a reasonable opportunity to act thereon. In any event, Bank may act on instructions that it believes in good faith were provided by an Authorized Signer or Authorized User, or anyone purporting to be an Authorized Signer or Authorized User.

The System Administrator shall be responsible for setting up Internet Services and for establishing internal security procedures related to such Internet Services, which may be made available through applications or systems offered by Bank, including, without limitation, accepting delivery of software, system-wide configuration of Bank accounts, appointing Authorized Users, establishing authority levels, authorization requirements and payment limits, and distributing and resetting IDs, passwords and other internal security devices related to the Internet Services. Customer represents and warrants to Bank that any actions taken by the System Administrator in relation to the Internet Services including, without limitation, the appointment of Authorized Users and the access, automation and privileges granted to such Authorized Users, are duly authorized by Customer.

System Administrators shall assign only one ID to each Authorized User or System Administrator to identify the Authorized User of System Administrator within Bank's internet platform. If an Authorized User or System Administrator is assigned more than one ID, Customer releases and holds Bank harmless from any damages or losses suffered as a result, including, but not limited to, the use of multiple IDs to authorize or authenticate payments from Customer's account(s).

10. Forms Approval and Service Implementation. Bank reserves the right to approve the form of Customer's checks, drafts, deposit slips and similar documentation. Prior to initiating a new account or Service, or at any other necessary time, Customer agrees to provide all information and conduct any test that Bank may reasonably request, including, without limitation, completing Implementation Documents and signature cards, providing corporate resolutions and other documents, and assessing test tapes and transmissions. Customer acknowledges that Services will not commence or continue until such time as an approved item or test is provided to Bank and determined by Bank to be satisfactory. During the implementation process, Customer may be required to provide information, perform testing, or otherwise engage with Bank. Customer acknowledges that its failure to timely perform any such task may delay implementation. Customer shall be responsible for initial product installation, whether or not Bank provides telephone or on-site installation support.

11. Security Procedures.

a. Introduction. Customer agrees that Bank may select, in its sole discretion, security procedures that must be used in connection with certain Service(s), including Internet Services. Customer acknowledges and agrees that it understands Bank's security procedures, and that such security procedures are commercially reasonable. Customer agrees that its use of Bank's security procedures constitutes its agreement to such security procedures, regardless of whether Bank has communicated such security procedures to Customer. Customer represents and warrants that it will comply with Bank's security procedures. Customer agrees to be bound by any payment order, transaction or service change order that is acted upon by Bank in accordance with such security procedures. Bank reserves the right to reject any transaction or Service request that is not made in accordance with such security procedures. Customer understands that the security procedures are not intended for the purpose of detecting errors in the transmission or content of information controlled by Customer. If Customer selects certain security procedures to use in connection with a Service and those security procedures provide less protection against unauthorized transactions or activity than other security procedures offered by Bank in connection with such Service, the security procedures selected by Customer shall be deemed commercially reasonable to the same extent as the security procedures offered by Bank that provide greater protection. Customer acknowledges that, in order to meet the constantly evolving threat of account fraud, the Bank's security procedures also need to evolve over time. Bank reserves the right, and Customer agrees that Bank shall have the right, in its sole discretion, to issue new security procedures and/or to cancel or change any security procedures by giving verbal or written notice to Customer. The new or changed security procedures shall become effective upon notification unless Bank provides an effective date to Customer. Customer acknowledges and agrees that, notwithstanding anything to the contrary set forth in the Agreement, reasonable notice may be less than a day's notice or even contemporaneous. Customer agrees that its use of such new or changed security procedures constitutes its agreement: (i) to use the new or changed security procedures, regardless of whether Bank has communicated the new or changed security procedures to Customer, and (ii) that such new or changed security procedures are commercially reasonable. Bank also reserves the right to periodically audit Customer's security procedures and information technology processes, and to mandate controls or suspend Services until Customer complies with such security procedures.

b. Access. Customer shall be solely responsible for designating authorized access to Services. Access to Services may be controlled through the use of user IDs, personal identification numbers, passwords, digital certificates/signatures, biometric authentication, private keys or other security devices ("Codes"). Customer is solely responsible for maintaining its own internal security and agrees to use the utmost care in selecting any company, individual or automation given access to one or more of the Services. Codes that are assigned to individual Authorized Users shall not be shared with any other person, including other Authorized Users and Customer shall not disclose any information regarding the Services that an unauthorized user would find helpful to obtain access to all or part of any Service. Customer assumes all risk of accidental disclosure or inadvertent use of any Codes, whether such disclosure or use arises out of Customer's negligent or deliberate acts or otherwise. If Customer or its Agents has reason to believe that any security procedures or Codes have or may become known by unauthorized persons (whether or not employed by Customer) or if Customer believes its network or computer systems have been compromised or its computers infected, Customer shall immediately notify Bank by telephone and confirm such verbal notification in writing to Bank within 24 hours. Bank will replace the security procedures and/or Codes in accordance with Bank's procedures. Customer shall be solely responsible for funds transfer instructions and other communications or transactions initiated before Bank received Customer's notice and had a reasonable time to act on such notice. Customer agrees to defend, indemnify and hold Bank harmless from and against any claims, losses, damages, costs, expenses, fines and other liabilities arising out of Customer's failure to maintain the security and confidentiality of the Codes or arising out of the unlawful use of any website or portal by Customer or any person or automation that obtains access to a website or portal using the Codes.

c. Confidentiality. Customer and Bank represent, warrant and mutually agree that all confidential information concerning the other party or parties that comes into its possession in connection with any of the Services will be maintained in strictest confidence and shall not be used or divulged to any other party except as may be necessary or advisable for the due performance of any of the Services, as required by applicable law, or as otherwise agreed or consented to by the parties. Bank shall maintain physical, electronic, and procedural safeguards to keep Customer's

confidential information secure. Customer's obligation to maintain the confidentiality of all security procedures shall survive the termination of any Service or this Agreement. Customer acknowledges that certain Services may involve the handling of confidential consumer information that may be subject to privacy laws and regulations, including unauthorized access or breach notification regulations. Customer agrees to notify Bank immediately if Customer sends or receives Protected Health Information (as defined in the Health Insurance Portability and Accountability Act of 1996) that requires the execution of a business associate agreement. Customer consents to Bank sharing confidential information with its affiliates in order to provide recommendations to Customer of additional products and services that Bank reasonably believes may be of interest to Customer.

d. Verbal or Written Instructions. For some Services, Bank may choose to honor Customer's request to give Bank verbal or written instructions regarding the Services. Customer agrees that Bank may in good faith rely on such verbal or written instructions that purport to come from an authorized Agent of the Customer without independent verification by Bank.

e. Fraud Prevention Measures. Bank offers certain products, Services, and security procedures, such as, but not limited to, Positive Pay, Payee Positive Pay, account blocks or filters, and multi-factor authentication, that are designed to detect or deter fraud. Failure to use such products, Services or security procedures could substantially increase the likelihood of fraud. If Customer fails to implement any of these products, Services or security procedures, or if Customer fails to follow these or other precautions reasonable for its particular circumstances, Customer agrees that, except with respect to liability, loss or damage caused by Bank's own lack of good faith or failure to exercise ordinary care: (i) it will be precluded from asserting any claims against Bank for paying any unauthorized, altered, counterfeit or other fraudulent item that such product, Service, security procedure or precaution was designed to detect or deter; (ii) Bank will not be required to re-credit Customer's account or otherwise have any liability for paying such items; and (iii) Customer will pay all costs and expenses incurred by Bank for all efforts undertaken by Bank to recover any losses incurred by Customer.

f. Waiver of Security Procedures. Customer, after having been offered Bank's security procedures, may request that payment orders, transactions, or services orders be authenticated using a different security procedure. Bank, in its sole discretion, may elect to permit Customer to use such a security procedure. In such circumstances, Customer agrees that it shall be bound by any payment order, transaction, or service order authenticated by its selected security procedure whether or not such payment order, transaction, or service order is properly authorized.

g. Internet Services. Customer shall at all times use a Web browser that supports the level of encryption used by Bank as part of its security procedures. Customer is solely responsible for maintaining a secure work environment to ensure against the use of Internet Services by unauthorized individuals or unauthorized automated access. Security procedures to be followed by Customer include, without limitation, informing Authorized Users that any passwords should not be shared, securing physical access to the terminals used for Internet Services when an Authorized User has logged in to an application or system and, if applicable, identifying secure methods for controlling authorized automated access to an application or system.

h. Antivirus Protection. Customer agrees to run antivirus software before transmitting data to or through any website. Customer may use any commercially available, industry recognized antivirus software of the type that detects and disinfects viruses automatically, without the need for the Customer to execute virus scanning for each file manually. Customer shall update its antivirus software on a regular basis and in no event less often than once every week.

i. Anti-malware Protection. Bank may offer complimentary anti-malware software for use with certain Services that is designed to detect, deter, or destroy different types of known malware. Failure to install anti-malware software offered by Bank could substantially increase the likelihood of fraud and other losses. If Customer fails to install software offered by Bank or other commercially reasonable anti-malware software, Customer agrees that, except with respect to losses caused by Bank's own lack of good faith or failure to exercise ordinary care, it will be precluded from asserting claims against Bank for any losses caused by malware which such software would have detected, deterred or destroyed. Bank will not be required to re-credit Customer's account or otherwise have any liability for such losses.

j. Network Security. Customer agrees to install and utilize current industry-standard network security for its information technology systems that access Services via the Internet. Network security protection includes, but is not limited to, firewalls and intrusion detection systems. For certain Services, Bank may require Customer maintain specific network security protection in order to access the Services.

12. Unsecured Electronic Transmissions and Instructions. Bank shall transmit to Customer information related to Services via secure electronic transmissions. If Customer elects to send or receive instructions or reports from Bank via unsecured electronic means, including, without limitation, facsimile transmission, voice mail, unsecured email, pager or other unsecured electronic or telephonic methods ("Electronic Transmission"), Customer acknowledges that such Electronic Transmissions are inherently insecure communication methods due to the possibility of error, delay and observation or receipt by unauthorized personnel. Bank may rely in good faith on Customer's instructions regarding how and to what number or email address Electronic Transmissions should be sent and may rely on any Electronic Transmission that it reasonably believes to have been initiated by the Customer. Should Customer elect to send or receive unsecured Electronic Transmissions to or from Bank, Customer assumes all risks, and Bank shall not be liable for any loss, that results from the nonreceipt, disclosure, alteration, or unauthorized access of any such unsecured Electronic Transmission.

13. Account Blocks and Filters. ACH debit blocks and check blocks prevent ACH debits and checks from posting to Customer's account. ACH filters and check filters enable Customer to set various criteria to authorize certain transactions to post to Customer's account while excluding others. If an ACH debit or check filter is established by Customer, any ACH debit entry or check presented that does not specifically meet the criteria will be dishonored or sent back to the originator of the transaction. Customer acknowledges that the effectiveness of the filters is dependent on the accuracy and timeliness of the information provided by Customer. In addition, Customer acknowledges that payments to Bank and certain Bank-approved vendors cannot be blocked and that certain ACH transactions such as returns, settlements or adjustments cannot be blocked per NACHA Rules. If Customer desires to modify a block or filter setting, Customer shall notify Bank at least 72 hours in advance of the changes taking effect.

14. User Manuals; Computer Equipment and Software. Bank may provide Customer with one or more user guides or manuals ("User Manual") in paper or electronic format that will set forth the applicable policies and procedures related to a Service with which Customer agrees to comply. Bank may, without prior notification, make amendments to any User Manual. Bank owns or has obtained all proprietary rights to the User Manuals and Customer agrees not to duplicate, distribute, or otherwise copy Bank's User Manuals without Bank's prior written consent. Any User Manual will at all times remain the property of Bank and Bank reserves the right to request Customer to return all printed copies of such User Manual within thirty (30) days of termination of the applicable Service. Many Services require the use of computer hardware and software or other equipment. Customer is responsible for maintaining its computer and equipment (including those provided by or through Bank for use with Services) in good working order. Customer shall ensure that computers and other equipment have the necessary compatibility and format to interface with Bank's systems, including, without limitation, the ability to support the Bank's security procedures. Customer agrees to install upgrades and other system enhancements within a reasonable time after being requested to do so by Bank. License agreements for necessary software shall either be embedded in the software or separately documented. Customer agrees to comply with all applicable software license agreements, whether or not such agreements have been executed by Customer. Customer has no rights or ownership in any software provided by or through Bank and shall not transfer, copy, alter, modify, reverse engineer, reproduce, or convey in any manner, in whole or in part, any such software. Customer shall return all software and User Manuals

associated with any software upon request. Bank makes no representations or warranties with respect to any equipment or software provided by Bank.

15. Transactions on Non-Business Days/Cutoff Times. Transactions, deposits, payment orders, entries or other requests by Customer received by Bank on a non-Business Day, after established cutoff deadlines, or during a maintenance window may be treated by Bank as received on the next Business Day or may not be processed at all. Bank may change any cutoff time or other deadline at any time. Bank will make a reasonable effort to notify Customer of any changes in advance.

16. Customer-Initiated Transactions and Instructions. Bank will honor Customer's transactions and instructions (including adjustments, amendments, and cancellations) only when Customer has complied with this Agreement and related policies and procedures. Bank will be under no obligation to honor, either in whole or in part, and may, in its sole discretion, delay, suspend or reject any transaction or instruction that:

a. exceeds Customer's collected or available funds on deposit with Bank;

b. Bank has reason to believe may not be authorized by Customer;

c. involves funds subject to a hold, dispute or legal process preventing their withdrawal;

d. violates any provision of any applicable regulation of the Federal Reserve Bank or any other federal, state, or local regulatory authority;

e. requires Customer, at Bank's sole discretion, to complete an additional security procedure due to characteristics of such transaction or instruction before processing;

f. requires Bank to complete regulatory or legal clearance requirements, such as OFAC screening; or

g. Bank has reasonable cause not to honor, for the protection of either Bank or Customer.

17. Inconsistent Name and Account Number. If Customer or third party acting on Customer's instruction initiates a fund transfer instruction or payment order ("Payment Order") to Bank that describes the person to receive the proceeds of such Payment Order (the "Beneficiary"), the Beneficiary's bank, or an intermediary bank by name and an account or other identifying number, Bank and subsequent parties to the Payment Order, including the Beneficiary's bank, may rely on and act solely on the basis of such number, even though the name and number do not agree and even though Bank and subsequent parties know or have reason to know of the inconsistency. Customer's obligation to pay the amount of the Payment Order to Bank is not excused in such circumstances. With respect to incoming Payment Orders that do not include an account number recognizable to Bank, Bank may return the Payment Order to the sending financial institution without incurring any liability to Customer.

18. Intercompany Services/Authority to Transfer or Commingle Funds. In the event that Customer lists entities in an appendix to the Master Services Agreement or in any other document, or otherwise requests Bank to provide Services to a parent company, subsidiary, affiliate, or other commonly owned company, Customer agrees that it shall be jointly and severally liable for such company's obligations under this Agreement. Customer hereby represents and warrants to Bank that any and all transfers and commingling of funds required or permitted by any Service or requested by Customer, and all other aspects of the performance hereby by Bank and Customer, have been duly authorized by all necessary parties, including, without limitation, the account holder of each account, and that Customer has obtained and shall maintain in its regular business records and make available to Bank upon reasonable demand, for a period of seven (7) years after termination of the Service, adequate documentary evidence of such authorization from the account holder of each account, executed by the duly authorized officer(s) of each such account holder in accordance with that account holder's bylaws and/or board resolutions. Customer further represents and warrants that each transfer or commingling of funds authorized hereunder is not in violation of any agreement, bylaw, or board resolution of Customer or any of its affiliates or subsidiaries, nor is it in violation of any applicable federal, state, local law, regulation, of any decree, judgment, order of any judicial or administrative authority. Each representation and warranty contained herein shall be continuing and shall be deemed to be repeated upon Bank's effecting each transfer and commingling of funds authorized hereunder.

19. Customer Records. This Agreement and the performance of Services by Bank shall not relieve Customer of any obligation imposed by law, clearinghouse rules (including the NACHA Rules and ECCHO Rules), or by contract regarding the maintenance of records, or from employing adequate audit, accounting and review practices as are customarily followed by similar businesses. In addition, Customer shall retain and provide to Bank, upon request, all information necessary to remake or reconstruct any deposit, transmission, file, or entry for thirty (30) days following receipt by Bank of the deposit, file, entry, transmission, or other order affecting an account.

20. Account Communications and Review Period. Customer agrees to regularly and promptly review and verify all statements, reports, check payment records, wire transfer instructions, confirmations, adjustments, charges, and other transactions ("Account Communications"). Customer may receive or access Account Communications electronically, including without limitation, delivery by posting to a password-protected website or database. Customer acknowledges that any Account Communication provided by Bank through electronic delivery is deemed to constitute good and effective delivery when posted by Bank, regardless of whether Customer actually or timely receives or accesses such Account Communication. Unless a different review period is specified elsewhere in this Agreement, Customer shall, within a reasonable time, which in no event shall be greater than thirty (30) calendar days following the day Bank first mails, electronically transmits or otherwise makes data available to Customer ("Review Period"), notify Bank of any error or discrepancy between Customer's records and any Bank notice or statement, or any transaction or transfer Customer believes was not authorized. If Customer fails to notify Bank of such unauthorized transaction within the Review Period, Customer agrees that the failure to report any such errors or unauthorized transactions shall relieve Bank of any liability for the unreported erroneous or unauthorized transaction. In accordance with NACHA Rules, Customer must report an unauthorized ACH debit entry to the Customer's account by the established deadline on the Business Day following the settlement date of the unauthorized entry. Otherwise, Customer's sole recourse is to the originator of the transaction.

21. Communications.

a. Monitoring and Recording. Customer acknowledges and agrees that Bank, or anyone acting on Bank's behalf, may monitor and/or record any communication between Customer, or its Agent, and Bank, or anyone acting on Bank's behalf, for quality control, security, and other purposes. Customer also acknowledges and agrees that this monitoring or recording may be done without any further notice to Customer or its Agent. The communication that may be monitored or recorded includes telephone calls, cellular or mobile phone calls, electronic mail messages, text messages, instant or live chat, or any other communications in any form.

b. Telephone Calls and Text Messages. Customer gives Bank express consent to make calls to any telephone number provided by Customer to Bank, including to cellular (mobile) phone numbers. Consent includes authorization to use any means, including automatic dialing technology, artificial and pre-recorded voices, and text messages, for servicing and other non-telemarketing purposes.

22. Limitation of Bank's Liability for Services. Customer acknowledges that Bank's fees for Services are very small in relation to the amounts of transfers initiated through these Services and consequently Bank's willingness to provide such Services is based on the liability limitations contained in this Agreement. In addition to greater limitations on Bank's liability that may be provided elsewhere in this Agreement, (a) Bank's liability related to any Service shall be limited exclusively to actual proven damages arising directly from its own gross negligence or willful misconduct; and (b) Bank shall not be liable for any loss or damage arising directly or indirectly from the following:

i. any inaccuracy or incompleteness in the input of an order or instruction from the Customer;

ii. any failure by Customer to obtain a confirmation of an order or instruction; or

iii. any cancellation or attempted cancellation by Customer of an order or instruction.

Except for claims arising directly from Bank's own gross negligence or willful misconduct, Bank's liability for violations of Bank's obligations set forth in Section II.11(c) shall be limited to the amount of fees paid by Customer during the twelve (12) month period preceding the date on which the claim arose. Bank will not, under any circumstances, be liable for any special, incidental, indirect, consequential, punitive or similar losses or damages, whether or not the likelihood of such losses or damages was known by either party at the time Customer first obtains Services from Bank or at the time any instruction or order is given to Bank pursuant to any Service, and whether such losses or damages arise from tort, contract, loss of investment opportunity, lost or reduced profits, or otherwise. Bank's maximum liability for any loss of interest shall be calculated using a rate equal to the average Federal Funds rate at the Federal Reserve Bank of New York for the period involved. Notwithstanding the foregoing, Bank shall not be liable for any losses or damages caused, in whole or in part, by the action or inaction of Customer, or any Agent or employee of Customer, whether or not such action or inaction constitutes negligence or a breach of this Agreement. Bank shall not be liable for any damage, cost, loss, liability or delay caused by a force majeure event, including but not limited to, accident, strike, labor dispute, fire, flood, war, riot, terrorist act, government restrictions, compromise of the confidentiality, integrity, or availability of Customer's data or information, exchange or market rulings, market volatility, suspension of trading, equipment breakdown, electrical, telephone, Internet or mechanical failures, acts of nature, epidemic, any cause which is attributable to a third party, or any other cause or event that was beyond Bank's reasonable control whether or not reasonably foreseeable. Customer agrees that the fees charged for the performance of the Services shall be deemed to have been established in contemplation of these liability limitations.

23. Dispute Resolution.

a. Governing Law. Except as otherwise provided herein, this Agreement shall be governed by the laws of the State of Minnesota, without regard to conflicts of law principles.

b. Jury Trial Waiver. To the fullest extent permitted by law, Bank and Customer hereby agree to waive trial by jury in any judicial proceeding involving, directly or indirectly, any matter (whether in tort, contract or otherwise) in any way arising out of, related to, or connected with these Services or this Agreement. Bank and Customer represent and warrant to each other that this jury trial waiver is knowingly, willingly, and voluntarily given.

c. Jurisdiction and Venue. Customer consents to the jurisdiction of the courts of the State of Minnesota, waives any argument that such venue is inconvenient and agrees to bring litigation commenced in connection with this Agreement in either the District Court of Hennepin County or the United States District Court, District of Minnesota, Fourth Division.

d. Collection Costs. Should Bank have to undertake any action to recover any amount due under this Agreement for the Services, including, without limitation, fees, overdrafts or overpayment, Customer shall be liable to Bank for the cost of such effort, plus reasonable attorney fees.

e. Adverse Claims. If Bank receives an adverse claim against any account, and Bank reasonably believes that it will not be protected if the claim is ignored, Customer agrees that Bank may place a hold on the affected account. Any such hold will remain in place only so long as reasonably necessary to resolve the claim or employ legal remedies to allow a court to decide such claim. Assuming compliance with this Section, Bank shall have no liability for dishonored transactions due to the hold, and Customer agrees to reimburse Bank all costs, including reasonable attorney fees, incurred due to such adverse claim.

24. Necessary Third-Party Service Providers.

a. Third-Party Networks. Some Services are provided by Bank through access to a third-party network. Such Services are dependent upon the availability of the third-party network on conditions acceptable to Bank. Bank reserves the right to discontinue the Service or provide the Service through an alternative third-party network and shall have no liability should such network become unavailable. Bank does not warrant and shall not be responsible for Services received by Customer from any third-party network.

b. Third-Party Vendors. Customer agrees that Bank may, at its sole discretion and at any time without notice to Customer, engage third-party vendors to provide a Service, or portions thereof, to Customer, or to support Bank in its provision of a Service to Customer. Customer acknowledges that Bank's third-party vendors may perform certain functions offshore. Some Services and/or computer equipment and software are provided to Customer by a third-party vendor selected by Customer who is unaffiliated with Bank. In those cases, the third-party vendor is acting as Customer's Agent rather than an agent of Bank, and Customer agrees to be bound by such third party's acts or omissions. Bank does not warrant and shall not be responsible for Services provided by unaffiliated third-party vendors. Customer authorizes Bank to disclose to any third-party vendor of Customer or Bank information concerning Customer to the extent required to deliver the requested Service.

25. Notices. All written notices to Bank shall be delivered or mailed to the address designated by Bank. Notices, including but not limited to, Account Communications sent to Customer shall be delivered or mailed to Customer's current lead account address or other known address if deemed more appropriate by Bank under the circumstances. Notices may be delivered to some Customers in electronic format, including posting to Bank's website, delivery via facsimile to a number on file, or delivery to an electronic mail address on file or used by an Authorized Signer or Authorized User.

26. Severability. To the extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision shall be held to be invalid, illegal or unenforceable, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without rendering invalid, illegal or unenforceable the remainder of any such provision or the remaining provisions of this Agreement.

27. Waiver. A waiver by Bank or Customer of any term or provision shall not be construed as a waiver of such term or provision at any other time, or of any other term or provision. Bank's waiver of the enforcement of any of the terms of this Agreement with respect to any transaction or series of transactions will not affect Bank's right to enforce any of its rights with respect to other Customers or to enforce any of its rights with respect to later transactions with Customer.

28. Assignment. In addition to Section 24 above, Bank may at any time assign or delegate its rights and duties under this Agreement. Customer may not assign or transfer its rights or obligations hereunder to any other person or entity without Bank's written consent, which consent shall not be unreasonably withheld.

29. Termination. Any Services, or feature or function of any Services, may be terminated by either party upon thirty (30) days' prior written notice to the other. Bank may also terminate or suspend any Services, or feature or function of any Services, immediately without notice to Customer if any of the following occurs: (a) Customer becomes insolvent or files, or has filed against it, any bankruptcy or other insolvency, reorganization, liquidation or dissolution proceeding of any kind; (b) a material adverse change occurs in Customer's business or financial condition; (c) Bank has reason to believe that Customer has engaged in fraudulent or illegal activity; (d) Customer fails to maintain balances in accounts sufficient to cover overdrafts; (e) Customer violates, or is in default under, the terms of this Agreement or any other agreement with Bank; (f) Customer fails to comply with security procedures or fails to provide information reasonably requested by Bank; (g) Bank has a reasonable basis to believe the confidentiality, integrity, or availability of Customer's data or information has been compromised; (h) Bank determines it is impractical or illegal to provide any Services because of changes in laws, regulations or rules or due to regulatory guidance, demand or request; (i) Bank, in good faith, is unable to satisfy itself that any Services have been properly authorized by Customer; or (j) Bank, in good faith, deems itself insecure. Notwithstanding any termination, the terms of this Agreement shall apply to all transactions which have been initiated prior to termination.

30. Privacy.

a. California Consumer Privacy Act. (CCPA). Use of California Covered Personal Information. "California Covered Personal Information" means the Personal Information (as defined under CCPA) that Bank may Collect (as defined under CCPA) pursuant to the terms of the Agreement or the Services provided hereunder that is not subject to Gramm-Leach-Bliley Act. "CCPA" means the California Consumer Privacy Act of 2018, codified at California Civil Code section 1798.100 *et seq.*, as amended by the California Privacy Rights Act (CPRA), and all applicable regulations and successor laws thereto.

If Customer is a "Business" under the CCPA, then with respect to California Covered Personal Information (if any), the provisions of subsections 30(a) and (b) hereof shall apply. Bank may only process the California Covered Personal Information being disclosed by Customer or otherwise Collected in connection with the Agreement for the Business Purposes (as defined under CCPA) agreed upon by the Parties, or as Customer may otherwise instruct, or as may be permitted under the CCPA. Bank shall comply with all applicable sections of the CCPA, including providing the same level of privacy protection required of Customer with respect to the California Covered Personal Information and shall implement reasonable security procedures and practices appropriate to the nature of the California Covered Personal Information.

b. Individual Requests. Each Party shall cooperate with and assist the other party in complying with the CCPA. Bank will provide timely assistance to Customer in responding to a California resident's request to know, including by providing Customer with the California Covered Personal Information of such resident that Bank has in its possession or otherwise Collected pursuant to this Agreement or in connection with providing the Services; provided, however, that Customer acknowledges most California Covered Personal Information (e.g., Customer's employees' contact information) was provided to Bank by Customer (so Customer should already have access to such information). Bank will comply with reasonable requests from Customer to delete or correct any California Covered Personal Information that Bank has Collected in connection with this Agreement, unless Bank determines that a statutory exemption or other legal requirement permits it to retain such California Covered Personal Information. If Bank stores such California Covered Personal Information on archived or backup systems, Bank may delay compliance with the request, with respect to such information, until the archived or backup system related to that data is restored to an active system, is next accessed or used, or the data is destroyed as part of the regularly scheduled destruction of such backed-up information.

In the event that Bank receives a request directly from a California resident to exercise his/her rights under the CCPA, Bank may (in its sole discretion) inform the person that the request cannot be acted upon because the request has been sent to a service provider or Bank may respond to such request in accordance with its standard process for responding to requests (which may also include providing a general response to those who are not residents of California or otherwise covered by CCPA).

c. Other States. The parties acknowledge that Bank is exempt from state data privacy laws that include an exemption for financial institutions subject to the Gramm-Leach-Bliley Act (*e.g.,* Colorado Privacy Act, Connecticut Act Concerning Personal Data Privacy and Online Monitoring of 2022, Iowa's Act Relating to Consumer Data Protection, Utah Consumer Privacy Act of 2022 and Virginia Consumer Data Protection Act).

III. TERMS APPLICABLE TO SPECIFIC GLOBAL TREASURY MANAGEMENT SERVICES

The following are additional terms and conditions applicable to specific Treasury Management Services offered by Bank. Bank may change the number or type of Services offered at any time. Customer shall not be bound by the terms and conditions for the specific Services described in Sections III, IV, and V of this Agreement to the extent Customer is not using such Service(s).

A. ELECTRONIC BILL PRESENTMENT AND PAYMENT SERVICES

Electronic Bill Presentment and Payment (EBPP) Services, including eBill, E-Payment, and other service options for Customer to select, allow Customer's customers ("Payers") to make payments to Customer through multiple channels. Depending on the specific EBPP Services solution used, these channels may include, without limitation, the Internet, an Interactive Voice Response (IVR) system, text message, chatbots, social media, or virtual assistants. In addition, Customer may distribute electronic invoices, bills or statements to Payers who can pay such invoices, bills, or statements via multiple payment channels accessible through the EBPP Services.

1. Internet and Channel Options.

a. "Customer Payment Site" means the interactive Internet payment site hosted by Bank or a third-party vendor used by Bank (collectively, for this Section III.A, "Bank") where Payers may make payments to Customer over the Internet. Bank will configure, implement, host, and support the Customer Payment Site. If Customer provides the content for the Customer Payment Site, Customer agrees to indemnify and hold Bank harmless for any content that violates applicable law or payment network rules. If available and upon request by Customer, Bank will provide draft terms and conditions for Customer to provide to its customers on Customer Payment Site. Such terms and conditions are provided "AS IS," without any representations or warranties. Customer shall be solely responsible for determining the suitability of such terms and conditions for Customer's use, as well as the final form and content of any terms and conditions it elects to post (if any).

b. Customer License. Bank shall have the right and license to use or sublicense Customer's name, trademarks, service marks, copyrights and logos and other textual information in connection with the Customer Payment Site solely for the purposes contemplated herein.

c. "Administrative Payment Center Website" means the interactive Internet site hosted by Bank where Customer may access reports, initiate payments on behalf of Payers, or initiate refunds. Bank will configure, implement, host, and support the Administrative Payment Center Website. Customer shall be solely responsible for setting up Authorized Users, access entitlements and internal controls within the Administrative Payment Center Website.

d. Links. If applicable, Customer shall provide and maintain a secure link on its website to the Customer Payment Site. Customer shall be responsible for ensuring that the link to the Customer Payment Site takes Payer to the appropriate area within the Customer Payment Site. Customer shall be responsible for providing the agreed-upon data concerning Payer in a manner that meets Bank's encryption or security methods during the exchange. Customer and Bank agree to use industry-standard security procedures and technology to ensure the security of the Customer's website and the Customer Payment Site and to prevent data theft or unauthorized access.

2. Compliance with laws and regulations. Customer agrees to comply with all applicable laws, rules and regulations, including without limitation, those issued by: (i) the National Automated Clearing House Association; (ii) the Real-Time Payments (RTP) System Operating Rules; (iii) the Zelle Network Participation Rules; (iv) any governmental entity, including (without limitation) the requirements contained in the Electronic Fund Transfer Act (including without limitation Section 1005.10, Preauthorized Drafts), the Americans with Disabilities Act, the Health Insurance Portability and Accountability Act, Regulation E, the Electronic Signatures in Global and National Commerce Act, the Controlling the Assault of Non-Solicited Pornography And Marketing (CAN-SPAM) Act, the Fair Credit Reporting Act and the Telephone Consumer Protection Act; and (v) any

other entity or association that issues or sponsors a payment device, including (without limitation) the requirements of the Payment Card Industry (PCI) Data Security Standard and any credit card association, including Visa and Mastercard. Customer further agrees to comply with all payment network regulations for ATM debit networks.

3. Payer Authentication / Authorization. For each payment channel, Bank shall authenticate a Payer's identity or the validity of a payment authorization in the manner specified by Customer in the Implementation Documents. Customer acknowledges and agrees that the authentication of the Payer's identity or the validity of the payment authorization in such manner shall constitute a commercially reasonable fraud detection measure and Bank shall have no liability for all payments so authenticated. Bank is not responsible for errors made by Payer or Customer and may rely on the information submitted or communicated by Payer or Customer. Customer agrees to defend, indemnify and hold Bank harmless from any claims related to Customer's or Payer's submission of inaccurate or incorrect information.

4. Payment Processing. Payments shall be processed in the manner mutually agreed to between Bank and Customer, which may include ACH debit entries, debit cards, credit cards or other payment processing methods. Customer shall at all times be considered the originator of Payer's payment. For ACH WEB debit transactions, upon Customer's request and if agreed to by Bank, Bank will validate receiving account and account status information by use of a commercially reasonable fraud detection system selected by Bank for the first use of new account information or of a change to existing account information. By requesting that Bank perform such validation, Customer consents to Bank disclosing any information necessary to perform such validation to Bank's third-party vendors. Depending on the applicable payment processing channel, payment processing may also be subject to the terms of any other agreement between Bank and Customer and between Customer and the payment transaction processor supported by Bank (including those who may be an affiliate of Bank). Depending on the specific EBPP Services solution used, payments may be initiated through a number of channels including, but not limited to, the Customer Payment Site, IVR system text message, chatbots, social media, or virtual assistants. Bank will notify Customer of the payments that were initiated either through the Administrative Payment Center Website or by delivering a file in the manner set forth in the Implementation Documents. Customer acknowledges that all payments are subject to adjustment, return, reversal and/or chargeback in accordance with the rules governing the applicable payment processing channel. Customer agrees to be liable to Bank for any such adjustment, return, reversal, or chargeback.

5. Recurring Payments. Some EBPP Services provide Customer with the ability to offer Payers the option of making fixed or variable recurring payments. Customer must use and Payers must enroll in an EBPP Service that offers recurring payments in order to initiate variable recurring payments.

6. Fees. In addition to Bank's standard fees, Customer agrees to pay additional fees and expenses for implementation of EBPP Services as may be disclosed from time to time by Bank. Customer also agrees to pay the applicable fees and expenses charged by the payment transaction processor supported by Bank, as set forth in Customer's agreement with such processor.

7. Convenience Fee, Service Fee, and Surcharge

a. Some EBPP Services offer flexible fee or surcharge options that allow Customer or Bank to define and collect fees or surcharge to be charged to Payers in connection with the payment transaction. Payers are provided with the opportunity to stop the payment process if they do not wish to pay the fee.

b. If Customer desires to collect fees, Customer shall be responsible for ensuring that fee and surcharge assessments comply with the relevant laws, rules, and regulations.

c. If agreed to by Bank and Customer, Bank may collect and retain the fees. In such case, Customer agrees that Bank may, in its sole discretion, set, adjust, manage, and collect the fees as a means to wholly or partially offset Bank fees that may otherwise have been incurred by Customer. Bank's willingness to collect fees shall be based on Customer's projected payment volume, average ticket, type of transactions, or other considerations such as changes to interchange fees and assessments. Bank may, in its sole discretion, establish or modify payment caps for sums paid by Payers. If the actual payment volume, average ticket, payment types or other considerations fail to meet Customer's stated projections or do not completely offset Bank fees, Customer agrees to reimburse Bank for any resulting shortfall in Bank fees.

8. Transaction Controls. Customer agrees to notify Bank of any material change or anticipated material change in daily dollar activity or type of transaction processing and obtain Bank's consent to such change. Bank may, in its sole discretion, immediately upon written notice to Customer, place a maximum dollar limit on the EBPP Services transactions or require Customer to provide reasonable security for Bank's continued handling of such transactions.

9. Payer Communications. Customer agrees to obtain all consents necessary from Payers for Bank to process the Payers' data and communicate with Payers (e.g., confirmation Short Message Service ("SMS") or email) in the course of performing EBPP Services.

10. Customer Records. This Agreement and the performance of EBPP Services by Bank shall not relieve Customer of any obligation imposed by law, clearinghouse or payment system rules, payment card industry rules, or by contract regarding the retention, maintenance or destruction of records, or from employing adequate audit, accounting and review practices as are customarily followed by similar businesses. In addition, Customer shall retain and provide to Bank, upon request, all information necessary to remake or reconstruct any transmission, file, or entry for thirty (30) days following receipt by Bank of the deposit, file, entry, transmission, or other order.

11. Bill Presentment and Distribution Service. If offered within the EBPP Services selected by Customer, Customer may, if approved by Bank, distribute invoices, statements, confirmations, regulatory notices, or other electronic communications to Payers via EBPP Services. Customer represents and warrants that it will not use or include any reference to untruncated credit card, social security, or bank account numbers, or Protected Health Information in any electronic communications exchanged through EBPP Services. Customer shall indemnify and hold Bank harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorney fees and court costs at trial or on appeal) arising directly or indirectly from Customer's breach of the representation or warranty contained in this paragraph. Customer acknowledges and agrees that all electronic communications exchanged through EBPP Services may be received, processed, managed, and archived by third parties unaffiliated with Bank. Bank makes no representation or warranty, and assumes no responsibility, with respect to any actions or inactions of any unaffiliated third party in connection with Customer's use of EBPP Services.

12. Third-Party Vendor. Customer agrees that Bank may, at its sole discretion and at any time without notice to Customer, engage a third-party vendor to provide EBPP Services, or portions thereof, to Customer, or to support Bank in its provision of EBPP Services. Customer acknowledges such third-party vendors may perform certain functions offshore. Customer authorizes Bank to disclose to any third-party vendor information concerning Customer to the extent required to deliver EBPP Services. Customer may elect to receive other services not offered by Bank directly from any such third-party vendor. Bank shall have no responsibilities or liability with respect to the provision of such services.

13. Card Updater Service. Bank participates in card updater programs offered by card issuers which enable Bank to update card information for Payers with expired or expiring cards. If selected by Customer and agreed to by Bank, Bank will provide Customer with updated card information for Payers when such information is available. Customer must be approved by card issuers, or by Bank in accordance with card issuer guidelines, prior to use. Such information will only be available for Payers who have elected recurring payments or for which another legitimate business need exists. Bank is not responsible for the accuracy or completeness of any information provided by the card issuers.

14. E-Lockbox. E-Lockbox provides Customer with the ability to receive consumer payments electronically that are initiated via the consumers'

home banking portal or through other payment channels offered by third-party bill consolidators, including consumer credit counseling agencies.

a. Network. “Network” means the Mastercard Remote Payment and Presentment Service (“RPPS”), a division of Mastercard International, Inc., or other originators of consumer-initiated bill payments. Bank receives payments and remittance data via the Network. Bank will credit payments to Customer’s account and electronically transmit the remittance data in Bank's standard or other mutually acceptable format for loading to Customer’s accounts receivable system.

b. Customer’s Responsibilities. Customer shall provide Bank with all data and specifications necessary for the Network to process payments and for Bank to transmit the remittance data to Customer. Customer agrees to conduct tests that Bank may deem necessary to ensure Customer and Bank are able to process the remittance data. The purchase, installation, testing and maintenance of any and all equipment used to receive and process information from Bank is the responsibility of Customer. As soon as possible, and in any event, no later than 48 hours after Bank transmits the remittance data to Customer, Customer agrees to process all such data and to inform Bank of any incorrect, unidentifiable, or unprocessable information (collectively, "Returns").

c. Bank’s Responsibilities. Bank shall develop a program to process and transmit remittance data received from the Network in Customer’s preferred file format. Bank shall transmit Returns to the Network when Customer provides Bank with the Return information. Bank will credit Customer’s account in an amount equal to the payments received and debit Customer’s account in an amount equal to any Returns and, if applicable, any Reversals (defined below).

d. Reliance on Network. Customer acknowledges that Bank’s ability to process payments and remittances are dependent upon the continued use and support of the Network and third-party computers housing the Network and its associated communications network. In the event that access to the Network or its computer communications system is terminated or suspended for any reason, Bank shall not be liable to Customer for any disruptions or failure to provide any part of this Service. Bank assumes no responsibility for the accuracy, timeliness or the completeness of data delivered from the Network to Bank.

e. Optional Reversal Transactions. Reversals are Network-initiated debit messages from payment originators informing of the cancellation of previous transactions. Customer may set debit caps on Reversals to limit the daily debit amount a payment originator may send through the Network. If Customer instructs Bank to accept Reversals, Customer hereby authorizes Bank to debit Customer’s account for the amount of the Reversals.

f. Optional Biller Stop Payment. Biller Stop Payment allows Customer to provide Bank with instructions regarding payments that Customer does not want posted to its account. If Customer instructs Bank to stop a payment from posting to its account, Customer hereby authorizes Bank to return the payment through the Network. Payments that are stopped will not be included in Customer's settlement transaction or the remittance data provided to Customer.

B. INFORMATION REPORTING AND TRANSACTION SERVICES

1. Introduction. Information reporting and transaction Services may be provided by Bank to Customer through SinglePoint®, Global Trade or other applications or systems as may be introduced by Bank ("System(s)"). The System may be used by Customer to automate many of the Services offered by Bank and may provide access to other Bank systems that initiate transactions. Customer agrees that such use of the System shall be governed by this Section and all other relevant sections of this Agreement. If requested by Customer and agreed to by Bank, Bank will grant access to Bank’s System(s) in the manner agreed to by Bank. Customer agrees to be bound by any terms of use, privacy policy, license, and other agreements associated with these Systems. Customer agrees to use the System solely to conduct its business with Bank and agrees to limit access to those Agents who require access to the System.

2. Information Reporting. Bank is authorized to store, process, transmit and make available through Bank’s agencies and Systems and through third-party data processing providers (“Providers”) information regarding accounts designated by Customer. Bank or Providers will transmit to Customer information regarding its account(s) and/or other financial data through the System on a periodic basis. Customer may elect to receive data through one or more delivery mechanisms, including, without limitation, the Internet, Application Programming Interface (API), facsimile, secure email or other data transmission options supported by Bank. Balance and related information for Customer’s account(s) held at other financial institutions may be made available by these financial institutions or Providers that input information into Bank's System. Bank will use reasonable care in submitting data into the System but assumes no responsibility for the accuracy or timeliness of the account information and other financial data supplied by other financial institutions or Providers. Bank will make every reasonable effort to deliver information by the mutually agreed upon time but does not guarantee a specific delivery time. Accordingly, Bank’s responsibility to Customer with respect to the delivery of information shall be to deliver such work as close to the agreed time as may be reasonably practicable.

3. Transaction Services. Customer may use SinglePoint®, Global Trade or other similar System to access treasury management or trade finance transaction Services offered by Bank for which Customer has enrolled. Depending on the type of Service or System feature offered by Bank and selected by Customer, access to the transaction Services may include, but are not limited to, ACH, cash vault, check payables, wire transfer payments, Real-Time Payments (RTP), Zelle disbursements, book transfers, positive pay services, investments, loan services, trust services, letter of credit services, adjustments, returns and exceptions management, receivables management, transaction research and annotation, and system administration.

C. ELECTRONIC DEPOSIT SERVICES

1. Introduction; Processing Options. Electronic Deposit Services provide Customer with the option of making electronic deposits using one or more products offered by Bank. Customer agrees that the Electronic Deposit Services shall be governed by this Section and other relevant sections of this Agreement. Customer shall at all times maintain a deposit account with Bank. Customer may use the Electronic Deposit Service to capture checks or check information received from its Payor Customers into Check Images and transmit the same to Bank for processing and collection. Bank will seek to collect such Check Images through the check collection system by presenting or exchanging Check Images, or using Check Images to create a Substitute Check, or a Photo-In-Lieu ("PIL") for collection. Bank may require that certain employees of Customer attend periodic training in order to use the Electronic Deposit Services.

2. Definitions.

a. "Check Image" means an electronic image of the front and back of an original paper check (including a paper Demand Draft), or an electronic image of a Substitute Check that is created by Customer, Bank or another bank or depository institution in the check collection system.

b. "Check Image Metadata" means information about the Check Image, as well as pointers to the actual image data (also known as image tags).

c. "Customer System" means the computer hardware and/or software and/or Web-based applications located at Customer's site that is used by Customer to prepare Electronic Deposits and to access the Electronic Deposit Services.

d. "Demand Draft" or "Remotely Created Check" means a paper item, other than a Substitute Check or PIL, which (i) is drawn on a Payor Customer account, (ii) does not bear the signature of the Payor Customer, and (iii) is authorized by the Payor Customer to be issued in the amount for which the item is drawn.

e. "Electronic Deposit" means electronic information (including Check Images, Check Image Metadata, MICR Data or dollar amount), obtained from capturing information from an original paper check and remittance documentation that is transmitted to Bank for deposit, processing, and collection.

f. "Electronic Deposit Services" means an array of products and services that allow organizations that receive check payments and/or remittance payments to deposit all payments electronically at Bank, as further described in the applicable User Manual.

g. "Electronic Deposit System" means Bank's computer systems or databases that Customer may access in order to obtain Electronic Deposit Services.

h. "MICR Data" means information from the Magnetic Ink Character Recognition stylized printing on the bottom of checks comprising of routing, transit, account and check serial numbers.

i. "Payor Customers" means clients and/or customers of Customer that submit original paper checks or check information to Customer for payment obligations owed to Customer.

j. "Photo-In-Lieu" or "PIL" means a photocopy of the front of an original paper check created from a Check Image.

k. "Substitute Check" means a paper check document that meets the definition of a "substitute check" in the Check Collection for the 21st Century Act as implemented by Regulation CC of the Federal Reserve Board.

3. Customer Authorizations and Notifications. Customer shall adhere to any and all applicable laws, regulations and clearinghouse rules, including but not limited to, obtaining all necessary consents and authorizations from, and/or providing all necessary disclosures to its Payor Customers concerning the creation of Demand Drafts. Customer is solely responsible for ascertaining the content, method, and frequency of any required authorizations and notifications.

4. Determination of Items Eligible for Electronic Deposit.

Only a paper item, payable on demand, and drawn on or payable through or at an office of a bank, is eligible for deposit as a Check Image. Unless permitted by applicable law, Customer represents and warrants to Bank that Customer shall not use the Electronic Deposit Services to transmit Electronically Created Items (as defined in Federal Reserve's Regulation CC). Without limiting the generality of the preceding sentence, the following items are not eligible for deposit as Check Images or an Electronic Deposit under the Electronic Deposit Services, and Customer must deposit these original paper items with Bank: (i) checks, including travelers checks, that are drawn on banks located outside of the United States; (ii) checks payable in a medium other than U.S. dollars; (iii) non-cash items (as defined under Section 229.2(u) of Federal Reserve's Regulation CC); (iv) promissory notes and similar obligations, such as savings bonds (unless explicitly permitted as an Electronic Deposit in the applicable User Manual); (v) checks issued by and drawn on Customer or an affiliate of Customer; and (vi) any other class of checks or drafts as identified by Bank to Customer from time to time in the User Manual.

5. Capture of Checks and Check Information.

a. For certain Electronic Deposit Services, Customer shall use scanning hardware and/or software that meets Bank's specifications. Depending on the type of Electronic Deposit Service or processing option(s) selected by Customer, in the event the condition of a paper check precludes a complete automated read, Customer shall be responsible for visually inspecting the Check Image. Customer shall be responsible for the repair of any MICR Data (if applicable) and for ensuring that any and all information on the front and back of a paper check is accurately captured and legible in the resulting Check Image, that the resulting Check Image contains an accurate record of all MICR Data required for a substitute check, and that the Check Image otherwise complies with any Check Image or MICR Data quality standards and guidelines that may be established by the American National Standards Institute (ANSI), ECCHO Rules, the Federal Reserve, other applicable regulatory agency or clearinghouse, or which Bank may provide to Customer from time to time. Customer acknowledges that current image technology may not capture all security features (e.g., watermarks) contained in the original paper checks and agrees to assume any and all losses resulting from claims based on security features that do not survive the image process.

b. Customer further acknowledges that Bank does not verify the accuracy, legibility, or quality of the Check Image prior to processing an Electronic Deposit. Bank may, in its sole discretion, reject, repair, alter, amend, re-format or convert the Check Image Metadata or MICR Data submitted in an Electronic Deposit in accordance with general check collection practices and industry presentment standards, but Bank shall have no obligation to reject, repair, alter, amend, re-format or convert the Check Image Metadata or MICR Data. If Bank requires that Customer comply with certain formatting standards or other guidelines outlined in the applicable User Manual when submitting Electronic Deposits (for example, requiring use of the external processing code for identifying Remotely Created Checks) and Customer declines to implement, or comply with, such standards or guidelines, Customer acknowledges that Bank shall not be liable for any error or loss that results from Bank processing such Electronic Deposit or from Bank's re-formatting or conversion of the Electronic Deposit prior to processing.

c. Bank shall not be liable to Customer for failure to process an Electronic Deposit, or any error that results in processing or collecting an Electronic Deposit: (i) for which Customer has not provided Bank an accurate, complete and legible image of, or information from, the original paper check; (ii) for which Customer has failed to comply with formatting standards or other guidelines required by Bank; or (iii) which would violate this Agreement, the User Manual or any other agreement between Customer and Bank.

d. If Customer desires to make an Electronic Deposit outside of the contiguous United States, Customer shall seek Bank's prior approval. Bank may reject a deposit transaction or terminate the Electronic Deposit Services immediately if Customer fails to obtain Bank's prior approval. If Customer chooses to access Electronic Deposit Services from locations outside the contiguous United States, Customer is responsible for

compliance with local laws. Customer agrees not to use the Electronic Deposit Services in any country that is subject to geographically-based restrictions imposed by OFAC.

6. Upload of Electronic Deposit to Bank.

a. Customer shall upload the Electronic Deposit transmission (containing one or more Electronic Deposits) to Bank prior to the daily cut-off time established by Bank from time to time for the receipt of Electronic Deposits. Any Electronic Deposit transmission received by Bank after its daily cut-off time shall be deemed to have been received by Bank at the opening of its next Business Day. Performance of the Electronic Deposit Services may be affected by external factors such as communication network latency. Customer is responsible for the transmission of the Electronic Deposit until the Electronic Deposit System reports a successful acknowledgement of receipt of the transmission.

b. An Electronic Deposit is received when the entire Electronic Deposit transmission in which that Electronic Deposit is contained is received by Bank in accordance with Section III.C.6.a above. If only a portion of that Electronic Deposit transmission is received by Bank for any reason, including without limitation, a failure during the transmission to Bank, the Electronic Deposit transmission is deemed to have been not received by Bank with respect to any Electronic Deposit contained in that Electronic Deposit transmission (including any Check Image contained in the portion of that Electronic Deposit transmission that was received).

c. Bank will process Electronic Deposit transmission received from Customer either via Check Image or Substitute Check collection in accordance with the processing options selected by Customer. For each Check Image sent to Bank in an Electronic Deposit transmission, Customer agrees not to deposit or cash the original paper check nor re-deposit the Check Image at Bank or any other financial institution or other business.

d. A per item limit, dollar limit, or deposit limit may be established by Bank in its sole discretion and communicated to Customer. If any such limit is established, Bank shall have no obligation to process items or files in excess of the limit.

7. Funds Availability. Customer agrees that the transmission of Check Images using Electronic Deposit Services is not subject to the funds availability requirements of Regulation CC. Bank may, at any time, and in its sole discretion, provide a one-time notification to Customer if Bank intends to delay funds availability beyond ordinary Regulation CC funds availability time frames for items submitted by Customer using Electronic Deposit Services. In such instance, funds deposited will be available for withdrawal three (3) business days after electronic transmission to Bank, subject to any holds placed on the account as permitted under this Agreement. Bank may, but is not required to, make such funds available sooner.

8. Collection of Check Images. Notwithstanding anything to the contrary in this Agreement, Bank may in its sole discretion determine the manner in which Bank will seek to collect a Check Image deposited by Customer for check collection. Without limiting the generality of the preceding sentence, Bank may, at its option: (i) present or transfer the Check Image to the paying bank, a Federal Reserve Bank, check clearinghouse, image share/exchange network, or other bank; (ii) create a Substitute Check or a PIL from the Check Image and collect such item, or (iii) request that Customer provide to Bank the original paper check from which the Check Image was created and then collect the original paper check. Depending on the collection method, the Check Image or physical item is subject to the rules of that clearinghouse, Federal Reserve Bank, or image share/exchange network or financial institution agreement.

9. Storage of Check Images. Bank shall store Check Images and other check information on the Electronic Deposit System in accordance with Bank's record retention schedule and shall make such information available to Customer according to the applicable User Manuals and fee schedule. If the Electronic Deposit Services are terminated, Customer may obtain Check Images or check information at the price outlined in the fee schedule.

10. Franking, Endorsement, Retention and Destruction of Original Paper Checks. Depending on the requirements outlined in the applicable User Manual, Bank may require, or strongly recommend, that Customer frank or mark the face of each original check after successfully capturing each Check Image to help ensure that an item is not deposited more than once either as a Check Image or physical check. Bank may require Customer to restrictively endorse each check prior to capturing each Check Image. Customer shall destroy the original paper check based on guidelines identified in the applicable User Manual and shall employ commercially reasonable methods to securely store the original paper check until destruction. At Bank's request, Customer shall provide the original paper check to Bank if the original paper check has not been destroyed by Customer and Bank needs the original paper check to process a payment or resolve a dispute arising from an Electronic Deposit.

11. Representations and Warranties. With respect to each Check Image or Electronic Deposit that Customer transmits to Bank, Customer is deemed to make any representation or warranty that would have applied had Customer deposited the original paper check, including without limitation, that no party will receive a presentment or otherwise be charged for a paper check, whether presented in paper or electronic form, which Customer has converted to a Check Image such that such party is asked to make payment of a check which has already been paid. In addition Customer is deemed to make to Bank any representation, warranty or indemnification that Bank makes, under applicable law, clearinghouse rule, Federal Reserve Operating Circular, Federal Reserve Regulation (including without limitation Regulation CC), bi-lateral agreement or otherwise, to any person (including without limitation a collecting bank, a Federal Reserve Bank, a Receiving Depository Financial Institution, a paying bank, a returning bank, a depository bank in possession of the original paper check, the drawee, the drawer, any endorser, or any other transferee) when Bank transfers, presents or originates a Check Image, Substitute Check or PIL created from the Electronic Deposit.

12. Customer Responsibility. With respect to each Check Image, Electronic Deposit or other image that Customer transmits to Bank, Customer agrees to defend, indemnify and hold Bank harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorney fees and court costs at trial or on appeal) arising directly or indirectly: (a) from Customer's breach of a representation or warranty as set forth in Section III.C.11 above; (b) as a result of any act or omission of Customer in the capturing, creation or transmission of the Check Image or Electronic Deposit, including without limitation, the encoding of the MICR Data from the original paper check; (c) from any duplicate, fraudulent or unauthorized check, Check Image, Substitute Check or PIL; (d) for any loss caused by Bank's acceptance of a Check Image, or creation of a Substitute Check or PIL instead of presentment of the original paper check; (e) out of Customer's deposit of an Electronically Created Item; or (f) from any other act or omission arising out of Bank's action or inaction taken pursuant to any request by Customer or pursuant to this Agreement. This Section III.C.12 shall survive termination of the Agreement.

13. Security Procedures and Right to Audit. Customer shall comply with all security procedures for the Electronic Deposit Services that are established by Bank or set forth in the applicable User Manual. Customer is solely responsible for (i) maintaining its own internal security procedures; (ii) safeguarding the security and confidentiality of any information that is obtained from Payor Customers' checks, Check Images and other information that is either printed from, stored on, or downloaded to, the Customer System, Electronic Deposit System, or Customer's other computer/data systems or portable media; and (iii) preventing errors or unauthorized access to the Customer System or the Electronic Deposit System. Bank reserves the right to periodically audit Customer's security procedures and information technology processes and to mandate controls.

14. Mobile Remote Deposit Services ("Mobile Services"). Depending on the type of Electronic Deposit Service selected by Customer, Mobile Services is an optional add-on service that will allow Customer to make remote check deposits and obtain check deposit history made through the Mobile Services using a supported mobile device. If Customer selects Mobile Services, Customer will need to download and install a Mobile Service application on compatible and supported mobile phones, tablets, or other devices (collectively, "Devices").

a. Description of Mobile Services. Mobile Services allow Customer to use a Device to take photographs of the front and back of the check and to transmit the Check Image to Bank in a secure data encrypted format using Customer's mobile service provider's cellular network or the Internet (collectively, "Network"). Certain Mobile Services may allow Customer to use a Device to enter remittance data and to take photographs of the front and back of remittance and general documents associated with the Check Image for reporting and research purposes.

b. Use of Mobile Services. Customer agrees to use Mobile Services in accordance with this Agreement, other user requirements provided in the User Manual and the downloaded mobile application. Bank reserves the right to modify the scope of Mobile Services at any time or change or upgrade Mobile Services from time to time, including the right to cease offering the Service on a previously supported Device. Bank also reserves the right to refuse any Electronic Deposit requested through the Service because a Check Image fails image quality standards, is detected as a duplicate item, or for any other reason in Bank's sole discretion. Customer understands and agrees that Mobile Services may not be accessible at all times due to Network connectivity or may have limited utility over some Networks, such as while roaming. Customer acknowledges and agrees that Bank may use geolocation technology to track that Mobile Services activity occurs within the contiguous United States.

c. Software. Customer agrees not to use Mobile Services, or the content or information delivered through Mobile Services, in any way that would infringe upon any third-party copyright, patent, trademark, trade secret, or other proprietary rights or rights of publicity or privacy, including any rights in the Mobile Services software. In the event Mobile Services is terminated or Customer's software license is revoked for any reason, Customer's access to Mobile Services will be removed immediately.

d. Service Limitations.

i. Neither Bank nor Customer's mobile service providers can always foresee or anticipate technical or other difficulties related to Mobile Services, which may result in loss of data, personalization settings or other interruptions. Bank assumes no responsibility for the timeliness of any Mobile Services transmissions or communications, or the loss or failure to store any user data, communications, or personalization settings in connection with a Device and Customer's use of Mobile Services.

ii. Bank shall not be responsible for the operation, security, functionality or availability of any Device or Network that Customer utilizes to access Mobile Services. Transmission of a Check Image shall not be deemed received unless the Device reports a successful acknowledgement of receipt of the transmission. Customer agrees to exercise caution when utilizing Mobile Services on Devices and to train its Authorized Users to exercise good judgment and discretion when accessing or transmitting information.

iii. Information about activity is synchronized between the Mobile Services software and Bank's Electronic Deposit System, however, deposit information available via the Mobile Services application may differ from the information that is available directly through the Electronic Deposit System. Information and features available directly through the Electronic Deposit System may not be available via the Mobile Services application and may be described using different terminology. The method of entering information via the Mobile Services application may also differ from the method of entering instructions through the Electronic Deposit System. Customer agrees that Bank shall not be liable for any errors or delays in the content as a result of Customer's use of the Mobile Services software.

iv. Customer acknowledges that its mobile service carrier or provider may provide for fees, limitations, and restrictions such as data usage charges or data throttling which may have an impact on Customer's use of or interaction with Mobile Services. Customer agrees to be solely responsible for all such fees, limitations, and restrictions.

e. Security.

i. If Customer permits its employees or agents to use their own personal mobile devices to access Mobile Services, Customer assumes any and all risks associated with the use of personal mobile devices, including but not limited to, any risk that compromises the integrity of Customer's corporate network or sensitive business data. Customer is solely responsible for implementing policies that will help mitigate the risk of allowing employees to use personally-owned mobile devices, which may include but are not limited to, requiring that Devices are configured and managed with information assurance controls commensurate with the sensitivity of the underlying data and employing Mobile Device Management (MDM) software or other software that secures, monitors, manages and supports mobile devices deployed across operators, service providers and enterprises.

ii. Customer shall ensure that its employees or agents exercise appropriate precautions surrounding the use and safeguarding of the Devices at all times. Customer agrees not to leave Devices unattended when logged into Mobile Services and to log off immediately at the completion of each access. Customer agrees that either a username and password or biometric verification are the agreed-upon security procedures and that such security procedures are commercially reasonable. If these security procedures are used to access Mobile Services, Customer agrees that any transactions using Mobile Services are hereby authorized. If Customer permits other persons to use a Device, login information or any other means to access Mobile Services, Customer will be responsible for the resulting transactions, and Bank shall have no liability for any damages Customer may incur.

iii. Devices with internet capabilities are susceptible to viruses. Customer is responsible for ensuring that each Device is protected from and free form viruses, malicious software ("malware") and other harmful components which could result in damage to programs, files, or the Device, or could result in information being intercepted by a third party. Bank shall have no liability for any damages which may result from such viruses, malware, or other harmful components.

D. ACH SERVICES

1. Introduction. If requested by Customer and agreed to by Bank, Customer or its Agent may initiate credit or debit Automated Clearing House ("ACH") transactions ("Entries") for payments ("Credit Entries") and/or collections ("Debit Entries") on Business Days to its accounts or the accounts of others ("Receivers") in accordance with Bank's security procedures and this Agreement. Bank will act as an Originating Depository Financial Institution ("ODFI") with respect to such Entries. Bank may process Entries directly, through one or more clearinghouses, or through the mechanism selected by Bank. Customer's rights and obligations with respect to such Entries are governed by applicable law and the NACHA Rules, as amended from time to time. Customer acknowledges that it shall be bound by the then-current version of the NACHA Rules and agrees not to initiate any Entry in violation of the NACHA Rules or applicable federal, state or international law, regulation or clearinghouse rules, including, without limitation, Regulation E of the Board of Governors of the Federal Reserve System, regulations promulgated by the Office of Foreign Assets Control, FinCEN, rules governing the Canadian, Mexican and European payments systems and Operating Circular 4 of the Federal Reserve Bank (collectively referred to herein as the "Rules"). Customer acknowledges and agrees that Bank shall have the right to examine Customer's books, records and systems to ensure Customer's compliance with the Rules and this Section III.D and that Bank shall further have the right to suspend Services if Bank determines, in its sole and absolute discretion, that Customer is not complying with the Rules and/or this Section III.D. Customer acknowledges that a copy of the NACHA Rules is available through NACHA at current NACHA prices. Bank shall have the right, in its sole discretion, to terminate or suspend ACH Services immediately if Bank is legally or contractually required to place a hold on funds or a portion of the funds in Customer's account(s). Bank may also, in its sole discretion, delay, suspend or reject an ACH file or Entry if the Bank has a reasonable basis to suspect the ACH file or Entry may be unauthorized or fraudulent. Capitalized terms not otherwise defined in this Agreement shall have the meanings ascribed to them in the NACHA Rules.

2. Entry Origination/Processing Dates/Deadlines. Customer may initiate Entries in the manner and format agreed to by Bank. ACH files transmitted to Bank shall be in an unbalanced file format unless otherwise agreed to by Bank. Bank has the right to restrict the standard entry class ("SEC") codes utilized by Customer. If notified by Bank of such restriction, Customer must cease use of the SEC code and the underlying transaction type. Customer agrees that all Entries (regardless of SEC Code) that involve the storage, exchange, or transmission of banking information via unsecured electronic networks shall be encrypted or transmitted via a secure session, using a commercially reasonable security technology that complies with regulatory guidelines. Bank will establish a deadline for the receipt of Entries from Customer ("Deadline"). Bank may establish different Deadlines for Entries depending on the method of delivery employed by Customer and all such Deadlines are subject to change. Bank must receive Customer's Entries at or prior to the Deadline for the Entries to be processed on the Business Day of receipt. Entries received after the Deadline, Entries that contain an Effective Entry Date that is invalid or stale, or Entries that are ineligible for Same Day ACH, will be processed on the next Deadline, which may be the next Business Day. Entries with settlement dates of more than thirty (30) calendar days from receipt will not be processed unless prior arrangements have been made. If Customer has opted-in for Same Day ACH, Customer acknowledges that any Entry using the current day's date as the Effective Entry Date that is submitted to the ACH Operator prior to the Deadline shall carry the Same Day ACH fee. The Same Day ACH fee is not charged for Same Day ACH Entries that are on-us and not submitted to the ACH Operator. If Customer has not opted-in for Same Day ACH and submits an Entry prior to the Deadline using the current day's date as the Effective Entry Date, Customer acknowledges that such Entry shall be processed on the next Business Day. If Customer requests, Bank may, in its sole discretion, process Same Day ACH Entries for Customers that have not opted in for Same Day ACH in certain contingency scenarios. Customer acknowledges that this option may not be available in every scenario due to the earlier Deadline, or other applicable restrictions, for Same Day ACH Entries. Customer agrees that if this option is utilized, Customer will be charged a special processing fee for each ACH file, plus the additional Same Day ACH per Entry fee for all Entries going to other financial institutions.

3. Content and Secondary Authorization. In submitting any Entry, Customer shall be responsible for providing all information required by Bank. Customer bears sole and exclusive responsibility to verify that the information set forth in Entries submitted to Bank is authentic, accurate and conforms to the Rules. The Services hereunder are only designed to respond to information provided by Customer. Accordingly, any inaccuracy in any information provided by Customer may result in unintended processing by Bank. Bank bears no responsibility for detecting or reporting any error in data supplied by Customer and shall not be liable to Customer for any information provided by Customer with respect to an Entry which is inaccurate, incomplete, or otherwise incorrect. Bank strongly recommends that Customer utilize a second individual to review and approve ACH files prior to submission to Bank. Customer acknowledges and agrees that such a security procedure is commercially reasonable and that Customer's failure to use this procedure substantially increases Customer's risk of an unauthorized ACH file.

4. Entry Limits and Payment. Customer agrees to comply with any applicable per transaction or aggregate Entry limits established by the Rules. Customer shall at all times maintain a settlement account with Bank for the purpose of funding Customer's Entries ("Account"). The total dollar amount of Entries initiated by Customer through Bank under all ACH Services and pending on a given day shall not exceed the lesser of collected or available balances in the Account or an exposure limit should one be established by Bank ("Exposure Limit"). Establishment of an Exposure Limit should not be interpreted or construed by Customer as a commitment or agreement to provide any credit or loans to Customer and is subject to modification or termination at any time by Bank. Customer shall pay Bank for all Entries and authorizes Bank to charge its Account or any other account with Bank in the amount of such Entries. Bank shall have the right in its sole discretion to reject any or all Entries initiated by Customer without notice if Bank has reason to believe that there will be insufficient available funds on the relevant settlement date, even if Bank may have previously accepted Entries for processing with insufficient available funds in the Account. Customer will receive funds for any Debit Entry on the ACH settlement date. Bank shall credit the Account in any amount payable to the Customer, subject to Bank's right to make adjustments in accordance with this Agreement. Bank may establish, monitor, and periodically review Customer's Exposure Limit and Customer's compliance thereof, and may, in Bank's sole discretion, cease processing Entries based on such review.

5. Account Verification. The NACHA Rules require Customer to use a commercially reasonable procedure to verify the validity of certain account information prior to originating an Entry to the account for some SEC Codes. Customer is solely responsible for performing such verification.

a. Prenotification. To the extent permitted by the Rules, Customer may elect to send a prenotification that it intends to initiate an Entry to a particular account in accordance with the procedures set forth in the Rules or by Bank. The prenotification can be returned or result in a Notification of Change ("NOC"). If the prenotification is returned, Customer shall research the problem and make any necessary corrections before transmitting another Entry. If the prenotification results in a NOC, Customer shall make the required change prior to initiating another Entry or issue a Refused NOC. Bank offers an optional Service that allows Bank to track Customer's NOC on Customer's behalf. If Customer selects this option, Bank shall only manage the changes to the routing numbers, account numbers and transaction codes.

b. Micro-Entries. To the extent permitted by the Rules, Customer may elect to initiate one or more Credit Entries of less than $1 for purposes of account validation (each, including any offsetting Debit Entry, a "Micro-Entry). Micro-Entry credit amounts must be equal to, or greater than, Micro-Entry debit amounts and must be transmitted to settle at the same time. In the Micro-Entry, Customer must use (i) an easily recognizable company name that is the same or similar to what will be used in subsequent Entries and (ii) "ACCTVERIFY" in the company entry description field. Customer must use commercially reasonable fraud detection which includes monitoring forward and return Micro-Entry volumes.

6. Notification of Change ("NOC"). A NOC is created by the Receiving Depository Financial Institution ("RDFI") to notify Customer (via Bank) that previously valid information contained in a posted Entry is outdated, or information contained in a prenotification or live transaction is erroneous or improperly formatted and should be corrected. Bank offers NOC Manager, which is a Service that allows Bank to track Customer's NOC on Customer's behalf. NOC Manager only manages the changes to routing numbers, account numbers and transaction codes. Bank, in its sole discretion, may require that Customer enroll in NOC Manager as part of ACH Services provided to Customer.

7. Data Breach Notification. Customer may have gathered personal or financial information of its customers for the purpose of initiating ACH transactions. Such information may include, without limitation, the customer's bank account number together with the bank routing number, or the customer's name together with the customer's social security number or tax identification number. Customer agrees to immediately report to Bank any loss, theft, or unauthorized access of such information ("data breach") by or from Customer, its Agent, or third-party service provider, if circumstances indicate that the misuse of such information has occurred or is reasonably possible. Customer acknowledges that Bank may have an obligation to report any data breaches to NACHA and other affected parties, and agrees to establish appropriate procedures to prevent, detect, investigate, and report data breaches. If applicable to Customer, Customer agrees to render electronically stored account numbers used in the initiation of Entries unreadable in accordance with the requirements and effective dates specified by NACHA.

8. ACH Secured Funds Entries. Bank may, at any time, and in its sole discretion, require Customer to prefund some or all Credit Entries that Customer desires to initiate. Customer acknowledges and agrees that such funds are held solely for the benefit of Bank and that Customer will not be entitled to earn any interest thereon. Upon initiation of such Credit Entries, Bank is authorized to immediately charge the Account (in the total amount of such Entries). If ACH Secured Funds is used to initiate Debit Entries, funds will be credited to the Account on the settlement date of the transaction. However, such funds shall not be available for withdrawal from the Account for two Business Days, or such other period as determined by Bank, after the settlement date.

9. File Confirmation System. Customer shall at all times comply with applicable file confirmation procedures and any security procedures established by Bank. Such procedures are solely for the purpose of verifying the origination of Entries by Customer or Bank's receipt of the ACH file and/or batch (but not for errors in transmission or content).

a. Control Totals. If Customer elects to provide Bank with the total dollar value of Entries and any other necessary information ("Control Totals"), Customer must telephone Bank's Interactive Voice Response system or input Control Totals through SinglePoint each time it originates Entries. After Bank receives Customer's ACH file, Bank will compare the information in the ACH file to the Control Totals. If the information matches the Control Totals, Bank will process the ACH file. Bank will notify Customer if the Control Totals do not match the information in the ACH file, or if Bank receives an ACH file without receiving Control Totals or vice versa. Bank will not process an ACH file unless it receives conforming Control Totals before established Deadlines.

b. Confirmation of Receipt. If Customer elects not to provide Bank with Control Totals but elects to receive a confirmation report or file, Bank shall provide Customer with a confirmation that Bank received Customer's ACH file and/or batch. After Customer receives the confirmation report or file, Customer will compare the confirmation information to Customer's ACH transmission information. If the information does not match, Customer shall notify Bank before Bank's established deadline, failing which, Bank shall process Customer's ACH file and/or batch. Customer acknowledges that the confirmation report or file is for the sole purpose of verifying Bank's receipt of the file and does not signify any validation of data. Customer bears sole responsibility for any inaccurate or incomplete information provided to Bank if Customer fails to notify Bank prior to Bank's processing of Customer's file.

10. Rejected and Returned Entries, Unauthorized Entries. Bank may reject any Entry that is not initiated in accordance with this Agreement. In the event that an Entry is rejected, or returned by an ACH processor, for any reason whatsoever, it shall be Customer's responsibility to reinitiate the Entry. Bank will give Customer or its designated Agent notice of any rejected or returned Entry in the manner agreed to by the parties. Bank is authorized to debit/credit the Account for Entries that are returned to Bank. Unless the return is caused by Bank's failure to properly execute an Entry, Bank has no obligation to pay Customer interest on the amount of any returned Entry debited from the Account. A Receiver may, in some cases, have the right to have an unauthorized or erroneous Debit Entry credited to its account. Customer agrees that Bank may deduct the amount owing to the Receiver from Customer's Account upon Bank's receipt of proper notice from the Receiver's bank. Bank may charge back against Customer any Debit Entry that is returned or reversed by the RDFI. Bank may, in its sole discretion, suspend Customer's use of ACH Services due to excessive return activity.

11. ACH Redeposit Service. If requested by Customer and agreed to by Bank, Bank will reinitiate (maximum of two times) each Debit Entry returned for insufficient or uncollected funds.

12. Amendment of Entries. Customer does not have the right to delete, reverse or amend any Entry (each, an "Adjustment Request") after it has been received by Bank. If Customer sends Bank an Adjustment Request via internet, secure email, or fax in accordance with the terms of this Agreement, Bank will make reasonable efforts to act on the Adjustment Request. All Adjustment Requests must be received by Bank prior to the established deadlines, and even if the Adjustment Request is made in a timely manner, Customer acknowledges that an Adjustment Request may prove unsuccessful (for example, if it is returned by the RDFI for non-sufficient funds). Customer agrees to indemnify Bank in connection with any Adjustment Request in accordance with applicable law.

a. Internet Option. If Customer has selected the Internet Option, Customer may use SinglePoint® to transmit information to Bank for the purpose of amending ACH files. Customer agrees to comply with any applicable software agreement, user guide and any established security procedures.

b. Secure Email Option. If Customer has selected the Secure Email Option, Customer may send an Adjustment Request to a designated shared mailbox at Bank.

c. Fax Option. If Customer has selected the Fax Option, Customer may transmit an Adjustment Request to Bank via facsimile to a designated facsimile number. Customer acknowledges that the Internet and Secure Email Options are substantially more secure than the Fax Option. Customer agrees to be bound by any instructions submitted via the Fax Option, whether or not authorized, issued in its name and accepted by Bank in accordance with the agreed procedures.

13. Customer Representations/Indemnity. Customer represents and warrants to Bank that each Entry: (i) complies with the terms of this Agreement and the Rules; (ii) does not breach any warranty of Customer or Bank contained in this Agreement or the Rules; (iii) complies with applicable state, federal and international laws and rules, including, without limitation, the Electronic Funds Transfer Act, Regulation E and regulations overseen by the Office of Foreign Assets Control; (iv) is accurate, timely, and authorized; and (v) that any Debit Entry is for a sum that on its settlement date is due and owing from the Receiver to Customer or is a correction of a previously transmitted erroneous Credit Entry. For all WEB Debit transactions, Customer further represents and warrants that it will validate account information by use of a commercially reasonable fraud detection system (i) for the first use of new account information; and (ii) when the Receiver makes a change to its account. With respect to each ACH Entry (regardless of SEC Code), Customer is deemed to make to Bank any representation or warranty that Bank makes, under applicable law or the Rules to any person, RDFI, or any other transferee. Receiver authorizations shall expressly authorize Bank to transmit corrective entries to the Receiver's accounts to correct a prior Entry and shall authorize Customer to release to Bank all information concerning its Receivers that is required by Bank to recover such Entries. Customer shall immediately cease initiating Entries upon receiving actual or constructive notice of the termination or revocation of the Receiver's authorization. Customer will retain each authorization received by Customer for such period of time as

may be required by the Rules or applicable law and shall provide Bank with copies of such authorizations upon request. Customer will defend, indemnify and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities, and damages, including without limitation, NACHA fines, reasonable attorney fees and court costs at trial or on appeal that arise directly or indirectly out of any Entry initiated by Customer in violation of this Agreement or the Rules.

14. Re-presented Check Entries. NACHA Rules allow Customer to initiate an Entry to collect certain checks that have been returned unpaid for insufficient or uncollected funds ("RCK Entry"). In the event that Customer initiates an RCK Entry to Bank for check collection purposes, Customer agrees that such RCK Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the RCK Entry on its behalf:

a. Each check is eligible under NACHA Rules to be collected via an RCK Entry.

b. Customer has no knowledge of any insolvency, and it has good legal title to the returned item.

c. All signatures on the returned item are authentic and authorized, and the returned item is without alteration, not subject to claims or defenses, and will not be presented to the paying bank.

d. The RCK Entry accurately reflects the item and any information encoded after issue in magnetic ink is correct. (RCK Entries cannot be used for collection fees.)

e. Any restrictive endorsement placed on the item is void or ineffective.

f. Customer has provided clear and conspicuous notice of its electronic check representment policy in advance of receiving the item to which the RCK Entry relates.

g. The Customer will provide to Bank immediately upon request a copy of the front and back of the returned item, provided that the request is made within seven (7) years of the settlement date of the RCK Entry.

15. Internet-Initiated Entries. NACHA Rules allow Customer to initiate a Debit Entry to a consumer Receiver's account pursuant to an authorization obtained from the Receiver via the Internet ("WEB Entry"). In the event that Customer initiates a WEB Entry to Bank, Customer agrees that such WEB Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the WEB Entry on its behalf:

a. Customer has employed a commercially reasonable fraudulent transaction detection system to screen each WEB Entry. As of the effective date specified by NACHA, a commercially reasonable fraudulent transaction detection system must include, at a minimum, validation of the account number to be debited for each Web Debit Entry. This validation must be completed for the first use of such account number as well as each time there is a change in such account number.

b. Customer has employed commercially reasonable methods of authentication to verify the identity of the Receiver.

c. Customer has taken commercially reasonable steps to verify that routing numbers are valid.

d. Customer has established a commercially reasonable secure Internet session prior to the key entry by the Receiver of any banking information and through the transmission of the data to Customer. If regulatory requirements or technological advancements drive the commercially reasonable standard to change, Customer agrees to comply with the new standard.

e. Customer has and will conduct an annual audit to ensure that the financial information that Customer obtains from its Receivers is protected by security practices that include adequate levels of: (1) physical security to protect against theft, tampering, or damage, (2) personnel and access controls to protect against unauthorized access and use, and (3) network security to ensure secure capture, storage and distribution of financial information. Customer will provide proof of Customer's security audits to Bank upon request. Any such information provided to Bank shall be kept confidential except as required to be disclosed by applicable law, rule, or regulation. Bank may cease processing Entries for Customer if Bank in its sole discretion determines that Customer's security procedures are inadequate.

16. Telephone-Initiated Entries. NACHA Rules allow Customer to initiate a Debit Entry to a consumer Receiver's account pursuant to the Receiver's oral authorization and banking information obtained via the telephone ("TEL Entry"). In the event that Customer initiates a TEL Entry to Bank, Customer agrees that such TEL Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the TEL Entry on its behalf:

a. Receiver Authorization. Customer shall obtain the Receiver's explicit authorization prior to initiating a Debit Entry to the Receiver's account. In the event that Customer obtains the Receiver's authorization verbally, Customer will either tape record the Receiver's oral authorization or provide, in advance of the settlement date of the Entry, written notice to the Receiver that confirms the oral authorization. Customer agrees that, at a minimum, the following specific information is disclosed to, and acknowledged by, the Receiver during the telephone call:

- **(i)** the date on or after which the Receiver's account will be debited;
- **(ii)** the amount of the Debit Entry to the Receiver's account;
- **(iii)** the Receiver's name;
- **(iv)** the account to be debited;
- **(v)** a telephone number that is available to the Receiver and answered during normal business hours for customer inquiries;
- **(vi)** the date of the Receiver's oral authorization;
- **(vii)** a statement that the authorization obtained from the Receiver will be used to originate an ACH debit to the Receiver's account;
- **(viii)** for recurring TEL entries, the amount of recurring transactions; and
- **(ix)** for recurring TEL entries, the timing (including the start date), number, and/or frequency of the electronic fund transfers.

Customer shall retain either the original or a duplicate tape recording of the Receiver's oral authorization or a copy of the written notice confirming the Receiver's oral authorization for two years from the date of the authorization and shall immediately provide same to Bank upon request.

If Customer chooses to provide the Receiver with written notice confirming the Receiver's oral authorization, Customer will disclose to the Receiver during the telephone call the method by which such notice will be provided.

b. Security Procedures. In addition to all other representations and warranties contained in this Agreement and the Rules, Customer also represents and warrants the following each time it delivers a TEL Entry to the Bank that it has (a) utilized a commercially reasonable security procedure to verify the identity of the Receiver, including name, address and telephone number; and (b) further that Customer has established commercially reasonable procedures to verify the accuracy of the RDFI's ABA routing and transit number.

17. Accounts Receivable and Back Office Conversion Entries. NACHA Rules allow Customer to utilize ACH to collect consumer check payments received via U.S. mail or at a dropbox location ("ARC Entry"). NACHA Rules also enable Customer to convert during back-office processing checks presented either at the point of purchase or a manned bill payment location ("BOC Entry"). In the event that Customer initiates an ARC or BOC Entry to Bank, Customer agrees that such ARC or BOC Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the ARC or BOC Entry on its behalf:

a. Prior to the receipt of each check, Customer has provided clear and conspicuous notice to the Receiver: (i) that receipt of the check is authorization for a payment as a check transaction or for a one-time ACH

debit to the Receiver's account; and (ii) of Customer's phone number for inquiries regarding BOC Entries.

b. Customer shall provide a copy of the notice to the Receiver at the time of the transaction if the Receiver presents the check in-person.

c. Each check is eligible as a source document under NACHA Rules to be collected via an ARC or BOC Entry.

d. Customer shall use a reading device to capture the Receiver's routing number, account number, and check serial number from the source document.

e. The amount of the entry, the routing number, the account number, and the check serial number are in accordance with the source document.

f. The source document to which the ARC or BOC Entry relates will not be presented for payment.

g. Customer has established policies and procedures to destroy the source document as soon as is reasonable and shall use commercially reasonable methods to securely store the source document until such destruction.

h. Customer shall use commercially reasonable methods to securely store all banking information relating to the ARC or BOC Entry.

i. Customer shall retain a reproducible and legible image, microfilm or copy of the front of the Receiver's source document for two years from the settlement date of each ARC or BOC Entry and shall immediately provide same to Bank upon request.

j. For BOC Entries, Customer has employed commercially reasonable procedures to verify the identity of each Receiver of BOC Entries.

k. For BOC Entries, Customer maintains a working telephone number that is answered during Customer's normal business hours for Receiver inquiries regarding BOC transactions.

18. Point of Purchase (POP) Entries. NACHA Rules allow Customer to initiate a Debit Entry to a Receiver's account for in-person purchases made by check at the point-of-purchase ("POP Entry"). In the event that Customer initiates a POP Entry to Bank, Customer agrees that such POP Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the POP Entry on its behalf:

a. Customer has posted a notice in a prominent and conspicuous location at the point-of-purchase and provided the Receiver with a written notice of same: (i) that when a check is provided as payment, it is authorization for payment as a check transaction or for a one-time ACH debit to the Receiver's account; and (ii) that funds may be withdrawn from the Receiver's account the same day payment is made.

b. Each check is eligible under NACHA Rules to be collected via a POP Entry and the Receiver has not opted out of check conversion.

c. Customer has used a reading device to capture the Receiver's routing number, account number, and check serial number from the source document.

d. Customer has provided a receipt to the Receiver containing the Originator name, telephone number, date of transaction, transaction amount, check serial number of the source document, merchant number, terminal city, and state; and Customer has not included the Receiver's complete account number or complete identification number on such receipt.

e. Customer has returned the voided source document to the Receiver after capturing the necessary check information and the source document was not previously negotiated, voided, or provided by the Receiver for use in any prior POP Entry.

f. Customer has obtained the Receiver's authorization and provided a copy of same to the Receiver, which: (i) is in writing and signed or similarly authenticated by the Receiver; (ii) is readily identifiable as an ACH debit authorization; (iii) clearly and conspicuously states its terms; and (iv) states that the check will not be processed.

19. International ACH Transactions (IAT) Entries. NACHA Rules allow Customer to initiate or receive international payment transactions transmitted via the ACH network.

a. In the event any part of an Entry originates from, or is transmitted to, a financial agency office located outside the territorial jurisdiction of the United States that handles the payment transaction ("IAT Entry"), Customer agrees that such IAT Entry will comply with all provisions of this Agreement and applicable Rules. Customer acknowledges that an IAT Entry is ineligible for Same Day ACH. Customer also makes the following additional representations and warranties regardless of which entity initiates the IAT Entry on its behalf:

(i) Customer is in compliance with U.S. law, including, but not limited to, Customer's obligations under programs administered by OFAC and FinCEN.

(ii) The origination of an outbound IAT Entry is in compliance with the laws and payment system rules of the receiving country.

(iii) In the case of an IAT Entry to a non-consumer account, Customer has an agreement with the Receiver whereby the Receiver has agreed to be bound by the Rules.

IAT Entries may be processed by Bank through a correspondent bank. Bank assumes no liability for delays, non-delivery, late returns, or other events resulting from processing delays by the correspondent bank or for other causes beyond Bank's control. Cancellation or amendment of an IAT Entry involving non-U.S. dollar currency is subject to any rate exchange loss as determined by Bank. Customer agrees to sell any canceled or amended Entry to Bank at the then current applicable foreign currency buy rate.

b. Remittance Transfer Provider. If Customer is at any time classified as a Remittance Transfer Provider under Regulation E, Customer represents, warrants, and agrees that:

(i) Customer shall be responsible for performing and complying with the requirements of 12 CFR Part 1005, including, but not limited to, providing disclosures to the consumer (sender), the error resolution procedures, the provision of any remedies to the consumer, and the cancellation and refund of remittance transfers;

(ii) Bank is acting as an agent and not as a Remittance Transfer Provider when performing activities on behalf of Customer; and

(iii) Even if Bank is deemed a Remittance Transfer Provider under applicable law, Customer shall take all actions necessary to comply with the obligations of a Remittance Transfer Provider.

Customer agrees to indemnify and hold Bank harmless from and against any and all loss, liability, damage, costs and expenses (including attorneys' fees) that Bank may sustain in reliance on Customer's representations and warranties set forth in this Agreement or the Rules.

20. Third-Party Vendors. If Customer initiates Entries through a third-party vendor or processor ("Vendor"), Vendor is the agent of Customer and not of Bank. If Customer uses a Vendor, Customer shall be deemed to have authorized Bank to follow the instructions of such Vendor to the same extent and under the same conditions as would apply if the instructions came direct from Customer and Customer shall be responsible for ensuring that such Vendor fully complies with the Rules and this Agreement. Bank is not responsible for the acts or omissions of Vendor and Customer agrees to be liable for and hold Bank harmless from, any losses caused by the acts or omissions of Customer's Vendor.

21. Third-Party Sender. If Customer is transmitting Entries as a third-party vendor or processor on behalf of originators ("Third-Party Sender") or if, as a Third-Party Sender, Customer is transmitting Entries on behalf of another Third-Party Sender ("Nested Third-Party Sender"), Customer agrees to be bound by the applicable terms provided in this Agreement and the Rules. Customer warrants to Bank that each originator and Nested Third-Party Sender has agreed to assume the responsibilities of an Originator or Third-Party Sender under NACHA Rules and that ACH Entries shall not be initiated in violation of laws of the United States. Customer represents that it has executed an ACH agreement with each Originator and Nested Third-Party Sender, and that the agreement binds

the Originator or the Nested Third-Party Sender to the NACHA Rules. Customer shall provide Bank with the list of all Originators and Nested Third-Party Senders, copies of the agreements, and other information deemed reasonably necessary to identify Originators or Nested Third-Party Senders within two (2) Business Days of Bank's request. Bank reserves the right to review the list of Originators and Nested Third-Party Senders for which Customer is transmitting the Entries and to reject any in Bank's sole discretion. As Third-Party Sender, Customer agrees to defend, indemnify and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities, and damages, including reasonable attorney fees and court costs at trial or on appeal that arise directly or indirectly from the failure of the Originator to perform its obligations as an Originator under NACHA Rules. Customer further agrees to assume all applicable responsibilities, warranties, and liabilities of the ODFI, including, but not limited to, conducting required risk assessments, as specified in the NACHA Rules. Customer shall cooperate fully and respond within two (2) Business Days to any inquiry from Bank relating to potential NACHA Rule inquiries or violations.

22. Cash Concentration/Deposit Reporting Services. Customer may request Bank to provide deposit reporting Services based on information provided by the Customer or its designated Agent. Information will be delivered to Bank at the time and location established by Bank. Bank has no responsibility for the accuracy of any information provided by Customer. Customer may authorize Bank to initiate Credit or Debit Entries to accounts designated by Customer at other financial institutions. Bank will initiate such Entries in accordance with agreed procedures. Customer agrees to authorize RDFIs to honor such transactions.

23. ACH Positive Pay Service. ACH Positive Pay Service assists Customer in detecting fraud by electronically matching incoming ACH transactions to authorizations that Customer can create and manage online. If ACH Positive Pay Service is selected by Customer, Customer shall designate the account(s) maintained at Bank that are to be used with the ACH Positive Pay Service ("ACH Positive Pay Account"). Customer shall create authorizations for incoming ACH Credit and/or Debit Entries that it desires to post to the ACH Positive Pay Account. Customer shall be responsible for the accuracy and completeness of all information provided to Bank. Bank will allow incoming Entries that match Customer's authorizations to post to Customer's ACH Positive Pay Account. Incoming ACH transactions that do not match Customer's authorizations will be treated as exception items, and Customer agrees to monitor, review, and make payment decisions on the exception items prior to Bank's established deadline. Bank is authorized to return all exception items unless Customer instructs bank to pay one or more exception items prior to the established deadline. Bank shall have no responsibility for any liability, loss or damage resulting from the return of any exception item to the Originator in accordance with this Section or Customer's failure to meet Bank's established deadlines, except with respect to losses caused by Bank's own lack of good faith or failure to exercise ordinary care. Bank's failure to report a discrepancy will not discharge Customer's obligation with regard to any item and shall not obligate Bank to return any item if it is otherwise authorized.

E. WIRE TRANSFER SERVICES

1. Introduction.

a. Governing Law. Bank sends outgoing and receives incoming wire transfers through Fedwire (the funds transfer system owned and operated by the Federal Reserve Banks or other provider in accordance with Section II.24.A). All funds transfers are governed by this Agreement, Subpart B of Regulation J of the Federal Reserve Board, OFAC regulations, and all other applicable international, federal, state, and local laws and regulations. Customer agrees not to initiate or receive a wire transfer payment order in violation of applicable federal, state, or local law.

b. Authorized Users. Customer will designate to Bank in the form required by Bank those individuals authorized to instruct Bank regarding wire transfer Services including without limitation, individuals authorized to initiate payment orders and select advice methods, confirmation methods, and any or all authorizations and instructions that may be requested by Bank. Bank may rely on any such authorization until it has been revoked in writing by Customer. Bank shall have a reasonable time to process any revocation received pursuant to this Section.

2. Routing/Time Deadlines. Bank may use any means of transmission, funds transfer system, intermediary bank, clearinghouse, or route that Bank reasonably believes is suitable for each outgoing wire transfer. Bank will establish from time to time one or more deadlines after which Bank will not accept an incoming payment order to be processed on the day of receipt. Payment orders received after Bank's established deadline, during a maintenance window, or on any non-Business Day, including any Saturday, Sunday, holiday, or any day that Bank's wire department is not open will be rejected. Payment orders received during a maintenance window, including the end-of-day maintenance window, will not receive a notice of rejection.

3. Payment Orders.

a. Communication. Customer may communicate a payment order to Bank by the means and manner agreed to between the parties.

b. Content of Payment Orders. Customer will supply to Bank any information Bank may reasonably request regarding any payment order initiated by Customer, including, without limitation, money amounts, affected accounts, dates of transfer, the beneficiary's name and account number, the name and routing number or bank identifier code of the beneficiary's financial institution, such additional information as Bank may reasonably request and, if necessary, further evidence of any Agent's authority to transfer funds or to do any other act contemplated by this Service. Bank strongly recommends that Customer utilize a second individual to review and approve payment orders prior to submission to Bank. Customer acknowledges that failure to use this commercially reasonable security procedure substantially increases Customer's risk of an unauthorized payment order.

c. Execution of Payment Orders. Customer authorizes Bank to execute and charge Customer's account(s) with Bank for payment orders delivered to Bank in accordance with this Agreement. Bank has no obligation to execute a payment order if Customer's account to be charged has insufficient collected and available funds to cover the order.

d. Processing Payment Orders. The order in which Bank processes wire transfer payment orders is determined solely by Bank. Customer does not have the right to reverse, adjust or revoke any payment order after it has been received by Bank, provided, however, that Bank will make a reasonable effort to act on such a request by Customer. With respect to a payment order already transmitted to the beneficiary's financial institution, Bank shall, at Customer's request, request the financial institution to return funds previously transferred. Customer understands that the receiving institution is under no legal obligation to comply with this request.

e. Rejection of Payment Orders**.** Bank may reject a payment order from Customer if such payment order is not initiated in accordance with the applicable security procedure, if there is any inconsistency between a payment order and information previously supplied to Bank, if Bank is unable to obtain confirmation of such payment order satisfactory to Bank, if there are insufficient collected funds in Customer's specified account to fund the payment order, if Bank has a reasonable basis to suspect the

payment order may be unauthorized or fraudulent, or if Bank has other reasonable grounds not to honor the payment order. Bank will notify Customer by telephone that it has rejected a payment order. Bank may also reject an incoming payment order if it has reasonable grounds to do so.

f. Standing Payment Orders. If requested by Customer and agreed to by Bank, Customer may initiate a standing payment order, which is one where the Customer pre-programs the beneficiary, the beneficiary's financial institution, and the accounts to be debited and credited and such information remains constant for subsequent payment orders. Customer shall provide Bank with the necessary information to execute the standing payment order, including, without limitation, the dollar amount to be transferred or the desired peg balance, the frequency of the order and the day of week or month when the payment order is to be executed. Customer may terminate a standing payment order at any time upon receipt by Bank of a written notice. Bank shall have a reasonable time to act on such notice.

g. Batch Wire; Direct Wire Interface.

(i) Service Specifications. If requested by Customer and agreed to by Bank, the Batch Wire service and Direct Wire Interface service allows Customer to initiate payment orders from its computer to Bank's computer, subject to the provisions of this Agreement. In addition, the Direct Wire Interface service allows Customer to receive reports of incoming wire activity. Customer will comply with the relevant interface specifications established by Bank for these services, including, without limitation, file formats, means of data transmission, or establishing a secure connection (the "Specifications"). Bank may furnish Customer with modifications to the Specifications and Customer shall implement such modifications as soon as reasonably practicable.

(ii) Wire Transfer Software, Confidentiality. Customer or its Agent shall be solely responsible for creating the computer programs to implement the Specifications ("Wire Transfer Software"). Customer shall maintain the confidentiality of the Specifications and the Wire Transfer Software and permit access solely to those responsible for supporting the Wire Transfer Software or authorized to initiate payment orders. Customer shall implement passwords and other security devices commensurate with the highest level of security afforded by Customer to other computer programs and confidential information of Customer.

4. Confirmation of Outgoing Wire Transfers.

a. Confirmation Method. Customer and Bank shall agree to the method of confirming payment orders received from Customer. Customer shall designate Authorized Users to confirm payment orders. Bank recommends a minimum of three potential Authorized Users to confirm payment orders and that Authorized Users serve as an initiator or a confirmer, but not both. Notwithstanding Bank's recommendation, if Customer permits an Authorized User to act as both initiator and confirmer, Customer hereby authorizes Bank to process a wire initiated and confirmed by such Authorized User. Customer may add, change, or delete the Authorized Users in accordance with Section II.9 of this Agreement. In the event the designated Authorized Users with authority to confirm are not available to confirm a payment order, Customer agrees that Bank may, at its discretion, elect to process the payment order initiated by an Authorized User. Customer agrees to be bound by any such payment order processed by Bank.

b. Waiver of Confirmation. Bank advises Customer not to waive confirmation. If Customer, however, chooses to waive confirmation, Customer agrees to be liable for all outgoing payment orders, except those payment orders where (1) Customer is able to conclusively prove that the unauthorized transfer could not have been prevented by the use of confirmation procedures; (2) Bank is unable to produce any evidence that the unauthorized transfer could have been prevented by the use of confirmation procedures; and (3) Customer is not otherwise liable for the transfer under this Agreement or applicable law. Customer acknowledges that not using confirmation procedures substantially increases Customer's risk of liability for an unauthorized wire transfer.

c. Confirmation of Wire Transfers Initiated through SinglePoint®, Batch Wire, or Direct Wire Interface (collectively, the "Customer Initiation Methods"). Customer represents and warrants that the confirmation of payment orders initiated through any of the Customer Initiation Methods shall be verified, initiated and confirmed by Customer prior to receipt by Bank. All payment orders shall be initiated and confirmed in accordance with the security procedures established for the relevant Customer Initiation Method.

5. Advices.

a. Advice Method. Customer will select the type of advice it wishes to receive after Bank receives an incoming wire transfer. If Customer selects telephonic advices, Customer may designate person(s) to be contacted and telephone numbers to be used for advice purposes. Bank shall not be required to make more than one attempt to reach Customer's designated location by telephone. If Bank is able to reach the Customer's designated location, but not Customer's designated Agent, Bank may leave a message containing the information to be conveyed.

b. Advices by Facsimile. If Customer selects advices by facsimile ("fax"), Customer shall exercise extreme care in maintaining its own security in the receipt of fax advices. Customer acknowledges that the information to be received by fax may include confidential information, including, without limitation, names, amounts, phone numbers, originating account information and the text of incoming wires. Customer further acknowledges that it alone assumes full responsibility for maintenance of its internal security procedures to keep such information confidential. Customer agrees to defend, indemnify, and hold Bank harmless against any and all claims, demands, expenses, liabilities and damages, including attorney fees at trial and on any appeal or petition for review, incurred by Bank arising directly or indirectly from the transmission by fax of an incoming wire transfer advice.

c. Waiver of Advice. Customer may waive its right under the Uniform Commercial Code to receive advices by so indicating on the applicable Implementation Documents.

6. International Wire Transfers.

a. General. Wire Transfers across country borders are customarily done by Bank through a correspondent bank. Outgoing U.S. dollar payment orders may be converted by the correspondent bank or beneficiary bank to the local beneficiary's currency at the applicable rate in effect at any point in the processing chain. Though in some cases Bank may receive compensation from the correspondent bank in accordance with such conversion, the conversion is executed by the correspondent bank in accordance with the policies and procedures of such correspondent bank at an exchange rate set by that correspondent bank in its sole discretion and subject to any applicable regulations. Any fee, commission or charges assessed by Bank, the correspondent bank, any subsequent intermediary bank, or the beneficiary bank may be passed on to the Customer or deducted from the wire transfer amount. Bank assumes no liability for delays, non-delivery, market risk or other events resulting from causes beyond Bank's control. In refunding unexecuted payment orders, Bank shall be liable to Customer only to the extent it receives payment from the correspondent bank processing the transfer. Cancellation or rejection of a transfer involving non-U.S. dollar currency is subject to any rate exchange loss as determined by Bank. Customer agrees to sell any canceled or rejected payment order to Bank at the then-current applicable foreign currency buy rate.

b. Remittance Transfer Provider. If Customer is at any time classified as a Remittance Transfer Provider under Regulation E, Customer represents, warrants, and agrees that:

(i) Customer shall be responsible for performing and complying with the requirements of 12 CFR Part 1005, including, but not limited to, providing disclosures to the consumer (sender), the error resolution procedures, the provision of any remedies to the consumer, and the cancellation and refund of remittance transfers;

(ii) Bank is acting as an agent and not as a Remittance Transfer Provider when performing activities on behalf of Customer; and

(iii) Even if Bank is deemed a Remittance Transfer Provider under applicable law, Customer shall take all actions necessary to comply with the obligations of a Remittance Transfer Provider.

Customer agrees to indemnify and hold Bank harmless from and against any and all loss, liability, damage, costs and expenses (including attorneys' fees) that Bank may sustain in reliance on Customer's representations and warranties set forth in this Agreement.

7. Reverse Wire Transfers.

a. Authorized Debits. If requested by Customer and agreed to by Bank, Customer authorizes Bank to debit Customer's account(s) with Bank upon receipt of a Fedwire drawdown request, and to send funds to the requesting bank. Each transfer will be done on the Business Day Bank receives the incoming request from the requesting bank if the request is received within a reasonable time to determine whether Customer's Account has sufficient available funds and to obtain access to the Federal Reserve network prior to the close of business.

b. Reverse Wire Funding. Customer acknowledges and agrees that Bank may reject any reverse wire request in excess of the collected and available balance. Requesting bank will be notified if the request is rejected by Bank.

c. Wire Transfer Numbers. Customer's obligation to pay Bank the amount of the funds transfer in the event that the Fedwire message does not identify the same account or financial institution is not excused in such circumstances. When names and numbers are inconsistent, the numbers shall control. With respect to incoming wire transfers that do not indicate an account number recognizable to Bank, Bank may return the wire transfer to the sending financial institution without incurring any liability. Customer does not have the right to reverse, adjust or revoke any Fedwire message after it is received by Bank; however, Bank will use reasonable efforts to act on such a request by Customer to reverse, adjust or revoke such message before Bank has sent the outgoing wire transfer. With respect to an outgoing wire transfer already transmitted by Bank, Bank shall, at Customer's request, request the receiving financial institution to return funds previously transferred. Customer understands and agrees that the receiving financial institution may or may not comply with any such request.

d. Authorizations. Customer's authorization for reverse wire requests shall remain in effect until Customer gives written notice to Bank. Bank will have a reasonable time to act on any written notice received from Customer.

e. Limitation on Bank's Liability. In consideration of Bank's compliance with this authorization, Customer agrees that Bank's treatment of any authorized debit, and Bank's rights with respect to it, shall be the same as if the entry were initiated personally by Customer. Bank shall have no liability if any authorized debit is dishonored.

F. DATA TRANSLATION SERVICES

1. Introduction. Bank may provide electronic data integration, custom formatting, or data translation ("Data Translation Services") to electronically streamline the exchange of payments, remittance and other information between Customer and Bank and between Customer and its trading partners. If requested by Customer and agreed to by Bank, Bank will provide Data Translation Services in accordance with this Agreement and other procedures provided to the Customer. Customer agrees that Data Translation Services shall be governed by this Section and all other relevant sections of this Agreement.

2. Scope of Services. Data Translation Services may be used by Customer to initiate and receive payments using multiple payment channels or networks, which may include, but are not limited to, checks, wire transfers, ACH, virtual card, SWIFT, Real-Time Payments (RTP), Zelle, Visa or Mastercard, and to provide and receive business communications such as remittance data, payment data, invoices, confirmations, orders, or other information in Customer's preferred format. In order to obtain Data Translation Services, Customer must maintain an analyzed demand deposit account with Bank.

3. Entry Origination/Processing Dates/Deadlines. Customer may from time to time deliver to Bank requests to format information for payments and/or other data translation via the agreed upon means (collectively, "Data Translation Request(s)"). All Data Translation Requests shall conform to the content, format, deadlines, and other specifications that may be established by Bank or a third-party software program approved by Bank for use with the Service. Bank may establish different deadlines for Data Translation Requests depending on the method of delivery employed by Customer and all such deadlines are subject to change. Bank must receive Customer's Data Translation Requests at or prior to the deadline established for processing on the Business Day of receipt. Data Translation Requests received after the deadline will be processed on the next Business Day. Customer will be notified if a Data Translation Request is rejected in accordance with procedures established by Bank. Customer represents and warrants that all information in each Data Translation Request delivered to Bank by Customer shall be accurate, timely, authorized and will otherwise comply with all applicable laws, rules, and regulations.

4. Content and Transmission of Information. Data Translation Requests are only designed to respond to information provided by Customer. Accordingly, any inaccuracy in any information provided by Customer may result in unintended processing by Bank. Bank bears no responsibility for detecting or reporting any error in data supplied by Customer and shall not be liable to Customer for any information provided by Customer with respect to a Data Translation Request which is inaccurate, incomplete, duplicative, or otherwise incorrect. Customer shall retain data on file adequate to permit Customer to remake each request for at least ten (10) Business Days following the date a file is sent to Bank and shall provide such data to Bank on request. Customer acknowledges that Bank has no obligation to maintain back-up copies of requests or other information delivered by Customer to Bank. Customer acknowledges that Data Translation Services may involve the transmission of confidential consumer information that may be subject to privacy laws and regulations, including breach notification regulations. Customer agrees to notify Bank if Customer sends or receives Protected Health Information as part of Data Translation Services. If Customer is the recipient of misdirected information, Customer shall immediately notify Bank and return the information to Bank. Customer agrees not to retain, use, copy, distribute or otherwise disclose the information in any manner.

5. Payment Requests. Customer agrees that its requests to initiate payments utilizing Data Translation Services shall be governed by this Section, the sections of this Agreement governing the applicable payment mechanism, and all other applicable laws, rules and regulations governing the relevant payment mechanism. Customer authorizes Bank to execute all electronic and check payment requests ("Payment Requests"), and settle to the Customer's account all Payment Requests, delivered to Bank in compliance with the terms of this Agreement, including the security procedures. Customer is solely responsible for initiating the Payment Requests sufficiently in advance to meet Customer's contractual obligations to its vendors and/or its customers. Bank shall not be responsible for any late payment or finance charges that may result from Customer's failure to allow sufficient lead-time.

a. Electronic Payment Requests. Depending on the scope of the Data Translation Services solution offered by Bank, Customer may from time to time request that Bank initiate electronic payments using the ACH, card, SWIFT and Zelle networks, The Clearing House system, the wire transfer system, or other electronic funds transfer system ("Electronic Payment Requests"). Except as may be provided elsewhere, Customer may not amend or revoke Electronic Payment Requests after they have been received by Bank. Customer acknowledges that the rules of NACHA and other electronic funds transfer systems may make any credit provisional until the financial institution crediting the account of the beneficiary specified in an Electronic Payment Request receives final settlement and that if the financial institution does not receive final settlement, it is entitled to a refund and Customer shall be deemed not to have paid the beneficiary. Electronic Payment Requests with settlement dates of more than thirty (30) calendar days from receipt will not be processed unless prior arrangements have been made. Customer authorizes Bank to use whatever means Bank, in good faith, deems reasonable under the circumstances to execute each Electronic Payment Request, including selection of a funds transfer system, routing and means of transmission.

b. Check Payment Requests. Customer may from time to time request that Bank print checks and related remittance information ("Check Payment Request(s)") and issue and distribute such checks and information. Customer shall designate the account(s) from which Bank is to make payment ("Payment Account") and shall maintain a sufficient balance in the Payment Account to fund its Check Payment Requests. To mitigate against fraud, Bank requires that Customer utilize Bank's Positive Pay Services in conjunction with the Payment Account. Customer agrees that checks drawn in a manner consistent with a Check Payment Request shall be duly authorized to the same extent as a check drawn and signed by Customer and is properly payable by Bank. Customer authorizes Bank to deduct the Payment Account in the amount of the Check Payment Request. If there are insufficient funds in the Payment Account to make a Check Payment Request, Bank may in its sole discretion either refuse to make the payment or make the payment and overdraw the Payment Account. In either event, Customer shall incur fees as disclosed by Bank in the account agreement and related fee schedules and other disclosures. Customer has no right to reverse, adjust or revoke any Check Payment Request after it has been received by Bank. Bank will, however, make reasonable efforts to act on such a request by Customer. If Check Payment Requests relate to printing checks drawn on another financial institution's account ("Off-Us Checks"), Customer acknowledges that Bank shall not be liable for any fraudulent or unauthorized activity that may arise from the use of such Off-Us Checks. If Check Payment Requests relate to printing payroll checks, Customer acknowledges that Bank shall only print payroll checks and shall not be responsible for any other aspect of payroll processing, including, but not limited to, producing IRS Form W-2s, 1099s or other payroll-related tax documents. In addition, Customer represents and warrants that it shall not include any social security numbers in the Check Payment Requests for payroll checks and agrees to indemnify and hold Bank harmless if the checks or check stubs are printed with social security numbers.

7. File Confirmation Procedures. Customer shall at all times comply with the applicable file confirmation procedures established by Bank. File confirmation procedures utilizing Data Translation Services are solely for the purpose of verifying Bank's receipt of the Payment Requests but not for identifying errors in transmission or content.

a. Control Totals. Control Totals are an elective option that allows Customer to confirm file totals of Payment Requests transmitted to Bank. If the Control Totals option is selected by Customer, Customer shall call Bank's Audio Response Unit ("ARU") or send a data file to Bank providing the total items and dollar value of the Payment Requests and any other necessary information ("Control Totals"). After Bank receives Customer's Payment Requests, Bank will compare the Payment Requests to the Control Totals. If the Control Totals match the Payment Requests, Bank will process the Payment Requests. Bank will not process the Payment Requests if Bank does not receive conforming Control Totals on or before the established delivery deadline. Bank will notify Customer if the Control Totals do not match the Payment Requests, or if Bank receives Payment Requests without receiving Control Totals or vice versa.

If the Control Totals option is not selected by Customer, upon Bank's receipt of Customer's electronic payments via a data file, Bank shall send an acknowledgement to Customer confirming receipt and acceptance of Customer's Payment Requests. If Customer identifies errors in the content or transmission of Customer's Payment Requests, or if Customer does not receive an acknowledgement from Bank, Customer agrees to notify Bank immediately. Depending on the payment deadlines, Bank may be able to delete or reverse processing of Payment Requests.

b. Payables File Manager. Payables File Manager is an elective Service that allows Customer to confirm that Bank has received Customer's files. Using SinglePoint® or other applications or systems as may be introduced by Bank, Customer may view the status of Data Translation files sent by Customer to Bank. If Customer selects this Service, Customer agrees to promptly and regularly review the status of all files displayed in the Payables File Manager and to notify Bank immediately if any files sent by Customer were not received by Bank. Depending on the payment deadlines, Bank may be able to delete or reverse processing of Payment Requests. Customer bears sole responsibility for any inaccurate or incomplete information sent to Bank if Customer fails to notify Bank prior to Bank's processing of Customer's files.

8. Supplier Prefer Pay. If selected by Customer and agreed to by Bank, the Supplier Prefer Pay Service provides an electronic payment enrollment and storage solution, which also allows use of the stored data for payment origination.

Customer's suppliers or trading partners ("Suppliers") may elect to enroll in a program to receive payment from Customer via ACH or alternative payment methods that may include, but are not limited to, virtual cards (account without the issuance of a physical credit card) and checks. As part of this Service, Bank will: (i) provide online enrollment for Suppliers to register to receive payment from Customer, including the option for Supplier to provide a preferred email address to receive remittance information; (ii) contact Suppliers (with contact information provided solely by Customer) via telephone, email or regular mail to describe the supplier enrollment service and solicit their participation; (iii) support Supplier enrollment; and (iv) at Customer's election, securely store Supplier's banking information. Customer will designate one or more System Administrator(s) responsible for establishing internal security procedures, including, without limitation, setting up and maintaining access to the Service. Customer shall be solely responsible for conducting the necessary due diligence to vet Customer's Suppliers and to ensure that only legitimate Suppliers of Customer enroll in the Service. Bank recommends that Customer establish and utilize robust security procedures in accordance with the guidelines provided by Bank in the Implementation Documents. If Customer declines Bank's recommendation, Customer agrees it will be precluded from asserting any claims against Bank for unauthorized payments, except with respect to claims caused by Bank's own lack of good faith or failure to exercise ordinary care.

Customer acknowledges and agrees that use of the Service may be affected by external factors beyond Bank's control. Interruption of the Service or performance hereunder for any reason shall not relieve Customer of its obligation to make timely payment to Suppliers, and Bank shall not incur any liability to Customer for Customer's failure to timely make any such payment to Suppliers. Customer agrees to defend, indemnify and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities, and damages, including reasonable attorney fees and court costs at trial or on appeal that arise directly or indirectly out of any payments made by Customer using the enrollment information furnished by Customer, Suppliers or any other party on behalf of Supplier.

G. CASH VAULT SERVICES

1. Introduction. The Terms "cash," "coin" and "currency" as used herein shall refer to coin and currency of the United States and certain foreign currencies accepted by Bank.

2. Foreign currency. Customer shall not deposit any foreign currency unless Customer has obtained Bank's prior approval. Bank reserves the right, in its sole discretion, to impose restrictions on, or discontinue acceptance of, foreign currency deposits. Section III.G.5 below does not apply to foreign currency processing. Foreign coin shall not be accepted for deposit by Bank under any circumstances.

3. Account. All deposits of coin, currency and checks will be credited to, and all withdrawals of coin, currency and checks will be debited against, Customer's deposit account at Bank (the "Account") which Customer has designated as being covered by the Services described herein. Customer agrees that it shall not deposit any items, instructions, or objects other than coin, currency and checks as outlined in this Agreement and agrees to assume any and all risk of loss associated with tendering items not specified herein.

4. Deposits.

a. Customer shall supply and maintain tamper-evident disposable plastic bags used for deposits. Plastic bags shall be sealed according to manufacturers' instructions and addressed to the appropriate secured facility specified by Bank. Customer will prepare deposits as follows: (i) currency will be batched separately from checks with each currency and check batch accompanied by a deposit ticket fully completed by Customer; (ii) currency will be banded with 100 notes of the same denomination whenever possible; (iii) deposits will be delivered by Customer's approved carrier to the secured facility specified by Bank; and (iv) to receive same-day credit, deposits must be made prior to the daily deadline established by Bank from time to time, and any deposits received by Bank after its deadline may be considered to have been received on the next Business Day. Foreign currency deposits do not qualify for same-day credit and are subject to Bank's prevailing exchange rates.

b. Bank will process Customer's deposits as follows: (i) deposits will be receipted and conditional (subject to verification) credit assigned based on the amount identified on the deposit ticket; (ii) deposit tickets that are missing, blank or do not contain legible "declared balances" are subject to delayed ledger credit; and (iii) coins and currency will be counted and Bank's count will be the valid and controlling count.

c. For U.S. currency, if there is a coin and currency variance of more than USD 10 from the declared balance on Customer's deposit ticket, Bank shall adjust Customer's coin and currency deposits through a separate debit or credit to Customer's account. Any such adjustment shall not be reflected on Customer's deposit ticket. Deposit tickets containing a declared total that includes check deposits may require a separate and additional adjustment for any variances to Customer's check deposits. If there is a coin and currency variance of USD 10 or less from the declared balance on Customer's deposit ticket, Bank shall not make any adjustment to Customer's currency and coin deposits and shall credit Customer's account based on Customer's declared balance. Upon request, Bank will provide Customer with any available information that may assist Customer in reconciliation of the difference.

d. Deposited items are deemed received on the day of delivery if Bank receives the deposit prior to Bank's established deadlines. Deposits will be processed in accordance with normal Bank procedure and any applicable availability schedules. All deposits made by Customer shall be subject to verification and adjustment by Bank. Bank's verification shall be deemed correct and binding upon Customer for all purposes, absent manifest error.

5. Withdrawals.

a. Bank may provide Customer with U.S. currency and coin in designated denominations from time to time as requested by Customer through the Bank's automated ordering system ("Cash Orders"). Customer must comply with all of Bank's policies and procedures regarding the placement and delivery of Cash Orders, including, without limitation, the maintenance of a designated password. Customer shall be responsible for maintaining the confidentiality of Customer's password and restricting access to the system to authorized Agents. All Cash Orders will be charged to the account designated by Customer and must be picked up by Customer's Agent. Only approved carriers may pick up Cash Orders directly from a cash vault operated by Bank. Bank may release any Cash Order to any individual that Bank reasonably believes to be Customer's Agent. Customer shall be responsible for any Cash Order after receipt thereof by the Agent. Bank may specify a daily Cash Order limit and Customer agrees that it will not initiate a Cash Order in excess of the designated limit. In no event shall Customer initiate a Cash Order in excess of the immediately available funds in the designated account.

b. Customer may order currency and coin from Bank as follows:

- **(i)** The preferred order for currency is in standard full strap (100 banknotes) quantities only.
- **(ii)** Coin may be ordered in standard full box units (50 rolls), individual rolls or loose standard bags only.
- **(iii)** A charge for the face value of the monies ordered will be made to the Account on the day the order is processed by Bank.
- **(iv)** Orders for coin and currency must be placed no later than the deadline established by Bank from time to time for release to Customer's Agent on the same or next Business Day. Depending on Customer's location, select cash vault sites may require a multiple-day lead time or more for coin and currency orders.
- **(v)** Bank must be notified of any discrepancies pertaining to coin or currency orders within two Business Days of receipt by Customer of such coin or currency. Customer must return documentation to back-up outages such as plastic change order bag, currency strap, coin wrapper and/or box.

6. Processing. Bank will provide processing on all Business Days. Cash Vault Services using third-party applications with time-stamp data are for informational purposes only and may not reflect actual timing of receipt, posting or verification of Customer's deposits by Bank. Bank shall not be liable for any inaccurate or incomplete information with respect to such time-stamp data provided to Customer.

7. Carrier Service. Any carrier service utilized to deliver or obtain coin, currency, or other property to or from Bank, including, without limitation, a common carrier, will act as the agent of Customer and not of Bank. Customer and carrier shall agree upon the pickup and delivery days and times. Customer will bear the entire risk of loss of coins, currency, checks or other property of Customer when in the custody or control of Customer's carrier service.

8. Cash Shipping Solution. If this Service is selected by Customer and agreed to by Bank, Bank may rent a caller box at the United States Postal Service (USPS) post office and, on Customer's behalf, engage an armored carrier, each of which. shall be deemed Customer's Agent, to retrieve Customer's deposits from the caller box for delivery to Bank and to deliver Customer's coin and currency orders to the USPS. Customer agrees to implement and properly use any and all security procedures prescribed or recommended by USPS and Bank and agrees to hold Bank harmless from any claims or losses arising from Customer's failure to implement and properly use any such prescribed or recommended security procedures. Bank requires that Customer limits its deposits and orders to $500 per mailer, but regardless Customer bears the entire risk of loss of coins, currency, checks or other property of Customer until received at, or upon pick up from, Bank's cash vault. Customer shall be solely responsible for any investigation of a loss suffered prior to delivery to, or after pickup from, Bank's cash vault and Bank shall have no obligation to participate in such investigation.

9. Representations. Customer represents and warrants to Bank that (a) all funds deposited with Bank will be the proceeds of, and all funds ordered and withdrawn from Bank will be intended for use in, Customer's lawful activities and (b) all of Customer's transactions hereunder will be conducted solely on Customer's behalf and not on behalf of any other person or entity.

10. Regulatory Compliance. Upon request, Customer shall immediately provide Bank with any information and shall otherwise cooperate with Bank in every way necessary in order to enable Bank to fulfill its obligations

with respect to the reporting of transactions in coin and currency or any other regulatory requirement.

11. Use of and Access to Cash Vault Services. Customer acknowledges and agrees that Cash Vault Services are to be used exclusively for its benefit and, absent prior written approval by Bank, Customer will not permit third parties, including non-Customers or other Agents of Customer (excluding approved carriers or agents making cash deposits into a Customer's account at Bank and agents ordering cash on behalf of a Customer), from accessing or otherwise using any Cash Vault Services offered by Bank.

H. U.S. BANK EASYTAX℠ SERVICES

1. Authorization; Enrollment. If the EasyTax Service is requested by Customer and agreed to by Bank, Bank will electronically enroll Customer in the Electronic Federal Tax Payment System (EFTPS) if Customer desires to make federal tax payments via EFTPS. Electronic enrollment will allow Bank to process Customer's tax payments in compliance with EFTPS through Bank's tax payment system only. If Customer chooses to pay federal taxes by any other means, payments may not be EFTPS compliant. Customer understands that Bank's EFTPS enrollment form 8655 does not replace the EFTPS form 9779, which is sent to mandated companies by the Internal Revenue Service. Customer may also use the EasyTax Service to make state and/or local municipality tax payments in jurisdictions that support such payments. Customer agrees that the EasyTax Service shall be governed by this Section and all other relevant sections of this Agreement.

2. Submission of Information. Customer shall furnish Bank with complete and accurate master file information which shall enable Bank to file tax deposits via ACH with the appropriate tax authorities in a timely manner. The Service provided by Bank hereunder shall be based solely upon the information furnished by Customer to Bank. Accordingly, any inaccuracy in any information provided by Customer may result in unintended processing by Bank. Customer bears sole and exclusive responsibility to verify that the information provided to Bank is complete and accurate. Bank bears no responsibility for detecting or reporting any error in data supplied by Customer and shall not be liable to Customer for any information provided by Customer with respect to information that is inaccurate, incomplete, or otherwise incorrect. The Service provided hereunder does not relieve Customer of any duty imposed on Customer by law to maintain records or from verifying and, if necessary, immediately correcting in writing all data received from Bank relating to the Service. Customer agrees to be bound by any instructions, whether or not authorized, issued in its name and accepted by Bank in accordance with the agreed procedures. Customer shall indemnify and hold Bank harmless from and against all liability, loss, and damage (including attorneys' fees and other costs incurred in connection therewith) arising out of the use of information provided by Customer.

3. Requests for Payment. Requests for payment to tax authorities must be made in accordance with instructions which Bank shall provide Customer, which may be amended by Bank from time to time at its discretion and will be considered complete only if actually received by Bank. All tax deposits must be initiated at least one Business Day in advance of the due date, otherwise deposits may be subject to federal or state penalties. Any request by Customer to make tax deposits hereunder shall be submitted to Bank prior to the daily cut-off time established by Bank from time to time. Any such request received by Bank after its daily cut-off time may be processed on the next Business Day. In the event that an ACH Entry is rejected or returned by an ACH processor for any reason whatsoever, Bank will give Customer notice of any rejected or returned ACH Entry in the usual manner agreed to by the parties. Bank shall have no liability for any delay caused by strikes, telephone failure, equipment or electrical failure, or any other condition beyond the reasonable control of Bank.

4. Receipt of Funds. Funds received by Bank from Customer shall be held as a deposit liability of Bank to Customer until such time as such funds are due and paid to the appropriate tax authorities. Customer is not entitled to interest on such funds and Bank may invest such funds solely for Bank's benefit.

5. Account. Customer shall maintain with Bank a commercial demand deposit account in which Customer shall maintain immediately available funds in an amount sufficient to cover all tax deposits and fees charged by Bank for the Service hereunder. Failure by Customer to maintain such funds shall relieve Bank from providing such Service, notwithstanding any request by Customer to provide the Service.

6. Liability. Bank shall not be liable for any penalties assessed by reason of failure of Customer to make any tax payments. Interruption of the Service or performance hereunder for any reason shall not relieve Customer of its obligation to make any required tax deposits, and Bank shall not incur any liability to Customer for Customer's failure to make any such deposit. If Customer elects to make a tax deposit by any means other

than through Bank, Bank shall not be liable for any penalties or interest arising from any error in due date or other calculations for deposits made within the period in which such other deposit was made. Bank may choose to provide its EasyTax Service through a third-party vendor. Bank and its third-party vendor's liability to Customer is limited to correcting any error made by the Bank or third-party vendor. The sole and exclusive remedy, at law or in equity, against Bank or third-party vendor is limited to money damages in an amount not to exceed the total amount paid to Bank for EasyTax fees during the twelve (12) months preceding the event giving rise to the liability. Neither Bank nor third-party vendor shall be liable for special, incidental, indirect, punitive, or consequential damages. Customer acknowledges that the EasyTax Service would not be available or would be available at substantially increased rates without the liability and remedy limitations set forth in this Agreement.

7. Codes. Customer shall keep confidential the access and PIN codes issued to Customer in connection with the Service, and only Customer shall use such codes. If Customer suspects that any such codes have become known or otherwise accessed by unauthorized persons, Customer shall notify Bank immediately and follow up such notice with written confirmation. The occurrence of unauthorized access will not affect any deposits made in good faith by Bank before Bank has received such notification and had a reasonable time to act to prevent any unauthorized deposits.

I. PAPER-BASED DISBURSEMENT SERVICES

1. Controlled Disbursement.

a. Disbursement Account. If requested by Customer and agreed to by Bank, Customer will open and maintain a demand deposit account ("Disbursement Account") and a primary funding account ("Funding Account") at Bank. The disbursing bank may be a financial institution that is a subsidiary or affiliate of Bank or Bank itself. Customer agrees to use Bank's Positive Pay Services in conjunction with the use of Disbursement Account(s). Should Customer decline to use Bank's Positive Pay Services in conjunction with the use of Disbursement Account(s), Customer agrees that, except with respect to liability, loss or damage caused by Bank's own lack of good faith or failure to exercise ordinary care, it will be precluded from asserting any claims against Bank for paying any unauthorized, altered, counterfeit or other fraudulent item that Bank's Positive Pay Service was designed to detect or deter. Bank also reserves the right to require Customer to execute a separate indemnity agreement related to its use of Disbursement Account(s). Customer hereby authorizes and directs Bank to act on its behalf and as its agent, as Bank in its sole discretion deems necessary or advisable, in performing any of the Controlled Disbursement Services and related Services.

b. Funding Procedures. On each Business Day, Bank shall electronically provide Customer with a report of the total aggregate amount of all presented disbursement checks and ACH transactions posted in the early morning ACH window, net of the prior day adjustment and other charges to the Disbursement Account (the "Total Clearings"). Customer agrees to maintain sufficient collected balances in the Funding Account by the established deadline to fund the Total Clearings. Bank is hereby authorized to debit the Funding Account in an amount equal to the actual or estimated Total Clearings and to transfer funds in said amount for credit to the Disbursement Account. Bank reserves the right to convert the Disbursement Account into a standard prepaid checking account at any time upon notice to Customer.

c. Adjustments. Bank will compare the report of electronic presentments to the checks presented against the Disbursement Account. If the total dollar amount of checks electronically reported is less than the total dollar amount of checks presented, Bank will credit the Disbursement Account for the difference. Bank will add this difference to Customer's Total Clearings the next Business Day.

d. Daily Dollar Limit. A daily dollar limit (the "Dollar Limit") may be established from time to time by Bank with respect to the Disbursement Account in Bank's sole discretion. Bank shall have no obligation to pay disbursement checks and ACH transactions (collectively, "Disbursement Items") in excess of the Dollar Limit. Bank may, at any time, either verbally or in writing (but shall not be deemed obligated to) notify Customer of any change made by Bank in the Dollar Limit. Establishment of the Dollar Limit should not be interpreted or construed by Customer as any commitment or agreement by Bank to provide any credit or loans to Customer, nor as an agreement or commitment to debit the Funding Account when doing so would create a negative balance therein.

e. Special Circumstances. Customer acknowledges that Bank, under some circumstances beyond its control, may at times be unable to provide a report of the total amount of its Total Clearings early enough for Customer to make a complete and acceptable funding of the accounts. Customer nevertheless agrees to fund the Funding Account completely by using an estimate of the Total Clearings.

f. Action Affecting Accounts. Should Bank receive any process, summons, order, injunction, execution, levy, lien, garnishment, or adverse claim notice (either by a governmental authority or third party) (hereinafter referred to as "Process"), which Bank reasonably believes will adversely affect the Funding Account or the Disbursement Account, Bank may, at its option and without liability, refuse to honor orders to pay or withdraw sums from any Disbursement Account and may either hold the Funding Account balance herein until such Process is disposed of to the satisfaction of Bank or pay the balance over to the source of the Process in accordance with applicable law.

g. Return of Disbursement Items Unpaid. Bank reserves the right, in Bank's sole discretion, to return unpaid any or all Disbursement Items presented for payment against the Disbursement Account in the event that:

(i) there are insufficient collected and available balances on deposit in the Funding Account by the established deadline to fund the Total Clearings;

(ii) debits cannot be posted because the Disbursement Account or Funding Account is frozen, blocked, closed or because of any other condition; or

(iii) any communications failure or other condition prevents Bank from monitoring Customer's Dollar Limit and/or the Disbursement Items presented for payment.

h. Stop Payment Orders. Customer may issue stop payment orders on Disbursement Items drawn on the Disbursement Account in accordance with Bank's procedures.

2. Warrant Services.

a. Warrant Account. If requested by Customer and agreed to by Bank, Customer shall open and maintain a demand deposit account upon which warrants shall be drawn and will be charged (the "Warrant Account"). Customer shall maintain on deposit sufficient collected and available balances to cover items drawn on the Warrant Account.

b. Warrant Format. All warrants shall contain on the face of the item the words "warrant" and "payable through U.S. Bank." Customer will also encode all warrants in accordance with Bank specifications. Customer agrees to immediately make any changes to the format of the warrants or encoding when requested to do so by Bank and will be solely responsible for its failure or refusal to comply with Bank's specifications. Any warrant drawn by Customer on the Warrant Account shall be treated by Bank as a warrant regardless of what appears on the face of the warrant and Customer shall hold Bank harmless as a result of so handling any such item.

c. Presentment and Return. Bank shall make warrants presented to Bank available to Customer via electronic presentment. Bank shall notify Customer by electronic means of the account number, warrant number and dollar amount of all presented warrants and provide Customer with a front and back image of each warrant received by Bank. Bank's delivery of the images shall constitute an electronic presentment under the Uniform Commercial Code, Federal Regulation CC, and other applicable laws. Warrant Services are additionally subject to the Reverse Positive Pay terms contained elsewhere in this Agreement. Customer shall notify Bank of each warrant that should be returned in the form agreed to by Bank and Customer. If Customer does not specifically decline payment of a warrant by the deadline established by Bank, such warrant will be finally paid by Bank. Customer acknowledges that warrants payable through Bank are considered to be drawn on Bank for purposes of the expeditious return and notice-of-nonpayment requirements of subpart C of Regulation CC of the Federal Reserve Board. If Bank agrees to return a warrant following Bank's deadline, Customer agrees to be responsible for Bank's failure to return the warrant in an expeditious manner as prescribed in Regulation CC. Bank shall be deemed to have made timely presentment to Customer with respect to any warrants that Bank receives at a time when it is prevented from making presentment to Customer as a result of any force majeure event illustrated in Section II.22.

d. Examination of Warrants. Bank shall have no responsibility to examine warrants prior to presentment to Customer for its payment decision. Bank will take ordinary care to see that the amount of each warrant as drawn is accurately posted to Customer's account. Bank will not make any attempt to verify signatures, endorsements, or restrictive clauses on warrants. Bank will not examine the dates on which warrants have been drawn for undated, stale, or post-dated items. Bank shall have no responsibility for any liability, loss or damage resulting from (i) a payment in accordance with this Section of any warrant that is altered or unsigned or that bears the forged or unauthorized signature of Customer or (ii) return of any warrant to the depository bank in accordance with this Section.

e. Encashment of Warrants. Unless otherwise instructed by Customer, Bank is authorized to pay warrants issued by Customer that are presented for encashment by payees. Bank will not be liable for the encashment of any warrant which contains, or is purported to contain, a forged signature of a maker or endorser, or any other unauthorized modification, as long as Bank exercises ordinary care in cashing the warrant.

J. POSITIVE PAY SERVICES

1. Introduction. Positive Pay Services are offered by Bank as the most effective way to minimize loss from fraudulent check issuance or payment. If Positive Pay Services are requested by Customer and agreed to by Bank, Customer and Bank agree that in the event of an inconsistency between this Agreement and applicable law, the provisions of this Agreement shall prevail to the extent permitted. Nothing in this Agreement is intended to limit Bank's right to return an item unpaid if there are insufficient available funds in the designated account.

2. Format Specifications. Customer shall comply at all times with Bank's format and data transmission standards for the Positive Pay Service. Customer agrees to issue checks, warrants, drafts, or other items (collectively, "Items") in accordance with Bank's specifications and will change the Item format when requested to do so by Bank. Bank shall not be responsible for correcting or resolving processing problems caused by substandard quality magnetic encoding.

3. Positive Pay.

a. Customer Responsibilities. Customer shall designate to Bank all account(s) that are to be used with the Positive Pay Service ("Positive Pay Account(s)"). Customer will provide Bank with a file of all outstanding Items prior to activation of this Service. On each day that an Item is written against the Positive Pay Account, Customer shall supply Bank with all required Item issue information prior to the deadline established by Bank. Such information shall include, without limitation, the account number, the issue date, the Item number, and the dollar amount. Customer shall be responsible for the accuracy and completeness of all information provided to Bank. Customer agrees to review all Positive Pay Exception Items (as defined below) each Business Day.

b. Bank's Responsibilities. In reliance on the information provided by Customer, Bank shall create a master issue file for each designated Positive Pay Account ("Issue File"). If ARP File Confirmation Service is selected by Customer, Bank shall process the Issue File and provide a confirmation to Customer that the Issue File was received and processed. Excluding valid stop payment orders and issue records voided by Customer request, all Items, including those that have been electronically converted, that match by Item number and dollar amount to Bank's Issue File will be deemed properly payable and Bank is authorized to pay all such Items.

c. Positive Pay Exceptions**.** Each Business Day, Bank shall make reasonable efforts to report to Customer any Item that does not match the Issue File (each, a "Positive Pay Exception") and, if requested and available, provide the front and back images of those Items for that day's presentment; provided, however, no images shall be provided in the case of electronically converted Items. Customer agrees to review and make payment decisions on the Positive Pay Exception Items prior to Bank's established deadline each Business Day. If Customer selects the Positive Pay Same Day service for controlled disbursement accounts, Customer shall receive and may make payment decisions on Positive Pay Exception Items prior to the Items posting to the controlled disbursement accounts or defer payment decisions until the established deadline on the next Business Day. As the most effective fraud-protection setup, "return all" shall be the initial default setup for all Positive Pay Exception Items. Under the "return all" setup, Bank is authorized to return any Positive Pay Exception Item unless Customer instructs Bank to pay a Positive Pay Exception Item prior to the established deadline. As an alternative to the "return all" setup, Customer may select "pay all" as its default setup for Positive Pay Exception Items, in which case Bank is authorized to finally pay any Positive Pay Exception Item unless Customer has instructed Bank to return the Positive Pay Exception Item prior to the established deadline. If Customer selects "pay all" as its default setup, Customer agrees to execute any further documentation required by Bank. Customer shall indemnify and hold Bank harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorney fees and court costs at trial or on appeal) arising directly or indirectly from Customer's selection of "pay all" as its default setup. Bank may rely on any instructions received from Customer that Bank reasonably believes to be genuine. Except with respect to liability, loss or damage caused by Bank's own lack of good faith

or failure to exercise ordinary care, Bank shall have no responsibility for any liability, loss or damage resulting from:

(i) payment in accordance with this Section of any Positive Pay Exception Item that is altered or unsigned or which bears the forged or unauthorized signature of Customer;

(ii) the return of any Positive Pay Exception Item to the depository bank in accordance with this Section; or

(iii) Customer's failure to meet Bank's established deadlines. Customer may be required to place a stop payment order on any returned Positive Pay Exception Item, which shall be subject to Bank's customary stop payment fee. Bank's failure to report a discrepancy will not discharge Customer's obligation with regard to any Item and shall not obligate Bank to return any Item if it is otherwise properly payable.

d. Teller Positive Pay. All Positive Pay Accounts will interface with the Bank's teller system unless requested by Customer. Bank will compare Items presented for cash at a branch of the Bank with Customer's Issue File. Customer acknowledges that under some circumstances issuance information submitted by Customer may not be reflected in Customer's Issue File until the opening of the following Business Day. Customer agrees to follow Bank's established procedures should it need to manually add an Item to the Issue File. Bank will make reasonable efforts to assist Customer, but Customer acknowledges that Bank may be unable to process such requests on a same-day basis. If a special handling process for teller-cashed items is selected by Customer and agreed to by Bank, Bank shall attempt to contact Customer for approval prior to the encashment of any item that does not appear in the Issue File. Customer agrees that Bank, in its sole discretion, may refuse to cash any Positive Pay Exception Item and such refusal will not be deemed to be a wrongful dishonor. In the event of dishonor, Bank will refer the presenter to Customer. In the event that Customer requests Bank not activate or temporarily deactivate Teller Positive Pay, Customer agrees to assume all risk of loss for any Bank teller-cashed Item that would have been identified as a Positive Pay Exception Item prior to acceptance.

e. Teller Payee Positive Pay. If Customer selects the Teller Payee Positive Pay service, payee name(s), in addition to the Issue File information, will be verified at Bank's teller lines. Customer shall include in the Issue File the payee name(s) for each Item issued by Customer. Customer shall be responsible for the accuracy and completeness of the payee information provided to Bank. In reliance on the payee information provided by Customer, Bank will compare the payee information on the Item presented for encashment at a Bank teller line with Customer's Issue File. Customer acknowledges that Bank will not be able to validate payee information if payee information is not provided for a particular Item or for electronically converted Items presented to Bank for payment. Customer acknowledges that, under some circumstances, issuance information submitted by Customer may not be reflected in Customer's Issue File until the opening of the following Business Day. Customer agrees to follow Bank's established procedures should it need to manually add an Item to the Issue File. Bank will make reasonable efforts to assist Customer, but Customer acknowledges that Bank may be unable to process such requests on a same-day basis. If a special handling process for teller-cashed items is selected by Customer and agreed to by Bank, Bank shall attempt to contact Customer for approval prior to the encashment of any item that does not appear in the Issue File. Customer agrees that Bank, in its sole discretion, may refuse to cash any Positive Pay Exception Item, including where the payee name is not an exact match and such refusal will not be deemed to be a wrongful dishonor. In the event of dishonor, Bank will refer the presenter to Customer.

f. Payee Positive Pay. If Customer selects this option, which is available only through SinglePoint®, Customer's Item stock may first be tested to ensure it meets Bank's payee name readability rate. Customer shall designate to Bank all Positive Pay Accounts that shall use Payee Positive Pay. In addition to the Issue File information provided by Customer for the Positive Pay Service, Customer shall include in the Issue File the payee name(s) for each Item issued by Customer. Customer shall be responsible for the accuracy and completeness of the payee information provided to Bank. In reliance on the payee information provided by Customer, Bank will compare the payee information on the Item with Customer's Issue File for Items presented or deposited at Bank. Customer acknowledges that Bank will not be able to validate payee information for electronically converted Items presented to Bank for payment. Bank may, in its sole discretion, impose variable parameters for which the payee information will not be reviewed for certain Items processed through the back office. If such parameters are imposed, Bank agrees to assume the risk of loss for an Item that would have been identified as a Positive Pay Exception solely on the basis of the payee information.

4. Reverse Positive Pay.

a. The Paid File**.** Customer shall identify all accounts subject to Reverse Positive Pay ("Reverse Positive Pay Account"). When an Item is presented for payment against an identified Reverse Positive Pay Account, Bank shall notify Customer prior to the designated time, and in no case later than the Business Day following the day of presentment, of the Reverse Positive Pay Account number, Item number and amount of the presented Item (the "Paid File") and, if requested and available, shall provide Customer with the front and back images of the Items. By electing Reverse Positive Pay, Customer assumes all fraudulent and other risks associated with teller-cashed Items, except as may be caused by Bank's own lack of good faith or failure to exercise ordinary care, unless Customer provides standing instructions to Bank to disallow encashment at the teller line.

b. Payment Instructions. Customer shall compare the information provided by Bank with Customer's Item issuance records. Customer shall notify Bank prior to the deadline established by Bank of Customer's decision on any reported Items that should be dishonored. Bank may rely on any instructions received from Customer that it reasonably believes to be genuine. Bank is authorized to finally pay any Item listed on the Paid File unless the Customer instructs Bank to return the Item prior to the established deadline. Except with respect to liability, loss or damage caused by Bank's own lack of good faith or failure to exercise ordinary care, Bank shall have no responsibility for any liability, loss or damage resulting from (i) a payment in accordance with this Section of any Item that is altered or unsigned or which bears the forged or unauthorized signature of Customer or (ii) return of any Item to the depository bank in accordance with this Section. Bank reserves the right to require Customer to place a stop payment order on any Item to be returned. Any such orders will be subject to Bank's customary stop payment fee. Customer shall notify Bank by the designated deadline if the Paid File has not been received from Bank. Bank will make reasonable efforts to provide the Paid File to Customer and honor Customer's instructions. Bank's failure to provide a Paid File will not discharge Customer's obligation with regard to any Item that was otherwise properly payable at the time of presentment.

K. LOCKBOX SERVICES

1. Lockbox Service Requirements. Bank provides, either directly or via a third-party vendor, wholesale and wholetail Lockbox Services to assist customers in expediting receipt of their remittances. Customer will have its customers or a third party forward their payments to the location designated by Bank ("Lockbox"). Prior to initiation of any Lockbox Service, Customer must maintain a demand deposit account with Bank associated with the Lockbox Service ("Lockbox Account").

2. Testing; Remittances and Envelopes. Customer shall provide Bank samples of remittances and envelopes for testing and approval prior to using such remittances and envelopes in production. After implementation of Lockbox Services, if there are proposed changes to remittances and envelopes, Customer shall review the proposed changes with Bank and obtain Bank's approval prior to use. Bank may adjust the price for processing Customer's payments if changes are made to Customer's remittances and/or envelopes (including remittance scan line configuration) without such prior approval. Bank may request changes in Customer's remittances or envelopes due to changes in law or regulation, or as reasonably necessary due to equipment or processing improvements. If Customer fails to implement such changes, Bank may adjust the price for payment processing or cease processing Customer's payments as necessary to comply with law or regulation, as reasonably determined by Bank. Customer agrees not to provide any form of prepaid business reply mail envelopes for use with the Lockbox Services.

3. Access to Mail. Customer authorizes Bank or its agent to pick up mail at the appropriate postal facility, to have custody of the keys or combinations and unrestricted and exclusive access to such box, and to collect the mail therein to be processed by Bank as agreed by the parties. Bank shall process remittances in accordance with its standard procedures or in accordance with prior instructions received from Customer and agreed to by Bank. Upon termination of Customer's Lockbox Service, mail received shall be forwarded for ninety (90) days following termination.

4. Proprietary Rights. Bank possesses all proprietary rights to written material, including, without limitation, all computer programs written for Bank's Lockbox processing system, portable media, listings, and other documentation originated and prepared by Bank. Customer shall not duplicate, sell, or use in any manner such programs or documentation without the prior written consent of Bank.

5. Collections/Availability. Unless otherwise agreed, while Customer receives Lockbox Services, all collected funds held in the Lockbox Account shall be deemed to be Customer's funds for all purposes, including adjustment, attachment, execution, garnishment, and other forms of legal process. The crediting and collection of items will be handled under the same agreement as applied to other commercial deposits and shall be subject to Bank's then current funds availability schedule.

6. Transmission of Information. Bank may transmit remittance information or other information received at the lockbox ("Lockbox Information") to Customer or its Agent via secure electronic transmission. Customer further acknowledges that Bank has a duty to protect Lockbox Information and ensure that it is safely delivered to Customer or its Agent and that Bank has deemed secure electronic transmissions to be the safest mechanism for delivery. If Customer elects to receive, or have its Agent receive, the Lockbox Information using other delivery means including paper remittance forwarding or Internet delivery, Customer acknowledges that such delivery means are inherently more insecure and agrees to assume all risk, and hold Bank harmless from, any obligations, liability or losses that results from the nonreceipt, disclosure, dissemination, alteration or unauthorized access of the Lockbox Information. If Customer or its Agent is the recipient of misdirected Lockbox Information, Customer shall immediately notify Bank and return the information to Bank. Customer agrees not to retain, use, copy, distribute or otherwise disclose the information in any manner.

7. Image Delivery Services. Bank shall electronically store check images, check information, remittance information or other information received at the Lockbox in accordance with Bank's record retention schedule. Customer may obtain such images or information via Internet access, file transmission, CDs (physical or virtual), or DVDs (physical or virtual), if available, at the price outlined in the fee schedule. If the images or information are sent via CD or DVD, Customer agrees to verify the contents of the CD or DVD upon receipt and request a replacement, if necessary, within 10 days of receipt. Customer is solely responsible for safeguarding the security and confidentiality of all images and information that is stored on Customer's computer systems, or printed or downloaded from the Internet, CDs, DVDs, or file transmissions. Upon request of Customer and approval of Bank, for a fee Bank will retain items for a period of time beyond Bank's standard retention period. If Customer elects this Service, it agrees that if it closes its account(s) related to lockbox services, such image retention will revert to Bank's standard image retention schedule.

8. Credit/Debit Card Processing. If Customer desires to provide its customers with the option of making their payments via credit card or non-PIN based debit card, Customer shall first secure approval from a payment transaction processor that Bank is able to support. Credit/debit card processing shall be subject to applicable laws, rules and regulations, and the terms of any other agreement between Customer and the payment transaction processor. Customer acknowledges that Bank is acting on behalf of Customer to merely initiate the authorization of payments at the Lockbox site, and that Bank shall have no responsibility for chargebacks, processing fees, payment disputes or other matters related to the credit/debit card transaction. Bank shall enter the credit/debit card information using its best efforts and if adjustments are subsequently required, Customer shall be responsible for handling all adjustments. In accordance with the requirements of the Payment Card Industry (PCI) Data Security Standard, Customer shall not request CVV or Card Verification Code or Value information (for example: CID, CVC2, CVV2 or CAV2) on remittance documents. Storage of this information is prohibited by the PCI Data Security Standard.

9. Foreign currency-denominated items and items drawn on foreign banks. If Customer desires to have non-U.S. dollar items processed by Bank, or items denominated in U.S. dollars but drawn on a foreign bank, Bank shall handle the items within parameters established by Bank based on amount, the type of currency and other considerations outlined in the Implementation Documents. If the item does not fall within Bank's parameters for processing, Bank shall return the item unprocessed to Customer or forward the item for handling as a foreign cash letter collection. If Bank provides Customer with credit at the U.S. dollar conversion rate in effect, and if the item is subsequently returned by the drawee Bank, Bank shall charge Customer's account for the prevailing exchange rate in effect at the time of the chargeback.

10. Protected Health Information. If Customer utilizes the Services to process Protected Health Information, as defined in 45 CFR Part 160, *et seq.*, then Customer must ensure that any necessary agreements are in place.

11. Compliance with Applicable Law. If specific lockbox handling requirements are required in order for Customer to comply with law or regulations applicable to Customer (for example, Regulation Z), Customer agrees to immediately notify Bank of any such requirements. If Bank is unable to accommodate Customer's specific requirements, Bank or Customer may immediately terminate the Lockbox Services.

12. Customer Responsibility. With respect to each item received at the Lockbox, Customer shall indemnify and hold Bank harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorney fees and court costs at trial or on appeal) arising directly or indirectly: (i) from Customer's breach of a representation or warranty under applicable law, clearinghouse rule, Federal Reserve Operating Circular, or other similar rules or regulations; or (ii) from any other act or omission arising out of Bank's action or inaction taken pursuant to any request by Customer or pursuant to this Agreement. This Section III.K.11 shall survive termination of the Agreement.

13. Wholesale Lockbox Processing. Bank offers Wholesale Lockbox Processing services which allows for the processing and deposit of primarily business-to-business payments. Bank is authorized to remove and examine the contents of each envelope in accordance with Bank's wholesale lockbox servicing guidelines and shall, unless otherwise agreed

to by Bank, observe the guidelines provided in this Section. Bank will process, endorse, and deposit remittances in accordance with its standard procedures. Bank shall capture, format, and send remittance data to Customer via information reporting or data transmission in accordance with the Implementation Documents.

a. Check Date. Bank will not examine any checks or other items with respect to check dates.

b. Check Amount. If Bank is unable to determine the amount of a check, such check will be forwarded unprocessed to Customer as an exception.

c. Payee. Checks made payable to the Acceptable Payees listed in the Implementation Documents or any reasonable derivation thereof are acceptable for deposit. Checks made payable to others may be returned by Bank as exceptions. Customer warrants that each Acceptable Payee is either Customer, its affiliate, or an entity that has authorized Customer to act on its behalf for the Services provided herein. If the Acceptable Payee is an affiliate of Customer or an entity which authorized Customer to act on such entity's behalf, Customer represents and warrants that such affiliate or entity has authorized checks payable to it to be credited to the Lockbox Account. Bank may require written authorization from any Acceptable Payee or written evidence that an Acceptable Payee has authorized Customer to act on its behalf. If Customer designates 'Accept All Payees' in the Implementation Documents and Bank accepts such designation, Bank shall process all checks for credit to the Lockbox Account regardless of the payee name on the check. Such designation may be subject to additional Bank fees. Customer agrees to indemnify and hold Bank harmless for any claims, fines, expenses, and damages that arise out of Bank's processing of checks based on Customer's "Accept All Payees" designation.

d. Missing Signature. In the absence of a signature, Bank will process the check. Customer agrees to reimburse Bank if the check is subsequently returned.

e. Exceptions. If a check is treated as an exception, either the physical check or a legal substitute, will be forwarded by Bank to Customer with the remittance data, and not deposited or otherwise reflected in the account of Customer.

f. Correspondence. Any correspondence, invoices and miscellaneous enclosures which are included with a payment, as well as any envelope that does not contain a check, will be imaged and destroyed unless Customer specifies different instructions in the Implementation Documents.

g. Notation. Customer agrees that Bank shall disregard any notation on a check containing "paid in full", "lien waiver" or other restrictive notation, whether preprinted or handwritten, and treat any such check as though such notation did not appear thereon. If Customer instructs Bank not to process checks with restrictive notations and Bank agrees to do so, Bank will use its best efforts to detect checks bearing such notations, but Bank shall not be liable to Customer for failure to detect any such notation.

h. Document Order. Bank shall use its best efforts to process documents that are not in logical order, are difficult to identify, or which are received in unorganized large packages.

i. Remittance Document Forwarding. If remittance document or correspondence-only document forwarding is requested by the Customer and agreed to by Bank, Bank shall forward all remittance documents stacked in the order processed. If Customer requests forwarding of printed check copies, and Bank agrees to do so, the printed check copies will be stacked in the order processed on top of the remittance documents. Document forwarding has limited availability and is not available for all lockboxes.

14. Lockbox Remote Capture Services. Lockbox Remote Capture Services is an optional add-on service to the Wholesale Lockbox Processing service which provides eligible customers the ability to scan and transmit to Bank lockbox payments received at office locations. If Customer is approved for Lockbox Remote Capture Services, Customer agrees that Bank's Lockbox Remote Capture Services shall be governed by this Section III.K (Lockbox Services) and other relevant sections of this Agreement, including but not limited to, the Electronic Deposit Services section.

15. Wholetail Lockbox Processing. Bank offers Wholetail Lockbox Processing Services which allow for the automated processing of consumer-oriented payments. Bank is authorized to open each envelope and remove the contents, disregarding all notations and other marks on the envelopes. Bank does not, unless otherwise agreed to by Bank, examine checks or other items with respect to payee names, check dates and check signatures. Bank is not required to retain remittance envelopes or forward them to Customer. Unless otherwise agreed to by Bank, Bank will disregard any restrictive notation on any check, including but not limited to "paid in full," whether preprinted or handwritten, and shall treat any such check as though such language did not appear thereon. Bank will process, endorse, and deposit remittances in accordance with its standard procedures. If Bank is unable to determine the amount of a check, such check will be forwarded to Customer as unprocessable. Bank will deliver miscellaneous enclosures, unprocessable transactions and remittance data in accordance with the Implementation Documents.

16. Web Decisioning and Exception Review. Web Decisioning and Exception Review is an optional service which allows Customer to review and decision transactions which do not meet Customer's pre-defined criteria. If this service is selected by Customer and agreed to by Bank, Bank will notify Customer of items requiring decisioning. Customer agrees to review and correct the data or reject the transaction by the established deadline. Items which are not decisioned by the deadline will be accepted "as is" or rejected per the default setting established by Customer. Customer is responsible for processing decisions and any data it provides to Bank.

17. Positive and Negative File Processing. Positive and Negative File Processing are optional services in which the Customer provides a file used to identify transactions which should be accepted or rejected. Customer shall be responsible for the accuracy and completeness of all information provided to Bank. For Positive File Processing, transactions which match Customer's file shall be accepted and all other transactions shall be returned to the Customer unprocessed or directed to Web Decisioning or Exception Review, per the settings established by Customer. For Negative File Processing, transactions that do not match Customer's file shall be accepted and all other transactions shall be returned to the Customer unprocessed or directed to Web Decisioning or Exception Review, per the settings established by Customer. Bank shall have no responsibility for any liability, loss or damage resulting from settings selected or established by Customer.

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L. HEALTHCARE PAYMENT CONSOLIDATOR

1. Introduction. U.S. Bank Healthcare Payment Consolidator is a Service that enables Customers to electronically receive, post and reconcile healthcare payments and remittances received from health plans and/or other Agents. The Service accepts images of check payments, remittances and correspondence received by Bank or its vendors in paper form via lockbox, as well as electronically via Automated Clearinghouse (ACH). Electronic remittance files are delivered from the Service to Customer at an agreed upon schedule. Images are made available via website or file transmission. Customer agrees that the Service shall be governed by this Section and all other relevant sections of this Agreement. If Customer selects the Service, the Service may include, but is not limited to, lockbox, ACH, image viewing, data translation and file transmission services to assist Customer in expediting and automating receipt of their remittances. Prior to implementation of the Service, Customer must maintain a demand deposit account with Bank.

2. Processing, Collections and Availability. The Service is available where hardware and software have been configured by Bank to accommodate processing. Bank is authorized to examine the checks and remittances received at Customer's designated lockbox in accordance with Bank's lockbox servicing terms and guidelines. The crediting and collection of items will be handled in accordance with other commercial deposits processed by Bank and shall be subject to Bank's then-current funds availability schedule.

3. Image Viewing and Storage. The Service processes and stores images of paper checks, explanation of benefits statements, correspondence, or other enclosures, as well as images of electronic remittance advices and electronic funds transfers. Images are available to Customer for web viewing or via secure transmission as selected by Customer in the Implementation Documents. Original paper documents will be securely destroyed on a periodic basis.

4. File Transmission and Data Reporting. The Service will transmit to Customer remittance data according to the agreed-upon schedule. Customer may elect to receive data through one or more delivery mechanisms as specified in the Implementation Documents. If the Service is terminated, Customer may obtain an FTP transmission or other available format of image information processed at the price outlined in the fee schedule.

5. Accuracy and Timeliness of Information. Performance of the Service may be affected by external factors such as communication network latency, mail delays and other factors beyond Bank's control. Information with respect to all transactions is provided solely for Customer's convenience, and Customer shall have no recourse to Bank with respect to the use of such information.

6. Customer Authorizations, Notifications and Responsibility. Customer authorizes Bank to disclose Customer information to Bank's vendors to the extent required to deliver the Service, and to debit or credit Customer's accounts in performance of the Service hereunder. Customer shall provide Bank or its vendors with all data and specifications necessary for processing. Customer shall conduct tests that Bank or its vendors may deem necessary to ensure that files may be exchanged and the Service implemented. Customer shall adhere to any and all applicable clearinghouse, local, state, or federal laws, rules or regulations.

7. Protected Health Information. If Customer utilizes the Services to process Protected Health Information, as defined in 45 CFR Part 160, *et seq*., then Customer must ensure that any necessary agreements are in place.

M. COMMERCIAL SWEEP ACCOUNTS – LOAN OPTION

THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: IN THE UNLIKELY EVENT OF THE BANK FAILURE, THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") WILL ALLOW THE LOAN SWEEP TRANSFER OF EXCESS BALANCES IN CUSTOMER'S DEPOSIT ACCOUNT, ABOVE A PRE-ESTABLISHED THRESHOLD, OUT OF THE DEPOSIT ACCOUNT TO PAY DOWN THE LOAN AT BANK ON THE DAY OF FAILURE. THE REMAINING FUNDS IN THE DEPOSIT ACCOUNT WILL BE DEEMED DEPOSITS UNDER FDIC RULES AND WILL BE INSURED UP TO THE APPLICABLE FDIC LIMITS.

1. Definitions.

a. "Account" means Customer's deposit account at Bank which Customer has designated as being covered by the Services described herein.

b. "Available Funds" means the total of the collected funds in the Account as of the close of business on any Business Day, determined in accordance with the manner in which Bank generally provides credit for deposited checks.

c. "Business Day" means any day on which a majority of Bank's offices are open to the public for substantially all banking functions. Saturdays, Sundays, federal or state holidays or any day recognized by a Federal Reserve Bank as a holiday shall not be considered a Business Day, even if Bank's offices are open.

d. "Credit" means any loan arrangement which is designated as a line of credit where Bank has agreed will be subject to the Services described herein.

e. "Credit Agreement" means any loan agreement, promissory note, guaranty or other agreement, instrument, or document which evidences, secures or guarantees the Credit.

f. "Deficiency Amount" means the amount by which the Target Balance exceeds the amount of Available Funds as of the close of business on any Business Day.

g. "Event of Insolvency" means any of the following: (i) Customer or Guarantor shall die or cease to exist; (ii) any Guarantor shall attempt to revoke its guaranty or other obligation to Bank, or such guaranty or other obligation shall become unenforceable in whole or in part; (iii) any bankruptcy, insolvency or receivership proceeding, or any assignment for the benefit of creditors, shall be commenced under any Federal or state law by or against Customer or any Guarantor; (iv) Customer or any Guarantor shall become the subject of any out-of-court settlement with its creditors; or (v) Customer or any Guarantor is unable or admits in writing its inability to pay its debts as they mature.

h. "Excess Funds" means the amount of Available Funds as of the close of business on any Business Day which exceeds the Target Balance.

i. "Guarantor" means any guarantor, surety, accommodation party or joint obligor of the obligations of Customer under the Credit.

j. "Target Balance" means that amount of funds which Customer desires to maintain in the Account and which is mutually agreeable to Bank and Customer from time to time.

k. "Transaction" means either a Loan Transaction or a Repayment Transaction.

2. Initiation of Transactions.

a. As of the close of business on each Business Day, Bank will determine the amount of Excess Funds, if any. If Bank determines that there are Excess Funds, Bank will debit the Account and credit the Credit in an amount equal to the lesser of (i) the amount of Excess Funds or (ii) the outstanding principal balance of the Credit plus all interest, fees and charges then outstanding under the Credit (a "Repayment Transaction"); provided, however, that Bank will not be required to initiate any Repayment Transaction in an amount less than a minimum sum mutually agreeable to Bank and Customer. Customer grants Bank a security interest in, and right of set-off to, the Account for purposes of effecting Repayment Transactions.

b. As of the close of business on each Business Day, Bank will determine the Deficiency Amount, if any. If Bank determines that there is a Deficiency Amount, Bank will charge the Credit in an amount equal to the lesser of (i) the amount by which such available balance is less than the Target Balance or (ii) the amount which is available to be borrowed under the Credit (the lesser of such amounts being referred to as the "Loan Amount"), plus the amount of any fees and charges under the Credit, and credit the Account in an amount equal to the Loan Amount (a "Loan Transaction"); provided, however, that Bank will not be required to initiate any Loan Transaction in an amount less than a minimum sum established by Bank, and Bank will not be required to initiate any Loan Transaction if any default exists under any Credit Agreement or this Agreement or Bank is otherwise excused or prohibited under any Credit Agreement or applicable law from making an advance to Customer. In addition, Bank will not be required to initiate any Loan Transaction, and the Services hereunder shall immediately and automatically terminate without notice, if: (A) the Credit has matured or been terminated; (B) Customer has cancelled the Credit; (C) an Event of Insolvency has occurred; or (D) Bank has demanded payment under the Credit.

c. If Bank has agreed to provide any other service to Customer pursuant to which Bank is authorized to transfer Excess Funds from the Account, (i) this Agreement shall prevail over the terms and conditions of such other service, (ii) Bank may initiate a Repayment Transaction or Loan Transaction under this Agreement in lieu of or prior to initiating the transfer of Excess Funds under such other service, and (iii) Bank shall not be in default as to such other service solely by reason of not initiating the transfer of Excess Funds under such other service.

3. Overdrafts. Bank may debit the Account as set forth in Section III.M.1.a above, even though, subsequent to such debit, and as a result of additional transfers or withdrawals from the Account, the return of checks unpaid, or any other cause, the Account becomes overdrawn. In such event, Customer will be assessed Bank's then prevailing charges for overdrafts.

4. Ordinary Course. Customer and Bank intend that each Repayment Transaction hereunder be (a) in the ordinary course of business or financial affairs of Customer and Bank, and (b) made according to ordinary business terms.

5. Asset-Based Loan Sweep Advance. For each asset-based loan sweep transfer or loan sweep advance (each an "Asset Based Transfer"), Customer certifies to Bank that (i) the Asset Based Transfer is being made in accordance with the certain agreements between Bank and Customer (the "Asset Based Documents"); (ii) the Asset Based Transfer is not revocable by Customer; (iii) the representations and warranties set forth in the Asset Based Documents are true and correct as of the date of each Asset Based Transfer; and (iv) no default or event of default, however denominated, has occurred or is continuing under the Asset Based Documents or will result following the Asset Based Transfer.

6. Termination. In addition to the termination rights described elsewhere in the Agreement, Bank may terminate this Service immediately without notice to Customer if the index or other referenced rate upon which the interest rate for this Service is based is at any time less than zero percent.

N. COMMERCIAL SWEEP ACCOUNTS – INVESTMENT OPTION

NOTICE: INVESTMENT PRODUCTS, INCLUDING MONEY MARKET MUTUAL FUNDS, ARE NOT DEPOSITS OR OBLIGATIONS OF, OR GUARANTEED BY BANK OR ANY OF ITS AFFILIATES, NOR ARE THEY INSURED BY THE FDIC, OR ANY OTHER GOVERNMENT AGENCY. THE INVESTMENT OPTIONS OFFERED BY BANK UNDER THE COMMERCIAL SWEEP ACCOUNT ARE SUBJECT TO INVESTMENT RISKS, INCLUDING LOSS OF PRINCIPAL OF THE AMOUNT INVESTED.

1. General Terms Applicable to All Investment Options.

a. If a Commercial Sweep Account Investment Option has been requested and agreed to by Bank, Customer authorizes Bank to transfer funds on a manual or automated basis to and from the demand deposit account ("DDA") and Investment Option selected by Customer. Funds will be transferred between the accounts so that: (a) to the extent funds are available in either account, Customer's DDA maintains an average collected balance equal to a pre-established balance ("Peg Balance"); and (b) any collected funds in the DDA that exceed the Peg Balance ("Excess Funds") are invested by Bank as directed by Customer in accordance with this Agreement. Amounts invested in money market mutual funds, including investment income, will be redeemed and credited back to the DDA as needed so that the collected balance of Customer's DDA equals the Peg Balance. Amounts invested in other investment options, including interest or other investment income, will be credited back to the DDA each Business Day upon maturity. Bank may limit the amount of Excess Funds that it will invest on behalf of Customer on any particular Business Day. Bank may also impose a maximum redemption amount to bring the DDA to the Peg Balance on a particular Business Day. If Customer's Investment Option is not available on a given Business Day, then all Excess Funds will remain in the DDA until the next Business Day.

b. Bank is authorized to accept verbal instructions, including telephone instructions, from Customer representatives for the transfer of funds between Bank and Customer and between Customer's accounts. Bank may rely on any instructions received from Customer that it reasonably believes to be genuine.

c. Bank is authorized to execute as agent for Customer all certificates of ownership and other instruments required by law or by contract. Bank shall not be accountable for errors in judgment but only for gross negligence or willful misconduct. Bank shall not be required to comply with any direction of Customer which in Bank's judgment, may subject it to liability or to defend or prosecute any suit or action unless indemnified in a manner and amount satisfactory to it.

d. Customer may, by written instrument executed by Customer and delivered to Bank, terminate this Service and withdraw from the account the principal and accumulated income upon paying all sums due to Bank and indemnifying Bank to its satisfaction against liabilities incurred in the administration of the account.

e. Bank will act as agent to invest on the order and for the benefit of Customer. The Services described herein are provided by Bank to Customer solely as bona fide treasury management Services. Bank does not undertake any fiduciary obligation to Customer with respect to these Services. Bank's duties to act for Customer hereunder are solely mechanical and administrative in nature.

f. In addition to the termination rights described elsewhere in the Agreement, Bank may terminate this Service immediately without notice to Customer if the index or other referenced rate upon which the interest rate for this Service is based is at any time less than zero percent.

2. Investment Options.

a. Repurchase Agreements.

(i) Terms. If Customer chooses to invest Excess Funds in repurchase agreements, Customer and Bank agree to be bound by the Master Repurchase Agreement with Bank. If Customer's investments in repurchase agreements exceed its typical investment amount by $10 million or more on a given Business Day, Customer agrees to notify Bank by providing sufficient advance notice to allow Bank to adequately collateralize the investments. Bank will exercise reasonable efforts to invest the entire amount but cannot guarantee full investment under these circumstances. If Customer fails to notify

Bank in advance or if Bank is unable to invest any or all of the additional funds in repurchase agreements, Customer agrees that Bank may be required to withhold or withdraw any interest that may have been previously paid.

(ii) Confirmations. After each repurchase transaction, Bank will deliver to Customer via mail, fax, email, or other electronic means, including without limitation, posting to a password-protected website) a confirmation ("Confirmation") describing any information required by applicable law and any other terms and information which Bank may include at its discretion. The information contained in the Confirmation shall be considered true and correct and conclusively binding unless Customer notifies Bank of any error therein within three (3) Business Days after the date the Confirmation is mailed, faxed, emailed, personally delivered to Customer or sent via other electronic means, including without limitation, posting to a password-protected website. If Customer elects to receive Confirmations electronically, Customer acknowledges and agrees that Customer will no longer receive Confirmations by mail. If Customer desires to discontinue receiving Confirmations electronically, Customer shall provide written notice to Bank, whereupon Bank shall resume delivering mailed Confirmations.

b. Money Market Mutual Funds ("Money Fund").

(i) Terms. If Customer chooses the Money Fund sweep option, Excess Funds will be invested in the First American Money Market Fund offered for this Service. Excess Funds will be swept from the DDA to a pooled deposit account held in Bank's name. On the next Business Day, the Excess Funds from the pooled Deposit Account will be swept to the Money Fund to purchase shares. Customer's shares in the Money Fund will be held in Bank's name in an omnibus investment account, as agent on behalf of all Bank customers invested in the Money Fund. Customer grants to Bank a consensual possessory security interest in the omnibus investment account and all accounts maintained with Bank to secure payment of all of Customer's obligations under this Service. Customer will accrue dividends beginning on the Business Day the shares are purchased. Dividends accrue daily and are paid monthly on the last Business Day of the month. No dividends will accrue on the Business Day the shares are sold. If, for any reason, Money Fund shares are not available on any given Business Day, all Excess Funds will not be swept to the Money Fund and no dividends will accrue until shares become available for purchase. Funds in the DDA and in the pooled deposit account held at Bank will be treated as deposits and will be insured up to the applicable FDIC insurance limits. The Money Fund sweep option is only available to entities having a presence in the United States, which may be demonstrated by a U.S. mailing address and U.S. taxpayer identification number in Bank's records.

(ii) Customer Acknowledgments. BY ACCEPTING THIS SERVICE, CUSTOMER HEREBY ACKNOWLEDGES THAT IT HAS RECEIVED A COPY OF THE PROSPECTUS OF THE DESIGNATED FUND. THIS PROSPECTUS FORMS PART OF THE IMPLEMENTATION DOCUMENTS AND WILL CONTROL OVER THE IMPLEMENTATION DOCUMENTS WITH RESPECT TO MONEY FUND SHARES. CUSTOMER FURTHER ACKNOWLEDGES THAT BANK IS NOT PROVIDING ANY INVESTMENT ADVICE HEREIN TO CUSTOMER AND MAKES NO REPRESENTATION OR WARRANTY AS TO THE SUITABILITY OR SAFETY OF THE INVESTMENTS IN ANY FUND OFFERED UNDER THIS SERVICE.

(iii) Money Fund Disclosures. BANK AFFILIATES SERVE AS INVESTMENT ADVISOR, ADMINISTRATOR, CUSTODIAN, DISTRIBUTOR, TRANSFER AGENT, AND SECURITIES LENDING AGENT AND RECEIVE COMPENSATION FOR SUCH SERVICES AS DISCLOSED IN THE PROSPECTUS FOR THE DESIGNATED FUND. ALTHOUGH MONEY FUNDS SEEK TO PRESERVE THE VALUE OF CUSTOMER'S INVESTMENT AT $1.00 PER SHARE, IT IS POSSIBLE TO LOSE MONEY BY INVESTING IN A MONEY FUND.

(iv) THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: IN THE UNLIKELY EVENT OF BANK FAILURE, CUSTOMER WILL MAINTAIN ITS INTEREST IN THE MONEY FUND SHARES FOLLOWING A COMPLETED MONEY FUND SWEEP. THE VALUE OF THE SHARES IN THE MONEY FUND OMNIBUS INVESTMENT ACCOUNT WILL NOT BE DEEMED "DEPOSITS" UNDER RULES PROMULGATED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") AND WILL NOT BE INSURED BY THE FDIC. ON THE DAY OF FAILURE, HOWEVER, THE FDIC MAY DISALLOW THAT DAY'S SWEEP TO OCCUR. IF THE SWEEP IS DISALLOWED, ANY EXCESS FUNDS THAT WOULD HAVE NORMALLY SWEPT ON THAT BUSINESS DAY WILL REMAIN IN THE DDA AND WILL BE TREATED AS DEPOSITS. THOSE DEPOSITS WILL BE INSURED UP TO THE APPLICABLE FDIC INSURANCE LIMITS.

c. Commercial Paper.

(i) Terms. If Customer chooses the Commercial Paper sweep option, Excess Funds shall be invested in an unsecured short-term promissory note issued by U.S. Bank National Association and held in book entry. At the end of each Business Day, Excess Funds are automatically transferred from Customers' DDA into a sweep account that invests overnight in U.S. Bank National Association Commercial Paper. The minimum amount that may be swept pursuant to this option is $1,000. Excess Funds less than $1,000 on a given Business Day will not be invested. The minimum amount may be increased if requested by Customer and agreed to by Bank.

(ii) THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: IN THE UNLIKELY EVENT OF BANK FAILURE, THE BALANCES RESIDING IN CUSTOMER'S COMMERCIAL PAPER SWEEP ACCOUNT AT BANK WILL NOT BE DEEMED "DEPOSITS" UNDER RULES PROMULGATED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") AND WILL NOT BE INSURED BY THE FDIC. IN THE UNLIKELY EVENT OF BANK FAILURE, CUSTOMER'S CLAIM FOR FUNDS THAT WERE SWEPT INTO THE COMMERCIAL PAPER SWEEP ACCOUNT WILL BE TREATED AS UNSECURED GENERAL CREDITOR CLAIMS.

d. Business Savings Sweep. If Customer chooses the Business Savings Sweep option, collected funds with a minimum of $500 in excess of a Peg Balance shall be swept from Customer's DDA into a Business Savings Sweep Account (the "Savings Account"). The Peg Balance shall be set at a minimum of $10,000 unless otherwise agreed to by Bank. Funds remain in the Savings Account until Customer's DDA reaches a negative balance, whereupon available funds are swept back into Customer's DDA in an amount necessary to return the DDA balance to the Peg Balance.

O. MASTER REPURCHASE AGREEMENT (MRA)

THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: ALL FUNDS IN THE REPURCHASE AGREEMENT SWEEP WILL NOT BE DEEMED "DEPOSITS" AND WILL NOT BE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC"). IN THE UNLIKELY EVENT OF BANK FAILURE, CUSTOMER WILL MAINTAIN ITS OWNERSHIP OR SECURITY INTEREST IN THE SECURITIES THAT ARE SUBJECT TO THE REPURCHASE AGREEMENT AND, UPON LIQUIDATION, WILL RECEIVE THE VALUE OF THE SECURITIES UP TO THE AMOUNT OF FUNDS SWEPT FROM THE ACCOUNT.

1. Applicability. From time to time the parties hereto may enter into transactions in which one party ("Seller") agrees to transfer to the other ("Buyer") securities or other assets ("Securities") against the transfer of funds by Buyer, with a simultaneous agreement by Buyer to transfer to Seller such Securities at a date certain or on demand, against the transfer of funds by Seller. Each such transaction shall be referred to herein as a "Transaction" and, unless otherwise agreed in writing, shall be governed by this MRA and if applicable, Annex III and the Amendment to Annex III (International Transactions) of the SIFMA Master Repurchase Agreement (1996 version).

2. Definitions.

a. "Act of Insolvency" means, with respect to any party, (i) the commencement by such party as debtor of any case or proceeding under any bankruptcy, insolvency, reorganization, liquidation, moratorium, dissolution, delinquency or similar law, or such party seeking the appointment or election of a receiver, conservator, trustee, custodian or similar official for such party or any substantial part of its property, or the convening of any meeting of creditors for purposes of commencing any such case or proceeding or seeking such an appointment or election, (ii) the commencement of any such case or proceeding against such party, or another seeking such an appointment or election, or the filing against a party of an application for a protective decree under the provisions of the Securities Investor Protection Act of 1970, which (A) is consented to or not timely contested by such party, (B) results in the entry of an order for relief, such an appointment or election, the issuance of such a protective decree or the entry of an order having a similar effect, or (C) is not dismissed within 15 days, (iii) the making by such party of a general assignment for the benefit of creditors, or (iv) the admission in writing by such party of such party's inability to pay such party's debts as they become due;

b. "Additional Purchased Securities" means Securities provided by Seller to Buyer pursuant to Paragraph 4(a) hereof;

c. "Buyer's Margin Amount" means, with respect to any Transaction as of any date, the amount obtained by application of the Buyer's Margin Percentage to the Repurchase Price for such Transaction as of such date;

d. "Buyer's Margin Percentage" means, with respect to any Transaction as of any date, a percentage (which may be equal to the Seller's Margin Percentage) agreed to by Buyer and Seller or, in the absence of any such agreement, the percentage obtained by dividing the Market Value of the Purchased Securities on the Purchase Date by the Purchase Price on the Purchase Date for such Transaction;

e. "Confirmation" is given the meaning specified in Paragraph 3(b) hereof;

f. "Income" means, with respect to any Security at any time, any principal thereof and all interest, dividends or other distributions thereon;

g. "Margin Deficit" is given the meaning specified in Paragraph 4(a) hereof;

h. "Margin Excess" is given the meaning specified in Paragraph 4(b) hereof;

i. "Margin Notice Deadline" means the time agreed to by the parties in the relevant Confirmation, or otherwise as the deadline for giving notice requiring same day satisfaction of margin maintenance obligations as provided in Paragraph 4 hereof (or, in the absence of any such agreement, the deadline for such purposes established in accordance with market practice);

j. "Market Value" means, with respect to any Securities as of any date, the price for such Securities on such date obtained from a generally recognized source agreed to by the parties or the most recent closing bid quotation from such a source, plus accrued Income to the extent not included therein (other than any Income credited or transferred to, or applied to the obligations of, Seller pursuant to Paragraph 5 hereof) as of such date (unless contrary to market practice for such Securities);

k. "Price Differential" means, with respect to any Transaction as of any date, the aggregate amount obtained by daily application of the Pricing Rate for such Transaction to the Purchase Price for such Transaction on a 360-day-per-year basis for the actual number of days during the period commencing on (and including) the Purchase Date for such Transaction and ending on (but excluding) the date of determination (reduced by any amount of such Price Differential previously paid by Seller to Buyer with respect to such Transaction);

l. "Pricing Rate" means the per annum percentage rate for determination of the Price Differential;

m. "Prime Rate" means the prime rate of U.S. commercial banks as published in The Wall Street Journal (or, if more than one such rate is published, the average of such rates);

n. "Purchase Date" means the date on which Purchased Securities are to be transferred by Seller to Buyer;

o. "Purchase Price" means (i) on the Purchase Date, the price at which Purchased Securities are transferred by Seller to Buyer, and (ii) thereafter, except where Buyer and Seller agree otherwise, such price increased by the amount of any cash transferred by Buyer to Seller pursuant to Paragraph 4(b) hereof and decreased by the amount of any cash transferred by Seller to Buyer pursuant to Paragraph 4(a) hereof or applied to reduce Seller's obligations under clause (ii) of Paragraph 5 hereof;

p. "Purchased Securities" means the Securities transferred by Seller to Buyer in a Transaction hereunder. The term "Purchased Securities" with respect to any Transaction at any time also shall include Additional Purchased Securities delivered pursuant to Paragraph 4(a) hereof and shall exclude Securities returned pursuant to Paragraph 4(b) hereof;

q. "Repurchase Date" means the date on which Seller is to repurchase the Purchased Securities from Buyer, including any date determined by application of the provisions of Paragraph 3(c) or 11 hereof;

r. "Repurchase Price" means the price at which Purchased Securities are to be transferred from Buyer to Seller upon termination of a Transaction, which will be determined in each case (including Transactions terminable upon demand) as the sum of the Purchase Price and the Price Differential as of the date of such determination;

s. "Seller's Margin Amount" means, with respect to any Transaction as of any date, the amount obtained by application of the Seller's Margin Percentage to the Repurchase Price for such Transaction as of such date;

t. "Seller's Margin Percentage" means, with respect to any Transaction as of any date, a percentage (which may be equal to the Buyer's Margin Percentage) agreed to by Buyer and Seller or, in the absence of any such agreement, the percentage obtained by dividing the Market Value of the Purchased Securities on the Purchase Date by the Purchase Price on the Purchase Date for such Transaction.

3. Initiation; Confirmation; Termination.

a. An agreement to enter into a Transaction may be made orally or in writing at the initiation of either Buyer or Seller. On the Purchase Date for the Transaction, the Purchased Securities shall be transferred to Buyer or its agent against the transfer of the Purchase Price to an account of Seller.

b. Upon agreeing to enter into a Transaction hereunder, Buyer or Seller (or both), as shall be agreed, shall promptly deliver to the other party a written confirmation of each Transaction (a "Confirmation"). The Confirmation shall describe the Purchased Securities (including CUSIP number, if any), identify Buyer and Seller and set forth (i) the Purchase Date, (ii) the Purchase Price, (iii) the Repurchase Date, unless the Transaction is to be terminable on demand, (iv) the Pricing Rate or Repurchase Price applicable to the Transaction, and (v) any additional terms or conditions of the Transaction not inconsistent with this MRA. The

Confirmation, together with this MRA, shall constitute conclusive evidence of the terms agreed between Buyer and Seller with respect to the Transaction to which the Confirmation relates, unless with respect to the Confirmation specific objection is made promptly after receipt thereof. In the event of any conflict between the terms of such Confirmation and this MRA, this MRA shall prevail.

c. In the case of Transactions terminable upon demand, such demand shall be made by Buyer or Seller, no later than such time as is customary in accordance with market practice, by telephone or otherwise on or prior to the Business Day on which such termination will be effective. On the date specified in such demand, or on the date fixed for termination in the case of Transactions having a fixed term, termination of the Transaction will be effected by transfer to Seller or its agent of the Purchased Securities and any Income in respect thereof received by Buyer (and not previously credited or transferred to, or applied to the obligations of, Seller pursuant to Paragraph 5 hereof) against the transfer of the Repurchase Price to an account of Buyer.

4. Margin Maintenance.

a. If at any time the aggregate Market Value of all Purchased Securities subject to all Transactions in which a particular party hereto is acting as Buyer is less than the aggregate Buyer's Margin Amount for all such Transactions (a "Margin Deficit"), then Buyer may by notice to Seller require Seller in such Transactions, at Seller's option, to transfer to Buyer cash or additional Securities reasonably acceptable to Buyer ("Additional Purchased Securities"), so that the cash and aggregate Market Value of the Purchased Securities, including any such Additional Purchased Securities, will thereupon equal or exceed such aggregate Buyer's Margin Amount (decreased by the amount of any Margin Deficit as of such date arising from any Transactions in which such Buyer is acting as Seller).

b. If at any time the aggregate Market Value of all Purchased Securities subject to all Transactions in which a particular party hereto is acting as Seller exceeds the aggregate Seller's Margin Amount for all such Transactions at such time (a "Margin Excess"), then Seller may by notice to Buyer require Buyer in such Transactions, at Buyer's option, to transfer cash or Purchased Securities to Seller, so that the aggregate Market Value of the Purchased Securities, after deduction of any such cash or any Purchased Securities so transferred, will thereupon not exceed such aggregate Seller's Margin Amount (increased by the amount of any Margin Excess as of such date arising from any Transactions in which such Seller is acting as Buyer).

c. If any notice is given by Buyer or Seller under subparagraph (a) or (b) of this Paragraph at or before the Margin Notice Deadline on any Business Day, the party receiving such notice shall transfer cash or Additional Purchased Securities as provided in such subparagraph no later than the close of business in the relevant market on such day. If any such notice is given after the Margin Notice Deadline, the party receiving such notice shall transfer such cash or Securities no later than the close of business in the relevant market on the next Business Day following such notice.

d. Any cash transferred pursuant to this Paragraph shall be attributed to such Transactions as shall be agreed upon by Buyer and Seller.

e. Seller and Buyer may agree, with respect to any or all Transactions hereunder, that the respective rights of Buyer or Seller (or both) under subparagraphs (a) and (b) of this Paragraph may be exercised only where a Margin Deficit or Margin Excess, as the case may be, exceeds a specified dollar amount or a specified percentage of the Repurchase Prices for such Transactions (which amount or percentage shall be agreed to by Buyer and Seller prior to entering into any such Transactions).

f. Seller and Buyer may agree, with respect to any or all Transactions hereunder, that the respective rights of Buyer and Seller under subparagraphs (a) and (b) of this Paragraph to require the elimination of a Margin Deficit or a Margin Excess, as the case may be, may be exercised whenever such a Margin Deficit or Margin Excess exists with respect to any single Transaction hereunder (calculated without regard to any other Transaction outstanding under this MRA).

5. Income Payments. Seller shall be entitled to receive an amount equal to all Income paid or distributed on or in respect of the Securities that is not otherwise received by Seller, to the full extent it would be so entitled if the Securities had not been sold to Buyer. Buyer shall, as the parties may agree with respect to any Transaction (or, in the absence of any such agreement, as Buyer shall reasonably determine in its discretion), on the date such Income is paid or distributed either (i) transfer to or credit to the account of Seller such Income with respect to any Purchased Securities subject to such Transaction or (ii) with respect to Income paid in cash, apply the Income payment or payments to reduce the amount, if any, to be transferred to Buyer by Seller upon termination of such Transaction. Buyer shall not be obligated to take any action pursuant to the preceding sentence (A) to the extent that such action would result in the creation of a Margin Deficit, unless prior thereto or simultaneously therewith Seller transfers to Buyer cash or Additional Purchased Securities sufficient to eliminate such Margin Deficit, or (B) if an Event of Default with respect to Seller has occurred and is then continuing at the time such Income is paid or distributed.

6. Security Interest. Although the parties intend that all Transactions hereunder be sales and purchases and not loans, in the event any such Transactions are deemed to be loans, Seller shall be deemed to have pledged to Buyer as security for the performance by Seller of its obligations under each such Transaction, and shall be deemed to have granted to Buyer a security interest in, all of the Purchased Securities with respect to all Transactions hereunder and all Income thereon and other proceeds thereof. In all Transactions, Seller is acting as agent for Buyer. In the event of Seller's default under the MRA, Buyer has the right to either: (i) direct Seller to sell the Securities or (ii) sell the Securities, and, following any sale pursuant to this sentence, apply the proceeds in satisfaction of Seller's liability hereunder.

7. Payment and Transfer. Unless otherwise mutually agreed, all transfers of funds hereunder shall be in immediately available funds. All Securities transferred by one party hereto to the other party (i) shall be in suitable form for transfer or shall be accompanied by duly executed instruments of transfer or assignment in blank and such other documentation as the party receiving possession may reasonably request, (ii) shall be transferred on the book entry system of a Federal Reserve Bank, or (iii) shall be transferred by any other method mutually acceptable to Seller and Buyer.

8. Segregation of Purchased Securities. To the extent required by applicable law, all Purchased Securities in the possession of Seller shall be segregated from other securities in its possession and shall be identified as subject to this MRA. Segregation may be accomplished by appropriate identification on the books and records of the holder, including a financial or securities intermediary or a clearing corporation. All of Seller's interest in the Purchased Securities shall pass to Buyer on the Purchase Date and, unless otherwise agreed by Buyer and Seller, nothing in this MRA shall preclude Buyer from engaging in repurchase transactions with the Purchased Securities or otherwise selling, transferring, pledging or hypothecating the Purchased Securities, but no such transaction shall relieve Buyer of its obligations to transfer Purchased Securities to Seller pursuant to Paragraph 3, 4 or 11 hereof, or of Buyer's obligation to credit or pay Income to, or apply Income to the obligations of, Seller pursuant to Paragraph 5 hereof.

Required Disclosure for Transactions in Which the Seller Retains Custody of the Purchased Securities

Seller is not permitted to substitute other securities for those subject to this MRA and therefore must keep Buyer's securities segregated at all times, unless in this MRA Buyer grants Seller the right to substitute other securities. If Buyer grants the right to substitute, this means that Buyer's securities will likely be commingled with Seller's own securities during the trading day. Buyer is advised that, during any trading day that Buyer's securities are commingled with Seller's securities, they may be subject to liens granted by Seller to third parties and may be used by Seller for deliveries on other securities transactions. Whenever the securities are commingled, Seller's ability to re-segregate substitute securities for Buyer will be subject to Seller's ability to satisfy any lien or to obtain substitute securities.

9. Substitution. Seller may not substitute other Securities for any Purchased Securities.

10. Representations. Each of Buyer and Seller represents and warrants to the other that (i) it is duly authorized to execute and deliver this MRA,

to enter into Transactions contemplated hereunder and to perform its obligations hereunder and has taken all necessary action to authorize such execution, delivery and performance, (ii) it will engage in such Transactions as principal (or, if agreed in writing in advance of any Transaction by the other party hereto, as agent for a disclosed principal), (iii) the person signing this MRA on its behalf is duly authorized to do so on its behalf (or on behalf of any such disclosed principal), (iv) it has obtained all authorizations of any governmental body required in connection with this MRA and the Transactions hereunder and such authorizations are in full force and effect, and (v) the execution, delivery and performance of this MRA and the Transactions hereunder will not violate any law, ordinance, charter, bylaw or rule applicable to it or any agreement by which it is bound or by which any of its assets are affected. On the Purchase Date for any Transaction Buyer and Seller shall each be deemed to repeat all the foregoing representations made by it.

11. Events of Default. In the event that (i) Seller fails to transfer or Buyer fails to purchase Purchased Securities upon the applicable Purchase Date, (ii) Seller fails to repurchase or Buyer fails to transfer Purchased Securities upon the applicable Repurchase Date, (iii) Seller or Buyer fails to comply with Paragraph 4 hereof, (iv) Buyer fails, after one Business Days' notice, to comply with Paragraph 5 hereof, (v) an Act of Insolvency occurs with respect to Seller or Buyer, (vi) any representation made by Seller or Buyer shall have been incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated, or (vii) Seller or Buyer shall admit to the other its inability to, or its intention not to, perform any of its obligations hereunder (each an "Event of Default"):

a. The non-defaulting party may, at its option (which option shall be deemed to have been exercised immediately upon the occurrence of an Act of Insolvency), declare an Event of Default to have occurred hereunder and, upon the exercise or deemed exercise of such option, the Repurchase Date for each Transaction hereunder shall, if it has not already occurred, be deemed immediately to occur (except that, in the event that the Purchase Date for any Transaction has not yet occurred as of the date of such exercise or deemed exercise, such Transaction shall be deemed immediately canceled). The non-defaulting party shall (except upon the occurrence of an Act of Insolvency) give notice to the defaulting party of the exercise of such option as promptly as practicable.

b. In all Transactions in which the defaulting party is acting as Seller, if the non-defaulting party exercises or is deemed to have exercised the option referred to in subparagraph (a) of this Paragraph, (i) the defaulting party's obligations in such Transactions to repurchase all Purchased Securities, at the Repurchase Price therefore on the Repurchase Date determined in accordance with subparagraph (a) of this Paragraph, shall thereupon become immediately due and payable, (ii) all Income paid after such exercise or deemed exercise shall be retained by the non-defaulting party and applied to the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder, and (iii) the defaulting party shall immediately deliver to the non-defaulting party any Purchased Securities subject to such Transactions then in the defaulting party's possession or control.

c. In all Transactions in which the defaulting party is acting as Buyer, upon tender by the non-defaulting party of payment of the aggregate Repurchase Prices for all such Transactions, all right, title and interest in and entitlement to all Purchased Securities subject to such Transactions shall be deemed transferred to the non-defaulting party, and the defaulting party shall deliver all such Purchased Securities to the non-defaulting party.

d. If the non-defaulting party exercises or is deemed to have exercised the option referred to in subparagraph (a) of this Paragraph, the non-defaulting party, without prior notice to the defaulting party, may: (i) as to Transactions in which the defaulting party is acting as Seller, (A) immediately sell, in a recognized market (or otherwise in a commercially reasonable manner) at such price or prices as the non-defaulting party may reasonably deem satisfactory, any or all Purchased Securities subject to such Transactions and apply the proceeds thereof to the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder or (B) in its sole discretion elect, in lieu of selling all or a portion of such Purchased Securities, to give the defaulting party credit for such Purchased Securities in an amount equal to the price therefore on such date, obtained from a generally recognized source or the most recent closing bid quotation from such a source, against the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder; and (ii) as to Transactions in which the defaulting party is acting as Buyer, (A) immediately purchase, in a recognized market (or otherwise in a commercially reasonable manner) at such price or prices as the non-defaulting party may reasonably deem satisfactory, securities ("Replacement Securities") of the same class and amount as any Purchased Securities that are not delivered by the defaulting party to the non-defaulting party as required hereunder or (B) in its sole discretion elect, in lieu of purchasing Replacement Securities, to be deemed to have purchased Replacement Securities at the price therefore on such date, obtained from a generally recognized source or the most recent closing offer quotation from such a source. The parties acknowledge and agree that (1) the Securities subject to any Transaction hereunder are instruments traded in a recognized market, (2) in the absence of a generally recognized source for prices or bid or offer quotations for any Security, the non-defaulting party may establish the source therefore in its sole discretion, and (3) all prices, bids and offers shall be determined together with accrued Income (except to the extent contrary to market practice with respect to the relevant Securities).

e. As to Transactions in which the defaulting party is acting as Buyer, the defaulting party shall be liable to the non-defaulting party for any excess of the price paid (or deemed paid) by the non-defaulting party for Replacement Securities over the Repurchase Price for the Purchased Securities replaced thereby and for any amounts payable by the defaulting party under Paragraph 5 hereof or otherwise hereunder.

f. For purposes of this Paragraph 11, the Repurchase Price for each Transaction hereunder in respect of which the defaulting party is acting as Buyer shall not increase above the amount of such Repurchase Price for such Transaction determined as of the date of the exercise or deemed exercise by the non-defaulting party of the option referred to in subparagraph (a) of this Paragraph.

g. The defaulting party shall be liable to the non-defaulting party for (i) the amount of all reasonable legal or other expenses incurred by the non-defaulting party in connection with or as a result of an Event of Default, (ii) damages in an amount equal to the cost (including all fees, expenses and commissions) of entering into replacement transactions and entering into or terminating hedge transactions in connection with or as a result of an Event of Default, and (iii) any other loss, damage, cost or expense directly arising or resulting from the occurrence of an Event of Default in respect of a Transaction.

h. To the extent permitted by applicable law, the defaulting party shall be liable to the non-defaulting party for interest on any amounts owing by the defaulting party hereunder, from the date the defaulting party becomes liable for such amounts hereunder until such amounts are (i) paid in full by the defaulting party or (ii) satisfied in full by the exercise of the non-defaulting party's rights hereunder. Interest on any sum payable by the defaulting party to the non-defaulting party under this Paragraph 11(h) shall be at a rate equal to the greater of the Pricing Rate for the relevant Transaction or the Prime Rate.

i. The non-defaulting party shall have, in addition to its rights hereunder, any rights otherwise available to it under any other agreement or applicable law.

12. Single Agreement. Buyer and Seller acknowledge that, and have entered hereinto and will enter into each Transaction hereunder in consideration of and in reliance upon the fact that, all Transactions hereunder constitute a single business and contractual relationship and have been made in consideration of each other. Accordingly, each of Buyer and Seller agrees (i) to perform all of its obligations in respect of each Transaction hereunder, and that a default in the performance of any such obligations shall constitute a default by it in respect of all Transactions hereunder, (ii) that each of them shall be entitled to set off claims and apply property held by them in respect of any Transaction against obligations owing to them in respect of any other Transactions hereunder, and (iii) that payments, deliveries and other transfers made by either of them in respect of any Transaction shall be deemed to have been

made in consideration of payments, deliveries and other transfers in respect of any other Transactions hereunder, and the obligations to make any such payments, deliveries and other transfers may be applied against each other and netted.

13. Notices and Other Communications. Any and all notices, statements, demands or other communications hereunder may be given by a party to the other by mail, facsimile, telegraph, messenger or otherwise to the address specified by Bank, or so sent to such party at any other place specified in a notice of change of address hereafter received by the other. All notices, demands and requests hereunder may be made orally, to be confirmed promptly in writing, or by other communication as specified in the preceding sentence.

14. Entire Agreement; Severability. This MRA shall supersede any existing agreements between the parties containing general terms and conditions for repurchase transactions. Each provision and agreement herein shall be treated as separate and independent from any other provision or agreement herein and shall be enforceable notwithstanding the unenforceability of any such other provision or agreement.

15. Nonassignability; Termination.

a. The rights and obligations of the parties under this MRA and under any Transaction shall not be assigned by either party without the prior written consent of the other party, and any such assignment without the prior written consent of the other party shall be null and void. Subject to the foregoing, this MRA and any Transactions shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. This MRA may be terminated by either party upon giving written notice to the other, except that this MRA shall, notwithstanding such notice, remain applicable to any Transactions then outstanding.

b. Subparagraph (a) of this Paragraph 15 shall not preclude a party from assigning, charging or otherwise dealing with all or any part of its interest in any sum payable to it under Paragraph 11 hereof.

16. Governing Law. This MRA shall be governed by the laws of the State of New York without giving effect to the conflict of law principles thereof.

17. No Waivers, Etc. No express or implied waiver of any Event of Default by either party shall constitute a waiver of any other Event of Default and no exercise of any remedy hereunder by any party shall constitute a waiver of its right to exercise any other remedy hereunder. No modification or waiver of any provision of this MRA and no consent by any party to a departure herefrom shall be effective unless and until such shall be in writing and duly executed by both of the parties hereto. Without limitation on any of the foregoing, the failure to give a notice pursuant to Paragraph 4(a) or 4(b) hereof will not constitute a waiver of any right to do so at a later date.

18. Use of Employee Plan Assets.

a. If assets of an employee benefit plan subject to any provision of the Employee Retirement Income Security Act of 1974 ("ERISA") are intended to be used by either party hereto (the "Plan Party") in a Transaction, the Plan Party shall so notify the other party prior to the Transaction. The Plan Party shall represent in writing to the other party that the Transaction does not constitute a prohibited transaction under ERISA or is otherwise exempt therefrom, and the other party may proceed in reliance thereon but shall not be required so to proceed.

b. Subject to the last sentence of subparagraph (a) of this Paragraph, any such Transaction shall proceed only if Seller furnishes or has furnished to Buyer its most recent available audited statement of its financial condition and its most recent subsequent unaudited statement of its financial condition.

c. By entering into a Transaction pursuant to this Paragraph, Seller shall be deemed (i) to represent to Buyer that since the date of Seller's latest such financial statements, there has been no material adverse change in Seller's financial condition which Seller has not disclosed to Buyer, and (ii) to agree to provide Buyer with future audited and unaudited statements of its financial condition as they are issued, so long as it is a Seller in any outstanding Transaction involving a Plan Party.

19. Intent.

a. The parties recognize that each Transaction is a "repurchase agreement" as that term is defined in Section 101 of Title 11 of the United States Code, as amended (except insofar as the type of Securities subject to such Transaction or the term of such Transaction would render such definition inapplicable), and a "securities contract" as that term is defined in Section 741 of Title 11 of the United States Code, as amended (except insofar as the type of assets subject to such Transaction would render such definition inapplicable).

b. It is understood that either party's right to liquidate Securities delivered to it in connection with Transactions hereunder or to exercise any other remedies pursuant to Paragraph 11 hereof is a contractual right to liquidate such Transaction as described in Sections 555 and 559 of Title 11 of the United States Code, as amended.

c. The parties agree and acknowledge that if a party hereto is an "insured depository institution," as such term is defined in the Federal Deposit Insurance Act, as amended ("FDIA"), then each Transaction hereunder is a "qualified financial contract," as that term is defined in FDIA and any rules, orders or policy statements thereunder (except insofar as the type of assets subject to such Transaction would render such definition inapplicable).

d. It is understood that this MRA constitutes a "netting contract" as defined in and subject to Title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA") and each payment entitlement and payment obligation under any Transaction hereunder shall constitute a "covered contractual payment entitlement" or "covered contractual payment obligation", respectively, as defined in and subject to FDICIA (except insofar as one or both of the parties is not a "financial institution" as that term is defined in FDICIA).

20. Disclosure Relating to Certain Federal Protections. The parties acknowledge that they have been advised that:

a. In the case of Transactions in which one of the parties is a broker or dealer registered with the Securities and Exchange Commission ("SEC") under Section 15 of the Securities Exchange Act of 1934 ("1934 Act"), the Securities Investor Protection Corporation has taken the position that the provisions of the Securities Investor Protection Act of 1970 ("SIPA") do not protect the other party with respect to any Transaction hereunder;

b. In the case of Transactions in which one of the parties is a government securities broker or a government securities dealer registered with the SEC under Section 15C of the 1934 Act, SIPA will not provide protection to the other party with respect to any Transaction hereunder; and

c. In the case of Transactions in which one of the parties is a financial institution, funds held by the financial institution pursuant to a Transaction hereunder are not a deposit and therefore are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, as applicable.

P. ZERO BALANCE ACCOUNT (ZBA) SERVICES

1. General. ZBA Services allow Customer to concentrate balances across multiple checking accounts consisting of a lead ("Master Account") and one or more sub-accounts funded by the Master Account. At the close of each Business Day, at a time determined by Bank, Bank shall transfer available or collected balances between the Master Account and sub-account(s) via two-way automatic transfers to ensure that the sub-accounts maintain a zero balance or a balance otherwise designated by Customer (collectively, the "Established Balance"). In addition, one-way transfers can be made from: (i) the Master Account to the sub-account; (ii) the sub-account to the Master Account; or (iii) the Master Account to the sub-account with deposits remaining in the sub-account.

Customer agrees to maintain sufficient available funds in the Master Account to cover the aggregate debits made to the sub-accounts to enable the sub-accounts to be maintained at the Established Balance at the close of each Business Day. If the available balance in the Master Account is insufficient to restore the balance in a sub-account to the Established Balance, a lesser amount may be transferred to the sub-account in Bank's sole discretion. If there are multiple sub-accounts and insufficient funds in the Master Account to fund all sub-accounts, Bank may, in its sole discretion, determine which sub-accounts to fund and to what extent. In addition, Bank may, in its sole discretion, either (i) reject any checks or other debit items drawn on any sub-account or (ii) accept any checks or other debit items drawn on a sub-account, even if such acceptance would bring the sub-account below the Established Balance. If Bank must reverse a provisional credit and such reversal causes the Master Account to have a negative balance, Customer agrees that Bank may reverse the transfer of any funds, in whole or in part, between the sub-account and the Master Account, and Bank may additionally reject any items not finally paid on the sub-account. Bank reserves the right to suspend or terminate ZBA Services without prior notice to Customer.

2. Focal Point Plus. If selected by Customer, the Focal Point Plus Service allows Customer to: (i) concentrate balances across multiple checking accounts consisting of a Master Account with one or more subaccounts ("Shadow Accounts"), which are all funded by the Master Account; and (ii) track transactions with location reporting. Two-way automatic transfers ensure the Shadow Accounts maintain a zero balance. One-way transfers can also be made from the Shadow Accounts to the Master Account. Customer acknowledges and agrees the Shadow Accounts are deemed to be part of the Master Account for purposes of this Agreement and cannot be used to process transactions independent of the Master Account.

Q. SINGLEPOINT® INTERNATIONAL REQUEST FOR TRANSFER SERVICES

1. Introduction. The U.S. Bank SinglePoint® International Request for Transfer Services will enable domestic or foreign organizations doing cross-border business to initiate or execute payment or transfer instructions from, or between, Customer accounts held at Bank and foreign banks. Prior to implementation of this Service, the Forwarding Bank and the Executing Bank must enter into a Bilateral Agreement referencing their mutual accession to the SWIFT Request for Transfer (MT101) Service Level or other relevant Service Level. Bank acts in the capacity of the Forwarding Bank with respect to all Requests for Transfer. This Service or other similar remote initiation Services offered by Bank are governed by this Agreement, the Bilateral Agreement, the Interbank Agreement, and all other applicable federal, state, and local laws and regulations. Unless otherwise defined, all capitalized terms shall have the meanings set forth in the Interbank Agreement and Bilateral Agreement.

2. Definitions.

a. "Beneficiary" means the person or entity designated in the Originator's instruction to receive funds.

b. "Beneficiary Bank" means the financial institution crediting the funds to the Beneficiary's account.

c. "Execute" or "Execution" means the debiting of the Originator's account by the Executing Bank pursuant to a Request for Transfer from the Forwarding Bank and the forwarding of the credit transfer to the Beneficiary Bank.

d. "Executing Bank" means the financial institution that receives and Executes the Request for Transfer from the Forwarding Bank and then forwards the credit transfer to the Beneficiary Bank.

e. "Forwarding Bank" means a financial institution receiving a Request for Transfer from the Instructing Party and forwarding it to the Executing Bank.

f. "Instructing Party" means a customer of the Forwarding Bank, which could be an office, department or division of the Originator, or a separate legal entity, authorized by the Originator to initiate a Request for Transfer to the Forwarding Bank.

g. "Interbank Agreement" means the Service Level Master Agreement (SLMA) and Request for Transfer Service Level Rules and Regulations (MT 101) or other relevant Service Levels offered by Society for Worldwide Interbank Financial Telecommunication (SWIFT), to which the Forwarding Bank and the Executing Bank are a party.

h. "Originator" means the customer of the Executing Bank whose account is to be debited pursuant to a Request for Transfer.

i. "Request for Transfer" means a transfer instruction received by the Forwarding Bank from the Instructing Party for onward transmission as an MT101 to the Executing Bank, and which is capable of being processed under an Interbank Agreement.

3. Bank as the Forwarding Bank. If Customer selects Bank as the Forwarding Bank, Customer is deemed to be the Instructing Party for all Requests for Transfer. Customer will appoint those individuals authorized to instruct Bank regarding Request for Transfer Services ("Authorized Users") via the relevant Implementation Documents and System Administrator designations establishing the Authorized Users' access authority and transaction limits. Bank may rely on any such authorization until it has received Customer's written notice of revocation and has had a reasonable opportunity to act thereon. Customer and its Authorized Users and other Agents shall maintain the highest possible level of confidentiality with regard to PINs or other security devices and will take all steps necessary to prevent access to them by unauthorized persons. Customer shall be responsible for the accuracy, completeness and timeliness of all Requests for Transfer sent to Bank. Requests for Transfer received after Bank's established deadline or on any non-Business Day, including any Saturday, Sunday, holiday, or any day that Bank's wire department is not open, will be considered received on the next Business Day. Customer authorizes Bank to process and forward to the Executing Bank all Requests for Transfer received in accordance with any established security procedures. Notwithstanding the foregoing, Bank does not

assume any responsibility for the Execution of the Request for Transfer by the Executing Bank and completion of the credit transfer to the Beneficiary Bank. Customer understands and acknowledges that any applicable callback notifications on PIN limits established by Customer with Bank for wire transfer dollar thresholds do not apply to Requests for Transfer. Customer agrees not to initiate a Request for Transfer in violation of applicable federal, state, or local law or regulations.

4. Security Procedures. Customer and Bank shall comply with any established security procedures with respect to the initiation and forwarding of any Request for Transfer, including but not limited to, the SWIFT authentication procedures identified in the SWIFT User Handbook, as amended from time to time. Customer agrees that any such security procedures shall be deemed commercially reasonable. Customer understands that the security procedures are not intended for the purpose of detecting errors in the transmission or content of a Request for Transfer controlled by Customer. Customer agrees to be bound by any Request for Transfer sent in the name of Customer that is processed by Bank in compliance with the agreed security procedures whether or not authorized.

5. Amendment or Cancellation. Customer does not have the right to reverse, adjust or revoke any Request for Transfer after it has been received by Bank; provided, however, that Bank will make a reasonable effort to act on such a request by Customer. With respect to a Request for Transfer that has already been Executed, Bank may intervene at Customer's request, to request that the Beneficiary Bank return all or a portion of the funds. Customer understands that the Beneficiary Bank is under no legal obligation to comply with this request.

6. Rejection/Repair. Bank may reject a Request for Transfer if: (i) it is not initiated or transmitted in accordance with the applicable security procedures; (ii) there is any inconsistency between a Request for Transfer and information previously supplied to Bank; or (iii) Bank has other reasonable grounds not to honor the Request for Transfer. Bank shall have no obligation to repair any Request for Transfer it receives but may, in its absolute discretion, endeavor to repair any Request for Transfer. Bank shall notify Customer of any rejections or suspensions.

7. Limits on Bank's Liability. Bank sends outgoing and receives incoming Requests for Transfer using SWIFT. Bank shall not be responsible for the acts or omissions of Customer, the SWIFT network, other financial institution, or any other person. Payment to a foreign country is subject to the laws of the foreign country involved. Bank assumes no liability for foreign exchange risk, delays, non-delivery, or other events resulting from causes beyond Bank's control.

R. SWIFT-RELATED SERVICES

1. Introduction. The SWIFT-Related Services (the "Service") will enable organizations with domestic or cross-border activity to initiate or execute payment or transfer instructions from Customer's Bank account to another account held at Bank or a third-party bank, and to receive account information and payment notifications from Bank via products and services offered by the Society for Worldwide Interbank Financial Telecommunication ("SWIFT"). This Service or other similar services offered by Bank are governed by this Agreement, applicable SWIFT agreements, rules, and terms and conditions (collectively, "SWIFT Terms"), and all other applicable federal, state, and local laws and regulations. Unless otherwise defined, all capitalized terms shall have the meanings set forth in the SWIFT Terms.

2. Definitions.

a. "Account Reporting" means cash management notifications, transaction and account information provided by Bank to Customer.

b. "Beneficiary" means the person or entity (including Customer) designated in Customer's Transfer Request to receive funds.

c. "Beneficiary Bank" means the financial institution (including Bank) that credits the funds to the Beneficiary's account.

d. "Execute" or "Execution" means the debiting of Customer's account by Bank and the forwarding of the credit transfer to the Beneficiary Bank pursuant to a Transfer Request from Customer.

e. "FileAct" means a file transfer service that utilizes the SWIFT infrastructure to enable the transfer of data in various file formats.

f. "Transfer Request" means a MT103 or other SWIFT transfer instruction sent by Customer to Bank for onward processing. If SWIFT-Related services are accessed using SCORE, "Transfer Request" means a MT101 Request for Transfer instruction.

g. "SCORE" means the Standardized Corporate Environment, a SWIFT direct access corporate service which offers Customer a secure connection and standardized environment to manage Customer's payments and payment information.

3. Security Procedures. Customer shall comply with all security procedures established by Bank for the SWIFT-Related Services, including but not limited to, the SWIFT authentication procedures identified in the SWIFT User Handbook, as amended from time to time. Customer agrees that any such security procedures shall be deemed commercially reasonable. Customer understands that the security procedures are not intended for the purpose of detecting errors in the transmission or content of any Account Reporting, or of a Transfer Request controlled by Customer. Customer is solely responsible for maintaining its own internal security procedures to prevent errors or unauthorized access to Customer's computer systems by unauthorized employees, vendors, or customers. Customer agrees to be bound by any Transfer Request that appears to have been sent by Customer that is processed by Bank in compliance with the agreed security procedures, whether or not authorized. Bank will use reasonable care in transmitting the Account Reporting but assumes no responsibility for the accuracy or timeliness of the information supplied by other financial institutions, the SWIFT network. Customer agrees to immediately notify and fully cooperate with Bank if it suspects or becomes aware of any breach or compromise of the security of the SWIFT-Related Services.

4. Transmission and Processing of Transfer Requests. Customer authorizes Bank to Execute all Transfer Requests delivered to Bank by Customer in compliance with the terms of this Agreement and any established security procedures. Customer shall adhere to formatting and processing requirements established by Bank. Customer authorizes Bank to use whatever means Bank, in good faith, deems reasonable under the circumstances to execute each Transfer Request, including selection of a funds transfer system, routing and means of transmission. Customer shall be responsible for the accuracy, completeness and timeliness of all Transfer Requests sent to Bank for Execution. Transfer Requests with settlement dates of more than thirty (30) calendar days from receipt may not be processed unless prior arrangements have been made. Customer is solely responsible for initiating Transfer Requests sufficiently in advance to meet Customer's contractual obligations to its vendors and/or customers. Bank shall not be responsible for any late payment or finance charges that may result from Customer's failure to allow sufficient lead-time to make a Transfer Request. Bank and any other financial institution

may rely on the account, routing, or BIC numbers in the Transfer Requests even if such numbers do not correspond to the name of Customer, the Beneficiary, or the Beneficiary Bank.

5. Amendment or Cancellation of Transfer Requests. Customer does not have the right to reverse, adjust or revoke any Transfer Request after it has been received by Bank; provided, however, that Bank will make a reasonable effort to act on such a request by Customer. With respect to a Transfer Request that has already been Executed, Bank shall, at Customer's request, request that the Beneficiary Bank return all or a portion of the funds. Customer understands that the Beneficiary Bank is under no legal obligation to comply with this request.

6. Rejection/Repair of Transfer Requests. Bank may reject a Transfer Request if: (i) it is not initiated or transmitted in accordance with the applicable security procedures; (ii) does not adhere to Bank's formatting or processing requirements; (iii) there is any inconsistency between a Transfer Request and information previously supplied to Bank; (iv) Customer's Transfer Requests exceed any applicable transaction limits established by Bank; (v) if there are insufficient collected funds in Customer's account to fund the Transfer Request; or (vi) Bank has other reasonable grounds not to honor the Transfer Request. Bank shall have no obligation to repair any Transfer Request it receives but may, in its absolute discretion, endeavor to do so.

7. Reporting.

a. Account Reporting. Bank may send notifications that allow Customer to receive advices relating to Customer's payments processed by Bank. Bank may also provide Customer with information on accounts maintained at Bank. If Customer elects to receive notifications and other account information via SWIFT, Customer shall exercise extreme care in maintaining its own security in the receipt of the notifications or information. Customer acknowledges that the data received via SWIFT may include confidential information, including, without limitation, names, amounts, phone numbers and account information. Customer further acknowledges that it alone assumes full responsibility for maintenance of its internal security procedures to keep such information confidential.

b. International Information Reporting. If requested by Customer and agreed to by Bank, Bank may provide incoming international information reporting through Providers or via SWIFT. Bank shall receive the international information reporting data through Providers or via SWIFT from Customer's account-servicing Bank ("Servicing Bank") and shall display such data to Customer using SinglePoint® or other similar System. If Customer makes a request to Bank for an off-schedule international information report from the Servicing Bank, Customer agrees that Bank shall have no liability if the Servicing Bank does not support the off-schedule request or does not respond to the request in a timely manner.

8. Limits on Bank's Liability. Bank will use reasonable efforts to provide notifications and information in a prompt fashion but shall not be liable for the temporary failure to provide timely data. Bank assumes no responsibility for any delays caused, or for inaccurate or incomplete information provided, by the SWIFT network or third-party banks with respect to payments and related information. Bank shall not be responsible for the acts or omission of Customer, the SWIFT network, any other financial institution, or any other person. Payment to a foreign country is subject to the laws of the foreign country involved. Bank assumes no liability for foreign exchange risk, delays, non-delivery, or other events resulting from causes beyond Bank's control.

9. SCORE. If Customer accesses the SWIFT-Related Services using SCORE, Customer shall additionally comply with applicable SWIFT agreements, documentation, user guides, security procedures and all other instructions and recommendations provided by SWIFT or by Bank in relation to the use of SCORE. Customer acknowledges that Bank does not regulate the setup and provision of SWIFT membership, joining the SWIFT network or SCORE, the SWIFT network security, or the facilities necessary to access and use them. Customer represents that it is, and will throughout the term of this Service remain, an authorized SWIFT participant. Customer authorizes Bank to act on any instruction contained in a SWIFT message received by Bank through SCORE which appears to have been sent by Customer. In the event that Customer requests Bank to provide SWIFT-Related Services through SCORE to a parent company, subsidiary, affiliate or other commonly owned company, Customer agrees that it shall be jointly and severally liable for such related entity's obligations under this Agreement. Customer represents and warrants that such related entity is a duly authorized agent of the Customer and that the related entity is acting on behalf of Customer in its authorized capacity.

10. FileAct. If the FileAct service is offered by Bank and selected by Customer, Customer may use this service which enables the secure and reliable transfer of files to exchange batches of financial messages, reports, bulk payment files, images and other data over the SWIFT network. FileAct supports both interactive (real-time) and store-and-forward modes. Prior to implementation, Customer shall verify that Bank is capable of supporting the file formats and transaction types that Customer wishes to transmit. If the file format and transaction type is supported by Bank, Customer agrees that the processing of each file shall be additionally subject to all applicable Sections of the Agreement.

IV. TERMS APPLICABLE TO SPECIFIC FOREIGN EXCHANGE SERVICES

The following are additional terms and conditions applicable to all Foreign Exchange ("FX") Services offered by Bank representing methods, channels and products that facilitate currency accounts and the execution of foreign exchange transactions, including, but not limited to, spot, forward, swap and option transactions, whether physically settled or non-deliverable (cash settled). Unless otherwise agreed in writing, Bank is under no obligation to quote or enter into any FX transaction. Bank may change the number or type of FX Services offered at any time.

1. Conflicting Provisions and Separate Disclosures. With respect to all foreign exchange transactions or other derivative products entered into by Customer, to the extent that any provision of this Agreement conflicts with a provision of any ISDA Master Agreement by and between Customer and Bank or any documents related thereto (the "ISDA"), the ISDA terms shall govern. Disclosures herein supplement other disclosures that Bank may provide Customer and any other agreements between Bank and Customer in connection with FX transactions, including, but not limited to, ISDA Master Agreement, the USBNA Assessment and Agreement for Swap Transactions, the ISDA August 2012 DF Protocol, the ISDA March 2013 DF Protocol, the ISDA General Disclosure Statement for Transactions, the ISDA Disclosure Annex for Foreign Exchange Transactions, and the U.S. Bank National Association Foreign Exchange Disclosures, transaction confirmations and supplemental documentation to any of the above ("FX Documentation").

2. Foreign Exchange Risk. Many banking and finance transactions carry risk. Foreign exchange transactions involve unique risks specific to the nature of these types of transactions and the currency markets. These types of transactions are not suitable for all Customers. Customer should fully understand the nature and extent of exposure to risk of loss, if any, which in some circumstances may significantly exceed the amount of any initial payment made by or to Customer. All decisions to enter into foreign exchange transactions should be made by Customer giving appropriate consideration to Customer's experience, objectives, financial resources and business environment. Any statements made by Bank regarding FX transactions or markets should not be construed as recommendations or advice.

3. Arm's Length Transactions. Bank is a dealer and market maker in the foreign exchange market. As such, Bank engages in price quoting, order taking, trade execution and other related activities with counterparties and other dealers and for Bank's own account. Unless otherwise agreed to by Bank in writing, Bank acts as a principal on an arm's length basis, does not act as Customer's agent, broker, fiduciary, financial advisor or in any similar capacity when engaging in FX transactions with Customer, nor will Bank perform the duties associated with these roles**.**

4. Pricing. Many factors affect foreign exchange pricing, including but not limited to, the size and nature of the transaction, credit, capital and funding costs, applicable trading venue or platform and the manner that such trading platform or venue is utilized, settlement risk, operational considerations, regulatory requirements, relationship factors such as the amount and nature of service provided and volumes traded by Customer, the type of trade request, and business costs such as fees related to exchanges, brokers or other intermediaries. Market conditions, such as demand, frequency, timing, and volatility, also affect foreign exchange pricing. These factors in pricing may result in Bank offering different prices to different customers for the same or similar FX transactions. Unless otherwise agreed, prices quoted by Bank on all FX transactions (actionable and indicative) are an "all in" price that typically includes Bank's bid or offer spread for the requested transaction and an amount to compensate Bank for its services. These components will not be separately disclosed unless required by law. Bank's pricing may not be reflective of prices being offered by other dealers, on interdealer platforms or as published by financial media. Foreign exchange markets can move quickly depending upon the delivery channel, currency pair, and market conditions. During extreme market conditions, such as disruption or liquidity events, the notional size and price levels Bank offers are unlikely to match levels provided in normal market conditions.

A. ELECTRONIC FOREIGN EXCHANGE SERVICES

1. Introduction. Bank may provide foreign exchange services to Customer in connection with one or more web-based services, via private Internet site or application programming interface (API) owned and operated by Bank ("EFX"). Bank provides such services in accordance with this Agreement, the FX Documentation and any additional terms of use and EFX procedures provided to the Customer ("EFX Documentation"). Customer's use of EFX and all transactions initiated thereby constitute its acknowledgment and agreement with the terms of the EFX documentation. EFX shall be available only during hours as established by Bank, which may vary by day or location. Notwithstanding anything to the contrary herein, Bank does not confirm that the person authorizing any EFX transaction on behalf of Customer is authorized to do so.

2. Access Devices. Once Bank has granted Customer access to any EFX system, System Administrator(s) designated by Customer will be provided one or more access devices, which may include cards, identification numbers and/or passwords. Customer shall use all EFX services in accordance with the security procedures set forth in this Agreement.

3. Transactions.

a. General Procedures. Within the applicable EFX platform, Customer may inform Bank that Customer wishes to purchase or sell a stated amount of currency against a second currency on a designated date ("Settlement Date") either unconditionally or at a displayed exchange rate ("Trade Request"). Any transaction ("Transaction") that results following the submission of a Trade Request shall be Customer's legally binding obligation. Trade Requests submitted to Bank via an EFX platform shall be effective only upon acceptance by Bank. Bank will establish from time-to-time specific times of day after which Trade Requests will not be processed on a "same-day" or "next-day" basis. Deadlines will differ depending on the Trade Requests currencies and other factors. Trade Requests submitted after Bank's cut-off will be considered received on the next business day. Market movements may occur while systems are processing Customer's transaction resulting in pricing that is less favorable to Customer (slippage).

b. Confirmations. Bank shall provide or make available details regarding terms of any Transaction executed on an EFX platform ("Confirmation"). EFX Confirmations created online may be formed electronically, by matching or click-acceptance or other agreed methods. Failure by Bank or Customer to confirm a Transaction for any reason, including without limitation computer malfunction, shall not excuse either party's obligations thereunder. Bank's internal records with respect to each EFX Transaction shall constitute conclusive evidence of the terms thereof.

c. Settlement Instructions and Payment. Once a Transaction exists, Customer agrees to make payment or delivery of currency to Bank on the Settlement Date in accordance with the settlement instructions provided to Customer, plus any applicable fees or charges. Bank expects that all Transactions will settle via standing settlement instructions. Customer is solely responsible for the accuracy and completeness of any settlement instructions delivered to Bank through EFX and such settlement instructions are subject to the concurrence of Bank. Any alternative instructions must be accurately completed on the platform prior to Settlement Date, and no less than two business days prior to settlement. Failure to do so may result in delays, use of the previously applicable settlement instructions and/or additional costs. Bank strongly discourages the use of third-party payments to settle foreign exchange transactions. Third-party payments will only be permitted in certain instances in the sole discretion of Bank. Requests for third-party payments will require all information requested by Bank in connection with anti-money laundering regulations and policies. Should Customer instruct Bank to settle a Transaction by debiting an account, Customer agrees to maintain sufficient available funds in the account to settle on the Settlement Date. Should funds be insufficient to settle the trade on the Settlement Date, Bank reserves the right in its sole discretion to debit any of Customer's account with the Bank in the amount due, subject to applicable account fees and charges, or to reject the Trade Request.

d. Cancellation or Change. Once a Trade Request is accepted, any request to cancel or amend is at the sole discretion of Bank. If such request is accommodated, Customer agrees to pay all costs and expenses of

executing an offsetting transaction on new terms at the updated exchange rate that is unlikely to match the original rate. Should a Transaction be successfully canceled or amended, Customer also agrees to reimburse Bank for any breakage costs and other expenses incurred by Bank to cancel or amend the Trade, including any fees imposed for this extraordinary service.

4. Funds Transfers. Customer authorizes Bank to execute and charge the designated Customer account(s) for wire transfer payment orders delivered to Bank via any EFX service. Customer agrees that all such wire transfer payment orders will be governed by the relevant Sections of this Agreement.

5. Representations and Warranties. Customer represents and warrants to Bank as of the date of this Agreement and as of the date of each Transaction that: (i) Customer is authorized to enter into this Agreement and any Transaction, (ii) the persons entering into the Agreement (and each Transaction) on Customer's behalf have been duly authorized to do so, (iii) the Agreement (and each Transaction) is binding and enforceable against Customer in accordance with its terms, and (iv) unless otherwise expressly agreed, Customer is acting as principal with respect to each Transaction.

B. FOREIGN CURRENCY ACCOUNTS

1. Introduction. If requested by Customer and agreed to by Bank, Customer may open a Foreign Currency Account ("FCA") at U.S. Bank National Association ("Standard FCA").

2. Permitted Deposits. Bank may accept the following for deposit into FCA:

a. Proceeds of matured foreign exchange purchase contracts;

b. Proceeds of foreign currency denominated letters of credit or documentary collection;

c. Incoming international funds transfers;

d. Proceeds of loan disbursements; or

e. Foreign checks and other items subject to collection, which may not be available until funds are received by Bank.

Bank will not accept currency or coin for deposit into FCA. Deposits not specifically enumerated above may be allowed if agreed to by Bank in writing. Only collected and verified funds can be deposited into FCA, whereupon funds will be immediately available for withdrawal or transfer by Customer.

3. Withdrawals. Customer can make withdrawals out of FCA in the following ways:

a. Settlement of a foreign exchange transaction;

b. Negotiation of foreign currency denominated letters of credit or documentary collection;

c. Outgoing international funds transfers by wires initiated in accordance with Bank procedures; or

d. Payment of a foreign currency loan.

Each of these methods of making a withdrawal will result in an immediate debit to the FCA for the entire amount Customer has elected to withdraw from such FCA.

4. Interest. Interest rates offered on FCAs are determined in Bank's discretion based on the applicable currency. Such interest rates may be set at zero or a negative interest rate. Interest is calculated based on the average daily balance method. The average daily balance method is an annualized rate that reflects the relationship between the amount of interest each fiscal month and the average daily balance in the account for such fiscal month. Negative interest may be assessed as a fee based on the interest rate set by the applicable monetary authority plus the incremental cost of funding to U.S. Bank. Interest rates and fees related to negative interest rates may be changed at Bank's discretion without notice to Customer.

5. Denomination. Customer will elect the denomination of each FCA on a separate account opening document. Transfers of funds into and out of FCA in the currency in which that particular FCA is denominated will be made without regard to the equivalent value of that sum of foreign currency in U.S. dollars or other foreign currencies. Transfers of funds into and out of FCA in a currency other than the currency in which that particular FCA is denominated may be accommodated by the Bank in its discretion. Such transfers will be made at an exchange rate determined by Bank.

6. Non-Business Days. In addition to non-Business Days specified in the Agreement, there will occasionally be other days on which Bank cannot process or complete a transaction due to holidays in foreign countries.

7. Other Terms. Bank may refuse a deposit, limit the amount which Customer may deposit, return all or any part of a deposit or require that Customer close FCA at any time. Bank may also close FCA without prior notice and remit to Customer any balance remaining after taking into account all pending debits and charges against such FCA.

8. Foreign Currency Account Risks. Investing in any currency other than the base currency of the Customer carries risk. The value of the balances in such accounts may be significantly affected by changes in currency exchange rates. Some other risks of maintaining foreign currency balances include but are not limited to: the effects of a different economic system in a foreign country, future political and economic developments,

possible imposition of exchange controls or other government restrictions, and with respect to certain countries, the possibility of expropriation or confiscatory taxation, political or social instability, or diplomatic developments which could adversely affect the value of the currency. Should Bank's balances in a foreign country become blocked or withdrawals by Bank become otherwise restricted, Customer's funds in the FCA will likewise be blocked or otherwise restricted.

WHILE DEPOSITS IN FCAS MAY BE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") UP TO A MAXIMUM AMOUNT ALLOWED BY LAW, CUSTOMER IS NOT PROTECTED BY BANK AGAINST FOREIGN CURRENCY EXCHANGE RATE FLUCTUATIONS OR FROM INABILITY TO ACCESS FUNDS FROM FOREIGN REGULATIONS BY THE FDIC INSURANCE, OR ANY OTHER INSURANCE OR GUARANTY PROGRAM.

9. Limitations on Liability. In addition to other limitations on liability set forth in this Agreement, Customer expressly releases and holds harmless Bank, and its affiliates, agents, and employees, from any liability, loss, damage or claim related to currency exchange rates or fluctuations in value of the currency in which the applicable FCA is denominated with respect to the U.S. dollar and other currencies. Customer hereby assumes all risks related to currency exchange rates and fluctuations in currency values, including that the foreign currency in FCA might be worth less, in U.S. dollars or other foreign currencies, than the U.S. dollar or other foreign currency equivalent of such funds at the time deposited into the FCA. Bank makes no warranty and no representation about the value of any FCA balance at any time.

V. TERMS APPLICABLE TO SPECIFIC MONEY CENTER AND SAFEKEEPING SERVICES

The following are additional terms and conditions applicable to specific Money Center and Safekeeping Services offered by Bank. In the event of a conflict between this Section V and any other provision of this Agreement, Section V shall govern. Bank may change the number or type of Services offered at any time. Customer shall not be bound by the terms and conditions for the specific Services described in this Section V to the extent Customer is not using such Service(s).

Municipal Advisor Rule Disclosure. This disclosure applies to Customer if Customer is classified as a municipality or an "obligated person" under the Municipal Advisor Rule. For purposes of Section 15B of the Securities Exchange Act of 1934 (the "Act") (SEC Rule 15Ba1-1 et seq.) (the "Rule"), Bank: (1) is not recommending and will not recommend an action to Customer; (2) is not providing and will not provide "advice" to Customer as defined in the Rule, and any information or communication from Bank in respect of Customer's accounts with the Money Center or the Safekeeping Departments of Bank or in respect of any securities transaction or potential securities transaction to be executed via such account(s) is not intended to be and should not be construed as "advice" as defined in the Rule; and (3) is not acting as an advisor to Customer and does not owe Customer any fiduciary duty pursuant to Section 15B of the Act or otherwise with respect to any such account(s), information, communication, transaction or potential transaction. Customer should discuss any information or material provided to Customer by Bank in connection with trading, investing or other activity in such account(s) with any and all of Customer's internal or external advisors and experts that Customer deems appropriate before acting on any such information or material.

A. INVESTMENT, DEPOSITORY AND SAFEKEEPING SERVICES

From time to time, Customer may effect securities transactions or establish deposits with Bank's Money Center Department and/or request safekeeping services from Bank's Safekeeping Department. All such transactions shall be subject to the terms and conditions of this Agreement.

1. Definitions.

a. "Confirmation" means the confirmation statement from Bank as described in this Agreement.

b. A "Money Center deposit" means an interest-bearing demand deposit account, a money market deposit account ("MMDA"), a time deposit, or other deposit liability of Bank to Customer established under this Agreement and maintained in Customer's Money Center investment account.

c. "Safekept Securities" means securities that Bank has agreed to accept and hold for the account of Customer under the terms of this Agreement.

d. The term "securities" means all securities (as Defined in the Securities Exchange Act of 1934) and all investment securities or products from time to time offered by Bank to Customer, other than certificates of deposit issued by Bank and deposits made with Bank.

e. "Settlement Account" means any settlement account(s) designated by Customer or any replacement account identified by Customer in a written notice delivered to Bank.

2. Securities Transactions: Compensation and Capacity of Bank.

a. In General. In any securities transaction governed by this Section V.A, Bank may be acting as principal, riskless principal, or agent. Bank's capacity in any securities transaction will be indicated on the Confirmation.

(i) As Principal. When acting as a principal in securities transactions, Bank will either buy securities for its own account or sell for its own account securities owned by Bank, whether such securities are bought before or after receiving Customer's order. Bank's compensation is reflected in the price at which Bank buys or sells the securities.

(ii) As Riskless Principal. When acting as a riskless principal in securities transactions, after receiving from Customer an order to buy or sell

securities, Bank will buy or sell securities for its own account to offset the sale to or purchase from Customer. Bank's compensation is reflected in the price at which Bank buys and sells the securities.

(iii) As Agent. When acting as Customer's agent in securities transactions, Bank will buy or sell securities solely for Customer's account. Bank's compensation due from Customer is the amount of any agency service charge indicated on the Confirmation.

b. Service Fees. In addition to compensation received as a principal, riskless principal or agent, Bank may charge Customer service fees in relation to securities transaction as specified in the current fee schedule as provided to Customer, which may be amended from time to time upon notice to Customer.

c. Other Compensation; Bank Securities**.** Bank may be paid a fee or other compensation by any other party in connection with any securities transaction, and any such fee or compensation will be in addition to fees payable by Customer to Bank under this Agreement. Such additional compensation may include, without limitation, advisory, custodial, distribution and/or shareholder service fees (which may be paid as service fees pursuant to Rule 12b-1 under the Investment Company Act of 1940) that Bank or its affiliates may receive from various mutual funds and/or mutual fund service providers, based upon moneys invested in those mutual funds. Customer acknowledges that those fees or other compensation may be paid to Bank for such services, and that such payments will not reduce or offset any fee or compensation due from Customer to Bank under this Agreement. Further, Customer acknowledges that securities Customer acquires through Bank may directly or indirectly (including through mutual funds) represent an ownership interest in securities issued by Bank or its affiliates or by mutual funds sponsored by Bank or its affiliates.

3. Money Center Deposits.

a. In General. If Customer elects to deposit funds through the Bank's Money Center Department, that Money Center deposit shall be maintained within Customer's Money Center investment account. Bank will provide Customer with a Confirmation upon Customer's placement of funds, and the deposit transaction will be reflected on Customer's Money Center account statement. With the exception of Eurodollar deposits (which are not deemed deposits under rules promulgated by the FDIC and therefore are not insured by the FDIC), Money Center deposits are FDIC insured per depositor, up to applicable FDIC limits. By opening and maintaining a Money Center deposit, Customer agrees to be bound by this Agreement.

b. Access to Funds. In addition to any other restrictions specified elsewhere in this Agreement, Customer shall not be allowed to make withdrawals or transfers from a Money Center deposit at a U.S. Bank branch or ATM or via check. No debit or ATM cards will be issued on a Money Center deposit. Customer shall be permitted to make withdrawals or transfers from a Money Center deposit only by contacting the Money Center Department in the following manner: telephone, facsimile, email, or via an online system provided or approved by Bank.

c. Notice of Withdrawal. Bank reserves the right to require at least seven (7) days written notice prior to withdrawal or transfer of funds from an MMDA, unless otherwise specified on the Confirmation for the Customer's placement of funds. Customer must provide such notice to Bank's Money Center Department by 3:00 PM Central Time via telephone, email, or fax.

4. Pledges; Segregation.

a. Pledges. Upon request of Customer, Bank can provide a form of control agreement suitable for transactions where Customer wishes to grant to third parties a lien, pledge or other rights over its property held by or at the Money Center or Safekeeping Departments at Bank. Customer agrees that all costs of Bank, including reasonable fees and expenses of outside counsel if deemed necessary by Bank, will be at Customer's expense if such a control agreement is requested, whether or not a final agreement is entered into.

b. Segregated Assets. Where Customer wishes to effect transactions hereunder on behalf of its customers using the property of such customers, Customer will first notify Bank in writing of its intention to do so before effecting any such transactions. Customer acknowledges that Bank may require one or more additional agreements in order to accept such transactions. Once acceptance of such transactions has been approved by Bank, Customer agrees to include in its instructions to Bank an agreed identifier or designation as to the applicable securities, deposits, and transactions.

5. Securities Transaction Requests.

a. Effecting Transactions. Each securities transaction will be effected pursuant to Customer's instructions made verbally, by fax or sent electronically via email or a trading system provided or approved by Bank. Emailed instructions must be directed to Bank's email address as designated from time to time by Bank, and fax instructions must be directed to Bank's fax number as designated from time to time by Bank. Securities transaction requests may be acted upon by Bank without acknowledgment by Bank that it has received such request.

b. Cut-Off Times. Bank establishes cut-off times for receipt of securities transaction requests depending on the type of security and the market in which it is traded. In addition, market holidays, procedural or operational matters, and actions taken by market operators may affect Bank's ability to process securities transaction requests. Customer instructions for same day settlement received before the applicable cut-off time will be submitted for processing that Business Day. Customer instructions for same day settlement received after the applicable cut-off time may be processed by Bank on a 'best efforts' basis that Business Day and otherwise will be submitted for processing the next Business Day.

c. Bank's Rights. Bank may reject, refuse to honor, or reverse all or any portion of any transaction request, with or without prior notice to Customer. If Customer fails to pay in full for any security purchased or fails to deliver security sold, in each case on or before the related settlement date, Bank is authorized in its discretion and without notice or demand to take any one or more of the following actions: cancel the transaction; sell the securities covered thereby; buy-in cover securities or other property required to make delivery; charge the Settlement Account for amounts due; hold Customer liable for any loss, cost or expense including but not limited to, breakage or pair-off fees and the capital charge and interest cost to carry any securities purchased; and/or impose fees.

6. Safekept Securities. Bank, acting through its Safekeeping Department, agrees to hold and keep as custodian hereunder all Safekept Securities, and to deliver such Safekept Securities in accordance with the instructions of Customer, all subject to the terms and conditions of this Agreement.

a. Acceptance and Withdrawal. Securities eligible to be Safekept Securities may be delivered to Bank, and any Safekept Securities may be withdrawn from Bank, in each case upon an instruction of Customer delivered in accordance with this Agreement. Withdrawal or delivery of Safekept Securities is subject to availability (e.g., among other reasons, securities involved in a corporate action or in frozen status, restricted securities or pledged securities may not be available for withdrawal or delivery). Bank shall not be liable or responsible for or on account of any act or omission of any broker or other agent designated by Customer or, in the absence of such designation, selected by Bank to receive or deliver securities for the account of Customer.

b. Registration; Depositories. Bank shall register Safekept Securities in nominee name and may from time to time change the registration of Safekept Securities from nominee name to Customer's name, or vice versa. Customer agrees that it will timely complete any necessary documentation provided by Bank to change the registration of Safekept Securities. Safekept Securities held in nominee name may be deposited with The Depository Trust Company or other third-party depository acceptable to Bank. Securities that are depository eligible will be held at the depository in the depository's nominee name.

c. Securityholder Information. Unless otherwise required by law or pursuant to instructions from Customer, in no event shall Bank be responsible to take any action concerning any puts, calls, conversions, exchanges, reorganizations, offers, tenders or other corporate actions or similar matters relating to Safekept Securities, other than (i) to forward to Customer in accordance with this Agreement the written information received by Bank relating to any such transaction, and (ii) follow

Customer's lawful instructions with respect to such actions. Customer may directly vote any proxy or other corporate action, or if it instructs Bank to vote on its behalf, agrees that any instructions to Bank with respect to any such actions shall be delivered to Bank within sufficient time for Bank to act thereon if any action is required. Safekept Securities called for redemption prior to maturity will be presented by Bank for payment provided the trustee or other appropriate entity gives Bank adequate notice of redemption. Should any Safekept Security be called for partial redemption by the issuer of such security, Bank is authorized to accept the allocation applied by any central depository. In the event Bank has to allocate any redemption among its accounts, Bank shall allot the redemption proceeds in accordance with its standard procedures therefor, effected in such manner as it deems appropriate in its sole discretion.

d. Collection of Income and Principal. Bank shall collect and receive the interest, principal, and other income payable in connection with the Safekept Securities and shall pay to Customer or credit to the Settlement Account all such amounts. Bank shall not be obligated (i) to pay to Customer or credit to the Settlement Account any payment of interest, principal or other income until Bank receives such payment in immediately available funds or (ii) to institute or participate in any collection proceedings or other proceedings to enforce Customer's rights relative to any Safekept Securities or to pursue any remedies on behalf of Customer. Bank is hereby authorized to sign on behalf of Customer any declarations, affidavits, certificates of ownership or other documents relating to securities held by Bank in nominee name that may at any time be required with respect to all coupons, registered interest, dividends, or other income. If any of Customer's deposits or securities the subject of this Agreement, including Safekept Securities, are subject to a variable or fixed rate of interest and such deposits or securities bear an interest rate less than zero, Customer agrees to pay Bank all amounts of the negative interest or fees that Bank imposes as compensation for the less-than-zero interest rate (which may also be debited from the Settlement Account by Bank), and Customer agrees that the principal amount of such Safekept Securities may be reduced to the extent necessary to cover the amount of the negative interest or fees if available funds are not otherwise provided by Customer.

e. Return of Payments. Customer will repay Bank, or Bank may charge the Settlement Account, in the event that for any reason (i) Bank is required to return to the issuer or to a third party any payments in respect of Safekept Securities, (ii) Bank fails to receive from the issuer or appropriate other party a payment Bank paid to Customer in respect of Safekept Securities, or (iii) Bank must return to the issuer or appropriate other party a payment Bank paid to Customer in respect of Safekept Securities. Customer further agrees that the principal amount of any Safekept Securities may be reduced, and any remittances due from Bank to Customer (whether or not under this Agreement), and any other accounts of Customer with Bank, may be offset to the extent necessary to cover the amount of such returned payments to the extent that immediately available funds are not otherwise provided by Customer to Bank.

7. Confirmation Statements. Promptly after effecting any transaction pursuant to this Section V.A, Bank will deliver to Customer a Confirmation which shall identify at least (i) Bank and Customer, (ii) the trade and settlement dates of the transaction, (iii) the issuer and par amount of the related securities (for securities transactions) and the principal amount of any deposit (for deposit transactions), (iv) the interest rate if applicable and/or any discount rate applicable to any securities transactions or deposit transactions, (v) the maturity date of the transaction, if applicable, (vi) the capacity of Bank as principal, riskless principal or agent (if the transaction is a securities transaction) and, if applicable, whether the securities will be Safekept Securities, (vii) any terms and information required by applicable law, and (viii) any other terms and information which Bank may include at its discretion. The information contained on the Confirmation shall be considered true and correct and conclusively binding upon Customer unless Customer notifies Bank of any error therein within three (3) business days after the date the Confirmation is deemed delivered to Customer in accordance with this Agreement. Customer may, by notice from an Authorized User in accordance with this Agreement, elect to receive Confirmations by mail, fax, email, or other electronic means including posting to a password-protected website), subject to the terms of this Agreement.

8. Settlement Account. Unless Bank is otherwise instructed in writing, Customer unconditionally authorizes, empowers, and directs Bank (and authorizes and directs Bank to communicate with any financial institution maintaining the Settlement Account as necessary) to: (i) debit the Settlement Account on the settlement date indicated on the Confirmation for the full amount of each transaction effected under this Section V.A (including all fees and charges payable hereunder), notwithstanding that such debit may cause the Settlement Account to be overdrawn; and (ii) credit the Settlement Account with interest payments, principal payments, maturity payments or other payments received in respect of transactions effected under this Agreement. Customer hereby represents and warrants that instruction from any Authorized User is sufficient to authorize Bank to debit or credit the Settlement Account. If the Settlement Account is not held by Bank, Customer confirms to Bank that it has authorized the financial institution maintaining the Settlement Account to accept debit and credit entries to the Settlement Account and that no such authorization will be cancelled except with prior notice to Bank and in sufficient time and in such manner as to allow the financial institution maintaining the Settlement Account and Bank a reasonable opportunity to act on such termination without disruption of any transactions or services under this Agreement. Customer acknowledges that ACH payments to a Settlement Account not held by Bank are subject to ACH processing timelines, which may involve a delay in available funds.

9. Delivery. Through the instructions of an Authorized User, Customer shall specify the account to which any securities purchased hereunder are to be delivered. If such account is maintained by the Safekeeping Department of Bank, the securities will be held in accordance with this Agreement. If such account is maintained by an institution other than Bank, Bank's responsibility for ensuring delivery shall be limited to accurately conveying the instructions for the appropriate delivery account to the depository, agent, or issuer of the securities, as applicable for the particular type of securities. Bank will issue no certificate, passbook, or any other evidence of any deposit except for the Confirmation.

10. Interest. All securities, Money Center deposits, and certificates of deposit purchased by Customer or held by Customer under this Agreement shall earn interest on the principal balance from the date of deposit or settlement date, as applicable, computed at the rate and in the manner established by Bank from time to time for the given product. Any interest due will be credited monthly unless otherwise agreed to by Customer and Bank. No interest shall accrue on the date of withdrawal. Bank reserves the right to change the applicable interest rate on variable rate products (including those products whose underlying interest rate is not managed by Bank) at any time. Such interest rate may be set at zero or an interest rate less than zero. If the interest rate, or the index or other referenced rate upon which the interest rate is based, is at any time less than zero percent, Customer agrees to pay Bank all amounts of the negative interest or fees that Bank imposes as compensation for the less-than-zero interest rate. Bank will not provide notice of rate changes, but Customer may call the Money Center Department to obtain current rate information. Bank shall notify Customer of the applicable interest rate and maturity term for the product opened under this Agreement at the time that the request for such product is made.

11. Fixed Investment Periods. Customer acknowledges that certain products held by Bank under this Agreement have fixed investment periods and agrees that such products will be held by Customer until their maturity dates or through their commitment dates. Customer agrees that if it withdraws part or all of such product before such date, Bank shall be entitled to impose a penalty (including by debiting the Settlement Account for such amounts) in accordance with the terms of such product or the fee schedule provided to Customer, as applicable, and that the principal amount of such product may be reduced to the extent necessary to cover such penalty if available funds are not otherwise provided by Customer.

12. Repurchase Transactions. Customer shall not effect any securities transactions under this Agreement in the expectation of entering into a repurchase transaction with Bank as counterparty unless Customer shall first have executed and delivered to Bank a written master repurchase agreement, in form and substance satisfactory to Bank, governing such transactions. In any such transaction, where Bank is to hold securities as collateral or as the subject of a transaction, such securities will be held by the Safekeeping Department of Bank subject to the terms of this

Agreement, unless Customer is otherwise notified. To the extent of any inconsistency between the terms of any such agreement and the terms of this Agreement, the terms of such other agreement shall control.

13. Fees and Expenses. Customer shall pay to Bank such fees in respect of the services provided under this Agreement, as disclosed to Customer on the current fee schedule (which fee schedule may be amended from time to time by Bank). If the fee schedule is amended, the amended fees will apply to any Safekept Securities being held at that time, and to any securities transactions effected on the day such amendment becomes effective. Customer agrees and acknowledges that Bank may debit the Settlement Account for any fees and other amounts owing by Customer to Bank under this Agreement, or exercise an offset for such amounts against any funds of Customer on deposit with Bank, or against any interest, principal or other income received or to be received by Bank on behalf of Customer, whether or not in respect of Safekept Securities. In addition, Customer agrees to reimburse Bank for its commercially reasonable out-of-pocket expenses for providing the services hereunder, including, but not limited to the reasonable fees and expenses of outside counsel if retained by Bank in its discretion in connection with this Section V. If Customer fails to pay Bank any sums due under this Section V within thirty (30) days after the same are due (whether or not a late notice is sent to Customer by Bank), Bank may terminate this Agreement and return any Safekept Securities to Customer at Customer's expense, and to avail itself of any other remedy it may have in law or in equity.

14. Service Termination; Account Closure. Subject to Section V.A.11 ("Fixed Investment Periods"), Customer may terminate the Service(s) described in this Section V or close its Money Center investment account at any time upon prior notice to Bank. Bank may terminate the Service(s) described in this Section V or close Customer's Money Center investment account at any time without prior notice to Customer. If any Service described in this Section V is terminated or Customer's Money Center investment account is closed for any reason, Customer will continue to be responsible for any obligation incurred by Customer prior to termination or closure and for the fees and costs, if any, payable under this Agreement with respect to delivery of Customer's securities (including Safekept Securities) or funds held by Bank to Customer or to another financial institution.

15. Notices. Except for oral instructions to Bank from Authorized Users or from Bank to Authorized Users, all notices, disclosures, and communications (including Confirmations) under this Section V shall be in writing and delivered by mail, fax, email, or other electronic means as provided for in this Agreement. Notices, disclosures and communications (including Confirmations) shall be deemed delivered upon transmission of the same by mail, fax, email or other electronic means as provided for in this Agreement, or on the third (3rd) Business Day after deposit of the same in the United States mail, postage prepaid, and addressed to the mailing address provided by Customer. All written confirmations, notices, instructions, or other communications from Customer to Bank shall be sent to following address (which may be amended from time to time by Bank upon notice to Customer):

For securities transactions:
U.S. Bank National Association
Money Center Department
800 Nicollet Mall, BC-MN-H18T
Minneapolis, MN 55402
Fax: (866) 904-7067
Email: Money.Center.Sales@usbank.com

For safekeeping services:
U.S. Bank National Association
Safekeeping Department
800 Nicollet Mall, BC-MN-H18R
Minneapolis, MN 55402
Fax: (612) 303-0202
Email: Safekeeping@usbank.com

16. Terms and Conditions of Electronic Delivery. All notices, disclosures and communications (including Confirmations and other account information) from Bank may be delivered to Customer by electronic means (including, without limitation posting to a password-protected website) to the extent Customer elects to receive such information through electronic means, subject to the Terms and Conditions of Electronic Delivery set forth in Section V.B below. Customer agrees that sending information in this manner will constitute good and effective delivery of the information to Customer, regardless of whether Customer actually accesses the website or other electronic medium containing the information.

17. No Investment or Tax Advice. Customer acknowledges that Bank's role is ministerial in nature and that Bank will not provide supervision, recommendations, or advice to Customer in connection with the investment, purchase, sale, retention, or other disposition of any securities or Money Center deposits, or the advisability or suitability of any product or transaction. Customer is responsible for evaluating the risks associated with such decisions. Customer acknowledges Bank is not an investment adviser, has no investment discretion, and will merely carry out instructions as directed by Customer. Bank's ability to determine interest rates on securities or Money Center deposits shall not be deemed to be discretion or advice. Customer further acknowledges that Bank will not provide advice to Customer regarding the tax implications associated with the investment, purchase, sale, retention, or other disposition of any securities or Money Center deposits.

18. ERISA. If assets of an employee benefit plan subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), are intended to be deposited, invested or used by Customer in a transaction under this Section V.A, Customer shall notify Bank prior to effecting such deposit, investment or transaction and will provide Bank with such additional information as Bank may reasonably request. Customer represents and warrants to Bank that any deposit, investment, or transaction pursuant to this Section V.A shall not result in a "prohibited transaction" under ERISA or shall otherwise be exempt under ERISA, and Customer further agrees to indemnify and hold Bank harmless from any loss or claim arising therefrom.

19. No Representation or Warranty. Customer acknowledges and agrees that Bank makes no representation or warranty, express or implied, with respect to the validity, enforceability, collectability, or investment quality of any securities bought or sold hereunder, or any deposits made or terminated hereunder.

20. Records; Account Statements; Taxes. Bank will maintain records of Customer's account and provide customer with a Confirmation for transactions in accordance with this Section V.A and periodic account statements. Bank will also send to Customer such notices and reports as are required by law. Customer acknowledges and agrees that it is Customer's obligation to prepare and file all required tax returns and to pay all taxes due on any income that Bank collects for Customer.

21. Set Off. Bank has the right to apply funds in Customer's Money Center investment account or Settlement Account to any debt Customer owes Bank. A debt includes any fees, overdrafts, debts that now exist and debts that Customer may incur in the future, or Customer's obligations under a guaranty. When Bank sets off a debt Customer owes Bank, Bank reduces the funds in the Money Center investment account or Settlement Account by the amount of the debt. If there are not sufficient funds in Customer's Money Center account or Settlement Account to satisfy any obligations of Customer to Bank, Bank has right to sell any or all securities in those accounts to satisfy such obligations. Bank is not required to give Customer any notice before selling Customer's securities or otherwise exercising its right of setoff. Customer agrees to hold Bank harmless from any claim arising as the result of Bank's enforcement of its right of setoff against Customer's Money Center investment account or Settlement Account. This right of setoff is in addition to any security interest that Bank might have in Customer's Money Center investment account or Settlement Account.

22. Legal Process. Legal process includes any levy, garnishment or attachment, tax levy or withholding order, injunction, restraining order, subpoena, search warrant, government agency request for information, forfeiture or seizure, or any other legal process relating to Customer's Money Center investment account or Settlement Account. Bank may accept and act on any legal process Bank believes to be valid, whether

the process is served in person, by mail, by electronic notification, or at a banking location. If Bank incurs any fees or expenses (including attorneys' fees and expenses) due to responding to legal process related to Customer's Money Center investment account or Settlement Account, Bank may, in its sole discretion, charge these costs to any other deposit account Customer maintains with Bank. All legal process is subject to Bank's rights of setoff and security interest in Customer's Money Center investment account and/or Settlement Account.

B. TERMS AND CONDITIONS OF ELECTRONIC DELIVERY

The following sets forth the terms and conditions of use of Bank's electronic delivery and notification service (the "Electronic Delivery Service") in connection with account(s) with Bank's Money Center Department or Safekeeping Department.

The Electronic Delivery Service described in this Section V.B shall constitute an Internet Service as defined in Section I of this Agreement and shall be subject to the terms set forth therein, as well as any other agreements between Customer and Bank and any applicable laws or regulations. If there is a conflict between the terms and conditions set forth in this Section V.B and the terms and conditions of any other section of this Agreement or any other agreement between Customer and Bank as they relate to the Electronic Delivery Service, the terms and conditions set forth herein will control.

1. Electronic Delivery of Account Communications. Customer may elect to receive Account Communications (defined below) related to Customer's account(s) electronically. All Account Communications will be delivered electronically by posting to Bank's password-protected website designated for Customer's account(s) or, at Bank's election, delivered via electronic mail to the email address provided by Customer to Bank. "Account Communications" include, without limitation, all current and future account statements, Confirmations, security notices, maturity notices, prospectuses, offering and disclosure documents, shareholder communications (such as quarterly, semi-annual, and annual reports, proxy statements, etc.), regulatory communications and other information, documents, data, notices and records regarding Customer's account(s) with Bank. Bank may, from time to time, designate additional Account Communications that are then eligible for electronic delivery through the Electronic Delivery Service, the delivery of which will then be subject to these terms and conditions. From time to time, Bank may add to, modify, or delete any feature of the Electronic Delivery Service or Account Communications eligible for delivery through the Electronic Delivery Service at its sole discretion. Customer acknowledges and agrees that by being enrolled in the Electronic Delivery Service, Customer will no longer receive Account Communications by mail that is otherwise available for delivery as part of the Electronic Delivery Service.

2. Accessing Account Communications. Bank will notify Customer via email when Account Communications are posted. Bank may also provide, in its sole and absolute discretion, Account Communications directly via email. Customer may access all Account Communications for at least thirty (30) days from the date of initial posting. Customer acknowledges and agrees that all Account Communications will be deemed to constitute good and effective delivery to Customer upon posting, regardless of whether Customer actually or timely receives or accesses the Account Information, or if Account Communications are delivered directly to Customer via email, when so delivered.

3. Changes in Delivery Method. Customer must notify Bank if it wishes to discontinue use of the Electronic Delivery Service. Following Bank's receipt of such notice and after Bank has a reasonable opportunity to act on such notice, Customer will thereafter begin to receive Account Communications via U.S. mail beginning with Customer's next statement cycle and/or mailed Confirmation.

4. Reporting Unauthorized Transactions or Erroneous Statements. Customer agrees to promptly and carefully review all Account Communications as and when delivered and notify Bank in accordance with this Agreement if Customer objects to any of the information provided.

5. Third-Party Services. Customer acknowledges and agrees that Customer's access to the Electronic Delivery Service and Customer's receipt of email notifications when Account Communications are posted may be delayed or prevented by factors affecting Customer's or Bank's Internet or telephone service provider(s) or other similar entities ("Third-Party Service Providers"). Bank makes no representations or warranties whatsoever with regard to the products and services offered by such Third-Party Service Providers and shall not be liable for any loss caused, in whole or in part, by a Third-Party Service Provider.

6. International Use. Bank makes no representations or warranties that any content or use of the Electronic Delivery Service is appropriate, legal, or available in locations outside the United States. Customer

acknowledges and agrees that accessing the Electronic Delivery Services from territories where its contents or use is illegal and is prohibited by Bank. If Customer accesses the Electronic Delivery Service from locations outside the United States, Customer does so at its own risk. Customer is responsible for compliance with local laws.

7. Proprietary Rights; Materials; Trademarks. All content included or available through the Electronic Delivery Service (other than Customer's account information), such as advertisements, tests, graphics, logos, button icons, images, audio clips and software, is the property of Bank and/or third parties and is protected by copyrights, trademarks, or other intellectual property rights. The compilation (meaning the collection, arrangement, and assembly) of all content on the Electronic Delivery Service is the exclusive property of Bank and/or its licensors and is protected by copyrights or other intellectual property rights. The trademarks, logos and service marks displayed on the Electronic Delivery Service (collectively, "Trademarks") are the registered and unregistered Trademarks of Bank or third parties. Under no circumstances may Customer use, copy, alter, modify, or change these Trademarks. Nothing contained on the Electronic Delivery Service should be construed as granting by implication or otherwise any license or right to use any Trademark without the express written permission of Bank or the third party that has rights to such Trademark, as the case may be.

U.S. Bank Services

Terms and Conditions

Thank you for choosing U.S. Bank Services. This document provides product information, disclosures and descriptions of the Global Treasury Management, Foreign Exchange, and Money Center and Safekeeping Services ("Services") available at U.S. Bank. Other documents may become part of our Agreement depending on the Services selected. Please read all documents carefully; they will govern the Services provided to you, the Customer.

Customer shall not be bound by the terms and conditions for specific Services to the extent Customer is not using such Service(s).

U.S. Bank National Association

Member FDIC

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I. INTRODUCTION

1. Definitions.

a. “Agent” means any director, officer, employee, representative, affiliate, third-party vendor or any other person or automation acting on behalf of the Customer with the actual, implied, or apparent authority of Customer. Bank may rely on any grant of authority until it receives written notice of its revocation and is given a reasonable amount of time to act upon such notice.

b. “Bank” means U.S. Bank National Association and each subsidiary or affiliate of U.S. Bank that provides Services to Customer.

c. “Business Day” means any day on which a majority of Bank’s offices are open to the public for substantially all banking functions. Saturdays, Sundays, federal or state holidays or any day recognized by a Federal Reserve Bank as a holiday shall not be considered a Business Day, even if Bank’s offices are open.

d. “Customer” means the business entity, and any parent company, subsidiary, or affiliate, for whom Bank provides a Service.

e. ”Internet Service” or “Internet Services” means one or more Services offered by Bank via the Internet.

f. “Service” or “Services” means one or more global treasury management, foreign exchange, or money center and safekeeping services offered by Bank.

g. “Terms of Use” means terms or rules of use posted by Bank governing Customer’s use of Internet Services.

h. "Written," "writing" and other like terms mean, unless otherwise provided or required by context, both paper and electronic forms of communication such as emails, faxes, digital images and copies, electronic notices capable of being stored and printed, and similar electronic versions. To the extent permitted under applicable law or regulation, signatures may be made and delivered electronically, whether digitally or otherwise, which shall have the same legal validity and enforceability as manually executed signatures and are binding on the parties. The parties may rely on electronic forms of documents subject to any applicable law, regulation, or rule.

2. Other Agreements, Laws, and Regulations. These terms and conditions and the Master Services Agreement (or existing Treasury Management Service Agreement or equivalent document executed by Customer) are collectively referred to herein as the “Agreement.” The Services are provided to Customer subject to the following other documents, laws, and regulations, which are hereby incorporated into and made part of this Agreement:

a. the setup materials, user guides, and any supplement thereto required by Bank to implement a specific Service (referred to in the Agreement as the “Implementation Documents”);

b. the most current fee and availability schedule and other fee disclosures provided to Customer, including account statements;

c. the provisions of the then-current deposit account agreement and accompanying disclosures, which govern deposit accounts and other depository services;

d. the Uniform Commercial Code, as enacted in the State of Minnesota;

e. any applicable automated clearinghouse operating rules, including, without limitation, the National Automated Clearing House Association Operating Rules and Guidelines (the “NACHA Rules”), the Real-Time Payments Operating Rules, and the rules promulgated by the Electronic Check Clearing House Organization (the "ECCHO Rules") and The Clearing House; and

f. federal, state and local laws and regulations applicable to Bank or Customer, including, without limitation, Regulation CC promulgated by the Board of Governors of the Federal Reserve System, 12 CFR Section 229.1, et seq. ("Regulation CC"), all Operating Circulars promulgated by the Board of Governors of the Federal Reserve System, and the regulations overseen by the Office of Foreign Assets Control (“OFAC”).

3. Change of Terms. Bank may change the terms of this Agreement at any time upon reasonable written notice to Customer or by any other method permitted by law. Customer’s continued use of the Services after the effective date of any change to the terms shall be deemed Customer’s consent to the revised terms. Any other variations to this Agreement must be in writing and executed by Bank. In the event performance of the Services in accordance with the terms of this Agreement would result in violation of any present or future statute, regulation, government policy, or relevant clearing or central bank agreements or settlement systems to which Bank is subject, and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation, policy, agreement or systems, and Bank shall incur no liability to Customer as a result of such violation or amendment. No course of dealing between Bank and Customer will constitute a modification of this Agreement or constitute an agreement between the Bank and Customer regardless of whatever practices and procedures Bank and Customer may use. Bank may change the Terms of Use for any Internet Service at any time by posting notice of such change via an alert or message on a broadcast or message page of the website (“Broadcast Message”). All changes shall have an effective date. Customer’s use of the Internet Service after the effective date of any such change shall constitute an acceptance of the revised Terms of Use by Customer. Customer is responsible for establishing an internal procedure for reviewing the Broadcast Message page on a regular basis to obtain timely notice of changes to the Terms of Use. In the event that a specific Internet Service does not have Broadcast Message capability, Customer will be notified of any changes in accordance with Section II.25 hereof.

4. No Third-Party Beneficiaries/Third-Party Claims. Services provided by Bank are for the sole and exclusive benefit of Customer, and no other persons or organizations shall have any of the rights and remedies arising under this Agreement. Customer agrees to defend, indemnify and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities and damages of third parties of any nature whatsoever, including, without limitation, reasonable attorney fees and court costs at trial or appeal arising directly or indirectly from any Service delivered to Customer pursuant to this Agreement.

6. Foreign Account Tax Compliance Act. If a payment made by either party under this Agreement is or could become subject to the U.S. Federal withholding tax imposed by Sections 1471 through 1474 of the Internal Revenue Code of 1986, as amended (“FATCA”), then (i) each party shall provide to the other party such information, and shall disclose to the applicable governmental authorities such information, as may be required in order for such party to comply with all applicable requirements of FATCA and to determine that the other party has complied with FATCA, and (ii) a party that fails to comply with FATCA shall indemnify the other party for all costs, damages, and liabilities arising out of such party’s failure to comply with FATCA. Customer is responsible for providing Bank with all necessary documentation to establish that payments to Customer are exempt from FATCA withholding.

7. Disclaimer of Warranties. BANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND OF MERCHANTABILITY, EITHER TO CUSTOMER OR TO ANY OTHER PARTY, WITH RESPECT TO THE SERVICES PROVIDED BY BANK OR ITS AGENTS OR WITH RESPECT TO SOFTWARE PRODUCTS PROVIDED OR MADE AVAILABLE TO THE CUSTOMER FOR ITS USE BY BANK IN CONNECTION WITH THIS AGREEMENT AND ANY SERVICE. BANK PROVIDES ALL INTERNET SERVICES ON AN “AS IS,” “AS AVAILABLE” BASIS AND MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE INTERNET SERVICES OR THE CONTENT OR SECURITY OF ANY WEBSITE. WITHOUT LIMITING THE FOREGOING, BANK DOES NOT WARRANT THAT THE OPERATION OF ANY WEBSITE WILL BE UNINTERRUPTED OR ERROR FREE. CUSTOMER IS RESPONSIBLE FOR TAKING APPROPRIATE PRECAUTIONS AGAINST DAMAGE TO ITS OPERATIONS WHICH COULD BE CAUSED BY INTERRUPTIONS OR MALFUNCTIONS OF ANY WEBSITE AND ASSUMES THE RISK OF SUCH OCCURRENCES.

II. TERMS APPLICABLE TO ALL GLOBAL TREASURY MANAGEMENT, FOREIGN EXCHANGE AND MONEY CENTER AND SAFEKEEPING SERVICES

1. Services. Bank may provide Services that are not specifically included in the Services section of this Agreement. By accepting and using any Service, Customer agrees that the Service will be governed by this Agreement and any other conditions communicated to Customer by Bank. Certain Services included in this Agreement may not be available or may not be provided in certain market areas. If requested by Customer and agreed to by Bank, Bank will grant Customer access to one or more of Bank's Internet Services in the manner established by Bank. Customer shall use its access to Internet Services and websites operated by or on behalf of Bank only to conduct its business through or with Bank and agrees to limit access to those Agents who require access to Internet Services. In addition to this Agreement and applicable law, Customer agrees that its use of the Internet Services shall be governed any applicable Terms of Use. In the event of a conflict between the Terms of Use and the rules set forth in this Agreement, the Terms of Use shall govern.

2. Proprietary Information. Customer acknowledges that this Agreement, all related documentation and computer programs and systems used in providing Services, and all information related thereto constitute proprietary property of Bank that is of great commercial value. Customer agrees that it shall not acquire any proprietary interest or rights therein as a result of its use of the Services and shall keep all such proprietary information strictly confidential.

3. Representations and Warranties. Customer and Bank each represent and warrant to the other, as of the date this Agreement is entered into and at the time any Service is used or performed, that: (a) it is validly existing and in good standing under the laws of the jurisdiction of its organization; (b) it has all requisite power and authority to execute and deliver, and to perform its obligations under, this Agreement and each Service used or performed by it; (c) this Agreement has been duly authorized and executed by it and constitutes its legal, valid and binding obligation; (d) any consent or authorization of any governmental authority or third party required to be obtained by it in connection with this Agreement or any Service used or performed by it has been obtained; and (e) the Services received are for business use only and are not primarily for personal, family or household use. In addition, Customer represents and warrants to Bank that this Agreement will not violate: (i) any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on Customer or Customer's use of any Services; or (ii) the provisions of any agreement to which Customer is a party or is subject, or by which it, or its assets, is bound, or conflict with or constitute a default thereunder. Customer represents and warrants that is has collected appropriate consents to provide its Agents' and other employees' personal information to Bank (and its subcontractors) to provide the Services, including generating the Codes (defined below). To the extent applicable to Customer, Customer represents and warrants that it is not using any of the Services in the delivery of Title IV funds under 34 C.F.R. § 668.

4. Financial Review. Bank's willingness to provide Services to Customer is dependent on the Customer's financial condition. Customer's financial condition is subject to review by Bank from time to time, and such reviews must be satisfactory to Bank in its sole discretion and opinion. Customer shall, upon request, provide to Bank any such information as Bank may require to perform any such review. Customer's failure to meet such standards or provide such information or assistance when requested shall constitute a breach of this Agreement and shall permit Bank to cease providing Services upon written notice to Customer.

5. Fees. Unless otherwise agreed to by Bank in writing, Customer shall pay Bank the fees, charges and assessments set forth for the Services provided in the most current fee schedules and other fee disclosures provided to Customer (including account statements), plus additional fees and expenses for extraordinary Services. The price schedule for each Service shall be deemed accepted by Customer upon provision of the Service to Customer. In addition, Customer shall pay Bank the amount of any taxes levied or leased on fees charged pursuant to this Agreement, including, without limitation, federal, state, or local privilege excise or sales taxes based on gross revenue, any taxes or amount in lieu thereof paid or payable by Bank, excluding Bank's income taxes and any assessments charged to Bank directly as a result of providing the Services. Bank may change the amount or type of service charges from time to time. Fees for Services used by Customer may be charged in full to Customer's account(s) or may be offset through account analysis by applying earnings credit to Customer's service charges to determine a single monthly net service charge. The applicable earnings credit rate is established by the Bank and will change from time to time without advance notice to Customer. Customer's net service charge could be zero if such earnings credit exceeds total charges in a given month, however excess earnings credits are not refundable as a payment and unused earnings credits shall be forfeited according to a schedule established by Bank or agreed to by the parties. If Customer's earnings credit is insufficient to offset the amount due hereunder, Customer agrees to pay such amount to Bank upon demand. If the earnings credit rate for Customer's account(s), or the index or other referenced rate upon which the earnings credit rate is based, is at any time less than zero percent, Customer agrees to pay all amounts of the negative earnings credit or fees imposed by Bank as compensation for the negative earnings credit rate. Customer authorizes Bank to debit Customer's account(s) with Bank for any and all fees, expenses or other charges owed by Customer to Bank under this Agreement.

6. Accounts.

a. Deposit Accounts. Most Services require that Customer maintain one or more deposit accounts with Bank. All checks, wire transfers, ACH payments and other items deposited into such accounts are provisionally credited and taken subject to later verification by Bank and Bank's receipt of final settlement. Deposited items that are deposited and later returned unpaid will be charged against the account without prior notice. Customer agrees to pay Bank for any overdraft or overpayment in any of Customer's accounts. If the interest rate for any of Customer's deposit accounts, or the index or other referenced rate upon which the interest rate for such accounts is based, is at any time less than zero percent, Customer agrees to pay Bank all amounts of the negative interest or fees that Bank imposes as compensation for the less-than-zero interest rate. Customer authorizes Bank to charge any account Customer maintains with Bank for any amount remaining due under this Section.

b. Virtual Accounts. If requested by Customer and agreed to by Bank, Customer may elect to open, close, and/or maintain one or more virtual subaccounts ("Virtual Account") in a structure beneath Customer's deposit account at Bank. Customer agrees that (i) Customer will be considered owner of the funds, including for tax purposes, within any Virtual Account, regardless of the subaccount structure created by Customer, and as such is responsible for any obligations arising from ownership of such funds; (ii) Customer is responsible for and assumes all liability for Agents of Customer granted access to any Virtual Account; (iii) Customer is responsible for compliance with any and all laws and regulations applicable to such Virtual Accounts; and (iv) unless approved in writing by Bank, Customer shall not assign any Virtual Account to any legal entity other than the legal entity to which the deposit account is titled.

7. Security Interest. Customer grants to Bank a consensual possessory security interest in Customer's deposit accounts maintained with Bank and the funds held therein to secure payment of all of Customer's obligations under this Agreement.

8. Accuracy and Timeliness of Information. Bank will use reasonable efforts to provide the information requested through the Services in a prompt fashion but shall not be liable for temporary failure to provide timely information. In such event, Customer shall be responsible for carrying out banking business through alternative delivery channels. Bank shall not be liable for any inaccurate or incomplete information with respect to transactions which have not been completely processed or posted to Bank's systems prior to being made available pursuant to the Services.

9. Authorized Signers, Authorized Users, and System Administrators. Customer shall appoint certain Authorized Signer(s) in the Master Services Agreement or in such other format or document as may be agreed by Bank. Customer agrees that Authorized Signers shall be authorized to act on behalf of Customer in all actions taken under this Agreement and may enter into all transactions contemplated in this Agreement, including, without limitation, selecting Services for the benefit of Customer, appointing initial system administrator(s), and signing

additional documentation that may be necessary to implement Services and giving instructions with regard to any Service, including, without limitation, wire transfers, ACH transfers and other electronic or paper transfers from or to any account Customer maintains with Bank. If Customer uses Internet-based services, Customer shall designate one or more system administrators ("System Administrator(s)"). The Authorized Signer(s) or System Administrator(s) shall appoint Agents to access or use the Services provided for the benefit of Customer ("Authorized Users"). Authorized Users may act on behalf of Customer for a particular Service in accordance with the relevant Implementation Documents or other document(s) establishing the Authorized Users' responsibilities or in accordance with the authority granted by Customer. An Authorized User may submit documents or forms to Bank via a secure communications channel offered by Bank, such as, but not limited to, encrypted email from a validated email address or a Bank platform requiring sign-on credentials. Bank may rely on any signature (electronic, facsimile, wet ink, etc.), including a signature other than that of the Authorized User, on a document or form, or image thereof, submitted via any such method. Customer may revoke the authority of or change the Authorized Signers at any time upon prior written notice and execution of additional documentation required by Bank. Such change or revocation shall not be binding upon Bank until it has received the required written notice and has had a reasonable opportunity to act thereon. In any event, Bank may act on instructions that it believes in good faith were provided by an Authorized Signer or Authorized User, or anyone purporting to be an Authorized Signer or Authorized User.

The System Administrator shall be responsible for setting up Internet Services and for establishing internal security procedures related to such Internet Services, which may be made available through applications or systems offered by Bank, including, without limitation, accepting delivery of software, system-wide configuration of Bank accounts, appointing Authorized Users, establishing authority levels, authorization requirements and payment limits, and distributing and resetting IDs, passwords and other internal security devices related to the Internet Services. Customer represents and warrants to Bank that any actions taken by the System Administrator in relation to the Internet Services including, without limitation, the appointment of Authorized Users and the access, automation and privileges granted to such Authorized Users, are duly authorized by Customer.

System Administrators shall assign only one ID to each Authorized User or System Administrator to identify the Authorized User of System Administrator within Bank's internet platform. If an Authorized User or System Administrator is assigned more than one ID, Customer releases and holds Bank harmless from any damages or losses suffered as a result, including, but not limited to, the use of multiple IDs to authorize or authenticate payments from Customer's account(s).

10. Forms Approval and Service Implementation. Bank reserves the right to approve the form of Customer's checks, drafts, deposit slips and similar documentation. Prior to initiating a new account or Service, or at any other necessary time, Customer agrees to provide all information and conduct any test that Bank may reasonably request, including, without limitation, completing Implementation Documents and signature cards, providing corporate resolutions and other documents, and assessing test tapes and transmissions. Customer acknowledges that Services will not commence or continue until such time as an approved item or test is provided to Bank and determined by Bank to be satisfactory. During the implementation process, Customer may be required to provide information, perform testing, or otherwise engage with Bank. Customer acknowledges that its failure to timely perform any such task may delay implementation. Customer shall be responsible for initial product installation, whether or not Bank provides telephone or on-site installation support.

11. Security Procedures.

a. Introduction. Customer agrees that Bank may select, in its sole discretion, security procedures that must be used in connection with certain Service(s), including Internet Services. Customer acknowledges and agrees that it understands Bank's security procedures, and that such security procedures are commercially reasonable. Customer agrees that its use of Bank's security procedures constitutes its agreement to such security procedures, regardless of whether Bank has communicated such security procedures to Customer. Customer represents and warrants that it will comply with Bank's security procedures. Customer agrees to be bound by any payment order, transaction or service change order that is acted upon by Bank in accordance with such security procedures. Bank reserves the right to reject any transaction or Service request that is not made in accordance with such security procedures. Customer understands that the security procedures are not intended for the purpose of detecting errors in the transmission or content of information controlled by Customer. If Customer selects certain security procedures to use in connection with a Service and those security procedures provide less protection against unauthorized transactions or activity than other security procedures offered by Bank in connection with such Service, the security procedures selected by Customer shall be deemed commercially reasonable to the same extent as the security procedures offered by Bank that provide greater protection. Customer acknowledges that, in order to meet the constantly evolving threat of account fraud, the Bank's security procedures also need to evolve over time. Bank reserves the right, and Customer agrees that Bank shall have the right, in its sole discretion, to issue new security procedures and/or to cancel or change any security procedures by giving verbal or written notice to Customer. The new or changed security procedures shall become effective upon notification unless Bank provides an effective date to Customer. Customer acknowledges and agrees that, notwithstanding anything to the contrary set forth in the Agreement, reasonable notice may be less than a day's notice or even contemporaneous. Customer agrees that its use of such new or changed security procedures constitutes its agreement: (i) to use the new or changed security procedures, regardless of whether Bank has communicated the new or changed security procedures to Customer, and (ii) that such new or changed security procedures are commercially reasonable. Bank also reserves the right to periodically audit Customer's security procedures and information technology processes, and to mandate controls or suspend Services until Customer complies with such security procedures.

b. Access. Customer shall be solely responsible for designating authorized access to Services. Access to Services may be controlled through the use of user IDs, personal identification numbers, passwords, digital certificates/signatures, biometric authentication, private keys or other security devices ("Codes"). Customer is solely responsible for maintaining its own internal security and agrees to use the utmost care in selecting any company, individual or automation given access to one or more of the Services. Codes that are assigned to individual Authorized Users shall not be shared with any other person, including other Authorized Users and Customer shall not disclose any information regarding the Services that an unauthorized user would find helpful to obtain access to all or part of any Service. Customer assumes all risk of accidental disclosure or inadvertent use of any Codes, whether such disclosure or use arises out of Customer's negligent or deliberate acts or otherwise. If Customer or its Agents has reason to believe that any security procedures or Codes have or may become known by unauthorized persons (whether or not employed by Customer) or if Customer believes its network or computer systems have been compromised or its computers infected, Customer shall immediately notify Bank by telephone and confirm such verbal notification in writing to Bank within 24 hours. Bank will replace the security procedures and/or Codes in accordance with Bank's procedures. Customer shall be solely responsible for funds transfer instructions and other communications or transactions initiated before Bank received Customer's notice and had a reasonable time to act on such notice. Customer agrees to defend, indemnify and hold Bank harmless from and against any claims, losses, damages, costs, expenses, fines and other liabilities arising out of Customer's failure to maintain the security and confidentiality of the Codes or arising out of the unlawful use of any website or portal by Customer or any person or automation that obtains access to a website or portal using the Codes.

c. Confidentiality. Customer and Bank represent, warrant and mutually agree that all confidential information concerning the other party or parties that comes into its possession in connection with any of the Services will be maintained in strictest confidence and shall not be used or divulged to any other party except as may be necessary or advisable for the due performance of any of the Services, as required by applicable law, or as otherwise agreed or consented to by the parties. Bank shall maintain physical, electronic, and procedural safeguards to keep Customer's

confidential information secure. Customer's obligation to maintain the confidentiality of all security procedures shall survive the termination of any Service or this Agreement. Customer acknowledges that certain Services may involve the handling of confidential consumer information that may be subject to privacy laws and regulations, including unauthorized access or breach notification regulations. Customer agrees to notify Bank immediately if Customer sends or receives Protected Health Information (as defined in the Health Insurance Portability and Accountability Act of 1996) that requires the execution of a business associate agreement. Customer consents to Bank sharing confidential information with its affiliates in order to provide recommendations to Customer of additional products and services that Bank reasonably believes may be of interest to Customer.

d. Verbal or Written Instructions. For some Services, Bank may choose to honor Customer's request to give Bank verbal or written instructions regarding the Services. Customer agrees that Bank may in good faith rely on such verbal or written instructions that purport to come from an authorized Agent of the Customer without independent verification by Bank.

e. Fraud Prevention Measures. Bank offers certain products, Services, and security procedures, such as, but not limited to, Positive Pay, Payee Positive Pay, account blocks or filters, and multi-factor authentication, that are designed to detect or deter fraud. Failure to use such products, Services or security procedures could substantially increase the likelihood of fraud. If Customer fails to implement any of these products, Services or security procedures, or if Customer fails to follow these or other precautions reasonable for its particular circumstances, Customer agrees that, except with respect to liability, loss or damage caused by Bank's own lack of good faith or failure to exercise ordinary care: (i) it will be precluded from asserting any claims against Bank for paying any unauthorized, altered, counterfeit or other fraudulent item that such product, Service, security procedure or precaution was designed to detect or deter; (ii) Bank will not be required to re-credit Customer's account or otherwise have any liability for paying such items; and (iii) Customer will pay all costs and expenses incurred by Bank for all efforts undertaken by Bank to recover any losses incurred by Customer.

f. Waiver of Security Procedures. Customer, after having been offered Bank's security procedures, may request that payment orders, transactions, or services orders be authenticated using a different security procedure. Bank, in its sole discretion, may elect to permit Customer to use such a security procedure. In such circumstances, Customer agrees that it shall be bound by any payment order, transaction, or service order authenticated by its selected security procedure whether or not such payment order, transaction, or service order is properly authorized.

g. Internet Services. Customer shall at all times use a Web browser that supports the level of encryption used by Bank as part of its security procedures. Customer is solely responsible for maintaining a secure work environment to ensure against the use of Internet Services by unauthorized individuals or unauthorized automated access. Security procedures to be followed by Customer include, without limitation, informing Authorized Users that any passwords should not be shared, securing physical access to the terminals used for Internet Services when an Authorized User has logged in to an application or system and, if applicable, identifying secure methods for controlling authorized automated access to an application or system.

h. Antivirus Protection. Customer agrees to run antivirus software before transmitting data to or through any website. Customer may use any commercially available, industry recognized antivirus software of the type that detects and disinfects viruses automatically, without the need for the Customer to execute virus scanning for each file manually. Customer shall update its antivirus software on a regular basis and in no event less often than once every week.

i. Anti-malware Protection. Bank may offer complimentary anti-malware software for use with certain Services that is designed to detect, deter, or destroy different types of known malware. Failure to install anti-malware software offered by Bank could substantially increase the likelihood of fraud and other losses. If Customer fails to install software offered by Bank or other commercially reasonable anti-malware software, Customer agrees that, except with respect to losses caused by Bank's own lack of good faith or failure to exercise ordinary care, it will be precluded from asserting claims against Bank for any losses caused by malware which such software would have detected, deterred or destroyed. Bank will not be required to re-credit Customer's account or otherwise have any liability for such losses.

j. Network Security. Customer agrees to install and utilize current industry-standard network security for its information technology systems that access Services via the Internet. Network security protection includes, but is not limited to, firewalls and intrusion detection systems. For certain Services, Bank may require Customer maintain specific network security protection in order to access the Services.

12. Unsecured Electronic Transmissions and Instructions. Bank shall transmit to Customer information related to Services via secure electronic transmissions. If Customer elects to send or receive instructions or reports from Bank via unsecured electronic means, including, without limitation, facsimile transmission, voice mail, unsecured email, pager or other unsecured electronic or telephonic methods ("Electronic Transmission"), Customer acknowledges that such Electronic Transmissions are inherently insecure communication methods due to the possibility of error, delay and observation or receipt by unauthorized personnel. Bank may rely in good faith on Customer's instructions regarding how and to what number or email address Electronic Transmissions should be sent and may rely on any Electronic Transmission that it reasonably believes to have been initiated by the Customer. Should Customer elect to send or receive unsecured Electronic Transmissions to or from Bank, Customer assumes all risks, and Bank shall not be liable for any loss, that results from the nonreceipt, disclosure, alteration, or unauthorized access of any such unsecured Electronic Transmission.

13. Account Blocks and Filters. ACH debit blocks and check blocks prevent ACH debits and checks from posting to Customer's account. ACH filters and check filters enable Customer to set various criteria to authorize certain transactions to post to Customer's account while excluding others. If an ACH debit or check filter is established by Customer, any ACH debit entry or check presented that does not specifically meet the criteria will be dishonored or sent back to the originator of the transaction. Customer acknowledges that the effectiveness of the filters is dependent on the accuracy and timeliness of the information provided by Customer. In addition, Customer acknowledges that payments to Bank and certain Bank-approved vendors cannot be blocked and that certain ACH transactions such as returns, settlements or adjustments cannot be blocked per NACHA Rules. If Customer desires to modify a block or filter setting, Customer shall notify Bank at least 72 hours in advance of the changes taking effect.

14. User Manuals; Computer Equipment and Software. Bank may provide Customer with one or more user guides or manuals ("User Manual") in paper or electronic format that will set forth the applicable policies and procedures related to a Service with which Customer agrees to comply. Bank may, without prior notification, make amendments to any User Manual. Bank owns or has obtained all proprietary rights to the User Manuals and Customer agrees not to duplicate, distribute, or otherwise copy Bank's User Manuals without Bank's prior written consent. Any User Manual will at all times remain the property of Bank and Bank reserves the right to request Customer to return all printed copies of such User Manual within thirty (30) days of termination of the applicable Service. Many Services require the use of computer hardware and software or other equipment. Customer is responsible for maintaining its computer and equipment (including those provided by or through Bank for use with Services) in good working order. Customer shall ensure that computers and other equipment have the necessary compatibility and format to interface with Bank's systems, including, without limitation, the ability to support the Bank's security procedures. Customer agrees to install upgrades and other system enhancements within a reasonable time after being requested to do so by Bank. License agreements for necessary software shall either be embedded in the software or separately documented. Customer agrees to comply with all applicable software license agreements, whether or not such agreements have been executed by Customer. Customer has no rights or ownership in any software provided by or through Bank and shall not transfer, copy, alter, modify, reverse engineer, reproduce, or convey in any manner, in whole or in part, any such software. Customer shall return all software and User Manuals

associated with any software upon request. Bank makes no representations or warranties with respect to any equipment or software provided by Bank.

15. Transactions on Non-Business Days/Cutoff Times. Transactions, deposits, payment orders, entries or other requests by Customer received by Bank on a non-Business Day, after established cutoff deadlines, or during a maintenance window may be treated by Bank as received on the next Business Day or may not be processed at all. Bank may change any cutoff time or other deadline at any time. Bank will make a reasonable effort to notify Customer of any changes in advance.

16. Customer-Initiated Transactions and Instructions. Bank will honor Customer's transactions and instructions (including adjustments, amendments, and cancellations) only when Customer has complied with this Agreement and related policies and procedures. Bank will be under no obligation to honor, either in whole or in part, and may, in its sole discretion, delay, suspend or reject any transaction or instruction that:

a. exceeds Customer's collected or available funds on deposit with Bank;

b. Bank has reason to believe may not be authorized by Customer;

c. involves funds subject to a hold, dispute or legal process preventing their withdrawal;

d. violates any provision of any applicable regulation of the Federal Reserve Bank or any other federal, state, or local regulatory authority;

e. requires Customer, at Bank's sole discretion, to complete an additional security procedure due to characteristics of such transaction or instruction before processing;

f. requires Bank to complete regulatory or legal clearance requirements, such as OFAC screening; or

g. Bank has reasonable cause not to honor, for the protection of either Bank or Customer.

17. Inconsistent Name and Account Number. If Customer or third party acting on Customer's instruction initiates a fund transfer instruction or payment order ("Payment Order") to Bank that describes the person to receive the proceeds of such Payment Order (the "Beneficiary"), the Beneficiary's bank, or an intermediary bank by name and an account or other identifying number, Bank and subsequent parties to the Payment Order, including the Beneficiary's bank, may rely on and act solely on the basis of such number, even though the name and number do not agree and even though Bank and subsequent parties know or have reason to know of the inconsistency. Customer's obligation to pay the amount of the Payment Order to Bank is not excused in such circumstances. With respect to incoming Payment Orders that do not include an account number recognizable to Bank, Bank may return the Payment Order to the sending financial institution without incurring any liability to Customer.

18. Intercompany Services/Authority to Transfer or Commingle Funds. In the event that Customer lists entities in an appendix to the Master Services Agreement or in any other document, or otherwise requests Bank to provide Services to a parent company, subsidiary, affiliate, or other commonly owned company, Customer agrees that it shall be jointly and severally liable for such company's obligations under this Agreement. Customer hereby represents and warrants to Bank that any and all transfers and commingling of funds required or permitted by any Service or requested by Customer, and all other aspects of the performance hereby by Bank and Customer, have been duly authorized by all necessary parties, including, without limitation, the account holder of each account, and that Customer has obtained and shall maintain in its regular business records and make available to Bank upon reasonable demand, for a period of seven (7) years after termination of the Service, adequate documentary evidence of such authorization from the account holder of each account, executed by the duly authorized officer(s) of each such account holder in accordance with that account holder's bylaws and/or board resolutions. Customer further represents and warrants that each transfer or commingling of funds authorized hereunder is not in violation of any agreement, bylaw, or board resolution of Customer or any of its affiliates or subsidiaries, nor is it in violation of any applicable federal, state, local law, regulation, of any decree, judgment, order of any judicial or administrative authority. Each representation and warranty contained herein shall be continuing and shall be deemed to be repeated upon Bank's effecting each transfer and commingling of funds authorized hereunder.

19. Customer Records. This Agreement and the performance of Services by Bank shall not relieve Customer of any obligation imposed by law, clearinghouse rules (including the NACHA Rules and ECCHO Rules), or by contract regarding the maintenance of records, or from employing adequate audit, accounting and review practices as are customarily followed by similar businesses. In addition, Customer shall retain and provide to Bank, upon request, all information necessary to remake or reconstruct any deposit, transmission, file, or entry for thirty (30) days following receipt by Bank of the deposit, file, entry, transmission, or other order affecting an account.

20. Account Communications and Review Period. Customer agrees to regularly and promptly review and verify all statements, reports, check payment records, wire transfer instructions, confirmations, adjustments, charges, and other transactions ("Account Communications"). Customer may receive or access Account Communications electronically, including without limitation, delivery by posting to a password-protected website or database. Customer acknowledges that any Account Communication provided by Bank through electronic delivery is deemed to constitute good and effective delivery when posted by Bank, regardless of whether Customer actually or timely receives or accesses such Account Communication. Unless a different review period is specified elsewhere in this Agreement, Customer shall, within a reasonable time, which in no event shall be greater than thirty (30) calendar days following the day Bank first mails, electronically transmits or otherwise makes data available to Customer ("Review Period"), notify Bank of any error or discrepancy between Customer's records and any Bank notice or statement, or any transaction or transfer Customer believes was not authorized. If Customer fails to notify Bank of such unauthorized transaction within the Review Period, Customer agrees that the failure to report any such errors or unauthorized transactions shall relieve Bank of any liability for the unreported erroneous or unauthorized transaction. In accordance with NACHA Rules, Customer must report an unauthorized ACH debit entry to the Customer's account by the established deadline on the Business Day following the settlement date of the unauthorized entry. Otherwise, Customer's sole recourse is to the originator of the transaction.

21. Communications.

a. Monitoring and Recording. Customer acknowledges and agrees that Bank, or anyone acting on Bank's behalf, may monitor and/or record any communication between Customer, or its Agent, and Bank, or anyone acting on Bank's behalf, for quality control, security, and other purposes. Customer also acknowledges and agrees that this monitoring or recording may be done without any further notice to Customer or its Agent. The communication that may be monitored or recorded includes telephone calls, cellular or mobile phone calls, electronic mail messages, text messages, instant or live chat, or any other communications in any form.

b. Telephone Calls and Text Messages. Customer gives Bank express consent to make calls to any telephone number provided by Customer to Bank, including to cellular (mobile) phone numbers. Consent includes authorization to use any means, including automatic dialing technology, artificial and pre-recorded voices, and text messages, for servicing and other non-telemarketing purposes.

22. Limitation of Bank's Liability for Services. Customer acknowledges that Bank's fees for Services are very small in relation to the amounts of transfers initiated through these Services and consequently Bank's willingness to provide such Services is based on the liability limitations contained in this Agreement. In addition to greater limitations on Bank's liability that may be provided elsewhere in this Agreement, (a) Bank's liability related to any Service shall be limited exclusively to actual proven damages arising directly from its own gross negligence or willful misconduct; and (b) Bank shall not be liable for any loss or damage arising directly or indirectly from the following:

i. any inaccuracy or incompleteness in the input of an order or instruction from the Customer;

ii. any failure by Customer to obtain a confirmation of an order or instruction; or

iii. any cancellation or attempted cancellation by Customer of an order or instruction.

Except for claims arising directly from Bank's own gross negligence or willful misconduct, Bank's liability for violations of Bank's obligations set forth in Section II.11(c) shall be limited to the amount of fees paid by Customer during the twelve (12) month period preceding the date on which the claim arose. Bank will not, under any circumstances, be liable for any special, incidental, indirect, consequential, punitive or similar losses or damages, whether or not the likelihood of such losses or damages was known by either party at the time Customer first obtains Services from Bank or at the time any instruction or order is given to Bank pursuant to any Service, and whether such losses or damages arise from tort, contract, loss of investment opportunity, lost or reduced profits, or otherwise. Bank's maximum liability for any loss of interest shall be calculated using a rate equal to the average Federal Funds rate at the Federal Reserve Bank of New York for the period involved. Notwithstanding the foregoing, Bank shall not be liable for any losses or damages caused, in whole or in part, by the action or inaction of Customer, or any Agent or employee of Customer, whether or not such action or inaction constitutes negligence or a breach of this Agreement. Bank shall not be liable for any damage, cost, loss, liability or delay caused by a force majeure event, including but not limited to, accident, strike, labor dispute, fire, flood, war, riot, terrorist act, government restrictions, compromise of the confidentiality, integrity, or availability of Customer's data or information, exchange or market rulings, market volatility, suspension of trading, equipment breakdown, electrical, telephone, Internet or mechanical failures, acts of nature, epidemic, any cause which is attributable to a third party, or any other cause or event that was beyond Bank's reasonable control whether or not reasonably foreseeable. Customer agrees that the fees charged for the performance of the Services shall be deemed to have been established in contemplation of these liability limitations.

23. Dispute Resolution.

a. Governing Law. Except as otherwise provided herein, this Agreement shall be governed by the laws of the State of Minnesota, without regard to conflicts of law principles.

b. Jury Trial Waiver. To the fullest extent permitted by law, Bank and Customer hereby agree to waive trial by jury in any judicial proceeding involving, directly or indirectly, any matter (whether in tort, contract or otherwise) in any way arising out of, related to, or connected with these Services or this Agreement. Bank and Customer represent and warrant to each other that this jury trial waiver is knowingly, willingly, and voluntarily given.

c. Jurisdiction and Venue. Customer consents to the jurisdiction of the courts of the State of Minnesota, waives any argument that such venue is inconvenient and agrees to bring litigation commenced in connection with this Agreement in either the District Court of Hennepin County or the United States District Court, District of Minnesota, Fourth Division.

d. Collection Costs. Should Bank have to undertake any action to recover any amount due under this Agreement for the Services, including, without limitation, fees, overdrafts or overpayment, Customer shall be liable to Bank for the cost of such effort, plus reasonable attorney fees.

e. Adverse Claims. If Bank receives an adverse claim against any account, and Bank reasonably believes that it will not be protected if the claim is ignored, Customer agrees that Bank may place a hold on the affected account. Any such hold will remain in place only so long as reasonably necessary to resolve the claim or employ legal remedies to allow a court to decide such claim. Assuming compliance with this Section, Bank shall have no liability for dishonored transactions due to the hold, and Customer agrees to reimburse Bank all costs, including reasonable attorney fees, incurred due to such adverse claim.

24. Necessary Third-Party Service Providers.

a. Third-Party Networks. Some Services are provided by Bank through access to a third-party network. Such Services are dependent upon the availability of the third-party network on conditions acceptable to Bank. Bank reserves the right to discontinue the Service or provide the Service through an alternative third-party network and shall have no liability should such network become unavailable. Bank does not warrant and shall not be responsible for Services received by Customer from any third-party network.

b. Third-Party Vendors. Customer agrees that Bank may, at its sole discretion and at any time without notice to Customer, engage third-party vendors to provide a Service, or portions thereof, to Customer, or to support Bank in its provision of a Service to Customer. Customer acknowledges that Bank's third-party vendors may perform certain functions offshore. Some Services and/or computer equipment and software are provided to Customer by a third-party vendor selected by Customer who is unaffiliated with Bank. In those cases, the third-party vendor is acting as Customer's Agent rather than an agent of Bank, and Customer agrees to be bound by such third party's acts or omissions. Bank does not warrant and shall not be responsible for Services provided by unaffiliated third-party vendors. Customer authorizes Bank to disclose to any third-party vendor of Customer or Bank information concerning Customer to the extent required to deliver the requested Service.

25. Notices. All written notices to Bank shall be delivered or mailed to the address designated by Bank. Notices, including but not limited to, Account Communications sent to Customer shall be delivered or mailed to Customer's current lead account address or other known address if deemed more appropriate by Bank under the circumstances. Notices may be delivered to some Customers in electronic format, including posting to Bank's website, delivery via facsimile to a number on file, or delivery to an electronic mail address on file or used by an Authorized Signer or Authorized User.

26. Severability. To the extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision shall be held to be invalid, illegal or unenforceable, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without rendering invalid, illegal or unenforceable the remainder of any such provision or the remaining provisions of this Agreement.

27. Waiver. A waiver by Bank or Customer of any term or provision shall not be construed as a waiver of such term or provision at any other time, or of any other term or provision. Bank's waiver of the enforcement of any of the terms of this Agreement with respect to any transaction or series of transactions will not affect Bank's right to enforce any of its rights with respect to other Customers or to enforce any of its rights with respect to later transactions with Customer.

28. Assignment. In addition to Section 24 above, Bank may at any time assign or delegate its rights and duties under this Agreement. Customer may not assign or transfer its rights or obligations hereunder to any other person or entity without Bank's written consent, which consent shall not be unreasonably withheld.

29. Termination. Any Services, or feature or function of any Services, may be terminated by either party upon thirty (30) days' prior written notice to the other. Bank may also terminate or suspend any Services, or feature or function of any Services, immediately without notice to Customer if any of the following occurs: (a) Customer becomes insolvent or files, or has filed against it, any bankruptcy or other insolvency, reorganization, liquidation or dissolution proceeding of any kind; (b) a material adverse change occurs in Customer's business or financial condition; (c) Bank has reason to believe that Customer has engaged in fraudulent or illegal activity; (d) Customer fails to maintain balances in accounts sufficient to cover overdrafts; (e) Customer violates, or is in default under, the terms of this Agreement or any other agreement with Bank; (f) Customer fails to comply with security procedures or fails to provide information reasonably requested by Bank; (g) Bank has a reasonable basis to believe the confidentiality, integrity, or availability of Customer's data or information has been compromised; (h) Bank determines it is impractical or illegal to provide any Services because of changes in laws, regulations or rules or due to regulatory guidance, demand or request; (i) Bank, in good faith, is unable to satisfy itself that any Services have been properly authorized by Customer; or (j) Bank, in good faith, deems itself insecure. Notwithstanding any termination, the terms of this Agreement shall apply to all transactions which have been initiated prior to termination.

30. Privacy.

a. California Consumer Privacy Act. (CCPA). Use of California Covered Personal Information. "California Covered Personal Information" means the Personal Information (as defined under CCPA) that Bank may Collect (as defined under CCPA) pursuant to the terms of the Agreement or the Services provided hereunder that is not subject to Gramm-Leach-Bliley Act. "CCPA" means the California Consumer Privacy Act of 2018, codified at California Civil Code section 1798.100 *et seq.*, as amended by the California Privacy Rights Act (CPRA), and all applicable regulations and successor laws thereto.

If Customer is a "Business" under the CCPA, then with respect to California Covered Personal Information (if any), the provisions of subsections 30(a) and (b) hereof shall apply. Bank may only process the California Covered Personal Information being disclosed by Customer or otherwise Collected in connection with the Agreement for the Business Purposes (as defined under CCPA) agreed upon by the Parties, or as Customer may otherwise instruct, or as may be permitted under the CCPA. Bank shall comply with all applicable sections of the CCPA, including providing the same level of privacy protection required of Customer with respect to the California Covered Personal Information and shall implement reasonable security procedures and practices appropriate to the nature of the California Covered Personal Information.

b. Individual Requests. Each Party shall cooperate with and assist the other party in complying with the CCPA. Bank will provide timely assistance to Customer in responding to a California resident's request to know, including by providing Customer with the California Covered Personal Information of such resident that Bank has in its possession or otherwise Collected pursuant to this Agreement or in connection with providing the Services; provided, however, that Customer acknowledges most California Covered Personal Information (e.g., Customer's employees' contact information) was provided to Bank by Customer (so Customer should already have access to such information). Bank will comply with reasonable requests from Customer to delete or correct any California Covered Personal Information that Bank has Collected in connection with this Agreement, unless Bank determines that a statutory exemption or other legal requirement permits it to retain such California Covered Personal Information. If Bank stores such California Covered Personal Information on archived or backup systems, Bank may delay compliance with the request, with respect to such information, until the archived or backup system related to that data is restored to an active system, is next accessed or used, or the data is destroyed as part of the regularly scheduled destruction of such backed-up information.

In the event that Bank receives a request directly from a California resident to exercise his/her rights under the CCPA, Bank may (in its sole discretion) inform the person that the request cannot be acted upon because the request has been sent to a service provider or Bank may respond to such request in accordance with its standard process for responding to requests (which may also include providing a general response to those who are not residents of California or otherwise covered by CCPA).

c. Other States. The parties acknowledge that Bank is exempt from state data privacy laws that include an exemption for financial institutions subject to the Gramm-Leach-Bliley Act (*e.g.,* Colorado Privacy Act, Connecticut Act Concerning Personal Data Privacy and Online Monitoring of 2022, Iowa's Act Relating to Consumer Data Protection, Utah Consumer Privacy Act of 2022 and Virginia Consumer Data Protection Act).

III. TERMS APPLICABLE TO SPECIFIC GLOBAL TREASURY MANAGEMENT SERVICES

The following are additional terms and conditions applicable to specific Treasury Management Services offered by Bank. Bank may change the number or type of Services offered at any time. Customer shall not be bound by the terms and conditions for the specific Services described in Sections III, IV, and V of this Agreement to the extent Customer is not using such Service(s).

A. ELECTRONIC BILL PRESENTMENT AND PAYMENT SERVICES

Electronic Bill Presentment and Payment (EBPP) Services, including eBill, E-Payment, and other service options for Customer to select, allow Customer's customers ("Payers") to make payments to Customer through multiple channels. Depending on the specific EBPP Services solution used, these channels may include, without limitation, the Internet, an Interactive Voice Response (IVR) system, text message, chatbots, social media, or virtual assistants. In addition, Customer may distribute electronic invoices, bills or statements to Payers who can pay such invoices, bills, or statements via multiple payment channels accessible through the EBPP Services.

1. Internet and Channel Options.

a. "Customer Payment Site" means the interactive Internet payment site hosted by Bank or a third-party vendor used by Bank (collectively, for this Section III.A, "Bank") where Payers may make payments to Customer over the Internet. Bank will configure, implement, host, and support the Customer Payment Site. If Customer provides the content for the Customer Payment Site, Customer agrees to indemnify and hold Bank harmless for any content that violates applicable law or payment network rules. If available and upon request by Customer, Bank will provide draft terms and conditions for Customer to provide to its customers on Customer Payment Site. Such terms and conditions are provided "AS IS," without any representations or warranties. Customer shall be solely responsible for determining the suitability of such terms and conditions for Customer's use, as well as the final form and content of any terms and conditions it elects to post (if any).

b. Customer License. Bank shall have the right and license to use or sublicense Customer's name, trademarks, service marks, copyrights and logos and other textual information in connection with the Customer Payment Site solely for the purposes contemplated herein.

c. "Administrative Payment Center Website" means the interactive Internet site hosted by Bank where Customer may access reports, initiate payments on behalf of Payers, or initiate refunds. Bank will configure, implement, host, and support the Administrative Payment Center Website. Customer shall be solely responsible for setting up Authorized Users, access entitlements and internal controls within the Administrative Payment Center Website.

d. Links. If applicable, Customer shall provide and maintain a secure link on its website to the Customer Payment Site. Customer shall be responsible for ensuring that the link to the Customer Payment Site takes Payer to the appropriate area within the Customer Payment Site. Customer shall be responsible for providing the agreed-upon data concerning Payer in a manner that meets Bank's encryption or security methods during the exchange. Customer and Bank agree to use industry-standard security procedures and technology to ensure the security of the Customer's website and the Customer Payment Site and to prevent data theft or unauthorized access.

2. Compliance with laws and regulations. Customer agrees to comply with all applicable laws, rules and regulations, including without limitation, those issued by: (i) the National Automated Clearing House Association; (ii) the Real-Time Payments (RTP) System Operating Rules; (iii) the Zelle Network Participation Rules; (iv) any governmental entity, including (without limitation) the requirements contained in the Electronic Fund Transfer Act (including without limitation Section 1005.10, Preauthorized Drafts), the Americans with Disabilities Act, the Health Insurance Portability and Accountability Act, Regulation E, the Electronic Signatures in Global and National Commerce Act, the Controlling the Assault of Non-Solicited Pornography And Marketing (CAN-SPAM) Act, the Fair Credit Reporting Act and the Telephone Consumer Protection Act; and (v) any

other entity or association that issues or sponsors a payment device, including (without limitation) the requirements of the Payment Card Industry (PCI) Data Security Standard and any credit card association, including Visa and Mastercard. Customer further agrees to comply with all payment network regulations for ATM debit networks.

3. Payer Authentication / Authorization. For each payment channel, Bank shall authenticate a Payer's identity or the validity of a payment authorization in the manner specified by Customer in the Implementation Documents. Customer acknowledges and agrees that the authentication of the Payer's identity or the validity of the payment authorization in such manner shall constitute a commercially reasonable fraud detection measure and Bank shall have no liability for all payments so authenticated. Bank is not responsible for errors made by Payer or Customer and may rely on the information submitted or communicated by Payer or Customer. Customer agrees to defend, indemnify and hold Bank harmless from any claims related to Customer's or Payer's submission of inaccurate or incorrect information.

4. Payment Processing. Payments shall be processed in the manner mutually agreed to between Bank and Customer, which may include ACH debit entries, debit cards, credit cards or other payment processing methods. Customer shall at all times be considered the originator of Payer's payment. For ACH WEB debit transactions, upon Customer's request and if agreed to by Bank, Bank will validate receiving account and account status information by use of a commercially reasonable fraud detection system selected by Bank for the first use of new account information or of a change to existing account information. By requesting that Bank perform such validation, Customer consents to Bank disclosing any information necessary to perform such validation to Bank's third-party vendors. Depending on the applicable payment processing channel, payment processing may also be subject to the terms of any other agreement between Bank and Customer and between Customer and the payment transaction processor supported by Bank (including those who may be an affiliate of Bank). Depending on the specific EBPP Services solution used, payments may be initiated through a number of channels including, but not limited to, the Customer Payment Site, IVR system text message, chatbots, social media, or virtual assistants. Bank will notify Customer of the payments that were initiated either through the Administrative Payment Center Website or by delivering a file in the manner set forth in the Implementation Documents. Customer acknowledges that all payments are subject to adjustment, return, reversal and/or chargeback in accordance with the rules governing the applicable payment processing channel. Customer agrees to be liable to Bank for any such adjustment, return, reversal, or chargeback.

5. Recurring Payments. Some EBPP Services provide Customer with the ability to offer Payers the option of making fixed or variable recurring payments. Customer must use and Payers must enroll in an EBPP Service that offers recurring payments in order to initiate variable recurring payments.

6. Fees. In addition to Bank's standard fees, Customer agrees to pay additional fees and expenses for implementation of EBPP Services as may be disclosed from time to time by Bank. Customer also agrees to pay the applicable fees and expenses charged by the payment transaction processor supported by Bank, as set forth in Customer's agreement with such processor.

7. Convenience Fee, Service Fee, and Surcharge

a. Some EBPP Services offer flexible fee or surcharge options that allow Customer or Bank to define and collect fees or surcharge to be charged to Payers in connection with the payment transaction. Payers are provided with the opportunity to stop the payment process if they do not wish to pay the fee.

b. If Customer desires to collect fees, Customer shall be responsible for ensuring that fee and surcharge assessments comply with the relevant laws, rules, and regulations.

c. If agreed to by Bank and Customer, Bank may collect and retain the fees. In such case, Customer agrees that Bank may, in its sole discretion, set, adjust, manage, and collect the fees as a means to wholly or partially offset Bank fees that may otherwise have been incurred by Customer. Bank's willingness to collect fees shall be based on Customer's projected payment volume, average ticket, type of transactions, or other considerations such as changes to interchange fees and assessments. Bank may, in its sole discretion, establish or modify payment caps for sums paid by Payers. If the actual payment volume, average ticket, payment types or other considerations fail to meet Customer's stated projections or do not completely offset Bank fees, Customer agrees to reimburse Bank for any resulting shortfall in Bank fees.

8. Transaction Controls. Customer agrees to notify Bank of any material change or anticipated material change in daily dollar activity or type of transaction processing and obtain Bank's consent to such change. Bank may, in its sole discretion, immediately upon written notice to Customer, place a maximum dollar limit on the EBPP Services transactions or require Customer to provide reasonable security for Bank's continued handling of such transactions.

9. Payer Communications. Customer agrees to obtain all consents necessary from Payers for Bank to process the Payers' data and communicate with Payers (e.g., confirmation Short Message Service ("SMS") or email) in the course of performing EBPP Services.

10. Customer Records. This Agreement and the performance of EBPP Services by Bank shall not relieve Customer of any obligation imposed by law, clearinghouse or payment system rules, payment card industry rules, or by contract regarding the retention, maintenance or destruction of records, or from employing adequate audit, accounting and review practices as are customarily followed by similar businesses. In addition, Customer shall retain and provide to Bank, upon request, all information necessary to remake or reconstruct any transmission, file, or entry for thirty (30) days following receipt by Bank of the deposit, file, entry, transmission, or other order.

11. Bill Presentment and Distribution Service. If offered within the EBPP Services selected by Customer, Customer may, if approved by Bank, distribute invoices, statements, confirmations, regulatory notices, or other electronic communications to Payers via EBPP Services. Customer represents and warrants that it will not use or include any reference to untruncated credit card, social security, or bank account numbers, or Protected Health Information in any electronic communications exchanged through EBPP Services. Customer shall indemnify and hold Bank harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorney fees and court costs at trial or on appeal) arising directly or indirectly from Customer's breach of the representation or warranty contained in this paragraph. Customer acknowledges and agrees that all electronic communications exchanged through EBPP Services may be received, processed, managed, and archived by third parties unaffiliated with Bank. Bank makes no representation or warranty, and assumes no responsibility, with respect to any actions or inactions of any unaffiliated third party in connection with Customer's use of EBPP Services.

12. Third-Party Vendor. Customer agrees that Bank may, at its sole discretion and at any time without notice to Customer, engage a third-party vendor to provide EBPP Services, or portions thereof, to Customer, or to support Bank in its provision of EBPP Services. Customer acknowledges such third-party vendors may perform certain functions offshore. Customer authorizes Bank to disclose to any third-party vendor information concerning Customer to the extent required to deliver EBPP Services. Customer may elect to receive other services not offered by Bank directly from any such third-party vendor. Bank shall have no responsibilities or liability with respect to the provision of such services.

13. Card Updater Service. Bank participates in card updater programs offered by card issuers which enable Bank to update card information for Payers with expired or expiring cards. If selected by Customer and agreed to by Bank, Bank will provide Customer with updated card information for Payers when such information is available. Customer must be approved by card issuers, or by Bank in accordance with card issuer guidelines, prior to use. Such information will only be available for Payers who have elected recurring payments or for which another legitimate business need exists. Bank is not responsible for the accuracy or completeness of any information provided by the card issuers.

14. E-Lockbox. E-Lockbox provides Customer with the ability to receive consumer payments electronically that are initiated via the consumers'

home banking portal or through other payment channels offered by third-party bill consolidators, including consumer credit counseling agencies.

a. Network. “Network” means the Mastercard Remote Payment and Presentment Service (“RPPS”), a division of Mastercard International, Inc., or other originators of consumer-initiated bill payments. Bank receives payments and remittance data via the Network. Bank will credit payments to Customer’s account and electronically transmit the remittance data in Bank's standard or other mutually acceptable format for loading to Customer’s accounts receivable system.

b. Customer’s Responsibilities. Customer shall provide Bank with all data and specifications necessary for the Network to process payments and for Bank to transmit the remittance data to Customer. Customer agrees to conduct tests that Bank may deem necessary to ensure Customer and Bank are able to process the remittance data. The purchase, installation, testing and maintenance of any and all equipment used to receive and process information from Bank is the responsibility of Customer. As soon as possible, and in any event, no later than 48 hours after Bank transmits the remittance data to Customer, Customer agrees to process all such data and to inform Bank of any incorrect, unidentifiable, or unprocessable information (collectively, "Returns").

c. Bank’s Responsibilities. Bank shall develop a program to process and transmit remittance data received from the Network in Customer’s preferred file format. Bank shall transmit Returns to the Network when Customer provides Bank with the Return information. Bank will credit Customer’s account in an amount equal to the payments received and debit Customer’s account in an amount equal to any Returns and, if applicable, any Reversals (defined below).

d. Reliance on Network. Customer acknowledges that Bank’s ability to process payments and remittances are dependent upon the continued use and support of the Network and third-party computers housing the Network and its associated communications network. In the event that access to the Network or its computer communications system is terminated or suspended for any reason, Bank shall not be liable to Customer for any disruptions or failure to provide any part of this Service. Bank assumes no responsibility for the accuracy, timeliness or the completeness of data delivered from the Network to Bank.

e. Optional Reversal Transactions. Reversals are Network-initiated debit messages from payment originators informing of the cancellation of previous transactions. Customer may set debit caps on Reversals to limit the daily debit amount a payment originator may send through the Network. If Customer instructs Bank to accept Reversals, Customer hereby authorizes Bank to debit Customer’s account for the amount of the Reversals.

f. Optional Biller Stop Payment. Biller Stop Payment allows Customer to provide Bank with instructions regarding payments that Customer does not want posted to its account. If Customer instructs Bank to stop a payment from posting to its account, Customer hereby authorizes Bank to return the payment through the Network. Payments that are stopped will not be included in Customer's settlement transaction or the remittance data provided to Customer.

B. INFORMATION REPORTING AND TRANSACTION SERVICES

1. Introduction. Information reporting and transaction Services may be provided by Bank to Customer through SinglePoint®, Global Trade or other applications or systems as may be introduced by Bank ("System(s)"). The System may be used by Customer to automate many of the Services offered by Bank and may provide access to other Bank systems that initiate transactions. Customer agrees that such use of the System shall be governed by this Section and all other relevant sections of this Agreement. If requested by Customer and agreed to by Bank, Bank will grant access to Bank’s System(s) in the manner agreed to by Bank. Customer agrees to be bound by any terms of use, privacy policy, license, and other agreements associated with these Systems. Customer agrees to use the System solely to conduct its business with Bank and agrees to limit access to those Agents who require access to the System.

2. Information Reporting. Bank is authorized to store, process, transmit and make available through Bank’s agencies and Systems and through third-party data processing providers (“Providers”) information regarding accounts designated by Customer. Bank or Providers will transmit to Customer information regarding its account(s) and/or other financial data through the System on a periodic basis. Customer may elect to receive data through one or more delivery mechanisms, including, without limitation, the Internet, Application Programming Interface (API), facsimile, secure email or other data transmission options supported by Bank. Balance and related information for Customer’s account(s) held at other financial institutions may be made available by these financial institutions or Providers that input information into Bank's System. Bank will use reasonable care in submitting data into the System but assumes no responsibility for the accuracy or timeliness of the account information and other financial data supplied by other financial institutions or Providers. Bank will make every reasonable effort to deliver information by the mutually agreed upon time but does not guarantee a specific delivery time. Accordingly, Bank’s responsibility to Customer with respect to the delivery of information shall be to deliver such work as close to the agreed time as may be reasonably practicable.

3. Transaction Services. Customer may use SinglePoint®, Global Trade or other similar System to access treasury management or trade finance transaction Services offered by Bank for which Customer has enrolled. Depending on the type of Service or System feature offered by Bank and selected by Customer, access to the transaction Services may include, but are not limited to, ACH, cash vault, check payables, wire transfer payments, Real-Time Payments (RTP), Zelle disbursements, book transfers, positive pay services, investments, loan services, trust services, letter of credit services, adjustments, returns and exceptions management, receivables management, transaction research and annotation, and system administration.

C. ELECTRONIC DEPOSIT SERVICES

1. Introduction; Processing Options. Electronic Deposit Services provide Customer with the option of making electronic deposits using one or more products offered by Bank. Customer agrees that the Electronic Deposit Services shall be governed by this Section and other relevant sections of this Agreement. Customer shall at all times maintain a deposit account with Bank. Customer may use the Electronic Deposit Service to capture checks or check information received from its Payor Customers into Check Images and transmit the same to Bank for processing and collection. Bank will seek to collect such Check Images through the check collection system by presenting or exchanging Check Images, or using Check Images to create a Substitute Check, or a Photo-In-Lieu ("PIL") for collection. Bank may require that certain employees of Customer attend periodic training in order to use the Electronic Deposit Services.

2. Definitions.

a. "Check Image" means an electronic image of the front and back of an original paper check (including a paper Demand Draft), or an electronic image of a Substitute Check that is created by Customer, Bank or another bank or depository institution in the check collection system.

b. "Check Image Metadata" means information about the Check Image, as well as pointers to the actual image data (also known as image tags).

c. "Customer System" means the computer hardware and/or software and/or Web-based applications located at Customer's site that is used by Customer to prepare Electronic Deposits and to access the Electronic Deposit Services.

d. "Demand Draft" or "Remotely Created Check" means a paper item, other than a Substitute Check or PIL, which (i) is drawn on a Payor Customer account, (ii) does not bear the signature of the Payor Customer, and (iii) is authorized by the Payor Customer to be issued in the amount for which the item is drawn.

e. "Electronic Deposit" means electronic information (including Check Images, Check Image Metadata, MICR Data or dollar amount), obtained from capturing information from an original paper check and remittance documentation that is transmitted to Bank for deposit, processing, and collection.

f. "Electronic Deposit Services" means an array of products and services that allow organizations that receive check payments and/or remittance payments to deposit all payments electronically at Bank, as further described in the applicable User Manual.

g. "Electronic Deposit System" means Bank's computer systems or databases that Customer may access in order to obtain Electronic Deposit Services.

h. "MICR Data" means information from the Magnetic Ink Character Recognition stylized printing on the bottom of checks comprising of routing, transit, account and check serial numbers.

i. "Payor Customers" means clients and/or customers of Customer that submit original paper checks or check information to Customer for payment obligations owed to Customer.

j. "Photo-In-Lieu" or "PIL" means a photocopy of the front of an original paper check created from a Check Image.

k. "Substitute Check" means a paper check document that meets the definition of a "substitute check" in the Check Collection for the 21st Century Act as implemented by Regulation CC of the Federal Reserve Board.

3. Customer Authorizations and Notifications. Customer shall adhere to any and all applicable laws, regulations and clearinghouse rules, including but not limited to, obtaining all necessary consents and authorizations from, and/or providing all necessary disclosures to its Payor Customers concerning the creation of Demand Drafts. Customer is solely responsible for ascertaining the content, method, and frequency of any required authorizations and notifications.

4. Determination of Items Eligible for Electronic Deposit.

Only a paper item, payable on demand, and drawn on or payable through or at an office of a bank, is eligible for deposit as a Check Image. Unless permitted by applicable law, Customer represents and warrants to Bank that Customer shall not use the Electronic Deposit Services to transmit Electronically Created Items (as defined in Federal Reserve's Regulation CC). Without limiting the generality of the preceding sentence, the following items are not eligible for deposit as Check Images or an Electronic Deposit under the Electronic Deposit Services, and Customer must deposit these original paper items with Bank: (i) checks, including travelers checks, that are drawn on banks located outside of the United States; (ii) checks payable in a medium other than U.S. dollars; (iii) non-cash items (as defined under Section 229.2(u) of Federal Reserve's Regulation CC); (iv) promissory notes and similar obligations, such as savings bonds (unless explicitly permitted as an Electronic Deposit in the applicable User Manual); (v) checks issued by and drawn on Customer or an affiliate of Customer; and (vi) any other class of checks or drafts as identified by Bank to Customer from time to time in the User Manual.

5. Capture of Checks and Check Information.

a. For certain Electronic Deposit Services, Customer shall use scanning hardware and/or software that meets Bank's specifications. Depending on the type of Electronic Deposit Service or processing option(s) selected by Customer, in the event the condition of a paper check precludes a complete automated read, Customer shall be responsible for visually inspecting the Check Image. Customer shall be responsible for the repair of any MICR Data (if applicable) and for ensuring that any and all information on the front and back of a paper check is accurately captured and legible in the resulting Check Image, that the resulting Check Image contains an accurate record of all MICR Data required for a substitute check, and that the Check Image otherwise complies with any Check Image or MICR Data quality standards and guidelines that may be established by the American National Standards Institute (ANSI), ECCHO Rules, the Federal Reserve, other applicable regulatory agency or clearinghouse, or which Bank may provide to Customer from time to time. Customer acknowledges that current image technology may not capture all security features (e.g., watermarks) contained in the original paper checks and agrees to assume any and all losses resulting from claims based on security features that do not survive the image process.

b. Customer further acknowledges that Bank does not verify the accuracy, legibility, or quality of the Check Image prior to processing an Electronic Deposit. Bank may, in its sole discretion, reject, repair, alter, amend, re-format or convert the Check Image Metadata or MICR Data submitted in an Electronic Deposit in accordance with general check collection practices and industry presentment standards, but Bank shall have no obligation to reject, repair, alter, amend, re-format or convert the Check Image Metadata or MICR Data. If Bank requires that Customer comply with certain formatting standards or other guidelines outlined in the applicable User Manual when submitting Electronic Deposits (for example, requiring use of the external processing code for identifying Remotely Created Checks) and Customer declines to implement, or comply with, such standards or guidelines, Customer acknowledges that Bank shall not be liable for any error or loss that results from Bank processing such Electronic Deposit or from Bank's re-formatting or conversion of the Electronic Deposit prior to processing.

c. Bank shall not be liable to Customer for failure to process an Electronic Deposit, or any error that results in processing or collecting an Electronic Deposit: (i) for which Customer has not provided Bank an accurate, complete and legible image of, or information from, the original paper check; (ii) for which Customer has failed to comply with formatting standards or other guidelines required by Bank; or (iii) which would violate this Agreement, the User Manual or any other agreement between Customer and Bank.

d. If Customer desires to make an Electronic Deposit outside of the contiguous United States, Customer shall seek Bank's prior approval. Bank may reject a deposit transaction or terminate the Electronic Deposit Services immediately if Customer fails to obtain Bank's prior approval. If Customer chooses to access Electronic Deposit Services from locations outside the contiguous United States, Customer is responsible for

compliance with local laws. Customer agrees not to use the Electronic Deposit Services in any country that is subject to geographically-based restrictions imposed by OFAC.

6. Upload of Electronic Deposit to Bank.

a. Customer shall upload the Electronic Deposit transmission (containing one or more Electronic Deposits) to Bank prior to the daily cut-off time established by Bank from time to time for the receipt of Electronic Deposits. Any Electronic Deposit transmission received by Bank after its daily cut-off time shall be deemed to have been received by Bank at the opening of its next Business Day. Performance of the Electronic Deposit Services may be affected by external factors such as communication network latency. Customer is responsible for the transmission of the Electronic Deposit until the Electronic Deposit System reports a successful acknowledgement of receipt of the transmission.

b. An Electronic Deposit is received when the entire Electronic Deposit transmission in which that Electronic Deposit is contained is received by Bank in accordance with Section III.C.6.a above. If only a portion of that Electronic Deposit transmission is received by Bank for any reason, including without limitation, a failure during the transmission to Bank, the Electronic Deposit transmission is deemed to have been not received by Bank with respect to any Electronic Deposit contained in that Electronic Deposit transmission (including any Check Image contained in the portion of that Electronic Deposit transmission that was received).

c. Bank will process Electronic Deposit transmission received from Customer either via Check Image or Substitute Check collection in accordance with the processing options selected by Customer. For each Check Image sent to Bank in an Electronic Deposit transmission, Customer agrees not to deposit or cash the original paper check nor re-deposit the Check Image at Bank or any other financial institution or other business.

d. A per item limit, dollar limit, or deposit limit may be established by Bank in its sole discretion and communicated to Customer. If any such limit is established, Bank shall have no obligation to process items or files in excess of the limit.

7. Funds Availability. Customer agrees that the transmission of Check Images using Electronic Deposit Services is not subject to the funds availability requirements of Regulation CC. Bank may, at any time, and in its sole discretion, provide a one-time notification to Customer if Bank intends to delay funds availability beyond ordinary Regulation CC funds availability time frames for items submitted by Customer using Electronic Deposit Services. In such instance, funds deposited will be available for withdrawal three (3) business days after electronic transmission to Bank, subject to any holds placed on the account as permitted under this Agreement. Bank may, but is not required to, make such funds available sooner.

8. Collection of Check Images. Notwithstanding anything to the contrary in this Agreement, Bank may in its sole discretion determine the manner in which Bank will seek to collect a Check Image deposited by Customer for check collection. Without limiting the generality of the preceding sentence, Bank may, at its option: (i) present or transfer the Check Image to the paying bank, a Federal Reserve Bank, check clearinghouse, image share/exchange network, or other bank; (ii) create a Substitute Check or a PIL from the Check Image and collect such item, or (iii) request that Customer provide to Bank the original paper check from which the Check Image was created and then collect the original paper check. Depending on the collection method, the Check Image or physical item is subject to the rules of that clearinghouse, Federal Reserve Bank, or image share/exchange network or financial institution agreement.

9. Storage of Check Images. Bank shall store Check Images and other check information on the Electronic Deposit System in accordance with Bank's record retention schedule and shall make such information available to Customer according to the applicable User Manuals and fee schedule. If the Electronic Deposit Services are terminated, Customer may obtain Check Images or check information at the price outlined in the fee schedule.

10. Franking, Endorsement, Retention and Destruction of Original Paper Checks. Depending on the requirements outlined in the applicable User Manual, Bank may require, or strongly recommend, that Customer frank or mark the face of each original check after successfully capturing each Check Image to help ensure that an item is not deposited more than once either as a Check Image or physical check. Bank may require Customer to restrictively endorse each check prior to capturing each Check Image. Customer shall destroy the original paper check based on guidelines identified in the applicable User Manual and shall employ commercially reasonable methods to securely store the original paper check until destruction. At Bank's request, Customer shall provide the original paper check to Bank if the original paper check has not been destroyed by Customer and Bank needs the original paper check to process a payment or resolve a dispute arising from an Electronic Deposit.

11. Representations and Warranties. With respect to each Check Image or Electronic Deposit that Customer transmits to Bank, Customer is deemed to make any representation or warranty that would have applied had Customer deposited the original paper check, including without limitation, that no party will receive a presentment or otherwise be charged for a paper check, whether presented in paper or electronic form, which Customer has converted to a Check Image such that such party is asked to make payment of a check which has already been paid. In addition Customer is deemed to make to Bank any representation, warranty or indemnification that Bank makes, under applicable law, clearinghouse rule, Federal Reserve Operating Circular, Federal Reserve Regulation (including without limitation Regulation CC), bi-lateral agreement or otherwise, to any person (including without limitation a collecting bank, a Federal Reserve Bank, a Receiving Depository Financial Institution, a paying bank, a returning bank, a depository bank in possession of the original paper check, the drawee, the drawer, any endorser, or any other transferee) when Bank transfers, presents or originates a Check Image, Substitute Check or PIL created from the Electronic Deposit.

12. Customer Responsibility. With respect to each Check Image, Electronic Deposit or other image that Customer transmits to Bank, Customer agrees to defend, indemnify and hold Bank harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorney fees and court costs at trial or on appeal) arising directly or indirectly: (a) from Customer's breach of a representation or warranty as set forth in Section III.C.11 above; (b) as a result of any act or omission of Customer in the capturing, creation or transmission of the Check Image or Electronic Deposit, including without limitation, the encoding of the MICR Data from the original paper check; (c) from any duplicate, fraudulent or unauthorized check, Check Image, Substitute Check or PIL; (d) for any loss caused by Bank's acceptance of a Check Image, or creation of a Substitute Check or PIL instead of presentment of the original paper check; (e) out of Customer's deposit of an Electronically Created Item; or (f) from any other act or omission arising out of Bank's action or inaction taken pursuant to any request by Customer or pursuant to this Agreement. This Section III.C.12 shall survive termination of the Agreement.

13. Security Procedures and Right to Audit. Customer shall comply with all security procedures for the Electronic Deposit Services that are established by Bank or set forth in the applicable User Manual. Customer is solely responsible for (i) maintaining its own internal security procedures; (ii) safeguarding the security and confidentiality of any information that is obtained from Payor Customers' checks, Check Images and other information that is either printed from, stored on, or downloaded to, the Customer System, Electronic Deposit System, or Customer's other computer/data systems or portable media; and (iii) preventing errors or unauthorized access to the Customer System or the Electronic Deposit System. Bank reserves the right to periodically audit Customer's security procedures and information technology processes and to mandate controls.

14. Mobile Remote Deposit Services ("Mobile Services"). Depending on the type of Electronic Deposit Service selected by Customer, Mobile Services is an optional add-on service that will allow Customer to make remote check deposits and obtain check deposit history made through the Mobile Services using a supported mobile device. If Customer selects Mobile Services, Customer will need to download and install a Mobile Service application on compatible and supported mobile phones, tablets, or other devices (collectively, "Devices").

a. Description of Mobile Services. Mobile Services allow Customer to use a Device to take photographs of the front and back of the check and to transmit the Check Image to Bank in a secure data encrypted format using Customer's mobile service provider's cellular network or the Internet (collectively, "Network"). Certain Mobile Services may allow Customer to use a Device to enter remittance data and to take photographs of the front and back of remittance and general documents associated with the Check Image for reporting and research purposes.

b. Use of Mobile Services. Customer agrees to use Mobile Services in accordance with this Agreement, other user requirements provided in the User Manual and the downloaded mobile application. Bank reserves the right to modify the scope of Mobile Services at any time or change or upgrade Mobile Services from time to time, including the right to cease offering the Service on a previously supported Device. Bank also reserves the right to refuse any Electronic Deposit requested through the Service because a Check Image fails image quality standards, is detected as a duplicate item, or for any other reason in Bank's sole discretion. Customer understands and agrees that Mobile Services may not be accessible at all times due to Network connectivity or may have limited utility over some Networks, such as while roaming. Customer acknowledges and agrees that Bank may use geolocation technology to track that Mobile Services activity occurs within the contiguous United States.

c. Software. Customer agrees not to use Mobile Services, or the content or information delivered through Mobile Services, in any way that would infringe upon any third-party copyright, patent, trademark, trade secret, or other proprietary rights or rights of publicity or privacy, including any rights in the Mobile Services software. In the event Mobile Services is terminated or Customer's software license is revoked for any reason, Customer's access to Mobile Services will be removed immediately.

d. Service Limitations.

i. Neither Bank nor Customer's mobile service providers can always foresee or anticipate technical or other difficulties related to Mobile Services, which may result in loss of data, personalization settings or other interruptions. Bank assumes no responsibility for the timeliness of any Mobile Services transmissions or communications, or the loss or failure to store any user data, communications, or personalization settings in connection with a Device and Customer's use of Mobile Services.

ii. Bank shall not be responsible for the operation, security, functionality or availability of any Device or Network that Customer utilizes to access Mobile Services. Transmission of a Check Image shall not be deemed received unless the Device reports a successful acknowledgement of receipt of the transmission. Customer agrees to exercise caution when utilizing Mobile Services on Devices and to train its Authorized Users to exercise good judgment and discretion when accessing or transmitting information.

iii. Information about activity is synchronized between the Mobile Services software and Bank's Electronic Deposit System, however, deposit information available via the Mobile Services application may differ from the information that is available directly through the Electronic Deposit System. Information and features available directly through the Electronic Deposit System may not be available via the Mobile Services application and may be described using different terminology. The method of entering information via the Mobile Services application may also differ from the method of entering instructions through the Electronic Deposit System. Customer agrees that Bank shall not be liable for any errors or delays in the content as a result of Customer's use of the Mobile Services software.

iv. Customer acknowledges that its mobile service carrier or provider may provide for fees, limitations, and restrictions such as data usage charges or data throttling which may have an impact on Customer's use of or interaction with Mobile Services. Customer agrees to be solely responsible for all such fees, limitations, and restrictions.

e. Security.

i. If Customer permits its employees or agents to use their own personal mobile devices to access Mobile Services, Customer assumes any and all risks associated with the use of personal mobile devices, including but not limited to, any risk that compromises the integrity of Customer's corporate network or sensitive business data. Customer is solely responsible for implementing policies that will help mitigate the risk of allowing employees to use personally-owned mobile devices, which may include but are not limited to, requiring that Devices are configured and managed with information assurance controls commensurate with the sensitivity of the underlying data and employing Mobile Device Management (MDM) software or other software that secures, monitors, manages and supports mobile devices deployed across operators, service providers and enterprises.

ii. Customer shall ensure that its employees or agents exercise appropriate precautions surrounding the use and safeguarding of the Devices at all times. Customer agrees not to leave Devices unattended when logged into Mobile Services and to log off immediately at the completion of each access. Customer agrees that either a username and password or biometric verification are the agreed-upon security procedures and that such security procedures are commercially reasonable. If these security procedures are used to access Mobile Services, Customer agrees that any transactions using Mobile Services are hereby authorized. If Customer permits other persons to use a Device, login information or any other means to access Mobile Services, Customer will be responsible for the resulting transactions, and Bank shall have no liability for any damages Customer may incur.

iii. Devices with internet capabilities are susceptible to viruses. Customer is responsible for ensuring that each Device is protected from and free form viruses, malicious software ("malware") and other harmful components which could result in damage to programs, files, or the Device, or could result in information being intercepted by a third party. Bank shall have no liability for any damages which may result from such viruses, malware, or other harmful components.

D. ACH SERVICES

1. Introduction. If requested by Customer and agreed to by Bank, Customer or its Agent may initiate credit or debit Automated Clearing House ("ACH") transactions ("Entries") for payments ("Credit Entries") and/or collections ("Debit Entries") on Business Days to its accounts or the accounts of others ("Receivers") in accordance with Bank's security procedures and this Agreement. Bank will act as an Originating Depository Financial Institution ("ODFI") with respect to such Entries. Bank may process Entries directly, through one or more clearinghouses, or through the mechanism selected by Bank. Customer's rights and obligations with respect to such Entries are governed by applicable law and the NACHA Rules, as amended from time to time. Customer acknowledges that it shall be bound by the then-current version of the NACHA Rules and agrees not to initiate any Entry in violation of the NACHA Rules or applicable federal, state or international law, regulation or clearinghouse rules, including, without limitation, Regulation E of the Board of Governors of the Federal Reserve System, regulations promulgated by the Office of Foreign Assets Control, FinCEN, rules governing the Canadian, Mexican and European payments systems and Operating Circular 4 of the Federal Reserve Bank (collectively referred to herein as the "Rules"). Customer acknowledges and agrees that Bank shall have the right to examine Customer's books, records and systems to ensure Customer's compliance with the Rules and this Section III.D and that Bank shall further have the right to suspend Services if Bank determines, in its sole and absolute discretion, that Customer is not complying with the Rules and/or this Section III.D. Customer acknowledges that a copy of the NACHA Rules is available through NACHA at current NACHA prices. Bank shall have the right, in its sole discretion, to terminate or suspend ACH Services immediately if Bank is legally or contractually required to place a hold on funds or a portion of the funds in Customer's account(s). Bank may also, in its sole discretion, delay, suspend or reject an ACH file or Entry if the Bank has a reasonable basis to suspect the ACH file or Entry may be unauthorized or fraudulent. Capitalized terms not otherwise defined in this Agreement shall have the meanings ascribed to them in the NACHA Rules.

2. Entry Origination/Processing Dates/Deadlines. Customer may initiate Entries in the manner and format agreed to by Bank. ACH files transmitted to Bank shall be in an unbalanced file format unless otherwise agreed to by Bank. Bank has the right to restrict the standard entry class ("SEC") codes utilized by Customer. If notified by Bank of such restriction, Customer must cease use of the SEC code and the underlying transaction type. Customer agrees that all Entries (regardless of SEC Code) that involve the storage, exchange, or transmission of banking information via unsecured electronic networks shall be encrypted or transmitted via a secure session, using a commercially reasonable security technology that complies with regulatory guidelines. Bank will establish a deadline for the receipt of Entries from Customer ("Deadline"). Bank may establish different Deadlines for Entries depending on the method of delivery employed by Customer and all such Deadlines are subject to change. Bank must receive Customer's Entries at or prior to the Deadline for the Entries to be processed on the Business Day of receipt. Entries received after the Deadline, Entries that contain an Effective Entry Date that is invalid or stale, or Entries that are ineligible for Same Day ACH, will be processed on the next Deadline, which may be the next Business Day. Entries with settlement dates of more than thirty (30) calendar days from receipt will not be processed unless prior arrangements have been made. If Customer has opted-in for Same Day ACH, Customer acknowledges that any Entry using the current day's date as the Effective Entry Date that is submitted to the ACH Operator prior to the Deadline shall carry the Same Day ACH fee. The Same Day ACH fee is not charged for Same Day ACH Entries that are on-us and not submitted to the ACH Operator. If Customer has not opted-in for Same Day ACH and submits an Entry prior to the Deadline using the current day's date as the Effective Entry Date, Customer acknowledges that such Entry shall be processed on the next Business Day. If Customer requests, Bank may, in its sole discretion, process Same Day ACH Entries for Customers that have not opted in for Same Day ACH in certain contingency scenarios. Customer acknowledges that this option may not be available in every scenario due to the earlier Deadline, or other applicable restrictions, for Same Day ACH Entries. Customer agrees that if this option is utilized, Customer will be charged a special processing fee for each ACH file, plus the additional Same Day ACH per Entry fee for all Entries going to other financial institutions.

3. Content and Secondary Authorization. In submitting any Entry, Customer shall be responsible for providing all information required by Bank. Customer bears sole and exclusive responsibility to verify that the information set forth in Entries submitted to Bank is authentic, accurate and conforms to the Rules. The Services hereunder are only designed to respond to information provided by Customer. Accordingly, any inaccuracy in any information provided by Customer may result in unintended processing by Bank. Bank bears no responsibility for detecting or reporting any error in data supplied by Customer and shall not be liable to Customer for any information provided by Customer with respect to an Entry which is inaccurate, incomplete, or otherwise incorrect. Bank strongly recommends that Customer utilize a second individual to review and approve ACH files prior to submission to Bank. Customer acknowledges and agrees that such a security procedure is commercially reasonable and that Customer's failure to use this procedure substantially increases Customer's risk of an unauthorized ACH file.

4. Entry Limits and Payment. Customer agrees to comply with any applicable per transaction or aggregate Entry limits established by the Rules. Customer shall at all times maintain a settlement account with Bank for the purpose of funding Customer's Entries ("Account"). The total dollar amount of Entries initiated by Customer through Bank under all ACH Services and pending on a given day shall not exceed the lesser of collected or available balances in the Account or an exposure limit should one be established by Bank ("Exposure Limit"). Establishment of an Exposure Limit should not be interpreted or construed by Customer as a commitment or agreement to provide any credit or loans to Customer and is subject to modification or termination at any time by Bank. Customer shall pay Bank for all Entries and authorizes Bank to charge its Account or any other account with Bank in the amount of such Entries. Bank shall have the right in its sole discretion to reject any or all Entries initiated by Customer without notice if Bank has reason to believe that there will be insufficient available funds on the relevant settlement date, even if Bank may have previously accepted Entries for processing with insufficient available funds in the Account. Customer will receive funds for any Debit Entry on the ACH settlement date. Bank shall credit the Account in any amount payable to the Customer, subject to Bank's right to make adjustments in accordance with this Agreement. Bank may establish, monitor, and periodically review Customer's Exposure Limit and Customer's compliance thereof, and may, in Bank's sole discretion, cease processing Entries based on such review.

5. Account Verification. The NACHA Rules require Customer to use a commercially reasonable procedure to verify the validity of certain account information prior to originating an Entry to the account for some SEC Codes. Customer is solely responsible for performing such verification.

a. Prenotification. To the extent permitted by the Rules, Customer may elect to send a prenotification that it intends to initiate an Entry to a particular account in accordance with the procedures set forth in the Rules or by Bank. The prenotification can be returned or result in a Notification of Change ("NOC"). If the prenotification is returned, Customer shall research the problem and make any necessary corrections before transmitting another Entry. If the prenotification results in a NOC, Customer shall make the required change prior to initiating another Entry or issue a Refused NOC. Bank offers an optional Service that allows Bank to track Customer's NOC on Customer's behalf. If Customer selects this option, Bank shall only manage the changes to the routing numbers, account numbers and transaction codes.

b. Micro-Entries. To the extent permitted by the Rules, Customer may elect to initiate one or more Credit Entries of less than $1 for purposes of account validation (each, including any offsetting Debit Entry, a "Micro-Entry). Micro-Entry credit amounts must be equal to, or greater than, Micro-Entry debit amounts and must be transmitted to settle at the same time. In the Micro-Entry, Customer must use (i) an easily recognizable company name that is the same or similar to what will be used in subsequent Entries and (ii) "ACCTVERIFY" in the company entry description field. Customer must use commercially reasonable fraud detection which includes monitoring forward and return Micro-Entry volumes.

6. Notification of Change ("NOC"). A NOC is created by the Receiving Depository Financial Institution ("RDFI") to notify Customer (via Bank) that previously valid information contained in a posted Entry is outdated, or information contained in a prenotification or live transaction is erroneous or improperly formatted and should be corrected. Bank offers NOC Manager, which is a Service that allows Bank to track Customer's NOC on Customer's behalf. NOC Manager only manages the changes to routing numbers, account numbers and transaction codes. Bank, in its sole discretion, may require that Customer enroll in NOC Manager as part of ACH Services provided to Customer.

7. Data Breach Notification. Customer may have gathered personal or financial information of its customers for the purpose of initiating ACH transactions. Such information may include, without limitation, the customer's bank account number together with the bank routing number, or the customer's name together with the customer's social security number or tax identification number. Customer agrees to immediately report to Bank any loss, theft, or unauthorized access of such information ("data breach") by or from Customer, its Agent, or third-party service provider, if circumstances indicate that the misuse of such information has occurred or is reasonably possible. Customer acknowledges that Bank may have an obligation to report any data breaches to NACHA and other affected parties, and agrees to establish appropriate procedures to prevent, detect, investigate, and report data breaches. If applicable to Customer, Customer agrees to render electronically stored account numbers used in the initiation of Entries unreadable in accordance with the requirements and effective dates specified by NACHA.

8. ACH Secured Funds Entries. Bank may, at any time, and in its sole discretion, require Customer to prefund some or all Credit Entries that Customer desires to initiate. Customer acknowledges and agrees that such funds are held solely for the benefit of Bank and that Customer will not be entitled to earn any interest thereon. Upon initiation of such Credit Entries, Bank is authorized to immediately charge the Account (in the total amount of such Entries). If ACH Secured Funds is used to initiate Debit Entries, funds will be credited to the Account on the settlement date of the transaction. However, such funds shall not be available for withdrawal from the Account for two Business Days, or such other period as determined by Bank, after the settlement date.

9. File Confirmation System. Customer shall at all times comply with applicable file confirmation procedures and any security procedures established by Bank. Such procedures are solely for the purpose of verifying the origination of Entries by Customer or Bank's receipt of the ACH file and/or batch (but not for errors in transmission or content).

a. Control Totals. If Customer elects to provide Bank with the total dollar value of Entries and any other necessary information ("Control Totals"), Customer must telephone Bank's Interactive Voice Response system or input Control Totals through SinglePoint each time it originates Entries. After Bank receives Customer's ACH file, Bank will compare the information in the ACH file to the Control Totals. If the information matches the Control Totals, Bank will process the ACH file. Bank will notify Customer if the Control Totals do not match the information in the ACH file, or if Bank receives an ACH file without receiving Control Totals or vice versa. Bank will not process an ACH file unless it receives conforming Control Totals before established Deadlines.

b. Confirmation of Receipt. If Customer elects not to provide Bank with Control Totals but elects to receive a confirmation report or file, Bank shall provide Customer with a confirmation that Bank received Customer's ACH file and/or batch. After Customer receives the confirmation report or file, Customer will compare the confirmation information to Customer's ACH transmission information. If the information does not match, Customer shall notify Bank before Bank's established deadline, failing which, Bank shall process Customer's ACH file and/or batch. Customer acknowledges that the confirmation report or file is for the sole purpose of verifying Bank's receipt of the file and does not signify any validation of data. Customer bears sole responsibility for any inaccurate or incomplete information provided to Bank if Customer fails to notify Bank prior to Bank's processing of Customer's file.

10. Rejected and Returned Entries, Unauthorized Entries. Bank may reject any Entry that is not initiated in accordance with this Agreement. In the event that an Entry is rejected, or returned by an ACH processor, for any reason whatsoever, it shall be Customer's responsibility to reinitiate the Entry. Bank will give Customer or its designated Agent notice of any rejected or returned Entry in the manner agreed to by the parties. Bank is authorized to debit/credit the Account for Entries that are returned to Bank. Unless the return is caused by Bank's failure to properly execute an Entry, Bank has no obligation to pay Customer interest on the amount of any returned Entry debited from the Account. A Receiver may, in some cases, have the right to have an unauthorized or erroneous Debit Entry credited to its account. Customer agrees that Bank may deduct the amount owing to the Receiver from Customer's Account upon Bank's receipt of proper notice from the Receiver's bank. Bank may charge back against Customer any Debit Entry that is returned or reversed by the RDFI. Bank may, in its sole discretion, suspend Customer's use of ACH Services due to excessive return activity.

11. ACH Redeposit Service. If requested by Customer and agreed to by Bank, Bank will reinitiate (maximum of two times) each Debit Entry returned for insufficient or uncollected funds.

12. Amendment of Entries. Customer does not have the right to delete, reverse or amend any Entry (each, an "Adjustment Request") after it has been received by Bank. If Customer sends Bank an Adjustment Request via internet, secure email, or fax in accordance with the terms of this Agreement, Bank will make reasonable efforts to act on the Adjustment Request. All Adjustment Requests must be received by Bank prior to the established deadlines, and even if the Adjustment Request is made in a timely manner, Customer acknowledges that an Adjustment Request may prove unsuccessful (for example, if it is returned by the RDFI for non-sufficient funds). Customer agrees to indemnify Bank in connection with any Adjustment Request in accordance with applicable law.

a. Internet Option. If Customer has selected the Internet Option, Customer may use SinglePoint® to transmit information to Bank for the purpose of amending ACH files. Customer agrees to comply with any applicable software agreement, user guide and any established security procedures.

b. Secure Email Option. If Customer has selected the Secure Email Option, Customer may send an Adjustment Request to a designated shared mailbox at Bank.

c. Fax Option. If Customer has selected the Fax Option, Customer may transmit an Adjustment Request to Bank via facsimile to a designated facsimile number. Customer acknowledges that the Internet and Secure Email Options are substantially more secure than the Fax Option. Customer agrees to be bound by any instructions submitted via the Fax Option, whether or not authorized, issued in its name and accepted by Bank in accordance with the agreed procedures.

13. Customer Representations/Indemnity. Customer represents and warrants to Bank that each Entry: (i) complies with the terms of this Agreement and the Rules; (ii) does not breach any warranty of Customer or Bank contained in this Agreement or the Rules; (iii) complies with applicable state, federal and international laws and rules, including, without limitation, the Electronic Funds Transfer Act, Regulation E and regulations overseen by the Office of Foreign Assets Control; (iv) is accurate, timely, and authorized; and (v) that any Debit Entry is for a sum that on its settlement date is due and owing from the Receiver to Customer or is a correction of a previously transmitted erroneous Credit Entry. For all WEB Debit transactions, Customer further represents and warrants that it will validate account information by use of a commercially reasonable fraud detection system (i) for the first use of new account information; and (ii) when the Receiver makes a change to its account. With respect to each ACH Entry (regardless of SEC Code), Customer is deemed to make to Bank any representation or warranty that Bank makes, under applicable law or the Rules to any person, RDFI, or any other transferee. Receiver authorizations shall expressly authorize Bank to transmit corrective entries to the Receiver's accounts to correct a prior Entry and shall authorize Customer to release to Bank all information concerning its Receivers that is required by Bank to recover such Entries. Customer shall immediately cease initiating Entries upon receiving actual or constructive notice of the termination or revocation of the Receiver's authorization. Customer will retain each authorization received by Customer for such period of time as

may be required by the Rules or applicable law and shall provide Bank with copies of such authorizations upon request. Customer will defend, indemnify and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities, and damages, including without limitation, NACHA fines, reasonable attorney fees and court costs at trial or on appeal that arise directly or indirectly out of any Entry initiated by Customer in violation of this Agreement or the Rules.

14. Re-presented Check Entries. NACHA Rules allow Customer to initiate an Entry to collect certain checks that have been returned unpaid for insufficient or uncollected funds ("RCK Entry"). In the event that Customer initiates an RCK Entry to Bank for check collection purposes, Customer agrees that such RCK Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the RCK Entry on its behalf:

a. Each check is eligible under NACHA Rules to be collected via an RCK Entry.

b. Customer has no knowledge of any insolvency, and it has good legal title to the returned item.

c. All signatures on the returned item are authentic and authorized, and the returned item is without alteration, not subject to claims or defenses, and will not be presented to the paying bank.

d. The RCK Entry accurately reflects the item and any information encoded after issue in magnetic ink is correct. (RCK Entries cannot be used for collection fees.)

e. Any restrictive endorsement placed on the item is void or ineffective.

f. Customer has provided clear and conspicuous notice of its electronic check representment policy in advance of receiving the item to which the RCK Entry relates.

g. The Customer will provide to Bank immediately upon request a copy of the front and back of the returned item, provided that the request is made within seven (7) years of the settlement date of the RCK Entry.

15. Internet-Initiated Entries. NACHA Rules allow Customer to initiate a Debit Entry to a consumer Receiver's account pursuant to an authorization obtained from the Receiver via the Internet ("WEB Entry"). In the event that Customer initiates a WEB Entry to Bank, Customer agrees that such WEB Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the WEB Entry on its behalf:

a. Customer has employed a commercially reasonable fraudulent transaction detection system to screen each WEB Entry. As of the effective date specified by NACHA, a commercially reasonable fraudulent transaction detection system must include, at a minimum, validation of the account number to be debited for each Web Debit Entry. This validation must be completed for the first use of such account number as well as each time there is a change in such account number.

b. Customer has employed commercially reasonable methods of authentication to verify the identity of the Receiver.

c. Customer has taken commercially reasonable steps to verify that routing numbers are valid.

d. Customer has established a commercially reasonable secure Internet session prior to the key entry by the Receiver of any banking information and through the transmission of the data to Customer. If regulatory requirements or technological advancements drive the commercially reasonable standard to change, Customer agrees to comply with the new standard.

e. Customer has and will conduct an annual audit to ensure that the financial information that Customer obtains from its Receivers is protected by security practices that include adequate levels of: (1) physical security to protect against theft, tampering, or damage, (2) personnel and access controls to protect against unauthorized access and use, and (3) network security to ensure secure capture, storage and distribution of financial information. Customer will provide proof of Customer's security audits to Bank upon request. Any such information provided to Bank shall be kept confidential except as required to be disclosed by applicable law, rule, or regulation. Bank may cease processing Entries for Customer if Bank in its sole discretion determines that Customer's security procedures are inadequate.

16. Telephone-Initiated Entries. NACHA Rules allow Customer to initiate a Debit Entry to a consumer Receiver's account pursuant to the Receiver's oral authorization and banking information obtained via the telephone ("TEL Entry"). In the event that Customer initiates a TEL Entry to Bank, Customer agrees that such TEL Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the TEL Entry on its behalf:

a. Receiver Authorization. Customer shall obtain the Receiver's explicit authorization prior to initiating a Debit Entry to the Receiver's account. In the event that Customer obtains the Receiver's authorization verbally, Customer will either tape record the Receiver's oral authorization or provide, in advance of the settlement date of the Entry, written notice to the Receiver that confirms the oral authorization. Customer agrees that, at a minimum, the following specific information is disclosed to, and acknowledged by, the Receiver during the telephone call:

- **(i)** the date on or after which the Receiver's account will be debited;
- **(ii)** the amount of the Debit Entry to the Receiver's account;
- **(iii)** the Receiver's name;
- **(iv)** the account to be debited;
- **(v)** a telephone number that is available to the Receiver and answered during normal business hours for customer inquiries;
- **(vi)** the date of the Receiver's oral authorization;
- **(vii)** a statement that the authorization obtained from the Receiver will be used to originate an ACH debit to the Receiver's account;
- **(viii)** for recurring TEL entries, the amount of recurring transactions; and
- **(ix)** for recurring TEL entries, the timing (including the start date), number, and/or frequency of the electronic fund transfers.

Customer shall retain either the original or a duplicate tape recording of the Receiver's oral authorization or a copy of the written notice confirming the Receiver's oral authorization for two years from the date of the authorization and shall immediately provide same to Bank upon request.

If Customer chooses to provide the Receiver with written notice confirming the Receiver's oral authorization, Customer will disclose to the Receiver during the telephone call the method by which such notice will be provided.

b. Security Procedures. In addition to all other representations and warranties contained in this Agreement and the Rules, Customer also represents and warrants the following each time it delivers a TEL Entry to the Bank that it has (a) utilized a commercially reasonable security procedure to verify the identity of the Receiver, including name, address and telephone number; and (b) further that Customer has established commercially reasonable procedures to verify the accuracy of the RDFI's ABA routing and transit number.

17. Accounts Receivable and Back Office Conversion Entries. NACHA Rules allow Customer to utilize ACH to collect consumer check payments received via U.S. mail or at a dropbox location ("ARC Entry"). NACHA Rules also enable Customer to convert during back-office processing checks presented either at the point of purchase or a manned bill payment location ("BOC Entry"). In the event that Customer initiates an ARC or BOC Entry to Bank, Customer agrees that such ARC or BOC Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the ARC or BOC Entry on its behalf:

a. Prior to the receipt of each check, Customer has provided clear and conspicuous notice to the Receiver: (i) that receipt of the check is authorization for a payment as a check transaction or for a one-time ACH

debit to the Receiver's account; and (ii) of Customer's phone number for inquiries regarding BOC Entries.

b. Customer shall provide a copy of the notice to the Receiver at the time of the transaction if the Receiver presents the check in-person.

c. Each check is eligible as a source document under NACHA Rules to be collected via an ARC or BOC Entry.

d. Customer shall use a reading device to capture the Receiver's routing number, account number, and check serial number from the source document.

e. The amount of the entry, the routing number, the account number, and the check serial number are in accordance with the source document.

f. The source document to which the ARC or BOC Entry relates will not be presented for payment.

g. Customer has established policies and procedures to destroy the source document as soon as is reasonable and shall use commercially reasonable methods to securely store the source document until such destruction.

h. Customer shall use commercially reasonable methods to securely store all banking information relating to the ARC or BOC Entry.

i. Customer shall retain a reproducible and legible image, microfilm or copy of the front of the Receiver's source document for two years from the settlement date of each ARC or BOC Entry and shall immediately provide same to Bank upon request.

j. For BOC Entries, Customer has employed commercially reasonable procedures to verify the identity of each Receiver of BOC Entries.

k. For BOC Entries, Customer maintains a working telephone number that is answered during Customer's normal business hours for Receiver inquiries regarding BOC transactions.

18. Point of Purchase (POP) Entries. NACHA Rules allow Customer to initiate a Debit Entry to a Receiver's account for in-person purchases made by check at the point-of-purchase ("POP Entry"). In the event that Customer initiates a POP Entry to Bank, Customer agrees that such POP Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the POP Entry on its behalf:

a. Customer has posted a notice in a prominent and conspicuous location at the point-of-purchase and provided the Receiver with a written notice of same: (i) that when a check is provided as payment, it is authorization for payment as a check transaction or for a one-time ACH debit to the Receiver's account; and (ii) that funds may be withdrawn from the Receiver's account the same day payment is made.

b. Each check is eligible under NACHA Rules to be collected via a POP Entry and the Receiver has not opted out of check conversion.

c. Customer has used a reading device to capture the Receiver's routing number, account number, and check serial number from the source document.

d. Customer has provided a receipt to the Receiver containing the Originator name, telephone number, date of transaction, transaction amount, check serial number of the source document, merchant number, terminal city, and state; and Customer has not included the Receiver's complete account number or complete identification number on such receipt.

e. Customer has returned the voided source document to the Receiver after capturing the necessary check information and the source document was not previously negotiated, voided, or provided by the Receiver for use in any prior POP Entry.

f. Customer has obtained the Receiver's authorization and provided a copy of same to the Receiver, which: (i) is in writing and signed or similarly authenticated by the Receiver; (ii) is readily identifiable as an ACH debit authorization; (iii) clearly and conspicuously states its terms; and (iv) states that the check will not be processed.

19. International ACH Transactions (IAT) Entries. NACHA Rules allow Customer to initiate or receive international payment transactions transmitted via the ACH network.

a. In the event any part of an Entry originates from, or is transmitted to, a financial agency office located outside the territorial jurisdiction of the United States that handles the payment transaction ("IAT Entry"), Customer agrees that such IAT Entry will comply with all provisions of this Agreement and applicable Rules. Customer acknowledges that an IAT Entry is ineligible for Same Day ACH. Customer also makes the following additional representations and warranties regardless of which entity initiates the IAT Entry on its behalf:

(i) Customer is in compliance with U.S. law, including, but not limited to, Customer's obligations under programs administered by OFAC and FinCEN.

(ii) The origination of an outbound IAT Entry is in compliance with the laws and payment system rules of the receiving country.

(iii) In the case of an IAT Entry to a non-consumer account, Customer has an agreement with the Receiver whereby the Receiver has agreed to be bound by the Rules.

IAT Entries may be processed by Bank through a correspondent bank. Bank assumes no liability for delays, non-delivery, late returns, or other events resulting from processing delays by the correspondent bank or for other causes beyond Bank's control. Cancellation or amendment of an IAT Entry involving non-U.S. dollar currency is subject to any rate exchange loss as determined by Bank. Customer agrees to sell any canceled or amended Entry to Bank at the then current applicable foreign currency buy rate.

b. Remittance Transfer Provider. If Customer is at any time classified as a Remittance Transfer Provider under Regulation E, Customer represents, warrants, and agrees that:

(i) Customer shall be responsible for performing and complying with the requirements of 12 CFR Part 1005, including, but not limited to, providing disclosures to the consumer (sender), the error resolution procedures, the provision of any remedies to the consumer, and the cancellation and refund of remittance transfers;

(ii) Bank is acting as an agent and not as a Remittance Transfer Provider when performing activities on behalf of Customer; and

(iii) Even if Bank is deemed a Remittance Transfer Provider under applicable law, Customer shall take all actions necessary to comply with the obligations of a Remittance Transfer Provider.

Customer agrees to indemnify and hold Bank harmless from and against any and all loss, liability, damage, costs and expenses (including attorneys' fees) that Bank may sustain in reliance on Customer's representations and warranties set forth in this Agreement or the Rules.

20. Third-Party Vendors. If Customer initiates Entries through a third-party vendor or processor ("Vendor"), Vendor is the agent of Customer and not of Bank. If Customer uses a Vendor, Customer shall be deemed to have authorized Bank to follow the instructions of such Vendor to the same extent and under the same conditions as would apply if the instructions came direct from Customer and Customer shall be responsible for ensuring that such Vendor fully complies with the Rules and this Agreement. Bank is not responsible for the acts or omissions of Vendor and Customer agrees to be liable for and hold Bank harmless from, any losses caused by the acts or omissions of Customer's Vendor.

21. Third-Party Sender. If Customer is transmitting Entries as a third-party vendor or processor on behalf of originators ("Third-Party Sender") or if, as a Third-Party Sender, Customer is transmitting Entries on behalf of another Third-Party Sender ("Nested Third-Party Sender"), Customer agrees to be bound by the applicable terms provided in this Agreement and the Rules. Customer warrants to Bank that each originator and Nested Third-Party Sender has agreed to assume the responsibilities of an Originator or Third-Party Sender under NACHA Rules and that ACH Entries shall not be initiated in violation of laws of the United States. Customer represents that it has executed an ACH agreement with each Originator and Nested Third-Party Sender, and that the agreement binds

the Originator or the Nested Third-Party Sender to the NACHA Rules. Customer shall provide Bank with the list of all Originators and Nested Third-Party Senders, copies of the agreements, and other information deemed reasonably necessary to identify Originators or Nested Third-Party Senders within two (2) Business Days of Bank's request. Bank reserves the right to review the list of Originators and Nested Third-Party Senders for which Customer is transmitting the Entries and to reject any in Bank's sole discretion. As Third-Party Sender, Customer agrees to defend, indemnify and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities, and damages, including reasonable attorney fees and court costs at trial or on appeal that arise directly or indirectly from the failure of the Originator to perform its obligations as an Originator under NACHA Rules. Customer further agrees to assume all applicable responsibilities, warranties, and liabilities of the ODFI, including, but not limited to, conducting required risk assessments, as specified in the NACHA Rules. Customer shall cooperate fully and respond within two (2) Business Days to any inquiry from Bank relating to potential NACHA Rule inquiries or violations.

22. Cash Concentration/Deposit Reporting Services. Customer may request Bank to provide deposit reporting Services based on information provided by the Customer or its designated Agent. Information will be delivered to Bank at the time and location established by Bank. Bank has no responsibility for the accuracy of any information provided by Customer. Customer may authorize Bank to initiate Credit or Debit Entries to accounts designated by Customer at other financial institutions. Bank will initiate such Entries in accordance with agreed procedures. Customer agrees to authorize RDFIs to honor such transactions.

23. ACH Positive Pay Service. ACH Positive Pay Service assists Customer in detecting fraud by electronically matching incoming ACH transactions to authorizations that Customer can create and manage online. If ACH Positive Pay Service is selected by Customer, Customer shall designate the account(s) maintained at Bank that are to be used with the ACH Positive Pay Service ("ACH Positive Pay Account"). Customer shall create authorizations for incoming ACH Credit and/or Debit Entries that it desires to post to the ACH Positive Pay Account. Customer shall be responsible for the accuracy and completeness of all information provided to Bank. Bank will allow incoming Entries that match Customer's authorizations to post to Customer's ACH Positive Pay Account. Incoming ACH transactions that do not match Customer's authorizations will be treated as exception items, and Customer agrees to monitor, review, and make payment decisions on the exception items prior to Bank's established deadline. Bank is authorized to return all exception items unless Customer instructs bank to pay one or more exception items prior to the established deadline. Bank shall have no responsibility for any liability, loss or damage resulting from the return of any exception item to the Originator in accordance with this Section or Customer's failure to meet Bank's established deadlines, except with respect to losses caused by Bank's own lack of good faith or failure to exercise ordinary care. Bank's failure to report a discrepancy will not discharge Customer's obligation with regard to any item and shall not obligate Bank to return any item if it is otherwise authorized.

E. WIRE TRANSFER SERVICES

1. Introduction.

a. Governing Law. Bank sends outgoing and receives incoming wire transfers through Fedwire (the funds transfer system owned and operated by the Federal Reserve Banks or other provider in accordance with Section II.24.A). All funds transfers are governed by this Agreement, Subpart B of Regulation J of the Federal Reserve Board, OFAC regulations, and all other applicable international, federal, state, and local laws and regulations. Customer agrees not to initiate or receive a wire transfer payment order in violation of applicable federal, state, or local law.

b. Authorized Users. Customer will designate to Bank in the form required by Bank those individuals authorized to instruct Bank regarding wire transfer Services including without limitation, individuals authorized to initiate payment orders and select advice methods, confirmation methods, and any or all authorizations and instructions that may be requested by Bank. Bank may rely on any such authorization until it has been revoked in writing by Customer. Bank shall have a reasonable time to process any revocation received pursuant to this Section.

2. Routing/Time Deadlines. Bank may use any means of transmission, funds transfer system, intermediary bank, clearinghouse, or route that Bank reasonably believes is suitable for each outgoing wire transfer. Bank will establish from time to time one or more deadlines after which Bank will not accept an incoming payment order to be processed on the day of receipt. Payment orders received after Bank's established deadline, during a maintenance window, or on any non-Business Day, including any Saturday, Sunday, holiday, or any day that Bank's wire department is not open will be rejected. Payment orders received during a maintenance window, including the end-of-day maintenance window, will not receive a notice of rejection.

3. Payment Orders.

a. Communication. Customer may communicate a payment order to Bank by the means and manner agreed to between the parties.

b. Content of Payment Orders. Customer will supply to Bank any information Bank may reasonably request regarding any payment order initiated by Customer, including, without limitation, money amounts, affected accounts, dates of transfer, the beneficiary's name and account number, the name and routing number or bank identifier code of the beneficiary's financial institution, such additional information as Bank may reasonably request and, if necessary, further evidence of any Agent's authority to transfer funds or to do any other act contemplated by this Service. Bank strongly recommends that Customer utilize a second individual to review and approve payment orders prior to submission to Bank. Customer acknowledges that failure to use this commercially reasonable security procedure substantially increases Customer's risk of an unauthorized payment order.

c. Execution of Payment Orders. Customer authorizes Bank to execute and charge Customer's account(s) with Bank for payment orders delivered to Bank in accordance with this Agreement. Bank has no obligation to execute a payment order if Customer's account to be charged has insufficient collected and available funds to cover the order.

d. Processing Payment Orders. The order in which Bank processes wire transfer payment orders is determined solely by Bank. Customer does not have the right to reverse, adjust or revoke any payment order after it has been received by Bank, provided, however, that Bank will make a reasonable effort to act on such a request by Customer. With respect to a payment order already transmitted to the beneficiary's financial institution, Bank shall, at Customer's request, request the financial institution to return funds previously transferred. Customer understands that the receiving institution is under no legal obligation to comply with this request.

e. Rejection of Payment Orders**.** Bank may reject a payment order from Customer if such payment order is not initiated in accordance with the applicable security procedure, if there is any inconsistency between a payment order and information previously supplied to Bank, if Bank is unable to obtain confirmation of such payment order satisfactory to Bank, if there are insufficient collected funds in Customer's specified account to fund the payment order, if Bank has a reasonable basis to suspect the

payment order may be unauthorized or fraudulent, or if Bank has other reasonable grounds not to honor the payment order. Bank will notify Customer by telephone that it has rejected a payment order. Bank may also reject an incoming payment order if it has reasonable grounds to do so.

f. Standing Payment Orders. If requested by Customer and agreed to by Bank, Customer may initiate a standing payment order, which is one where the Customer pre-programs the beneficiary, the beneficiary's financial institution, and the accounts to be debited and credited and such information remains constant for subsequent payment orders. Customer shall provide Bank with the necessary information to execute the standing payment order, including, without limitation, the dollar amount to be transferred or the desired peg balance, the frequency of the order and the day of week or month when the payment order is to be executed. Customer may terminate a standing payment order at any time upon receipt by Bank of a written notice. Bank shall have a reasonable time to act on such notice.

g. Batch Wire; Direct Wire Interface.

(i) Service Specifications. If requested by Customer and agreed to by Bank, the Batch Wire service and Direct Wire Interface service allows Customer to initiate payment orders from its computer to Bank's computer, subject to the provisions of this Agreement. In addition, the Direct Wire Interface service allows Customer to receive reports of incoming wire activity. Customer will comply with the relevant interface specifications established by Bank for these services, including, without limitation, file formats, means of data transmission, or establishing a secure connection (the "Specifications"). Bank may furnish Customer with modifications to the Specifications and Customer shall implement such modifications as soon as reasonably practicable.

(ii) Wire Transfer Software, Confidentiality. Customer or its Agent shall be solely responsible for creating the computer programs to implement the Specifications ("Wire Transfer Software"). Customer shall maintain the confidentiality of the Specifications and the Wire Transfer Software and permit access solely to those responsible for supporting the Wire Transfer Software or authorized to initiate payment orders. Customer shall implement passwords and other security devices commensurate with the highest level of security afforded by Customer to other computer programs and confidential information of Customer.

4. Confirmation of Outgoing Wire Transfers.

a. Confirmation Method. Customer and Bank shall agree to the method of confirming payment orders received from Customer. Customer shall designate Authorized Users to confirm payment orders. Bank recommends a minimum of three potential Authorized Users to confirm payment orders and that Authorized Users serve as an initiator or a confirmer, but not both. Notwithstanding Bank's recommendation, if Customer permits an Authorized User to act as both initiator and confirmer, Customer hereby authorizes Bank to process a wire initiated and confirmed by such Authorized User. Customer may add, change, or delete the Authorized Users in accordance with Section II.9 of this Agreement. In the event the designated Authorized Users with authority to confirm are not available to confirm a payment order, Customer agrees that Bank may, at its discretion, elect to process the payment order initiated by an Authorized User. Customer agrees to be bound by any such payment order processed by Bank.

b. Waiver of Confirmation. Bank advises Customer not to waive confirmation. If Customer, however, chooses to waive confirmation, Customer agrees to be liable for all outgoing payment orders, except those payment orders where (1) Customer is able to conclusively prove that the unauthorized transfer could not have been prevented by the use of confirmation procedures; (2) Bank is unable to produce any evidence that the unauthorized transfer could have been prevented by the use of confirmation procedures; and (3) Customer is not otherwise liable for the transfer under this Agreement or applicable law. Customer acknowledges that not using confirmation procedures substantially increases Customer's risk of liability for an unauthorized wire transfer.

c. Confirmation of Wire Transfers Initiated through SinglePoint®, Batch Wire, or Direct Wire Interface (collectively, the "Customer Initiation Methods"). Customer represents and warrants that the confirmation of payment orders initiated through any of the Customer Initiation Methods shall be verified, initiated and confirmed by Customer prior to receipt by Bank. All payment orders shall be initiated and confirmed in accordance with the security procedures established for the relevant Customer Initiation Method.

5. Advices.

a. Advice Method. Customer will select the type of advice it wishes to receive after Bank receives an incoming wire transfer. If Customer selects telephonic advices, Customer may designate person(s) to be contacted and telephone numbers to be used for advice purposes. Bank shall not be required to make more than one attempt to reach Customer's designated location by telephone. If Bank is able to reach the Customer's designated location, but not Customer's designated Agent, Bank may leave a message containing the information to be conveyed.

b. Advices by Facsimile. If Customer selects advices by facsimile ("fax"), Customer shall exercise extreme care in maintaining its own security in the receipt of fax advices. Customer acknowledges that the information to be received by fax may include confidential information, including, without limitation, names, amounts, phone numbers, originating account information and the text of incoming wires. Customer further acknowledges that it alone assumes full responsibility for maintenance of its internal security procedures to keep such information confidential. Customer agrees to defend, indemnify, and hold Bank harmless against any and all claims, demands, expenses, liabilities and damages, including attorney fees at trial and on any appeal or petition for review, incurred by Bank arising directly or indirectly from the transmission by fax of an incoming wire transfer advice.

c. Waiver of Advice. Customer may waive its right under the Uniform Commercial Code to receive advices by so indicating on the applicable Implementation Documents.

6. International Wire Transfers.

a. General. Wire Transfers across country borders are customarily done by Bank through a correspondent bank. Outgoing U.S. dollar payment orders may be converted by the correspondent bank or beneficiary bank to the local beneficiary's currency at the applicable rate in effect at any point in the processing chain. Though in some cases Bank may receive compensation from the correspondent bank in accordance with such conversion, the conversion is executed by the correspondent bank in accordance with the policies and procedures of such correspondent bank at an exchange rate set by that correspondent bank in its sole discretion and subject to any applicable regulations. Any fee, commission or charges assessed by Bank, the correspondent bank, any subsequent intermediary bank, or the beneficiary bank may be passed on to the Customer or deducted from the wire transfer amount. Bank assumes no liability for delays, non-delivery, market risk or other events resulting from causes beyond Bank's control. In refunding unexecuted payment orders, Bank shall be liable to Customer only to the extent it receives payment from the correspondent bank processing the transfer. Cancellation or rejection of a transfer involving non-U.S. dollar currency is subject to any rate exchange loss as determined by Bank. Customer agrees to sell any canceled or rejected payment order to Bank at the then-current applicable foreign currency buy rate.

b. Remittance Transfer Provider. If Customer is at any time classified as a Remittance Transfer Provider under Regulation E, Customer represents, warrants, and agrees that:

(i) Customer shall be responsible for performing and complying with the requirements of 12 CFR Part 1005, including, but not limited to, providing disclosures to the consumer (sender), the error resolution procedures, the provision of any remedies to the consumer, and the cancellation and refund of remittance transfers;

(ii) Bank is acting as an agent and not as a Remittance Transfer Provider when performing activities on behalf of Customer; and

(iii) Even if Bank is deemed a Remittance Transfer Provider under applicable law, Customer shall take all actions necessary to comply with the obligations of a Remittance Transfer Provider.

Customer agrees to indemnify and hold Bank harmless from and against any and all loss, liability, damage, costs and expenses (including attorneys' fees) that Bank may sustain in reliance on Customer's representations and warranties set forth in this Agreement.

7. Reverse Wire Transfers.

a. Authorized Debits. If requested by Customer and agreed to by Bank, Customer authorizes Bank to debit Customer's account(s) with Bank upon receipt of a Fedwire drawdown request, and to send funds to the requesting bank. Each transfer will be done on the Business Day Bank receives the incoming request from the requesting bank if the request is received within a reasonable time to determine whether Customer's Account has sufficient available funds and to obtain access to the Federal Reserve network prior to the close of business.

b. Reverse Wire Funding. Customer acknowledges and agrees that Bank may reject any reverse wire request in excess of the collected and available balance. Requesting bank will be notified if the request is rejected by Bank.

c. Wire Transfer Numbers. Customer's obligation to pay Bank the amount of the funds transfer in the event that the Fedwire message does not identify the same account or financial institution is not excused in such circumstances. When names and numbers are inconsistent, the numbers shall control. With respect to incoming wire transfers that do not indicate an account number recognizable to Bank, Bank may return the wire transfer to the sending financial institution without incurring any liability. Customer does not have the right to reverse, adjust or revoke any Fedwire message after it is received by Bank; however, Bank will use reasonable efforts to act on such a request by Customer to reverse, adjust or revoke such message before Bank has sent the outgoing wire transfer. With respect to an outgoing wire transfer already transmitted by Bank, Bank shall, at Customer's request, request the receiving financial institution to return funds previously transferred. Customer understands and agrees that the receiving financial institution may or may not comply with any such request.

d. Authorizations. Customer's authorization for reverse wire requests shall remain in effect until Customer gives written notice to Bank. Bank will have a reasonable time to act on any written notice received from Customer.

e. Limitation on Bank's Liability. In consideration of Bank's compliance with this authorization, Customer agrees that Bank's treatment of any authorized debit, and Bank's rights with respect to it, shall be the same as if the entry were initiated personally by Customer. Bank shall have no liability if any authorized debit is dishonored.

F. DATA TRANSLATION SERVICES

1. Introduction. Bank may provide electronic data integration, custom formatting, or data translation ("Data Translation Services") to electronically streamline the exchange of payments, remittance and other information between Customer and Bank and between Customer and its trading partners. If requested by Customer and agreed to by Bank, Bank will provide Data Translation Services in accordance with this Agreement and other procedures provided to the Customer. Customer agrees that Data Translation Services shall be governed by this Section and all other relevant sections of this Agreement.

2. Scope of Services. Data Translation Services may be used by Customer to initiate and receive payments using multiple payment channels or networks, which may include, but are not limited to, checks, wire transfers, ACH, virtual card, SWIFT, Real-Time Payments (RTP), Zelle, Visa or Mastercard, and to provide and receive business communications such as remittance data, payment data, invoices, confirmations, orders, or other information in Customer's preferred format. In order to obtain Data Translation Services, Customer must maintain an analyzed demand deposit account with Bank.

3. Entry Origination/Processing Dates/Deadlines. Customer may from time to time deliver to Bank requests to format information for payments and/or other data translation via the agreed upon means (collectively, "Data Translation Request(s)"). All Data Translation Requests shall conform to the content, format, deadlines, and other specifications that may be established by Bank or a third-party software program approved by Bank for use with the Service. Bank may establish different deadlines for Data Translation Requests depending on the method of delivery employed by Customer and all such deadlines are subject to change. Bank must receive Customer's Data Translation Requests at or prior to the deadline established for processing on the Business Day of receipt. Data Translation Requests received after the deadline will be processed on the next Business Day. Customer will be notified if a Data Translation Request is rejected in accordance with procedures established by Bank. Customer represents and warrants that all information in each Data Translation Request delivered to Bank by Customer shall be accurate, timely, authorized and will otherwise comply with all applicable laws, rules, and regulations.

4. Content and Transmission of Information. Data Translation Requests are only designed to respond to information provided by Customer. Accordingly, any inaccuracy in any information provided by Customer may result in unintended processing by Bank. Bank bears no responsibility for detecting or reporting any error in data supplied by Customer and shall not be liable to Customer for any information provided by Customer with respect to a Data Translation Request which is inaccurate, incomplete, duplicative, or otherwise incorrect. Customer shall retain data on file adequate to permit Customer to remake each request for at least ten (10) Business Days following the date a file is sent to Bank and shall provide such data to Bank on request. Customer acknowledges that Bank has no obligation to maintain back-up copies of requests or other information delivered by Customer to Bank. Customer acknowledges that Data Translation Services may involve the transmission of confidential consumer information that may be subject to privacy laws and regulations, including breach notification regulations. Customer agrees to notify Bank if Customer sends or receives Protected Health Information as part of Data Translation Services. If Customer is the recipient of misdirected information, Customer shall immediately notify Bank and return the information to Bank. Customer agrees not to retain, use, copy, distribute or otherwise disclose the information in any manner.

5. Payment Requests. Customer agrees that its requests to initiate payments utilizing Data Translation Services shall be governed by this Section, the sections of this Agreement governing the applicable payment mechanism, and all other applicable laws, rules and regulations governing the relevant payment mechanism. Customer authorizes Bank to execute all electronic and check payment requests ("Payment Requests"), and settle to the Customer's account all Payment Requests, delivered to Bank in compliance with the terms of this Agreement, including the security procedures. Customer is solely responsible for initiating the Payment Requests sufficiently in advance to meet Customer's contractual obligations to its vendors and/or its customers. Bank shall not be responsible for any late payment or finance charges that may result from Customer's failure to allow sufficient lead-time.

a. Electronic Payment Requests. Depending on the scope of the Data Translation Services solution offered by Bank, Customer may from time to time request that Bank initiate electronic payments using the ACH, card, SWIFT and Zelle networks, The Clearing House system, the wire transfer system, or other electronic funds transfer system ("Electronic Payment Requests"). Except as may be provided elsewhere, Customer may not amend or revoke Electronic Payment Requests after they have been received by Bank. Customer acknowledges that the rules of NACHA and other electronic funds transfer systems may make any credit provisional until the financial institution crediting the account of the beneficiary specified in an Electronic Payment Request receives final settlement and that if the financial institution does not receive final settlement, it is entitled to a refund and Customer shall be deemed not to have paid the beneficiary. Electronic Payment Requests with settlement dates of more than thirty (30) calendar days from receipt will not be processed unless prior arrangements have been made. Customer authorizes Bank to use whatever means Bank, in good faith, deems reasonable under the circumstances to execute each Electronic Payment Request, including selection of a funds transfer system, routing and means of transmission.

b. Check Payment Requests. Customer may from time to time request that Bank print checks and related remittance information ("Check Payment Request(s)") and issue and distribute such checks and information. Customer shall designate the account(s) from which Bank is to make payment ("Payment Account") and shall maintain a sufficient balance in the Payment Account to fund its Check Payment Requests. To mitigate against fraud, Bank requires that Customer utilize Bank's Positive Pay Services in conjunction with the Payment Account. Customer agrees that checks drawn in a manner consistent with a Check Payment Request shall be duly authorized to the same extent as a check drawn and signed by Customer and is properly payable by Bank. Customer authorizes Bank to deduct the Payment Account in the amount of the Check Payment Request. If there are insufficient funds in the Payment Account to make a Check Payment Request, Bank may in its sole discretion either refuse to make the payment or make the payment and overdraw the Payment Account. In either event, Customer shall incur fees as disclosed by Bank in the account agreement and related fee schedules and other disclosures. Customer has no right to reverse, adjust or revoke any Check Payment Request after it has been received by Bank. Bank will, however, make reasonable efforts to act on such a request by Customer. If Check Payment Requests relate to printing checks drawn on another financial institution's account ("Off-Us Checks"), Customer acknowledges that Bank shall not be liable for any fraudulent or unauthorized activity that may arise from the use of such Off-Us Checks. If Check Payment Requests relate to printing payroll checks, Customer acknowledges that Bank shall only print payroll checks and shall not be responsible for any other aspect of payroll processing, including, but not limited to, producing IRS Form W-2s, 1099s or other payroll-related tax documents. In addition, Customer represents and warrants that it shall not include any social security numbers in the Check Payment Requests for payroll checks and agrees to indemnify and hold Bank harmless if the checks or check stubs are printed with social security numbers.

7. File Confirmation Procedures. Customer shall at all times comply with the applicable file confirmation procedures established by Bank. File confirmation procedures utilizing Data Translation Services are solely for the purpose of verifying Bank's receipt of the Payment Requests but not for identifying errors in transmission or content.

a. Control Totals. Control Totals are an elective option that allows Customer to confirm file totals of Payment Requests transmitted to Bank. If the Control Totals option is selected by Customer, Customer shall call Bank's Audio Response Unit ("ARU") or send a data file to Bank providing the total items and dollar value of the Payment Requests and any other necessary information ("Control Totals"). After Bank receives Customer's Payment Requests, Bank will compare the Payment Requests to the Control Totals. If the Control Totals match the Payment Requests, Bank will process the Payment Requests. Bank will not process the Payment Requests if Bank does not receive conforming Control Totals on or before the established delivery deadline. Bank will notify Customer if the Control Totals do not match the Payment Requests, or if Bank receives Payment Requests without receiving Control Totals or vice versa.

If the Control Totals option is not selected by Customer, upon Bank's receipt of Customer's electronic payments via a data file, Bank shall send an acknowledgement to Customer confirming receipt and acceptance of Customer's Payment Requests. If Customer identifies errors in the content or transmission of Customer's Payment Requests, or if Customer does not receive an acknowledgement from Bank, Customer agrees to notify Bank immediately. Depending on the payment deadlines, Bank may be able to delete or reverse processing of Payment Requests.

b. Payables File Manager. Payables File Manager is an elective Service that allows Customer to confirm that Bank has received Customer's files. Using SinglePoint® or other applications or systems as may be introduced by Bank, Customer may view the status of Data Translation files sent by Customer to Bank. If Customer selects this Service, Customer agrees to promptly and regularly review the status of all files displayed in the Payables File Manager and to notify Bank immediately if any files sent by Customer were not received by Bank. Depending on the payment deadlines, Bank may be able to delete or reverse processing of Payment Requests. Customer bears sole responsibility for any inaccurate or incomplete information sent to Bank if Customer fails to notify Bank prior to Bank's processing of Customer's files.

8. Supplier Prefer Pay. If selected by Customer and agreed to by Bank, the Supplier Prefer Pay Service provides an electronic payment enrollment and storage solution, which also allows use of the stored data for payment origination.

Customer's suppliers or trading partners ("Suppliers") may elect to enroll in a program to receive payment from Customer via ACH or alternative payment methods that may include, but are not limited to, virtual cards (account without the issuance of a physical credit card) and checks. As part of this Service, Bank will: (i) provide online enrollment for Suppliers to register to receive payment from Customer, including the option for Supplier to provide a preferred email address to receive remittance information; (ii) contact Suppliers (with contact information provided solely by Customer) via telephone, email or regular mail to describe the supplier enrollment service and solicit their participation; (iii) support Supplier enrollment; and (iv) at Customer's election, securely store Supplier's banking information. Customer will designate one or more System Administrator(s) responsible for establishing internal security procedures, including, without limitation, setting up and maintaining access to the Service. Customer shall be solely responsible for conducting the necessary due diligence to vet Customer's Suppliers and to ensure that only legitimate Suppliers of Customer enroll in the Service. Bank recommends that Customer establish and utilize robust security procedures in accordance with the guidelines provided by Bank in the Implementation Documents. If Customer declines Bank's recommendation, Customer agrees it will be precluded from asserting any claims against Bank for unauthorized payments, except with respect to claims caused by Bank's own lack of good faith or failure to exercise ordinary care.

Customer acknowledges and agrees that use of the Service may be affected by external factors beyond Bank's control. Interruption of the Service or performance hereunder for any reason shall not relieve Customer of its obligation to make timely payment to Suppliers, and Bank shall not incur any liability to Customer for Customer's failure to timely make any such payment to Suppliers. Customer agrees to defend, indemnify and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities, and damages, including reasonable attorney fees and court costs at trial or on appeal that arise directly or indirectly out of any payments made by Customer using the enrollment information furnished by Customer, Suppliers or any other party on behalf of Supplier.

G. CASH VAULT SERVICES

1. Introduction. The Terms "cash," "coin" and "currency" as used herein shall refer to coin and currency of the United States and certain foreign currencies accepted by Bank.

2. Foreign currency. Customer shall not deposit any foreign currency unless Customer has obtained Bank's prior approval. Bank reserves the right, in its sole discretion, to impose restrictions on, or discontinue acceptance of, foreign currency deposits. Section III.G.5 below does not apply to foreign currency processing. Foreign coin shall not be accepted for deposit by Bank under any circumstances.

3. Account. All deposits of coin, currency and checks will be credited to, and all withdrawals of coin, currency and checks will be debited against, Customer's deposit account at Bank (the "Account") which Customer has designated as being covered by the Services described herein. Customer agrees that it shall not deposit any items, instructions, or objects other than coin, currency and checks as outlined in this Agreement and agrees to assume any and all risk of loss associated with tendering items not specified herein.

4. Deposits.

a. Customer shall supply and maintain tamper-evident disposable plastic bags used for deposits. Plastic bags shall be sealed according to manufacturers' instructions and addressed to the appropriate secured facility specified by Bank. Customer will prepare deposits as follows: (i) currency will be batched separately from checks with each currency and check batch accompanied by a deposit ticket fully completed by Customer; (ii) currency will be banded with 100 notes of the same denomination whenever possible; (iii) deposits will be delivered by Customer's approved carrier to the secured facility specified by Bank; and (iv) to receive same-day credit, deposits must be made prior to the daily deadline established by Bank from time to time, and any deposits received by Bank after its deadline may be considered to have been received on the next Business Day. Foreign currency deposits do not qualify for same-day credit and are subject to Bank's prevailing exchange rates.

b. Bank will process Customer's deposits as follows: (i) deposits will be receipted and conditional (subject to verification) credit assigned based on the amount identified on the deposit ticket; (ii) deposit tickets that are missing, blank or do not contain legible "declared balances" are subject to delayed ledger credit; and (iii) coins and currency will be counted and Bank's count will be the valid and controlling count.

c. For U.S. currency, if there is a coin and currency variance of more than USD 10 from the declared balance on Customer's deposit ticket, Bank shall adjust Customer's coin and currency deposits through a separate debit or credit to Customer's account. Any such adjustment shall not be reflected on Customer's deposit ticket. Deposit tickets containing a declared total that includes check deposits may require a separate and additional adjustment for any variances to Customer's check deposits. If there is a coin and currency variance of USD 10 or less from the declared balance on Customer's deposit ticket, Bank shall not make any adjustment to Customer's currency and coin deposits and shall credit Customer's account based on Customer's declared balance. Upon request, Bank will provide Customer with any available information that may assist Customer in reconciliation of the difference.

d. Deposited items are deemed received on the day of delivery if Bank receives the deposit prior to Bank's established deadlines. Deposits will be processed in accordance with normal Bank procedure and any applicable availability schedules. All deposits made by Customer shall be subject to verification and adjustment by Bank. Bank's verification shall be deemed correct and binding upon Customer for all purposes, absent manifest error.

5. Withdrawals.

a. Bank may provide Customer with U.S. currency and coin in designated denominations from time to time as requested by Customer through the Bank's automated ordering system ("Cash Orders"). Customer must comply with all of Bank's policies and procedures regarding the placement and delivery of Cash Orders, including, without limitation, the maintenance of a designated password. Customer shall be responsible for maintaining the confidentiality of Customer's password and restricting access to the system to authorized Agents. All Cash Orders will be charged to the account designated by Customer and must be picked up by Customer's Agent. Only approved carriers may pick up Cash Orders directly from a cash vault operated by Bank. Bank may release any Cash Order to any individual that Bank reasonably believes to be Customer's Agent. Customer shall be responsible for any Cash Order after receipt thereof by the Agent. Bank may specify a daily Cash Order limit and Customer agrees that it will not initiate a Cash Order in excess of the designated limit. In no event shall Customer initiate a Cash Order in excess of the immediately available funds in the designated account.

b. Customer may order currency and coin from Bank as follows:

- **(i)** The preferred order for currency is in standard full strap (100 banknotes) quantities only.
- **(ii)** Coin may be ordered in standard full box units (50 rolls), individual rolls or loose standard bags only.
- **(iii)** A charge for the face value of the monies ordered will be made to the Account on the day the order is processed by Bank.
- **(iv)** Orders for coin and currency must be placed no later than the deadline established by Bank from time to time for release to Customer's Agent on the same or next Business Day. Depending on Customer's location, select cash vault sites may require a multiple-day lead time or more for coin and currency orders.
- **(v)** Bank must be notified of any discrepancies pertaining to coin or currency orders within two Business Days of receipt by Customer of such coin or currency. Customer must return documentation to back-up outages such as plastic change order bag, currency strap, coin wrapper and/or box.

6. Processing. Bank will provide processing on all Business Days. Cash Vault Services using third-party applications with time-stamp data are for informational purposes only and may not reflect actual timing of receipt, posting or verification of Customer's deposits by Bank. Bank shall not be liable for any inaccurate or incomplete information with respect to such time-stamp data provided to Customer.

7. Carrier Service. Any carrier service utilized to deliver or obtain coin, currency, or other property to or from Bank, including, without limitation, a common carrier, will act as the agent of Customer and not of Bank. Customer and carrier shall agree upon the pickup and delivery days and times. Customer will bear the entire risk of loss of coins, currency, checks or other property of Customer when in the custody or control of Customer's carrier service.

8. Cash Shipping Solution. If this Service is selected by Customer and agreed to by Bank, Bank may rent a caller box at the United States Postal Service (USPS) post office and, on Customer's behalf, engage an armored carrier, each of which. shall be deemed Customer's Agent, to retrieve Customer's deposits from the caller box for delivery to Bank and to deliver Customer's coin and currency orders to the USPS. Customer agrees to implement and properly use any and all security procedures prescribed or recommended by USPS and Bank and agrees to hold Bank harmless from any claims or losses arising from Customer's failure to implement and properly use any such prescribed or recommended security procedures. Bank requires that Customer limits its deposits and orders to $500 per mailer, but regardless Customer bears the entire risk of loss of coins, currency, checks or other property of Customer until received at, or upon pick up from, Bank's cash vault. Customer shall be solely responsible for any investigation of a loss suffered prior to delivery to, or after pickup from, Bank's cash vault and Bank shall have no obligation to participate in such investigation.

9. Representations. Customer represents and warrants to Bank that (a) all funds deposited with Bank will be the proceeds of, and all funds ordered and withdrawn from Bank will be intended for use in, Customer's lawful activities and (b) all of Customer's transactions hereunder will be conducted solely on Customer's behalf and not on behalf of any other person or entity.

10. Regulatory Compliance. Upon request, Customer shall immediately provide Bank with any information and shall otherwise cooperate with Bank in every way necessary in order to enable Bank to fulfill its obligations

with respect to the reporting of transactions in coin and currency or any other regulatory requirement.

11. Use of and Access to Cash Vault Services. Customer acknowledges and agrees that Cash Vault Services are to be used exclusively for its benefit and, absent prior written approval by Bank, Customer will not permit third parties, including non-Customers or other Agents of Customer (excluding approved carriers or agents making cash deposits into a Customer's account at Bank and agents ordering cash on behalf of a Customer), from accessing or otherwise using any Cash Vault Services offered by Bank.

H. U.S. BANK EASYTAX℠ SERVICES

1. Authorization; Enrollment. If the EasyTax Service is requested by Customer and agreed to by Bank, Bank will electronically enroll Customer in the Electronic Federal Tax Payment System (EFTPS) if Customer desires to make federal tax payments via EFTPS. Electronic enrollment will allow Bank to process Customer's tax payments in compliance with EFTPS through Bank's tax payment system only. If Customer chooses to pay federal taxes by any other means, payments may not be EFTPS compliant. Customer understands that Bank's EFTPS enrollment form 8655 does not replace the EFTPS form 9779, which is sent to mandated companies by the Internal Revenue Service. Customer may also use the EasyTax Service to make state and/or local municipality tax payments in jurisdictions that support such payments. Customer agrees that the EasyTax Service shall be governed by this Section and all other relevant sections of this Agreement.

2. Submission of Information. Customer shall furnish Bank with complete and accurate master file information which shall enable Bank to file tax deposits via ACH with the appropriate tax authorities in a timely manner. The Service provided by Bank hereunder shall be based solely upon the information furnished by Customer to Bank. Accordingly, any inaccuracy in any information provided by Customer may result in unintended processing by Bank. Customer bears sole and exclusive responsibility to verify that the information provided to Bank is complete and accurate. Bank bears no responsibility for detecting or reporting any error in data supplied by Customer and shall not be liable to Customer for any information provided by Customer with respect to information that is inaccurate, incomplete, or otherwise incorrect. The Service provided hereunder does not relieve Customer of any duty imposed on Customer by law to maintain records or from verifying and, if necessary, immediately correcting in writing all data received from Bank relating to the Service. Customer agrees to be bound by any instructions, whether or not authorized, issued in its name and accepted by Bank in accordance with the agreed procedures. Customer shall indemnify and hold Bank harmless from and against all liability, loss, and damage (including attorneys' fees and other costs incurred in connection therewith) arising out of the use of information provided by Customer.

3. Requests for Payment. Requests for payment to tax authorities must be made in accordance with instructions which Bank shall provide Customer, which may be amended by Bank from time to time at its discretion and will be considered complete only if actually received by Bank. All tax deposits must be initiated at least one Business Day in advance of the due date, otherwise deposits may be subject to federal or state penalties. Any request by Customer to make tax deposits hereunder shall be submitted to Bank prior to the daily cut-off time established by Bank from time to time. Any such request received by Bank after its daily cut-off time may be processed on the next Business Day. In the event that an ACH Entry is rejected or returned by an ACH processor for any reason whatsoever, Bank will give Customer notice of any rejected or returned ACH Entry in the usual manner agreed to by the parties. Bank shall have no liability for any delay caused by strikes, telephone failure, equipment or electrical failure, or any other condition beyond the reasonable control of Bank.

4. Receipt of Funds. Funds received by Bank from Customer shall be held as a deposit liability of Bank to Customer until such time as such funds are due and paid to the appropriate tax authorities. Customer is not entitled to interest on such funds and Bank may invest such funds solely for Bank's benefit.

5. Account. Customer shall maintain with Bank a commercial demand deposit account in which Customer shall maintain immediately available funds in an amount sufficient to cover all tax deposits and fees charged by Bank for the Service hereunder. Failure by Customer to maintain such funds shall relieve Bank from providing such Service, notwithstanding any request by Customer to provide the Service.

6. Liability. Bank shall not be liable for any penalties assessed by reason of failure of Customer to make any tax payments. Interruption of the Service or performance hereunder for any reason shall not relieve Customer of its obligation to make any required tax deposits, and Bank shall not incur any liability to Customer for Customer's failure to make any such deposit. If Customer elects to make a tax deposit by any means other

than through Bank, Bank shall not be liable for any penalties or interest arising from any error in due date or other calculations for deposits made within the period in which such other deposit was made. Bank may choose to provide its EasyTax Service through a third-party vendor. Bank and its third-party vendor's liability to Customer is limited to correcting any error made by the Bank or third-party vendor. The sole and exclusive remedy, at law or in equity, against Bank or third-party vendor is limited to money damages in an amount not to exceed the total amount paid to Bank for EasyTax fees during the twelve (12) months preceding the event giving rise to the liability. Neither Bank nor third-party vendor shall be liable for special, incidental, indirect, punitive, or consequential damages. Customer acknowledges that the EasyTax Service would not be available or would be available at substantially increased rates without the liability and remedy limitations set forth in this Agreement.

7. Codes. Customer shall keep confidential the access and PIN codes issued to Customer in connection with the Service, and only Customer shall use such codes. If Customer suspects that any such codes have become known or otherwise accessed by unauthorized persons, Customer shall notify Bank immediately and follow up such notice with written confirmation. The occurrence of unauthorized access will not affect any deposits made in good faith by Bank before Bank has received such notification and had a reasonable time to act to prevent any unauthorized deposits.

I. PAPER-BASED DISBURSEMENT SERVICES

1. Controlled Disbursement.

a. Disbursement Account. If requested by Customer and agreed to by Bank, Customer will open and maintain a demand deposit account ("Disbursement Account") and a primary funding account ("Funding Account") at Bank. The disbursing bank may be a financial institution that is a subsidiary or affiliate of Bank or Bank itself. Customer agrees to use Bank's Positive Pay Services in conjunction with the use of Disbursement Account(s). Should Customer decline to use Bank's Positive Pay Services in conjunction with the use of Disbursement Account(s), Customer agrees that, except with respect to liability, loss or damage caused by Bank's own lack of good faith or failure to exercise ordinary care, it will be precluded from asserting any claims against Bank for paying any unauthorized, altered, counterfeit or other fraudulent item that Bank's Positive Pay Service was designed to detect or deter. Bank also reserves the right to require Customer to execute a separate indemnity agreement related to its use of Disbursement Account(s). Customer hereby authorizes and directs Bank to act on its behalf and as its agent, as Bank in its sole discretion deems necessary or advisable, in performing any of the Controlled Disbursement Services and related Services.

b. Funding Procedures. On each Business Day, Bank shall electronically provide Customer with a report of the total aggregate amount of all presented disbursement checks and ACH transactions posted in the early morning ACH window, net of the prior day adjustment and other charges to the Disbursement Account (the "Total Clearings"). Customer agrees to maintain sufficient collected balances in the Funding Account by the established deadline to fund the Total Clearings. Bank is hereby authorized to debit the Funding Account in an amount equal to the actual or estimated Total Clearings and to transfer funds in said amount for credit to the Disbursement Account. Bank reserves the right to convert the Disbursement Account into a standard prepaid checking account at any time upon notice to Customer.

c. Adjustments. Bank will compare the report of electronic presentments to the checks presented against the Disbursement Account. If the total dollar amount of checks electronically reported is less than the total dollar amount of checks presented, Bank will credit the Disbursement Account for the difference. Bank will add this difference to Customer's Total Clearings the next Business Day.

d. Daily Dollar Limit. A daily dollar limit (the "Dollar Limit") may be established from time to time by Bank with respect to the Disbursement Account in Bank's sole discretion. Bank shall have no obligation to pay disbursement checks and ACH transactions (collectively, "Disbursement Items") in excess of the Dollar Limit. Bank may, at any time, either verbally or in writing (but shall not be deemed obligated to) notify Customer of any change made by Bank in the Dollar Limit. Establishment of the Dollar Limit should not be interpreted or construed by Customer as any commitment or agreement by Bank to provide any credit or loans to Customer, nor as an agreement or commitment to debit the Funding Account when doing so would create a negative balance therein.

e. Special Circumstances. Customer acknowledges that Bank, under some circumstances beyond its control, may at times be unable to provide a report of the total amount of its Total Clearings early enough for Customer to make a complete and acceptable funding of the accounts. Customer nevertheless agrees to fund the Funding Account completely by using an estimate of the Total Clearings.

f. Action Affecting Accounts. Should Bank receive any process, summons, order, injunction, execution, levy, lien, garnishment, or adverse claim notice (either by a governmental authority or third party) (hereinafter referred to as "Process"), which Bank reasonably believes will adversely affect the Funding Account or the Disbursement Account, Bank may, at its option and without liability, refuse to honor orders to pay or withdraw sums from any Disbursement Account and may either hold the Funding Account balance herein until such Process is disposed of to the satisfaction of Bank or pay the balance over to the source of the Process in accordance with applicable law.

g. Return of Disbursement Items Unpaid. Bank reserves the right, in Bank's sole discretion, to return unpaid any or all Disbursement Items presented for payment against the Disbursement Account in the event that:

(i) there are insufficient collected and available balances on deposit in the Funding Account by the established deadline to fund the Total Clearings;

(ii) debits cannot be posted because the Disbursement Account or Funding Account is frozen, blocked, closed or because of any other condition; or

(iii) any communications failure or other condition prevents Bank from monitoring Customer's Dollar Limit and/or the Disbursement Items presented for payment.

h. Stop Payment Orders. Customer may issue stop payment orders on Disbursement Items drawn on the Disbursement Account in accordance with Bank's procedures.

2. Warrant Services.

a. Warrant Account. If requested by Customer and agreed to by Bank, Customer shall open and maintain a demand deposit account upon which warrants shall be drawn and will be charged (the "Warrant Account"). Customer shall maintain on deposit sufficient collected and available balances to cover items drawn on the Warrant Account.

b. Warrant Format. All warrants shall contain on the face of the item the words "warrant" and "payable through U.S. Bank." Customer will also encode all warrants in accordance with Bank specifications. Customer agrees to immediately make any changes to the format of the warrants or encoding when requested to do so by Bank and will be solely responsible for its failure or refusal to comply with Bank's specifications. Any warrant drawn by Customer on the Warrant Account shall be treated by Bank as a warrant regardless of what appears on the face of the warrant and Customer shall hold Bank harmless as a result of so handling any such item.

c. Presentment and Return. Bank shall make warrants presented to Bank available to Customer via electronic presentment. Bank shall notify Customer by electronic means of the account number, warrant number and dollar amount of all presented warrants and provide Customer with a front and back image of each warrant received by Bank. Bank's delivery of the images shall constitute an electronic presentment under the Uniform Commercial Code, Federal Regulation CC, and other applicable laws. Warrant Services are additionally subject to the Reverse Positive Pay terms contained elsewhere in this Agreement. Customer shall notify Bank of each warrant that should be returned in the form agreed to by Bank and Customer. If Customer does not specifically decline payment of a warrant by the deadline established by Bank, such warrant will be finally paid by Bank. Customer acknowledges that warrants payable through Bank are considered to be drawn on Bank for purposes of the expeditious return and notice-of-nonpayment requirements of subpart C of Regulation CC of the Federal Reserve Board. If Bank agrees to return a warrant following Bank's deadline, Customer agrees to be responsible for Bank's failure to return the warrant in an expeditious manner as prescribed in Regulation CC. Bank shall be deemed to have made timely presentment to Customer with respect to any warrants that Bank receives at a time when it is prevented from making presentment to Customer as a result of any force majeure event illustrated in Section II.22.

d. Examination of Warrants. Bank shall have no responsibility to examine warrants prior to presentment to Customer for its payment decision. Bank will take ordinary care to see that the amount of each warrant as drawn is accurately posted to Customer's account. Bank will not make any attempt to verify signatures, endorsements, or restrictive clauses on warrants. Bank will not examine the dates on which warrants have been drawn for undated, stale, or post-dated items. Bank shall have no responsibility for any liability, loss or damage resulting from (i) a payment in accordance with this Section of any warrant that is altered or unsigned or that bears the forged or unauthorized signature of Customer or (ii) return of any warrant to the depository bank in accordance with this Section.

e. Encashment of Warrants. Unless otherwise instructed by Customer, Bank is authorized to pay warrants issued by Customer that are presented for encashment by payees. Bank will not be liable for the encashment of any warrant which contains, or is purported to contain, a forged signature of a maker or endorser, or any other unauthorized modification, as long as Bank exercises ordinary care in cashing the warrant.

J. POSITIVE PAY SERVICES

1. Introduction. Positive Pay Services are offered by Bank as the most effective way to minimize loss from fraudulent check issuance or payment. If Positive Pay Services are requested by Customer and agreed to by Bank, Customer and Bank agree that in the event of an inconsistency between this Agreement and applicable law, the provisions of this Agreement shall prevail to the extent permitted. Nothing in this Agreement is intended to limit Bank's right to return an item unpaid if there are insufficient available funds in the designated account.

2. Format Specifications. Customer shall comply at all times with Bank's format and data transmission standards for the Positive Pay Service. Customer agrees to issue checks, warrants, drafts, or other items (collectively, "Items") in accordance with Bank's specifications and will change the Item format when requested to do so by Bank. Bank shall not be responsible for correcting or resolving processing problems caused by substandard quality magnetic encoding.

3. Positive Pay.

a. Customer Responsibilities. Customer shall designate to Bank all account(s) that are to be used with the Positive Pay Service ("Positive Pay Account(s)"). Customer will provide Bank with a file of all outstanding Items prior to activation of this Service. On each day that an Item is written against the Positive Pay Account, Customer shall supply Bank with all required Item issue information prior to the deadline established by Bank. Such information shall include, without limitation, the account number, the issue date, the Item number, and the dollar amount. Customer shall be responsible for the accuracy and completeness of all information provided to Bank. Customer agrees to review all Positive Pay Exception Items (as defined below) each Business Day.

b. Bank's Responsibilities. In reliance on the information provided by Customer, Bank shall create a master issue file for each designated Positive Pay Account ("Issue File"). If ARP File Confirmation Service is selected by Customer, Bank shall process the Issue File and provide a confirmation to Customer that the Issue File was received and processed. Excluding valid stop payment orders and issue records voided by Customer request, all Items, including those that have been electronically converted, that match by Item number and dollar amount to Bank's Issue File will be deemed properly payable and Bank is authorized to pay all such Items.

c. Positive Pay Exceptions**.** Each Business Day, Bank shall make reasonable efforts to report to Customer any Item that does not match the Issue File (each, a "Positive Pay Exception") and, if requested and available, provide the front and back images of those Items for that day's presentment; provided, however, no images shall be provided in the case of electronically converted Items. Customer agrees to review and make payment decisions on the Positive Pay Exception Items prior to Bank's established deadline each Business Day. If Customer selects the Positive Pay Same Day service for controlled disbursement accounts, Customer shall receive and may make payment decisions on Positive Pay Exception Items prior to the Items posting to the controlled disbursement accounts or defer payment decisions until the established deadline on the next Business Day. As the most effective fraud-protection setup, "return all" shall be the initial default setup for all Positive Pay Exception Items. Under the "return all" setup, Bank is authorized to return any Positive Pay Exception Item unless Customer instructs Bank to pay a Positive Pay Exception Item prior to the established deadline. As an alternative to the "return all" setup, Customer may select "pay all" as its default setup for Positive Pay Exception Items, in which case Bank is authorized to finally pay any Positive Pay Exception Item unless Customer has instructed Bank to return the Positive Pay Exception Item prior to the established deadline. If Customer selects "pay all" as its default setup, Customer agrees to execute any further documentation required by Bank. Customer shall indemnify and hold Bank harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorney fees and court costs at trial or on appeal) arising directly or indirectly from Customer's selection of "pay all" as its default setup. Bank may rely on any instructions received from Customer that Bank reasonably believes to be genuine. Except with respect to liability, loss or damage caused by Bank's own lack of good faith

or failure to exercise ordinary care, Bank shall have no responsibility for any liability, loss or damage resulting from:

(i) payment in accordance with this Section of any Positive Pay Exception Item that is altered or unsigned or which bears the forged or unauthorized signature of Customer;

(ii) the return of any Positive Pay Exception Item to the depository bank in accordance with this Section; or

(iii) Customer's failure to meet Bank's established deadlines. Customer may be required to place a stop payment order on any returned Positive Pay Exception Item, which shall be subject to Bank's customary stop payment fee. Bank's failure to report a discrepancy will not discharge Customer's obligation with regard to any Item and shall not obligate Bank to return any Item if it is otherwise properly payable.

d. Teller Positive Pay. All Positive Pay Accounts will interface with the Bank's teller system unless requested by Customer. Bank will compare Items presented for cash at a branch of the Bank with Customer's Issue File. Customer acknowledges that under some circumstances issuance information submitted by Customer may not be reflected in Customer's Issue File until the opening of the following Business Day. Customer agrees to follow Bank's established procedures should it need to manually add an Item to the Issue File. Bank will make reasonable efforts to assist Customer, but Customer acknowledges that Bank may be unable to process such requests on a same-day basis. If a special handling process for teller-cashed items is selected by Customer and agreed to by Bank, Bank shall attempt to contact Customer for approval prior to the encashment of any item that does not appear in the Issue File. Customer agrees that Bank, in its sole discretion, may refuse to cash any Positive Pay Exception Item and such refusal will not be deemed to be a wrongful dishonor. In the event of dishonor, Bank will refer the presenter to Customer. In the event that Customer requests Bank not activate or temporarily deactivate Teller Positive Pay, Customer agrees to assume all risk of loss for any Bank teller-cashed Item that would have been identified as a Positive Pay Exception Item prior to acceptance.

e. Teller Payee Positive Pay. If Customer selects the Teller Payee Positive Pay service, payee name(s), in addition to the Issue File information, will be verified at Bank's teller lines. Customer shall include in the Issue File the payee name(s) for each Item issued by Customer. Customer shall be responsible for the accuracy and completeness of the payee information provided to Bank. In reliance on the payee information provided by Customer, Bank will compare the payee information on the Item presented for encashment at a Bank teller line with Customer's Issue File. Customer acknowledges that Bank will not be able to validate payee information if payee information is not provided for a particular Item or for electronically converted Items presented to Bank for payment. Customer acknowledges that, under some circumstances, issuance information submitted by Customer may not be reflected in Customer's Issue File until the opening of the following Business Day. Customer agrees to follow Bank's established procedures should it need to manually add an Item to the Issue File. Bank will make reasonable efforts to assist Customer, but Customer acknowledges that Bank may be unable to process such requests on a same-day basis. If a special handling process for teller-cashed items is selected by Customer and agreed to by Bank, Bank shall attempt to contact Customer for approval prior to the encashment of any item that does not appear in the Issue File. Customer agrees that Bank, in its sole discretion, may refuse to cash any Positive Pay Exception Item, including where the payee name is not an exact match and such refusal will not be deemed to be a wrongful dishonor. In the event of dishonor, Bank will refer the presenter to Customer.

f. Payee Positive Pay. If Customer selects this option, which is available only through SinglePoint®, Customer's Item stock may first be tested to ensure it meets Bank's payee name readability rate. Customer shall designate to Bank all Positive Pay Accounts that shall use Payee Positive Pay. In addition to the Issue File information provided by Customer for the Positive Pay Service, Customer shall include in the Issue File the payee name(s) for each Item issued by Customer. Customer shall be responsible for the accuracy and completeness of the payee information provided to Bank. In reliance on the payee information provided by Customer, Bank will compare the payee information on the Item with Customer's Issue File for Items presented or deposited at Bank. Customer acknowledges that Bank will not be able to validate payee information for electronically converted Items presented to Bank for payment. Bank may, in its sole discretion, impose variable parameters for which the payee information will not be reviewed for certain Items processed through the back office. If such parameters are imposed, Bank agrees to assume the risk of loss for an Item that would have been identified as a Positive Pay Exception solely on the basis of the payee information.

4. Reverse Positive Pay.

a. The Paid File**.** Customer shall identify all accounts subject to Reverse Positive Pay ("Reverse Positive Pay Account"). When an Item is presented for payment against an identified Reverse Positive Pay Account, Bank shall notify Customer prior to the designated time, and in no case later than the Business Day following the day of presentment, of the Reverse Positive Pay Account number, Item number and amount of the presented Item (the "Paid File") and, if requested and available, shall provide Customer with the front and back images of the Items. By electing Reverse Positive Pay, Customer assumes all fraudulent and other risks associated with teller-cashed Items, except as may be caused by Bank's own lack of good faith or failure to exercise ordinary care, unless Customer provides standing instructions to Bank to disallow encashment at the teller line.

b. Payment Instructions. Customer shall compare the information provided by Bank with Customer's Item issuance records. Customer shall notify Bank prior to the deadline established by Bank of Customer's decision on any reported Items that should be dishonored. Bank may rely on any instructions received from Customer that it reasonably believes to be genuine. Bank is authorized to finally pay any Item listed on the Paid File unless the Customer instructs Bank to return the Item prior to the established deadline. Except with respect to liability, loss or damage caused by Bank's own lack of good faith or failure to exercise ordinary care, Bank shall have no responsibility for any liability, loss or damage resulting from (i) a payment in accordance with this Section of any Item that is altered or unsigned or which bears the forged or unauthorized signature of Customer or (ii) return of any Item to the depository bank in accordance with this Section. Bank reserves the right to require Customer to place a stop payment order on any Item to be returned. Any such orders will be subject to Bank's customary stop payment fee. Customer shall notify Bank by the designated deadline if the Paid File has not been received from Bank. Bank will make reasonable efforts to provide the Paid File to Customer and honor Customer's instructions. Bank's failure to provide a Paid File will not discharge Customer's obligation with regard to any Item that was otherwise properly payable at the time of presentment.

K. LOCKBOX SERVICES

1. Lockbox Service Requirements. Bank provides, either directly or via a third-party vendor, wholesale and wholetail Lockbox Services to assist customers in expediting receipt of their remittances. Customer will have its customers or a third party forward their payments to the location designated by Bank ("Lockbox"). Prior to initiation of any Lockbox Service, Customer must maintain a demand deposit account with Bank associated with the Lockbox Service ("Lockbox Account").

2. Testing; Remittances and Envelopes. Customer shall provide Bank samples of remittances and envelopes for testing and approval prior to using such remittances and envelopes in production. After implementation of Lockbox Services, if there are proposed changes to remittances and envelopes, Customer shall review the proposed changes with Bank and obtain Bank's approval prior to use. Bank may adjust the price for processing Customer's payments if changes are made to Customer's remittances and/or envelopes (including remittance scan line configuration) without such prior approval. Bank may request changes in Customer's remittances or envelopes due to changes in law or regulation, or as reasonably necessary due to equipment or processing improvements. If Customer fails to implement such changes, Bank may adjust the price for payment processing or cease processing Customer's payments as necessary to comply with law or regulation, as reasonably determined by Bank. Customer agrees not to provide any form of prepaid business reply mail envelopes for use with the Lockbox Services.

3. Access to Mail. Customer authorizes Bank or its agent to pick up mail at the appropriate postal facility, to have custody of the keys or combinations and unrestricted and exclusive access to such box, and to collect the mail therein to be processed by Bank as agreed by the parties. Bank shall process remittances in accordance with its standard procedures or in accordance with prior instructions received from Customer and agreed to by Bank. Upon termination of Customer's Lockbox Service, mail received shall be forwarded for ninety (90) days following termination.

4. Proprietary Rights. Bank possesses all proprietary rights to written material, including, without limitation, all computer programs written for Bank's Lockbox processing system, portable media, listings, and other documentation originated and prepared by Bank. Customer shall not duplicate, sell, or use in any manner such programs or documentation without the prior written consent of Bank.

5. Collections/Availability. Unless otherwise agreed, while Customer receives Lockbox Services, all collected funds held in the Lockbox Account shall be deemed to be Customer's funds for all purposes, including adjustment, attachment, execution, garnishment, and other forms of legal process. The crediting and collection of items will be handled under the same agreement as applied to other commercial deposits and shall be subject to Bank's then current funds availability schedule.

6. Transmission of Information. Bank may transmit remittance information or other information received at the lockbox ("Lockbox Information") to Customer or its Agent via secure electronic transmission. Customer further acknowledges that Bank has a duty to protect Lockbox Information and ensure that it is safely delivered to Customer or its Agent and that Bank has deemed secure electronic transmissions to be the safest mechanism for delivery. If Customer elects to receive, or have its Agent receive, the Lockbox Information using other delivery means including paper remittance forwarding or Internet delivery, Customer acknowledges that such delivery means are inherently more insecure and agrees to assume all risk, and hold Bank harmless from, any obligations, liability or losses that results from the nonreceipt, disclosure, dissemination, alteration or unauthorized access of the Lockbox Information. If Customer or its Agent is the recipient of misdirected Lockbox Information, Customer shall immediately notify Bank and return the information to Bank. Customer agrees not to retain, use, copy, distribute or otherwise disclose the information in any manner.

7. Image Delivery Services. Bank shall electronically store check images, check information, remittance information or other information received at the Lockbox in accordance with Bank's record retention schedule. Customer may obtain such images or information via Internet access, file transmission, CDs (physical or virtual), or DVDs (physical or virtual), if available, at the price outlined in the fee schedule. If the images or information are sent via CD or DVD, Customer agrees to verify the contents of the CD or DVD upon receipt and request a replacement, if necessary, within 10 days of receipt. Customer is solely responsible for safeguarding the security and confidentiality of all images and information that is stored on Customer's computer systems, or printed or downloaded from the Internet, CDs, DVDs, or file transmissions. Upon request of Customer and approval of Bank, for a fee Bank will retain items for a period of time beyond Bank's standard retention period. If Customer elects this Service, it agrees that if it closes its account(s) related to lockbox services, such image retention will revert to Bank's standard image retention schedule.

8. Credit/Debit Card Processing. If Customer desires to provide its customers with the option of making their payments via credit card or non-PIN based debit card, Customer shall first secure approval from a payment transaction processor that Bank is able to support. Credit/debit card processing shall be subject to applicable laws, rules and regulations, and the terms of any other agreement between Customer and the payment transaction processor. Customer acknowledges that Bank is acting on behalf of Customer to merely initiate the authorization of payments at the Lockbox site, and that Bank shall have no responsibility for chargebacks, processing fees, payment disputes or other matters related to the credit/debit card transaction. Bank shall enter the credit/debit card information using its best efforts and if adjustments are subsequently required, Customer shall be responsible for handling all adjustments. In accordance with the requirements of the Payment Card Industry (PCI) Data Security Standard, Customer shall not request CVV or Card Verification Code or Value information (for example: CID, CVC2, CVV2 or CAV2) on remittance documents. Storage of this information is prohibited by the PCI Data Security Standard.

9. Foreign currency-denominated items and items drawn on foreign banks. If Customer desires to have non-U.S. dollar items processed by Bank, or items denominated in U.S. dollars but drawn on a foreign bank, Bank shall handle the items within parameters established by Bank based on amount, the type of currency and other considerations outlined in the Implementation Documents. If the item does not fall within Bank's parameters for processing, Bank shall return the item unprocessed to Customer or forward the item for handling as a foreign cash letter collection. If Bank provides Customer with credit at the U.S. dollar conversion rate in effect, and if the item is subsequently returned by the drawee Bank, Bank shall charge Customer's account for the prevailing exchange rate in effect at the time of the chargeback.

10. Protected Health Information. If Customer utilizes the Services to process Protected Health Information, as defined in 45 CFR Part 160, *et seq.*, then Customer must ensure that any necessary agreements are in place.

11. Compliance with Applicable Law. If specific lockbox handling requirements are required in order for Customer to comply with law or regulations applicable to Customer (for example, Regulation Z), Customer agrees to immediately notify Bank of any such requirements. If Bank is unable to accommodate Customer's specific requirements, Bank or Customer may immediately terminate the Lockbox Services.

12. Customer Responsibility. With respect to each item received at the Lockbox, Customer shall indemnify and hold Bank harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorney fees and court costs at trial or on appeal) arising directly or indirectly: (i) from Customer's breach of a representation or warranty under applicable law, clearinghouse rule, Federal Reserve Operating Circular, or other similar rules or regulations; or (ii) from any other act or omission arising out of Bank's action or inaction taken pursuant to any request by Customer or pursuant to this Agreement. This Section III.K.11 shall survive termination of the Agreement.

13. Wholesale Lockbox Processing. Bank offers Wholesale Lockbox Processing services which allows for the processing and deposit of primarily business-to-business payments. Bank is authorized to remove and examine the contents of each envelope in accordance with Bank's wholesale lockbox servicing guidelines and shall, unless otherwise agreed

to by Bank, observe the guidelines provided in this Section. Bank will process, endorse, and deposit remittances in accordance with its standard procedures. Bank shall capture, format, and send remittance data to Customer via information reporting or data transmission in accordance with the Implementation Documents.

a. Check Date. Bank will not examine any checks or other items with respect to check dates.

b. Check Amount. If Bank is unable to determine the amount of a check, such check will be forwarded unprocessed to Customer as an exception.

c. Payee. Checks made payable to the Acceptable Payees listed in the Implementation Documents or any reasonable derivation thereof are acceptable for deposit. Checks made payable to others may be returned by Bank as exceptions. Customer warrants that each Acceptable Payee is either Customer, its affiliate, or an entity that has authorized Customer to act on its behalf for the Services provided herein. If the Acceptable Payee is an affiliate of Customer or an entity which authorized Customer to act on such entity's behalf, Customer represents and warrants that such affiliate or entity has authorized checks payable to it to be credited to the Lockbox Account. Bank may require written authorization from any Acceptable Payee or written evidence that an Acceptable Payee has authorized Customer to act on its behalf. If Customer designates 'Accept All Payees' in the Implementation Documents and Bank accepts such designation, Bank shall process all checks for credit to the Lockbox Account regardless of the payee name on the check. Such designation may be subject to additional Bank fees. Customer agrees to indemnify and hold Bank harmless for any claims, fines, expenses, and damages that arise out of Bank's processing of checks based on Customer's "Accept All Payees" designation.

d. Missing Signature. In the absence of a signature, Bank will process the check. Customer agrees to reimburse Bank if the check is subsequently returned.

e. Exceptions. If a check is treated as an exception, either the physical check or a legal substitute, will be forwarded by Bank to Customer with the remittance data, and not deposited or otherwise reflected in the account of Customer.

f. Correspondence. Any correspondence, invoices and miscellaneous enclosures which are included with a payment, as well as any envelope that does not contain a check, will be imaged and destroyed unless Customer specifies different instructions in the Implementation Documents.

g. Notation. Customer agrees that Bank shall disregard any notation on a check containing "paid in full", "lien waiver" or other restrictive notation, whether preprinted or handwritten, and treat any such check as though such notation did not appear thereon. If Customer instructs Bank not to process checks with restrictive notations and Bank agrees to do so, Bank will use its best efforts to detect checks bearing such notations, but Bank shall not be liable to Customer for failure to detect any such notation.

h. Document Order. Bank shall use its best efforts to process documents that are not in logical order, are difficult to identify, or which are received in unorganized large packages.

i. Remittance Document Forwarding. If remittance document or correspondence-only document forwarding is requested by the Customer and agreed to by Bank, Bank shall forward all remittance documents stacked in the order processed. If Customer requests forwarding of printed check copies, and Bank agrees to do so, the printed check copies will be stacked in the order processed on top of the remittance documents. Document forwarding has limited availability and is not available for all lockboxes.

14. Lockbox Remote Capture Services. Lockbox Remote Capture Services is an optional add-on service to the Wholesale Lockbox Processing service which provides eligible customers the ability to scan and transmit to Bank lockbox payments received at office locations. If Customer is approved for Lockbox Remote Capture Services, Customer agrees that Bank's Lockbox Remote Capture Services shall be governed by this Section III.K (Lockbox Services) and other relevant sections of this Agreement, including but not limited to, the Electronic Deposit Services section.

15. Wholetail Lockbox Processing. Bank offers Wholetail Lockbox Processing Services which allow for the automated processing of consumer-oriented payments. Bank is authorized to open each envelope and remove the contents, disregarding all notations and other marks on the envelopes. Bank does not, unless otherwise agreed to by Bank, examine checks or other items with respect to payee names, check dates and check signatures. Bank is not required to retain remittance envelopes or forward them to Customer. Unless otherwise agreed to by Bank, Bank will disregard any restrictive notation on any check, including but not limited to "paid in full," whether preprinted or handwritten, and shall treat any such check as though such language did not appear thereon. Bank will process, endorse, and deposit remittances in accordance with its standard procedures. If Bank is unable to determine the amount of a check, such check will be forwarded to Customer as unprocessable. Bank will deliver miscellaneous enclosures, unprocessable transactions and remittance data in accordance with the Implementation Documents.

16. Web Decisioning and Exception Review. Web Decisioning and Exception Review is an optional service which allows Customer to review and decision transactions which do not meet Customer's pre-defined criteria. If this service is selected by Customer and agreed to by Bank, Bank will notify Customer of items requiring decisioning. Customer agrees to review and correct the data or reject the transaction by the established deadline. Items which are not decisioned by the deadline will be accepted "as is" or rejected per the default setting established by Customer. Customer is responsible for processing decisions and any data it provides to Bank.

17. Positive and Negative File Processing. Positive and Negative File Processing are optional services in which the Customer provides a file used to identify transactions which should be accepted or rejected. Customer shall be responsible for the accuracy and completeness of all information provided to Bank. For Positive File Processing, transactions which match Customer's file shall be accepted and all other transactions shall be returned to the Customer unprocessed or directed to Web Decisioning or Exception Review, per the settings established by Customer. For Negative File Processing, transactions that do not match Customer's file shall be accepted and all other transactions shall be returned to the Customer unprocessed or directed to Web Decisioning or Exception Review, per the settings established by Customer. Bank shall have no responsibility for any liability, loss or damage resulting from settings selected or established by Customer.

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L. HEALTHCARE PAYMENT CONSOLIDATOR

1. Introduction. U.S. Bank Healthcare Payment Consolidator is a Service that enables Customers to electronically receive, post and reconcile healthcare payments and remittances received from health plans and/or other Agents. The Service accepts images of check payments, remittances and correspondence received by Bank or its vendors in paper form via lockbox, as well as electronically via Automated Clearinghouse (ACH). Electronic remittance files are delivered from the Service to Customer at an agreed upon schedule. Images are made available via website or file transmission. Customer agrees that the Service shall be governed by this Section and all other relevant sections of this Agreement. If Customer selects the Service, the Service may include, but is not limited to, lockbox, ACH, image viewing, data translation and file transmission services to assist Customer in expediting and automating receipt of their remittances. Prior to implementation of the Service, Customer must maintain a demand deposit account with Bank.

2. Processing, Collections and Availability. The Service is available where hardware and software have been configured by Bank to accommodate processing. Bank is authorized to examine the checks and remittances received at Customer's designated lockbox in accordance with Bank's lockbox servicing terms and guidelines. The crediting and collection of items will be handled in accordance with other commercial deposits processed by Bank and shall be subject to Bank's then-current funds availability schedule.

3. Image Viewing and Storage. The Service processes and stores images of paper checks, explanation of benefits statements, correspondence, or other enclosures, as well as images of electronic remittance advices and electronic funds transfers. Images are available to Customer for web viewing or via secure transmission as selected by Customer in the Implementation Documents. Original paper documents will be securely destroyed on a periodic basis.

4. File Transmission and Data Reporting. The Service will transmit to Customer remittance data according to the agreed-upon schedule. Customer may elect to receive data through one or more delivery mechanisms as specified in the Implementation Documents. If the Service is terminated, Customer may obtain an FTP transmission or other available format of image information processed at the price outlined in the fee schedule.

5. Accuracy and Timeliness of Information. Performance of the Service may be affected by external factors such as communication network latency, mail delays and other factors beyond Bank's control. Information with respect to all transactions is provided solely for Customer's convenience, and Customer shall have no recourse to Bank with respect to the use of such information.

6. Customer Authorizations, Notifications and Responsibility. Customer authorizes Bank to disclose Customer information to Bank's vendors to the extent required to deliver the Service, and to debit or credit Customer's accounts in performance of the Service hereunder. Customer shall provide Bank or its vendors with all data and specifications necessary for processing. Customer shall conduct tests that Bank or its vendors may deem necessary to ensure that files may be exchanged and the Service implemented. Customer shall adhere to any and all applicable clearinghouse, local, state, or federal laws, rules or regulations.

7. Protected Health Information. If Customer utilizes the Services to process Protected Health Information, as defined in 45 CFR Part 160, *et seq*., then Customer must ensure that any necessary agreements are in place.

M. COMMERCIAL SWEEP ACCOUNTS – LOAN OPTION

THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: IN THE UNLIKELY EVENT OF THE BANK FAILURE, THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") WILL ALLOW THE LOAN SWEEP TRANSFER OF EXCESS BALANCES IN CUSTOMER'S DEPOSIT ACCOUNT, ABOVE A PRE-ESTABLISHED THRESHOLD, OUT OF THE DEPOSIT ACCOUNT TO PAY DOWN THE LOAN AT BANK ON THE DAY OF FAILURE. THE REMAINING FUNDS IN THE DEPOSIT ACCOUNT WILL BE DEEMED DEPOSITS UNDER FDIC RULES AND WILL BE INSURED UP TO THE APPLICABLE FDIC LIMITS.

1. Definitions.

a. "Account" means Customer's deposit account at Bank which Customer has designated as being covered by the Services described herein.

b. "Available Funds" means the total of the collected funds in the Account as of the close of business on any Business Day, determined in accordance with the manner in which Bank generally provides credit for deposited checks.

c. "Business Day" means any day on which a majority of Bank's offices are open to the public for substantially all banking functions. Saturdays, Sundays, federal or state holidays or any day recognized by a Federal Reserve Bank as a holiday shall not be considered a Business Day, even if Bank's offices are open.

d. "Credit" means any loan arrangement which is designated as a line of credit where Bank has agreed will be subject to the Services described herein.

e. "Credit Agreement" means any loan agreement, promissory note, guaranty or other agreement, instrument, or document which evidences, secures or guarantees the Credit.

f. "Deficiency Amount" means the amount by which the Target Balance exceeds the amount of Available Funds as of the close of business on any Business Day.

g. "Event of Insolvency" means any of the following: (i) Customer or Guarantor shall die or cease to exist; (ii) any Guarantor shall attempt to revoke its guaranty or other obligation to Bank, or such guaranty or other obligation shall become unenforceable in whole or in part; (iii) any bankruptcy, insolvency or receivership proceeding, or any assignment for the benefit of creditors, shall be commenced under any Federal or state law by or against Customer or any Guarantor; (iv) Customer or any Guarantor shall become the subject of any out-of-court settlement with its creditors; or (v) Customer or any Guarantor is unable or admits in writing its inability to pay its debts as they mature.

h. "Excess Funds" means the amount of Available Funds as of the close of business on any Business Day which exceeds the Target Balance.

i. "Guarantor" means any guarantor, surety, accommodation party or joint obligor of the obligations of Customer under the Credit.

j. "Target Balance" means that amount of funds which Customer desires to maintain in the Account and which is mutually agreeable to Bank and Customer from time to time.

k. "Transaction" means either a Loan Transaction or a Repayment Transaction.

2. Initiation of Transactions.

a. As of the close of business on each Business Day, Bank will determine the amount of Excess Funds, if any. If Bank determines that there are Excess Funds, Bank will debit the Account and credit the Credit in an amount equal to the lesser of (i) the amount of Excess Funds or (ii) the outstanding principal balance of the Credit plus all interest, fees and charges then outstanding under the Credit (a "Repayment Transaction"); provided, however, that Bank will not be required to initiate any Repayment Transaction in an amount less than a minimum sum mutually agreeable to Bank and Customer. Customer grants Bank a security interest in, and right of set-off to, the Account for purposes of effecting Repayment Transactions.

b. As of the close of business on each Business Day, Bank will determine the Deficiency Amount, if any. If Bank determines that there is a Deficiency Amount, Bank will charge the Credit in an amount equal to the lesser of (i) the amount by which such available balance is less than the Target Balance or (ii) the amount which is available to be borrowed under the Credit (the lesser of such amounts being referred to as the "Loan Amount"), plus the amount of any fees and charges under the Credit, and credit the Account in an amount equal to the Loan Amount (a "Loan Transaction"); provided, however, that Bank will not be required to initiate any Loan Transaction in an amount less than a minimum sum established by Bank, and Bank will not be required to initiate any Loan Transaction if any default exists under any Credit Agreement or this Agreement or Bank is otherwise excused or prohibited under any Credit Agreement or applicable law from making an advance to Customer. In addition, Bank will not be required to initiate any Loan Transaction, and the Services hereunder shall immediately and automatically terminate without notice, if: (A) the Credit has matured or been terminated; (B) Customer has cancelled the Credit; (C) an Event of Insolvency has occurred; or (D) Bank has demanded payment under the Credit.

c. If Bank has agreed to provide any other service to Customer pursuant to which Bank is authorized to transfer Excess Funds from the Account, (i) this Agreement shall prevail over the terms and conditions of such other service, (ii) Bank may initiate a Repayment Transaction or Loan Transaction under this Agreement in lieu of or prior to initiating the transfer of Excess Funds under such other service, and (iii) Bank shall not be in default as to such other service solely by reason of not initiating the transfer of Excess Funds under such other service.

3. Overdrafts. Bank may debit the Account as set forth in Section III.M.1.a above, even though, subsequent to such debit, and as a result of additional transfers or withdrawals from the Account, the return of checks unpaid, or any other cause, the Account becomes overdrawn. In such event, Customer will be assessed Bank's then prevailing charges for overdrafts.

4. Ordinary Course. Customer and Bank intend that each Repayment Transaction hereunder be (a) in the ordinary course of business or financial affairs of Customer and Bank, and (b) made according to ordinary business terms.

5. Asset-Based Loan Sweep Advance. For each asset-based loan sweep transfer or loan sweep advance (each an "Asset Based Transfer"), Customer certifies to Bank that (i) the Asset Based Transfer is being made in accordance with the certain agreements between Bank and Customer (the "Asset Based Documents"); (ii) the Asset Based Transfer is not revocable by Customer; (iii) the representations and warranties set forth in the Asset Based Documents are true and correct as of the date of each Asset Based Transfer; and (iv) no default or event of default, however denominated, has occurred or is continuing under the Asset Based Documents or will result following the Asset Based Transfer.

6. Termination. In addition to the termination rights described elsewhere in the Agreement, Bank may terminate this Service immediately without notice to Customer if the index or other referenced rate upon which the interest rate for this Service is based is at any time less than zero percent.

N. COMMERCIAL SWEEP ACCOUNTS – INVESTMENT OPTION

NOTICE: INVESTMENT PRODUCTS, INCLUDING MONEY MARKET MUTUAL FUNDS, ARE NOT DEPOSITS OR OBLIGATIONS OF, OR GUARANTEED BY BANK OR ANY OF ITS AFFILIATES, NOR ARE THEY INSURED BY THE FDIC, OR ANY OTHER GOVERNMENT AGENCY. THE INVESTMENT OPTIONS OFFERED BY BANK UNDER THE COMMERCIAL SWEEP ACCOUNT ARE SUBJECT TO INVESTMENT RISKS, INCLUDING LOSS OF PRINCIPAL OF THE AMOUNT INVESTED.

1. General Terms Applicable to All Investment Options.

a. If a Commercial Sweep Account Investment Option has been requested and agreed to by Bank, Customer authorizes Bank to transfer funds on a manual or automated basis to and from the demand deposit account ("DDA") and Investment Option selected by Customer. Funds will be transferred between the accounts so that: (a) to the extent funds are available in either account, Customer's DDA maintains an average collected balance equal to a pre-established balance ("Peg Balance"); and (b) any collected funds in the DDA that exceed the Peg Balance ("Excess Funds") are invested by Bank as directed by Customer in accordance with this Agreement. Amounts invested in money market mutual funds, including investment income, will be redeemed and credited back to the DDA as needed so that the collected balance of Customer's DDA equals the Peg Balance. Amounts invested in other investment options, including interest or other investment income, will be credited back to the DDA each Business Day upon maturity. Bank may limit the amount of Excess Funds that it will invest on behalf of Customer on any particular Business Day. Bank may also impose a maximum redemption amount to bring the DDA to the Peg Balance on a particular Business Day. If Customer's Investment Option is not available on a given Business Day, then all Excess Funds will remain in the DDA until the next Business Day.

b. Bank is authorized to accept verbal instructions, including telephone instructions, from Customer representatives for the transfer of funds between Bank and Customer and between Customer's accounts. Bank may rely on any instructions received from Customer that it reasonably believes to be genuine.

c. Bank is authorized to execute as agent for Customer all certificates of ownership and other instruments required by law or by contract. Bank shall not be accountable for errors in judgment but only for gross negligence or willful misconduct. Bank shall not be required to comply with any direction of Customer which in Bank's judgment, may subject it to liability or to defend or prosecute any suit or action unless indemnified in a manner and amount satisfactory to it.

d. Customer may, by written instrument executed by Customer and delivered to Bank, terminate this Service and withdraw from the account the principal and accumulated income upon paying all sums due to Bank and indemnifying Bank to its satisfaction against liabilities incurred in the administration of the account.

e. Bank will act as agent to invest on the order and for the benefit of Customer. The Services described herein are provided by Bank to Customer solely as bona fide treasury management Services. Bank does not undertake any fiduciary obligation to Customer with respect to these Services. Bank's duties to act for Customer hereunder are solely mechanical and administrative in nature.

f. In addition to the termination rights described elsewhere in the Agreement, Bank may terminate this Service immediately without notice to Customer if the index or other referenced rate upon which the interest rate for this Service is based is at any time less than zero percent.

2. Investment Options.

a. Repurchase Agreements.

(i) Terms. If Customer chooses to invest Excess Funds in repurchase agreements, Customer and Bank agree to be bound by the Master Repurchase Agreement with Bank. If Customer's investments in repurchase agreements exceed its typical investment amount by $10 million or more on a given Business Day, Customer agrees to notify Bank by providing sufficient advance notice to allow Bank to adequately collateralize the investments. Bank will exercise reasonable efforts to invest the entire amount but cannot guarantee full investment under these circumstances. If Customer fails to notify

Bank in advance or if Bank is unable to invest any or all of the additional funds in repurchase agreements, Customer agrees that Bank may be required to withhold or withdraw any interest that may have been previously paid.

(ii) Confirmations. After each repurchase transaction, Bank will deliver to Customer via mail, fax, email, or other electronic means, including without limitation, posting to a password-protected website) a confirmation ("Confirmation") describing any information required by applicable law and any other terms and information which Bank may include at its discretion. The information contained in the Confirmation shall be considered true and correct and conclusively binding unless Customer notifies Bank of any error therein within three (3) Business Days after the date the Confirmation is mailed, faxed, emailed, personally delivered to Customer or sent via other electronic means, including without limitation, posting to a password-protected website. If Customer elects to receive Confirmations electronically, Customer acknowledges and agrees that Customer will no longer receive Confirmations by mail. If Customer desires to discontinue receiving Confirmations electronically, Customer shall provide written notice to Bank, whereupon Bank shall resume delivering mailed Confirmations.

b. Money Market Mutual Funds ("Money Fund").

(i) Terms. If Customer chooses the Money Fund sweep option, Excess Funds will be invested in the First American Money Market Fund offered for this Service. Excess Funds will be swept from the DDA to a pooled deposit account held in Bank's name. On the next Business Day, the Excess Funds from the pooled Deposit Account will be swept to the Money Fund to purchase shares. Customer's shares in the Money Fund will be held in Bank's name in an omnibus investment account, as agent on behalf of all Bank customers invested in the Money Fund. Customer grants to Bank a consensual possessory security interest in the omnibus investment account and all accounts maintained with Bank to secure payment of all of Customer's obligations under this Service. Customer will accrue dividends beginning on the Business Day the shares are purchased. Dividends accrue daily and are paid monthly on the last Business Day of the month. No dividends will accrue on the Business Day the shares are sold. If, for any reason, Money Fund shares are not available on any given Business Day, all Excess Funds will not be swept to the Money Fund and no dividends will accrue until shares become available for purchase. Funds in the DDA and in the pooled deposit account held at Bank will be treated as deposits and will be insured up to the applicable FDIC insurance limits. The Money Fund sweep option is only available to entities having a presence in the United States, which may be demonstrated by a U.S. mailing address and U.S. taxpayer identification number in Bank's records.

(ii) Customer Acknowledgments. BY ACCEPTING THIS SERVICE, CUSTOMER HEREBY ACKNOWLEDGES THAT IT HAS RECEIVED A COPY OF THE PROSPECTUS OF THE DESIGNATED FUND. THIS PROSPECTUS FORMS PART OF THE IMPLEMENTATION DOCUMENTS AND WILL CONTROL OVER THE IMPLEMENTATION DOCUMENTS WITH RESPECT TO MONEY FUND SHARES. CUSTOMER FURTHER ACKNOWLEDGES THAT BANK IS NOT PROVIDING ANY INVESTMENT ADVICE HEREIN TO CUSTOMER AND MAKES NO REPRESENTATION OR WARRANTY AS TO THE SUITABILITY OR SAFETY OF THE INVESTMENTS IN ANY FUND OFFERED UNDER THIS SERVICE.

(iii) Money Fund Disclosures. BANK AFFILIATES SERVE AS INVESTMENT ADVISOR, ADMINISTRATOR, CUSTODIAN, DISTRIBUTOR, TRANSFER AGENT, AND SECURITIES LENDING AGENT AND RECEIVE COMPENSATION FOR SUCH SERVICES AS DISCLOSED IN THE PROSPECTUS FOR THE DESIGNATED FUND. ALTHOUGH MONEY FUNDS SEEK TO PRESERVE THE VALUE OF CUSTOMER'S INVESTMENT AT $1.00 PER SHARE, IT IS POSSIBLE TO LOSE MONEY BY INVESTING IN A MONEY FUND.

(iv) THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: IN THE UNLIKELY EVENT OF BANK FAILURE, CUSTOMER WILL MAINTAIN ITS INTEREST IN THE MONEY FUND SHARES FOLLOWING A COMPLETED MONEY FUND SWEEP. THE VALUE OF THE SHARES IN THE MONEY FUND OMNIBUS INVESTMENT ACCOUNT WILL NOT BE DEEMED "DEPOSITS" UNDER RULES PROMULGATED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") AND WILL NOT BE INSURED BY THE FDIC. ON THE DAY OF FAILURE, HOWEVER, THE FDIC MAY DISALLOW THAT DAY'S SWEEP TO OCCUR. IF THE SWEEP IS DISALLOWED, ANY EXCESS FUNDS THAT WOULD HAVE NORMALLY SWEPT ON THAT BUSINESS DAY WILL REMAIN IN THE DDA AND WILL BE TREATED AS DEPOSITS. THOSE DEPOSITS WILL BE INSURED UP TO THE APPLICABLE FDIC INSURANCE LIMITS.

c. Commercial Paper.

(i) Terms. If Customer chooses the Commercial Paper sweep option, Excess Funds shall be invested in an unsecured short-term promissory note issued by U.S. Bank National Association and held in book entry. At the end of each Business Day, Excess Funds are automatically transferred from Customers' DDA into a sweep account that invests overnight in U.S. Bank National Association Commercial Paper. The minimum amount that may be swept pursuant to this option is $1,000. Excess Funds less than $1,000 on a given Business Day will not be invested. The minimum amount may be increased if requested by Customer and agreed to by Bank.

(ii) THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: IN THE UNLIKELY EVENT OF BANK FAILURE, THE BALANCES RESIDING IN CUSTOMER'S COMMERCIAL PAPER SWEEP ACCOUNT AT BANK WILL NOT BE DEEMED "DEPOSITS" UNDER RULES PROMULGATED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") AND WILL NOT BE INSURED BY THE FDIC. IN THE UNLIKELY EVENT OF BANK FAILURE, CUSTOMER'S CLAIM FOR FUNDS THAT WERE SWEPT INTO THE COMMERCIAL PAPER SWEEP ACCOUNT WILL BE TREATED AS UNSECURED GENERAL CREDITOR CLAIMS.

d. Business Savings Sweep. If Customer chooses the Business Savings Sweep option, collected funds with a minimum of $500 in excess of a Peg Balance shall be swept from Customer's DDA into a Business Savings Sweep Account (the "Savings Account"). The Peg Balance shall be set at a minimum of $10,000 unless otherwise agreed to by Bank. Funds remain in the Savings Account until Customer's DDA reaches a negative balance, whereupon available funds are swept back into Customer's DDA in an amount necessary to return the DDA balance to the Peg Balance.

O. MASTER REPURCHASE AGREEMENT (MRA)

THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: ALL FUNDS IN THE REPURCHASE AGREEMENT SWEEP WILL NOT BE DEEMED "DEPOSITS" AND WILL NOT BE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC"). IN THE UNLIKELY EVENT OF BANK FAILURE, CUSTOMER WILL MAINTAIN ITS OWNERSHIP OR SECURITY INTEREST IN THE SECURITIES THAT ARE SUBJECT TO THE REPURCHASE AGREEMENT AND, UPON LIQUIDATION, WILL RECEIVE THE VALUE OF THE SECURITIES UP TO THE AMOUNT OF FUNDS SWEPT FROM THE ACCOUNT.

1. Applicability. From time to time the parties hereto may enter into transactions in which one party ("Seller") agrees to transfer to the other ("Buyer") securities or other assets ("Securities") against the transfer of funds by Buyer, with a simultaneous agreement by Buyer to transfer to Seller such Securities at a date certain or on demand, against the transfer of funds by Seller. Each such transaction shall be referred to herein as a "Transaction" and, unless otherwise agreed in writing, shall be governed by this MRA and if applicable, Annex III and the Amendment to Annex III (International Transactions) of the SIFMA Master Repurchase Agreement (1996 version).

2. Definitions.

a. "Act of Insolvency" means, with respect to any party, (i) the commencement by such party as debtor of any case or proceeding under any bankruptcy, insolvency, reorganization, liquidation, moratorium, dissolution, delinquency or similar law, or such party seeking the appointment or election of a receiver, conservator, trustee, custodian or similar official for such party or any substantial part of its property, or the convening of any meeting of creditors for purposes of commencing any such case or proceeding or seeking such an appointment or election, (ii) the commencement of any such case or proceeding against such party, or another seeking such an appointment or election, or the filing against a party of an application for a protective decree under the provisions of the Securities Investor Protection Act of 1970, which (A) is consented to or not timely contested by such party, (B) results in the entry of an order for relief, such an appointment or election, the issuance of such a protective decree or the entry of an order having a similar effect, or (C) is not dismissed within 15 days, (iii) the making by such party of a general assignment for the benefit of creditors, or (iv) the admission in writing by such party of such party's inability to pay such party's debts as they become due;

b. "Additional Purchased Securities" means Securities provided by Seller to Buyer pursuant to Paragraph 4(a) hereof;

c. "Buyer's Margin Amount" means, with respect to any Transaction as of any date, the amount obtained by application of the Buyer's Margin Percentage to the Repurchase Price for such Transaction as of such date;

d. "Buyer's Margin Percentage" means, with respect to any Transaction as of any date, a percentage (which may be equal to the Seller's Margin Percentage) agreed to by Buyer and Seller or, in the absence of any such agreement, the percentage obtained by dividing the Market Value of the Purchased Securities on the Purchase Date by the Purchase Price on the Purchase Date for such Transaction;

e. "Confirmation" is given the meaning specified in Paragraph 3(b) hereof;

f. "Income" means, with respect to any Security at any time, any principal thereof and all interest, dividends or other distributions thereon;

g. "Margin Deficit" is given the meaning specified in Paragraph 4(a) hereof;

h. "Margin Excess" is given the meaning specified in Paragraph 4(b) hereof;

i. "Margin Notice Deadline" means the time agreed to by the parties in the relevant Confirmation, or otherwise as the deadline for giving notice requiring same day satisfaction of margin maintenance obligations as provided in Paragraph 4 hereof (or, in the absence of any such agreement, the deadline for such purposes established in accordance with market practice);

j. "Market Value" means, with respect to any Securities as of any date, the price for such Securities on such date obtained from a generally recognized source agreed to by the parties or the most recent closing bid quotation from such a source, plus accrued Income to the extent not included therein (other than any Income credited or transferred to, or applied to the obligations of, Seller pursuant to Paragraph 5 hereof) as of such date (unless contrary to market practice for such Securities);

k. "Price Differential" means, with respect to any Transaction as of any date, the aggregate amount obtained by daily application of the Pricing Rate for such Transaction to the Purchase Price for such Transaction on a 360-day-per-year basis for the actual number of days during the period commencing on (and including) the Purchase Date for such Transaction and ending on (but excluding) the date of determination (reduced by any amount of such Price Differential previously paid by Seller to Buyer with respect to such Transaction);

l. "Pricing Rate" means the per annum percentage rate for determination of the Price Differential;

m. "Prime Rate" means the prime rate of U.S. commercial banks as published in The Wall Street Journal (or, if more than one such rate is published, the average of such rates);

n. "Purchase Date" means the date on which Purchased Securities are to be transferred by Seller to Buyer;

o. "Purchase Price" means (i) on the Purchase Date, the price at which Purchased Securities are transferred by Seller to Buyer, and (ii) thereafter, except where Buyer and Seller agree otherwise, such price increased by the amount of any cash transferred by Buyer to Seller pursuant to Paragraph 4(b) hereof and decreased by the amount of any cash transferred by Seller to Buyer pursuant to Paragraph 4(a) hereof or applied to reduce Seller's obligations under clause (ii) of Paragraph 5 hereof;

p. "Purchased Securities" means the Securities transferred by Seller to Buyer in a Transaction hereunder. The term "Purchased Securities" with respect to any Transaction at any time also shall include Additional Purchased Securities delivered pursuant to Paragraph 4(a) hereof and shall exclude Securities returned pursuant to Paragraph 4(b) hereof;

q. "Repurchase Date" means the date on which Seller is to repurchase the Purchased Securities from Buyer, including any date determined by application of the provisions of Paragraph 3(c) or 11 hereof;

r. "Repurchase Price" means the price at which Purchased Securities are to be transferred from Buyer to Seller upon termination of a Transaction, which will be determined in each case (including Transactions terminable upon demand) as the sum of the Purchase Price and the Price Differential as of the date of such determination;

s. "Seller's Margin Amount" means, with respect to any Transaction as of any date, the amount obtained by application of the Seller's Margin Percentage to the Repurchase Price for such Transaction as of such date;

t. "Seller's Margin Percentage" means, with respect to any Transaction as of any date, a percentage (which may be equal to the Buyer's Margin Percentage) agreed to by Buyer and Seller or, in the absence of any such agreement, the percentage obtained by dividing the Market Value of the Purchased Securities on the Purchase Date by the Purchase Price on the Purchase Date for such Transaction.

3. Initiation; Confirmation; Termination.

a. An agreement to enter into a Transaction may be made orally or in writing at the initiation of either Buyer or Seller. On the Purchase Date for the Transaction, the Purchased Securities shall be transferred to Buyer or its agent against the transfer of the Purchase Price to an account of Seller.

b. Upon agreeing to enter into a Transaction hereunder, Buyer or Seller (or both), as shall be agreed, shall promptly deliver to the other party a written confirmation of each Transaction (a "Confirmation"). The Confirmation shall describe the Purchased Securities (including CUSIP number, if any), identify Buyer and Seller and set forth (i) the Purchase Date, (ii) the Purchase Price, (iii) the Repurchase Date, unless the Transaction is to be terminable on demand, (iv) the Pricing Rate or Repurchase Price applicable to the Transaction, and (v) any additional terms or conditions of the Transaction not inconsistent with this MRA. The

Confirmation, together with this MRA, shall constitute conclusive evidence of the terms agreed between Buyer and Seller with respect to the Transaction to which the Confirmation relates, unless with respect to the Confirmation specific objection is made promptly after receipt thereof. In the event of any conflict between the terms of such Confirmation and this MRA, this MRA shall prevail.

c. In the case of Transactions terminable upon demand, such demand shall be made by Buyer or Seller, no later than such time as is customary in accordance with market practice, by telephone or otherwise on or prior to the Business Day on which such termination will be effective. On the date specified in such demand, or on the date fixed for termination in the case of Transactions having a fixed term, termination of the Transaction will be effected by transfer to Seller or its agent of the Purchased Securities and any Income in respect thereof received by Buyer (and not previously credited or transferred to, or applied to the obligations of, Seller pursuant to Paragraph 5 hereof) against the transfer of the Repurchase Price to an account of Buyer.

4. Margin Maintenance.

a. If at any time the aggregate Market Value of all Purchased Securities subject to all Transactions in which a particular party hereto is acting as Buyer is less than the aggregate Buyer's Margin Amount for all such Transactions (a "Margin Deficit"), then Buyer may by notice to Seller require Seller in such Transactions, at Seller's option, to transfer to Buyer cash or additional Securities reasonably acceptable to Buyer ("Additional Purchased Securities"), so that the cash and aggregate Market Value of the Purchased Securities, including any such Additional Purchased Securities, will thereupon equal or exceed such aggregate Buyer's Margin Amount (decreased by the amount of any Margin Deficit as of such date arising from any Transactions in which such Buyer is acting as Seller).

b. If at any time the aggregate Market Value of all Purchased Securities subject to all Transactions in which a particular party hereto is acting as Seller exceeds the aggregate Seller's Margin Amount for all such Transactions at such time (a "Margin Excess"), then Seller may by notice to Buyer require Buyer in such Transactions, at Buyer's option, to transfer cash or Purchased Securities to Seller, so that the aggregate Market Value of the Purchased Securities, after deduction of any such cash or any Purchased Securities so transferred, will thereupon not exceed such aggregate Seller's Margin Amount (increased by the amount of any Margin Excess as of such date arising from any Transactions in which such Seller is acting as Buyer).

c. If any notice is given by Buyer or Seller under subparagraph (a) or (b) of this Paragraph at or before the Margin Notice Deadline on any Business Day, the party receiving such notice shall transfer cash or Additional Purchased Securities as provided in such subparagraph no later than the close of business in the relevant market on such day. If any such notice is given after the Margin Notice Deadline, the party receiving such notice shall transfer such cash or Securities no later than the close of business in the relevant market on the next Business Day following such notice.

d. Any cash transferred pursuant to this Paragraph shall be attributed to such Transactions as shall be agreed upon by Buyer and Seller.

e. Seller and Buyer may agree, with respect to any or all Transactions hereunder, that the respective rights of Buyer or Seller (or both) under subparagraphs (a) and (b) of this Paragraph may be exercised only where a Margin Deficit or Margin Excess, as the case may be, exceeds a specified dollar amount or a specified percentage of the Repurchase Prices for such Transactions (which amount or percentage shall be agreed to by Buyer and Seller prior to entering into any such Transactions).

f. Seller and Buyer may agree, with respect to any or all Transactions hereunder, that the respective rights of Buyer and Seller under subparagraphs (a) and (b) of this Paragraph to require the elimination of a Margin Deficit or a Margin Excess, as the case may be, may be exercised whenever such a Margin Deficit or Margin Excess exists with respect to any single Transaction hereunder (calculated without regard to any other Transaction outstanding under this MRA).

5. Income Payments. Seller shall be entitled to receive an amount equal to all Income paid or distributed on or in respect of the Securities that is not otherwise received by Seller, to the full extent it would be so entitled if the Securities had not been sold to Buyer. Buyer shall, as the parties may agree with respect to any Transaction (or, in the absence of any such agreement, as Buyer shall reasonably determine in its discretion), on the date such Income is paid or distributed either (i) transfer to or credit to the account of Seller such Income with respect to any Purchased Securities subject to such Transaction or (ii) with respect to Income paid in cash, apply the Income payment or payments to reduce the amount, if any, to be transferred to Buyer by Seller upon termination of such Transaction. Buyer shall not be obligated to take any action pursuant to the preceding sentence (A) to the extent that such action would result in the creation of a Margin Deficit, unless prior thereto or simultaneously therewith Seller transfers to Buyer cash or Additional Purchased Securities sufficient to eliminate such Margin Deficit, or (B) if an Event of Default with respect to Seller has occurred and is then continuing at the time such Income is paid or distributed.

6. Security Interest. Although the parties intend that all Transactions hereunder be sales and purchases and not loans, in the event any such Transactions are deemed to be loans, Seller shall be deemed to have pledged to Buyer as security for the performance by Seller of its obligations under each such Transaction, and shall be deemed to have granted to Buyer a security interest in, all of the Purchased Securities with respect to all Transactions hereunder and all Income thereon and other proceeds thereof. In all Transactions, Seller is acting as agent for Buyer. In the event of Seller's default under the MRA, Buyer has the right to either: (i) direct Seller to sell the Securities or (ii) sell the Securities, and, following any sale pursuant to this sentence, apply the proceeds in satisfaction of Seller's liability hereunder.

7. Payment and Transfer. Unless otherwise mutually agreed, all transfers of funds hereunder shall be in immediately available funds. All Securities transferred by one party hereto to the other party (i) shall be in suitable form for transfer or shall be accompanied by duly executed instruments of transfer or assignment in blank and such other documentation as the party receiving possession may reasonably request, (ii) shall be transferred on the book entry system of a Federal Reserve Bank, or (iii) shall be transferred by any other method mutually acceptable to Seller and Buyer.

8. Segregation of Purchased Securities. To the extent required by applicable law, all Purchased Securities in the possession of Seller shall be segregated from other securities in its possession and shall be identified as subject to this MRA. Segregation may be accomplished by appropriate identification on the books and records of the holder, including a financial or securities intermediary or a clearing corporation. All of Seller's interest in the Purchased Securities shall pass to Buyer on the Purchase Date and, unless otherwise agreed by Buyer and Seller, nothing in this MRA shall preclude Buyer from engaging in repurchase transactions with the Purchased Securities or otherwise selling, transferring, pledging or hypothecating the Purchased Securities, but no such transaction shall relieve Buyer of its obligations to transfer Purchased Securities to Seller pursuant to Paragraph 3, 4 or 11 hereof, or of Buyer's obligation to credit or pay Income to, or apply Income to the obligations of, Seller pursuant to Paragraph 5 hereof.

Required Disclosure for Transactions in Which the Seller Retains Custody of the Purchased Securities

Seller is not permitted to substitute other securities for those subject to this MRA and therefore must keep Buyer's securities segregated at all times, unless in this MRA Buyer grants Seller the right to substitute other securities. If Buyer grants the right to substitute, this means that Buyer's securities will likely be commingled with Seller's own securities during the trading day. Buyer is advised that, during any trading day that Buyer's securities are commingled with Seller's securities, they may be subject to liens granted by Seller to third parties and may be used by Seller for deliveries on other securities transactions. Whenever the securities are commingled, Seller's ability to re-segregate substitute securities for Buyer will be subject to Seller's ability to satisfy any lien or to obtain substitute securities.

9. Substitution. Seller may not substitute other Securities for any Purchased Securities.

10. Representations. Each of Buyer and Seller represents and warrants to the other that (i) it is duly authorized to execute and deliver this MRA,

to enter into Transactions contemplated hereunder and to perform its obligations hereunder and has taken all necessary action to authorize such execution, delivery and performance, (ii) it will engage in such Transactions as principal (or, if agreed in writing in advance of any Transaction by the other party hereto, as agent for a disclosed principal), (iii) the person signing this MRA on its behalf is duly authorized to do so on its behalf (or on behalf of any such disclosed principal), (iv) it has obtained all authorizations of any governmental body required in connection with this MRA and the Transactions hereunder and such authorizations are in full force and effect, and (v) the execution, delivery and performance of this MRA and the Transactions hereunder will not violate any law, ordinance, charter, bylaw or rule applicable to it or any agreement by which it is bound or by which any of its assets are affected. On the Purchase Date for any Transaction Buyer and Seller shall each be deemed to repeat all the foregoing representations made by it.

11. Events of Default. In the event that (i) Seller fails to transfer or Buyer fails to purchase Purchased Securities upon the applicable Purchase Date, (ii) Seller fails to repurchase or Buyer fails to transfer Purchased Securities upon the applicable Repurchase Date, (iii) Seller or Buyer fails to comply with Paragraph 4 hereof, (iv) Buyer fails, after one Business Days' notice, to comply with Paragraph 5 hereof, (v) an Act of Insolvency occurs with respect to Seller or Buyer, (vi) any representation made by Seller or Buyer shall have been incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated, or (vii) Seller or Buyer shall admit to the other its inability to, or its intention not to, perform any of its obligations hereunder (each an "Event of Default"):

a. The non-defaulting party may, at its option (which option shall be deemed to have been exercised immediately upon the occurrence of an Act of Insolvency), declare an Event of Default to have occurred hereunder and, upon the exercise or deemed exercise of such option, the Repurchase Date for each Transaction hereunder shall, if it has not already occurred, be deemed immediately to occur (except that, in the event that the Purchase Date for any Transaction has not yet occurred as of the date of such exercise or deemed exercise, such Transaction shall be deemed immediately canceled). The non-defaulting party shall (except upon the occurrence of an Act of Insolvency) give notice to the defaulting party of the exercise of such option as promptly as practicable.

b. In all Transactions in which the defaulting party is acting as Seller, if the non-defaulting party exercises or is deemed to have exercised the option referred to in subparagraph (a) of this Paragraph, (i) the defaulting party's obligations in such Transactions to repurchase all Purchased Securities, at the Repurchase Price therefore on the Repurchase Date determined in accordance with subparagraph (a) of this Paragraph, shall thereupon become immediately due and payable, (ii) all Income paid after such exercise or deemed exercise shall be retained by the non-defaulting party and applied to the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder, and (iii) the defaulting party shall immediately deliver to the non-defaulting party any Purchased Securities subject to such Transactions then in the defaulting party's possession or control.

c. In all Transactions in which the defaulting party is acting as Buyer, upon tender by the non-defaulting party of payment of the aggregate Repurchase Prices for all such Transactions, all right, title and interest in and entitlement to all Purchased Securities subject to such Transactions shall be deemed transferred to the non-defaulting party, and the defaulting party shall deliver all such Purchased Securities to the non-defaulting party.

d. If the non-defaulting party exercises or is deemed to have exercised the option referred to in subparagraph (a) of this Paragraph, the non-defaulting party, without prior notice to the defaulting party, may: (i) as to Transactions in which the defaulting party is acting as Seller, (A) immediately sell, in a recognized market (or otherwise in a commercially reasonable manner) at such price or prices as the non-defaulting party may reasonably deem satisfactory, any or all Purchased Securities subject to such Transactions and apply the proceeds thereof to the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder or (B) in its sole discretion elect, in lieu of selling all or a portion of such Purchased Securities, to give the defaulting party credit for such Purchased Securities in an amount equal to the price therefore on such date, obtained from a generally recognized source or the most recent closing bid quotation from such a source, against the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder; and (ii) as to Transactions in which the defaulting party is acting as Buyer, (A) immediately purchase, in a recognized market (or otherwise in a commercially reasonable manner) at such price or prices as the non-defaulting party may reasonably deem satisfactory, securities ("Replacement Securities") of the same class and amount as any Purchased Securities that are not delivered by the defaulting party to the non-defaulting party as required hereunder or (B) in its sole discretion elect, in lieu of purchasing Replacement Securities, to be deemed to have purchased Replacement Securities at the price therefore on such date, obtained from a generally recognized source or the most recent closing offer quotation from such a source. The parties acknowledge and agree that (1) the Securities subject to any Transaction hereunder are instruments traded in a recognized market, (2) in the absence of a generally recognized source for prices or bid or offer quotations for any Security, the non-defaulting party may establish the source therefore in its sole discretion, and (3) all prices, bids and offers shall be determined together with accrued Income (except to the extent contrary to market practice with respect to the relevant Securities).

e. As to Transactions in which the defaulting party is acting as Buyer, the defaulting party shall be liable to the non-defaulting party for any excess of the price paid (or deemed paid) by the non-defaulting party for Replacement Securities over the Repurchase Price for the Purchased Securities replaced thereby and for any amounts payable by the defaulting party under Paragraph 5 hereof or otherwise hereunder.

f. For purposes of this Paragraph 11, the Repurchase Price for each Transaction hereunder in respect of which the defaulting party is acting as Buyer shall not increase above the amount of such Repurchase Price for such Transaction determined as of the date of the exercise or deemed exercise by the non-defaulting party of the option referred to in subparagraph (a) of this Paragraph.

g. The defaulting party shall be liable to the non-defaulting party for (i) the amount of all reasonable legal or other expenses incurred by the non-defaulting party in connection with or as a result of an Event of Default, (ii) damages in an amount equal to the cost (including all fees, expenses and commissions) of entering into replacement transactions and entering into or terminating hedge transactions in connection with or as a result of an Event of Default, and (iii) any other loss, damage, cost or expense directly arising or resulting from the occurrence of an Event of Default in respect of a Transaction.

h. To the extent permitted by applicable law, the defaulting party shall be liable to the non-defaulting party for interest on any amounts owing by the defaulting party hereunder, from the date the defaulting party becomes liable for such amounts hereunder until such amounts are (i) paid in full by the defaulting party or (ii) satisfied in full by the exercise of the non-defaulting party's rights hereunder. Interest on any sum payable by the defaulting party to the non-defaulting party under this Paragraph 11(h) shall be at a rate equal to the greater of the Pricing Rate for the relevant Transaction or the Prime Rate.

i. The non-defaulting party shall have, in addition to its rights hereunder, any rights otherwise available to it under any other agreement or applicable law.

12. Single Agreement. Buyer and Seller acknowledge that, and have entered hereinto and will enter into each Transaction hereunder in consideration of and in reliance upon the fact that, all Transactions hereunder constitute a single business and contractual relationship and have been made in consideration of each other. Accordingly, each of Buyer and Seller agrees (i) to perform all of its obligations in respect of each Transaction hereunder, and that a default in the performance of any such obligations shall constitute a default by it in respect of all Transactions hereunder, (ii) that each of them shall be entitled to set off claims and apply property held by them in respect of any Transaction against obligations owing to them in respect of any other Transactions hereunder, and (iii) that payments, deliveries and other transfers made by either of them in respect of any Transaction shall be deemed to have been

made in consideration of payments, deliveries and other transfers in respect of any other Transactions hereunder, and the obligations to make any such payments, deliveries and other transfers may be applied against each other and netted.

13. Notices and Other Communications. Any and all notices, statements, demands or other communications hereunder may be given by a party to the other by mail, facsimile, telegraph, messenger or otherwise to the address specified by Bank, or so sent to such party at any other place specified in a notice of change of address hereafter received by the other. All notices, demands and requests hereunder may be made orally, to be confirmed promptly in writing, or by other communication as specified in the preceding sentence.

14. Entire Agreement; Severability. This MRA shall supersede any existing agreements between the parties containing general terms and conditions for repurchase transactions. Each provision and agreement herein shall be treated as separate and independent from any other provision or agreement herein and shall be enforceable notwithstanding the unenforceability of any such other provision or agreement.

15. Nonassignability; Termination.

a. The rights and obligations of the parties under this MRA and under any Transaction shall not be assigned by either party without the prior written consent of the other party, and any such assignment without the prior written consent of the other party shall be null and void. Subject to the foregoing, this MRA and any Transactions shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. This MRA may be terminated by either party upon giving written notice to the other, except that this MRA shall, notwithstanding such notice, remain applicable to any Transactions then outstanding.

b. Subparagraph (a) of this Paragraph 15 shall not preclude a party from assigning, charging or otherwise dealing with all or any part of its interest in any sum payable to it under Paragraph 11 hereof.

16. Governing Law. This MRA shall be governed by the laws of the State of New York without giving effect to the conflict of law principles thereof.

17. No Waivers, Etc. No express or implied waiver of any Event of Default by either party shall constitute a waiver of any other Event of Default and no exercise of any remedy hereunder by any party shall constitute a waiver of its right to exercise any other remedy hereunder. No modification or waiver of any provision of this MRA and no consent by any party to a departure herefrom shall be effective unless and until such shall be in writing and duly executed by both of the parties hereto. Without limitation on any of the foregoing, the failure to give a notice pursuant to Paragraph 4(a) or 4(b) hereof will not constitute a waiver of any right to do so at a later date.

18. Use of Employee Plan Assets.

a. If assets of an employee benefit plan subject to any provision of the Employee Retirement Income Security Act of 1974 ("ERISA") are intended to be used by either party hereto (the "Plan Party") in a Transaction, the Plan Party shall so notify the other party prior to the Transaction. The Plan Party shall represent in writing to the other party that the Transaction does not constitute a prohibited transaction under ERISA or is otherwise exempt therefrom, and the other party may proceed in reliance thereon but shall not be required so to proceed.

b. Subject to the last sentence of subparagraph (a) of this Paragraph, any such Transaction shall proceed only if Seller furnishes or has furnished to Buyer its most recent available audited statement of its financial condition and its most recent subsequent unaudited statement of its financial condition.

c. By entering into a Transaction pursuant to this Paragraph, Seller shall be deemed (i) to represent to Buyer that since the date of Seller's latest such financial statements, there has been no material adverse change in Seller's financial condition which Seller has not disclosed to Buyer, and (ii) to agree to provide Buyer with future audited and unaudited statements of its financial condition as they are issued, so long as it is a Seller in any outstanding Transaction involving a Plan Party.

19. Intent.

a. The parties recognize that each Transaction is a "repurchase agreement" as that term is defined in Section 101 of Title 11 of the United States Code, as amended (except insofar as the type of Securities subject to such Transaction or the term of such Transaction would render such definition inapplicable), and a "securities contract" as that term is defined in Section 741 of Title 11 of the United States Code, as amended (except insofar as the type of assets subject to such Transaction would render such definition inapplicable).

b. It is understood that either party's right to liquidate Securities delivered to it in connection with Transactions hereunder or to exercise any other remedies pursuant to Paragraph 11 hereof is a contractual right to liquidate such Transaction as described in Sections 555 and 559 of Title 11 of the United States Code, as amended.

c. The parties agree and acknowledge that if a party hereto is an "insured depository institution," as such term is defined in the Federal Deposit Insurance Act, as amended ("FDIA"), then each Transaction hereunder is a "qualified financial contract," as that term is defined in FDIA and any rules, orders or policy statements thereunder (except insofar as the type of assets subject to such Transaction would render such definition inapplicable).

d. It is understood that this MRA constitutes a "netting contract" as defined in and subject to Title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA") and each payment entitlement and payment obligation under any Transaction hereunder shall constitute a "covered contractual payment entitlement" or "covered contractual payment obligation", respectively, as defined in and subject to FDICIA (except insofar as one or both of the parties is not a "financial institution" as that term is defined in FDICIA).

20. Disclosure Relating to Certain Federal Protections. The parties acknowledge that they have been advised that:

a. In the case of Transactions in which one of the parties is a broker or dealer registered with the Securities and Exchange Commission ("SEC") under Section 15 of the Securities Exchange Act of 1934 ("1934 Act"), the Securities Investor Protection Corporation has taken the position that the provisions of the Securities Investor Protection Act of 1970 ("SIPA") do not protect the other party with respect to any Transaction hereunder;

b. In the case of Transactions in which one of the parties is a government securities broker or a government securities dealer registered with the SEC under Section 15C of the 1934 Act, SIPA will not provide protection to the other party with respect to any Transaction hereunder; and

c. In the case of Transactions in which one of the parties is a financial institution, funds held by the financial institution pursuant to a Transaction hereunder are not a deposit and therefore are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, as applicable.

P. ZERO BALANCE ACCOUNT (ZBA) SERVICES

1. General. ZBA Services allow Customer to concentrate balances across multiple checking accounts consisting of a lead ("Master Account") and one or more sub-accounts funded by the Master Account. At the close of each Business Day, at a time determined by Bank, Bank shall transfer available or collected balances between the Master Account and sub-account(s) via two-way automatic transfers to ensure that the sub-accounts maintain a zero balance or a balance otherwise designated by Customer (collectively, the "Established Balance"). In addition, one-way transfers can be made from: (i) the Master Account to the sub-account; (ii) the sub-account to the Master Account; or (iii) the Master Account to the sub-account with deposits remaining in the sub-account.

Customer agrees to maintain sufficient available funds in the Master Account to cover the aggregate debits made to the sub-accounts to enable the sub-accounts to be maintained at the Established Balance at the close of each Business Day. If the available balance in the Master Account is insufficient to restore the balance in a sub-account to the Established Balance, a lesser amount may be transferred to the sub-account in Bank's sole discretion. If there are multiple sub-accounts and insufficient funds in the Master Account to fund all sub-accounts, Bank may, in its sole discretion, determine which sub-accounts to fund and to what extent. In addition, Bank may, in its sole discretion, either (i) reject any checks or other debit items drawn on any sub-account or (ii) accept any checks or other debit items drawn on a sub-account, even if such acceptance would bring the sub-account below the Established Balance. If Bank must reverse a provisional credit and such reversal causes the Master Account to have a negative balance, Customer agrees that Bank may reverse the transfer of any funds, in whole or in part, between the sub-account and the Master Account, and Bank may additionally reject any items not finally paid on the sub-account. Bank reserves the right to suspend or terminate ZBA Services without prior notice to Customer.

2. Focal Point Plus. If selected by Customer, the Focal Point Plus Service allows Customer to: (i) concentrate balances across multiple checking accounts consisting of a Master Account with one or more subaccounts ("Shadow Accounts"), which are all funded by the Master Account; and (ii) track transactions with location reporting. Two-way automatic transfers ensure the Shadow Accounts maintain a zero balance. One-way transfers can also be made from the Shadow Accounts to the Master Account. Customer acknowledges and agrees the Shadow Accounts are deemed to be part of the Master Account for purposes of this Agreement and cannot be used to process transactions independent of the Master Account.

Q. SINGLEPOINT® INTERNATIONAL REQUEST FOR TRANSFER SERVICES

1. Introduction. The U.S. Bank SinglePoint® International Request for Transfer Services will enable domestic or foreign organizations doing cross-border business to initiate or execute payment or transfer instructions from, or between, Customer accounts held at Bank and foreign banks. Prior to implementation of this Service, the Forwarding Bank and the Executing Bank must enter into a Bilateral Agreement referencing their mutual accession to the SWIFT Request for Transfer (MT101) Service Level or other relevant Service Level. Bank acts in the capacity of the Forwarding Bank with respect to all Requests for Transfer. This Service or other similar remote initiation Services offered by Bank are governed by this Agreement, the Bilateral Agreement, the Interbank Agreement, and all other applicable federal, state, and local laws and regulations. Unless otherwise defined, all capitalized terms shall have the meanings set forth in the Interbank Agreement and Bilateral Agreement.

2. Definitions.

a. "Beneficiary" means the person or entity designated in the Originator's instruction to receive funds.

b. "Beneficiary Bank" means the financial institution crediting the funds to the Beneficiary's account.

c. "Execute" or "Execution" means the debiting of the Originator's account by the Executing Bank pursuant to a Request for Transfer from the Forwarding Bank and the forwarding of the credit transfer to the Beneficiary Bank.

d. "Executing Bank" means the financial institution that receives and Executes the Request for Transfer from the Forwarding Bank and then forwards the credit transfer to the Beneficiary Bank.

e. "Forwarding Bank" means a financial institution receiving a Request for Transfer from the Instructing Party and forwarding it to the Executing Bank.

f. "Instructing Party" means a customer of the Forwarding Bank, which could be an office, department or division of the Originator, or a separate legal entity, authorized by the Originator to initiate a Request for Transfer to the Forwarding Bank.

g. "Interbank Agreement" means the Service Level Master Agreement (SLMA) and Request for Transfer Service Level Rules and Regulations (MT 101) or other relevant Service Levels offered by Society for Worldwide Interbank Financial Telecommunication (SWIFT), to which the Forwarding Bank and the Executing Bank are a party.

h. "Originator" means the customer of the Executing Bank whose account is to be debited pursuant to a Request for Transfer.

i. "Request for Transfer" means a transfer instruction received by the Forwarding Bank from the Instructing Party for onward transmission as an MT101 to the Executing Bank, and which is capable of being processed under an Interbank Agreement.

3. Bank as the Forwarding Bank. If Customer selects Bank as the Forwarding Bank, Customer is deemed to be the Instructing Party for all Requests for Transfer. Customer will appoint those individuals authorized to instruct Bank regarding Request for Transfer Services ("Authorized Users") via the relevant Implementation Documents and System Administrator designations establishing the Authorized Users' access authority and transaction limits. Bank may rely on any such authorization until it has received Customer's written notice of revocation and has had a reasonable opportunity to act thereon. Customer and its Authorized Users and other Agents shall maintain the highest possible level of confidentiality with regard to PINs or other security devices and will take all steps necessary to prevent access to them by unauthorized persons. Customer shall be responsible for the accuracy, completeness and timeliness of all Requests for Transfer sent to Bank. Requests for Transfer received after Bank's established deadline or on any non-Business Day, including any Saturday, Sunday, holiday, or any day that Bank's wire department is not open, will be considered received on the next Business Day. Customer authorizes Bank to process and forward to the Executing Bank all Requests for Transfer received in accordance with any established security procedures. Notwithstanding the foregoing, Bank does not

assume any responsibility for the Execution of the Request for Transfer by the Executing Bank and completion of the credit transfer to the Beneficiary Bank. Customer understands and acknowledges that any applicable callback notifications on PIN limits established by Customer with Bank for wire transfer dollar thresholds do not apply to Requests for Transfer. Customer agrees not to initiate a Request for Transfer in violation of applicable federal, state, or local law or regulations.

4. Security Procedures. Customer and Bank shall comply with any established security procedures with respect to the initiation and forwarding of any Request for Transfer, including but not limited to, the SWIFT authentication procedures identified in the SWIFT User Handbook, as amended from time to time. Customer agrees that any such security procedures shall be deemed commercially reasonable. Customer understands that the security procedures are not intended for the purpose of detecting errors in the transmission or content of a Request for Transfer controlled by Customer. Customer agrees to be bound by any Request for Transfer sent in the name of Customer that is processed by Bank in compliance with the agreed security procedures whether or not authorized.

5. Amendment or Cancellation. Customer does not have the right to reverse, adjust or revoke any Request for Transfer after it has been received by Bank; provided, however, that Bank will make a reasonable effort to act on such a request by Customer. With respect to a Request for Transfer that has already been Executed, Bank may intervene at Customer's request, to request that the Beneficiary Bank return all or a portion of the funds. Customer understands that the Beneficiary Bank is under no legal obligation to comply with this request.

6. Rejection/Repair. Bank may reject a Request for Transfer if: (i) it is not initiated or transmitted in accordance with the applicable security procedures; (ii) there is any inconsistency between a Request for Transfer and information previously supplied to Bank; or (iii) Bank has other reasonable grounds not to honor the Request for Transfer. Bank shall have no obligation to repair any Request for Transfer it receives but may, in its absolute discretion, endeavor to repair any Request for Transfer. Bank shall notify Customer of any rejections or suspensions.

7. Limits on Bank's Liability. Bank sends outgoing and receives incoming Requests for Transfer using SWIFT. Bank shall not be responsible for the acts or omissions of Customer, the SWIFT network, other financial institution, or any other person. Payment to a foreign country is subject to the laws of the foreign country involved. Bank assumes no liability for foreign exchange risk, delays, non-delivery, or other events resulting from causes beyond Bank's control.

R. SWIFT-RELATED SERVICES

1. Introduction. The SWIFT-Related Services (the "Service") will enable organizations with domestic or cross-border activity to initiate or execute payment or transfer instructions from Customer's Bank account to another account held at Bank or a third-party bank, and to receive account information and payment notifications from Bank via products and services offered by the Society for Worldwide Interbank Financial Telecommunication ("SWIFT"). This Service or other similar services offered by Bank are governed by this Agreement, applicable SWIFT agreements, rules, and terms and conditions (collectively, "SWIFT Terms"), and all other applicable federal, state, and local laws and regulations. Unless otherwise defined, all capitalized terms shall have the meanings set forth in the SWIFT Terms.

2. Definitions.

a. "Account Reporting" means cash management notifications, transaction and account information provided by Bank to Customer.

b. "Beneficiary" means the person or entity (including Customer) designated in Customer's Transfer Request to receive funds.

c. "Beneficiary Bank" means the financial institution (including Bank) that credits the funds to the Beneficiary's account.

d. "Execute" or "Execution" means the debiting of Customer's account by Bank and the forwarding of the credit transfer to the Beneficiary Bank pursuant to a Transfer Request from Customer.

e. "FileAct" means a file transfer service that utilizes the SWIFT infrastructure to enable the transfer of data in various file formats.

f. "Transfer Request" means a MT103 or other SWIFT transfer instruction sent by Customer to Bank for onward processing. If SWIFT-Related services are accessed using SCORE, "Transfer Request" means a MT101 Request for Transfer instruction.

g. "SCORE" means the Standardized Corporate Environment, a SWIFT direct access corporate service which offers Customer a secure connection and standardized environment to manage Customer's payments and payment information.

3. Security Procedures. Customer shall comply with all security procedures established by Bank for the SWIFT-Related Services, including but not limited to, the SWIFT authentication procedures identified in the SWIFT User Handbook, as amended from time to time. Customer agrees that any such security procedures shall be deemed commercially reasonable. Customer understands that the security procedures are not intended for the purpose of detecting errors in the transmission or content of any Account Reporting, or of a Transfer Request controlled by Customer. Customer is solely responsible for maintaining its own internal security procedures to prevent errors or unauthorized access to Customer's computer systems by unauthorized employees, vendors, or customers. Customer agrees to be bound by any Transfer Request that appears to have been sent by Customer that is processed by Bank in compliance with the agreed security procedures, whether or not authorized. Bank will use reasonable care in transmitting the Account Reporting but assumes no responsibility for the accuracy or timeliness of the information supplied by other financial institutions, the SWIFT network. Customer agrees to immediately notify and fully cooperate with Bank if it suspects or becomes aware of any breach or compromise of the security of the SWIFT-Related Services.

4. Transmission and Processing of Transfer Requests. Customer authorizes Bank to Execute all Transfer Requests delivered to Bank by Customer in compliance with the terms of this Agreement and any established security procedures. Customer shall adhere to formatting and processing requirements established by Bank. Customer authorizes Bank to use whatever means Bank, in good faith, deems reasonable under the circumstances to execute each Transfer Request, including selection of a funds transfer system, routing and means of transmission. Customer shall be responsible for the accuracy, completeness and timeliness of all Transfer Requests sent to Bank for Execution. Transfer Requests with settlement dates of more than thirty (30) calendar days from receipt may not be processed unless prior arrangements have been made. Customer is solely responsible for initiating Transfer Requests sufficiently in advance to meet Customer's contractual obligations to its vendors and/or customers. Bank shall not be responsible for any late payment or finance charges that may result from Customer's failure to allow sufficient lead-time to make a Transfer Request. Bank and any other financial institution

may rely on the account, routing, or BIC numbers in the Transfer Requests even if such numbers do not correspond to the name of Customer, the Beneficiary, or the Beneficiary Bank.

5. Amendment or Cancellation of Transfer Requests. Customer does not have the right to reverse, adjust or revoke any Transfer Request after it has been received by Bank; provided, however, that Bank will make a reasonable effort to act on such a request by Customer. With respect to a Transfer Request that has already been Executed, Bank shall, at Customer's request, request that the Beneficiary Bank return all or a portion of the funds. Customer understands that the Beneficiary Bank is under no legal obligation to comply with this request.

6. Rejection/Repair of Transfer Requests. Bank may reject a Transfer Request if: (i) it is not initiated or transmitted in accordance with the applicable security procedures; (ii) does not adhere to Bank's formatting or processing requirements; (iii) there is any inconsistency between a Transfer Request and information previously supplied to Bank; (iv) Customer's Transfer Requests exceed any applicable transaction limits established by Bank; (v) if there are insufficient collected funds in Customer's account to fund the Transfer Request; or (vi) Bank has other reasonable grounds not to honor the Transfer Request. Bank shall have no obligation to repair any Transfer Request it receives but may, in its absolute discretion, endeavor to do so.

7. Reporting.

a. Account Reporting. Bank may send notifications that allow Customer to receive advices relating to Customer's payments processed by Bank. Bank may also provide Customer with information on accounts maintained at Bank. If Customer elects to receive notifications and other account information via SWIFT, Customer shall exercise extreme care in maintaining its own security in the receipt of the notifications or information. Customer acknowledges that the data received via SWIFT may include confidential information, including, without limitation, names, amounts, phone numbers and account information. Customer further acknowledges that it alone assumes full responsibility for maintenance of its internal security procedures to keep such information confidential.

b. International Information Reporting. If requested by Customer and agreed to by Bank, Bank may provide incoming international information reporting through Providers or via SWIFT. Bank shall receive the international information reporting data through Providers or via SWIFT from Customer's account-servicing Bank ("Servicing Bank") and shall display such data to Customer using SinglePoint® or other similar System. If Customer makes a request to Bank for an off-schedule international information report from the Servicing Bank, Customer agrees that Bank shall have no liability if the Servicing Bank does not support the off-schedule request or does not respond to the request in a timely manner.

8. Limits on Bank's Liability. Bank will use reasonable efforts to provide notifications and information in a prompt fashion but shall not be liable for the temporary failure to provide timely data. Bank assumes no responsibility for any delays caused, or for inaccurate or incomplete information provided, by the SWIFT network or third-party banks with respect to payments and related information. Bank shall not be responsible for the acts or omission of Customer, the SWIFT network, any other financial institution, or any other person. Payment to a foreign country is subject to the laws of the foreign country involved. Bank assumes no liability for foreign exchange risk, delays, non-delivery, or other events resulting from causes beyond Bank's control.

9. SCORE. If Customer accesses the SWIFT-Related Services using SCORE, Customer shall additionally comply with applicable SWIFT agreements, documentation, user guides, security procedures and all other instructions and recommendations provided by SWIFT or by Bank in relation to the use of SCORE. Customer acknowledges that Bank does not regulate the setup and provision of SWIFT membership, joining the SWIFT network or SCORE, the SWIFT network security, or the facilities necessary to access and use them. Customer represents that it is, and will throughout the term of this Service remain, an authorized SWIFT participant. Customer authorizes Bank to act on any instruction contained in a SWIFT message received by Bank through SCORE which appears to have been sent by Customer. In the event that Customer requests Bank to provide SWIFT-Related Services through SCORE to a parent company, subsidiary, affiliate or other commonly owned company, Customer agrees that it shall be jointly and severally liable for such related entity's obligations under this Agreement. Customer represents and warrants that such related entity is a duly authorized agent of the Customer and that the related entity is acting on behalf of Customer in its authorized capacity.

10. FileAct. If the FileAct service is offered by Bank and selected by Customer, Customer may use this service which enables the secure and reliable transfer of files to exchange batches of financial messages, reports, bulk payment files, images and other data over the SWIFT network. FileAct supports both interactive (real-time) and store-and-forward modes. Prior to implementation, Customer shall verify that Bank is capable of supporting the file formats and transaction types that Customer wishes to transmit. If the file format and transaction type is supported by Bank, Customer agrees that the processing of each file shall be additionally subject to all applicable Sections of the Agreement.

IV. TERMS APPLICABLE TO SPECIFIC FOREIGN EXCHANGE SERVICES

The following are additional terms and conditions applicable to all Foreign Exchange ("FX") Services offered by Bank representing methods, channels and products that facilitate currency accounts and the execution of foreign exchange transactions, including, but not limited to, spot, forward, swap and option transactions, whether physically settled or non-deliverable (cash settled). Unless otherwise agreed in writing, Bank is under no obligation to quote or enter into any FX transaction. Bank may change the number or type of FX Services offered at any time.

1. Conflicting Provisions and Separate Disclosures. With respect to all foreign exchange transactions or other derivative products entered into by Customer, to the extent that any provision of this Agreement conflicts with a provision of any ISDA Master Agreement by and between Customer and Bank or any documents related thereto (the "ISDA"), the ISDA terms shall govern. Disclosures herein supplement other disclosures that Bank may provide Customer and any other agreements between Bank and Customer in connection with FX transactions, including, but not limited to, ISDA Master Agreement, the USBNA Assessment and Agreement for Swap Transactions, the ISDA August 2012 DF Protocol, the ISDA March 2013 DF Protocol, the ISDA General Disclosure Statement for Transactions, the ISDA Disclosure Annex for Foreign Exchange Transactions, and the U.S. Bank National Association Foreign Exchange Disclosures, transaction confirmations and supplemental documentation to any of the above ("FX Documentation").

2. Foreign Exchange Risk. Many banking and finance transactions carry risk. Foreign exchange transactions involve unique risks specific to the nature of these types of transactions and the currency markets. These types of transactions are not suitable for all Customers. Customer should fully understand the nature and extent of exposure to risk of loss, if any, which in some circumstances may significantly exceed the amount of any initial payment made by or to Customer. All decisions to enter into foreign exchange transactions should be made by Customer giving appropriate consideration to Customer's experience, objectives, financial resources and business environment. Any statements made by Bank regarding FX transactions or markets should not be construed as recommendations or advice.

3. Arm's Length Transactions. Bank is a dealer and market maker in the foreign exchange market. As such, Bank engages in price quoting, order taking, trade execution and other related activities with counterparties and other dealers and for Bank's own account. Unless otherwise agreed to by Bank in writing, Bank acts as a principal on an arm's length basis, does not act as Customer's agent, broker, fiduciary, financial advisor or in any similar capacity when engaging in FX transactions with Customer, nor will Bank perform the duties associated with these roles**.**

4. Pricing. Many factors affect foreign exchange pricing, including but not limited to, the size and nature of the transaction, credit, capital and funding costs, applicable trading venue or platform and the manner that such trading platform or venue is utilized, settlement risk, operational considerations, regulatory requirements, relationship factors such as the amount and nature of service provided and volumes traded by Customer, the type of trade request, and business costs such as fees related to exchanges, brokers or other intermediaries. Market conditions, such as demand, frequency, timing, and volatility, also affect foreign exchange pricing. These factors in pricing may result in Bank offering different prices to different customers for the same or similar FX transactions. Unless otherwise agreed, prices quoted by Bank on all FX transactions (actionable and indicative) are an "all in" price that typically includes Bank's bid or offer spread for the requested transaction and an amount to compensate Bank for its services. These components will not be separately disclosed unless required by law. Bank's pricing may not be reflective of prices being offered by other dealers, on interdealer platforms or as published by financial media. Foreign exchange markets can move quickly depending upon the delivery channel, currency pair, and market conditions. During extreme market conditions, such as disruption or liquidity events, the notional size and price levels Bank offers are unlikely to match levels provided in normal market conditions.

A. ELECTRONIC FOREIGN EXCHANGE SERVICES

1. Introduction. Bank may provide foreign exchange services to Customer in connection with one or more web-based services, via private Internet site or application programming interface (API) owned and operated by Bank ("EFX"). Bank provides such services in accordance with this Agreement, the FX Documentation and any additional terms of use and EFX procedures provided to the Customer ("EFX Documentation"). Customer's use of EFX and all transactions initiated thereby constitute its acknowledgment and agreement with the terms of the EFX documentation. EFX shall be available only during hours as established by Bank, which may vary by day or location. Notwithstanding anything to the contrary herein, Bank does not confirm that the person authorizing any EFX transaction on behalf of Customer is authorized to do so.

2. Access Devices. Once Bank has granted Customer access to any EFX system, System Administrator(s) designated by Customer will be provided one or more access devices, which may include cards, identification numbers and/or passwords. Customer shall use all EFX services in accordance with the security procedures set forth in this Agreement.

3. Transactions.

a. General Procedures. Within the applicable EFX platform, Customer may inform Bank that Customer wishes to purchase or sell a stated amount of currency against a second currency on a designated date ("Settlement Date") either unconditionally or at a displayed exchange rate ("Trade Request"). Any transaction ("Transaction") that results following the submission of a Trade Request shall be Customer's legally binding obligation. Trade Requests submitted to Bank via an EFX platform shall be effective only upon acceptance by Bank. Bank will establish from time-to-time specific times of day after which Trade Requests will not be processed on a "same-day" or "next-day" basis. Deadlines will differ depending on the Trade Requests currencies and other factors. Trade Requests submitted after Bank's cut-off will be considered received on the next business day. Market movements may occur while systems are processing Customer's transaction resulting in pricing that is less favorable to Customer (slippage).

b. Confirmations. Bank shall provide or make available details regarding terms of any Transaction executed on an EFX platform ("Confirmation"). EFX Confirmations created online may be formed electronically, by matching or click-acceptance or other agreed methods. Failure by Bank or Customer to confirm a Transaction for any reason, including without limitation computer malfunction, shall not excuse either party's obligations thereunder. Bank's internal records with respect to each EFX Transaction shall constitute conclusive evidence of the terms thereof.

c. Settlement Instructions and Payment. Once a Transaction exists, Customer agrees to make payment or delivery of currency to Bank on the Settlement Date in accordance with the settlement instructions provided to Customer, plus any applicable fees or charges. Bank expects that all Transactions will settle via standing settlement instructions. Customer is solely responsible for the accuracy and completeness of any settlement instructions delivered to Bank through EFX and such settlement instructions are subject to the concurrence of Bank. Any alternative instructions must be accurately completed on the platform prior to Settlement Date, and no less than two business days prior to settlement. Failure to do so may result in delays, use of the previously applicable settlement instructions and/or additional costs. Bank strongly discourages the use of third-party payments to settle foreign exchange transactions. Third-party payments will only be permitted in certain instances in the sole discretion of Bank. Requests for third-party payments will require all information requested by Bank in connection with anti-money laundering regulations and policies. Should Customer instruct Bank to settle a Transaction by debiting an account, Customer agrees to maintain sufficient available funds in the account to settle on the Settlement Date. Should funds be insufficient to settle the trade on the Settlement Date, Bank reserves the right in its sole discretion to debit any of Customer's account with the Bank in the amount due, subject to applicable account fees and charges, or to reject the Trade Request.

d. Cancellation or Change. Once a Trade Request is accepted, any request to cancel or amend is at the sole discretion of Bank. If such request is accommodated, Customer agrees to pay all costs and expenses of

executing an offsetting transaction on new terms at the updated exchange rate that is unlikely to match the original rate. Should a Transaction be successfully canceled or amended, Customer also agrees to reimburse Bank for any breakage costs and other expenses incurred by Bank to cancel or amend the Trade, including any fees imposed for this extraordinary service.

4. Funds Transfers. Customer authorizes Bank to execute and charge the designated Customer account(s) for wire transfer payment orders delivered to Bank via any EFX service. Customer agrees that all such wire transfer payment orders will be governed by the relevant Sections of this Agreement.

5. Representations and Warranties. Customer represents and warrants to Bank as of the date of this Agreement and as of the date of each Transaction that: (i) Customer is authorized to enter into this Agreement and any Transaction, (ii) the persons entering into the Agreement (and each Transaction) on Customer's behalf have been duly authorized to do so, (iii) the Agreement (and each Transaction) is binding and enforceable against Customer in accordance with its terms, and (iv) unless otherwise expressly agreed, Customer is acting as principal with respect to each Transaction.

B. FOREIGN CURRENCY ACCOUNTS

1. Introduction. If requested by Customer and agreed to by Bank, Customer may open a Foreign Currency Account ("FCA") at U.S. Bank National Association ("Standard FCA").

2. Permitted Deposits. Bank may accept the following for deposit into FCA:

a. Proceeds of matured foreign exchange purchase contracts;

b. Proceeds of foreign currency denominated letters of credit or documentary collection;

c. Incoming international funds transfers;

d. Proceeds of loan disbursements; or

e. Foreign checks and other items subject to collection, which may not be available until funds are received by Bank.

Bank will not accept currency or coin for deposit into FCA. Deposits not specifically enumerated above may be allowed if agreed to by Bank in writing. Only collected and verified funds can be deposited into FCA, whereupon funds will be immediately available for withdrawal or transfer by Customer.

3. Withdrawals. Customer can make withdrawals out of FCA in the following ways:

a. Settlement of a foreign exchange transaction;

b. Negotiation of foreign currency denominated letters of credit or documentary collection;

c. Outgoing international funds transfers by wires initiated in accordance with Bank procedures; or

d. Payment of a foreign currency loan.

Each of these methods of making a withdrawal will result in an immediate debit to the FCA for the entire amount Customer has elected to withdraw from such FCA.

4. Interest. Interest rates offered on FCAs are determined in Bank's discretion based on the applicable currency. Such interest rates may be set at zero or a negative interest rate. Interest is calculated based on the average daily balance method. The average daily balance method is an annualized rate that reflects the relationship between the amount of interest each fiscal month and the average daily balance in the account for such fiscal month. Negative interest may be assessed as a fee based on the interest rate set by the applicable monetary authority plus the incremental cost of funding to U.S. Bank. Interest rates and fees related to negative interest rates may be changed at Bank's discretion without notice to Customer.

5. Denomination. Customer will elect the denomination of each FCA on a separate account opening document. Transfers of funds into and out of FCA in the currency in which that particular FCA is denominated will be made without regard to the equivalent value of that sum of foreign currency in U.S. dollars or other foreign currencies. Transfers of funds into and out of FCA in a currency other than the currency in which that particular FCA is denominated may be accommodated by the Bank in its discretion. Such transfers will be made at an exchange rate determined by Bank.

6. Non-Business Days. In addition to non-Business Days specified in the Agreement, there will occasionally be other days on which Bank cannot process or complete a transaction due to holidays in foreign countries.

7. Other Terms. Bank may refuse a deposit, limit the amount which Customer may deposit, return all or any part of a deposit or require that Customer close FCA at any time. Bank may also close FCA without prior notice and remit to Customer any balance remaining after taking into account all pending debits and charges against such FCA.

8. Foreign Currency Account Risks. Investing in any currency other than the base currency of the Customer carries risk. The value of the balances in such accounts may be significantly affected by changes in currency exchange rates. Some other risks of maintaining foreign currency balances include but are not limited to: the effects of a different economic system in a foreign country, future political and economic developments,

possible imposition of exchange controls or other government restrictions, and with respect to certain countries, the possibility of expropriation or confiscatory taxation, political or social instability, or diplomatic developments which could adversely affect the value of the currency. Should Bank's balances in a foreign country become blocked or withdrawals by Bank become otherwise restricted, Customer's funds in the FCA will likewise be blocked or otherwise restricted.

WHILE DEPOSITS IN FCAS MAY BE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") UP TO A MAXIMUM AMOUNT ALLOWED BY LAW, CUSTOMER IS NOT PROTECTED BY BANK AGAINST FOREIGN CURRENCY EXCHANGE RATE FLUCTUATIONS OR FROM INABILITY TO ACCESS FUNDS FROM FOREIGN REGULATIONS BY THE FDIC INSURANCE, OR ANY OTHER INSURANCE OR GUARANTY PROGRAM.

9. Limitations on Liability. In addition to other limitations on liability set forth in this Agreement, Customer expressly releases and holds harmless Bank, and its affiliates, agents, and employees, from any liability, loss, damage or claim related to currency exchange rates or fluctuations in value of the currency in which the applicable FCA is denominated with respect to the U.S. dollar and other currencies. Customer hereby assumes all risks related to currency exchange rates and fluctuations in currency values, including that the foreign currency in FCA might be worth less, in U.S. dollars or other foreign currencies, than the U.S. dollar or other foreign currency equivalent of such funds at the time deposited into the FCA. Bank makes no warranty and no representation about the value of any FCA balance at any time.

V. TERMS APPLICABLE TO SPECIFIC MONEY CENTER AND SAFEKEEPING SERVICES

The following are additional terms and conditions applicable to specific Money Center and Safekeeping Services offered by Bank. In the event of a conflict between this Section V and any other provision of this Agreement, Section V shall govern. Bank may change the number or type of Services offered at any time. Customer shall not be bound by the terms and conditions for the specific Services described in this Section V to the extent Customer is not using such Service(s).

Municipal Advisor Rule Disclosure. This disclosure applies to Customer if Customer is classified as a municipality or an "obligated person" under the Municipal Advisor Rule. For purposes of Section 15B of the Securities Exchange Act of 1934 (the "Act") (SEC Rule 15Ba1-1 et seq.) (the "Rule"), Bank: (1) is not recommending and will not recommend an action to Customer; (2) is not providing and will not provide "advice" to Customer as defined in the Rule, and any information or communication from Bank in respect of Customer's accounts with the Money Center or the Safekeeping Departments of Bank or in respect of any securities transaction or potential securities transaction to be executed via such account(s) is not intended to be and should not be construed as "advice" as defined in the Rule; and (3) is not acting as an advisor to Customer and does not owe Customer any fiduciary duty pursuant to Section 15B of the Act or otherwise with respect to any such account(s), information, communication, transaction or potential transaction. Customer should discuss any information or material provided to Customer by Bank in connection with trading, investing or other activity in such account(s) with any and all of Customer's internal or external advisors and experts that Customer deems appropriate before acting on any such information or material.

A. INVESTMENT, DEPOSITORY AND SAFEKEEPING SERVICES

From time to time, Customer may effect securities transactions or establish deposits with Bank's Money Center Department and/or request safekeeping services from Bank's Safekeeping Department. All such transactions shall be subject to the terms and conditions of this Agreement.

1. Definitions.

a. "Confirmation" means the confirmation statement from Bank as described in this Agreement.

b. A "Money Center deposit" means an interest-bearing demand deposit account, a money market deposit account ("MMDA"), a time deposit, or other deposit liability of Bank to Customer established under this Agreement and maintained in Customer's Money Center investment account.

c. "Safekept Securities" means securities that Bank has agreed to accept and hold for the account of Customer under the terms of this Agreement.

d. The term "securities" means all securities (as Defined in the Securities Exchange Act of 1934) and all investment securities or products from time to time offered by Bank to Customer, other than certificates of deposit issued by Bank and deposits made with Bank.

e. "Settlement Account" means any settlement account(s) designated by Customer or any replacement account identified by Customer in a written notice delivered to Bank.

2. Securities Transactions: Compensation and Capacity of Bank.

a. In General. In any securities transaction governed by this Section V.A, Bank may be acting as principal, riskless principal, or agent. Bank's capacity in any securities transaction will be indicated on the Confirmation.

(i) As Principal. When acting as a principal in securities transactions, Bank will either buy securities for its own account or sell for its own account securities owned by Bank, whether such securities are bought before or after receiving Customer's order. Bank's compensation is reflected in the price at which Bank buys or sells the securities.

(ii) As Riskless Principal. When acting as a riskless principal in securities transactions, after receiving from Customer an order to buy or sell

securities, Bank will buy or sell securities for its own account to offset the sale to or purchase from Customer. Bank's compensation is reflected in the price at which Bank buys and sells the securities.

(iii) As Agent. When acting as Customer's agent in securities transactions, Bank will buy or sell securities solely for Customer's account. Bank's compensation due from Customer is the amount of any agency service charge indicated on the Confirmation.

b. Service Fees. In addition to compensation received as a principal, riskless principal or agent, Bank may charge Customer service fees in relation to securities transaction as specified in the current fee schedule as provided to Customer, which may be amended from time to time upon notice to Customer.

c. Other Compensation; Bank Securities**.** Bank may be paid a fee or other compensation by any other party in connection with any securities transaction, and any such fee or compensation will be in addition to fees payable by Customer to Bank under this Agreement. Such additional compensation may include, without limitation, advisory, custodial, distribution and/or shareholder service fees (which may be paid as service fees pursuant to Rule 12b-1 under the Investment Company Act of 1940) that Bank or its affiliates may receive from various mutual funds and/or mutual fund service providers, based upon moneys invested in those mutual funds. Customer acknowledges that those fees or other compensation may be paid to Bank for such services, and that such payments will not reduce or offset any fee or compensation due from Customer to Bank under this Agreement. Further, Customer acknowledges that securities Customer acquires through Bank may directly or indirectly (including through mutual funds) represent an ownership interest in securities issued by Bank or its affiliates or by mutual funds sponsored by Bank or its affiliates.

3. Money Center Deposits.

a. In General. If Customer elects to deposit funds through the Bank's Money Center Department, that Money Center deposit shall be maintained within Customer's Money Center investment account. Bank will provide Customer with a Confirmation upon Customer's placement of funds, and the deposit transaction will be reflected on Customer's Money Center account statement. With the exception of Eurodollar deposits (which are not deemed deposits under rules promulgated by the FDIC and therefore are not insured by the FDIC), Money Center deposits are FDIC insured per depositor, up to applicable FDIC limits. By opening and maintaining a Money Center deposit, Customer agrees to be bound by this Agreement.

b. Access to Funds. In addition to any other restrictions specified elsewhere in this Agreement, Customer shall not be allowed to make withdrawals or transfers from a Money Center deposit at a U.S. Bank branch or ATM or via check. No debit or ATM cards will be issued on a Money Center deposit. Customer shall be permitted to make withdrawals or transfers from a Money Center deposit only by contacting the Money Center Department in the following manner: telephone, facsimile, email, or via an online system provided or approved by Bank.

c. Notice of Withdrawal. Bank reserves the right to require at least seven (7) days written notice prior to withdrawal or transfer of funds from an MMDA, unless otherwise specified on the Confirmation for the Customer's placement of funds. Customer must provide such notice to Bank's Money Center Department by 3:00 PM Central Time via telephone, email, or fax.

4. Pledges; Segregation.

a. Pledges. Upon request of Customer, Bank can provide a form of control agreement suitable for transactions where Customer wishes to grant to third parties a lien, pledge or other rights over its property held by or at the Money Center or Safekeeping Departments at Bank. Customer agrees that all costs of Bank, including reasonable fees and expenses of outside counsel if deemed necessary by Bank, will be at Customer's expense if such a control agreement is requested, whether or not a final agreement is entered into.

b. Segregated Assets. Where Customer wishes to effect transactions hereunder on behalf of its customers using the property of such customers, Customer will first notify Bank in writing of its intention to do so before effecting any such transactions. Customer acknowledges that Bank may require one or more additional agreements in order to accept such transactions. Once acceptance of such transactions has been approved by Bank, Customer agrees to include in its instructions to Bank an agreed identifier or designation as to the applicable securities, deposits, and transactions.

5. Securities Transaction Requests.

a. Effecting Transactions. Each securities transaction will be effected pursuant to Customer's instructions made verbally, by fax or sent electronically via email or a trading system provided or approved by Bank. Emailed instructions must be directed to Bank's email address as designated from time to time by Bank, and fax instructions must be directed to Bank's fax number as designated from time to time by Bank. Securities transaction requests may be acted upon by Bank without acknowledgment by Bank that it has received such request.

b. Cut-Off Times. Bank establishes cut-off times for receipt of securities transaction requests depending on the type of security and the market in which it is traded. In addition, market holidays, procedural or operational matters, and actions taken by market operators may affect Bank's ability to process securities transaction requests. Customer instructions for same day settlement received before the applicable cut-off time will be submitted for processing that Business Day. Customer instructions for same day settlement received after the applicable cut-off time may be processed by Bank on a 'best efforts' basis that Business Day and otherwise will be submitted for processing the next Business Day.

c. Bank's Rights. Bank may reject, refuse to honor, or reverse all or any portion of any transaction request, with or without prior notice to Customer. If Customer fails to pay in full for any security purchased or fails to deliver security sold, in each case on or before the related settlement date, Bank is authorized in its discretion and without notice or demand to take any one or more of the following actions: cancel the transaction; sell the securities covered thereby; buy-in cover securities or other property required to make delivery; charge the Settlement Account for amounts due; hold Customer liable for any loss, cost or expense including but not limited to, breakage or pair-off fees and the capital charge and interest cost to carry any securities purchased; and/or impose fees.

6. Safekept Securities. Bank, acting through its Safekeeping Department, agrees to hold and keep as custodian hereunder all Safekept Securities, and to deliver such Safekept Securities in accordance with the instructions of Customer, all subject to the terms and conditions of this Agreement.

a. Acceptance and Withdrawal. Securities eligible to be Safekept Securities may be delivered to Bank, and any Safekept Securities may be withdrawn from Bank, in each case upon an instruction of Customer delivered in accordance with this Agreement. Withdrawal or delivery of Safekept Securities is subject to availability (e.g., among other reasons, securities involved in a corporate action or in frozen status, restricted securities or pledged securities may not be available for withdrawal or delivery). Bank shall not be liable or responsible for or on account of any act or omission of any broker or other agent designated by Customer or, in the absence of such designation, selected by Bank to receive or deliver securities for the account of Customer.

b. Registration; Depositories. Bank shall register Safekept Securities in nominee name and may from time to time change the registration of Safekept Securities from nominee name to Customer's name, or vice versa. Customer agrees that it will timely complete any necessary documentation provided by Bank to change the registration of Safekept Securities. Safekept Securities held in nominee name may be deposited with The Depository Trust Company or other third-party depository acceptable to Bank. Securities that are depository eligible will be held at the depository in the depository's nominee name.

c. Securityholder Information. Unless otherwise required by law or pursuant to instructions from Customer, in no event shall Bank be responsible to take any action concerning any puts, calls, conversions, exchanges, reorganizations, offers, tenders or other corporate actions or similar matters relating to Safekept Securities, other than (i) to forward to Customer in accordance with this Agreement the written information received by Bank relating to any such transaction, and (ii) follow

Customer's lawful instructions with respect to such actions. Customer may directly vote any proxy or other corporate action, or if it instructs Bank to vote on its behalf, agrees that any instructions to Bank with respect to any such actions shall be delivered to Bank within sufficient time for Bank to act thereon if any action is required. Safekept Securities called for redemption prior to maturity will be presented by Bank for payment provided the trustee or other appropriate entity gives Bank adequate notice of redemption. Should any Safekept Security be called for partial redemption by the issuer of such security, Bank is authorized to accept the allocation applied by any central depository. In the event Bank has to allocate any redemption among its accounts, Bank shall allot the redemption proceeds in accordance with its standard procedures therefor, effected in such manner as it deems appropriate in its sole discretion.

d. Collection of Income and Principal. Bank shall collect and receive the interest, principal, and other income payable in connection with the Safekept Securities and shall pay to Customer or credit to the Settlement Account all such amounts. Bank shall not be obligated (i) to pay to Customer or credit to the Settlement Account any payment of interest, principal or other income until Bank receives such payment in immediately available funds or (ii) to institute or participate in any collection proceedings or other proceedings to enforce Customer's rights relative to any Safekept Securities or to pursue any remedies on behalf of Customer. Bank is hereby authorized to sign on behalf of Customer any declarations, affidavits, certificates of ownership or other documents relating to securities held by Bank in nominee name that may at any time be required with respect to all coupons, registered interest, dividends, or other income. If any of Customer's deposits or securities the subject of this Agreement, including Safekept Securities, are subject to a variable or fixed rate of interest and such deposits or securities bear an interest rate less than zero, Customer agrees to pay Bank all amounts of the negative interest or fees that Bank imposes as compensation for the less-than-zero interest rate (which may also be debited from the Settlement Account by Bank), and Customer agrees that the principal amount of such Safekept Securities may be reduced to the extent necessary to cover the amount of the negative interest or fees if available funds are not otherwise provided by Customer.

e. Return of Payments. Customer will repay Bank, or Bank may charge the Settlement Account, in the event that for any reason (i) Bank is required to return to the issuer or to a third party any payments in respect of Safekept Securities, (ii) Bank fails to receive from the issuer or appropriate other party a payment Bank paid to Customer in respect of Safekept Securities, or (iii) Bank must return to the issuer or appropriate other party a payment Bank paid to Customer in respect of Safekept Securities. Customer further agrees that the principal amount of any Safekept Securities may be reduced, and any remittances due from Bank to Customer (whether or not under this Agreement), and any other accounts of Customer with Bank, may be offset to the extent necessary to cover the amount of such returned payments to the extent that immediately available funds are not otherwise provided by Customer to Bank.

7. Confirmation Statements. Promptly after effecting any transaction pursuant to this Section V.A, Bank will deliver to Customer a Confirmation which shall identify at least (i) Bank and Customer, (ii) the trade and settlement dates of the transaction, (iii) the issuer and par amount of the related securities (for securities transactions) and the principal amount of any deposit (for deposit transactions), (iv) the interest rate if applicable and/or any discount rate applicable to any securities transactions or deposit transactions, (v) the maturity date of the transaction, if applicable, (vi) the capacity of Bank as principal, riskless principal or agent (if the transaction is a securities transaction) and, if applicable, whether the securities will be Safekept Securities, (vii) any terms and information required by applicable law, and (viii) any other terms and information which Bank may include at its discretion. The information contained on the Confirmation shall be considered true and correct and conclusively binding upon Customer unless Customer notifies Bank of any error therein within three (3) business days after the date the Confirmation is deemed delivered to Customer in accordance with this Agreement. Customer may, by notice from an Authorized User in accordance with this Agreement, elect to receive Confirmations by mail, fax, email, or other electronic means including posting to a password-protected website), subject to the terms of this Agreement.

8. Settlement Account. Unless Bank is otherwise instructed in writing, Customer unconditionally authorizes, empowers, and directs Bank (and authorizes and directs Bank to communicate with any financial institution maintaining the Settlement Account as necessary) to: (i) debit the Settlement Account on the settlement date indicated on the Confirmation for the full amount of each transaction effected under this Section V.A (including all fees and charges payable hereunder), notwithstanding that such debit may cause the Settlement Account to be overdrawn; and (ii) credit the Settlement Account with interest payments, principal payments, maturity payments or other payments received in respect of transactions effected under this Agreement. Customer hereby represents and warrants that instruction from any Authorized User is sufficient to authorize Bank to debit or credit the Settlement Account. If the Settlement Account is not held by Bank, Customer confirms to Bank that it has authorized the financial institution maintaining the Settlement Account to accept debit and credit entries to the Settlement Account and that no such authorization will be cancelled except with prior notice to Bank and in sufficient time and in such manner as to allow the financial institution maintaining the Settlement Account and Bank a reasonable opportunity to act on such termination without disruption of any transactions or services under this Agreement. Customer acknowledges that ACH payments to a Settlement Account not held by Bank are subject to ACH processing timelines, which may involve a delay in available funds.

9. Delivery. Through the instructions of an Authorized User, Customer shall specify the account to which any securities purchased hereunder are to be delivered. If such account is maintained by the Safekeeping Department of Bank, the securities will be held in accordance with this Agreement. If such account is maintained by an institution other than Bank, Bank's responsibility for ensuring delivery shall be limited to accurately conveying the instructions for the appropriate delivery account to the depository, agent, or issuer of the securities, as applicable for the particular type of securities. Bank will issue no certificate, passbook, or any other evidence of any deposit except for the Confirmation.

10. Interest. All securities, Money Center deposits, and certificates of deposit purchased by Customer or held by Customer under this Agreement shall earn interest on the principal balance from the date of deposit or settlement date, as applicable, computed at the rate and in the manner established by Bank from time to time for the given product. Any interest due will be credited monthly unless otherwise agreed to by Customer and Bank. No interest shall accrue on the date of withdrawal. Bank reserves the right to change the applicable interest rate on variable rate products (including those products whose underlying interest rate is not managed by Bank) at any time. Such interest rate may be set at zero or an interest rate less than zero. If the interest rate, or the index or other referenced rate upon which the interest rate is based, is at any time less than zero percent, Customer agrees to pay Bank all amounts of the negative interest or fees that Bank imposes as compensation for the less-than-zero interest rate. Bank will not provide notice of rate changes, but Customer may call the Money Center Department to obtain current rate information. Bank shall notify Customer of the applicable interest rate and maturity term for the product opened under this Agreement at the time that the request for such product is made.

11. Fixed Investment Periods. Customer acknowledges that certain products held by Bank under this Agreement have fixed investment periods and agrees that such products will be held by Customer until their maturity dates or through their commitment dates. Customer agrees that if it withdraws part or all of such product before such date, Bank shall be entitled to impose a penalty (including by debiting the Settlement Account for such amounts) in accordance with the terms of such product or the fee schedule provided to Customer, as applicable, and that the principal amount of such product may be reduced to the extent necessary to cover such penalty if available funds are not otherwise provided by Customer.

12. Repurchase Transactions. Customer shall not effect any securities transactions under this Agreement in the expectation of entering into a repurchase transaction with Bank as counterparty unless Customer shall first have executed and delivered to Bank a written master repurchase agreement, in form and substance satisfactory to Bank, governing such transactions. In any such transaction, where Bank is to hold securities as collateral or as the subject of a transaction, such securities will be held by the Safekeeping Department of Bank subject to the terms of this

Agreement, unless Customer is otherwise notified. To the extent of any inconsistency between the terms of any such agreement and the terms of this Agreement, the terms of such other agreement shall control.

13. Fees and Expenses. Customer shall pay to Bank such fees in respect of the services provided under this Agreement, as disclosed to Customer on the current fee schedule (which fee schedule may be amended from time to time by Bank). If the fee schedule is amended, the amended fees will apply to any Safekept Securities being held at that time, and to any securities transactions effected on the day such amendment becomes effective. Customer agrees and acknowledges that Bank may debit the Settlement Account for any fees and other amounts owing by Customer to Bank under this Agreement, or exercise an offset for such amounts against any funds of Customer on deposit with Bank, or against any interest, principal or other income received or to be received by Bank on behalf of Customer, whether or not in respect of Safekept Securities. In addition, Customer agrees to reimburse Bank for its commercially reasonable out-of-pocket expenses for providing the services hereunder, including, but not limited to the reasonable fees and expenses of outside counsel if retained by Bank in its discretion in connection with this Section V. If Customer fails to pay Bank any sums due under this Section V within thirty (30) days after the same are due (whether or not a late notice is sent to Customer by Bank), Bank may terminate this Agreement and return any Safekept Securities to Customer at Customer's expense, and to avail itself of any other remedy it may have in law or in equity.

14. Service Termination; Account Closure. Subject to Section V.A.11 ("Fixed Investment Periods"), Customer may terminate the Service(s) described in this Section V or close its Money Center investment account at any time upon prior notice to Bank. Bank may terminate the Service(s) described in this Section V or close Customer's Money Center investment account at any time without prior notice to Customer. If any Service described in this Section V is terminated or Customer's Money Center investment account is closed for any reason, Customer will continue to be responsible for any obligation incurred by Customer prior to termination or closure and for the fees and costs, if any, payable under this Agreement with respect to delivery of Customer's securities (including Safekept Securities) or funds held by Bank to Customer or to another financial institution.

15. Notices. Except for oral instructions to Bank from Authorized Users or from Bank to Authorized Users, all notices, disclosures, and communications (including Confirmations) under this Section V shall be in writing and delivered by mail, fax, email, or other electronic means as provided for in this Agreement. Notices, disclosures and communications (including Confirmations) shall be deemed delivered upon transmission of the same by mail, fax, email or other electronic means as provided for in this Agreement, or on the third (3rd) Business Day after deposit of the same in the United States mail, postage prepaid, and addressed to the mailing address provided by Customer. All written confirmations, notices, instructions, or other communications from Customer to Bank shall be sent to following address (which may be amended from time to time by Bank upon notice to Customer):

For securities transactions:
U.S. Bank National Association
Money Center Department
800 Nicollet Mall, BC-MN-H18T
Minneapolis, MN 55402
Fax: (866) 904-7067
Email: Money.Center.Sales@usbank.com

For safekeeping services:
U.S. Bank National Association
Safekeeping Department
800 Nicollet Mall, BC-MN-H18R
Minneapolis, MN 55402
Fax: (612) 303-0202
Email: Safekeeping@usbank.com

16. Terms and Conditions of Electronic Delivery. All notices, disclosures and communications (including Confirmations and other account information) from Bank may be delivered to Customer by electronic means (including, without limitation posting to a password-protected website) to the extent Customer elects to receive such information through electronic means, subject to the Terms and Conditions of Electronic Delivery set forth in Section V.B below. Customer agrees that sending information in this manner will constitute good and effective delivery of the information to Customer, regardless of whether Customer actually accesses the website or other electronic medium containing the information.

17. No Investment or Tax Advice. Customer acknowledges that Bank's role is ministerial in nature and that Bank will not provide supervision, recommendations, or advice to Customer in connection with the investment, purchase, sale, retention, or other disposition of any securities or Money Center deposits, or the advisability or suitability of any product or transaction. Customer is responsible for evaluating the risks associated with such decisions. Customer acknowledges Bank is not an investment adviser, has no investment discretion, and will merely carry out instructions as directed by Customer. Bank's ability to determine interest rates on securities or Money Center deposits shall not be deemed to be discretion or advice. Customer further acknowledges that Bank will not provide advice to Customer regarding the tax implications associated with the investment, purchase, sale, retention, or other disposition of any securities or Money Center deposits.

18. ERISA. If assets of an employee benefit plan subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), are intended to be deposited, invested or used by Customer in a transaction under this Section V.A, Customer shall notify Bank prior to effecting such deposit, investment or transaction and will provide Bank with such additional information as Bank may reasonably request. Customer represents and warrants to Bank that any deposit, investment, or transaction pursuant to this Section V.A shall not result in a "prohibited transaction" under ERISA or shall otherwise be exempt under ERISA, and Customer further agrees to indemnify and hold Bank harmless from any loss or claim arising therefrom.

19. No Representation or Warranty. Customer acknowledges and agrees that Bank makes no representation or warranty, express or implied, with respect to the validity, enforceability, collectability, or investment quality of any securities bought or sold hereunder, or any deposits made or terminated hereunder.

20. Records; Account Statements; Taxes. Bank will maintain records of Customer's account and provide customer with a Confirmation for transactions in accordance with this Section V.A and periodic account statements. Bank will also send to Customer such notices and reports as are required by law. Customer acknowledges and agrees that it is Customer's obligation to prepare and file all required tax returns and to pay all taxes due on any income that Bank collects for Customer.

21. Set Off. Bank has the right to apply funds in Customer's Money Center investment account or Settlement Account to any debt Customer owes Bank. A debt includes any fees, overdrafts, debts that now exist and debts that Customer may incur in the future, or Customer's obligations under a guaranty. When Bank sets off a debt Customer owes Bank, Bank reduces the funds in the Money Center investment account or Settlement Account by the amount of the debt. If there are not sufficient funds in Customer's Money Center account or Settlement Account to satisfy any obligations of Customer to Bank, Bank has right to sell any or all securities in those accounts to satisfy such obligations. Bank is not required to give Customer any notice before selling Customer's securities or otherwise exercising its right of setoff. Customer agrees to hold Bank harmless from any claim arising as the result of Bank's enforcement of its right of setoff against Customer's Money Center investment account or Settlement Account. This right of setoff is in addition to any security interest that Bank might have in Customer's Money Center investment account or Settlement Account.

22. Legal Process. Legal process includes any levy, garnishment or attachment, tax levy or withholding order, injunction, restraining order, subpoena, search warrant, government agency request for information, forfeiture or seizure, or any other legal process relating to Customer's Money Center investment account or Settlement Account. Bank may accept and act on any legal process Bank believes to be valid, whether

the process is served in person, by mail, by electronic notification, or at a banking location. If Bank incurs any fees or expenses (including attorneys' fees and expenses) due to responding to legal process related to Customer's Money Center investment account or Settlement Account, Bank may, in its sole discretion, charge these costs to any other deposit account Customer maintains with Bank. All legal process is subject to Bank's rights of setoff and security interest in Customer's Money Center investment account and/or Settlement Account.

B. TERMS AND CONDITIONS OF ELECTRONIC DELIVERY

The following sets forth the terms and conditions of use of Bank's electronic delivery and notification service (the "Electronic Delivery Service") in connection with account(s) with Bank's Money Center Department or Safekeeping Department.

The Electronic Delivery Service described in this Section V.B shall constitute an Internet Service as defined in Section I of this Agreement and shall be subject to the terms set forth therein, as well as any other agreements between Customer and Bank and any applicable laws or regulations. If there is a conflict between the terms and conditions set forth in this Section V.B and the terms and conditions of any other section of this Agreement or any other agreement between Customer and Bank as they relate to the Electronic Delivery Service, the terms and conditions set forth herein will control.

1. Electronic Delivery of Account Communications. Customer may elect to receive Account Communications (defined below) related to Customer's account(s) electronically. All Account Communications will be delivered electronically by posting to Bank's password-protected website designated for Customer's account(s) or, at Bank's election, delivered via electronic mail to the email address provided by Customer to Bank. "Account Communications" include, without limitation, all current and future account statements, Confirmations, security notices, maturity notices, prospectuses, offering and disclosure documents, shareholder communications (such as quarterly, semi-annual, and annual reports, proxy statements, etc.), regulatory communications and other information, documents, data, notices and records regarding Customer's account(s) with Bank. Bank may, from time to time, designate additional Account Communications that are then eligible for electronic delivery through the Electronic Delivery Service, the delivery of which will then be subject to these terms and conditions. From time to time, Bank may add to, modify, or delete any feature of the Electronic Delivery Service or Account Communications eligible for delivery through the Electronic Delivery Service at its sole discretion. Customer acknowledges and agrees that by being enrolled in the Electronic Delivery Service, Customer will no longer receive Account Communications by mail that is otherwise available for delivery as part of the Electronic Delivery Service.

2. Accessing Account Communications. Bank will notify Customer via email when Account Communications are posted. Bank may also provide, in its sole and absolute discretion, Account Communications directly via email. Customer may access all Account Communications for at least thirty (30) days from the date of initial posting. Customer acknowledges and agrees that all Account Communications will be deemed to constitute good and effective delivery to Customer upon posting, regardless of whether Customer actually or timely receives or accesses the Account Information, or if Account Communications are delivered directly to Customer via email, when so delivered.

3. Changes in Delivery Method. Customer must notify Bank if it wishes to discontinue use of the Electronic Delivery Service. Following Bank's receipt of such notice and after Bank has a reasonable opportunity to act on such notice, Customer will thereafter begin to receive Account Communications via U.S. mail beginning with Customer's next statement cycle and/or mailed Confirmation.

4. Reporting Unauthorized Transactions or Erroneous Statements. Customer agrees to promptly and carefully review all Account Communications as and when delivered and notify Bank in accordance with this Agreement if Customer objects to any of the information provided.

5. Third-Party Services. Customer acknowledges and agrees that Customer's access to the Electronic Delivery Service and Customer's receipt of email notifications when Account Communications are posted may be delayed or prevented by factors affecting Customer's or Bank's Internet or telephone service provider(s) or other similar entities ("Third-Party Service Providers"). Bank makes no representations or warranties whatsoever with regard to the products and services offered by such Third-Party Service Providers and shall not be liable for any loss caused, in whole or in part, by a Third-Party Service Provider.

6. International Use. Bank makes no representations or warranties that any content or use of the Electronic Delivery Service is appropriate, legal, or available in locations outside the United States. Customer

acknowledges and agrees that accessing the Electronic Delivery Services from territories where its contents or use is illegal and is prohibited by Bank. If Customer accesses the Electronic Delivery Service from locations outside the United States, Customer does so at its own risk. Customer is responsible for compliance with local laws.

7. Proprietary Rights; Materials; Trademarks. All content included or available through the Electronic Delivery Service (other than Customer's account information), such as advertisements, tests, graphics, logos, button icons, images, audio clips and software, is the property of Bank and/or third parties and is protected by copyrights, trademarks, or other intellectual property rights. The compilation (meaning the collection, arrangement, and assembly) of all content on the Electronic Delivery Service is the exclusive property of Bank and/or its licensors and is protected by copyrights or other intellectual property rights. The trademarks, logos and service marks displayed on the Electronic Delivery Service (collectively, "Trademarks") are the registered and unregistered Trademarks of Bank or third parties. Under no circumstances may Customer use, copy, alter, modify, or change these Trademarks. Nothing contained on the Electronic Delivery Service should be construed as granting by implication or otherwise any license or right to use any Trademark without the express written permission of Bank or the third party that has rights to such Trademark, as the case may be.

Your Deposit Account Agreement Addendum

(Beginning July 8, 2024, this is a required accompaniment to the May 13, 2024 *Your Deposit Account Agreement* document)

Effective August 12, 2024, please review updates made to the *Your Deposit Account Agreement* document which may affect your rights.

Beginning July 8, 2024, you can review the full revised document at **usbank.com/YDAA-upcoming-version**, by calling 24-Hour Banking at 800-USBANKS (872-2657) or by visiting your local U.S. Bank branch. We accept relay calls.

Here's what you should know:

- Under the **Time Deposits** section, the early withdrawal fee will be removed.

If you have questions, please call us at 800-USBANKS (872-2657) – we're available to help! You can also schedule an appointment at **usbank.com/book** to speak with a banker in person, by phone or virtually.

Your Deposit Account Agreement

&

General Terms & Conditions

Electronic Transfers

Funds Availability

Effective May 13, 2024

Member FDIC

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TERMS APPLICABLE TO ALL ACCOUNTS

THIS IS AN AGREEMENT

Welcome to U.S. Bank and thank you for opening an account with us. This Agreement provides the general rules that apply to the account(s) you have with **U.S. Bank ("us")** described herein. Additional rules will be provided in:

1. disclosures we give you when you open your account for example our *Consumer Pricing Information, Business Pricing Information* and *U.S. Bank Business Essentials® Pricing Information* disclosure(s) and other fee disclosures (All disclosures can be obtained by stopping in a U.S. Bank branch or for the *Consumer Pricing Information* only, call 800-872-2657 to request a copy);
2. disclosures that are applicable to additional products and services (for example the *Digital Services Agreement);*
3. periodic statements;
4. user guides;
5. *Consumer Privacy Pledge* disclosure;
6. any appropriate means such as direct mail and notices on or with your statement, including any statements or notices delivered electronically; and
7. disclosures we give you about ATM and Debit Card Overdraft Coverage (applicable to certain consumer accounts, refer to the **Insufficient Funds and Overdrafts** section on page 7 for details).

These things, together, are an agreement between you and **U.S. Bank.**

Please read this carefully and retain it for future reference. This disclosure is revised periodically, so it may include changes from earlier versions.

By providing a written or electronic signature on a signature card or other agreement or contract, opening, or continuing to hold an account with us, you agree to the most recent version of this Agreement, which is available to you at your local U.S. Bank branch, at www.usbank.com, or by calling U.S. Bank 24-Hour Banking at a number listed on the last page of this disclosure.

This Agreement represents the sole and exclusive agreement between you and us regarding the subject matter described herein and supersedes all previous and contemporaneous oral agreements and understandings. If any terms of your signature card, resolution, or certificate of authority are inconsistent with the terms of this Agreement, the terms of this Agreement will control. Any other variations to this Agreement must be acknowledged by us in writing.

If you have any questions, please call us. Our most commonly used phone numbers are printed on the back of this disclosure.

DEFINITIONS

The following definitions apply in this Agreement except to the extent any term is separately defined for purposes of a specific section.

- The words **"we," "our,"** and **"us"** mean **U.S. Bank National Association ("U.S. Bank")**. We are a national bank. We are owned by **U.S. Bancorp**.
- **U.S. Bancorp and U.S. Bank** own or control other companies, directly and indirectly. The members of this family of companies are our **"affiliates."** The words **"you"** and **"your"** mean each account owner and anyone else with authority to deposit, withdraw, or exercise control over an account. If there is more than one owner, then these words mean each account owner separately, and all account owners jointly.
- The term **"account"** means any savings, transaction (for example, checking, NOW Account), and time deposit (for example, certificate of deposit or CD) account or other type of account you have with us, wherever held or maintained.
- An **"owner"** is one who has the power to deal with an account in his, her or its own name. An **"agent,"** in contrast, is one whose power to withdraw from an account comes from, or is on behalf of, the owners. Authorized signers, designated corporate officers, trustees, attorneys-in-fact, and convenience signers are examples of agents.
- Entities such as corporations, limited liability companies, partnerships, estates, conservatorships, and trusts are not natural persons, and can only act through agents. In such cases, it is the **"entity"** that is the owner.
- **"Personal accounts"** are consumer accounts in the names of natural persons (individuals). They are to be distinguished from **"non-personal accounts"** which are accounts in the name of businesses, partnerships, trusts and other entities.
- An **"account cycle"** or **"statement cycle"** represents the period of time when your statement starts and ends. It's approximately 30 days long but doesn't necessarily align with the beginning and end of the month and won't end on a weekend or holiday.

Except where it is clearly inappropriate, words and phrases used in this document should be interpreted so the singular includes the plural and the plural includes the singular.

PRIVACY

Protecting your privacy is important to us. All information gathered from you in connection with your account relationship will be governed by the provisions of our privacy policies which are available online, within our mobile app(s), or by calling us.

You authorize your wireless carrier to use or disclose information about your wireless account and your wireless device, if available, to us or our service provider for the duration of our relationship, solely to help us identify you or your wireless device and to prevent fraud. See our privacy policies to see how we treat your data.

CELLULAR PHONE CONTACT POLICY

By providing us with a telephone number for a cellular phone or other wireless device, including a number that you later convert to a cellular number, you are expressly consenting to receiving communications —including but not limited to prerecorded or artificial voice message calls, text messages, and calls made by an automatic telephone dialing system—from us and our affiliates and agents at that number. This express consent applies to each such telephone number that you provide to us now or in the future and permits such calls for non-marketing purposes. Calls and messages may incur access fees from your cellular provider.

MONITORING AND RECORDING COMMUNICATIONS

You acknowledge and agree that we, or anyone acting on our behalf, may monitor and/or record any communication between you and us, or anyone acting on our behalf, for quality control and other purposes. You also acknowledge and agree that this monitoring or recording may be done without any further notice to you. The communication that may be monitored or recorded includes telephone calls, cellular or mobile phone calls, electronic mail messages, text messages, instant or live chat, or any other communications in any form.

WAIVERS AND PRECEDENTS

Our Agreement with you gives us rights and duties. If we don't take advantage of all our rights all the time that does not mean we lose them. For example:

- If we make funds available to you for withdrawal ahead of schedule, that does not mean we have to do it again.
- If we pay a check that is more than your account balance, that does not mean we have to do it again.

APPLICABLE LAW

Unless otherwise stated herein, your account and this Agreement will be governed by federal law and, unless superseded by federal law, by the law of the state in which your account is located. If you opened your account in person, it is located in the state in which you opened it. If you opened your account online, in the U.S. Bank Mobile App or by telephone and you reside in a state in which we have a branch at that time (or reside within 50 miles of a branch), it is located in the state in which the branch is located. If you reside anywhere else, then your Account is located in Minnesota.

CUSTOMER IDENTIFICATION PROGRAM NOTICE (USA PATRIOT ACT)

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you

When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see other identifying documents like a driver's license or documents showing your existence as a legal entity.

Existing customers

Even if you have been a customer of ours for many years, we may ask you to provide this kind of information and documentation because we may not have collected it from you in the past or we may need to update our records.

Failure to Provide Information

If, for any reason, any owner is unable to provide the information necessary to verify their identity, their account(s) may be blocked or closed, which may result in additional fees assessed to the account(s).

OWNER'S AUTHORITY

Each owner of a personal account, or an agent for a non-personal account, acting alone, has the power to perform all the transactions available to the account. For example, each owner or agent can:

1. make withdrawals by whatever means are available for the account;
2. make deposits by whatever means are allowed for the account;
3. obtain and release information about the account;
4. sign or authenticate any document in connection with the account (for example, an owner can endorse a check payable to a co-owner for deposit to a joint account);
5. give rights to others to access the account (for example, any owner could grant a power of attorney to have access to the account); and
6. close the account.

In addition, if you share ownership of an account with someone else (for example, you have a joint or multi-party account), then each of you can endorse items for deposit to the account on behalf of another owner. If there is shared ownership of an account, it is the intention of all owners that each of you has complete and separate access and withdrawal rights to all the funds in the account irrespective of who had deposited the funds in the account.

U.S. Bank makes no warranty or representation as to the suitability of any deposit product outside the United States of America.

AUTHORIZED ACCESS AND POWER OF ATTORNEY

Each owner of your account is independently permitted to authorize someone else to access your account. For example, the following persons will have access to your account:

1. Any person listed on a signature card, resolution, or certificate of authority as being authorized to make withdrawals or transfers, by check or otherwise, from your account;
2. Any person that you authorize to make withdrawals or transfers from the account by whatever means the account allows (for example, pre-authorized withdrawals, wire transfers, ATM card, or debit card transactions);
3. Any person you give rights to act on your behalf, such as a power of attorney;
4. Any person to whom you make your checkbook or your checking account number available for purposes of transacting business on the account. We discourage this type of "authorization" because it is possible that we will detect such transactions and treat them as unauthorized. If you give any such person "authority," we are not responsible whether we honor the transactions or dishonor them; and
5. Any person to whom you make your ATM card or debit card personal identification number (PIN) available. Although we discourage this practice, by allowing this type of "authorization," the person to whom you make your personal identification number (PIN) available may be able to access all of your accounts held with us by using the telephone, ATM, online or other banking access channels. If you give any person such "authority," we are not responsible for actions they take with respect to your accounts.

We will use the word "agent" to mean any person who you authorize to act on your behalf, whether by following the process we require (for example, by designating an authorized signer on a signature card), or on your own (for example, by creating a power of attorney). If you name such an agent:

1. we may require that you use forms we approve and require each owner to sign the form to be effective;
2. the powers you give to your agent, and any limitations on those powers, are between you and your agent, even if we have express written notice of those powers. You understand and agree that we have no duty or responsibility to monitor the acts of your agent or ensure that the acts of your agent are for your benefit. For example, if you only give your agent authority to pay your bills and your agent exceeds that authority, we are not responsible for that breach of authority;
3. you agree not to hold us responsible for any loss or damage you incur as a result of us following instructions given to us by your agent;
4. the owners of the account are responsible to us for any actions of your agent, regardless of whether those actions exceed the authority given or whether the agent is appointed by all the owners or less than all the owners;
5. the agency will end if the owner dies **and** we have actual knowledge of that death, or if there is more than one owner, the agency will end after the death of the last owner and we have actual knowledge of that death and, in either case, once we've had reasonable opportunity to act on it;
6. the agency will end after the owner notifies us in writing to end the agency and we have had a reasonable opportunity to act on it; and
7. if you authorize any third person, such as a bookkeeping service, an employee, or agent of yours to retain possession of or prepare items, you agree to assume full responsibility for any errors or wrongdoing performed or caused by such third person or any of its agents or employees if we should pay any such item.

YOU CANNOT TRANSFER AN ACCOUNT

You may not transfer an account to someone else without our express written permission. This does not limit your right to access your account by any permissible means.

CHANGE IN AUTHORIZED SIGNERS

Any owner, including one of the owners of a joint account, may add owners or authorized signers to an account; however, we have the right to require the signature of all owners to make the change. Only under special circumstances and subject to prior approval by us may an owner remove another owner or authorized signer from an account.

No change in owners or authorized signers is effective until we have received written notice of the change and have had adequate time to approve and act on it.

ADJUSTMENTS

If we (or you, or you and us together) make an error on your account, we can fix the error without first notifying you. For example, if:

- the dollar amount of your check is paid for the incorrect amount;
- a deposit is added incorrectly;
- we apply a deposit to the wrong account;

we can fix the error without any special notice to you, though such a correction will normally appear on your statement if the error and the correction occur on different business days.

For accounts coded as Consumer and Business accounts, we may not adjust for insignificant errors unless you request it. For all other account types including Corporate and Commercial accounts, we may not adjust for deposit errors of $50.00 or less unless we have agreed with you to a lower adjustment amount.

RETENTION OF DOCUMENTS

You should retain your copy of deposit receipts and other documents associated with your deposit(s). Should you claim that a deposit was incorrectly credited, we may request a copy of your receipt or other documents associated with your deposits.

LIABILITY FOR CHARGES AND OVERDRAFTS

All account owner(s) are responsible to repay to us any overdraft amount **and** any overdraft fees charged to an account, no matter which owner caused it or why, subject to rights under the Electronic Fund Transfers Act. That repayment is due immediately, and we will take it from your next deposit or whenever funds become available in your account. If there is more than one owner, each owner is separately, and all owners are jointly, responsible for an overdraft and any account fees. (This means we can collect the total from any owner(s), on any of the owner(s) accounts, but we won't collect it more than once). For more information on overdrafts please refer to the section titled **Insufficient Funds and Overdrafts.**

We list the charges that you may incur on your account in separate pricing information disclosures or agreements for your account.

TRANSACTION POSTING ORDER

We reserve the right to decide the order of the items we will pay and which items will be returned (if any). Our posting order may not be the same as the order in which you conducted a transaction and could result in overdraft fees, if you do not have available funds at the time the item is paid. Generally, we post the following three transaction types after the close of each business day in the following order:

1. Deposits we receive before the daily cutoff time will be posted before any withdrawals. (Refer to our Cutoff Time and/or Funds Availability section for cutoff time description.)

2. Your non-check withdrawals will be posted in date/time order, based on the date and time associated with each transaction. A date and time (if one is available) will be assigned to each transaction based on one of the following: (1) when the transaction was preauthorized (for example a debit card or ATM transaction was approved); **or** (2) when the transaction was processed by U.S. Bank (for example an ACH, or bill pay transaction for which there is no pre-authorization). If a date and time is not available, these transactions are posted to your account after all transactions with a valid date and time or check number are complete, and posted to your account in order of amount, starting with the lowest transaction amount first (frequently referred to as low-to-high).

3. Your checks will be posted in check number order, starting with the lowest number. (For example: on Monday we may receive and post check # 107; on Tuesday we may receive check # 102 and # 105, and those would be posted on Tuesday in the order of lowest check number (e.g., # 102) posting first).

DEPOSITS

When you make a non-cash deposit to your account, we give you credit for that deposit, but that credit is provisional (temporary). If the deposit needs to be collected from another financial institution, we must be paid before the credit becomes final. After a credit is final it may still be reversed if the funds cannot be collected. See the sections titled **Returned Deposited Items For Business Accounts Only** and **Funds Availability.** All deposit receipts are issued subject to our count and verification of the items deposited. You should retain your copy of deposit receipts and other documents associated with your deposit(s). Should you claim that a deposit was incorrectly credited, we may request a copy of your receipt or other documents associated with your deposit.

Foreign Currency: Deposits received in a foreign currency, whether by check, foreign currency notes, wire-transfer, or otherwise, must be converted to U.S. dollars prior to being deposited into your account. U.S. Bank will convert your funds at an exchange rate established by U.S. Bank and/or our foreign currency vendor on the business day when such exchange is processed. Currency exchange rates are determined in our sole discretion based on factors such as market conditions and risk, economic and business factors. The exchange rate is an all-in rate which includes our profit, fees, costs, and charges. Currency exchange rates will be applied to these deposits without notice to you. You agree to this procedure and accept our determination of the currency exchange rates.

Foreign currency conversions and verification of foreign currency notes can take time and exchange rates fluctuate at times significantly. Foreign currency notes that are determined to be counterfeit, outdated, or out of circulation will be rejected for conversion and returned to U.S. Bank as unacceptable, and U.S. Bank may reverse any provisional credit made to your account when you deposited such items. You acknowledge and accept all risk that may result from such fluctuations, rejections and returns. Your transaction is a retail transaction. Retail foreign exchange conversion rates are different from the wholesale exchange rates for large transactions between two banks as may be reported in *The Wall Street Journal* or elsewhere. Exchange rates offered by other banks or shown at other sources (including online sources) may be different from our exchange rates. The exchange rate you are offered may be different from, and likely inferior to, the rate paid by U.S. Bank to acquire the underlying currency. The exchange rate may also be different from a rate offered by U.S. Bank to a different customer, at a different time, for a different transaction amount, or in a different payment channel (checks, wire-transfers, etc.).

U.S. Bank sometimes relies on other financial institutions or vendors in the conversion process. In this event, the conversion and acceptance of notes will be in accordance with the policies and procedures of that bank or vendor and the funds will be converted at the exchange rate determined by that bank or vendor. Any fees or charges assessed by that bank or vendor will be passed on to you. Your final credit will be adjusted to reflect that final exchange rate and acceptance of notes less all fees or charges.

Foreign Checks: Checks and other items drawn off a foreign financial institution, whether negotiable in a foreign currency or in U.S. dollars may require special funds collection processing by us. As a result, funds availability may be delayed. If you deposit such an item, you agree that we may delay funds availability at our discretion until we are satisfied that we have received final payment of the item.

Deposits by Mail: Deposits you send by mail are considered deposited on the business day it arrives at the bank. (See our **Funds Availability** section.)

Cutoff Time: A deposit made after our daily cutoff time on a business day, or on a day we are not open for all forms of business, will be considered deposited on the next full business day. (Refer to our **Funds Availability** section for cutoff time description.) The cutoff time applies to all accounts (savings, certificate of deposits, payments, etc.), not just checking accounts.

Endorsement: If you make a deposit to an account and you fail to endorse the item, we may add an endorsement on any item and you will be responsible for the item as if you endorsed it yourself.

We can refuse to accept any item or other type of deposit, for any reason, or no reason, or impose conditions on a deposit. For example, we can treat a deposit as an "inquiry" or take an item for "collection" instead of deposit. We may also decline to accept a large cash deposit or require you to make such a deposit at a location and time of our choosing.

RETURNED DEPOSITED ITEMS FOR BUSINESS ACCOUNTS ONLY

The funds you deposit to your account are subject to normal collection processes even after we make the funds available to you for withdrawal (i.e., the check has "cleared"). If we do not collect the funds, or we need to return the funds, your deposit will be reversed and become your responsibility. Returned items are charged back to your account and a Return Item Advice notice is mailed to the primary account address on file.

For example:

- The deposit amount of the check is recorded incorrectly to your account. The person who wrote the check catches the error, and reports it to their bank, who in turn reports it to us. We would reverse the incorrect portion of the deposit and correct the mistake.
- A check you deposit has a forged endorsement. The person who wrote the check notices the forgery and reports it to their bank, who reports it to us. We would reverse the deposit and collection of the check would become your responsibility.

There will be one fee posted for the sum of all Returned Deposited Item fees returned within a single transaction as well as applicable overdraft fees if sufficient funds are not in your account to cover your items.

CHECK 21

Check processing is getting faster as banks begin to process checks "electronically." We are required by law to provide the notice in the following section **(SUBSTITUTE CHECKS AND YOUR RIGHTS),** which explains the differences between your original check (which might not be returned) and a substitute check, and your rights in the event the substitute check causes a loss that would have been avoided if the original check was still available.

SUBSTITUTE CHECKS AND YOUR RIGHTS

What is a substitute check?

To make check processing faster, federal law permits banks to replace original checks with "substitute checks". These checks are similar in size to original checks with a slightly reduced image of the front and back of the original check. The front of the substitute check states: "This is a legal copy of your check. You can use it the same way you would use the original check." You may use the substitute check as proof of payment just like the original check.

Some or all of the checks that are returned to you from us may be substitute checks. This notice describes your rights you have when you receive substitute checks from us. The rights in this notice do not apply to original checks, photocopies of original checks, or to electronic debits to your account. However, you have rights under other laws with respect to those transactions.

What are my rights regarding substitute checks?

In certain cases, federal law provides a special procedure that allows you to request a refund for losses you suffer if a substitute check is posted to your account (for example, if you think that we withdrew the wrong amount from your account or that we withdrew money from your account more than once for the same check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your account and fees that were charged as a result of the withdrawal (for example, overdraft fees).

The amount of your refund under this procedure is limited to the amount of your loss or the amount of the substitute check, whichever is less. You are also entitled to interest on the amount of your refund if your account is an interest-bearing account. If your loss exceeds the amount of the substitute check, you may be able to recover additional amounts under other law.

If you use this procedure, you may receive up to $2,500.00 of your refund (plus interest, if your account earns interest) within ten business days after we received your claim and the remainder of your refund (plus

interest, if your account earns interest) not later than 45 calendar days after we received your claim.

We may reverse the refund (including any interest on the refund) if we later are able to demonstrate that the substitute check was correctly posted to your account.

How do I make a claim for a refund?

If you believe that you have suffered a loss relating to a substitute check that you received and that was posted to your account, please call U.S. Bank 24-Hour Banking (see last page for phone numbers) or write to us at **U.S. Bank, 60 Livingston Ave, EP-MN-WS5D, St. Paul, MN 55107.** You must contact us within 40 calendar days of the date that we mailed (or otherwise delivered by a means to which you agreed) the substitute check in question or the account statement showing that the substitute check was posted to your account, whichever is later. We will extend this time period if you were not able to make a timely claim because of extenuating circumstances.

Your claim must include:

1. a description of why you have suffered a loss (for example, you think the amount withdrawn was incorrect);
2. an estimate of the amount of your loss;
3. an explanation of why the substitute check you received is insufficient to confirm that you suffered a loss; and
4. a copy of the substitute check or identifying information such as the check number and the name of the person to whom you wrote the check.

COPIES OF DOCUMENTS

We do not typically keep the original paper documents (like deposit slips) associated with your account for a long time. We image most of the documents that end up with us and destroy the paper originals. Electronic images is one type of media that is used, but as technology changes, there are and will be other imaging techniques. You agree that such images will be sufficient for all purposes.

See the section titled **CHECK 21.** To facilitate check imaging and electronic check collection, it is important that you take care with the transactions you create on paper. When completing a check, you must:

1. write clearly;
2. use black or dark blue ink in the date, pay to, amount, and signature fields; and
3. use only the space provided for your part of a transaction. (See the section on ENDORSEMENT STANDARDS.)

You agree to reimburse us for any losses and costs we incur as a result of a poor check image caused by a deficiency in the written check, whether due to your failure to follow these guidelines or otherwise. You also agree to reimburse us for any losses and costs we incur as a result of a poor check image caused by a deficiency in the written check that you accepted and deposited as the payee.

NIGHT DEPOSITORY

If you arrange for night depository services, you must comply with the following two rules and also comply with the rules in any separate night depository agreement.

1. **Use of Containers.** Each deposit placed in the depository must be contained in a sealed envelope, or in a bag or pouch that has been approved or supplied by us. Deposits are only processed to accounts held at U.S. Bank.
2. **Care.** You must take appropriate care when you put the container in our night depository or other facility to make sure the container is received by us.

   Our responsibility for the security of the container and the drawer or facility is to use reasonable care. This means we are not automatically liable for just any loss, only for losses that result from our own negligence, only to the extent we caused a loss, and reduced by your contribution to any loss. In legal terms, we are a "bailee" until the point:
   - when we open the container and inventory its contents (if that is what we are asked to do); or
   - when you sign the receipt for or take custody of the container (if we do not open the container).

CHECKS

Post-Dated Checks. We are not responsible to you if we pay a check before its date, even if we have noticed that it is post-dated. If we, at our option, refuse to pay a check because it is presented before its date, you will have to pay, if applicable, the fee we charge for an overdraft. If you want to be sure we do not cash it before its date, you must stop its payment by following our rules for stop payments in the **STOP PAYMENTS** section of this Agreement and follow our procedures for revoking a stop payment request.

Stale-Dated Checks. A "stale-dated" check is one that is brought to us for payment more than six months after its date. We may pay, or refuse to pay, a check brought to us ("presented") more than six months after its date. The general rule is we will pay the check, however we may return the check for insufficient funds. In addition, the check would be subject to an overdraft. If you do not want us to pay a stale-dated check, you must place a stop payment order on the check.

Check Legends. We are not required to honor any legends or memos you put on your checks, even if we are aware of them. By a "legend" or "memo" we mean a message, such as "not valid for more than $50.00" or "do not pay more than ten days after date" or "paid in full".

Check Forms. Checks are sorted and copied by high speed equipment. If you don't buy your checks through us, you must get them approved by us or we will not be responsible if your checks do not process correctly. See the section titled **COPIES OF DOCUMENTS** for additional information on inks and related issues.

Deposits of Checks at ATMs

We reserve the right to refuse to credit your account for ATM deposits of the following items. If an item is refused the item or a substitute check may be returned via mail to the primary account address.

1. All the check payees are not listed on the account;
2. Checks payable to a business and the business name is not listed on the account. (Checks payable to a business must be deposited into an account that includes the name of the business on the associated account);
3. Improperly endorsed (for example, different endorser than payee);
4. Restrictive wording (on the deposited item);
5. Post-dated (greater than one day after the ATM network business day);
6. No date or incomplete date;
7. Altered in any way;
8. Photocopy of item;
9. Not signed by maker;
10. Traveler's check with different counter signature;
11. Drawn on a foreign bank;
12. Missing the numeric amount and/or the written amount;
13. Numeric amount and written amount do not match;
14. No payee listed;
15. Federal tax refund checks not endorsed by payee or payees; and
16. Any other instrument which is not a check or negotiable instrument.

ENDORSEMENT STANDARDS

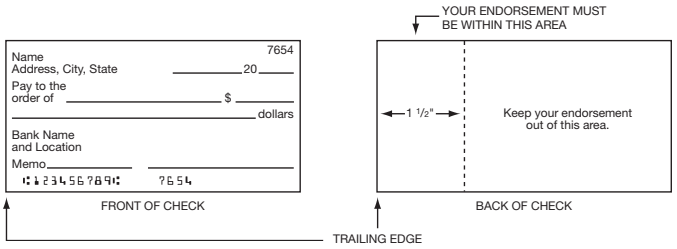
The payee of a check (the person to whom a check is payable) must sign (endorse) the check on the back in the space shown in the picture. If a check is transferred to someone else before it gets deposited or cashed, that person (the transferee) may also be required to sign the check.

Every bank that handles a check on its way to the bank that is asked to pay it also has to identify itself on the back of the check. The space for those banks is to the right of the space shown for the payee and other "holders" (see picture below).

When you endorse a check, you must:

1. clearly sign your name;
2. use black or dark blue ink if possible;
3. never use a faint color, like red, pink or any pastel, or a gel ink (these do not copy well);
4. sign near the top of the space provided, or just below any other signature in that space;
5. stay out of the area below the space for endorsers (most check forms have a line separating the endorsement area); and
6. keep any stamp within the area set aside for handwritten signatures.

The picture on this page shows you the correct endorsement area.



Why is this important?

If your endorsement of a check, or the endorsement of someone from whom you took the check, either:

1. causes a delay in a necessary notice to someone else, or
2. prevents someone from being identified quickly enough (and therefore cannot get notice or cannot get it in time).

You will be responsible for the check and the loss that occurs because it is not paid. It will then be up to you to try and recover from someone else who might be liable.

INSUFFICIENT FUNDS AND OVERDRAFTS

"Account Balance" means the funds in your account, including deposits and withdrawals made to date. Not all your transactions will be immediately reflected. As a result, only part of this balance may be available for withdrawal.

"Available Balance" means the amount of money that can be withdrawn at a point in time. **The Available Balance will be less than the Account Balance when there are pending transactions such as:**

- Funds held from deposits: These funds have been deposited but are not yet fully available for withdrawal or transfer. Once these funds are available, they will be reflected in the Available Balance.
- Funds held for debit card authorizations: This reflects merchant-authorized requests for payment, when the final charge has not been submitted by the merchant. Debit card authorizations will be reflected as pending transactions and/or will reduce your Available Balance from the time we receive the authorization until the merchant presents the item for payment. If the debit card transaction has not been presented for payment within seven business days, it may be removed from your pending transactions and your Available Balance may no longer be reduced by the authorization amount. Once the final charges have been received and processed, they will be reflected in the Available Balance.
- Any other holds on funds in your account.

Note: The Available Balance does *not* reflect every transaction you have initiated or previously authorized. Items that may not be reflected in your Available Balance include, but are not limited to:

- Outstanding checks and authorized automatic withdrawals (such as recurring debit card transactions, transfers, and ACH transactions that we have not received for payment or processing).
- The final amount of a debit card purchase. For example, we may authorize a purchase amount from a restaurant or a gas station, but the authorized amount may be different from the final charge. Once a final charge has been received and processed, it will be reflected in the Available Balance. (Please refer to "Debit Card Transactions" subsection for more information about how these situations are handled.)
- Scheduled bill payments that have not yet been processed.
- Debit card transactions that have been previously authorized but not sent to us for payment from your account where we have released the transaction authorization hold and the transaction is sent for payment from your account at a later date.

"Insufficient funds" means your Available Balance is insufficient to pay the transactions you are attempting from that account.

Having insufficient funds in your account could lead to returned items, which refers to any withdrawal or transfer that we return because it exceeds your Available Balance on a given day. Examples of withdrawals that could be returned may include any checks, ACH transactions, online or mobile bill payments, or any other debit from your account where we return it because it is for more than the Available Balance you have in your account at the time the transaction is presented to your account. We reserve the right to pay an insufficient funds withdrawal and overdraw your account, which may result in an Overdraft Paid Fee. If we've paid insufficient funds items before, we are not required to do it in the future.

"Overdraft" means a transaction has caused the Available Balance on an account to become a negative number. An overdraft can happen, for example:

- by writing a check without enough money in your checking account to pay the check, and we pay the item;
- by making a withdrawal from your account that exceeds your Available Balance;
- by using your U.S. Bank Debit Card for payment without enough money in your checking account to cover the amount authorized or the amount paid to the merchant. If any debit card transaction results in a negative Available Balance at the time it is presented for payment;
- by making a deposit, withdrawing money based on the credit received from that deposit, and then having that deposit reversed because the deposited item is later returned to us unpaid;
- by withdrawing money from your account and not having enough money left to pay any related charges posted to the account;
- when funds are credited to your account in error and you use the funds, and the reversal of the credit results in an overdraft; or
- when fees such as monthly maintenance fees are charged, and you do not have sufficient funds to cover.

Our Options: You do not have the right to withdraw funds that exceed the Available Balance on your account. When an item of yours overdraws an account, we can either pay or return the item. You cannot choose which items we pay or return, except as identified in your selection of "Overdraft Handling" (as identified later).

If we get a **batch, or multiple batches,** of such items in a day (for example, checks, ATM purchase transactions, and debit card purchase transactions typically come in batches), and if one, some or all of them would overdraw the account if paid, we will post items in accordance with the **"Transaction Posting Order"** section listed within this Agreement. This may result in processing larger dollar items before smaller dollar items, even though this would have the effect of reducing your Available Balance more quickly.

Our Fees: We charge an Overdraft Paid Fee for each item or transaction we pay that causes the Available Balance to become negative or occurs while the Available Balance is negative on the account. Any Overdraft Paid Fees are deducted from your account on the next business day. See the current pricing information disclosure for information on fees and how fees will be assessed. If you want to avoid the inconvenience and extra expense of overdraft fees, refer to the sections titled "Overdraft Handling" on page 7 and "Overdraft Protection Plans" on page 8 for information.

There are some circumstances that can take your account into a negative balance where we will not charge a fee, for example:

- If certain fees such as your monthly maintenance fee are the only items that resulted in the negative balance.
- If the negative Available Balance is less than our threshold. See your *Consumer Pricing Information, Business Pricing Information* or *U.S. Bank Business Essentials® Pricing Information* disclosure(s) for specific information. (All disclosures can be obtained by stopping in a U.S. Bank branch or for the *Consumer Pricing Information* only, call 800-872-2657 to request a copy.)

Your responsibilities for overdrafts: If you have an overdraft on your account (excluding consumer checking accounts), you must deposit enough money into your account to pay both the overdraft amount and the fees we charge. If you have an overdraft on your consumer checking account only (excluding Safe Debit accounts), please refer to the section titled "U.S. Bank Overdraft Fee Forgiven" on page 8 for more information. If you share ownership of your account with someone else, you are responsible for the overdraft, whether or not you personally caused the overdraft or benefited from it.

OVERDRAFT HANDLING

Consumer Checking and Money Market Accounts:

Most U.S. Bank Consumer checking and money market accounts come with Standard Overdraft Coverage. Under Standard Overdraft Coverage we will authorize and pay overdrafts for these types of transactions at our discretion:

- Checks and other transactions using your checking account number
- Automatic bill payments
- Recurring debit card transactions, for example setting up your debit card to automatically pay a monthly gym membership. We rely on the merchant to inform us if a debit card transaction is a one-time or a recurring transaction.

If we pay these transactions into overdraft, we may charge an Overdraft Paid Fee. See the *Consumer Pricing Information* disclosure for additional details.

In addition to Standard Overdraft Coverage, you have the following options outlined below.

ATM and Debit Card Overdraft Coverage:

Upon opening your U.S. Bank consumer checking or money market account, or after your account is opened, you have the option to say 'Yes' or 'No' to ATM and Debit Card Overdraft Coverage.

If you say 'Yes'

If you choose to say 'Yes', you allow U.S. Bank to authorize and pay ATM and everyday debit card transactions (purchases made with your debit card on a day-to-day basis) that may cause the Available Balance in your account to become negative. If this happens and the negative Available Balance is $50.01 or more, we may charge an Overdraft Paid Fee for each item paid greater than $5.00.

If you say 'No'

If you choose to say 'No', you do not allow U.S. Bank to authorize and pay ATM and everyday debit card transactions into a negative Available Balance. If we do not authorize and pay an overdraft your transaction will be declined and you will not be charged a fee.

In limited circumstances, your ATM or everyday debit card transaction may be processed, resulting in your Available Balance becoming negative. These situations may include, but are not limited to:

- A debit card transaction is processed for more than the preauthorized amount. For example, we may authorize a purchase amount from a restaurant or a gas station, but the authorized amount may differ from the final charge (Please refer to "Debit Card Transactions" subsection for more information about how these situations are handled.);
- A debit card transaction that obtained an authorization based on a sufficient Available Balance in your account, but is sent to us for payment later when your Available Balance is no longer sufficient to cover the item;

In these situations, you will not be charged an Overdraft Paid Fee.

If you wish to discuss your options or change your account election at any time, contact a local U.S. Bank branch, call U.S. Bank 24-Hour Banking or visit usbank.com. Please be aware it may take up to three business days to implement your request.

U.S. Bank Overdraft Fee Forgiven

All consumer checking accounts (excluding Safe Debit Accounts) are eligible to have Overdraft Paid Fee(s) waived with qualifying deposits (see below). The Overdraft Fee Forgiven period starts the first day your Available Balance becomes negative and you were charged an Overdraft Paid Fee(s). U.S. Bank will review your account for a fee waiver at 11 p.m. ET on the day we charged the Overdraft Paid Fee(s). In the event your Available Balance at the end of the business day is or would be overdrawn by $50.00 or less, we will not charge an Overdraft Paid Fee. If your Available Balance* at 11 p.m. ET is $0 or more, the Overdraft Paid Fee(s) charged will be waived.

*Excluding the Overdraft Paid Fee(s) and including immediate and same day deposits.

If you have Overdraft Protection and your account becomes overdrawn Overdraft Protection funds will be accessed (and applicable fees charged) before the account is eligible for Overdraft Fee Forgiven.

Deposits that generally will qualify for Overdraft Fee Forgiven include:
- ACH and electronic deposits;
- Cash deposits;
- Wire transfers;
- ATM deposits at U.S. Bank ATM;
- Check deposits in branch;
- Internal transfers from another U.S. Bank account.

Deposits that generally will not qualify for Overdraft Fee Forgiven include:
- Mobile check deposit;
- Extended hold placed on a deposit;
- Deposits into new accounts opened less than 30 days where funds are generally made available the fifth business day after the day of your deposit.

Requested Return:

You may ask us to place your account in *Requested Return* status. When you select this option, you are automatically choosing to say **'No'** to ATM and Debit Card Overdraft Coverage (refer to **If you say 'No'** for more details). In addition, we will attempt to return items which would result in an overdraft to your account such as checks, and automatic bill pay transactions.

- Note that when you select *Requested Return*, you may be charged fees by the merchant or service provider.
- Please understand we will not be able to return all items. **If we pay an item, for any reason, you will be charged the applicable Overdraft Paid Fee** (with the exception of ATM and everyday debit card transactions). These situations include, but are not limited to: recurring debit card transactions when a merchant had obtained an authorization for the first instance, but did not obtain a new authorization for subsequent occurrences (for example, a monthly gym membership); or other transactions/adjustments that may be processed in accordance with our Transaction Posting Order resulting in an insufficient Available Balance (Refer to **"Transaction Posting Order"** section listed within this Agreement). We rely on the merchant to inform us if a debit card transaction is a one-time or a recurring transaction.

If you wish to select *Requested Return,* contact a local U.S. Bank branch or call U.S. Bank 24-Hour Banking (see last page for phone numbers). Please be aware it may take up to three business days to implement your request and items may or may not be returned during that time.

Business Options for Checking and Money Market Accounts

For Business Checking and Business Money Market accounts, we will authorize and pay overdrafts for all types of transactions at our discretion. If we pay these transactions into overdraft, we may charge an Overdraft Paid Fee.

Requested Return

You may ask us to place your account in *Requested Return* status. When choosing this option, we will attempt to return and/or decline items which would result in an overdraft to your account.

- Note that when you select *Requested Return,* you may be charged fees by the merchant or service provider.
- Please understand we will not be able to return all items. **If we pay an item, for any reason, you may be charged an Overdraft Paid Fee.**

If you wish to request *Requested Return,* contact a local U.S. Bank branch or call U.S. Bank 24-Hour Banking (see last page for phone numbers). Please be aware it may take up to three business days to implement your request and items may or may not be returned during that time.

Other sections: While many other sections of this Agreement relate to these issues, these sections are particularly appropriate:

- Setoff (page 16)
- Security Interest in Accounts (page 16)
- Funds Availability: Your Ability to Withdraw Funds - All Accounts (page 18)
- Electronic Fund Transfers for Consumer Customers (page 20)
- Limits on Transfers (page 21)
- Electronic Fund Transfers for Business Customers (page 23)

OVERDRAFT PROTECTION PLANS

Consumer Overdraft Protection

U.S. Bank offers Overdraft Protection Plans to help you avoid the inconvenience of having a check returned, and/or a debit card purchase rejected, resulting in the expense of overdraft fees. These Overdraft Protection Plans allow an eligible account to be linked to a U.S. Bank Personal Checking Account(s) ("checking account(s)") to cover overdraft situations when the Available Balance is insufficient to cover checks presented for payment **and/or** Available Balance has been reduced due to pending authorized debit card transactions, as specified in subsection "Debit Card Transactions".

U.S. Bank lets you choose which eligible accounts are linked to your checking account for Overdraft Protection, and the order in which those accounts are accessed to transfer funds to your checking account. Some eligible accounts (e.g. depository accounts) do not have Overdraft Protection Transfer fees, and if you have deposit and credit accounts linked for Overdraft Protection, the first Overdraft Protection Account determines whether a fee is charged (if any).

You can choose to link up to three eligible U.S. Bank accounts to your personal checking account for Overdraft Protection. Owner(s) who are signers on the checking account must also be signers on the account(s) linked for Overdraft Protection.

Eligible accounts include:

- U.S. Bank Savings Account or Money Market Account
- U.S. Bank Reserve Line of Credit

- U.S. Bank Credit Card
- A secondary U.S. Bank Personal Checking Account
- U.S. Bank Personal Line of Credit
- U.S. Bank Home Equity Line of Credit
- Other U.S. Bank Lines of Credit

If you have linked eligible accounts, and the negative Available Balance in your checking account is or would be overdrawn by $5.01 or more, the advance amount will transfer in multiples of $50.00. If the negative Available Balance is or would be $5.00 or less, the amount advanced will be $5.00. The Overdraft Protection Transfer Fee is waived if the transfer is made from a deposit account or the negative Available Balance in your checking account is $50.00 or less.

If the negative Available Balance in your checking account is caused by monthly fees, such as a maintenance fee or statement/image fee only, overdraft protection will not advance and no Overdraft Protection Transfer Fees will apply. (For example, the account is overdrawn due to a Monthly Maintenance Fee, overdraft protection will not advance. If additional transactions post, overdraft protection will advance to cover the negative Available Balance amount and an Overdraft Protection Transfer Fee may be charged.) If the account linked for Overdraft Protection does not have enough funds to cover the overdrawn amount, the current Available Balance will still be transferred to reduce the overdrawn amount.

If there is more than one account linked for Overdraft Protection and the Available Balance of the first linked account is not enough to cover the overdrawn balance, the next linked account will transfer funds in multiples of $50.00 to cover the remaining overdrawn balance. When multiple accounts are linked as Overdraft Protection, the first account funds are transferred from determines the amount of the Overdraft Protection Transfer Fee (if any).

For each day an Overdraft Protection transfer occurs, a Bank fee will be charged to the checking account that received the transfer. (Refer to the *Consumer Pricing Information* disclosure Overdraft Protection Transfer Fee for fee amount. This disclosure can be obtained by contacting a U.S. Bank branch or calling 800-872-2657.) While no fee will be charged to your U.S. Bank savings account or secondary checking account, U.S. Bank Reserve Line of Credit, U.S. Bank Credit Card, U.S. Bank Personal Line of Credit, or U.S. Bank Home Equity Line of Credit, for any automated advance to cover an overdraft to your associated deposit account, you will incur an interest charge according to the terms of your agreement governing your credit account. Advances on a U.S. Bank Credit Card Overdraft Protection Plan account are subject to the standard cash advance interest rate, as well as the current cash advance fee. Please refer to your U.S. Bank Reserve Line of Credit, U.S. Bank Credit Card, U.S. Bank Personal Line of Credit or U.S. Bank Home Equity Line of Credit for information regarding interest charges.

When the Bank accesses funds from an eligible line of credit or credit card, these types of transfers may be subject to additional charges such as annual fees. In addition, you may be subject to interest that will accrue on the amounts advanced in accordance with your line of credit or cardmember agreement.

Business Banking Overdraft Protection

U.S. Bank offers Overdraft Protection Plans to help you avoid the inconvenience of having a check returned, and/or a debit card purchase rejected, resulting in the expense of overdraft fees. These Overdraft Protection Plans allow an eligible account to be linked to a U.S. Bank Business Checking Account(s) ("checking account(s)") to cover overdraft situations when the Available Balance is insufficient to cover checks presented for payment and/or Available Balance has been reduced due to pending authorized debit card transactions, as specified in subsection "Debit Card Transactions".

U.S. Bank lets you choose which eligible accounts are linked to your checking account for overdraft protection. Only one deposit product and one credit product may link to a business checking account. When the checking account has a linked Business Reserve Line of Credit, the system will automatically draw from that account first, which may incur a fee. If the checking account does not have a linked Business Reserve Line of Credit and has both a credit product and a deposit product linked as overdraft protection, the system will draw from the deposit product first, which will not incur a fee. Funds only draw from the credit product (excluding Business Reserve Line of Credit) if the deposit product has insufficient available funds.

The name of the business on the business checking account must match the name of the business on the business credit overdraft protection plan account. The name(s) of the account signer(s) on the business checking account may also be required to match the account signer(s) on the business Overdraft Protection Plan account.

Eligible accounts include:

- U.S. Bank Business Savings or Money Market Account
- A secondary U.S. Bank Business Checking Account
- U.S. Bank Business Reserve Line of Credit
- U.S. Bank Business Credit Cards
- U.S. Bank Cash Flow Manager or Advantage Line

If you have a U.S. Bank Business Savings, Business Money Market account, or secondary U.S. Bank Business Checking account linked as Overdraft Protection, any automatic advances will be in $200.00 increments made to cover the overdraft. Automated transfers from a U.S. Bank deposit account are not assessed Overdraft Protection Transfer Fees.

If you have a U.S. Bank Business Reserve Line of Credit linked as overdraft protection, any automatic advances will be in $200.00 increments made to cover the overdraft. Please refer to your U.S. Bank Business Reserve Line Agreement for information regarding interest charges.

U.S. Bank Business Credit Card linked as overdraft protection, any automatic advances will be in $25.00 increments made to cover the overdraft. Advances on a U.S. Bank Business Credit Card Overdraft Protection Plan account are subject to the standard cash advance interest rate, as well as the current cash advance fee.

When the Bank accesses funds from an eligible line of credit or credit card, these types of transfers may be subject to additional charges such as annual fees. In addition, you may be subject to interest that will accrue on the amounts advanced in accordance with your line of credit or Cardmember Agreement. Please refer to your Cardmember Agreement for information regarding charges and fees.

Each time an overdraft protection transfer from a Business Reserve Line or a U.S. Bank Business Credit Card automatically transfers funds to the checking account, an Overdraft Protection Transfer Fee (daily fee) applies. The transfer fee amount posts as a separate transaction to the checking account.

Refer to the *Business Pricing Information* or *U.S. Bank Business Essentials® Pricing Information* disclosure(s) for current fees. This disclosure can be obtained by stopping in a U.S. Bank branch.

If you have a U.S. Bank Cash Flow Manager linked as overdraft protection, any automatic advances will be in $100.00 increments made to cover the overdraft. While no Overdraft Protection Transfer Fee is charged to the Cash Flow Manager account for any automated advance to cover an overdraft to your associated deposit account, you will incur an interest charge according to the terms of your agreement governing your credit account. Please refer to your U.S. Bank Cash Flow Manager agreement for information regarding interest charges.

If the negative Available Balance is caused by a monthly maintenance fee, service fee or statement/image fee only, overdraft protection will not advance and no Overdraft Protection Transfer Fees will apply. (For example, the account is overdrawn due to a Monthly Maintenance fee, overdraft protection will not advance. If additional transactions post, overdraft protection will advance to cover the negative Available Balance amount and an Overdraft Protection Transfer Fee may be charged.)

Business Overdraft Protection Agreements

U.S. Bank also offers certain business customers overdraft protection through separate written agreement. The terms of such agreement shall govern those Business Overdraft Protection Plans.

REFUSING PAYMENT ON YOUR CHECKS

You must fill in an amount (in words and numbers) correctly and clearly, and sign your name on checks you write. You should fill in the date and name a payee on your checks. If you don't name a payee, anyone can cash the check. If you fail to follow these rules, we may refuse to honor your checks.

When a check you write is presented to us by another bank for payment, we will generally accept the endorsements on the check, because if an endorsement is missing or forged, we have rights against the other bank that protect us. When a check of yours comes to us *other than through another bank,* we might not cash it if we are not comfortable with the endorsements on it or the identity of the person who presents it. This is especially true with an endorsement in the name of a business entity.

We may require anyone who presents a check for payment in person (other than an account owner presenting a check on his or her own account) to:

- pay a fee to cash the check if applicable; and
- give a fingerprint or thumbprint, and identification, as a condition of cashing a check.

If the presenter of the check refuses to comply with these requirements, or complies but later asserts that these requirements infringed on their legal rights, you understand and agree that imposing these requirements will not be considered a "wrongful dishonor" of your checks.

FUNDS TRANSFERS

Unless we have entered into a specific written agreement with you that provides otherwise, payment orders you give to us for the transfer of funds out of the account by wire transfer or otherwise, and payment orders we receive for the transfer of funds into the account, will be governed by this section, subject to rights under the Electronic Fund Transfers Act. In addition, your rights and obligations with respect to a payment order, and our rights and obligations, will be governed by (a) any separate written agreement with us; then (b) this section; and then, to the extent not specified in a separate written agreement or this Agreement; (c) by Article 4A of the Uniform Commercial Code ("UCC4A") as enacted in the state in which you have your account with us.

We reserve the right to refuse to accept any payment order. Payment orders are accepted when they are executed by us. We may process any payment order request (as well as any amendment or cancellation request concerning a payment order) that we believe is transmitted or authorized by you if we act in compliance with a security procedure agreed upon by you and us. Such payment orders will be deemed effective as if made by you, and you will be obligated to pay us in the amount of such orders, even though they are not transmitted or authorized by you. Unless we agree on another security procedure, you agree that we may confirm the authenticity and content of a payment order (among other ways) by placing a telephone call to you. If we cannot reach you, or if the payment order is not confirmed or approved in the manner we require, we may refuse to execute the payment order.

YOU AGREE THAT IF A PAYMENT ORDER OR CANCELLATION THEREOF IDENTIFIES THE BENEFICIARY BY BOTH NAME AND AN IDENTIFYING NUMBER, AND THE NAME AND NUMBER IDENTIFY DIFFERENT PERSONS OR ACCOUNT HOLDERS, EXECUTION AND PAYMENT TO THE BENEFICIARY OR CANCELLATION MAY BE MADE SOLELY ON THE BASIS OF THE IDENTIFYING NUMBER. YOU ALSO AGREE THAT IF A PAYMENT ORDER IDENTIFIES AN INTERMEDIARY BANK OR THE BENEFICIARY'S BANK BY BOTH NAME AND AN IDENTIFYING NUMBER AND THE NAME AND NUMBER IDENTIFY DIFFERENT PERSONS, EXECUTION OF THE PAYMENT ORDER BY ANY BANK MAY BE MADE SOLELY ON THE BASIS OF THE IDENTIFYING NUMBER.

If we receive a funds transfer into any account you have with us, we are not required to give you any notice of the receipt of the funds transfer. The funds transfer will appear on your next periodic statement. To confirm the completion of funds transfers, please contact us through U.S. Bank 24-Hour Banking (see last page for phone numbers), usbank.com or the U.S. Bank Mobile App. Prior to the acceptance of an outgoing payment order, the outgoing payment order may be cancelled, but may not be amended or modified, if the beneficiary's bank is located within the United States of America and the outgoing payment order is to be paid in U.S. dollars. Other outgoing payment orders may not be cancelled, amended or modified. We must receive your cancellation in a reasonable time prior to the time we execute the outgoing payment order. Payment orders sent by Fedwire will be subject to the Federal Reserve's Regulation J, and payment orders sent via other payment systems will be subject to the rules of those systems. You agree that we may record all telephone conversations and data transmissions received from, made for or made on behalf of you pursuant to or in connection with a payment order.

YOU AGREE THAT IF A PAYMENT ORDER, OR ANY CANCELLATION OR AUTHORIZATION RELATING THERETO, BUT FOR THE APPLICABILITY OF THE ELECTRONIC FUND TRANSFERS ACT OF 1978 (AS IN EFFECT FROM TIME TO TIME), CONSTITUTES A PORTION OF A FUNDS TRANSFER AS DEFINED IN UCC4A, ALL ACTIONS AND DISPUTES CONCERNING SUCH PAYMENT ORDER, CANCELLATION OR AUTHORIZATION SHALL BE DETERMINED PURSUANT TO UCC4A AND THIS AGREEMENT TO THE FULL EXTENT PERMITTED BY LAW. If an outgoing payment order in a foreign currency cannot be completed, the exchange rate that will apply to any refund due you will be the exchange rate in effect at the time on the day the refund is made. Additional fees may be deducted from a payment order amount by other banks involved in the funds transfer process.

We may route payment at our own discretion for each outgoing wire transfer. A wire transfer is irrevocable once payment has been transmitted to the beneficiary's bank. At your request, we may request that the beneficiary's bank return funds previously transferred. However, you acknowledge that the beneficiary's bank is under no obligation to comply with this request.

WITHDRAWAL RIGHTS, OWNERSHIP OF ACCOUNT, AND BENEFICIARY DESIGNATION

The following rules govern the ownership and withdrawal rights of deposit accounts with the various titles given to them.

There are two primary issues that these rules control. The first is "withdrawal rights" and the second is "ownership."

By "withdrawal rights" we mean who has access to the funds in the account for all purposes. These withdrawal rights will control, for example, whose instructions we must follow, whose checks we must pay, and whose withdrawal requests we must honor. These withdrawal rights do not control who actually owns the funds, as between multiple parties to an account.

By "ownership" we generally mean who owns the funds in the account. In particular, by selecting a particular ownership, you are expressing your intention of how and to whom your interest in the funds in the account should pass in the event of your death.

If you create a type of account, you retain the right to change or close the account to the extent of the withdrawal rights you retain in your own name.

We make no representations as to the appropriateness or effectiveness of any particular ownership or beneficiary designations. Our only responsibility is to permit access to the account as provided by the withdrawal rights. You must consult with your own attorney or financial advisor as to whether and how to effect any change in actual ownership of funds in the account.

Individual Account. This is an account in the name of one person. Such an account is also referred to as a "single ownership" account.

Withdrawal Rights. The holder of such an account is the only person who has the right to withdraw from the account, unless we permit the holder to designate an agent or attorney-in-fact to the account.

Ownership. The holder of such an account is presumed to be the owner. Holding such an account, by itself, creates no additional ownership rights nor survivorship rights (nor does such type of ownership create or extinguish any community property rights). In almost all instances this type of account will pass, on the death of the owner, through the estate of the owner. (You must consult your own estate planner to be sure.)

Agents and "Attorneys-in-Fact." The owner of this type of account can nominate an authorized signer or attorney-in-fact.

Joint Account - With Survivorship. If your account is opened as a joint account, we will treat it as a joint account with right of survivorship unless our account records demonstrate a different type of ownership. This is an account in the names of two or more natural persons, with the following features:

Withdrawal Rights. Each joint tenant has complete and separate access to the funds and withdrawal rights, and each authorizes the other(s) to endorse for deposit any item payable to the joint tenant. Upon the death of any joint tenant, any surviving joint tenant will have complete withdrawal rights to the balance of the account. If there is more than one surviving joint tenant, such survivors remain as joint tenants with right of survivorship with the same withdrawal rights provided in this section.

Each joint tenant reserves the right to change the ownership of the account to the extent of that owner's withdrawal rights.

Ownership. Each joint tenant is presumed to "own" the funds in proportion to that person's net contribution to the account. Each joint tenant intends upon his or her death that the funds owned by such person will be owned by the survivor. If there is more than one survivor, the "ownership" of the decedent's funds will be shared equally with such survivors.

Other Titles. In some states, it is advisable to add either "not as tenancy in common" or "not as a tenancy by the entirety" or both to insure the intention described above.

Agents and "Attorneys-in-Fact." Any joint tenant can nominate an authorized signer or attorney-in-fact who can hold all the same withdrawal and deposit rights as the authorizing owner, except the authorized signer or attorney-in-fact will not be an owner (a joint tenant).

Joint Account with Survivorship - Arizona. A Joint Account with Survivorship in Arizona has a unique feature that will change the "ownership" rights on the death of one of the joint owners if there is more than one surviving joint tenant and one of the surviving joint tenants is the surviving spouse of the deceased joint tenant.

Withdrawal Rights. This rule will not change the withdrawal rights to the account on the death of a joint tenant; it only affects the actual ownership of the account balance, which will only affect the survivors, and will not affect our responsibilities under the account.

Ownership. If two or more parties survive and one is the surviving spouse of the deceased party, the amount to which the deceased party, immediately before death, was beneficially entitled by law belongs to the surviving spouse. If two or more parties survive

and none is the spouse of the decedent, the amount to which the deceased party, immediately before death, was beneficially entitled by law belongs to the surviving parties in equal shares, and augments the proportion to which each surviving party, immediately before the deceased party's death, was beneficially entitled under law, and the right of survivorship continues between the surviving parties.

Tenancy in Common Accounts. A Tenancy in Common account is another form of joint account without the survivorship feature. A Tenancy in Common account is also in the name of two or more individual owners.

Withdrawal Rights. Each joint tenant has complete and separate access to the funds and withdrawal rights, and each authorizes the other(s) to endorse for deposit any item payable to the joint tenant. Until we receive notice of the death of any joint tenant, any tenant in common will have complete withdrawal rights to the entire account balance.

If more than one tenant in common survives the death of another tenant in common, such survivors remain as tenants in common between them.

Each tenant in common reserves the right to change the ownership of the account to the extent of that owner's withdrawal rights.

Ownership. Each tenant in common is presumed to "own" the funds in proportion to that person's net contribution to the account. However, because of the extreme difficulty in determining such proportions over time, you agree that upon the death of one tenant in common, the balance in the account at the time immediately before the death of the tenant in common will be deemed to be owned in equal shares between all tenants in common. After death and our receipt of notice of such death, the decedent's share will be set aside for the estate of the decedent, and the survivor's share in the account balance will be at the disposal of the surviving tenant in common.

Other Titles. In some states this account is referred to as Joint Tenancy WITHOUT Right of Survivorship.

Agents and "Attorneys-in-Fact." Any tenant in common can nominate an authorized signer or attorney-in-fact who can hold all the same withdrawal and deposit rights as the authorizing owner, except the authorized signer or attorney-in-fact will not be an owner (a tenant in common).

Marital Account (Wisconsin). This account is an account established by two persons in Wisconsin who claim to be husband and wife. This account is, for such persons, the same as the Tenancy in Common account described above.

Marital Account with P.O.D. Beneficiaries (Wisconsin). This account is, first, the same as a Wisconsin Marital Account (which is, in turn, the same as a Tenancy in Common account described above).

Withdrawal Rights. During the lives of both parties to the marriage, the withdrawal rights will be the same as for the Marital Account. The beneficiaries have no withdrawal rights until the death of one of the marriage partners.

Ownership. Upon the death of one of the spouses, the surviving spouse owns 50% of the funds on deposit, and the P.O.D. beneficiary named by the deceased party (if that beneficiary is then surviving) owns the other 50%. Each spouse can name his or her own beneficiary.

If there is more than one beneficiary who is named by a party who survives, the shares of those beneficiaries will be equal.

On the death of one of the marriage partners, the account will have to be retitled and beneficiary shares will have to be redeposited or withdrawn.

Pay-on-Death Account. This is an account where one or more persons create the account and name one or more living persons as beneficiaries. Frequently the account title is A.B. Pay-on-Death to C.D. beneficiary.

Withdrawal Rights. The person who creates this type of account retains complete withdrawal rights in such an account during his or her lifetime and for his or her own benefit. The named beneficiary has no withdrawal rights to the account during the lifetime of the creator of the account. The owner can change or close the account, and change beneficiaries at any time.

On the death of the creator of the account, the beneficiary (on proof of death of the creator and proof of the identity as the named beneficiary), can withdraw the entire account balance. If there is more than one beneficiary who is named and survives the creator, the surviving beneficiaries acquire and can withdraw an equal share with the other surviving beneficiaries, without survivorship rights between beneficiaries. If a beneficiary dies before the creator, neither the beneficiary's estate nor heirs acquire anything on the death of the owner.

If more than one person creates such an account, then such creators have complete and separate withdrawal rights between them during their joint lives, and the survivor of them will have complete withdrawal rights upon the death of the other creator. Named beneficiaries can withdraw a share of the account balance only upon the death of the last creator and only if such beneficiaries are then alive (and upon proof of the deaths of the creators and their own identity as the named beneficiaries). In effect, if more than one person creates this type of account, with one or more beneficiaries, the account has first all the incidents of a "Joint Account with Survivorship" and only after there is but one joint tenant does the account have the incidents of a "Pay-on-Death" account.

Ownership. The creator of this type of account is presumed to own the funds during his or her lifetime and intends that ownership to pass to the beneficiary only upon his or her death and only if the named beneficiary survives him or her. If there is more than one creator, the ownership between such creators is the same as that between joint tenants with right of survivorship, with the same incidents upon the death of a joint tenant.

If there is more than one beneficiary who is named and survives the creator(s), the creators intend his, her or their ownership rights to pass to the then surviving beneficiaries in equal shares, with no survivorship rights between them.

Other Titles. This type of account has other names such as "Tentative Trust," "Totten Trust," "In Trust For" and "Revocable Trust." In states where one of these trust accounts is recognized, the creators of such accounts will be referred to as a "settlor" or "grantor." Nevertheless, all the incidents of such an account, the rights of the grantor(s) and beneficiaries are exactly the same as described for "Pay-on-Death" accounts above. Only the names have been changed.

Revocable Trust or Pay-on-Death Account (not subject to the Nonprobate Transfers Law of Missouri)

In Missouri, a Revocable Trust or Pay-on-Death account may include an appendage to its title "not subject to the Nonprobate Transfers Law of Missouri." This appendage does not change the features of the account as described above for Pay-on-Death accounts.

Registration in Beneficiary Form - Missouri

Adding the acronym ***LDPS*** (which stands for lineal descendants, per stirpes) to a Revocable Trust or Pay-on-Death account in Missouri, changes the rights of beneficiaries of such accounts. LDPS designation means that if a named beneficiary of such an account dies before the account owner, then the unnamed lineal descendants of that deceased beneficiary will acquire the share of the deceased beneficiary on the death of the owner per stirpes.

Accounts Established Under the Uniform Transfers to Minors Act or Uniform Gifts to Minors Act ("UTMA/UGMA")

An account established under a state's UTMA/UGMA is controlled by a custodian for the use and benefit of a "minor" beneficiary who owns the funds. Only the custodian is authorized to act on the account, however, we may disclose account information to the minor or their authorized representative. If you are the custodian or successor custodian of an account under a state's UTMA/UGMA, you agree to comply with all applicable laws, including those related to use of the funds. When the minor reaches the age of termination under the applicable UTMA/UGMA law, you must transfer any funds in the account to the minor. If you fail to transfer funds to the minor as required, we may, at our sole discretion, limit transactions on the account, contact the minor for instructions, unless we receive prior written notice and supporting documentation establishing that the minor has not reached the age of termination, or pay remaining funds to the minor. You agree that it is your responsibility as custodian to consult your own legal or tax advisor about the governing state law.

Fiduciary Account

A fiduciary account is an account opened by or taken over by an executor, administrator, personal representative, guardian, conservator, trustee, or other fiduciary in such capacity. Any fiduciary named as a signer on a fiduciary account shall be solely responsible for acting in accordance with the terms of the applicable laws, will, court order or trust instrument establishing and covering the fiduciary relationship, and we are not responsible for examining, or insuring compliance with the provisions of any such law or instrument.

Corporate, Partnership, Limited Liability Company and other Organizational Accounts

These are accounts opened by any business organization or association. We reserve the right to require the account holder(s) to furnish us with such resolutions, agreements or documents as we may reasonably request to evidence the authority of individuals to act on behalf of the account holder(s). We will honor such an authorization until we receive written notice of change from the governing body of the organization. It

is mutually agreed that the power and authority of each person named as authorized to take action with respect to the account shall continue in full force and effect until we receive actual written notice of revocation, whether the same be brought about by dissolution of the account holder or otherwise.

PLEDGES AND SECURITY INTERESTS IN FAVOR OF OTHERS

You cannot give a security interest or pledge your account to someone other than us without first getting our express written consent. We are not required to give consent to a security interest or pledge to someone else.

Unless we agree otherwise in a separate writing a security interest or pledge to someone else must be satisfied or released before any right to withdraw from the account can be exercised, including any right that arises by surviving the death of an owner (for example, a surviving joint tenant or beneficiary of a pay-on-death account).

ACCRUAL OF INTEREST

We will begin to accrue interest on deposits drawn from other banks at the time we get credit for the deposit in the collection process, which is not necessarily the same time as the time we make funds available for withdrawal.

If your account (for example a savings account) earns a variable rate of interest, we can change that rate at any time without notice to you, except as specifically provided in writing in the account disclosure or agreement. If the interest rate for your account(s) or the index or other referenced rate upon which the interest rate for your account(s) is based, is at any time less than zero percent, you agree to pay all amounts of the negative interest or fees which we impose as compensation for the negative interest rate.

You can find out our current rates on accounts that earn interest in our branches, from U.S. Bank 24-Hour Banking, or at usbank.com. The telephone number is at the end of this disclosure.

STOP PAYMENTS

Unless otherwise provided, the rules in this section cover stopping payment of items such as checks and drafts drawn on your account. Rules for stopping payment on other types of transfers of funds, such as consumer electronic fund transfers, are covered elsewhere in the **Electronic Fund Transfers for Consumer Customers** section.

Here is what you must do to stop a payment:

ACH Check Conversion

An ACH Check Conversion is a transaction that starts as a paper check that you give to a merchant. The merchant converts the check, using the information on the paper, to send an electronic message to a bank to immediately take the money from your account. The merchant is required to post a notice about ACH Check Conversion in a prominent and conspicuous location at the time of the transaction. You can stop payment on an ACH Check Conversion only if it has not yet been presented by the merchant.

Checks and drafts

If you want to stop payment of a check, you must use the stop-payment tool in online banking or the mobile app, go to a U.S. Bank branch or call U.S. Bank 24-Hour Banking (see last page for phone numbers). Writing to us will take too much time and we will not have time to act on your request before the check is paid. We may need the following information:

1. the account number the check is written on;
2. the dollar amount;
3. the check number.

This information must be exact and correct. If it is not, we will not be responsible if the item is paid.

Who can stop a payment and for how long?

1. Any owner can stop payment of any check on the account whether that owner wrote the check or not (and assuming the item can still be stopped).
2. A stop payment order is effective for 24 months. You must renew it prior to the expiration of the stop payment effective period or the item could get paid. We will not notify you when the stop payment effective period ends. Fees may be assessed for placing a stop payment order.
3. You must give us sufficient notice so that we have a reasonable period of time to act upon your request and verify that the item has not been paid.

Effect of a stop payment

When you stop payment of a check, you may still be obligated to the payee, and the payee may still have the right to collect on the check or the underlying transaction. If we have to defend ourselves for letting you stop payment on a check, you have to protect us by paying our expenses, including our reasonable attorney's fees.

What if we don't stop payment?

We cannot stop payment of a check that has already been paid.

If you ask us to stop payment of a check and we pay it anyway, we gain whatever rights the payee has against you. This means, if the check should have been paid, or the payee has the right to collect from you anyway, we can collect from you. Therefore, if we pay an item that should have been stopped, before we recredit your account, you will have to prove to us that by our payment you have suffered a loss and the cause is our failure to stop the payment.

What kinds of checks does this NOT apply to?

This section does not apply to items not drawn on your account, such as teller's checks, official (cashier's) checks, and accepted checks (e.g., certified checks). We have no responsibility to honor your request to stop payment of items not drawn on your account. If we agree to stop payment on these items, we may require you to provide us with additional security (for example, a bond or collateral) and you agree to indemnify us for any damages and costs we incur as a result of stopping payment of such items.

Fee

To stop a payment you must pay our fee, the amount of which is disclosed in the pricing information disclosure or agreement for your account.

DORMANT ACCOUNTS AND ESCHEAT

A **dormant account** is an account that has been inactive. Generally, subject to state law, "inactive" means there has been no deposit, withdrawal or other communication from you about the account for the period of time as follows:

1. after 11 months for a checking account;
2. after 23 months for a savings account

For security reasons, we may refuse a withdrawal or transfer from an account we internally classify as inactive if we cannot reach you in a timely fashion to confirm the transaction's authorization.

We charge a dormant account fee, unless excluded by account type or prohibited or restricted by state law. The dollar amount and frequency is disclosed in our pricing information disclosure.

If your account has a zero balance, we reserve the right to close it. Any accounts linked as overdraft protection will be de-linked as part of the closure process. Refer to CLOSING YOUR ACCOUNT for additional information.

Escheat is the term that is used to describe the process of transferring an account balance to the state government after an account has been dormant and if our attempts to contact you fail.

The time period after which funds must escheat to the state varies from state to state. Once the funds are transferred to the state, you may be able to recover the funds from the state itself, but not from us.

As permitted by the state, we may deduct the cost of required due diligence from the balance of your account. This due diligence may include first class and certified mailings or public notices about your account's pending escheatment, as required by state law.

FDIC PART 370 RECORD-KEEPING

Record-keeping for All Accounts

FDIC Rule Part 370 may require us to collect certain information from you in order to accurately calculate FDIC insurance coverage for your deposit account. Failure to provide this information to us could result in the delay of deposit insurance payments

Special Provisions for Third-Party Accounts

If you have opened a deposit account on behalf of the beneficial owner(s) of the funds in the account (for example as an agent, nominee, guardian, executor, custodian or funds held in some other capacity for the benefit of others), those beneficial owners may be eligible for "pass-through" insurance from the FDIC. This means the account could qualify for more than the standard maximum deposit insurance amount (currently $250,000 per depositor in the same ownership capacity). If the account has transactional features (such as check writing capabilities or the use of debit cards), as defined in 12 C.F.R. 370.2(j), you as the account holder must be able to provide a record of the interests of the beneficial owner(s)

in accordance with 12 C.F.R. 370.5(a) and with the FDIC's requirements as specified below.

The FDIC has published a Deposit Broker's Processing Guide that describes the process to follow and the information you will need to provide in the event U.S. Bank fails. That information can be accessed on the FDIC's website at https://www.fdic.gov/deposit/deposits/brokers/. In addition, the FDIC published an Addendum to the Deposit Broker's Processing Guide, section VIII, which is a good resource to understand the FDIC's alternative recordkeeping requirements for pass-through insurance and is accessible at the website above. The Addendum sets forth the expectations of the FDIC for pass-through insurance coverage of any deposit accounts, including those with transactional features. The Addendum will provide information regarding the records you keep on the beneficial owners of the funds, identifying information for those owners, and the format in which to provide the records to the FDIC upon failure of U.S. Bank. You must be able to provide this information in a timely manner in order to receive payment for the insured amount of pass-through deposit insurance coverage as soon as possible. You have an opportunity to validate the capability to deliver the required information in the appropriate format so that a timely calculation of deposit insurance coverage can be made. Please contact your account representative for details on the validation process.

You agree to cooperate fully with us and the FDIC in connection with determining the insured status of funds in such accounts at any time. In the event of failure of U.S. Bank, you agree to provide the FDIC with the information described above in the required format within 24 hours of the failure of U.S. Bank. As soon as the FDIC is appointed, a hold may be placed on your account so that the FDIC can conduct the deposit insurance determination; that hold will not be released until the FDIC obtains the necessary data to enable the FDIC to calculate the deposit insurance. You understand and agree that your failure to provide the necessary data to the FDIC may result in a delay in receipt of insured funds and legal claims against you from the beneficial owners of the funds in the account. If you do not provide the required data, your account may be held or frozen until the information is received, which could delay when the beneficial owners could receive funds. Notwithstanding other provisions in this Agreement, this section survives after a receiver is appointed for us, and the FDIC is considered a third-party beneficiary of this section.

CONSUMER ELECTRONIC CHECK RE-PRESENTMENT

If you write a check on a personal account that we return unpaid because of insufficient or uncollected funds, the depositor of the check or the depositor's bank may resend ("re-present") the check to us electronically. That is, the depositor or the depositor's bank may send us an electronic instruction ("electronic re-presented check") to charge your account in the amount of the check.

Our Handling of Electronic Re-presented Checks. If we receive an electronic re-presented check from the depositor or the depositor's bank, we will pay or return the electronic re-presented check as if the original paper check were being re-presented to us. The section titled **"Electronic Fund Transfers"** will not apply to any electronic re-presented check.

Ineligible or Unauthorized Electronic Re-presented Checks. For an electronic re-presented check to be charged to your account, all of the following must be true:

- the electronic re-presented check must relate to a paper check drawn on a personal account that we returned unpaid because of insufficient or uncollected funds;
- the paper check must not have contained an unauthorized signature or an alteration and must not have been a counterfeit;
- you must not have placed a stop payment on the paper check after we returned it unpaid but before it was collected electronically;
- the paper check must have been less than $2,500.00 in amount;
- the paper check must have been dated 180 days or less before the date on which the electronic re-presented check is sent to us;
- the electronic re-presented check must be for the face amount of the paper check only and may not include any collection fee charged by the depositor, the depositor's bank, or a collection agency;
- the payee of the paper check must have given you notice that, if we returned the paper check unpaid because of insufficient or uncollected funds, the fee could be collected electronically; and
- the electronic re-presented check must have been sent to us no more than twice after the first time we returned the paper check, or no more than once after the second time we returned the paper check.

You may have the right to reverse any ineligible or unauthorized electronic re-presented check that we charged to your account. If you want to reverse an electronic re-presented check because you placed a stop payment on the paper check to which the electronic re-presented check relates after we returned the paper check unpaid but before it was collected electronically, you must notify us within 15 days after we send or make available to you the periodic statement that reflects payment of that electronic re-presented check. If you want to reverse an electronic re-presented check for any other reason, you must give us an ACH Claim Form within 15 days after we send or make available to you the periodic statement that reflects payment of that electronic re-presented check. An ACH Claim Form may be obtained by contacting U.S. Bank 24-Hour Banking or a local U.S. Bank branch. In your claim form, you must declare and swear under oath that the electronic re-presented check was ineligible or unauthorized. If we receive your notice or claim form within the 15-day period, we will recredit your account with the amount of the charge but will not be responsible for any other damages associated with the transaction.

Stop Payment. If you wish to stop payment of any electronic re-presented check, you must follow the procedures contained in the rules for stopping payment of checks, not the procedures contained in the rules for stopping payment on electronic loan or bill payments.

CHECKING ACCOUNTS AND "SUBACCOUNTS"

For regulatory accounting purposes we may designate two sub-accounts for a checking account; one sub-account is a savings (non-transaction) account and the other is a checking account. Checks and other third-party transfers are paid from the checking (transaction) account. As necessary, we transfer funds from the savings sub-account to the checking sub-account automatically. You cannot access the savings sub-account directly. This accounting device does not affect either the appearance or the operation of your checking account in any way.

TELEPHONE TRANSFERS

If you have more than one account with us, including a credit card or open-end loan account, you can transfer funds between your accounts by telephone. You will need to have a PIN, and enter your account numbers, and other qualifications, but if you meet them,

1. you can transfer funds between your accounts by calling our 24-hour phone banking (see last page of this disclosure for phone numbers), and
2. telephone transfers may be made by the same account owners/signers and usually under the same conditions as generally applicable to withdrawals made in writing or by other means.

A transfer made by telephone is not immediately completed. It may take as long as one business day for us to verify the transaction and make the transfer. Consumer customers are assigned or can choose a PIN when requesting an ATM or Debit Card. Consumer customers without a debit card or ATM card can request a PIN by speaking to a 24-Hour Banking representative at 800-872-2657. A form is sent by 24-Hour Banking to the customer for completion and must be mailed back to the address on the form. A confirmation letter is mailed to the customer once the PIN has been established.

REQUIRED SIGNATURES

Signature Comparison. We process certain items mechanically, based on information encoded on checks and other transaction items, and we are not required to examine items and debits drawn on your account. We collect your signature to obtain your agreement to the rules we establish for your account, but this does not create any responsibility on our part to verify signatures on items and other charges to your account.

Number of Signatures. You agree that if you

1. require the signatures of two or more persons to open an account;
2. have an account in which more than one signature is required to complete a transaction;
3. authorize someone to transact some but not all transactions on your account;
4. authorize someone to transact business on your account for limited purposes and no others; or
5. use checks that require two or more signatures,

such arrangements are strictly between you and the other person(s) you authorize, whether we have notice of your arrangement (including in a form we provide you) or not. You cannot assert a claim against us for permitting a transaction so long as any one of the owners or authorized persons sign or initiate the transaction, even if a person exercises more authority than you have given.

CHANGES TO OUR AGREEMENT WITH YOU

We may change any term of this Agreement or add a new one as long as it does not violate applicable law. We will give you reasonable notice in writing, electronically, or by any other method permitted by law. You agree that in any event 30 days written or electronic notice prior to the

effective date of any change is reasonable. Any notice to one account owner constitutes notice to all account owners.

If we notify you that the terms of your account have changed, and you continue to have your account after the effective date of the change, you have agreed to the new terms. For consumer customers, rules governing changes in interest rates are provided for separately in the Truth-in-Savings disclosure(s) or in another document.

If your account was originally with a prior financial institution, the terms of this Agreement supersede any prior agreements, representations, or understandings you may have had with that prior financial institution.

In the event that we change the Resolution of Disputes by Arbitration provision set forth herein, any such changes will not apply to (1) pending arbitration, or (2) arbitrations commenced under the rules of the arbitration forum and the terms of this Agreement, between the time that reasonable notice is sent as set forth in this section and the effective date of any change.

CLOSING YOUR ACCOUNT

If you intend to close your account:

This section does not apply to an active time deposit (or certificate of deposit) account.

If you intend to close your account with us, you should tell us; simply transferring all the money in your account and reducing your account balance to $0.00 is insufficient notice and may result in additional fees charged to your account.

If you close your account,

1. you are still responsible for transactions you arranged for, including those that arrive after the account is closed;
2. you should pay special attention to pre-authorized electronic deposits to your account and payments from that account; you should reroute the deposits to another account and make other arrangements for the payments, with us and the other institutions involved;
3. you should not close your account until most of the transactions you arranged for have been cleared, and you should leave enough funds to clear them and the fees that might be due; and
4. if it is an interest-bearing account, accrued interest will not be paid.

If your account is closed and you have a debit or ATM card associated with the account, you will need to either:

1. close the associated card; or
2. select a new account to be linked to your card.

If you do not designate a new account, the bank will automatically assign your ATM/debit card to a new account from any eligible account where you are an owner/joint owner. If there are no eligible accounts the card will be closed.

How the account closure works:

For consumer checking, savings and money market accounts, when you request an account closure, your account will be placed in a 'pending closure' status for a period of 10 business days. During this 10 business day 'pending closure' period, we will allow pending deposits to be cleared and/or post to your account and we will allow pending debit card transactions that you authorized prior to initiating closure to be cleared and/or post to your account. Your debit card will be declined and transactions will no longer be approved when the account is in 'pending closure' status. Once your account is fully closed, transactions will not be allowed to post to the account except under limited circumstances. For example, transactions may be processed after closure if necessary for fraud investigations, transaction dispute claims, merchant credits, or deposit adjustments due to errors.

We can close your account:

We can close your account, ATM or debit card for any reason or for no reason at all. If we close your account, we will send you notice within ten days after closing and/or indicate the closure on your next account statement. We will send the collected account balance to you at your last known address as reflected in our account records. At our sole discretion we may, but are not required to, withhold a sufficient sum to cover any outstanding items and likely fees. If we withhold any money for such contingencies, we will refund that to you after we are satisfied that no further withholding is necessary.

If your account is closed for any reason, you authorize us to re-open your account to process any transactions authorized prior to account closure, or for other purposes consistent with applicable law.

As part of the account closure, any accounts linked to the Checking Account as overdraft protection will be de-linked. If a U.S. Bank Reserve Line of Credit is linked as overdraft protection to a Checking Account that is closed for any reason, the Reserve Line will also be closed, and you must repay any remaining balance according to the monthly payment coupon included in your future periodic statements.

STATEMENTS AND NOTICES

Statements. We will periodically make available to you a paper or eStatement of your checking or savings account. These statements show the transactions that occurred in the time period covered by the statement. If you elect **not** to review your statement, you are still responsible for having access to the information provided in the statement. At our option, a statement will not be produced in any statement period in which service charges, fees, reversals, refunds or interest are the only transactions on the account. When other activity exists, such as a deposit or withdrawal, a statement will be available to you and will include all transactions which have occurred since the last statement (this includes any service charges, fees, reversals, refunds or interest that occurred since the last available statement). At a minimum, all accounts will receive an annual statement. Regardless of how frequently a statement is made available, monthly service charges and other account fees will continue to be deducted from the account. In addition, applicable interest will continue to accrue and be paid periodically as disclosed in the product pricing information disclosure.

Combined Statements. If you have multiple accounts with us, we may at any time automatically combine your accounts on a single, easy-to-read monthly statement. We will only combine statements for accounts that have common ownership (meaning at least one owner is common across multiple accounts) and the same address and Social Security Number.

If you prefer to continue receiving separate statements, please contact U.S. Bank within 30 days of receiving your combined statement. You may reach us by calling one of the numbers listed on the back of this disclosure, sending a letter to U.S. Bank, 60 Livingston Ave, EP-MN-WS5D, St. Paul, MN 55107, or sending a secured email by logging on to usbank.com and selecting "Contact Us". Please include the following information in your correspondence: your name, account number(s) and the reference code "CMBSTMN."

Your address. You must give us your correct address, and if you move or change your address, you must keep us advised. You are responsible for messages and statements we send to the most recent address you have given us. We may also update your address in our records without a request from you if we receive an address change notice from the U.S. Postal Service or if we receive updated address information from our mail services vendor.

Multiple owners. Periodic statements and notices that we make available to one owner or agent/signer of an account will be the same as providing statements and notices to all owners of an account. You agree to designate the primary address for purposes of receiving statements and other account correspondence. Each account owner agrees that we may send any legal notice or legal process affecting any owner or the account to the primary address designated on the account. Each account owner agrees to notify the other owners of any legal notice received at that address pertaining to such other account owner or to the account.

Your Duty to Examine Your Statement. As used in this section, the term "problem" means any error, alteration, counterfeit check, or unauthorized transaction (including, but not limited to, forged or missing signatures and excluding consumer electronic banking transactions) related to your account. Because you are in the best position to discover any problem, you agree to promptly examine your statement and report to us any problem on or related to your statement within 30 calendar days after we mail the statement (or make the statement available) to you. You agree that we will not be responsible for:

1. any problem that you do not report to us in writing within a reasonable time not to exceed 30 calendar days after we mail the statement (or make the statement available) to you;
2. subsequent problems or fraudulent items occurring after 30 days of the first occurrence; if you fail to report the problem within 30 days of the first occurrence reported on your statement;
3. results from a forgery, counterfeit or alteration so clever that a reasonable person cannot detect it (for example, unauthorized checks made with your facsimile or other mechanical signature device or that look to an average person as if they contain an authorized signature); or
4. as otherwise provided by law or regulation.

You agree to waive any rights to recovery you may have against us if you do not provide notice to us in the manner and within the time required by this Agreement. You may not start a legal action against us because of any problem unless: (a) you have given us the above notice and (b) the legal action begins within one year after we send or make your statement available to you. You agree that if the problem is the result of a series of events (for example, multiple forgeries over a period of time) then

the date the first event occurred is the date from which the period to bring a legal action will begin to run. If you make a claim against us in connection with a problem, we reserve the right to conduct a reasonable investigation before re-crediting your account and you agree to fully cooperate in such investigation. Within 30 days of the date of mailing, you agree to complete and return an affidavit of unauthorized paper debit on the form we provide you along with any other information we may request. You further agree to file a police report if we request. If you refuse to sign such an affidavit or fail to return the affidavit and other requested documentation within 30 days of the date we mail it to you, you agree that we may consider the matter resolved and reverse any provisional credit provided. At our sole discretion, we may, but are not obligated to, provisionally credit your account during the investigation for all or a portion of the amount claimed. Any provisional credit to your account may be reversed if you fail to fully cooperate in our investigation or, if as a result of our investigation, we determine that the charge to your account was proper. You agree to pay any fees assessed or accrued against your account during the investigation or that may arise upon reversal of any provisional credit.

For problems involving an electronic fund transfer, please refer to the **Electronic Fund Transfers** sections of this disclosure.

This time period for you to examine your statement and report problems to us are without regard to our level of care or the commercial reasonableness of our practices, and without regard to whether cancelled checks are supplied to you.

Contact us if you do not receive your regular statement. If this is a business account, you agree that you will have at least two people review your statements, notices, and returned checks, or in the alternative, the person who reviews these will be someone who does not have authority to transact business on the account.

RETURN OF CANCELLED CHECKS

For some specific consumer and business checking accounts we currently offer two plans, with respect to the return of cancelled checks:

1. Check Safekeeping: paid checks that are not returned - your statement will show the check number, the amount, and the date it is paid; or
2. Image Checks on Statement: paid checks that are not returned - your statement will include a reduced image of the front of the check or front and back of a check in addition to the number, amount and date the check is paid as part of the statement; (See the **CHECK 21** section; the images sent with your statement are **not** substitute checks themselves, but some may be images of substitute checks.) .

Option 1 is what you will get unless you specifically ask for option 2. The checking accounts for which these options are available vary. The products and our fee structures for each option are disclosed in the *Consumer Pricing Information, Business Pricing Information* or *U.S. Bank Business Essentials® Pricing Information* disclosure(s) or agreement for your account.

(All disclosures can be obtained by stopping in a U.S. Bank branch or for the *Consumer Pricing Information* only, call 800-872-2657 to request a copy.)

If you take option 1 or 2, and you have need for a specific paper check, we can provide a substitute copy to you upon request.

CHECKS, CHECKING ACCOUNTS AND SAVINGS ACCOUNTS WITH DRAFT ACCESS

NOW Accounts: Transaction accounts are NOW Accounts on which you can write negotiable orders of withdrawal. Negotiable orders of withdrawal look and function like checks, and the rules governing checks also apply to them. Depending on account features, NOW Accounts may or may not bear interest. Although we have no intention of exercising this right, federal regulations require that we reserve the right to require at least seven days' written notice prior to withdrawal or transfer of any funds on your NOW Account.

SAVINGS ACCOUNTS

By the term "savings" account we mean an account that earns interest but has no specific maturity date or required notice period. (A maturity date or a required notice period is a characteristic of a time deposit or certificate of deposit.)

We will provide you with a periodic (quarterly, monthly, annually based on your account type and account activity) statement for your savings account and you must examine your statement for errors or forgeries just as you should for your checking account.

Savings Account Transaction Policy

We reserve the right to require seven days' notice before any withdrawal from any savings account, though it is very unlikely we will require such notice and, if we do, we will require it for all savings accounts.

TIME DEPOSITS

A time deposit is more commonly known as a certificate of deposit or CD. With a time deposit, you agree to keep your deposit with us for a specified period of time, or agree to give a required advance notice prior to withdrawal, and we agree to pay you interest at an agreed upon rate, or an agreed formula for a rate, for that period of time.

We are not required to permit an early withdrawal from a time deposit, and if we do, it will be on condition that you pay an early withdrawal fee and penalty. How we charge the early withdrawal penalty will be disclosed to you when you open such an account.

All the features of your time deposit will be disclosed to you when you open the account. You can call 24-Hour Banking, visit a local U.S. Bank branch, or go to usbank.com to find out what CD products and terms we offer.

If your time deposit, including single maturity, automatically renewable or Individual Retirement Account CDs, remains inactive for a pre-determined period of time, as required by state, and our attempts to contact you fail we may transfer or escheat your funds to the state as required.

Escheat is the term that is used to describe the process of transferring an account balance to the state government after an account has been dormant for a pre-determined period of time, as required by state, and if our attempts to contact you fail.

The time period after which funds must escheat to the state varies from state to state. Once the funds are transferred to the state, you may be able to recover the funds from the state itself, but not from us.

As permitted by the state, we may deduct the cost of required due diligence from the balance of your account. This due diligence may include first class and certified mailings or public notices about your account's pending escheatment, as required by state law.

LIMIT OF LIABILITY

We process millions of transactions every day, with the help of complicated technology and other companies. If we make a mistake and charged you more than we should have, or failed to give you credit you were due, we will correct the error, so long as you give us sufficient and timely notice and an opportunity to fix it. See the section above titled **Statements and Notices,** for your duty to pay attention to your statement and report any errors. For errors covered by the Electronic Fund Transfers Act refer to the section Electronic Fund Transfers for Consumer Customers.

You agree – to the extent allowed by law – to waive any indirect, incidental, special, consequential and punitive damages for errors or mistakes we make in good faith. This includes damages that might otherwise be available in a tort or contract action, and whether the consequences are foreseeable or not.

ELECTRONIC MESSAGES AND AGREEMENTS

Many customers use the Internet and email as their primary form of communication with us. If you provide us with an email address, you agree that we may communicate with you via email and you further agree to notify us of any changes to your email address.

You agree that we may make agreements with you by electronic means. Your authorization and consent to such an agreement, or your delivery of instructions, may be made by use of certain numbers, codes, marks, signs, personal identification numbers (PINs), public or private keys or other means, acceptable to you and to us, to establish your identity and acceptance of the electronic communications. All electronic communications that meet these requirements will be deemed to be valid and authentic and you intend and agree that those electronic communications will be given the same legal effect as written paper communications signed by you. You agree that electronic copies of communications are valid and you will not contest the validity of the originals or copies, absent proof of altered data or tampering.

LEVIES, GARNISHMENTS AND OTHER LEGAL PROCESS

We are a national bank with many locations. You agree that for purposes of this part, we may treat your funds as existing wherever your account is located, as outlined in the Applicable Law section. You understand and agree that a creditor or governmental agency may attach your account by service of legal process on any of our locations, at any site designated by us for acceptance of service of process, on any appointed agent of ours, or any other method authorized by law, court rule, or regulation. We may accept and comply with legal process served by any means, whether in person, by mail, facsimile, electronic transmission, or other means.

If we are served with a garnishment, levy, execution, or other legal process of apparent validity (together referred to as "legal process"), you understand and agree that we will pay all amounts in the account, or release information about your account, in satisfaction of the legal process and in compliance with our understanding of applicable law. If your account is a joint account, for purposes of responding to legal process, we will consider each joint owner to have an undivided interest in the entire account. Therefore, you agree we may pay all amounts in the account in satisfaction of any legal process, even if it attaches to the interest of fewer than all the account owners. You agree that we may process a levy, garnishment, or other legal process served on us even if we do not process it on the same day it was received. If you believe your funds are exempt from legal process, or otherwise should not be subject to the legal process (for example, if you own funds and the legal process applies to another joint owner, you believe the court, garnishor, or levying authority lacks jurisdiction over you or the property, or you believe the garnishment or levy names the wrong party as garnishee), you agree that it may be your responsibility to raise any defense to the legal process against the party who originated the legal process or seek reimbursement from a joint owner.

If we are served with any legal process that tries to attach or in some way prevent you from freely using your funds, you give us the right, but we have no obligation, to hold any portion of the funds during any time necessary to determine to our satisfaction who has the legal right to the funds in your account. If we are not able to determine whether the funds in your account are subject to the legal process, you agree that we may deposit the funds with any court which we deem to have jurisdiction over us or your account and ask that court to determine to whom the funds belong. You agree to reimburse us for our expenses, including attorney's fees and expenses, arising out of the service of the legal process on us and our response to it.

If the legal process requires us to release information about one or more accounts for which combined statements are provided, we may release the entire combined statement even if other accounts on the statement are not covered by the legal process.

All legal process is subject to our rights of setoff and our security interest in your account. We will assess a service fee against your account for any legal process served on us regardless of whether the process is subsequently revoked, vacated, or released. Unless expressly prohibited by law, we will set off or enforce our security interest against your account for such fee prior to our honoring the legal process. We will not be liable to you if an attachment, a hold, or the payment of our fee from your account leaves insufficient funds to cover outstanding items.

RESOLVING ACCOUNT DISPUTES AND ADVERSE CLAIMS

If a dispute arises concerning your account (including, for example, a dispute over who is an authorized signer or owner), or if we believe we have a claim against you or we have or receive a claim by a third party (including our affiliates) to all or a portion of the property (including money, certificates of deposit, securities and other investment property, financial assets, etc.) in your account, or if we have concerns regarding your account or the use of your account, we have the right to hold any portion of the property in your account until the dispute, claim, or concern is resolved to our satisfaction. We will not be liable to you if the hold we place on your account leaves insufficient funds to cover outstanding items. For purposes of this section, "account" includes any account you have with us or any of our affiliates (including, without limitation, agency, custody, safekeeping, brokerage, and revocable trust accounts). If the dispute, claim or concern remains unresolved, you agree that we may at our option deposit the property in your account with a court and ask the court to determine to whom the property belongs. If we deposit your property with a court, you agree that we may charge your account for our costs, including attorney's fees and expenses. For disputes covered by the Electronic Fund Transfers Act refer to the section Electronic Fund Transfers for Consumer Customers.

INCREASED COSTS TO MAINTAIN YOUR ACCOUNT

If your account becomes subject to a receivership, court order or bankruptcy, and we are required to implement changes as to your account that increase our costs to maintain your account (for example, a requirement for us to pledge property to secure your account above the amount of any deposit insurance on your account), you agree to reimburse us for the additional costs and any expenses incurred by us (including legal fees) to implement such required changes as to your account.

CONSUMER REPORT DISPUTES

We may report information about your deposit accounts to Consumer Reporting Agencies (CRA). As a result, this may prevent you from obtaining services at other financial institutions. If you believe we have inaccurately reported information to a CRA, you may submit a dispute by calling 844-624-8230 or by writing to:

U.S. Bank Attn: CBDH Management, P. O. Box 3447, Oshkosh, WI 54903-3447. In order for us to assist you with your dispute, you must provide: your name, address and phone number; the account number; the specific information you are disputing; the explanation of why it is incorrect; and any supporting documentation (e.g., affidavit of identity theft), if applicable.

ACCOUNT INFORMATION

Our Privacy Pledge discloses the information we share with other entities for marketing purposes. We also may be required to provide information about you and your account when and as required or permitted by law for other purposes, such as, for example:

1. reporting of interest you earn to federal and state tax authorities;
2. reporting of cash transactions that are at reportable limits;
3. investigating and reporting of transactions that we reasonably determine to be suspicious; and
4. responding to subpoenas, court orders, or government investigations.

SETOFF

We have the right under the law to set off amounts you owe us against your accounts with us. For purposes of this section, "account" includes any account you have with us or any of our divisions, departments, and affiliates (including, without limitation, agency, custody, safekeeping, securities, investment, brokerage, and revocable trust accounts) and "you" includes, without limitation, your revocable trust, any partnership in which you are a general partner, any prior or successor entity by way of an entity conversion, and any other series of your series limited liability company (as applicable). In addition to this legal right, you give us and our affiliates the contractual right to apply, without demand or prior notice, all or part of the property (including money, certificates of deposit, securities and other investment property, financial assets, etc.) in your accounts, against any debt any one or more of you owe us or our affiliates. If your account is a joint account, you agree we may consider each joint owner to have an undivided interest in the entire account, so we may exercise our contractual right of setoff against the entire account. This includes, for example, debts that now exist and debts that you may incur later, your obligations under a guaranty, and also includes all fees you owe us or our affiliates. We will not be liable to you if enforcing our rights of setoff against your account(s) leaves insufficient funds to cover outstanding items or other obligations. You agree to hold us harmless from any claim arising as the result of our enforcement of our rights of setoff in, or enforcement of our rights of setoff against, your account(s).

Our contractual right of setoff does not apply:

1. to an account that is an IRA or other tax-deferred retirement account;
2. to a debt that is created by a consumer credit transaction under a credit card plan (but this does not affect our rights under any consensual security interest); or
3. if our records demonstrate to our satisfaction that the right of withdrawal that a depositor/debtor has with us only arises in a representative capacity (for example, only as an authorized signer, attorney-in-fact or a fiduciary) for someone else.

This right of setoff is in addition to any security interest that we or an affiliate of ours might have in your deposit account.

SECURITY INTEREST IN ACCOUNTS

You grant to us and our affiliates, a security interest in all your accounts with us, and all property in your accounts (including money, certificates of deposit, securities and other investment property, financial assets, etc.), to secure any amount you owe us or our divisions, department, and affiliates, now or in the future. This includes, for example, debts that now exist and debts that you may incur later, your obligations under a guaranty, and also includes all fees you owe us or our affiliates. For purposes of this section, "account" includes any account you have with us or any of our affiliates (including, without limitation, agency, custody, safekeeping, securities, investment, brokerage, and revocable trust accounts) and "you" includes, without limitation, your revocable trust, any partnership in which you are a general partner, any prior or successor entity by way of an entity conversion, and any other series of your series limited liability company (as applicable). In order to provide us and our affiliates with control over your account and all property in your account for purposes of perfecting the security interest granted above, you agree that we shall comply with any and all order, notices, requests and instructions originated by us or any of our affiliates directing disposition of the funds in your account without any further consent from you, even if such instructions are contrary to your instructions or demands or result in our dishonoring items which are presented for payment.

If your account is a joint account, you agree we may consider each joint owner to have an undivided interest in the entire account, so we may

exercise our security interest against the entire account. We may enforce our security interest without demand or prior notice to you. You agree, for purposes of this security interest, that our affiliates may comply with any instructions we give them regarding your accounts held with them, without further consent. You also agree that we may comply with any instructions regarding your accounts that we receive from our affiliates pursuant to a security interest they have in your accounts with us. We will not be liable to you if enforcing our security interest against your account(s) leaves insufficient funds to cover outstanding items or other obligations.

You agree to hold us harmless from any claim arising as the result of our security interest in, or enforcement of our security interest against, your account(s).

SECURITY

It is your responsibility to protect the account numbers, including card numbers and electronic access devices (e.g., an ATM card, debit card, username and password or PIN) we provide to you for your account(s).

If you furnish your access device and grant actual authority to make transfers to another person (a family member, coworker or employee, for example) who then exceeds that authority, you are liable for the transfers unless we have been notified that transfers by that person are no longer authorized.

Your account number can also be used to electronically remove money from your account. If you provide your account number in response to a telephone solicitation for the purpose of making a transfer (to purchase a service or merchandise, for example), payment can be made from your account even though you did not contact us directly and order the payment.

You must also take precaution in safeguarding your blank checks. Notify us at once if you believe your checks have been lost or stolen. As between you and us, if you are negligent in safeguarding your checks, you must bear the loss entirely yourself or share the loss with us (we may have to share some of the loss if we failed to use ordinary care and if we substantially contributed to the loss).

We reserve the right to place a hold on your account if we suspect irregular, fraudulent, unlawful or other unauthorized activity involved with your account. We may attempt to notify you of such a hold, but we are not required to provide notice prior to placing the hold. You agree that we may maintain such a hold until all claims against you or us to the funds held in your account, whether civil or criminal in nature, have been resolved fully in our sole satisfaction.

RESOLUTION OF DISPUTES BY ARBITRATION

PLEASE READ THIS PROVISION CAREFULLY. UNDER THIS PROVISION, YOU WAIVE YOUR RIGHTS TO TRY ANY COVERED CLAIM IN COURT BEFORE A JUDGE OR JURY AND TO BRING OR PARTICIPATE IN ANY CLASS OR OTHER REPRESENTATIVE ACTION.

The following provision applies to any claim, cause of action, proceeding, or any other dispute between you, on the one hand, and us, our respective parents, subsidiaries, affiliates, agents, employees, predecessors-in-interest, personal representatives, heirs and/or successors, and assigns, on the other hand (each a "Claim" as further defined under the heading "Claims Covered by Arbitration"), including all questions of law or fact related thereto.

Agreement to Arbitrate: Either you or we may elect in writing, and without the consent of the other, to arbitrate all Claims covered by this provision.

Claims Covered By Arbitration: Claims subject to our agreement to arbitrate shall include all of the following: (1) Claims related to or arising out of this account Agreement, or any prior or later versions of this account Agreement as well as any changes to the terms of this account Agreement; (2) Claims related to or arising out of any aspect of any relationship between us that is governed by this account Agreement, whether based in contract, tort, statute, regulation, or any other legal theory; (3) Claims related to your use of any of the digital services we make available to you through our website, online banking platforms, and mobile apps; and (4) Claims that relate to the formation, construction, scope, applicability, or enforceability of this arbitration provision. Claims include Claims that arose before we entered into this account Agreement (such as Claims related to advertising) and after termination of this account Agreement.

Arbitration: The party initiating arbitration must initiate such arbitration with the American Arbitration Association ("AAA"). If AAA is for any reason unable to serve, then the parties may agree to a comparable substitute organization. If the parties are unable to agree, then a court of competent jurisdiction shall appoint a comparable substitute organization.

Small Claims Jurisdiction: If a party's Claim is within the jurisdiction of the small claims court where you reside, either party may at any time choose to take the Claim to that court instead of arbitration. The party may take the Claim to small claims court without first filing in arbitration or, after a case is filed in arbitration, a party may send written notice to the opposing party and the arbitration forum that it wants the Claim decided by a small claims court. After receiving the notice, the arbitration forum shall administratively close the case.

Arbitration Procedure: The arbitration shall be decided by a single neutral arbitrator. Except as modified by this Resolution of Disputes by Arbitration provision, AAA shall administer arbitration in accordance with AAA's Consumer Arbitration Rules. AAA's Rules may be obtained from www.adr.org or 800-778-7879 (toll free).

At the time of initiating arbitration, the party seeking to initiate arbitration must provide the other party with the demand for arbitration and identify the account holder(s) and account(s) at issue, including the account number(s), and provide a short and plain statement of the claims asserted and the relief sought. The parties agree that Federal Rule of Civil Procedure 11 shall apply to the arbitration proceeding, including that the claims and relief sought are neither frivolous nor brought for an improper purpose.

The arbitrator will decide the dispute in accordance with the terms of our account Agreement and applicable substantive law, including the Federal Arbitration Act and applicable statutes of limitation. The arbitrator shall honor claims of privilege recognized at law. The arbitrator may award damages or other relief (including injunctive relief) available under applicable law, including relief contemplated under Federal Rule of Civil Procedure 11. The arbitrator will not have the authority to award relief to, or against, any person or entity who is not a party to the arbitration. The arbitrator will take reasonable steps to protect customer account information and other proprietary or confidential information. Any arbitration hearing shall take place in the federal judicial district that includes your home address, unless you and we agree in writing to a different location or the arbitrator so orders. If all Claims are for $10,000 or less, you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing in accordance with AAA's rules.

At your or our request, the arbitrator will issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. The arbitrator's award shall be final and binding, subject to judicial review only to the extent allowed under the Federal Arbitration Act. You or we may seek to have the award vacated or confirmed and entered as a judgment in any court having jurisdiction.

No Class Action or Joinder of Parties: You and we agree that any Claim brought in arbitration will be brought on an individual basis only. You and we agree that no class action, private attorney general, or other representative claims may be pursued in arbitration, nor may such action be pursued in court if either you or we elect arbitration. Unless mutually agreed to by you and us, Claims of two or more persons may not be joined, consolidated, or otherwise brought together in the same arbitration (unless those persons are joint account owners or beneficiaries on your account and/or related accounts, or parties to a single transaction or related transaction). If under applicable law a claim, remedy or request for relief cannot be compelled to arbitration, then that claim, remedy or request for relief shall be severed and may be brought in a court of competent jurisdiction under this Agreement after arbitration and all appeals are concluded. The remaining claims, remedies or requests for relief shall be submitted to arbitration consistent with the terms of this provision. If this specific paragraph is determined by the arbitrator to be unenforceable, then this entire provision shall be null and void .

Arbitration Costs: The parties will be responsible for the costs of arbitration as set forth in the rules of the applicable arbitration forum and subject to applicable law. To the extent allowed by applicable law, our agreements, and the rules of the applicable arbitration forum, the arbitrator may award arbitration costs and attorneys' fees to the prevailing party. Otherwise, each party will pay its own attorney, expert and witness fees.

Applicable Law: You and we agree that you and we are participating in transactions that involve interstate commerce and that this provision and any resulting arbitration are governed by the Federal Arbitration Act. To the extent state law applies, the laws of the state governing your account relationship apply. No state statute pertaining to arbitration shall apply.

Severability: Except as this provision otherwise provides, if any part of this provision is deemed to be invalid or unenforceable by the arbitrator, that part will be severed from the remainder of this provision and the remainder of this provision will be enforced.

ATTORNEY'S FEES

Where used, "attorney's fees" includes our attorney's fees, court costs, collection costs, and all related costs and expenses. Notwithstanding any provision in this Agreement to the contrary, any provision for attorney's fees in this Agreement shall not be enforceable in any dispute governed by the laws of California or Oregon.

LITIGATION CLASS ACTION WAIVER

To the extent a Claim is not submitted to arbitration for any reason, you and we agree that any Claim filed in court will be brought on an individual basis only. You and we agree not to participate in any class action, private attorney general action, or other representative action for any Claim filed in court by any party.

FUNDS AVAILABILITY: YOUR ABILITY TO WITHDRAW FUNDS – ALL ACCOUNTS

This funds availability policy applies to deposits into a checking or savings account made at a branch or ATM. This policy does not apply to deposits made using a remote deposit capture service (like our mobile check deposit service). Please see the *Digital Services Agreement* to learn more about the funds availability policy applicable to deposits made through a mobile or other electronic device.

Some sections of this disclosure apply to all accounts and all customers. There are special sections for New Accounts, Commercial Accounts, Wealth Management Accounts and Retail Consumer and Business Accounts. We will make that clear in the section headings.

Funds "availability" means your ability to withdraw funds from your account, whether those withdrawals are to be in cash, by check, automatic payment, or any other method we offer you for access to your account. If deposited funds are not "available" to you on a given day, you may not withdraw the funds in cash and we may not use the funds to pay items that you have written or honor other withdrawals you request. If we pay items that you have written or honor other withdrawals before funds are available to you, we may charge a fee for this. Please review the product pricing information disclosure for information regarding overdraft fees associated with your accounts.

Please remember that even after the item has "cleared," we have made funds available to you, and you have withdrawn the funds, you are still responsible for items you deposit that are returned to us unpaid and for any other problems involving your deposit. See our **Returned Deposited Items For Business Accounts Only** section.

DETERMINING THE AVAILABILITY OF A DEPOSIT – ALL ACCOUNTS

The day funds become available is determined by counting business days from the day of your deposit. Every day is a business day except Saturdays, Sundays, and federal holidays. If you make a deposit in person at a branch on a business day we are open, we will consider that day to be the day of your deposit for purposes of calculating when your funds will become available. However, if you make a deposit at a time or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

If a deposit is made after 8:00 p.m. (local time at the ATM location) or on a day we are not open, we will consider the deposit to be made on the next business day we are open.

Deposits you send by mail are considered deposited on the business day it arrives at the bank. In all cases, availability of any deposit assumes that a requested withdrawal will not overdraw the account.

IMMEDIATE AVAILABILITY – ALL ACCOUNTS

The following types of deposits will usually be available for withdrawal immediately under normal circumstances:

- Cash (if deposited in person to an employee of ours);
- Electronic direct deposits;
- Wire transfers; and
- The first $225.00 from the total of all other deposits made on any given day.

Cash and wire transfer deposits are subject to the **Special Rules for New Accounts** and the $225.00 availability is subject to the rule in the section titled **Longer Delays May Apply.**

LONGER DELAYS MAY APPLY

Government Checks, Cashier's Checks, and Other Types of Special Checks. If you make a deposit of one of the following items in person to one of our employees, our policy is to make the funds from those deposits available no later than the first business day after the day of deposit:

- State and local government checks that are payable to you;
- Cashier's, certified, and teller's checks that are payable to you; and
- Federal Reserve Checks, Federal Home Loan Checks, and U.S. Postal Money orders that are payable to you.

If you do not make your deposit in person to an employee of the bank (for example, if you mail us the deposit), funds from these deposits may be available no later than the second business day after the day of deposit. However, we may delay funds for a longer period of time, see section titled **Longer Delays May Apply – Safeguard Exceptions.**

Large Deposits. If you deposit checks totaling more than $5,525.00, in the aggregate, on any one day, then the first $5,525.00 of your total deposit(s) will be available on the first business day after the day of your deposit(s). The excess amount over $5,525.00 will be available on the fifth business day after the day of your deposit(s).

Case-by-Case Delays. In some cases, we will not make all of the funds that you deposit available to you as provided above. Depending on the type of check that you deposit, funds may not be available until the second business day after the day of your deposit. The first $225.00 of your deposit, however, will be available no later than the first business day after the day of deposit, and usually immediately.

If we are not going to make all of the funds from your deposit available on the first business day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees (including a deposit made at an ATM) or if we decide to take this action after you have left the premises, we will mail you the notice by the day after we receive your deposit.

If you will need the funds from a deposit right away, you should ask us when the funds will be available.

Safeguard Exceptions. In addition, funds you deposit by check may be delayed for a longer period under the following circumstances:

- We believe a check you deposit will not be paid.
- You deposit checks totaling more than $5,525.00 on any one day.
- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the last six months.
- There is an emergency, such as failure of computer or communications equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the seventh business day after the day of your deposit.

RETAIL CONSUMER, BUSINESS AND COMMERCIAL ACCOUNTS

Our general availability policy for these accounts is to make funds available to you on the first business day after the day of deposit. We generally make some portion of a day's deposits available for withdrawal immediately. See the previous section for the types and amounts of deposits that are available immediately.

WEALTH MANAGEMENT ACCOUNTS

Our general availability policy for **Private Client Accounts** is to make funds you deposit available to you immediately. This immediate availability policy includes all deposits at any ATM. The section above titled **Longer Delays May Apply** also applies to your accounts. If we impose a delay as provided in that section, then the sections titled **Cashing Checks** and **Other Accounts** may also apply.

DEPOSITS AT AUTOMATED TELLER MACHINES – RETAIL CONSUMER, BUSINESS AND COMMERCIAL ACCOUNTS

Our Machines. If you make a deposit at a deposit-accepting ATM identified as ours with the U.S. Bank name, your deposit will generally be available on the first business day after the day of deposit. However, in certain circumstances, and at U.S. Bank's discretion, the funds may not be available until the second business day after the day of deposit.

Partner ATMs. U.S. Bank has established alliances to expand ATM convenience. These partner ATMs display the U.S. Bank logo and are included in the definition of a U.S. Bank ATM. However, these ATMs generally do not accept deposits. If we permit a deposit at a partner ATM, your deposit will not be available until the fifth business day after the day of deposit.

Other Machines. Generally, deposits at an ATM that is not identified as ours with the U.S. Bank name are not permitted. If we permit a deposit at an ATM that is not identified as ours with the U.S. Bank name, your

deposit will not be available until the fifth business day after the day of deposit.

SPECIAL RULES FOR NEW ACCOUNTS – RETAIL CONSUMER AND BUSINESS ACCOUNTS

If you are a new customer, the following special rules will apply during the first 30 days your account is open.

Funds from electronic direct deposits and deposits of cash and wire transfers to your account will be available on the day we receive the deposit. The first $5,525.00 of a day's total deposits of cashier's, certified, teller's, traveler's, on-us checks (checks drawn on U.S. Bank), and federal, state and local government checks will be available on the first business day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess amount over $5,525.00 will be available on the fifth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first $5,525.00 will not be available until the second business day after the day of your deposit.

Funds from all other check deposits will generally be available on the fifth business day after the day of your deposit. In certain instances, we may hold funds from other check deposits for longer than five business days. For example, if we receive a check that falls within the Safeguard Exception description above, we may delay funds for up to seven business days. If we do so, we will provide you with a hold notice at the time of deposit or when we learn that we will hold the funds from the deposit.

CASHING CHECKS

If we cash a check for you that is drawn on another bank, we may withhold the availability of a corresponding amount of funds that are already in your account. Those funds will be available at the time funds from the check we cashed would have been available if you had deposited it.

OTHER ACCOUNTS

If we accept for deposit a check that is drawn on another bank, we may make funds from the deposit available for withdrawal immediately but delay your availability to withdraw a corresponding amount of funds that you have on deposit in another account with us. The funds in the other account would then not be available for withdrawal until the day the deposited item would have been available, which will usually be the first business day after the day of deposit.

ADDITIONAL TERMS FOR BUSINESS ACCOUNTS

All other sections of this Agreement apply to consumer and business accounts alike, (except when a rule specifically says it will apply to consumers). The following sections apply to accounts used primarily for business purposes.

UNLAWFUL INTERNET GAMBLING AND OTHER ILLEGAL TRANSACTIONS

You agree that you, or anyone acting on your behalf, will not use your account, access device or banking relationship with us to facilitate illegal transactions such as those prohibited by the Unlawful Internet Gambling Act of 2006, or otherwise violate any law, rule or regulation applicable to you. If we identify a suspected illegal transaction, we may block such transactions, and further we may close your account or terminate our banking relationship with you.

DEPOSIT OF PRE-AUTHORIZED DRAFTS

A pre-authorized draft is an arrangement whereby you get authority from a person (a customer, usually) to access a deposit account owned by that person to pay a debt that person owes you. You deposit these "drafts" into a deposit account with us, and we collect them from your customers, who may have accounts with us or other banks. (These "drafts" are checks you create based on information your customer provides you, such as the customer's name and account number, and the express permission your customer gave you to draw on his account.)

When you deposit these pre-authorized drafts, you make the following agreements and warranties:

1. You have express, verifiable and binding authorization from your customer to access his, her or its account for the amount you ask us to collect;
2. You will keep the proof of your authorization in retrievable form for not less than two years from: (a) the date of the authorization of a one-time draft; or (b) from the date of revocation of the authorization of recurring drafts. You agree to provide us with such proof upon our request;
3. We may reverse any credit given to you for any draft deposited to your account and returned to us regardless of when it is returned or the reason for the return. We may take funds in your account to pay the amount you owe us, and if there are insufficient funds in your account, you will still owe us the remaining balance.

EARNINGS CREDIT

Fees for services used by you may be assessed in full to your accounts or may be offset through account analysis by applying earnings credit to your service charges to determine a single monthly net service charge. Your earnings credit rate is established by us and will change from time to time. For business accounts, the variable earnings credit rate may be zero or a negative rate. If the earnings credit rate for any of your account(s) or the index or other referenced rate upon which the earnings credit rate for your account(s) is based is at any time less than zero percent, you agree to pay all amounts of the negative earnings credit or fees which we impose as compensation for the negative earnings credit rate. Your net service charge could be zero if your earnings credit equals or exceeds your total charges in a given month. If your earnings credit is not sufficient to offset the amount due hereunder, you agree to pay such amounts to us upon demand.

WAIVER OF NOTIFICATION OF REDEPOSITED CHECKS

When you deposit checks to your account, you have a right to be notified whenever a check you deposit is returned unpaid. We offer a plan (to businesses who elect it) whereby we will automatically redeposit checks returned unpaid due to insufficient funds. To simplify collection of these items, you give up this right to notification for those items we redeposit. If these items are returned unpaid a second time, you will receive standard notification.

We may withhold the availability of funds represented by a redeposited check. We will notify you of such delay.

FACSIMILE SIGNATURES

You may wish to use a facsimile signature stamp or other mechanical signature device to sign checks or other orders relating to your accounts. If you do, we will, without contacting you, debit your account for items bearing an imprint that looks substantially like your authorized mechanical signature, whether or not such items bear the actual facsimile signature stamp. You agree to notify us and give us a sample imprint if you plan to use such a device. If you do not give us a sample, this section still applies to your use of the device. You are responsible for the security of any mechanical signature device. We will not be responsible for payment of unauthorized items bearing an imprint from, or similar to, your authorized mechanical signature.

DEPOSITS

Truncation, Substitute Checks, and Other Check Images: If you truncate an original check and create a substitute check or other replacement document, or other paper or electronic image of the original check, you warrant that no one will be asked to make payment on the original check, a substitute check or any other electronic or paper image, if the payment obligation relating to the original check has already been paid. You also warrant that any substitute check(s) you create conforms to the legal requirements and generally accepted specifications for substitute checks. You agree to retain the original check in conformance with the time requirements as outlined in your remote deposit capture agreement with us. You agree to indemnify us for any loss we may incur as a result of any truncated check transaction you initiate. We can refuse to accept substitute checks that have not previously been warranted by a bank or other financial institution in conformance with the Check 21 Act. Unless specifically stated in a separate agreement between you and us, we do not have to accept any other electronic or paper image of an original check.

Deposit Preparation, Sorting, and Endorsements: You agree to properly prepare, sort, and endorse all deposits according to requirements specified in any applicable user guides and Federal Regulation CC. We require that you include the external processing code of "6" in Position 44 of the MICR line for all remotely created checks, and we reserve the right to dishonor any remotely created check that does not meet the requirement. You agree to indemnify us for any loss we incur that results from your failure to comply with these requirements.

Requalification: If you elect to have another bank or entity receive and process all of your returned checks, such other bank's endorsement may be obscured by our depository bank endorsement. You understand and agree that any other endorsement placed on your checks that identify another bank as the depository bank or the bank to which checks should be returned may result in illegible or double endorsements, which may delay the return of your checks. You agree we shall not be liable for any such delays.

Business Account Cash Deposits: We reserve the right to require business customers to prepare their cash using a dual pocket deposit bag that meets our specifications. At our discretion, we may process such deposits either at the branch where the deposit is made or at a cash vault location. If the deposit bag is sent to a cash vault location for processing, you will be provided with provisional credit based on the amount stated on your deposit ticket. You agree that the cash vault location count of the deposit amount will be determinative and that we may revoke all or part of the provisional credit based on such count of the deposit amount for up to ten (10) calendar days after deposit at the branch.

FRAUD PREVENTION MEASURES FOR BUSINESS ACCOUNTS

We offer certain products and services, such as "positive pay," and account blocks and filters that are designed to detect or deter fraud. Failure to use such services could substantially increase the likelihood of fraud. If you fail to implement any of these products or services, or if you fail to follow these or other precautions reasonable for your type of account or circumstances, you agree that you will be precluded from asserting any claims against us for paying any unauthorized, altered, counterfeit or other fraudulent item that such product, service or precaution was designed to detect or deter, and we will not be required to re-credit your account or otherwise have any liability for paying such items.

CUSTOMER SEGREGATED ACCOUNTS. Notwithstanding anything to the contrary in this Agreement or any other agreement, we will maintain all money designated as client money—by broker-dealers, future commission merchants, or derivatives clearing organizations—in customer segregated accounts in accordance with acknowledgement letters required by applicable SEC and CFTC rules and regulations.

ELECTRONIC FUND TRANSFERS FOR CONSUMER CUSTOMERS

This section applies to payment orders and electronic funds transfers described below in the section titled Types of Transactions. This section does not apply to electronic fund transfers initiated using online and mobile services ("Digital Services"). When you enroll in Digital Services, we will provide you with the U.S. Bank *Digital Services Agreement* that governs the electronic fund transfer services we make available on our Digital Services platforms.

If you have any questions regarding electronic fund transfers or believe that an unauthorized transaction has occurred, please call U.S. Bank 24-Hour Banking or U.S. Bank Fraud Liaison Center (unauthorized transactions) (see last page for phone numbers), visit a local U.S. Bank branch or write to:

U.S. Bank 24-Hour Banking
EP-MN-WS5D
60 Livingston Ave.
St. Paul, MN 55107

Please read this disclosure carefully because it tells you your rights and obligations for the transactions listed. You should keep this notice for future reference.

TYPES OF TRANSACTIONS

These are the types of electronic fund transfers covered by this Agreement.

Electronic Fund Transfers Initiated by Third Parties. You may authorize a third party to initiate electronic fund transfers between your account and the third party's account. These transfers to make or receive payment may be one-time occurrences or may recur as directed by you. These transfers may use the Automated Clearing House (ACH) or other payments network. Your authorization to the third party to make these transfers can occur in a number of ways. In all cases, these third-party transfers will require you to provide the third party with your account number and bank information. Thus, you should only provide your bank and account number information (whether over the phone, the Internet, or via some other method) to trusted third parties whom you have authorized to initiate these electronic fund transfers. Examples of these transfers include, but are not limited to:

Direct Deposits. You can arrange for direct deposits to your checking or savings account(s).

Preauthorized Payments. You can make arrangements directly with your third party billers to pay certain recurring bills from your checking or savings account(s).

Electronic check conversion. You may authorize a merchant or other payee to make a one-time electronic payment from your checking account using information from your check to pay for purchases or pay bills.

Electronic returned check charge. You may authorize a merchant or other payee to initiate an electronic fund transfer to collect a charge in the event a check is returned for insufficient funds.

Expanded Account Access

What it is. Any card or PIN (personal identification number) can be used to access up to five checking, savings, line of credit and credit card account(s) held in the same name at U.S. Bank or any of its bank affiliates; and any account you open with us and our affiliates may be accessed by your card or PIN. "Access" means use of a card or account number and PIN to conduct a transaction or obtain information at ATMs, over the telephone, or any other available method. If the card or PIN is for a joint account, that card or PIN can be used to access all the accounts linked to the card or PIN account, whether joint or individual. Expanded Account Access is also applicable to your Digital Services.

The "cards" that can get Expanded Account Access. All U.S. Bank Debit Cards and ATM cards (excluding prepaid cards), and all U.S. Bank-issued Credit Cards (including, but not limited to, co-branded credit cards, and all credit lines issued through U.S. Bank and U.S. Bank affiliates).

Fees and Charges for Expanded Account Access. There are no additional fees or charges just for Expanded Account Access, but fees applicable to each applicable account will continue to apply in accordance with the terms of the applicable account agreements. The fees and terms for each of your accounts will be as disclosed in the *Consumer Pricing Information* disclosure. (This document can be obtained by contacting a U.S. Bank branch or calling 800-872-2657.)

The fees and terms for your personal credit cards and lines of credit are disclosed in the applicable cardmember agreement.

How to Cancel. You can visit a branch or call the U.S. Bank 24-Hour Banking number at any time to cancel Expanded Account Access. If you cancel Expanded Account Access for any account, that account will not be accessible by any card or PIN other than the card or PIN specifically designated for that account.

Account Access at Automated Teller Machines

You can access up to five checking, five savings, and five line(s) of credit or credit card accounts at U.S. Bank ATMs through all your cards held in the same name (excluding prepaid cards).

You may perform the following transactions at ATMs:

- Make cash withdrawals from your checking and savings accounts associated with your card. Cash denominations vary by ATM.
- Get cash advances from your credit card account using your U.S. Bank Debit Card or ATM card. (Refer to your cardmember agreement for any cash advance fees and finance charges that may apply.)
- Deposit funds to checking and savings accounts associated with your card. Cash deposits made at a U.S. Bank ATM are credited to your account the same business day. Checks deposited before 8 p.m. local time are posted the same day. Checks deposited after 8 p.m. local time will typically be processed and posted to the account the next business day.
- Transfer funds from your account(s) associated with your card.
- Make payments to credit card or line of credit accounts from a deposit account associated with your card.
- Check the current balance of your checking, savings, credit card and line of credit accounts associated with your card.
- Request a statement showing your most recent deposit account transactions. (Refer to the *Consumer Pricing Information* disclosure regarding any fees for purchasing statements at ATMs. This disclosure can be obtained by contacting a U.S. Bank branch or calling 800-872-2657.)
- Change your ATM or debit card PIN.
- Make certain charitable contributions from a deposit account associated with your card.
- You may access your Home Equity Line of Credit or Personal Line of Credit for balance inquiries and making a payment to the respective line of credit at the ATM.

Some of these transactions are not available at all ATMs.

For customers with a Debit or ATM card that have accessed a Home Equity Line of Credit or a Personal Line of Credit through the expanded card access feature, cash withdrawals/advances and transferring from the Home Equity Line of Credit or Personal Line of Credit is not allowed.

Purchases at Merchants

You may use any of your U.S. Bank Debit Cards to make purchases at merchants that accept Visa® debit cards or make money transfers using your card (through a third party). You may use your U.S. Bank ATM Card and any of your U.S. Bank Debit Cards to make purchases by entering your

PIN at participating merchants. You may also get cash from a merchant, if the merchant permits. Purchases made with your card will result in debits to your "primary" checking account. These transactions will be itemized on your monthly statement, including the merchant name, location, the date of purchase and the amount of the purchase.

Partial Debit Card Transactions

Some merchants may be enrolled in Visa's Partial Authorization service. This means that if you chose 'No' to ATM and Debit Card Overdraft Coverage, your transaction may be approved for only part of your total purchase amount. This occurs when you do not have a sufficient Available Balance, necessary to pay for the entire transaction, at the time of the purchase. Additionally, funds from your designated account(s) linked for Overdraft Protection (if applicable) may be considered when determining the amount that is authorized.

For example, if you attempt a $30.00 transaction when your account has an Available Balance of $20.00, your purchase may be approved for $20.00 instead of the entire transaction being declined.

Virtual Debit Card

You can easily access your U.S. Bank debit card virtually through online banking and the mobile app for immediate use or add it to your mobile wallet. Please note, one-time passcode verification will be required to show or copy the card information. If you open a new debit card, it will be delivered in the mail with the same card number, a new expiration date and CVV2 (the three-digit number on the back of the card). The mailed card will require activation. If your virtual card was set up for any one-time or recurring payments, you will need to update the CVV2 and expiration date.

Other Electronic Transactions

In addition to transactions initiated by using your U.S. Bank Debit Card, there are other electronic banking transactions that you may arrange through your account. These include:

- Telephone activated transfers of funds from your accounts with us to other accounts with us or to third parties. These include but are not limited to transfers made by telephone or text.
- Automatic transfer of funds between checking and savings accounts.
- Automatic periodic payments to third parties or us from checking or savings accounts (for example, monthly mortgage payments, installment loan payments, insurance payments, utility payments).
- Direct deposit to checking or savings accounts (for example, payroll checks, social security payments).
- Electronic check conversions from your checking account using a blank, partial or fully completed personal check at merchant locations.
- Payments made to your account through your U.S. Bank Debit Card.
- You can also use any of your U.S. Bank Debit Cards to obtain a cash advance from your checking account at any Visa® member bank anywhere in the world.

LIMITS ON TRANSFERS

New Accounts

Generally, you cannot make deposits at a non-U.S. Bank ATM. If we permit a deposit at an ATM that is not identified as ours with the U.S. Bank name, your deposit will not be available until the fifth business day after the day of deposit.

Security

For security reasons, there are limitations on the transactions that you may perform with any of your U.S. Bank Debit Cards or U.S. Bank ATM Cards per day. There are limitations on the number of transactions that can be performed per day and the limits may vary. For security reasons we do not disclose these limits. There are limitations on the dollar amount of cash withdrawals at ATMs and/or cash that you receive from merchants over the amount of your purchase. There are also limitations on the total dollar amount of purchases at merchants and/or cash advances at Visa® member banks you may perform during each 24-hour period beginning at 4:30 p.m. Central Time. Our standard transaction limits for ATM cards are $300.00 per day for cash withdrawals and $1,000.00 per day for purchases. Our standard transaction limits for debit cards are $500.00 per day for cash withdrawals and $1,000.00 per day for purchases and/or cash advances at banks. Our standard money transfer transaction limits for sending or receiving money through your U.S. Bank Debit Card is $10,000.00 per day. We may change these limitations based on periodic risk assessments and we reserve the right to make such changes without notice to you. Transfer limits are also subject to temporary reductions to protect the security of customer accounts or transfer systems.

Debit Card Transactions

When you use your U.S. Bank Debit Card (Debit Card) for payment, the merchant requests U.S. Bank to authorize the transaction amount. We rely on the merchant to inform us if a debit card transaction is a one-time or a recurring transaction. At the time of the request, we authorize (promise to pay) or decline the merchant's request. If we authorize (promise to pay) we will reduce your Available Balance by the amount of the merchant's authorization request. Some merchants (e.g., hotels, restaurants, gas stations, car rental agencies) request an authorization that is an estimated amount of the anticipated purchase instead of the full purchase amount. As a result, the reduction of your Available Balance may be less or greater than the final debit card transaction amount presented for payment. It is important to note that your Available Balance may change between the time a debit card transaction is authorized and when the debit card transaction is presented for payment.

Debit card authorizations will be reflected as pending transactions and/or will reduce your Available Balance from the time we receive the authorization until the merchant presents the item for payment. If the debit card authorization has not been presented for payment within seven business days, it may be removed from your pending transactions and your Available Balance may no longer be reduced by the authorization amount. Due to prior authorization (promise to pay), if the debit card transaction is presented for payment at a later date we will pay the item regardless of your Available Balance.

If any debit card transaction results in a negative Available Balance at the time it is presented for payment—even if your Available Balance was positive at the time the debit card transaction was authorized—you may be charged an Overdraft Paid Fee. For more information on Available Balance please see the section titled **INSUFFICIENT FUNDS AND OVERDRAFTS.**

Please know, it is your responsibility to ensure your account has a sufficient Available Balance to cover all transactions you conduct. We recommend keeping a record of your balance and deducting every transaction at the time you initiate it.

FEES

We will charge you fees for electronic fund transfers in accordance with the information found in our *Consumer Pricing Information* disclosure. (This disclosure can be obtained by contacting a U.S. Bank branch or calling 800-872-2657.) The fees may be changed at any time, subject to our giving you any notice required by law.

ATM Transaction Fee. U.S. Bank will assess this fee for each ATM Transaction (withdrawal, balance inquiry, denied transaction, funds transfer or deposit) conducted at the Non-U.S. Bank ATM. Non-U.S. Bank ATMs are defined as any ATM that does not display the U.S. Bank logo in any manner, physically on the ATM or digitally on the screen.

ATM Surcharge. Non-U.S. Bank ATM owners may apply a surcharge fee on ATM transactions at their ATMs.

U.S. Bank participates in MoneyPass®, an ATM surcharge free network. To find MoneyPass ATM locations, select "visit the MoneyPass locator" at the bottom of our ATM locator search results to be taken to the MoneyPass website. If you use an ATM that uses the MoneyPass® Network and are charged a surcharge fee, please contact us at 800-USBANKS (872-2657) for a refund of the surcharge fee.

USING YOUR CARD FOR INTERNATIONAL TRANSACTIONS

You may be able to use your U.S. Bank Debit Card or ATM card for retail purchases with international merchants, for international cash advances and all transactions performed at international ATMs utilizing Visa's PLUS network. The PLUS network is owned by Visa, and they maintain a locator function on their website. This is not a U.S. Bank sponsored or affiliated website and we have no control over the results. Refer to our *Consumer Pricing Information* disclosure for fee information. (This disclosure can be obtained by contacting a U.S. Bank branch or calling 800-872-2657.) We may block transactions in certain foreign countries. Call us at 800-872-2657 for more information. Some merchant and ATM transactions, even if you and/or the merchant or ATM are located in the United States, are considered international transactions under the applicable network rules, in which case we will add International Processing Fees to those transactions.

U.S. Bank does not control how these merchants, ATMs and transactions are classified for this purpose. If the transaction requires a currency conversion, the exchange rate in effect when processed may differ from the rate in effect on the date of the transaction or the date of the posting to your Account.

Transactions processed through the Visa® system will be converted according to the applicable rules established by Visa®. The foreign currency transaction will be converted to U.S. Dollars by multiplying the amount of the foreign currency times (a) a rate selected by Visa®

from the range of rates available in wholesale currency markets for the applicable central processing date, which rate may vary from the rate Visa® itself receives, or (b) the government-mandated rate in effect for the applicable central processing date. For transactions processed through other networks, the international currency transaction will be converted by that network in accordance with their rules.

Additional fees may apply. If you need to contact us about your card while outside of the United States, call us collect at 503-401-9991.

ADVISORY AGAINST ILLEGAL USE

You agree not to use your card(s) for illegal gambling or any other illegal purpose. Display of a payment card logo by, for example, an online merchant does not necessarily mean that transactions are lawful in all jurisdictions in which you may be located; therefore, we reserve the right to decline all online (Internet) gambling transactions.

DOCUMENTATION

Terminal transfers. You may get a receipt at the time you make any transfer to or from your account using automated teller machines or point-of-sale terminals.

Pre-authorized credits. If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you can call U.S. Bank 24-Hour Banking, log in to the U.S. Bank Mobile App or visit our online banking site at usbank.com to find out whether or not the deposit has been made.

Periodic statements. You will get a monthly account statement unless there are no transfers in a particular month. In any case, you will get the statement at least quarterly for an account to or from which you have arranged for electronic access. In the event your account has become inactive as defined in the section titled Dormant Accounts and Escheat (refer to page 12) and you have had no electronic activity, you will receive an annual statement.

PREAUTHORIZED PAYMENTS

If you have arranged for automatic periodic payments to be deducted from your checking or savings account and these payments vary in amount, you will be notified by the person you are going to pay ten calendar days prior to the payment date of the amount to be deducted. If the date upon which your payment is scheduled to be deducted changes, the person you are going to pay will notify you seven calendar days prior to the new scheduled date. To confirm the completion of automatic transfers, payments and/or direct deposits, please contact U.S. Bank 24-Hour Banking, or log in to your account using our Digital Services.

Right to Stop Payment of Preauthorized Transfers

To stop a preauthorized electronic payment or transfer, please call U.S. Bank 24-Hour Banking (see last page for phone numbers) or initiate a stop payment request using Digital Services. You must notify the bank in time for us to receive your request and to be able to act upon it, which in the case of these electronic payments, is at least three business days before the transfer is scheduled to occur. We may also require you to put your request in writing and forward it to us within 14 days after you call.

If you order us to stop one of these payments at least 3 business days before the transfer is scheduled, and we do not do so, we will be liable for your losses or damages.

OUR LIABILITY

Liability for failure to make transfers. If we do not complete a transfer to or from your account on time or in the correct amount according to our agreement with you, we will be liable for your losses or damages. However, there are some exceptions. We will not be liable, for instance:

1. If, through no fault of ours, you do not have enough money in your account to make the transfer.
2. If you have an overdraft line and the transfer would go over the credit limit.
3. If the automated teller machine where you are making the transfer does not have enough cash.
4. If the terminal or system was not working properly and you knew about the breakdown when you started the transfer.
5. If circumstances beyond our control (such as fire or flood) prevent the transfer, despite reasonable precautions that we have taken.
6. There may be other rules/limitations stated in our agreement(s) with you that excuse our failure to make a requested transfer (for example, the monthly limit on certain transfers out of non-transaction savings accounts; refer to Savings Accounts, Withdrawal section on page 15 for additional details).

Authorized Transactions

We assume that all transactions performed with your U.S. Bank ATM Card or any of your U.S. Bank Debit Cards and/or your personal identification number (PIN) are authorized unless you promptly notify us to the contrary. If you intentionally provide another person with the means and authority to perform electronic banking transactions using your account, any resulting transactions will be treated as if they were performed and authorized by you. Such treatment will continue until you notify U.S. Bank Fraud Liaison Center (see page 22 that the other person is no longer authorized to use your card and/or PIN (in which case the card and PIN will have to be deactivated).

UNAUTHORIZED TRANSACTIONS AND LOST OR STOLEN CARDS

An unauthorized transaction is one that another person conducts without your permission and from which you receive no benefit.

In order to avoid unauthorized transactions, please observe the following basic precautions:

- Do not keep your U.S. Bank ATM Card or U.S. Bank Debit Card and personal identification number (PIN) together. Do not write your PIN on your card.
- Do not provide your card or reveal your PIN to another person.
- Notify U.S. Bank Fraud Liaison Center or any U.S. Bank branch of the loss, theft or unauthorized use of your card or PIN.

U.S. Bank Fraud Liaison Center
877-595-6256

We reserve the right to cancel, block, and not renew your access device for any reason, with or without prior notice. Reasons for suspension of access may include, for example:

- Detection of suspicious or fraudulent activity;
- Lack of usage;
- Misuse; or
- Access devices returned as undeliverable by postal service.

CONSUMER LIABILITY FOR UNAUTHORIZED TRANSFERS

Zero Liability for Transactions. Except as provided in the next paragraph, you are generally protected from all liability for unauthorized use of any of your U.S. Bank Debit Cards, the associated account numbers printed on them (including purchases made over the phone, online or in the U.S. Bank Mobile App) and your ATM card or its associated personal identification number (PIN). You still need to report the loss or theft of these cards, PINs, and any unauthorized transactions to us as soon as you can. This is necessary so you can get any unauthorized transactions reversed, prevent further unauthorized transactions, and avoid liability for subsequent purchases we could have prevented had you given us notice. This policy also protects you from liability for other types of electronic fund transfers. Please follow the section entitled **Error Resolution Notice** to report any unauthorized activity on your account.

After 60 Days from Statement Notice. If you fail to give us notice of an unauthorized electronic fund transfer within 60 days of when we first deliver a statement to you that discloses that unauthorized transaction, you will be liable for all unauthorized electronic fund transfers that occur after that 60-day period expires if we could have prevented such transaction had you reported it to us within the 60-day period. This rule applies to all forms of electronic fund transfers (including but not limited to ATM transactions, preauthorized withdrawals, online or mobile transactions, and purchases with any of your U.S. Bank Debit Cards, etc.) that occur after the 60-day period following the first statement notice.

If a good reason (such as a long trip or hospital stay) kept you from telling us, we may extend this time period.

BUSINESS DAYS

Bank “business days” are Monday through Friday. Federal holidays are not included.

CONFIDENTIALITY

We will disclose information to third parties about your account as permitted by law or the transfers you make:

1. where it is necessary for completing transfers; or
2. in order to verify the existence and condition of your account for a third party, such as a credit bureau or merchant; or
3. in order to comply with government agency or court orders; or
4. if you give us your written permission; or
5. according to our privacy pledge, which generally permits us to share information with companies that perform marketing or other services on our behalf.

ERROR RESOLUTION NOTICE

In case of errors or questions about your electronic transfers, call U.S. Bank 24-Hour Banking at a number on the last page, visit any U.S. Bank branch or write us at the address listed below, as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared.

1. Tell us your name and account number (if any).
2. Describe the error or the transfer you are unsure about and explain as clearly as you can why you believe it is an error or why you need more information.
3. Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us your dispute or question in writing within ten business days. We will determine whether an error occurred within ten business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your dispute or question. If we decide to do this, we will credit your account within ten business days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your dispute or question in writing and we do not receive it within ten business days, we might not provisionally credit your account.

For errors involving new accounts, point-of-sale, or foreign-initiated transactions, we may take up to 90 days to investigate your dispute or question. For new accounts, we may take up to 20 business days to credit your account for the amount you think is in error.

We will tell you the results within three business days after completing our investigation. If we decide that there was no error, we will send you a written explanation.

You may ask for copies of the documents that we used in our investigation. Write to us at:

U.S. Bank
EP-MN-WS5D
60 Livingston Ave.
St. Paul, MN 55107

Error resolution and contact information with respect to Digital Services is provided in our *Digital Services Agreement*.

NOTICE OF ATM/NIGHT DEPOSIT FACILITY USER PRECAUTIONS

As with all financial transactions, please exercise discretion when using an automated teller machine (ATM) or night deposit facility. For your own safety, be careful. The following suggestions may be helpful:

1. Prepare for your transactions at home (for instance, by filling out a deposit slip) to minimize your time at the ATM or night deposit facility.
2. Mark each transaction in your account record, but not while at the ATM or night deposit facility. Always save your ATM receipts. Do not leave them at the ATM or night deposit facility because they may contain important account information.
3. Compare your records with the account statements you receive.
4. Do not lend your ATM card to anyone.
5. Remember, do not leave your card at the ATM. Do not leave any documents at a night deposit facility.
6. Protect the secrecy of your Personal Identification Number (PIN). Protect your ATM card as though it were cash. Don't tell anyone your PIN. Don't give anyone information regarding your ATM card or PIN over the telephone. Never enter your PIN in any ATM that does not look genuine, has been modified, has a suspicious device attached, or is operating in a suspicious manner. Don't write your PIN where it can be discovered. For example, don't keep a note of your PIN in your wallet or purse.
7. Prevent others from seeing you enter your PIN by using your body to shield their view.
8. If you lose your ATM card or if it is stolen, promptly notify us. You should consult the other disclosures you have received about electronic fund transfers for additional information about what to do if your card is lost or stolen.
9. When you make a transaction, be aware of your surroundings. Look out for suspicious activity near the ATM or night deposit facility, particularly if it is after sunset. At night, be sure that the facility (including the parking area and walkways) is well lighted. Consider having someone accompany you when you use the facility, especially after sunset. If you observe any problem, go to another ATM or night deposit facility.
10. Do not accept assistance from anyone you do not know when using an ATM or night deposit facility.
11. If you notice anything suspicious or if any other problem arises after you have begun an ATM transaction, you may want to cancel the transaction, pocket your card and leave. You might consider using another ATM or coming back later.
12. Do not display your cash; pocket it as soon as the ATM transaction is completed and count the cash later when you are in the safety of your own car, home, or other secure surrounding.
13. At a drive-up facility, make sure all the car doors are locked and all of the windows are rolled up, except the driver's window. Keep the engine running and remain alert to your surroundings.
14. We want the ATM and night deposit facility to be safe and convenient for you. Therefore, please tell us if you know of any problem with a facility. For instance, let us know if a light is not working or there is any damage to a facility. Please report any suspicious activity or crimes to both the operator of the facility and local law enforcement officials immediately.

ELECTRONIC FUND TRANSFERS FOR BUSINESS CUSTOMERS

This section governs transactions initiated by you or your employees using a U.S. Bank Business Debit Card or ATM Card, or other U.S. Bank card products offered to business customers from time to time by U.S. Bank ("Business Debit Card(s)"). This section does not apply to electronic fund transfers initiated using online and mobile services ("Digital Services"). When you enroll in Digital Services we will provide you with the U.S. Bank *Digital Services Agreement* that governs the electronic fund transfer services we make available on our Digital Services platforms.

Your use of business debit cards is subject to the fees and terms of your checking and savings accounts as set forth elsewhere in this Agreement and in related disclosures and fee schedules, which are available at any branch in your state. Some ATM networks impose an additional transaction fee unrelated to our fees and charges and may be assessed to your account. Other electronic transactions against your account, whether or not initiated or authorized by you will be governed by the specific Agreement between us related to such transactions and/or all applicable rules and regulations governing such transactions, including without limitation, the rules of the National Automated Clearing House Association (NACHA) as may be amended from time to time.

Under NACHA rules we cannot return an unauthorized electronic transaction (ACH debit) unless you notify us no later than 5:00 p.m. Central Time on the business day following the settlement date of the transaction. Otherwise, your sole recourse is to the originator of the transaction.

ACCOUNT ACCESS

Any business debit card or personal identification number (PIN) issued to or selected by you, except sole proprietors who choose to have a sole proprietor business debit card, may access only related business checking or business savings accounts (for example, accounts with the same name or tax identification number). Sole proprietor business debit cards, however, can access up to five checking accounts, five savings accounts, and five line of credit or credit card accounts through Expanded Account Access. Sole proprietor cards may access business and personal accounts. For more information on Expanded Account Access, see the Electronic Fund Transfers for Consumer Customers section.

Access methods will differ depending on the business debit card selected by you and approved by us. All business debit card services may not be available depending on the access method selected.

LIMITS ON TRANSFERS

New Accounts

Generally, you cannot make deposits at a non-U.S. Bank ATM. If we permit a deposit at an ATM that is not identified as ours with the U.S. Bank name, your deposit will not be available until the fifth business day after the day of deposit.

Security

For security reasons, there are limitations on the transactions that you may perform with any of your U.S. Bank Business Debit Cards or U.S. Bank Business ATM Cards, per day. There are limitations on the number of transactions that can be performed per day and the limits may vary. For security reasons we do not disclose these limits. There are limitations on the dollar amount of cash withdrawals at ATMs and/or cash that you receive from merchants over the amount of your purchase. There are also limitations on the total dollar amount of purchases at merchants and/or cash advances at Visa® member banks you may perform during each 24-hour period beginning at 4:30 p.m. Central Time. Our standard transaction limits for business ATM cards are $500.00 per day for cash withdrawals and $2,500.00 per day for purchases. Our standard transaction limits for business debit cards are $500.00 per day for cash withdrawals and $10,000.00 per day for purchases and/or cash advances at banks. Our standard money transfer transaction limits for sending or receiving money through your U.S. Bank Debit Card is $10,000.00 per

day. We may change these limitations based on periodic risk assessments and we reserve the right to make such changes without notice to you. Transfer limits are also subject to temporary reductions to protect the security of customer accounts or transfer systems.

Debit Card Transactions

When you use your U.S. Bank Business Debit Card (Debit Card) for payment, the merchant requests U.S. Bank to authorize the transaction amount. We rely on the merchant to inform us if a debit card transaction is a one-time or a recurring transaction. At the time of the request, we authorize (promise to pay) or decline the merchant's request. If we authorize (promise to pay) we will reduce your Available Balance by the amount of the merchant's authorization request. Some merchants (e.g., hotels, restaurants, gas stations, car rental agencies) request an authorization that is an estimated amount of the anticipated purchase instead of the full purchase amount. As a result, the reduction of your Available Balance may be less or greater than the final debit card transaction amount presented for payment. It is important to note that your Available Balance may change between the time a debit card transaction is authorized and when the debit card transaction is presented for payment.

Debit card authorizations will be reflected as pending transactions and/or will reduce your Available Balance from the time we receive the authorization until the merchant presents the item for payment. If the debit card authorization has not been presented for payment within seven business days, it may be removed from your pending transactions and your Available Balance may no longer be reduced by the authorization amount. Due to prior authorization (promise to pay), if the debit card transaction is presented for payment at a later date we will pay the item regardless of your Available Balance.

If any debit card transaction results in a negative Available Balance at the time it is presented for payment—even if your Available Balance was positive at the time the debit card transaction was authorized—you may be charged an Overdraft Paid Fee. For more information on Available Balance please see the section titled **INSUFFICIENT FUNDS AND OVERDRAFTS.**

Please know, it is your responsibility to ensure your account has a sufficient Available Balance to cover all transactions you conduct. We recommend keeping a record of your balance and deducting every transaction at the time you initiate it.

Account Access at Automated Teller Machines

You may use any of your Business Debit Cards (except as noted below in **Employee Debit Cards and ATM Cards**) to make the following transactions at ATMs:

- Make cash withdrawals from your checking and savings accounts. Cash denominations vary by ATM.
- Get cash advances from your credit card or line of credit account. (Refer to your cardmember agreement for any cash advance fees and finance charges that may apply.)
- Deposit funds to checking and savings accounts associated with your card. Cash deposits made at a U.S. Bank ATM are credited to your account the same business day. Checks deposited before 8 p.m. local time are posted the same day. Checks deposited after 8 p.m. local time will typically be processed and posted to the account the next business day.
- Transfer funds from your account associated with your card.
- Make payments to credit card or line of credit accounts from a deposit account associated with your card.
- Check the current balance of your linked checking, savings, credit card and line of credit accounts.
- Request a statement showing your most recent deposit account transactions. (Refer to your account fee disclosures regarding any fees for purchasing statements at ATMs.)
- Change your ATM or debit card PIN.
- Make certain charitable contributions from a deposit account associated with your card.

Some of these transactions are not available at all ATMs.

Purchases at Merchants

You may use any of your Business Debit Cards (except as noted below in **Employee Debit Cards and ATM Cards**) to make purchases at Visa® merchants that accept debit cards or make money transfers using your card (through a third party). You may use any of your business debit cards to make purchases by entering your PIN at participating merchants. You may also get cash from a merchant, if the merchant permits. Purchases made with your card will result in debits to your "primary" checking account. These transactions will be itemized on your monthly statement, including the merchant name, location, the date of purchase and the amount of the purchase.

Employee Debit Cards and ATM Cards

Business debit cards issued to employees only allow ATM deposits at an automated teller machine. They do not allow ATM cash withdrawals. Employee ATM cards do not have purchase access at merchants.

Virtual Debit Card

You can easily access your U.S. Bank debit card virtually through online banking and the mobile app for immediate use or add it to your mobile wallet. Please note, one-time passcode verification will be required to show or copy the card information. If you open a new debit card, it will be delivered in the mail with the same card number, a new expiration date and CVV2 (the three-digit number on the back of the card). The mailed card will require activation. If your virtual card was set up for any one-time or recurring payments, you will need to update the CVV2 and expiration date.

Other Electronic Transactions

In addition to transactions initiated by using your business debit card, there are other electronic banking transactions that you may arrange through your account. These include:

- Telephone activated transfers of funds from your accounts with us to other accounts with us or to third parties. These include but are not limited to transfers made by telephone or text.
- Automatic transfer of funds between checking and savings accounts.
- Automatic periodic payments to third parties or us from checking or savings accounts (for example, monthly mortgage payments, installment loan payments, insurance payments, utility payments).
- Direct deposit to checking or savings accounts (for example, payroll checks, social security payments).
- Electronic check conversions from your checking account using a blank, partial or fully completed personal check at merchant locations.
- Payments made to your account through your U.S. Bank Debit Card.
- You can also use any of your Business Debit Cards to obtain a cash advance from your checking account at any Visa® member bank anywhere in the world.

FEES

We will charge you fees for electronic fund transfers in accordance with the information found in our *Business Pricing Information* or *U.S. Bank Business Essentials® Pricing Information* disclosure(s). The fees may be changed at any time, subject to our giving you any notice required by law.

ATM Transaction Fee. U.S. Bank will assess this fee for each ATM Transaction (withdrawal, balance inquiry, denied transaction, funds transfer or deposit) conducted at the Non-U.S. Bank ATM. Non-U.S. Bank ATMs are defined as any ATM that does not display the U.S. Bank logo in any manner, physically on the ATM or digitally on the screen.

ATM Surcharge. Non-U.S. Bank ATM owners may apply a surcharge fee on ATM transactions at their ATMs.

U.S. Bank participates in MoneyPass®, an ATM surcharge free network. To find MoneyPass ATM locations, select "visit the MoneyPass locator" at the bottom of our ATM locator search results to be taken to the MoneyPass website. If you use an ATM that uses the MoneyPass® Network and are charged a surcharge fee, please contact us at 800-USBANKS (872-2657) for a refund of the surcharge fee.

USING YOUR CARD FOR INTERNATIONAL TRANSACTIONS

You may use your business debit card for retail purchases with international merchants, for international cash advances and all transactions performed at international ATMs that bear any of the network logos found on your card. Refer to our *Business Pricing Information* or *U.S. Bank Business Essentials® Pricing Information* disclosure(s) for fee information. (Both disclosures can be obtained by stopping into a U.S. Bank branch. We may block transactions in certain foreign countries. Call us at 800-673-3555 for more information.) Some merchant and ATM transactions, even if you and/or the merchant or ATM are located in the United States, are considered international transactions under the applicable network rules, in which case we will add International Processing Fees to those transactions. U.S. Bank does not control how these merchants, ATMs, and transactions are classified for this purpose. If the transaction requires a currency conversion, the exchange rate in effect when processed may differ from the rate in effect on the date of the transaction or the date of the posting to your Account.

Transactions processed through the Visa® system will be converted according to the applicable rules established by Visa®. The foreign currency transaction will be converted to U.S. Dollars by multiplying the amount of the foreign currency times (a) a rate selected by Visa® from the range of rates available in wholesale currency markets for the applicable central processing date, which rate may vary from the rate

Visa® itself receives, or (b) the government-mandated rate in effect for the applicable central processing date. For transactions processed through other networks, the international currency transaction will be converted by that network in accordance with their rules.

Additional fees may apply. If you need to contact us about your card while outside of the United States, call us collect at 503-401-9991.

BALANCE REQUIREMENTS

Transactions using your business debit card will be completed only if sufficient funds are available in the applicable account balance, overdraft protection or other linked credit facility to fully perform the transaction.

UNAUTHORIZED TRANSACTIONS AND LOST OR STOLEN CARDS AND SECURITY

You are solely responsible for maintaining the security of your business debit cards and PINs and their use by you and your employees and other agents. You shall be liable for the acts of your employees and agents related to your business debit cards, including business debit card applications and other service requests. If you provide another person with the means to perform transactions related to your accounts using your business debit card or PIN, any resulting transactions will be treated as if they were performed and authorized by you.

You are generally protected from liability for unauthorized use of your business debit card.

The U.S. Bank Zero Liability policy is subject to certain conditions. If we determine that the unauthorized transaction was caused by your gross negligence or fraud, the U.S. Bank Zero Liability policy will not apply. You still need to report the loss or theft of these cards, PINs, and any unauthorized transactions to us as soon as you can. This is necessary so you can get any unauthorized transactions reversed, prevent further unauthorized transactions, and avoid liability for subsequent purchases we could have prevented had you given us notice.

You must report an unauthorized debit card transaction to us within a reasonable time, not to exceed 60 days, from the day we send or make your account statement available to you on which an unauthorized transaction is first reported. If you fail to give us notice of an unauthorized debit card transaction within 60 days of when we first deliver a statement to you that discloses that unauthorized transaction, you will be liable for all debit card transactions that occur after that 60-day period expires if we could have prevented such transaction had you reported it to us within the 60-day period.

Please be aware that consumer rights governed by the Electronic Fund Transfer Act do not apply to business accounts and we are not liable to reimburse you for unauthorized or erroneous transactions that may occur on your business account via electronic fund transfer.

If you believe that an erroneous or unauthorized transaction has occurred using your business debit card, or if your card has been lost or stolen, or if you want to cancel a business debit card issued to you or your employee/agent, or if you want to change your PIN, you must immediately telephone us at:

U.S. Bank 24-Hour Banking

Cincinnati Metro Area:513-632-4141

Denver Metro Area:303-585-8585

Milwaukee Metro Area:414-765-4636

St. Louis Metro Area:314-425-2000

Minneapolis/St. Paul Metro Area:612-USBANKS (872-2657)

Portland Metro Area:503-USBANKS (872-2657)

All Other Areas:800-USBANKS (872-2657)

Outside the U.S.:503-401-9991 (call collect)

U.S. Bank Business Service Center

Monday - Friday:8:00 a.m. to 8:00 p.m. CT

Saturday:8:00 a.m. to 6:30 p.m. CT

Minneapolis/St. Paul Metro Area:651-244-7770

All Other Areas within the U.S.:800-673-3555

Outside the United States:503-401-9992

U.S. Bank Fraud Liaison Center
877-595-6256

U.S. Bank accepts relay calls.

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USB-AIB 05/13/2024 Custom 202220225-030

1 COMPANY INFORMATION

♦DBA NAME:		
CONTACT NAME:		
♦DBA ADDRESS TYPE:	♦ DBA ADDRESS1 *(NO PO BOX):*	
DBA ADDRESS 2:		
♦CITY:	♦STATE:	♦ZIP CODE:
♦DBA PHONE #:		DBA FAX #:
♦DATE FOUNDED:		MOBILE PHONE #:
♦EMAIL ADDRESS:		
CIP EXEMPTION:		

2 OTHER ADDRESS *(IF DIFFERENT THAN ABOVE)*

☐ MAILING ☐ SHIPPING ☐ *SEE ALSO SPECIAL INSTRUCTIONS* *(MORE THAN ONE OPTION MAY BE SELECTED)*

LOCATION NAME:		PHONE #:	
CONTACT:		FAX #:	
ADDRESS:	CITY:	STATE:	ZIP CODE:

STATEMENTS/ RETRIEVALS /CHARGEBACKS

STATEMENTS: ☐ *DBA OR* ☐ *MAILING OR* ☐ *W-9*	*AUTO SEND:* ☒ *YES* ☐ *NO (CHAIN COMPANIES ONLY – MUST INCLUDE CHAIN SET UP FORM)*
RETRIEVALS: ☐ *ONLINE CASE MANAGEMENT (OCM) OR* ***EMAIL TO:***	*OR* ***FAX TO:*** ☐ *DBA* ☐ *MAILING OR* ***MAIL TO:*** ☐ *DBA* ☐ *MAILING*
CHARGEBACKS: ☐ *ONLINE CASE MANAGEMENT (OCM) OR* ***EMAIL TO:***	*OR* ***FAX TO:*** ☐ *DBA* ☐ *MAILING OR* ***MAIL TO:*** ☐ *DBA* ☐ *MAILING*

3 CONTACT INFORMATION (AUTHORIZED REP)

♦☐ OFFICER ☐ MANAGER ☐ AUTHORIZED REPRESENTATIVE ☐ OTHER:

♦FIRST NAME:		MN:	♦LAST NAME:
♦TITLE:	♦US PERSON:	♦EMAIL ADDRESS:	
▸CONTACT ADDRESS (NO PO BOX):			▸ADDRESS TYPE:
▸CITY:		▸STATE:	▸ZIP CODE:
▸DOB:		CONTACT PHONE #:	

INDIVIDUAL ID EXEMPTION CLASS: **GOVERNMENT** ☐ FEDERAL ☐ STATE ☐ LOCAL (POLITICAL SUBDIVISION OF A US STATE)

OTHER COMPANY INFORMATION

♦AVERAGE SALE AMOUNT: $	☐ CARD PRESENT 100%	OMNI COMMERCE (MUST TOTAL 100%)
♦HIGH SALE AMOUNT: $	☐ CARD NOT PRESENT 100%	CARD PRESENT ____ %
♦NUMBER OF HIGH SALES TRANSACTIONS ANNUALLY:	☐ INTERNET 100%	CARD NOT PRESENT* ____ %
♦TOTAL **MONTHLY** VISA/MC/AMEX/DISC/UNIONPAY SALES: $	☐ OMNI COMMERCE	INTERNET * ____ %
♦ANNUAL TOTAL REVENUE: (CASH, CHECK, CARD) $	▸**INTERNET:** PRODUCT WEBSITE:	
♦INDUSTRY TYPE:	▸**INTERNET:** "CONTACT US" EMAIL:	
♦DESCRIPTION OF PRODUCT/SERVICES OFFERED:		
SPECIAL PROGRAM MCC ONLY:	**CUSTOMER SERVICE PHONE # AND PREVIOUS PROCESSOR REQUIRED BELOW*	
WHEN DOES THE CUSTOMER RECEIVE THE PRODUCT OR SERVICE? IF NOT SAME DAY, # OF DAYS (INCLUDE SHIPPING TIME FRAME)	▸CUSTOMER SERVICE PHONE #: ▸PREVIOUS PROCESSOR:	

IF SEASONAL, PLEASE CHECK MONTHS CLOSED BELOW. *(CUSTOMER MUST CONTACT CUSTOMER SERVICE TO DEACTIVATE AND REACTIVATE ACCOUNT)*

☐ JANUARY ☐ FEBRUARY ☐ MARCH ☐ APRIL ☐ MAY ☐ JUNE
☐ JULY ☐ AUGUST ☐ SEPTEMBER ☐ OCTOBER ☐ NOVEMBER ☐ DECEMBER

BANK ACCOUNT *(CHECKING ACCOUNTS ONLY)*

♦DEPOSIT BANK NAME:	♦ABA/ROUTING #:	♦DDA ACCOUNT #:
BILLING/CHARGEBACK BANK NAME *(IF DIFFERENT):*	ABA/ROUTING #:	DDA ACCOUNT #:
CHARGEBACK BANK NAME (IF DIFFERENT THAN BILLING):	ABA/ROUTING #:	DDA ACCOUNT #:
FUNDING OPTIONS:	MONTHLY FEE **$**	TAPE ID (OPT):

CARD ACCEPTANCE *(PLEASE CHECK EACH CARD YOU WISH TO ACCEPT)*

☐ ALL VISA/MASTERCARD/AMEX/UNIONPAY/ DISCOVER (JCB, DI)/ WITH PIN / PINLESS DEBIT
☐ PIN DEBIT ☐ PINLESS DEBIT

☐ ALL VISA/MASTERCARD/AMEX/UNIONPAY/ DISCOVER (JCB, DI)

☐ VISA CREDIT ☐ VISA DEBIT ☐ MC CREDIT ☐ MC DEBIT ☐ DISCOVER (JCB, DI) ☐ UNIONPAY ☐ AMEX

☐ PIN DEBIT ☐ PINLESS DEBIT

PRICING CATEGORY

☐ RETAIL
☐ RESTAURANT
☐ LODGING
☐ SUPERMARKET
☐ MO/TO / INTERNET
☐ ARU
☐ OMNI COMMERCE (TIERED & EICP ONLY)

PRICING INFORMATION

PRICING PROGRAM: *(FIXED ONLY)*		VISA/MASTERCARD/UNIONPAY/ DISCOVER CARDS (JCB, DI,)		AMERICAN EXPRESS OPT BLUE		PIN//PINLESS DEBIT***	
		RATE*	PER ITEM*	RATE	PER ITEM	RATE	PER ITEM
TIERED	QUALIFIED	%	$	%	$	%	$
	MID QUALIFIED	%	$	%	$		
	NON-QUALIFIED	%	$	%	$		
	STANDARD	%	$	%	$		
	OPT. ☐ CHECK CARD ☐ SPRMKT ☐ QPS/SMALL TKT						
		%	$				
	OPT. REWARDS	%	$				
	OPT. COMMERCIAL CARD	%	$				
INTERCHANGE PLUS		%	$	%	$	%	$
PIN/PINLESS DEBIT ENABLEMENT SERVICE FEE							$
ENHANCED IC PLUS	CHECK CARD QUALIFIED	%	$				
	QUALIFIED	%	$	%	$	%	$
	REWARDS QUALIFIED	%	$				
	MID QUALIFIED	%	$	%	$		
	COMMERCIAL NON-QUALIFIED	%	$				
	NON-QUALIFIED	%	$	%	$		
FIXED - PRICING PGM:		%	$	%	$		

RATES ARE FOR ALL CARD ACCEPTANCE TYPES SELECTED. ALL CARD BRAND ASSESSMENTS WILL BE PASSED THROUGH AT COST.
****THE COST OF ACCEPTANCE FOR PIN/PINLESS DEBIT WILL BE OPTIMIZED WHEN APPLICABLE.***

FEES

APPLICATION	$ 100
INSTALLATION/TRAINING	$ 100
REPORTING & SUPPORT PACKAGE (PER MONTH)	$ 12.99
MONTHLY MINIMUM	$ 40
CHARGEBACK (PER OCCURRENCE)	$ 35
RETURN ITEM/NSF (PER OCCURRENCE)	$ 20
OTHER:	$
STATEMENT: ☐ ELECTRONIC OR ☐ PAPER MONTHLY STATEMENT MAILING (PAPER STATEMENTS ONLY)	$ 20
RUSH SHIPMENT	$
OTHER:	$

AUTHORIZATIONS

VISA (PER AUTH)	$	VOICE - ARU (PER AUTH)	$ 0.85
MASTERCARD (PER AUTH)	$	VOICE OPERATOR (PER AUTH)	$ 0.85
DISCOVER (PER AUTH)	$	VOICE - AVS (PER AUTH)	$ 0.85
UNIONPAY (PER AUTH)	$	VOICE BANK REF (PER AUTH)	$ 0.85
AMEX OPT BLUE (PER AUTH)	$	AMEX PUBLIC SECTOR (TPSP) (PER AUTH)	$
PIN/PINLESS DEBIT (PER AUTH)			$

SECURITY PROGRAMS

SECURITY PROGRAM: PCI Basic	*Monthly*
(PCI/SAFET) PROGRAM DISCOUNTED FEE:	$ 25
(PCI/SAFET) PROGRAM STANDARD FEE:	$ 124.99

INTERNATIONAL CARD HANDLING FEE (RATE): (CHARGED ON VISA, MC, DISCOVER, AMEX)	0.60 %
AUTHORIZATION PRICING PROGRAM:	

Please see additional disclosures in the Company Representations and Certification section.

OTHER CARD TYPES EXISTING

AMEX	SE # *(10 DIGITS)*:	PER AUTH: $	EBT	SE # *(7 DIGITS)*:	PER AUTH: $

AMERICAN EXPRESS PUBLIC SECTOR (TPSP)

☐ COMPANY IS ELIGIBLE FOR AMERICAN EXPRESS PUBLIC SECTOR (TPSP) AND ACCEPTS ☐ COMPANY IS ELIGIBLE FOR AMERICAN EXPRESS PUBLIC SECTOR (TPSP) BUT DECLINES ACCEPTANCE

INDUSTRY TYPE:

PRICING INFORMATION FOR AMERICAN EXPRESS PUBLIC SECTOR (TPSP)

TIERED	RATE	PER ITEM	ENHANCED IC PLUS	RATE	PER ITEM
QUALIFIED	%	$	QUALIFIED	%	$
MID QUALIFIED	%	$	MID QUALIFIED	%	$
NON-QUALIFIED	%	$	NON-QUALIFIED	%	$
INTERCHANGE PLUS	%	$			

POINT OF SALE (EQUIPMENT OR SOFTWARE)

NETWORK: ☐ ELAVON ☐ OTHER | ☐ A THIRD PARTY INTEGRATOR WILL BE USED FOR IMPLEMENTATION:

VAR SERVICE PROVIDER (HOSTED): | VAR (DISTRIBUTED): VENDOR: PRODUCT: VERSION:

OF TIDS TID TYPE OMNI ONLY: | # OF TIDS TID TYPE OMNI ONLY:

							PURCHASE/SETUP		SOFTWARE/WIRELESS		
QTY	POS DESCRIPTION	ITEM CODE	TID TYPE OMNI ONLY	TERMINAL ENCRYPT	OWNS	TERMINAL CONNECTION TYPE	REPROG FEE PER UNIT	PRICE PER UNIT	ANNUAL FEE PER UNIT	MONTHLY FEE PER UNIT	PER AUTH FEE
				☐	☐		$	$	$	$	$
				☐	☐		$	$	$	$	$
				☐	☐		$	$	$	$	$
				☐	☐		$	$	$	$	$
				☐	☐		$	$	$	$	$
				☐	☐		$	$	$	$	$

ALL APPLICABLE STATE AND LOCAL TAXES WILL BE APPLIED. ☐ SALES TAX EXEMPT

Elavon and Member have no responsibility for, and shall have no liability to Company in connection with, any hardware or software, or any related services, Company receives under a direct agreement (including any sale, warranty or end-user license agreement) between Company and a third party, including any Value Added Servicer, even if Elavon collects fees or other amounts from Company with respect to such hardware, software or services.

ADDITIONAL POS SERVICES:	DESCRIPTION	SETUP FEE	ANNUAL FEE	MONTHLY FEE	PER AUTH FEE
		$	$	$	$
		$	$	$	$

							SOFTWARE/WIRELESS		
	QTY	POS DESCRIPTION	ITEM CODE	TID TYPE OMNI ONLY	TERMINAL CONNECTION TYPE	MONTHLY RATE PER UNIT	ANNUAL FEE PER UNIT	MONTHLY FEE PER UNIT	PER AUTH FEE
RENTAL EQUIPMENT:						$	$	$	$
						$	$	$	$
						$	$	$	$
						$	$	$	$
						$	$	$	$
						$	$	$	$

Rentals may result in paying more for the equipment over time as compared to purchasing. Rental equipment may be new or used and is dependent on inventory available at time of order. All used equipment is inspected and refurbished upon return before being re-deployed. Rentals are month to month and may be terminated at any time by Company. Additional provisions around the use of rental equipment can be found in the Equipment Chapter of the Operating Guide: a link to the Operating Guide can be found in Section 4 of this application, below.

TERMINAL PROGRAMING INSTRUCTIONS *(DO NOT USE FOR CONVERGE – THIS INFORMATION IS COVERED DURING TRAINING)*

☐ **RETAIL (AUTO CLOSE DEFAULT)** ☐ QUICK CLOSE ☐ STORE AND FORWARD ☐ NO SIGNATURE ☐ CONTACTLESS (+ NO SIGNATURE)

☐ **RESTAURANT (QUICK CLOSE DEFAULT)** TIP FUNCTION (DEFAULT) ☐ FINE DINING ☐ TAB FUNCTION

☐ **CARD NOT PRESENT (AUTO CLOSE DEFAULT)** ☐ QUICK CLOSE

☐ **LODGING (QUICK CLOSE DEFAULT)** ☐ QUICK STAY

☐ **SEMI INTEGRATED**

CUSTOM PROMPTS: ☐ TERMINAL AUTO CLOSE (RTL, MOTO) TIME ZONE ☐ CASH BACK PIN DEBIT (RTL): $ (MAX) ☐ CUSTOM FOOTER:
☐ NO TIP (REST) ☐ NO SERVER PROMPT (REST) ☐ CLERK PROMPT (RTL) ☐ TIP FUNCTION WAITER (RTL) ☐ TIP FUNCTION CASHIER (RTL)

TRAINING (DEFAULT = TRAINING REQUIRED): ☐ NO TRAINING

REPORTING TOOLS

☐ ONLINE CASE MANAGEMENT ▸ MONTHLY FEE $ ▸SET UP FEE $ ▸# USERS ▸SET UP TYPE (CHECK ONE) ☐ MID ☐ CHN

☐ ACS ▸MONTHLY FEE $ ▸SET UP FEE $ ▸REMOTE ID

OTHER VAS

☐ 3D Secure Per Occurrence: $ | ☐ TALECH TAP TO PAY (TALECH SAAS REQUIRED)

ELECTRONIC CHECK AND ACH PROCESSING AND SERVICE OPTIONS

ANNUAL CHECK VOLUME: $	MAXIMUM CHECK AMOUNT: $
AVERAGE CHECK AMOUNT: $	MONTHLY MINIMUM: $

ECS- PAPER CHECK CONVERSION

PROCESSING OPTIONS:

☐ POP – POINT OF PURCHASE

☐ ARC – ACCOUNTS RECEIVABLE CONVERSION

☐ BOC – BACK-OFFICE CONVERSION

SERVICE:

☐ **CONVERSION WITH GUARANTEE**

DISCOUNT RATE: _____ % PER TRANSACTION: $_____

☐ **CONVERSION WITH VERIFICATION** OR ☐ **CONVERSION ONLY**

PER TRANSACTION: $_____

PER RETURN TRANSACTION: $_____

ACH ECHECK – CARD NOT PRESENT (CNP)

PROCESSING OPTIONS:

☐ CONCURRENT ENROLLMENT (INCLUDES: WEB, TEL, PPD AND CCD) = XNP

☐ INDIVIDUAL ENROLLMENT - CHOOSE ONE (ONE PER MID)

- ☐ WEB – INTERNET INITIATED ENTRIES
- ☐ TEL/IVR – TELEPHONE INITIATED ENTRIES
- ☐ PPD – PREARRANGED PAYMENT ENTRIES
- ☐ CCD – CORPORATE TO CORPORATE ENTRIES

CONVERGE SETUPS WILL BE CONCURRENTLY ENROLLED IN ALL PRODUCT TYPES = XNP

SERVICE:

☐ **ACH-ECHECK WITH VERIFICATION**

PER TRANSACTION: $_____

PER RETURN TRANSACTION: $_____

☐ **ACH-ECHECK CONVERSION ONLY**

PER TRANSACTION: $_____

PER RETURN TRANSACTION: $_____

Other ECS Check Conversion Service Requests

☐ PROMPTS FOR DRIVER'S LICENSE NUMBER, STATE OF LICENSE ISSUANCE AND TELEPHONE NUMBER (REQUIRED FOR GUARANTEE SERVICE)

ACH-Echeck Questionnaire

1. What types of payments will you accept using ACH-Echeck (e.g., utility bill payments, monthly rent payments, monthly billing for general services)?

2. Will you obtain authorization from your customers prior to accepting an ACH entry in accordance with the ECS MOG (e.g., orally via telephone for tel/ivr, or in writing for ppd)? ☐ **Yes** ☐ **No**
3. Will you verify and authenticate the identity of your customers in accordance with the ECS MOG prior to initiating ACH entries for those customers (e.g., by obtaining a customer's name, address and telephone number or using a database to verify the accuracy of the information provided by customer)? ☐ **Yes** ☐ **No**
4. Will you offer ACH-Echeck to existing or new customers? ☐ **Existing** ☐ **New**
5. Will you maintain and disclose to your customers procedures for cancelling an authorization? ☐ **Yes** ☐ **No**
6. Will you ensure that information regarding each transaction authorization entered by a customer and/or your service representative is accurate and not a duplicate transaction? ☐ **Yes** ☐ **No**

Mass Transit Services

☐ MASS TRANSIT FEE: $

A MASS TRANSIT FEE INCLUDES ANY OF THE FOLLOWING: CONTACTLESS TAPS, INITIAL VALIDATIONS OR AUTHORIZATIONS, DEFERRED AUTHORIZATIONS, DEBT RECOVERY AUTHORIZATIONS, AND REFUND/CREDIT AUTHORIZATIONS. FOR THE AVOIDANCE OF DOUBT, INTERCHANGE AND ASSESSMENT FEES ARE NOT INCLUDED IN THE MASS TRANSIT FEE LISTED ABOVE.

CONVENIENCE FEE AND GOVERNMENT/PUBLIC INSTITUTION SERVICE FEES (GPISF)

CONVENIENCE FEE SERVICES PROGRAMS

CONVENIENCE FEE FUNDING MODEL (CHECK ONE):

☐ COMPANY MANAGED CONVENIENCE FEE[1]

☐ ELAVON MANAGED CONVENIENCE FEE[2]

☐ PARTNER MANAGED CONVENIENCE FEE[3]

PAYMENT TRANSACTION TYPES

☐ CREDIT (CHECK ALL THAT APPLY):

☐ VISA ☐ MASTERCARD ☐ DISCOVER ☐ AMERICAN EXPRESS PS

☐ SIGNATURE DEBIT (CHECK ALL THAT APPLY):

☐ VISA ☐ MASTERCARD ☐ DISCOVER

☐ PIN-BASED DEBIT ☐ PINLESS DEBIT

☐ ACH (VIA ELECTRONIC CHECK SERVICES)

ELAVON PRODUCT SUPPORTING ELAVON-MANAGED CONVENIENCE FEE ASSESSMENT TO BE USED BY COMPANY (CHECK ALL THAT APPLY):

☐ PAYCENTRIC BILL PAY SERVICES ***(ADDITIONAL ENROLLMENT FORM REQUIRED)***:

☐ COMPANY PROPRIETARY SOLUTION OR VALUE-ADDED SERVICER

☐ OTHER:

CONVENIENCE FEE PRICING:

CONVENIENCE FLAT FEE AMOUNT: **$**

CONVENIENCE FEE **%**: (MASTERCARD, DISCOVER & ACH PROGRAMS ONLY)

IMPLEMENTATION FEE (IF APPLICABLE): **$**

GPISF SERVICES PROGRAMS

(CHECK ALL THAT APPLY, BUT ONLY IF COMPANY ELECTS GPISF ASSESSMENTS:

☐ COMPANY-MANAGED SERVICE FEE[4]

☐ COMPANY-MANAGED WITH ELAVON POS DEVICES/SERVICE FEE TERMINALS[5]

☐ ELAVON-MANAGED SERVICE FEE[6]

☐ PARTNER MANAGED SERVICE FEE[7]

CARD ACCEPTANCE (CHECK ALL THAT APPLY):

☐ POINT OF SALE ☐ INTERNET

☐ IVR ☐ OTHER:

GPISF SERVICES PROGRAMS (CHECK ALL THAT APPLY, BUT ONLY IF COMPANY ELECTS GPISF ASSESSMENTS:

☐ MASTERCARD GOVERNMENT AND EDUCATION PAYMENT PROGRAM
☐ VISA GOVERNMENT AND EDUCATION PAYMENT PROGRAM
☐ AMERICAN EXPRESS GOVERNMENT AND EDUCATION PAYMENT PROGRAM
☐ DISCOVER GOVERNMENT AND EDUCATION PAYMENT PROGRAM

TRANSACTION TYPES:

☐ FEDERAL INCOME TAX ☐ BUSINESS TAX
☐ GOVERNMENT FEES ☐ OTHER TAX
☐ STATE INCOME TAX ☐ TUITION
☐ REAL ESTATE PROPERTY TAX ☐ OTHER EDUCATION EXPENSES

PAYMENT TYPES FOR GPISF ASSESSMENT (NOT ALL PAYMENT TYPES ARE SUPPORTED FOR ALL PROGRAMS) (CHECK ALL THAT APPLY, BUT ONLY IF COMPANY ELECTS GPISF ASSESSMENT):

☐ CREDIT – (CHECK ALL THAT APPLY):

☐ VISA – ELIGIBLE MCCS: 8211, 8220, 8244, 8249, 9211, 9222, 9311, 9399

☐ MASTERCARD – ELIGIBLE MCCS: 8211, 8220, 8299, 9211, 9222, 9223, 9311, 9399,9402
☐ DISCOVER (AVAILABLE IF ELAVON-ACQUIRED)
☐ AMERICAN EXPRESS PS – ELIGIBLE MCCS: 8211, 8220, 8244, 8249, 9211, 9311, 9399, 9222

☐ SIGNATURE DEBIT – (CHECK ALL THAT APPLY)

☐ VISA – ELIGIBLE MCCS: 8211, 8220, 8244, 8249, 9211, 9222, 9311, 9399
☐ MASTERCARD – ELIGIBLE MCCS: 8211, 8220, 8299, 9211, 9222, 9223, 9311, 9399,9402
☐ DISCOVER (AVAILABLE IF ELAVON-ACQUIRED)

☐ ACH (VIA ELECTRONIC CHECK SERVICES)

ELAVON PRODUCT SUPPORTING GPISF ASSESSMENT TO BE USED BY COMPANY (CHECK ALL THAT APPLY):

☐ PAYCENTRIC BILL PAY SERVICES ***(ADDITIONAL ENROLLMENT FORM REQUIRED)***:

☐ SERVICE FEE TERMINAL

☐ COMPANY PROPRIETARY SOLUTION OR VALUE-ADDED SERVICER

☐ SAFE-T SERVICES ***(ADDITIONAL ENROLLMENT FORM REQUIRED)***

☐ OTHER:

GPISF PRICING:

SERVICE FEE AMOUNT: **%** OR **$**

ACH (VIA ELECTRONIC CHECK SERVICES): **$**

IMPLEMENTATION FEE (IF APPLICABLE): **$**

[1] "Company-Managed" Convenience Fee means that Company establishes the amount of the Convenience Fee (subject to the requirements of the Agreement and applicable Payment Network Regulations) and retains the Convenience Fee. Company pays Elavon the per transaction fees as set forth in this application to the Agreement for all Convenience Fee Transactions.

[2] "Elavon- Managed" Convenience Fee means that Elavon establishes the amount of the Convenience Fee and retains the Convenience Fee in lieu of Company's obligation to pay Elavon the per transaction fees as set forth in this application to the Agreement for Convenience Fee Transactions. The Convenience Fee is still charged by Company and included in the overall transaction amount charged to the Cardholder.

[3] "Partner- Managed" Convenience Fee means that Sales Partner (a Sales Partner is a registered third party sales organization selling Elavon services) establishes the amount of the Convenience Fee (subject to the requirements of the Agreement and applicable Payment Network Regulations) as set forth in this application to the Agreement. Elavon will retain the Convenience Fee in lieu of Company's obligation to pay Elavon the per transaction fees as set forth in this application to the Agreement. The Convenience Fee is still charged by Company and included in the overall transaction amount charged to the Cardholder.

[4] "Company-Managed" Service Fee means that Company establishes the amount of the GPISF, programs its POS Devices to assess the GPISF, and retains the GPISF (subject to the requirements of the Agreement and applicable Payment Network Regulations). Company pays Elavon the per transaction fees as set forth in this application for all GPISF Transactions.

[5] "Company-Managed with Elavon POS Devices/Service Fee Terminals" means that Elavon programs the POS Devices to assess the GPISF established by Company and Company retains the GPISF. Company pays Elavon the per transaction fees as set forth in this application to the Agreement for all GPISF Transactions.

[6] "Elavon-Managed" Service Fee means that Elavon establishes the amount of the GPISF, and Elavon charges and retains the GPISF in lieu of Company's obligation to pay Elavon the per transaction fees and Safe-T Services fees (if Safe-T is chosen above) for GPISF Transactions.

[7] "Partner- Managed" Service Fee means that Sales Partner (a Sales Partner is a registered third party sales organization selling Elavon services) establishes the amount of the GPISF (subject to the requirements of the Agreement and applicable Payment Network Regulations) as set forth in this application to the Agreement. Elavon will retain the GPISF in lieu of Company's obligation to pay Elavon the per transaction fees and Safe-T Services fees (if Safe-T is chosen above) for GPISF Transactions.

SUBSTITUTE FORM W-9

☐ GOVERNMENT
☐ OTHER

♦ LEGAL BUSINESS NAME*:

*NAME (OF BUSINESS) AS SHOWN ON YOUR BUSINESS INCOME TAX RETURNS. FOR SOLE PROPRIETORS, THIS SHOULD ALWAYS BE THE OWNER'S NAME.

♦ LEGAL BUSINESS ADDRESS (NO PO BOX):			OR	♦TIN (EMPLOYER ID #):
♦CITY:	♦STATE:	♦ZIP CODE:		♦TIN (SOCIAL SECURITY #):

4 COMPANY REPRESENTATIONS AND CERTIFICATIONS

Company Representations and Certifications. By signing below, the applicant company ("Company") and its representative(s) represent and warrant to Elavon, Inc. ("Elavon" or "member" as applicable), with offices at 7300 Chapman Highway, Knoxville, TN 37920 (collectively, "we" or "us") that (i) all information provided in this company application ("Company Application") is true and complete and properly reflects the business and financial condition of Company; and (ii) the persons signing this Company Application are duly authorized to bind Company to all provisions of this Company Application and the Agreement. The signature by an authorized representative of Company on the Company Application, or the transmission of a Transaction Receipt or other evidence of a Transaction to us, shall be the Company's acceptance of and agreement to the terms and conditions contained in the Agreement including, without limitation, this Company Application, the Terms of Service ("TOS"), the Addendum to the Terms of Service for Government/Institutional Companies attached hereto, and the Operating Guide incorporated herein by this reference and located at our website at https://www.mypaymentsinsider.com/api/file/c/Terms_of_Service_English and https://www.mypaymentsinsider.com/api/file/c/Operating_Guide_English, respectively. If you are accepting electronic payments through Transend Pay you also agree to the Terms and Conditions set out under the Resources tab at www.elavon.com/transendpay, and as subsequently amended in the Operating Guide in the Transend Pay Services Chapter. If Company does not have access to view the TOS or Operating Guide at our website, please contact our customer service center. Notwithstanding any such non-receipt of the TOS or Operating Guide, Company agrees to comply with the Agreement, and all applicable laws, rules, and regulations including the rules and regulations of the Payment Networks, and understands that failure to comply will result in termination of processing services. Capitalized terms shall, unless otherwise defined in this Company Application, have the same meaning ascribed to them in the TOS and Operating Guide.

Company must obtain an Authorization Code via electronic terminal or similar device before completing any transaction. Company understands that an AUTHORIZATION CODE IS NOT A GUARANTEE OF ACCEPTANCE OR PAYMENT OF A TRANSACTION. RECEIPT OF AN AUTHORIZATION CODE DOES NOT MEAN THAT COMPANY WILL NOT RECEIVE A CHARGEBACK FOR THAT TRANSACTION.

Company and its representative(s) authorize us prior to our acceptance of this Company Application and from time to time thereafter, to investigate the business history and background of Company and to obtain credit reports on a periodic basis (i.e. monthly) or at any time or other background investigation reports on Company that we consider necessary to review the acceptance and continuation of this Company Application. Company also authorizes any person or credit reporting agency to compile information to answer those credit inquiries and to furnish that information to us.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. This means we will ask for certain information and identifying documents to allow us to identify you.

This Company Application may be signed in one or more counterparts, each of which shall constitute an original and all of which, taken together, shall constitute one and the same Company Application. Delivery of executed counterparts of this Company Application may be accomplished by a facsimile transmission, and a signed facsimile or copy of this Company Application shall constitute a signed original.

PCI Compliance, PCI/SafeT Program Fees. All companies, regardless of Transaction volume, must comply with the requirements of the Payment Card Industry Data Security Standard ("PCI DSS"). Elavon's monthly (PCI/Safe-T) Program Standard Fee is disclosed in the Fee section of this Application. For clarity, if Company has selected a Safe-T solution, the fee for PCI DSS compliance is included within the (PCI/Safe-T) Program Standard Fee. For ninety (90) days following account approval, Company will be charged the (PCI/SafeT) Program Discounted Fee disclosed in the Fee section of this Application. If Company validates its initial PCI DSS compliance within ninety (90) days after account approval, it will continue to be eligible for the (PCI/SafeT) Program Discounted Fee for the 12 months starting with the month in which it provides validation (e.g., if Company validates compliance in March, it will pay the discounted fee from March through February of the following year). If Company does not validate its initial PCI DSS Compliance within ninety (90) days following account approval, then Company will be required to pay the full, undiscounted (PCI/SafeT) Program Standard Fee until Company validates its annual PCI DSS compliance.

For any time after the ninety (90) days following account approval, if Company validates PCI DSS by the 25th day of a month, Company will be eligible for the (PCI/SafeT) Program Discounted Fee for the 12 months starting with the month of validation (e.g., if Company validates compliance by the 25th of March, it will pay the discounted fee from March through February of the following year). Following the end of each annual PCI DSS compliance validation period, Company will have to the 25th of the following month to validate compliance or Company will be required to pay the full, undiscounted monthly (PCI/SafeT) Program Standard Fee until Company again validates compliance.

American Express Acceptance Program (Acceptance Program). If Company has elected to accept American Express® Transactions (as indicated in the Card Acceptance section of this Company Application), in addition to all other terms of this Agreement, Company agrees to the Acceptance Program terms of the TOS. By signing below or by accepting a Transaction initiated with an American Express® Payment Device, Company expressly authorizes Elavon to submit American Express® Transactions to, and to receive settlement funds from, American Express on Company's behalf. Company further authorizes Elavon to provide Company's contact information to American Express, and Company agrees that American Express may use and share such contact information for its business purposes and as permitted by applicable Laws, including to communicate with Company regarding products, services, and resources available to Company's business. American Express's use of the email address and mobile phone number provided above is subject to the consent to such use as indicated in Section 1 of this Company Application. Consent to American Express's use of contact information for such communications may be withdrawn at any time by contacting our customer service center. Even if consent is withdrawn, Company may still receive messages related to important information about Company's account from American Express. Company or Elavon may terminate Company's acceptance of American Express® Payment Devices at any time, with or without cause, without affecting Company's rights and obligations pursuant to the remainder of this Agreement. Company acknowledges that, if at any time Company is no longer qualified to participate in the Acceptance Program, Company may be enrolled in the standard American Express® card acceptance program, which may have different terms and conditions than the Acceptance Program, and Company's acceptance of American Express® Payment Devices pursuant to this Agreement will be terminated. Company acknowledges that American Express is an intended third-party beneficiary of this Agreement, solely with respect to the terms and conditions applicable to Company's acceptance of American Express® Payment Devices, and that American Express has the right to enforce such terms and conditions directly against Company.

A PIN/PINLess Debit Enablement Service Fee will be collected for any Interchange and Assessment savings generated through debit routing on your monthly debit transactions for Interchange Plus customers only. This monthly fee will be calculated from your actual debit transaction volume and will be a percentage of your overall debit cost savings. The PIN/PINLess Debit Enablement Service Fee collected and the Interchange and Assessment savings will be reflected on your monthly statement.

♦SIGNATURE: X	♦PRINTED NAME:	♦TITLE:	♦DATE:
SIGNATURE: X	PRINTED NAME:	TITLE:	DATE:

SUBMITTED BY (INTERNAL USE ONLY)

To the best of my knowledge, I certify that the information provided in this Company Application was provided by the Company and is true, complete and accurate. I further certify that the signatures were provided by the Company's authorized representative.

SALES REP SIGNATURE: X	♦PRINTED NAME:	♦REP ID #:	♦DATE:
♦REP PHONE #:	♦REP EMAIL:	♦SECONDARY REP ID #:	

ADDENDUM TO THE TERMS OF SERVICE FOR GOVERNMENT/INSTITUTIONAL COMPANIES

The following provisions hereby replace the like-numbered provisions of the Terms of Service ("**TOS**") or are hereby inserted or deleted from the TOS, as indicated, for Companies operating under the Agreement. Capitalized terms used and not otherwise defined in this Addendum shall have the meanings ascribed to them in the Agreement or the Operating Guide.

1) **Section 4.1 Security Interests** is deleted.

2) **Section 5.1 Term is deleted and replaced with the following:**

"**Term**. Unless terminated as provided below, the Agreement will remain in effect for a period of three years ("**Initial Term**") following the date of acceptance of the Company Application by Elavon, which date will be the date upon which the Agreement becomes effective. Thereafter, the Agreement will renew automatically for successive one month terms (successive six month terms with respect to Canada) ("**Renewal Term**") unless terminated as provided below. If Company processes Transactions beyond the Initial Term or Renewal Term, then the terms of the Agreement will govern such Transaction processing."

3) **Section 5.2(a)** is revised to add the following:

"(iv) Company may terminate the Agreement on 60 days' prior written notice to Elavon if sufficient legislative appropriation is not available."

4) **Section 5.2(b)** is deleted and replaced with the following:

"**By Elavon**. Elavon may terminate the Agreement immediately in writing if any of the following occur:

(i) A material adverse change in Company's financial condition;

(ii) The commencement of a Bankruptcy Proceeding by or against Company;

(iii) Any representation by Company is false or misleading in any material respect as of the date made, or becomes false or misleading in any material respect at any time during the Term;

(iv) Any Payment Network or application of Payment Network Regulations requires Elavon to terminate the Agreement or cease processing Transactions for Company;

(v) Assignment of the Agreement or change of control of Company without Elavon's written consent;

(vi) The levy, garnishment or attachment of the DDA, the Reserve Account, or any of Company's property in Elavon's possession;

(vii) Any change, not approved by Elavon, that constitutes a material change in the types of goods or services Company sells or in the methods by which Company sells them, or any change that results in Company's violation of Elavon's underwriting policy; or

(viii) If, after Elavon provides 30 days' written notice, Company has either (1) Chargebacks or Retrieval Requests in excess of 1% of the gross dollar amount of Company's Transactions or returns in excess of 2.5% of the gross dollar amount of Company's Transactions, or (2) the acceptance of Card Not Present or Convenience Fee Transactions without proper disclosure to Elavon in the Agreement (including in the Company Application) or an amendment to the Agreement."

5) **Section 7.1**. Only if Company elects and is approved for the invoice fee collection model, then the second sentence of Section 7.1 of the Agreement is deleted and replaced with the following:

"Such fees will be calculated once each month for the previous month's activity. Elavon will send Company an invoice reflecting the fees due, which Company will pay within 30 days of the invoice date. In addition to all other available remedies, Elavon may offset any outstanding or uncollected amounts that are more than 90 days past due from (i) any amounts it would otherwise be obligated to deposit into the DDA and (ii) any other amounts Elavon may owe Company under the Agreement."

6) **Section 7.2 Change of Fees** is deleted and replaced with the following:

"**Change of Fees**. Elavon will not amend the fees for the Services for the Initial Term except to pass through to Company increases in interchange, assessments or charges, or increased or new fees imposed by a third party (including a Payment Network)."

7) **Section 7.3(b)** is deleted and replaced with the following:

"(b) Elavon will charge interest on all uncollected amounts owed to Elavon: (i) as provided in the applicable jurisdiction's prompt payment act; or (ii) if no such statute applies, then on amounts more than 30 days past due at a rate no greater than the maximum rate of interest permitted under Laws."

8) **Section 7.4 Taxes** is deleted and replaced with the following:

"**Taxes**. If applicable, Company will pay all taxes and other charges imposed by any governmental authority on the Services and Equipment provided under the Agreement, excluding any taxes based on Elavon's property or net income. If Company is a tax-exempt entity, Company will provide Elavon with an appropriate certificate of tax exemption."

9) **Section 9.1(b) Disclosure of Confidential Information** is revised to add after the last sentence as follows:

"If Company is subject to an open or public records law, Elavon will comply with the applicable requirements and provide Company with reasonable assistance and information when necessary to enable Company to comply with its disclosure requirements; provided, that Elavon will not be required to disclose information that is not subject to disclosure under applicable Law."

10) **Section 10.1 Audit** is deleted and replaced with the following:

"**Audit.** If Elavon or Member reasonably suspects that they are subject to a financial or reputational risk due to Company's actions or omissions, Company authorizes Elavon and its agents to perform an audit or inspection of Company's operations and records to confirm Company's compliance with the Agreement upon reasonable advance notice, during normal business hours, and at Elavon's expense (unless Elavon reasonably determines based on such audit that Company is not in compliance with the Agreement, in which case Company will bear the cost). Company will obtain and submit a copy of an audit from a third party acceptable to Elavon of the financial, physical security, information security, and operational facets of Company's business at its expense when requested by Elavon. Further, Company acknowledges and agrees that the Payment Networks have the right to audit Company's business to confirm compliance with the Payment Network Regulations. Company will maintain complete and accurate records of its performance under the Agreement. Company will execute and deliver to Elavon all documents Elavon reasonably deems necessary to verify Company's compliance with Section 8.1."

11) **Section 10.2(b) Financial Information** is deleted and replaced with the following:

"Financial Information. At Elavon's request, Company will provide Elavon audited financial statements prepared by an independent certified public accountant selected by Company, or if Company is audited by a governmental authority, then Company will provide financial statements from such governmental authority. Within 120 days after the end of each fiscal year (or in the case of a government entity, when available), Company will furnish Elavon, as requested, a financial statement of profit and loss for the fiscal year and a balance sheet as of the end of the fiscal year, each audited as provided above. Company will also provide Elavon such interim financial statements and other information as Elavon may request from time to time."

12) **Section 13 Indemnification** is deleted and replaced with the following four sections:

"**13(a). Company Responsibilities.** As between Company and Elavon, Company will be responsible for, and at its own expense, defend itself against any suits, claims, losses, demands or damages arising out of (i) any sale or provision of goods or services resulting in a Transaction processed under the Agreement; (ii) Company's breach of the Agreement; (iii) all use of any user ID and password other than by Elavon or Elavon's third-party contractors; (iv) Company's or its Service Providers' gross negligence or willful misconduct; (v) Company's or its Service Providers' violation of Laws or Payment Network Regulations; or (vi) any personal injury or real or tangible personal property damage to the extent caused by Company or its Service Providers. Company will not make any claims against Elavon for any liabilities, claims losses, costs, expenses and demands of any kind or nature, arising out of or in connection with any of the foregoing suits, claims, losses, demands or damages.

13(b). Elavon Responsibilities. In addition to Elavon's obligations in Section 13(c), Elavon will be responsible for and will at its own expense defend itself against any suits, claims, losses, demands or damages arising out of (i) Elavon's breach of the Agreement; (ii) Elavon's or its third party contractors' gross negligence or willful misconduct; (iii) Elavon's or its third party contractors' violation of applicable Laws or Payment Network Regulations; (iv) Elavon's alleged infringement or other violation of a U.S. or Canada patent, copyright or trademark of a third party by the Services in the form delivered or Company's use thereof; or (v) any personal injury or real or tangible personal property damage to the extent caused by Elavon or its third party contractors**.**

13(c). Infringement Claims.

(i) Elavon will defend Company and its employees, officers, and agents in connection with claims, actions, demands or proceedings (made or threatened) brought by a third party, and will pay the final award of damages assessed against Company, its employees, officers or agents in a final judgment by a court of competent jurisdiction, including awarded costs, or any amount in settlement or compromise authorized by Elavon in writing, arising out of Elavon's alleged infringement or other violation of a U.S. or Canada patent, copyright or trademark of a third party by the Services (but not Equipment) in the form delivered or Company's use thereof (an "Infringement Claim").

(ii) If any part of the Services or the use of the Services becomes, or in Elavon's opinion is likely to become, the subject of an Infringement Claim, and as a result of such Infringement Claim Company's use of the Services may be enjoined or interfered with, then Elavon will, at its option and expense, either, and in addition to defending Company and paying the final amount of damages as provided for in this section, (1) obtain a license for Company to continue using the alleged infringing component(s) of the Services; (2) modify the alleged infringing component(s) of the Services to avoid the infringement in a manner that still permits the Services to perform in all material respects in accordance with the Agreement; or (3) replace the alleged infringing component(s) of the Services with compatible, functionally equivalent, and non-infringing component(s). Elavon will use commercially reasonable efforts to accomplish the remedies identified in this section in a manner that minimizes the disruption to Company's business operations. If Elavon is not able to accomplish the above remedies within a commercially reasonable time frame and on commercially reasonable terms, Elavon may terminate the Agreement upon written notice to Company. Upon such termination, Elavon will promptly refund any fees paid for Services not performed as of the date of termination.

(iii) Elavon will have no liability for any Infringement Claim to the extent caused by (1) access to or use of the Services other than as specified under the Agreement and the related Documentation, (2) combination or use of the Services with non-Elavon products or services (whether or not provided to Company by Elavon), (3) any hardware, devices, software, services or other resources not provided by Elavon, (4) failure or refusal by Company to install, implement or use any Update or correction provided by Elavon, (5) modification or alteration of the Services by anyone other than Elavon without Elavon's prior written consent, (6) Company's goods or services, or (7) the negligence, gross negligence or willful misconduct of, or breach of the Agreement by, Company.

(iv) THIS SECTION 13(c) SETS FORTH THE EXCLUSIVE REMEDY OF COMPANY AND THE SOLE AND COMPLETE LIABILITY OF ELAVON WITH RESPECT TO ANY INFRINGEMENT CLAIMS."

13(d). Procedure.

(i) If an Infringement Claim is subject to Elavon's obligations in Section 13(c) of the Agreement, Company will:

(1) Provide Elavon prompt notice of the Infringement Claim (provided that any delay in notification will not relieve Elavon of its obligations under this Section 13(d) except to the extent that the delay materially impairs its ability to fully defend the Infringement Claim);

(2) Subject to Section 13(d)(ii), give Elavon the right to exercise exclusive control over the preparation and defense of the Infringement Claim; and

(3) Provide such assistance in connection with the defense and settlement of the Infringement Claim as Elavon may reasonably request, at Elavon's expense. Elavon will not enter into any settlement that imposes any liability or obligation on Company, or contains any admission or acknowledgement of wrongdoing (whether in tort or otherwise), without Company's prior written consent.

(ii) Company may join in the defense, with its own counsel, at its own expense."

13) **Section 16 Personal Guaranty** is deleted.

14) **Section 18.2 Jurisdiction and Venue; Governing Law** is deleted.

15) **Section 18.3 Exclusivity** is deleted.

16) **Section 18.5 Assignability** is deleted and replaced with the following:

"**Assignability.** Company will not assign the Agreement, directly, by operation of law, or by change of control of Company, without Elavon's prior written consent. If Company nevertheless assigns the Agreement without Elavon's consent, the Agreement will be binding on both the assignee and Company. Elavon will not transfer or assign the Agreement without the prior written consent of Company, provided that such consent will not be required for (i) the assignment or delegation to an affiliate of Elavon, or (ii) the assignment or delegation to any Person into or with which Elavon will merge or consolidate, or who may acquire substantially all of Elavon's stock or assets."

17) **Section 18.6 Arbitration** is deleted.

18) **Section 18.9 Attorney's Fees and Expenses** is deleted.

19) **Section 18.12 Amendments** is deleted and replaced with the following:

"**Amendments.** Except as otherwise provided in the Agreement, amendments to the Agreement will be in writing and signed by the parties. Notwithstanding the foregoing, Elavon and Member may amend or modify the Agreement, to the extent such changes are required by or attributable to changes in the Payment Network Regulations or other Laws, upon written notice to Company. Elavon or Member will inform Company of such a change in a periodic statement or other written notice, and such change will become effective at least 30 days after the issuance of the notice. Notwithstanding the previous sentence, changes to fees authorized by the Agreement will be effective upon notice to Company, unless a later effective date is provided."

20) **Schedule A, Section 1.5 Personal Guaranty** is deleted

21) **Schedule A, Section 1. 6 Jurisdiction and Venue; Governing Law** is deleted.

22) **Schedule A, Section 1.7 Arbitration** is deleted.

23) **Schedule B, Section 16** is hereby added:

"16. Either Elavon or Company may terminate the ECS services portion of the Agreement at any time upon thirty days' prior written notice to the other party, and (ii) Elavon may, at its option, transition Company to a new program offered by Elavon that provides services similar to the ECS."

NASPO VALUE POINT
STATE OF CALIFORNIA PARTICIPATING ADDENDUM 7-20-99-42
LOCAL AGENCY SUBSIDIARY AGREEMENT

This Local Agency Subsidiary Agreement ("**Subsidiary Agreement**") is entered into by undersigned entity, organized under the laws of the State of California ("**Local Agency**"), and U.S. Bank. This Subsidiary Agreement shall become effective upon signing by U.S. Bank.

RECITALS

1. The State of California, Department of General Services (the "**State**") and U.S. Bank entered into California Participating Addendum 7-20-99-42 effective January 1, 2021, as amended, supplemented or otherwise modified (the "**Participating Addendum**") for the purpose of making available a Commercial Card Services Program ("**Program**") as described in the Participating Addendum for use by state agencies and local agencies of the State;

2. Local Agency desires to participate as a "Participating Agency" under the Program and Agreement, with sole liability for its own obligations it may incur under the Program and Participating Addendum; and

3. U.S. Bank has agreed to allow Local Agency to be bound under the Participating Addendum and participate in the Program as a "Participating Agency."

AGREEMENT

Now, therefore, for and in consideration of the mutual promises contained in this Subsidiary Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Local Agency and U.S. Bank agree as follows:

1. **DEFINITIONS**. Unless otherwise stated in this Subsidiary Agreement, all capitalized terms shall have the same meaning as set forth in the Participating Addendum.

2. **DESIGNATION.** Local Agency is hereby designated as a "Participating Agency" under the Participating Addendum, and upon U.S. Bank's execution of this Subsidiary Agreement (after completing its necessary due diligence) Local Agency shall be deemed a "Participating Agency" thereunder until Local Agency so elects to remove such designation or such designation is revoked as set forth in section 6 below. U.S. Bank will take direction from such Local Agency in the issuing of Accounts (or the suspension of Accounts issued at Local Agency's direction).

3. **LOCAL AGENCY REPRESENTATIONS, WARRANTIES AND COVENANTS.** Local Agency:
   - **3.1** Represents and warrants that it received a copy of the Participating Addendum;
   - **3.2** Represents that it is a valid political subdivision of the State of California;
   - **3.3** Represents and warrants that as of the date hereof that each of the representations and warranties made by the State in the Participating Addendum to U.S. Bank can be made by Local Agency without breach on the date hereof;
   - **3.4** Represents and warrants that all financial and other information provided to U.S. Bank by or about Local Agency is true and correct;
   - **3.5** Agrees to comply with and be bound by the terms and conditions of the Participating Addendum, including any future amendment regardless of whether Local Agency has received notice of such amendment;
   - **3.6** Agrees it is liable for its own performance of the terms and conditions of the Participating Addendum (including as it may be amended from time to time) as if Local Agency signed the Participating Addendum, including for all obligations incurred by it or by any party issued an Account at its direction, but shall not be liable for any obligations incurred by the State or any other Local Agencies; and
   - **3.7** Agrees that it may not assign or transfer its rights under this Subsidiary Agreement or the Participating Addendum without the express consent of U.S. Bank.

4. **LIABILITY FOR LOCAL AGENCY'S PERFORMANCE AND OBLIGATIONS.** Local Agency agrees that it shall be solely liable for its performance of the terms and conditions of the Participating Addendum and this Subsidiary Agreement. The State shall have no liability for any obligations incurred under the Program by Local Agency and any Account holder designated by such Local Agency.

5. **NOTICES.** The notice address for Local Agency is:

_____
_____
_____
_____
Attn: _____

6. **CHANGE OF CONTROL.** Local Agency shall immediately notify U.S. Bank in writing of the occurrence of any event concerning Local Agency that (i) would prevent Local Agency from making the representations and warranties contained in section 3 at such time or (ii) results in a change of the legal name of such Local Agency. Local Agency shall promptly provide such additional details as reasonably requested by U.S. Bank regarding such event. At the election of U.S. Bank, the rights of Local Agency to be designated a "Participating Agency" under the Participating Addendum may be revoked based upon the notification provided by pursuant to section 6 (i) and this Subsidiary Agreement shall terminate.

7. **BINDING AGREEMENT.** The representations, warranties and covenants of Local Agency in this Subsidiary Agreement constitute valid, binding and enforceable agreements of Local Agency. The execution of this Subsidiary Agreement and the performance of the obligations hereunder are within the power of Local Agency, have been authorized by all necessary action and do not constitute a breach of any agreement to which Local Agency is a party or is bound. Local Agency represents and warrants that this transaction is within the scope of the normal course of business and does not require further authorization for Local Agency to be duly bound by this Subsidiary Agreement. Any breach of the terms of this Subsidiary Agreement by the Local Agency shall also be a default under the Participating Addendum by the Local Agency giving rise on the part of U.S. Bank to exercise remedies outlined within the Participating Addendum based upon such default. A breach of the terms of the Subsidiary Agreement by Local Agency shall give rise to the right of U.S. Bank to terminate this Subsidiary Agreement in accordance with terms outlined within the Participating Addendum and remove Local Agency from the Program.

8. **RATIFICATION, AMENDMENT AND TERMINATION OF AGREEMENT**. Local Agency acknowledges that U.S. Bank and the State may from time to time enter into amendments of the Participating Addendum. No such amendments shall require the consent of, or notification to, Local Agency and Local Agency shall be bound by the terms contained in any such amendments. **In the event of a termination of the Subsidiary Agreement, Local Agency acknowledges and agrees that Local Agency shall remain liable for all debts arising from the use of a card and/or account prior to the termination date and U.S. Bank will pay applicable rebates in accordance with the Participating Addendum.**

9. AUTHORIZATION AND EXECUTION. This Subsidiary Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. This Subsidiary Agreement may be executed and delivered by the parties electronically, and fully executed electronic versions of this Subsidiary Agreement, or reproductions thereof, will be deemed to be original counterparts.

The signer(s) represents and warrants that (i) he or she is authorized by an applicable authority to enter into all transactions contemplated by this Subsidiary Agreement, and (ii) the signatures appearing on all supporting documents of authority are authentic.

LOCAL AGENCY	**U.S. BANK**
DATE:	DATE:
	U.S. Bank National Association
Legal Name of Local Agency	
(Signature of Authorized Individual)	
(Printed Name of Authorized Individual)	
	Vice President
(Printed Title of Authorized Individual)	

REPORT TO CITY COUNCIL

Approved by:

Giachino Chiaramonte

Giachino Chiaramonte, Chief of Police

Arnoldo Rodriguez

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-10

SUBJECT:

Edward Byrne Memorial Justice Assistance Grant (JAG) Program 2024/25 Grant Award Acceptance

RECOMMENDATION:

Adopt a Resolution accepting the $20,491 grant award and amending the City's 2024/25 Adopted Budget to reflect revenues and expenditures related to the grant

SUMMARY:

The U.S. Department of Justice has awarded the City $20,491 of JAG funds for Fiscal Year 2024/25 (JAG 24). The funds will be used to support the enhancement of the City's surveillance system. These technological improvements will provide the Madera Police Department (MPD) with modern and reliable equipment, increasing investigatory capabilities and public safety.

DISCUSSION:

The U.S. Department of Justice provided $84 million to law enforcement agencies for the Fiscal Year 2024/25. Funds are awarded to state and local agencies on a formula basis. JAG funds support all criminal justice system components, from multijurisdictional drug and gang task forces to crime prevention and technology improvement. The City was notified that it was awarded $20,491 as part of the JAG program's FY 2024 solicitation.

Staff requested the City Council's (Council) approval to apply for JAG 24 with the recommendation to enhance the City's surveillance system by purchasing surveillance cameras. Staff holds consistent on its initial recommendation to purchase cameras. Staff expects to purchase 2 cameras at a cost of approximately $11,600 per camera.

FINANCIAL IMPACT:

Acceptance of JAG 24 grant will result in $20,491 in Federal funding allocated to the City, specifically designated for the purchase of surveillance cameras. This grant presents a valuable opportunity to enhance our public safety infrastructure without burdening local taxpayers.

It is important to note that any variance in the cost of the cameras after utilizing the grant funds will be managed within the City's adopted operating budget. Staff anticipates that MPD's operating budget will effectively cover any potential overage, with projections indicating a maximum shortfall of no more than $2,800.

ALTERNATIVES:

The Council may suggest the City purchase different equipment using the grant funds. Furthermore, the Council can request staff return with additional justification for the recommended purchase. Alternatively, the Council may refuse to accept the grant funds.

ATTACHMENTS:

1. Resolution accepting the grant and authorizing a budget amendment
    a. Exhibit A: Budget amendment

RESOLUTION NO. 24-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA AUTHORIZING THE ACCEPTANCE OF THE EDWARD BYRNE MEMORIAL JUSTICE PROGRAM 2024/25 GRANT IN THE AMOUNT OF $20,491

WHEREAS, the City of Madera Police Department is responsible for the safety of the citizens of the community; and

WHEREAS, the Madera Police Department spends considerable resources in its efforts to provide frontline law enforcement services to the community; and

WHEREAS, the Council of the City of Madera supports the efforts of the Police Department to secure resources by the most efficient means possible; and

WHEREAS, the Congress of the United States has allocated $20,491 through the Edward Byrne Memorial Justice Assistance Grant (JAG) program to the City of Madera to be used for front-line law enforcement services; and

WHEREAS, the City wishes to accept the 2024/25 JAG award and amend the City of Madera Fiscal Year 2024/2025 Adopted Budget to reflect revenues and expenditures related to the grant.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA hereby resolves, finds, and orders as follows:

1. The foregoing recitals are true and correct.

2. The City Manager is authorized to execute all required documents for acceptance of the grant.

3. The City accepts the grant in the amount of $20,491 from the Edward Byrne Memorial Justice Program and approves the budget amendment reflecting the revenues and expenditures related to the grant, attached hereto as Exhibit A.

4. The City Clerk is authorized and directed to forward a copy of the resolution to the Director of Financial Services who is authorized to take such action as necessary to implement the terms of this resolution.

5. This resolution is effective immediately upon adoption.

******

EXHIBIT A

CITY OF MADERA FISCAL YEAR 2024/25 BUDGET APPROPRIATION
FOR EDWARD BYRNE MEMORIAL GRANT PROGRAM

FUND	ORG CODE	OBJECT CODE	PROJECT	DESCRIPTION	(+)	(-)
PD GRANTS						
4781	47810000	4434	JAG 24	Grants		20,491
4781	47810000	7000	JAG 24	Vehicles & Equipment	20,491	
				TOTALS	**20,491**	**20,491**

REPORT TO CITY COUNCIL

Approved by:

Keith Helmuth, City Engineer

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-11

SUBJECT:

Agreement with Union Pacific Railroad Company for the Water Main Replacement under the Fresno River project, Project W-00009

RECOMMENDATION:

Adopt a Resolution approving a Pipeline Crossing Agreement (Agreement) between the Union Pacific Railroad Company and the City of Madera for the water main replacement across the Fresno River

SUMMARY:

On August 17, 2022, Council approved an agreement with Provost & Pritchard Consulting Inc. to design a water line under the Fresno River to replace the exposed water main from Gateway Drive to Riverside Drive. Given that a portion of this project is within the Union Pacific Railroad (UPRR) right of way, an agreement between the City and UPRR is necessary. The costs associated with said permit with UPRR are estimated at $20,000 and include the $10,000 license fee and on-site UPRR inspectors during the work. Additionally, the contractor that installs the new water main will enter into a separate agreement with the UPRR.

DISCUSSION:

The project will replace 200 feet of 16-inch water main within the Fresno River between Gateway Drive and Riverside Drive. Due to soil erosion conditions within the river, the 8-feet of original soil cover has eroded leaving the existing pipeline at surface level and exposed to vandalism and the elements. Stream bed erosion is a natural process by which the bed of the river or stream is eroded to a new lower level by the movement of water in the riverway. The new pipeline will be installed to a deeper depth, restoring the original 8-foot cover, to limit access and abate future streambed erosion during winter flow conditions.

The new water main installation will require demolition of the old pipeline and replacement of new pipeline within UPRR right of way. The Agreement is a standard agreement prepared by UPRR that specifies City obligations and responsibilities with respect to the pipeline within their right of way and is attached as Exhibit 1.

The Agreement will give the City the right to construct, maintain and operate the water main pipeline across UPRR right of way. The City's contractor, when hired, will be required to execute a Contractor's Right of Entry Agreement and provide required insurance for the work. The City will be responsible for all UPRR expenses in connection with the project, including engineering review, construction, inspection, flagging and any other construction related costs. The agreement specifies the City will reimburse UPRR for 100 percent of their actual costs.

The license fee for the Agreement is a one-time fee of $10,000. The Agreement requires construction observation during the installation of the pipeline and the cost for this observation is estimated at $10,000. A warrant request for the Agreement fees will be prepared upon approval of the Agreement. Construction observation costs will be incurred during the construction phase of the project.

FINANCIAL IMPACT:

There will be no impact to the City's General Fund. Funding for the License Fee and reimbursement of UPRR construction costs will come from project funds already programmed from Water Enterprise funding sources.

ALTERNATIVES:

Should Council not approve the Agreement, the water main in the Fresno River may not be upgraded and portions of the exposed pipeline could be damaged by future river streambed erosion or vandalism.

ATTACHMENTS:

1. Council Resolution
    a. Exhibit 1 – Pipeline Crossing Agreement
2. Vicinity Map

Attachment 1

Resolution

RESOLUTION NO. 24-_____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING A PIPELINE CROSSING AGREEMENT BETWEEN THE UNION PACIFIC RAILROAD COMPANY AND THE CITY OF MADERA FOR THE WATER MAIN REPLACEMENT ACROSS THE FRESNO RIVER

WHEREAS, the City Council of the City of Madera has approved the Water Main Replacement under the Fresno River between Riverside Drive and Gateway Drive (the Project); and

WHEREAS, a Pipeline Crossing Agreement has been prepared by the Union Pacific Railroad (UPRR) Company that specifies the obligations, responsibilities, and costs of the City of Madera for the right to construct, operate and maintain a water main, and a copy of the Agreement is on file with the City Clerk.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA hereby resolves, finds, determines and orders as follows:

1. The above recitals are true and correct.

2. The Pipeline Crossing Agreement as described above and attached hereto as Exhibit 1 is necessary for the carrying out of the Project and are hereby approved.

3. This resolution is effective immediately.

****

Exhibit 1

UPRR Pipeline Crossing Agreement

PIPELINE CROSSING AGREEMENT

Mile Post: 183.25, Fresno Subdivision
Location: Madera, Madera County, California

THIS AGREEMENT ("Agreement") is made and entered into as of July 31, 2024, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **CITY OF MADERA**, to be addressed at 428 E Yosemite Avenue, Madera, California 93637 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate one (1) sixteen inch (16") ductile iron underground water pipeline crossing only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Madera, Madera County, State of California ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated February 22, 2024, attached hereto as **Exhibit A** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for one (1) sixteen inch (16") ductile iron underground water pipeline crossing, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of Ten Thousand Dollars **($10,000.00)**.

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licensor at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licensor herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licensor to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licensor to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licensor, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licensor's written consent, will be absolutely void and may result in Licensor's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B.**

B. Upon Licensor's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Project No. 0791294)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee:CITY OF MADERA
428 E Yosemite Avenue
Madera, California 93637

Article 12. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

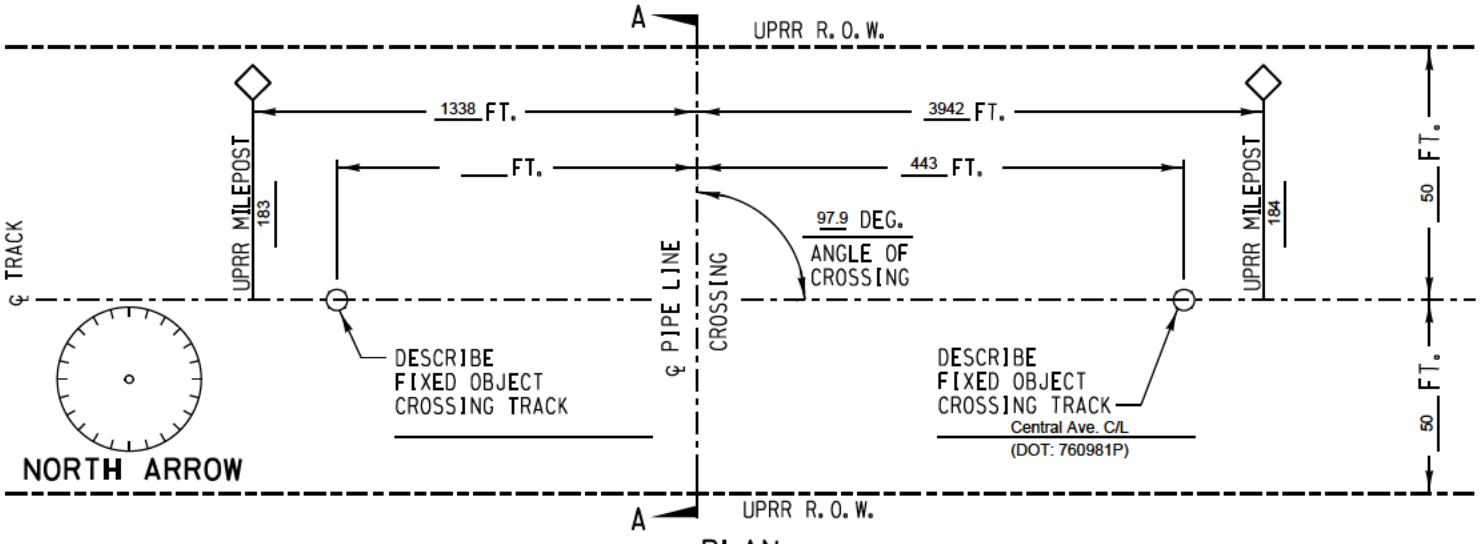
Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

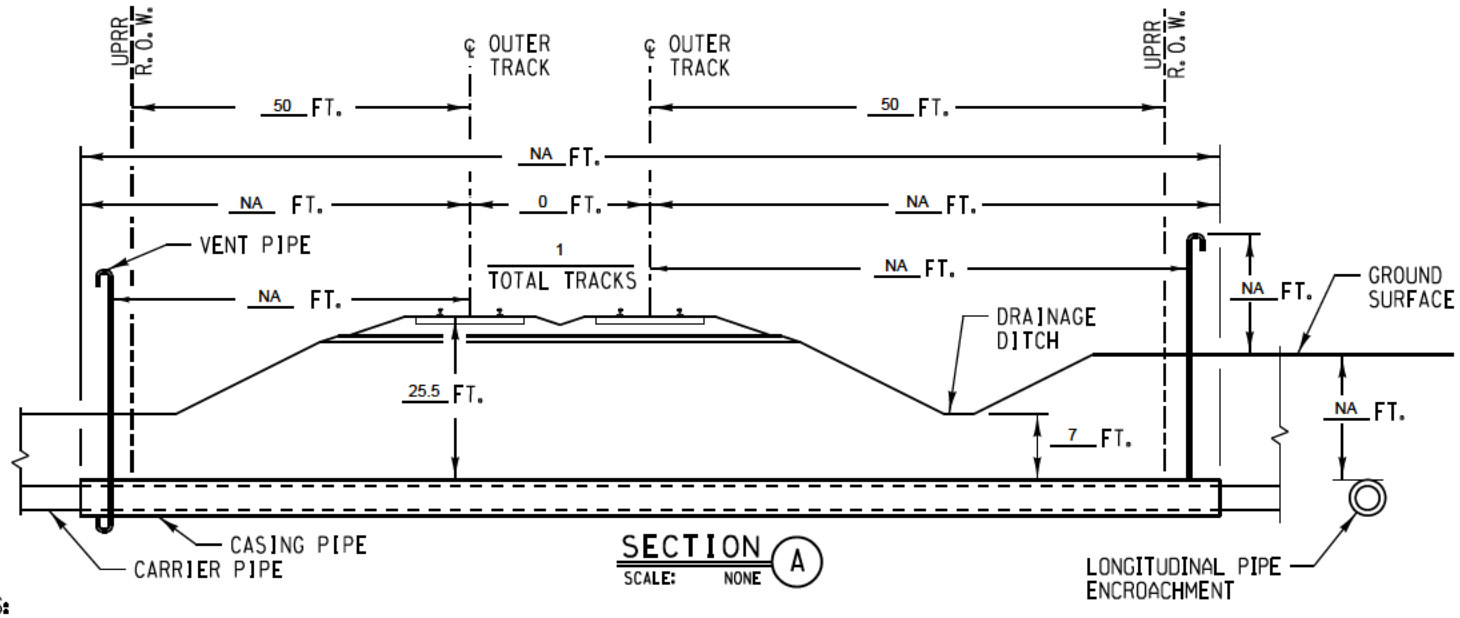
UNION PACIFIC RAILROAD COMPANY	**CITY OF MADERA**
By: _____	By: _____
Thomas Leddy *Mgr II Real Estate - Contracts*	Name Printed: _____ Title: _____

NON-FLAMMABLE LIQUID PIPELINE

☑ CROSSING
☐ ENCROACHMENT
☐ BOTH



PLAN
SCALE: NONE



SECTION A
SCALE: NONE

NOTES:
1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.
2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

A) METHOD OF INSTALLATION Replacing Section of Existing Pipeline
B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT 20.
C) SIGNS PROVIDED? AT MINIMUM SIGNS WILL BE PROVIDED AS STATED ABOVE
D) CARRIER MATERIAL DUCTILE IRON. IF RCP, CLASS V? ___.
COMMODITY TO BE CONVEYED Water.
OPERATIONAL PRESSURE 70 PSI. MAOP 120 PSI.
WALL THICKNESS (INCH)/ SCHEDULE 0.3". DIAMETER 16 IN.
CATHODIC/COATING PROTECTION NA
E) CASING MATERIAL NA. IF RCP, CLASS V? NA.
TOTAL LENGTH CASING PIPE: NA FT.
WALL THICKNESS NA IN. DIAMETER NA IN.
CATHODIC/COATING PROTECTION NA
CASING PIPE IS NA AT THE ENDS.
F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES
NA AND NA.

UNION PACIFIC
BUILDING AMERICA®

EXHIBIT "A"

SUBDIVISION: Fresno Sub.	
TRACK TYPE: MAINLINE	
M.P.: 183.25	LAT.: 36.968315
E.S.M.: 4755+64 ±	LONG.: -120.066777
NEAREST CITY: Madera / COUNTY: Madera / STATE: CA	
APPLICANT: CITY OF MADERA	
FILE NO.: 0791294	DATE: 2 / 22 / 2024

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensor to use and maintain its entire property including the right and power of Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensor without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensor to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensor's satisfaction and in strict conformity with: (i) Licensor's current engineering standards and specifications, including those for shoring and cribbing to protect Licensor's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensor's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensor, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensor's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licensor's approval, Licensee shall contact both of Licensor's field representatives ("Licensor's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licensor has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written

authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensor's Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensor's Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensor shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensor will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensor, including but not limited to flagging, Licensor shall bill Licensee for such expenses incurred by Licensor, unless Licensor and a federal, state, or local governmental entity have agreed that Licensor is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensor and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensor performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensor and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensor will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensor is required to pay the flaggers and which could not reasonably be avoided by Licensor by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensor to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensor a minimum of five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensor if flagging services are needed again after such five day cessation notice has been given to Licensor.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensor's then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

Union Pacific Current Safety Requirements

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensor's operations and work performed by Licensor's personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**.

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall visit up.com/CBUD to complete and submit the required form to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost

and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.

2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.

3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;

2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;

3. Removal of person(s) from Railroad Property;

4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;

5. Right(s) or interest(s) granted pursuant to this Agreement;

6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;

7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and

8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at this link for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been

restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B)**, accrued or otherwise, which may have arisen prior to such termination.

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance**. Commercial general liability (CGL) with a limit of not less than $2,000,000 each occurrence and an aggregate limit of not less than $4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance**. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less $2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance**. Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.

- Employers' Liability (Part B) with limits of at least $500,000 each accident, $500,000 disease policy limit $500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance**. Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least $2,000,000 per loss, with an annual aggregate of at least $4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage

will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance**. Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensor only as named insured, with a limit of not less than $2,000,000 per occurrence and an aggregate of $6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensor's property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance**. If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensor as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensor as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensor and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensor from Licensee or any third party will not be limited by the amount of the required insurance coverage.

Attachment 2

Project Vicinity Map

PROJECT LOCATION MAP
CITY OF MADERA
Water Main Replacement from Gateway Drive to Riverside Drive under the Fresno River

LEGEND:

INDICATES APPROXIMATE EXTENTS OF EXISTING WATER LINE

NORTH

REPORT TO CITY COUNCIL

Approved by:

Wendy Silva, Human Resources Director

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-12

SUBJECT:

Extension of agreement with Backflow Solutions, Inc.

RECOMMENDATION:

Adopt a resolution extending the existing agreement with Backflow Solutions, Inc., for one additional year

SUMMARY:

On January 20, 2021, the City entered into a three-year (3-year) agreement with Backflow Solutions, Inc., (BSI) for notification and data management functions on behalf of the City for backflow prevention devices (BPDs). The agreement contains an option that the City may exercise to extend the term of the agreement for up to two (2) additional one-year (1-year) periods. The City exercised the first extension option, which extended the contract to March 1, 2025. Staff is recommending the City exercise the second option to extend services for one additional year to March 1, 2026.

DISCUSSION:

Pursuant to state guidelines, as the local water provider, the City is required to record BPD data that is then reported to the State of California (State). A BPD is a device that protects the City's water supply from backflow, i.e., unintended backwards flow of water that introduces contaminates into the City's drinking water supply. BPDs are typically located on private property and must be tested annually by a third party. Although the City does not inspect BPDs, the City is required to collect and report data to the State.

In 2021, staff contacted numerous firms that specialize in collecting the data referenced herein. While the annual cost to the City for these services does not require any formal purchasing procedure such as bids or requests for proposals, the vendor must provide a positive experience

at a reasonable cost to the City's BPD customers. Using these parameters, BSI was recommended as the vendor of choice, with an agreement approved by the City Council. Under the agreement, BSI:

1. Maintains a website where testers can input data and pay the processing fee;
2. Provides up to two notices to water customers who have BDPs notifying them that their device is due for testing; and
3. Submits data to the state on behalf of the City.

The agreement contains an option for the City to renew the existing agreement terms for up to two additional one-year periods at the same annual pricing so long as the City exercises this option not less than 30 days prior to the expiration of the agreement. The City has already exercised the first one-year option, which extended the contract to March 1, 2025. In order to maintain the current annual price, the City must again exercise the option to extend the agreement for another one-year term no later than January 30, 2025. This is the last term extension available under the current agreement.

The subscription agreement is currently a fixed annual cost of $495. Under this agreement, BSI assumes the responsibility and costs associated with preparing and mailing notifications to customers. These notifications are crucial to ensure compliance and safety standards regarding BPDs within our community. In the first three years, BSI has issued 2,933 letters on the City's behalf, which would have cost the City $2,141.09 for first-class mail at today's postage rates. If a customer remains inattentive or non-responsive after the initial and subsequent notifications, City staff undertakes follow-up measures. Essentially, BSI takes on the initial outreach efforts and data collection and reporting services, reducing the City's involvement to non-voluntary compliance issues.

Additionally, BSI maintains customer service support teams for water customers, provides customers with an updated list of backflow testing companies in the region, and confirms that the testing companies are properly credentialed with the State. BSI confirmed that the cost to the customer will remain $14.95 if the City exercises the option to extend the agreement for another year. In speaking with staff, there have been no complaints from customers regarding the service or related issues while under contract with BSI. For these reasons, staff is recommending the City exercise the second and final extension.

FINANCIAL IMPACT:

The investment in this subscription serves as a strategic measure to optimize the City's operations. The annual subscription cost of $495 from the Water Enterprise Fund is offset by savings in staff time and postage expenses.

ALTERNATIVES:

In considering options, the Council may explore the following alternatives:

1. Elect not to extend the agreement for an additional year and seek a new vendor for these services.

2. Elect not to contract for these services and direct that staff provide these services.

ATTACHMENTS:

1. Resolution
    a. Exhibit 1: BSI Extension Letter through March 1, 2026
2. BSI Agreement and first Extension

Attachment 1: Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, EXTENDING THE EXISTING AGREEMENT FOR SERVICES BETWEEN THE CITY OF MADERA AND BACKFLOW SOLUTIONS, INC. FOR ONE YEAR

WHEREAS, on January 20, 2021, the City Council approved a three-year (3-year) agreement with Backflow Solutions, Inc., (BSI), with the option to extend the agreement for up to two (2) additional years, for notification and data management functions on behalf of the City for backflow prevention devices; and

WHEREAS, on December 20, 2023, the City Council extended the agreement by one (1) year to March 1, 2025; and

WHEREAS, BSI has provided satisfactory service under the agreement to-date and staff is recommending the City Council exercise the second one-year (1-year) extension of the agreement, extending the term to March 1, 2026.

NOW THEREFORE, THE COUNCIL OF THE CITY OF MADERA, hereby resolves, determines, finds, and orders as follows:

1. The above recitals are true and correct.
2. The City Council approves the extension of the agreement as shown in Exhibit 1, attached hereto and incorporated herein.
3. This resolution is effective immediately upon adoption.

* * * * * * * *

December 11, 2024

Exhibit 1

David Austin
City of Madera
1030 South Gateway Dr
Madera, CA 93637

RE: Renewal Agreement

The City of Madera and Backflow Solutions, Inc. (hereinafter "BSI") mutually agree to an extension of the Agreement for Services between the City of Madera and BSI (hereinafter "Agreement") originally entered into on January 20th, 2021.

The second of two one-year renewal term of this extension shall run from March 2, 2025, through March 1, 2026, and all terms and conditions and pricing contained in the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEROF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this First Extension in duplicate, each of which shall be deemed an original.

BACKFLOW SOLUTIONS, INC.,
An Illinois corporation

By: Jessica Olson

Name: Jessica Olson
Title: Account Manager
Address:
12609 South Laramie Ave
Alsip, Illinois 60803

_____
a body politic and corporate

By: _____

Name: _____
Title: _____
Address:
1030 South Gateway Dr
Madera, CA 93637

Attachment 2: BSI Agreement with first Extension

bsi Online
Backflow Solutions, Inc.

SUBSCRIPTION AGREEMENT

Effective this __20th __ day of __January__, 2021__, Backflow Solutions, Inc., an Illinois corporation ("BSI") and the City of Madera, California (the "City") hereby enter into an online subscription agreement whereby BSI will perform certain notification and data management functions on behalf of the City. The City will provide BSI with the information described hereafter and require that all companies that perform mandated backflow assemblies tests within the City be directed to the BSI website to enter the result of each Backflow Test performed within the City Jurisdiction.

1. **BSI Responsibilities**. In addition to any other responsibilities set forth elsewhere in this agreement, BSI shall, through the use of its proprietary software, BSI Online.

   a. Maintain the secure Online Database to ensure a functional backflow assembly tracking system that is easy to understand and use by licensed testers. BSI shall also maintain an internet website where testers shall input all data related to Backflow Tests, they conduct within the water authorities' jurisdiction.

   b. Send up to two (2) notices to water customers that have Assemblies, advising them that their Assembly is due for testing. The "Test Due Notice" shall be mailed approximately 30 days prior to the scheduled test date. The second notice (the "Overdue Notice") shall be sent after the Test Date has passed if Backflow Test results have not been entered to the Online Data Base. The Overdue Notice will advise the water customer of its delinquent test status. BSI shall immediately transmit an electronic copy of each Test Report to the Municipality. To facilitate the testing procedure, the Test Due Notice will include the identity of the water customer's last Tester of record, together with all relevant contact information, provided that information is available to BSI. At the time, the Test Due Notice is mailed to the water customer, BSI will also transmit a notice to the last Tester of record advising that Tester that the water customer's assembly is due to be tested. The Tester Notification is designed to increase test compliance, thereby reducing enforcement costs incurred by the City.

   c. Provide the Scope of Services set forth in Attachment A to this Agreement.

2. **Contract Term:** The Initial Term of this Agreement shall be one year commencing on __1st __ day of __February _, 2021 ("Effective Date") and ending _1st day _ of _March_, 2024. At its sole option, City may renew this Agreement for up to two additional one-year Renewal Terms upon the same pricing terms described herein by giving written notice of City's election to exercise any renewal option to Contractor not less than thirty days prior to the expiration of the Initial Term or any Renewal Term.

3. **Inducement**. The City acknowledges and agrees that in order to induce BSI to provide the service contemplated by this Agreement, for each Test Report submitted to the Online Data Base the Data Entry Charge of $12.95 per report shall be paid by the tester prior to uploading the test data to the Online Data Base for the initial.
   i. Year 2: The per report submission shall be $13.95
   ii. Year 3: The per report submission increases to $14.95

4. **Cost**. Municipality shall pay BSI the sum of $495.00 per calendar year as the annual "Subscription Fee".

5. **Termination**. If you wish to discontinue services provided by BSI, we require 30 days written notice.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

BACKFLOW SOLUTIONS, INC.,
An Illinois corporation

By: _____

Name: Melissa Joyce

Title: Director of Sales
Address:
12609 South Laramie Ave
Alsip, Illinois 60803

City of Madera
a body politic and corporate

By: _____

Name: Santos Garcia

Title: Mayor
Address:
205 W. 4th st.
Madera, CA 93637

ATTEST:

By: _____
Alicia Gonzales, City Clerk

APPROVED AS TO FORM:

By: _____
Hilda Cantu Montoy, City Attorney

CITY OF MADERA
INCORPORATED
March 27, 1907
CALIFORNIA

December 18, 2023

David Austin
City of Madera
1030 South Gateway Dr
Madera, CA 93637

RE: Renewal Agreement

The City of Madera and Backflow Solutions, Inc. (hereinafter "BSI") mutually agree to an extension of the Agreement for Services between the City of Madera and BSI (hereinafter "Agreement") originally entered into on January 20th, 2021.

The first of two one-year renewal term of this extension shall run from March 2, 2024, through March 1, 2025, and all terms and conditions and pricing contained in the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEROF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this First Extension in duplicate, each of which shall be deemed an original.

BACKFLOW SOLUTIONS, INC.,
An Illinois corporation

By: Jessica Olson

Name: Jessica Olson
Title: Account Manager
Address:
12609 South Laramie Ave
Alsip, Illinois 60803

_____
a body politic and corporate

By: _____

Name: _____
Title: _____
Address:
1030 South Gateway Dr
Madera, CA 93637

REPORT TO CITY COUNCIL

Approved by:

Arnoldo Rodriguez for:

Rafael Magallan, Chief Building Official

Arnoldo Rodriguez

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-13

SUBJECT:

Consider an Amendment to the Professional Services Agreement with Fire Safety Solutions.

RECOMMENDATION:

Adopt a Resolution approving a Second Amendment to the Professional Services Agreement with Fire Safety Solutions, INC. for Building and Fire Plan Review and Inspection Services.

SUMMARY:

The City of Madera (City) and Fire Safety Solutions, Inc. (formerly Fire Safety Solutions, LLC) (Consultant) are parties to a Professional Services Agreement (Agreement) initially approved by the City Council on February 20, 2008 (Resolution No. 08-38).

The First Amendment to the Agreement is set to expire on January 1, 2025. To ensure continued delivery of building plan review and inspection services that meet customer and industry expectations, the City and Consultant propose entering a Second Amendment to the Agreement.

This item is for a Second Amendment (attached as Exhibit A to the accompanying Resolution), which includes:

- Adjustments to hourly rates in accordance with the terms of the Agreement.
- Updates to acknowledge, clarify, and formalize certain aspects of the Agreement.

BACKGROUND:

The original Agreement did not include a sunset clause or length of term relative to an expiration date, number of effective years, or not-to-exceed compensation limitation. Therefore, the First Amendment included a proposed term/expiration date of January 1, 2025, for the Agreement. Now, the second Amendment includes a proposed term/expiration date of July 1, 2025, for the Agreement.

Section 6.7 of the Agreement allows City and Fire Safety Solutions to effectuate modifications or amendments to the Original Professional Services Agreement only by a subsequent written agreement signed by both parties. Staff have negotiated the revised terms presented in the First Amendment, to which staff understand the Consultant is agreeable.

Workload volumes and staff resources require supplemental contracted consultant services to meet customer and industry expectations and timelines for delivery of Building Department plan review and inspection services. Fire Safety Solutions has performed its duties and scope of services in an exemplary manner and has invested time and effort in building a positive reputation and rapport with the City of Madera's customers. Staff recommends the Council approve the proposed Second Amendment in accordance with the terms and spirit of the provisions of the original agreement.

FINANCIAL IMPACT:

The utilization of professional contracted services was planned and budgeted by the Building Department in the adopted Fiscal Year 2024/25 budget.

ALTERNATIVES:

The Council may propose any such alternative terms or provisions in its motion; or, may elect to continue the item (to a future time and date certain) and/or refer the item back to staff, with further direction or requests for additional information, negotiations, or amendments.

ATTACHMENTS:

1. Resolution approving a Second Amendment to the Professional Services Agreement with Fire Safety Solutions, INC. for Building and Fire Plan Review and Inspection Service; including:

    Exhibit A: Second Amendment to the Professional Services Agreement by and between City of Madera and Fire Safety Solutions
2. Report to the City Council from November 15, 2023 that includes the First Amendment to the agreement and the original agreement from 2008

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING A SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH FIRE SAFETY SOLUTIONS, INC. FOR BUILDING AND FIRE PLAN REVIEW AND INSPECTION SERVICES.

WHEREAS, the City of Madera is committed to protecting public health, safety, welfare and environment, and as such, desires to provide professional fire and building plan review and inspection services; and

WHEREAS, existing staff persons are not available to provide the full range of services necessary to perform all duties related to professional fire and building plan review and inspection services; and

WHEREAS, the City of Madera (the "City") and Fire Safety Solutions, INC (formerly Fire Safety Solutions, LLC) (the "Consultant") are parties to that certain Professional Services Agreement, approved by the Madera City Council on February 20, 2008, through passage of Madera City Council Resolution No. 08-38, and subsequently executed (the "Professional Services Agreement"); and

WHEREAS, the provisions of the Professional Services Agreement allow City and the Consultant to effectuate modifications or amendments to the Professional Services Agreement only by a subsequent written agreement signed by both parties; and

WHEREAS, the City and Consultant desire to enter into a Second Amendment to the Professional Services Agreement (the "Second Amendment") in order to set forth and approve amendments to extend the term of the contract; and

WHEREAS, approval of the Second Amendment to the Professional Services Agreement by and between the City and Consultant would continue to ensure City availability to sufficient resources to continue to provide for these services; and

WHEREAS, sufficient monies exist within budgeted Contracted Services funds reserved for use by the Building Department.

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

1. The above recitals are true and correct.

2. The City Council approves the attached Second Amendment to the Professional Services Agreement by and between the City of Madera and Fire Safety Solutions INC., to perform professional fire and building plan review and inspection services (Exhibit "A") and authorizes the Mayor to execute the same.

3. This Resolution is effective immediately upon adoption.

* * * * *

Attachments:

Exhibit “A”: Second Amendment to the Professional Services Agreement by and between the City of Madera and Fire Safety Solutions, INC.

EXHIBIT A

SECOND AMENDMENT
TO THE PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN CITY OF MADERA AND FIRE SAFETY SOLUTIONS

This Second Amendment to the Professional Services Agreement by and between the City of Madera and Fire Safety Solutions, LLC (the **"Second Amendment"**) is entered into by and between the CITY OF MADERA, a municipal corporation, organized and existing pursuant to the laws of the State of California and the City of Madera (the **"City" or "Agency"**), on the one hand, and FIRE SAFETY SOLUTIONS, INC. (formerly Fire Safety Solutions, LLC) on the other hand and hereinafter referred to as the "**Consultant**". This Second Amendment shall become effective upon the final signature date of execution by both parties (the "**Second Amendment Date**"). The City and Consultant enter into this Second Amendment with reference to the following facts:

R E C I T A L S

A. City and Consultant are parties to that certain Professional Services Agreement, dated as of February 20, 2008, that was passed, adopted, and recorded in the Official Records of City of Madera, on February 20, 2008, as Resolution No. 08-38 (the **"Original Professional Services Agreement"**).

B. Section 6.7 of the Professional Services Agreement allows City and the Consultant to effectuate modifications or amendments to the Original Professional Services Agreement only by a subsequent written agreement signed by both parties.

C. The parties subsequently entered into a First Amendment, and the Original Professional Services Agreement as amended is set to expire on January 1, 2025.

D. City and Consultant desire to enter into this Second Amendment in order to set extend the term of the Original Professional Services Agreement as amended.

NOW THEREFORE, with reference to the above Recitals, the City and Consultant agree as follows:

A G R E E M E N T

1. Recitals. Each and all of the foregoing recitals of background facts are incorporated herein by this reference as though set forth herein verbatim.

2. Term of Amended Professional Services Agreement. Section 4.2 (Term of Contract) of Article 4 (TERMINATION) of the Original Professional Services Agreement as amended, is further amended to read in its entirety as follows:

4.2 Term of Contract

If not previously terminated, the term of this Agreement shall automatically expire and terminate on July 1, 2025, unless extended in writing by mutual consent of the Parties.

8. Conflict. Except as expressly provided in this Second Amendment the remaining terms of the Original Professional Services Agreement as amended by the First Amendment shall remain in full force and effect.

9. Binding and Effective. This Second Amendment shall become binding and effective as of December 18, 2024.

[SIGNATURES ARE ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Second Amendment at Madera, California, on the day and year first above written.

CITY OF MADERA:

By: _____
Cece Gallegos, Mayor

Date: _____

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

FIRE SAFETY SOLUTIONS:

By: _____
Matthew S. Tarr, CEO

Date: _____

Number: _____
Federal Employer Identification

REPORT TO CITY COUNCIL

Approved by:

_____

Will Tackett, Community Development Director

_____

Arnoldo Rodriguez, City Manager

Council Meeting of: November 15, 2023

Agenda Number: B-15

SUBJECT:

Consider an Amendment to the Professional Services Agreement with Fire Safety Solutions.

RECOMMENDATION:

That Council consider the following:

1. Adopt a resolution of the Council of the City of Madera approving a First Amendment to the Professional Services Agreement with Fire Safety Solutions, INC. for Building and Fire Plan Review and Inspection Services.

SUMMARY:

The City of Madera (City) and Fire Safety Solutions, INC (formerly Fire Safety Solutions, LLC). (Consultant) are parties to an effective Professional Services Agreement (Agreement) approved by the Madera City Council on February 20, 2008, through passage of Madera City Council Resolution No. 08-38.

On October 31, 2023, Fire Safety Solutions submitted a written request to the City of Madera (City) for certain amendments to the Agreement to effectuate an increase to the hourly rates, which are subject to annual revision pursuant to the terms of the Agreement.

Building Department staff have prepared the First Amendment to the Professional Services Agreement by and between the City of Madera and Fire Safety Solutions (First Amendment), included as Exhibit A to the Resolution attached to this report, in order to set forth and approve amendments to reflect an increase to the hourly rates in accordance with the terms of the Professional Services Agreement; as well as, to provide certain acknowledgements, clarifications and understandings with respect to the Professional Services Agreement.

BACKGROUND:

Amongst other provisions, the existing Professional Services Agreement (Article 2, Section 2.1) provides the hourly rates and estimated amount are subject to annual revision, effective January 1st of each year. The proposed flat hourly rate reflected in the First Amendment represents an increase from $80 per hour to $120 per hour.

As acknowledged within the letter from Fire Safety Solutions dated October 31, 2023, the original rate of $80/hr. has not changed since execution of the original Agreement in 2008. Given this fact and based upon the knowledge and quality of service demonstrated by the Consultant since execution of the original Agreement, it is staff's opinion that the requested $120/hr. flat rate is both reasonable and fair when compared to contemporary industry standards. In addition, based on the U.S. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator, the requested rate is consistent with what would be a contemporary rate had an annual increase been applied to the original hourly rate year-over-year since execution of the Agreement. The First Amendment proposes to amend the frequency of invoicing from a monthly to a bi-weekly basis.

Incidentally, the original Agreement did not include a sunset clause or length of term relative to an expiration date, number of effective years, or not-to-exceed compensation limitation. Therefore, the First Amendment also includes a proposed term/expiration date of January 1, 2025, for the Agreement.

Section 6.7 of the Agreement allows City and Fire Safety Solutions to effectuate modifications or amendments to the Original Professional Services Agreement only by a subsequent written agreement signed by both parties. Staff have negotiated the revised terms presented in the First Amendment, to which staff understand the Consultant is agreeable.

Workload volumes and staff resources require supplemental contracted consultant services in order to meet customer and industry expectations and timeliness for delivery of Building Department plan review and inspection services. Fire Safety Solutions has performed its duties and scope of services in an exemplary manner and has invested time and effort in building a positive reputation and rapport with the City of Madera's customers. Staff recommends the Council approve the proposed First Amendment in accordance with the terms and spirit of the provisions of the original agreement. Such approval will help the City ensure Building Department services may continue to be provided in a qualitative manner for its customers.

FINANCIAL IMPACT:

There is no fiscal impact associated with the recommended action. Utilization of professional contracted services was anticipated and budgeted by the Building Department in the approved City of Madera 2023/24 Fiscal Year budget.

ALTERNATIVES:

The Council may propose any such alternative terms or provisions in its motion; or, may elect to continue the item (to a future time and date certain) and/or refer the item back to staff, with further direction or requests for additional information, negotiations, or amendments.

ATTACHMENTS:

1. Resolution approving a First Amendment to the Professional Services Agreement with Fire Safety Solutions, INC. for Building and Fire Plan Review and Inspection Service; including:

   Exhibit A: First Amendment to the Professional Services Agreement by and between City of Madera and Fire Safety Solutions

2. Original Professional Services Agreement by and between the City of Madera and Fire Safety Solutions.

ATTACHMENT 1

Resolution approving a First Amendment to the Professional Services Agreement with Fire Safety Solutions, INC. for Building and Fire Plan Review and Inspection Service;

Including:
Exhibit A – First Amendment to the Professional Services Agreement by and between City of Madera and Fire Safety Solutions

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING A FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH FIRE SAFETY SOLUTIONS, INC. FOR BUILDING AND FIRE PLAN REVIEW AND INSPECTION SERVICES.

WHEREAS, the City of Madera is committed to protecting public health, safety, welfare and environment, and as such, desires to provide professional fire and building plan review and inspection services; and

WHEREAS, existing staff persons are not available to provide the full range of services necessary to perform all duties related to professional fire and building plan review and inspection services; and

WHEREAS, the City of Madera (the "City") and Fire Safety Solutions, INC (formerly Fire Safety Solutions, LLC). (the "Consultant") are parties to that certain Professional Services Agreement, approved by the Madera City Council on February 20, 2008, through passage of Madera City Council Resolution No. 08-38, and subsequently executed (the "Professional Services Agreement"); and

WHEREAS, the provisions of the Professional Services Agreement allow City and the Consultant to effectuate modifications or amendments to the Professional Services Agreement only by a subsequent written agreement signed by both parties; and

WHEREAS, the City and Consultant desire to enter into a First Amendment to the Professional Services Agreement (the "First Amendment") in order to set forth and approve amendments to enact an increase to the hourly rates in accordance with the terms of the Professional Services Agreement as well as provide certain acknowledgements, clarifications and understandings with respect to the Professional Services Agreement; and

WHEREAS, approval of the First Amendment to the Professional Services Agreement by and between the City and Consultant would continue to ensure City availability to sufficient resources to continue to provide for these services; and

WHEREAS, sufficient monies exist within budgeted Contracted Services funds reserved for use by the Building Department.

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

1. The above recitals are true and correct.

2. The City Council approves the attached First Amendment to the Professional Services Agreement by and between the City of Madera and Fire Safety Solutions INC., to perform

professional fire and building plan review and inspection services (Exhibit “A”), and authorizes the Mayor to execute the same.

3. This Resolution is effective immediately upon adoption.

* * * * *

Attachments:

Exhibit “A”: First Amendment to the Professional Services Agreement by and between the City of Madera and Fire Safety Solutions, INC.

EXHIBIT A

FIRST AMENDMENT
TO THE PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN CITY OF MADERA AND FIRE SAFETY SOLUTIONS

This First Amendment to the Professional Services Agreement by and between the City of Madera and Fire Safety Solutions, LLC (the **"First Amendment"**) is entered into by and between the CITY OF MADERA, a municipal corporation, organized and existing pursuant to the laws of the State of California and the City of Madera (the **"City" or "Agency"**), on the one hand, and FIRE SAFETY SOLUTIONS, INC. (formerly Fire Safety Solutions, LLC) on the other hand and hereinafter referred to as the "**Consultant**". This First Amendment shall become effective upon the final signature date of execution by both parties (the "**First Amendment Date**"). The City and Consultant enter into this First Amendment with reference to the following facts:

R E C I T A L S

A. City and Consultant are parties to that certain Professional Services Agreement, dated as of February 20, 2008, that was passed, adopted, and recorded in the Official Records of City of Madera, on February 20, 2008, as Resolution No. 08-38 (the **"Original Professional Services Agreement"**).

B. Section 6.7 of the Professional Services Agreement allows City and the Consultant to effectuate modifications or amendments to the Original Professional Services Agreement only by a subsequent written agreement signed by both parties.

C. On October 31, 2023, Consultant has submitted a written request to the City for certain amendments to the Professional Services Agreement to facilitate an increase to the hourly rates in accordance with the provisions of the Original Professional Services Agreement and as set forth in this First Amendment. City and Consultant desire to enter into this First Amendment in order to set forth and approve: (i) such amendments to the Professional Services Agreement; and (ii) certain acknowledgements, clarifications and understandings with respect to the Professional Services Agreement.

D. On November __, 2023, at a duly noticed public meeting and after due review and consideration of (i) the report of City staff, (ii) the recommendations of the Community Development Director of the City, (iii) all other evidence heard and submitted, and (iv) all other appropriate documentation and circumstances, the City Council adopted Resolution No.____ to approve this First Amendment set forth herein.

NOW THEREFORE, with reference to the above Recitals, the City and Consultant agree as follows:

A G R E E M E N T

1. Recitals. Each and all of the foregoing recitals of background facts are

incorporated herein by this reference as though set forth herein verbatim.

2. Fee Compensation. Section 2.1 (Fee) of the Original Professional Services Agreement is deleted in its entirety and amended to read in its entirety as follows:

> For services performed pursuant to this Agreement, commencing the First Amendment Date the AGENCY agrees to pay and the CONSULTANT agrees to accept, as payment in full for each assigned Plan Review or Inspection a sum computed at the agreed flat rate of $120/Hour for Services. The computed amount shall constitute complete compensation, including document production and out-of-pocket expenses for all services for the work identified in the Scope of Services.
>
> The CONSULTANT agrees that the agreed flat rate of $120/hour shall be used for the duration of the contract.
>
> The CONSULTANT shall be paid by AGENCY according to the biweekly billing invoices submitted by the CONSULTANT and approved by the AGENCY. The invoices shall clearly break down all costs for specific Services in a manner deemed acceptable by the AGENCY. The CONSULTANT shall provide itemized invoices listing permit numbers and charges for each Service provided. The CONSULTANT shall be paid no later than thirty (30) days following submission of a written, verified billing to the AGENCY.
>
> The CONSULTANT shall provide compensation to the representative employee in accordance with State and Federal laws.

3. Terms of Compensation. The first sentence of Section 2.3 (Terms of Compensation) of the Original Professional Services Agreement is deleted in its entirety and is amended to read as follows:

> CONSULTANT will submit invoices bi-weekly for the percentage of work completed in the previous weeks.

4. Term of Amended Professional Services Agreement. Section 4.2 (Term of Contract) is added to Article 4 (TERMINATION) of the Original Professional Services Agreement to read in its entirety as follows:

> 4.2 Term of Contract
>
> If not previously terminated, the term of this Agreement shall automatically expire and terminate on January 1, 2025, unless extended in writing by mutual consent of the Parties.

5. Representation. The "AGENCY Representative" portion Section 6.1 (Representation) of the Original Professional Services Agreement is amended to read as follows:

AGENCY Representative

~~David Merchen, Director~~
Will Tackett, Community Development Director
205 W 4th Street
Madera, CA 93637
~~(559) 661-5430~~
(559) 661-5451

6. Extent of Agreement. Section 6.7 (Extent of Agreement) of the Original Professional Services Agreement, is amended in its entirety to read as follows:

> This Agreement, as amended, represents the entire and integrated Agreement between AGENCY and CONSULTANT and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified or amended only by a subsequent written agreement signed by both parties.

7. Exhibit "A". Section 3.1 of Exhibit "A' of the Original Professional Services Agreement is amended in its entirety to read as follows:

> Work shall be performed at a flat rate of $120/hour effective as of the First Amendment Date.

8. Conflict. Except as expressly provided in this First Amendment the remaining terms of the Original Professional Services Agreement shall remain in full force and effect.

9. Binding and Effective. This First Amendment shall become: (a) binding upon the effective date of Resolution No._____ of the City of Madera approving the First Amendment to the Professional Services Agreement; and (b) upon becoming binding pursuant to clause (a), shall become effective as of the First Amendment Date.

[SIGNATURES ARE ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this First Amendment at Madera, California, on the day and year first above written.

CITY OF MADERA:

By: _____
Santos Garcia, Mayor

Date: _____

FIRE SAFETY SOLUTIONS:

By: _____
Matthew S. Tarr, CEO

Date: _____

Number: _____
Federal Employer Identification

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

ATTACHMENT 2

Original Professional Services Agreement by and between the City of Madera and Fire Safety Solutions.

FIRE SAFETY SOLUTIONS, LLC

Professional Services Agreement

THIS AGREEMENT is made and entered into this 20th day of February, 2008, by and between City of Madera, hereinafter referred to as "AGENCY", and Fire Safety Solutions LLC., hereafter referred to as "Consultant".

IN CONSIDERATION of the covenants hereinafter set forth, the parties hereto mutually agree as follows:

ARTICLE 1
SCOPE OF SERVICES

1.1 Project Description

Refer to scope of services in Exhibit "A".

1.2 Description of Services

CONSULTANT shall perform Services described in Exhibit "A", Scope of Work, attached hereto and incorporated herein by this reference. CONSULTANT shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work since these are solely the construction contractor's responsibility. CONSULTANT shall not be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the contract documents. CONSULTANT shall not have control over or charge of acts or omissions of the construction contractor, subcontractors, or their agents or employees, or of any other persons performing portions of the work.

1.3 Responsibilities of Agency

The Responsibilities of the AGENCY shall be those as described in Exhibit "A" attached hereto and incorporated herein by this reference.

1.4 Schedule of Work

Upon receipt of written Notice to Proceed from the AGENCY, CONSULTANT shall perform Services in the Scope of Work with diligence. CONSULTANT shall not be responsible for delay, nor shall CONSULTANT be responsible for damages or be in default or deemed to be in default by reason of strikes, lockouts, accidents, or acts of God, or the failure of AGENCY to furnish timely information or to approve or disapprove CONSULTANT'S work promptly, or delay or faulty performance by AGENCY, other contractors, or governmental agencies, or any other delays beyond CONSULTANT'S control or without CONSULTANT's fault.

ARTICLE 2
COMPENSATION

2.1 Fee

AGENCY agrees to compensate CONSULTANT for time and materials, in accordance with the hourly rates in effect at the time the services are performed. AGENCY will compensate CONSULTANT for the cost of materials plus 15% and the cost of mileage in accordance with Exhibit "A". The hourly rates and estimated amount are subject to annual revision, effective January 1st of each year.

CONSULTANT will submit invoices monthly for the work completed.

2.2 Payment Address

All payments due CONSULTANT shall be paid to:

Fire Safety Solutions
1405 E. Omaha
Fresno, CA 93720

2.3 Terms of Compensation

CONSULTANT will submit invoices monthly for the percentage of work completed in the previous month. AGENCY agrees to pay all undisputed invoice amounts within thirty (30) days of the invoice date. AGENCY agrees to notify CONSULTANT of any disputed invoice amounts within ten (10) days of the invoice date. Delinquent invoices will be subject to a late payment carrying charge computed at a periodic rate of 1.5% per month, which is an annual percentage rate of 18%, which will be applied to any unpaid balance commencing forty-five (45) days after date of the original invoice.

Additionally, in the event AGENCY fails to pay any undisputed amounts due CONSULTANT within forty-five (45) days after invoices are rendered, then AGENCY agrees that CONSULTANT shall have the right to consider said default a total breach of this Agreement and the duties of CONSULTANT under this Agreement may be terminated by CONSULTANT without liability to CONSULTANT upon ten (10) working days advance written Notice.

2.4 Additional Services

AGENCY may request CONSULTANT to perform additional services not covered by the specific Scope of Work set forth in this Agreement, and CONSULTANT shall perform such services and will be paid for such additional services when they are mutually agreed to and made part of this Agreement by written amendment.

ARTICLE 3
INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

3.1 Indemnification

CONSULTANT agrees to indemnify and hold harmless AGENCY, its officers and employees from and against liability, damages, costs, losses, claims and expenses, including reasonable attorneys' fees, arising out of the negligent acts, errors, or omissions of CONSULTANT in the performance of this Agreement.

In the event AGENCY obtains indemnification for itself from another party performing work on the Project, AGENCY shall require that party to indemnify CONSULTANT to the same extent that party indemnifies AGENCY.

3.2 Limitation of Liability

AGENCY and CONSULTANT have discussed their risks, rewards and benefits of the Project and the CONSULTANT fee for services. The risks have been allocated such that AGENCY agrees that to the fullest extent permitted by law, CONSULTANT's total liability to AGENCY under this Agreement shall not exceed the amount of $50,000.00.

3.3 Workers' Compensation

CONSULTANT maintains Workers' Compensation and Employer's Liability Insurance of a form and in an amount as required by state law.

3.4 General Liability

CONSULTANT maintains Comprehensive General Bodily Injury and Property Damage Liability, including Automobile (owned, non-owned, or hired), in the amount of One Million Dollars ($1,000,000), combined single limits per occurrence and annual aggregate.

3.5 Notice of Cancellation

CONSULTANT agrees to provide ten (10) days written Notice to AGENCY prior to cancellation of any policy.

3.6 Agency Provided Information

AGENCY agrees to indemnify and hold harmless CONSULTANT, its officers and employees, from and against any and all liability, damages, costs, losses, claims and expenses, including reasonable attorneys' fees, due to incorrect data or information provided by the AGENCY including, but not limited to utility location data, as-built drawings, topographic survey, geotechnical reports, etc.

In the event AGENCY fails to provide a soils or geotechnical report for the services to be performed in this Agreement, CONSULTANT will bear no responsibility for and CLIENT will indemnify and hold harmless CONSULTANT, its officers and employees from and against any and all liability, damages, costs, losses, claims and expenses of any nature arising out of or related to soils or geotechnical requirements needed for the subject Agreement.

ARTICLE 4
TERMINATION

4.1 Termination of Contract

This Agreement may be terminated by either party at any time with or without cause upon thirty (30) days prior written Notice. In the event of termination by AGENCY, CONSULTANT shall be paid at the hourly rates then in effect within thirty (30) days of submittal of invoice for all services performed to the date of termination and for all expenses directly attributable to the termination, including, but not limited to, any cancellation charges by subconsultants and/or contractors.

ARTICLE 5
OWNERSHIP OF DOCUMENTS

5.1 Ownership of Documents

All plans, specifications, reports and other design documents prepared by CONSULTANT pursuant to this Agreement are instruments of service which shall be deemed the property of the AGENCY. AGENCY acknowledges and agrees that all plans, specifications, reports and other design documents prepared by CONSULTANT pursuant to this Agreement shall be used exclusively on this Project and shall not be used for any other work without the written consent of CONSULTANT. In the event AGENCY and CONSULTANT permit the reuse or other use of the plans, specifications, reports or other design documents, AGENCY shall require the party using them to indemnify and hold harmless AGENCY and CONSULTANT regarding such reuse or other use, and AGENCY shall require the party using them to eliminate any and all references to CONSULTANT from the plans, specifications, reports and other design documents. CONSULTANT may apply for copyrights or patents on all or any part of the work performed under this Agreement.

ARTICLE 6
GENERAL PROVISIONS

6.1 Representation

An AGENCY representative shall be designated by the AGENCY and a CONSULTANT representative shall be designated by CONSULTANT as the primary contact person for each party regarding performance of this Agreement.

AGENCY Representative	CONSULTANT Representative
David Merchen, Director	Matthew S. Tarr
205 W 4th Street	1405 E. Omaha
Madera Ca 93637	Fresno CA 93720
(559) 661-5430	(559) 274-3925

6.2 Non-Discrimination

In the performance of the terms of this Agreement, CONSULTANT shall not engage in discrimination in the employment of persons because of race, creed, color, religion, national origin, age, physical handicap, marital status or sex.

6.3 Legal Action

Should either party to this Agreement bring legal action against the other, the case shall be handled in Fresno County, California, and the party prevailing in such action shall be entitled to reasonable attorneys' fee which shall be fixed by the judge hearing the case and such fee shall be included in the judgment.

Should any legal action about the Project between AGENCY and a party other than CONSULTANT require the testimony of CONSULTANT when there is no allegation that CONSULTANT was negligent, AGENCY shall compensate CONSULTANT for its testimony and preparation to testify at the CONSULTANT hourly rates in effect at the time of such testimony.

6.4 Assignment

This Agreement shall not be assignable by either party without the prior written consent of the other party.

Notwithstanding the above, CONSULTANT may use the services of persons and entities not in their employ, when it is appropriate and customary to do so. Such persons and entities include, but are not necessarily limited to, surveyors, specialized consultants, and testing laboratories. CONSULTANT's use of others for additional services shall not be unreasonably restricted by the AGENCY provided CONSULTANT notifies the AGENCY in advance.

6.5 Hazardous Materials

Unless otherwise provided in this Agreement, CONSULTANT and its sub-consultants and/or contractors shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to hazardous materials in any form at the site of the Project.

6.6 Titles

The titles used in this Agreement are for general reference only and are not part of the Agreement.

6.7 Extent of Agreement

This Agreement represents the entire and integrated Agreement between AGENCY and CONSULTANT and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified or amended only by a subsequent written agreement signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

APPROVED AS TO FORM

By: _____
Richard K. Denhalter, City Attorney
2/22/08

CITY OF MADERA

By: _____
Sally J. Bomprezzi, Mayor

ATTEST:

By: _____
Sonia Alvarez, City Clerk

CITY OF MADERA INCORPORATED March 27, 1907 CALIFORNIA

Fire Safety Solutions, LLC

By: _____
Matt Tarr

Title: C.E.O.

_____
Taxpayer I.D. Number

EXHIBIT "A"
Scope of Services

1. DUTIES OF CONTRACTOR

1.1 Function as extension of in-house staff, including
Building Plan Check
Fire Plan Check
Building Inspection
Fire Inspection
General Fire Prevention Duties (To be specified as determined)
Such duties shall be under the direction of the Community Development Director, and under the day to day supervision of the Chief Building Official.

1.2 On each of the 3 business days, work at least 7 business hours (between 7:00 – 5:30) in the Building Department. An additional period of at least ½ hour each day shall be designated for a meal break, which shall not be billable. A total of 27 hours, not including meal breaks, shall be provided during the three business days. The actual work schedule shall be coordinated with the Building Official.

1.3 The 27 hours per week specified in item 1.2 above shall be billed as time spent in the office and not on the basis of specific tasks or jobs. Work shall consist of day to day assignments made by Building Official or Community Development Director.

1.4 As needed, and with assigned tasks, be available for a minimum of an additional 9 hours per week, which may be provided in the Building Department or outside the department, billed at the same flat rate specified in this agreement.

1.5 Contractor shall provide a work vehicle and shall not be reimbursed for mileage, or provided any other compensation for use of said vehicle in the performance of duties under this agreement.

1.6 Contractor shall provide insurance in accordance with City requirements.

1.7 This agreement shall be exclusively serviced by Matthew Tarr, as the Contractor's representative employee.

2. DUTIES OF AGENCY

2.1 The Agency shall provide a work station with a computer and office supplies consistent with the normal operations of the Building Department.

2.2 The Agency agrees to compensate the contractor in accordance with Section 3 below.

3. COMPENSATION

3.1 Work shall be performed at a flat rate of $80 / hour.

3.2 The Contractor shall provide compensation to the representative employee in accordance with State and Federal laws.

REPORT TO CITY COUNCIL

Approved by:

Wendy Silva, Director of Human Resources

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-14

SUBJECT:

Award of agreement for professional recruiting services

RECOMMENDATION:

Adopt a resolution approving a Professional Services Agreement with CPS HR Consulting for recruiting services

SUMMARY:

In December 2022, the City entered into an agreement with CPS HR Consulting (CPS HR) for professional recruiting services following a Request for Proposals (RFP) process. That agreements term expires this month. In anticipation of that expiration, staff published RFP 202425-20 seeking proposals for ongoing professional recruiting services, to include full cycle recruitments for at-will director level positions as well as an added service of outreach-only activities for hard-to-fill Civil Service positions. The City received twelve (12) proposals, of which eight (8) were deemed responsive to the requested scope of services. After evaluation of submitted proposals, CPS HR was the top ranked proposal. If approved, CPS HR will be awarded a three (3) year agreement for professional recruiting services. The agreement does not guarantee any work for the vendor, but does lock in pricing should the City utilize the vendor for the services.

DISCUSSION:

The City has an agreement with CPS HR for professional recruiting services, awarded after an RFP process in 2022. This agreement expires in the current month. The City published RFP 202425-20 seeking proposals from qualified firms or individuals to provide professional recruiting services in anticipation of the expiration of the current vendor's service agreement. In addition to services for full-cycle recruiting services for at-will department head positions that were the purpose of the existing service agreement, the City also requested vendors propose services for outreach-only activities to assist with Civil Service recruitments that are difficult to fill for the City, such as civil engineers. The RFP was published on the City's website and posted to PlanetBids.

Additionally, notice of the RFP was provided directly to twelve (12) known providers of public sector recruitment services. The City received twelve (12) proposals, eight (8) of which were deemed responsive to the requested scope of work. The proposals were reviewed by a committee consisting of Human Resources and Administration staff who will be involved in the proposed services. Based on the committee's review, the proposals received were ranked as shown in Table 1.

Table 1: *RFP 202425-20 Proposing Firms and Rank*	
Firm	*Rank*
CPS HR Consulting	1
DEI Recruiting and Consulting	2
Koff & Associates	3
WBCP, Inc.	4
Staffactory, LLC	5
Advanced Knowledge Tech	6
Tucker Technology, Inc.	7
New Frontier Consulting	8
Bob Murray & Associates	No Rank
LanceSoft, Inc.	No Rank
Insight Global	No Rank
Netsynk, Inc.	No Rank

The submitted proposals were reviewed and evaluated by force-rank, taking into consideration the proposer's qualifications and experience, how the proposed scope of work met the City's requested services and needs, proposed fee schedule, quality of references, and any requested changes to the City's standard consulting agreement. Based on this review, CPS HR's proposal was the top ranked proposal, offering a scope of work consistent with the City's published RFP at a reasonable price. As CPS HR is the current vendor, staff is familiar with and satisfied with performance to date under the current agreement and is confident they will be able to perform the requested scope of work. The agreement does not guarantee any specific assignments or volume of work for the vendor, but does lock in pricing for services. Staff anticipates utilizing the agreement in the near term to conduct full-cycle recruitments for Planning Manager and Public Works Operations Director, as well as outreach-only activities for Deputy City Engineer.

FINANCIAL IMPACT:

CPS HR's agreement will provide for flat fee recruitments, with the specific fee dependent on the type of service provided. The fee breakdown is provided below in Table 2. Funds for professional services as contemplated herein were included in the adopted operating budget for the current fiscal year and no additional appropriate is being requested at this time.

Table 2: *Summary of Fee Schedule*	
Service	*Pricing*
Full - Executive Recruitment	$27,000 Flat Fee
Partial - Executive Recruitment	$20,000 Flat Fee
Full – Middle Management/Specialized	$20,000 Flat Fee
Partial – Middle Management/Specialized	$17,000 Flat Fee
Full - General (Professional/Administrative)	$15,000 Flat Fee
Partial - General (Professional/Administrative)	$12,000 Flat Fee
Outreach Only	$7,000 Flat Fee
Outreach Plus Advertising	$10,000 Flat Fee (includes direct advertising)

The agreement also includes a placement guarantee of twelve (12) months for department head positions and six (6) months for mid-management positions, as well as a commitment to continue a recruitment at no additional cost until the City has a candidate with an accepted offer of employment. In these scenarios, it means the City will not have to pay for another fee to fulfill the vacancy, but will continue to receive services under the flat fee paid for that particular recruitment service until the position is filled.

ALTERNATIVES:

Council could direct staff to solicit additional proposals for services.

ATTACHMENTS:

1. Resolution
    a. Exhibit 1: Professional Services Agreement with CPS HR Consulting

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPROVING AN AGREEMENT FOR PROFESSIONAL SERVICES WITH CPS HR CONSULTING

WHEREAS, the City of Madera has a need for professional recruiting services and prepared a Request for Proposals (RFP) to solicit bids for such services; and

WHEREAS, CPS HR Consulting submitted a proposal to provide said services for the City of Madera; and

WHEREAS, based on review of the proposal, CPS HR Consulting is qualified to provide needed professional recruiting services; and

WHEREAS, an agreement has been prepared between the City of Madera and CPS HR Consulting for professional services that is in the best interests of both parties.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MADERA hereby resolves, finds, and orders as follows:

1. The above recitals are true and correct.

2. The Agreement for Professional Services between the City and CPS HR Consulting, a copy of which is attached hereto as Exhibit 1 and incorporated herein, is approved.

3. This resolution is effective immediately upon adoption.

* *

CITY OF MADERA

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT made and entered into the 18th day of December, 2024, by and between the City of Madera, a municipal corporation of the State of California, hereinafter called "City" and CPS HR Consulting, hereinafter called "Consultant."

RECITALS:

A. The City desires to obtain professional recruiting services and published Request for Proposals (RFP) 202425-20.

B. Consultant submitted a proposal in response to RFP 202425-20 demonstrating is a firm specializing in public sector recruitments with the necessary experience to provide desired services to the City.

C. City desires to retain Consultant to provide said services, as detailed further herein.

AGREEMENT

1. Incorporation of Recitals. The recitals set forth above are incorporated herein by this reference.

2. Services. The City hereby contracts with Consultant to provide recruiting services herein set forth at the compensation and upon the terms and conditions herein expressed, and Consultant hereby agrees to perform such services for said compensation, and upon said terms and conditions. City hereby authorizes Consultant to commence work immediately upon approval of this agreement by the City Council at a scheduled meeting of said governing body.

3. Obligations, duties, and responsibilities of Consultant. It shall be the duty, obligation and responsibility of the Consultant, in a skilled and professional manner, to perform the services in accordance with the Scope of Work identified in Exhibit A. Exhibit A is attached and incorporated by reference.

4. Compensation.

4.1. City shall compensate Consultant for services based on the agreed upon Fee Schedule in Exhibit B. Exhibit B is attached and incorporated by reference.

4.2. The billing statements shall be prepared and organized in a manner that facilitates an efficient review of the services performed. Items should be billed as described on the Fee Schedule in Exhibit B.

4.3. Any billing disputes brought forth by the City must be submitted within fourteen (14) days of the receipt of the billing statement. Such disputes will be submitted

by electronic mail (email) to the billing contact provided by Consultant. Billing contact for Consultant:

David Krolikowski
Senior Accountant
dkrolikowski@cpshr.us

4.4. Payment shall be made directly by the City to the Consultant within thirty (30) days of receipt of billing. Billings are to be made directly to the following City contact via email:

Wendy Silva
Director of Human Resources
wsilva@madera.gov

5. Term and Termination.

5.1. This Agreement shall be effective beginning on December 18, 2024, after approval by the City Council at a duly scheduled meeting thereof and shall continue in full force and effect for three (3) years unless otherwise terminated by the City.

5.2. City reserves the right to discharge Consultant and terminate this Agreement at any time with thirty (30) days' notice. In the event of such discharge or termination, the City shall compensate Consultant for services rendered up to and including the date of termination. City shall terminate services and/or the Agreement by delivering to Consultant a written notice specifying the extent to which services and/or the Agreement are terminated and the effective date of the termination. Notice of termination shall be provided as follows:

Melissa Asher
Chief of Client Services
masher@cpshr.us

6. Independent contractor. In the furnishing of the services provided herein, the Consultant is acting as an independent contractor and not as an employee of the City.

7. Indemnification and Waivers. To the furthest extent allowed by law, Consultant shall indemnify, hold harmless, and defend City and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs, and damages (whether in contract, tort, or strict liability, including but not limited to personal injury, death at any time, and property damage), and from any and all claims, demands, and actions in law or equity (including reasonable attorney's fees and litigation expense) that arise out of, pertain to, or related to the negligence, recklessness, or willful misconduct of Consultant, its principals, officers, employees, agents, or volunteers in the performance of this Agreement. The obligations under this paragraph are in addition to, and are not limited by any insurance which Consultant is otherwise required to maintain under this Agreement.

8. Insurance. During the term of this Agreement, Consultant shall maintain, keep in force and pay all premiums required to maintain and keep in force commercial general liability, workers' compensation, and employer's liability insurance. The limits and coverages provided by such policies shall be as required in Exhibit C of this Agreement. Exhibit C is attached and incorporated by reference.

9. Compliance with Law. Consultant shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, and directives, and all provisions required to be included are incorporated by reference.

10. Miscellaneous.

10.1. Consent. Whenever in this Agreement the approval or consent of a party is required, such approval or consent shall be in writing and shall be executed by a person having the express authority to grant such approval or consent.

10.2. Governing Law. The parties agree that this Agreement shall be governed and constructed by and in accordance with the Laws of the State of California.

10.3. Required License and Professional Credentials. Consultant and personnel providing services shall maintain all licenses and professional credentials necessary for the provision of such services. Consultant shall promptly notify City of changes of status or events that might impact the provision of professional services to City.

10.4. Force Majeure. Neither party shall be deemed to be in default on account of any delay or failure to perform its obligations under this Agreement, which directly results from an Act of God or an act of a superior governmental authority.

10.5. Headings. The paragraph headings are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.

10.6. Incorporation of Documents. All documents constituting the Agreement documents described in Section 3 hereof and all documents which may, from time to time, be referred to in any duly executed amendment hereto are by such reference incorporated in the Agreement and shall be deemed to be part of this Agreement.

10.7. Integration. This Agreement and any amendments hereto between the parties constitute the entire Agreement between the parties. There are no other prior oral or written agreements between the parties that are not incorporated in this Agreement.

10.8. Modification of Agreement. This Agreement shall not be modified or be binding upon the parties unless such modification is agreed to in writing and signed by the parties.

10.9. Provision. Any agreement, covenant, condition, clause, qualification, restriction, reservation, term or other stipulation in the Agreement shall define or otherwise control, establish or limit the performance required or permitted or to be required of or permitted by either party. All provisions, whether covenants or conditions, shall be deemed to be both covenants and conditions.

10.10. Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is void or unenforceable, the provisions of this Agreement not so affected shall remain in full force and effect.

10.11. 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.

10.12. Venue. In the event that suit is brought by either party hereunder, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Madera or in the United States District Court for the Eastern District of California.

10.13. Recovery of Costs. The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs, including reasonable attorney's fees, incurred or expended in connection with such action against the non-prevailing party.

11. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Consultant and the City.

CPS HR Consulting

Melissa Asher
Chief of Client Services

Date: 12/12/2024

CITY OF MADERA

_____
Cece Gallegos
Mayor

Date: _____

ATTEST

_____
Alicia Gonzales, City Clerk

Date: _____

APPROVED AS TO FORM

_____
Shannon L. Chaffin, City Attorney

Date: _____

EXHIBIT A

SCOPE OF WORK

Consultant will provide the City with the full range of services required to ensure the ultimate selection of a new hire uniquely suited to the City's needs at three levels of service:

- Full Recruitment – All Phases I-III
- Partial Recruitment – Phase I and II
- Outreach Only
  Services

The phases are described below. The City may select any, or all, levels of service at its discretion.

PHASE I – Strategic Recruitment Plan

The first step in this engagement is a thorough review by Consultant of the City's needs, culture, and goals; the recruitment and selection process; and the schedule. Consultant will meet with key stakeholders to obtain input in developing the ideal candidate profile and to assist us in understanding key issues and challenges. Activities for this phase at each recruitment level will include:

Executive Search

- Foster client collaboration.
- Create a tailored plan for your agency and unique position.
- Review of job duties and compensation for marketability.
- Define ideal candidate profile with Hiring Authority and key stakeholders.
- Identify assessment needs.
- Conduct stakeholder engagement (surveys, focus group, community meetings).
- Leadership assessment

Middle Management/Specialized

- Collaborate with appropriate stakeholder(s) to define the ideal candidate profile for the position.
- Review of job duties and compensation for marketability.
- Identify testing/assessment needs.
- Coordinate with client on development of recruitment brochure for the desired position; prepare brochure design.
- Complete recruitment brochure and create posting in client applicant tracking system or CPS HR's applicant tracking system (NEOGOV).

General (Professional/Administrative)

- Foster client collaboration.
- Develop a recruitment plan.
- Review job specifications/classification.
- Define candidate profile with Hiring Authority and key stakeholders.
- Identify testing/assessment needs.

PHASE II – Marketing and Applicant Screening

The recruitment process is tailored to fit the City's specific wants and needs, with targeted advertising, combined with personal contacts with qualified individuals from our extensive database.

Consultant will prepare, submit for City's approval, and publish advertisements in appropriate magazines, journals, newsletters, job bulletins, and websites to attract candidates on a nationwide, regional, local, or targeted basis based on the recruitment strategy.

Consultant will execute the following tasks for this phase at each recruitment level including:

Executive Search

- Create an attractive and informative electronic flip book type of brochure to market the position.
- Conduct targeted research to identify ideal passive candidates.
- Execute active and passive sourcing of candidates through e-mail, phone, and social media.
- Devise advertising and marketing strategy.
- Develop innovative media campaigns.
- Review applicant resumes and ensure minimum qualifications are met
- Conduct comprehensive preliminary phone screening interviews.
- Submit "Client Report" (including summary of recruitment activities and candidate applications and/or resumes) to include list of qualified candidates.
- Meet with the City to discuss the report and the results of the preliminary phone screening interviews in order for the City to identify candidates to invite to oral panel interview.
- Provide the City with updates of recruitment status during application period.
- Respond to applicant inquiries and manage applicant communication.

Middle Management/Specialized

- Identify ad sources relevant to the position and coordinate the placement of agreed upon ads.
- Conduct active and passive sourcing of candidates through e-mail, phone, social media, and outreach tools/referral sources.
- Review all applicants against the minimum qualifications for the position within designated applicant tracking system ensuring appropriate disposition is captured.

- Develop and administer secondary rated screening or conduct preliminary phone screening interviews.
- Submit "Client Report" (including summary of recruitment activities and candidate applications and/or resumes) to include list of qualified candidates.
- Meet with the City to discuss the report and the results of the secondary rated screening or preliminary phone screening interviews in order for the City to identify candidates to invite to oral panel interview.
- Provide the City with updates of recruitment status during application period.
- Respond to applicant inquiries and manage applicant communication.

General (Professional/Administrative)

- Create standard job bulletin.
- Identify advertising sources.
- Create marketing campaign.
- Review applicant resumes and ensure minimum qualifications are met utilizing the City's applicant tracking system or Consultant's applicant tracking system.
- Develop and/or administer applicable screening tool (i.e. secondary rated screening, written exam, etc.)
- Provide a list of eligible candidates.

PHASE III – Selection

Consultant will design a selection process based on information gathered in Phase I. Consultant will meet with the City to review this process and discuss the City's preferred approach in assessing the final candidates. Consultant can coordinate all aspects of the selection process for the City. This includes preparing appropriate materials such as interview questions, evaluation manuals, and other assessment exercises; and facilitating the interviews.

Consultant will be available to complete the following components of this phase at each recruitment level:

Executive Search

- Develop and facilitate all required selection processes including development of interview questions and/or assessments.
- Coordinate all candidate communication and scheduling.
- Train interview panel and handle onsite facilitation of interview process.
- Execute extensive background and reference checks.
- Provide assistance with contract negotiation.
- Facilitate appointment of selected candidate.
- Prepare a written report that summarizes the results of the recruitment process.

Middle Management/Specialized

- Develop interview questions including rating criteria and/or other requested selection tools.
- Develop and facilitate training of oral exam interview panel for the City's interview process.
- Coordinate all candidate communication and scheduling.
- Prepare interview evaluation materials.
- Facilitate oral panel exam interview and final hiring interview process.
- Conduct professional reference checks and/or background checks, upon request.
- Facilitate appointment of selected candidate upon request.

General (Professional/Administrative)

- Develop interview questions and train interview panel for the City's interview process.
- If requested by the City, coordinate and facilitate administration of interviews.

(Note: Above service would incur additional professional labor hours and travel expenses.)

Outreach Services

Task 1 - Review and Finalize the Recruitment Process and Schedule

The first step in this engagement is a thorough review by Consultant of the following with the Hiring Authority:

- Understand the City's needs, culture, and goals.
- Discuss recruitment outreach process efforts to date, so we complement rather than duplicate efforts.
- Develop a schedule aligned with the recruitment process.

This will ensure that the City's needs are met in the most complete manner possible.

Task 2 - Candidate Profile and Recruitment Strategy Development

This task will be accomplished during a discussion involving the relevant stakeholders and Consultant. Consultant will prepare the personal and professional attributes required for the position and will include the following activities:

- Development of a recruitment brochure, inclusive of photos that will highlight the unique benefits and favorable conditions that would attract a new incumbent. In this way, we can draw attention to the reasons why your position and region would be a great opportunity for a candidate.
- Consultant will identify and provide the City with a list of suggested advertising sources which may not have been considered previously to reach the best candidates.

Task 3 - Targeted Outreach

Consultant will prepare an email distribution list containing prospective candidates and referral sources gleaned from our database and new research in targeted regional areas as well as with other public sector organizations. This will include a regional and statewide

search. These individuals will receive a link to the recruitment brochure, along with a personal invitation to contact Consultant should they have any questions about the position.

Based upon Consultant's research and contact with prospective candidates, including the use of LinkedIn, Consultant will also make personal phone calls to prospective applicants we identify as the most promising based on the candidate profile and requirements of the position.

Task 4 – Report

Consultant will prepare a report summarizing all outreach activities. The report will contain a listing of all advertisements placed as well as all active and passive outreach efforts completed inclusive of how many candidates were targeted in each effort.

EXHIBIT B

FEE SCHEDULE

Consultant's professional fixed fee covers all services associated with the recruitment process selected (Outreach Only, Partial Recruitment or Full Recruitment), including the necessary field visits.

Travel expenses for candidates who are invited forward in the interview process are not included. However, should the City desire Consultant's Travel Team to assist with these arrangements, Consultant will do so. This might require an amount be added to this Agreement.

Service	*Pricing*
Full - Executive Recruitment	$27,000 Flat Fee
Partial - Executive Recruitment	$20,000 Flat Fee
Full – Middle Management/Specialized	$20,000 Flat Fee
Partial – Middle Management/Specialized	$17,000 Flat Fee
Full - General (Professional/Administrative)	$15,000 Flat Fee
Partial - General (Professional/Administrative)	$12,000 Flat Fee
Outreach Only	$7,000 Flat Fee
Outreach Plus Advertising	$10,000 Flat Fee (includes direct advertising)

**Professional fees for Partial and Full recruitment would be in three equal installments upon completion of each phase. Professional fees for an Outreach/Advertising project will be billed and paid in full upon completion of the project.*

Our Placement Guarantee

Executive Search Recruitment One-Year Service Guarantee

If the employment of the candidate selected and appointed by the City as a result of a full executive recruitment (Phases I, II, and III) comes to an end before the completion of the first year of service, Consultant will provide the City with professional services to appoint

a replacement. Professional consulting services will be provided at no cost. the City would be responsible only for expenses such as re-advertising, consultant travel, additional background checks, etc. This guarantee does not apply to situations in which the successful candidate is promoted or re- assigned within the organization during the one-year period. Additionally, should the initial recruitment efforts not result in a successful appointment, Consultant will extend the aggressive recruiting efforts and screen qualified candidates until an offer is made and accepted. Consultant does not provide a guarantee for candidates placed as a result of a partial recruitment effort.

Middle Management Recruitment Six Month Service Guarantee

If the employment of the candidate selected and appointed by the City as a result of a full middle management recruitment (Phases I, II, and III) comes to an end before the completion of the first six (6) months of service, Consultant will provide the City with professional services to appoint a replacement. Professional consulting services will be provided at no cost. the City would be responsible only for reimbursable expenses. This guarantee does not apply to situations in which the successful candidate is promoted or re-assigned within the organization during the six (6) month period. Additionally, should the initial recruitment efforts not result in a successful appointment, Consultant will extend the aggressive recruiting efforts and screen qualified candidates until an offer is made and accepted. Consultant does not provide a guarantee for candidates placed as a result of a partial (Phase I & II) recruitment effort.

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide, and continuously maintain at its own expense during the term of the Agreement, and shall require any and all Subcontractors and Sub-consultants of every Tier to obtain and maintain, policies of insurance of the type and amounts described below and in form satisfactory to the City.

Minimum Scope and Limits of Insurance:

Consultant shall maintain limits no less than:

- $2,000,000 **General Liability** (including operations, products, and completed operations) per occurrence, $4,000,000 general aggregate, for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. Coverage should be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage form CG 00 01. General liability policies shall be endorsed that the City and its officers, officials, employees and agents shall be additional insureds under such policies.

- **Workers' Compensation** as required by the State of California and $1,000,000 **Employer's Liability** per accident for bodily injury or disease. Consultant shall submit to the City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.

- $1,000,000 **Professional Liability (Errors & Omissions)** per claim and in the aggregate. Consultant shall maintain professional liability insurance that insures against professional errors and omission that may be made in performing the Services to be rendered in connection with this Agreement. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement. The cost of such insurance shall be included in Consultant's bid.

Maintenance of Coverage
Consultant shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Consultant, its agents, representatives, employees, subcontractors or subconsultants as specified in this Agreement.

Proof of Insurance
Consultant shall provide to the City certificates of insurance and endorsements, as required, as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be

approved by the City prior to commencement of performance. Current evidence of insurance shall be kept on file with the City at all times during the term of this Agreement. Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

Acceptable Insurers
All insurance policies shall be issued by an insurance company currently authorized by the Insurance commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and a Financial Size Category Class VII (or larger), in accordance with the latest edition of Best's Key Rating Guide.

Waiver of Subrogation
All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, agents, officials, employees, and volunteers, or shall specifically allow Consultant, or others providing insurance evidence in compliance with these specifications, to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against the City and shall require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

Enforcement of Contract Provisions (non estoppel)
Consultant acknowledges and agrees that any actual or alleged failure on the part of the Agency to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City, nor does it waive any rights hereunder.

Specifications not Limiting
Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If Consultant maintains higher limits than the minimums required above, the entity shall be entitled to coverage at the higher limits maintained by Consultant.

Notice of Cancellation
Consultant agrees to oblige its insurance agent or broker and insurers to provide to the City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.

Self-insured Retentions
Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City's Risk Manager.

Timely Notice of Claims
Consultant shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional Insurance
Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgement may be necessary for its proper protection and prosecution of the Work.

REPORT TO CITY COUNCIL

Approved by: _____
Alicia Gonzales, City Clerk

_____
Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: B-15

SUBJECT:

Annual Local Appointment List on City Boards, Commissions, and Committees

RECOMMENDATION:

Approve a Minute Order Authorizing the City Clerk to File the 2025 Annual Local Appointments List

DISCUSSION:

California Government Code Sections 54970 to 54974 (commonly referred to as the Maddy Act) were established to inform and promote opportunities for citizens to serve on local government boards, committees, and commissions. The Maddy Act requires that on or before December 31 of each year, each legislative body shall prepare an appointment list of all regular and ongoing boards, commissions, and committees appointed by the local agency's legislative body. This list shall be known as the Local Appointments List." Generally, the City Clerk prepares the list, known as the Local Appointments List, and posts it.

A copy of the 2025 Annual Local Appointments List is attached, which shows a list of all appointive terms with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position.

FINANCIAL IMPACT:

There is no financial impact, sans the time it took to prepare this report considering that members of the various City commissions are not compensated, rather they volunteer.

ALTERNATIVES:

None. Action is required to ensure compliance with the Maddy Act.

ATTACHMENTS:

1. 2025 Annual Local Appointments List

LOCAL APPOINTMENT LIST

(Pursuant to California Government Code Section 54972)

On or before December 31 of each year, each legislative body shall prepare an appointments list of all regular and ongoing boards, commissions, and committees which are appointed by the legislative body of the local agency. This list shall be known as the Local Appointments List. The list shall contain the following information: (a) A list of all appointive terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position, (b) A list of all boards, commissions, and committees whose members serve at the pleasure of the legislative body, and the necessary qualifications for each position.

The City of Madera encourages residents to apply for service on City Boards, Commissions and Committees that are currently vacant or that will have vacancies. To obtain an application or request additional information, please contact the City of Madera, Office of the City Clerk at (559) 661-5405; by visiting the City Clerk Department page at www.madera.gov; or by email at agonzales@madera.gov.

	District	*Committee Member*	*Date Appointed*	*Term Expires*
Americans with Disabilities Act (ADA) Advisory Council	Mayor	DJ Becker	05/04/22	12/01/24
	District 1	Jack Porter	08/24/22	12/01/26
	District 2	Cynthia Ortegon	01/16/19	12/01/24
	District 3	Saim Mohammad	05/04/22	12/01/26
	District 4	**Vacant**	--	12/01/24
	District 5	Gladys Marroquin	08/24/22	12/01/26
	District 6	Diana Robbins	01/06/21	12/01/24
Airport Advisory Commission	Mayor	Miguel Gonzalez	09/01/21	12/01/24
	District 1	Jerry Holiday	03/20/19	12/01/26
	District 2	Issa Zacharia	05/16/18	12/01/24
	District 3	Johanna Torres	05/19/21	12/01/26
	District 4	Stanley Mackey	05/19/21	12/01/24
	District 5	**Vacant**	----	12/01/26
	District 6	Ramon Lopez-Maciel	01/06/21	12/01/24
Beautification Committee	Mayor	Miguel Gonzalez	02/03/21	12/01/24
	District 1	Karen Huerta	02/07/18	12/01/26
	District 2	Rohi Zacharia	02/15/17	12/01/24
	District 3	Debra M. Basila	03/17/21	12/01/26
	District 4	Robert Gonzalez	05/19/21	12/01/24
	District 5	Agapita Rocha	01/16/19	12/01/26
	District 6	Cynthia Moreno-Procopio	03/17/21	12/01/24
Civil Service Commission	Mayor	Dennis Smith	10/05/22	12/01/24
	District 1	Nick Salinas	02/02/22	12/01/26
	District 2	Celeste Voyles	02/02/22	12/01/24
	District 3	Saim Mohammad	02/02/22	12/01/26
	District 4	Shawn Griffin	01/17/24	12/01/24
	District 5	**Vacant**	----	12/01/26
	District 6	**Vacant**	----	12/01/24

LOCAL APPOINTMENT LIST
(Pursuant to California Government Code Section 54972)

	District	*Committee Member*	*Date Appointed*	*Term Expires*
CDBG Block Grant Commission	Mayor	Gabriela Gonzalez-Gutierrez	02/17/21	12/01/24
	District 1	Candace Talley	03/01/17	12/01/26
	District 2	Alyssia Arredondo	03/01/17	12/01/24
	District 3	Stephanie Nathan	03/18/20	12/01/26
	District 4	DJ Becker	01/20/21	12/01/24
	District 5	Olga P. Garcia	01/16/19	12/01/26
	District 6	Dulce Arredondo	03/03/21	12/01/24
Golf Course Advisory Committee	Varies. Includes At-Large Appointments by Type and Appointments by Category	Jose Rodriguez (Councilmember)	09/06/23	12/01/24
		Joseph Hebert (Parks Director)	09/06/23	Continual
		Dan Bacci (SGM Rep.)	09/06/23	Continual
		Karla Gran (Service Organization Rep.)	09/06/23	09/06/25
		Chito Romero (Golfer/At-Large Community Member)	09/06/23	09/06/25
		Lisa Gill (Food and Beverage Rep.)	09/06/23	Continual
		Edward McIntyre (Non-Golfer/At-Large Community Member)	09/06/23	09/06/25
Loan Review Committee	At-Large Appointment	Elvin Martin	03/1/06	N/A
		John Molina	03/1/06	N/A
		Vacant	----	N/A
		Matilda Villafan	02/20/19	N/A
		Johanna Torres	09/21/22	N/A
Planning Commission	Mayor	Khubaib Seikh	01/20/21	12/01/24
	District 1	Robert Gran Jr.	01/16/19	12/01/26
	District 2	Rohi Zacharia	01/06/21	12/01/24
	District 3	Saim Mohammad	05/04/22	12/01/26
	District 4	Balwinder Singh	06/02/21	12/01/24
	District 5	Jose Eduardo Chavez	05/04/22	12/01/26
	District 6	Ramon Lopez-Maciel	01/06/21	12/01/24
Transit Advisory Board	Mayor	Cynthia Ortegon	05/19/21	12/01/24
	District 1	Andrew Albonico	09/02/20	12/01/26
	District 2	**Vacant**	----	12/01/24
	District 3	Marie Luna	02/20/19	12/01/26
	District 4	Patricia Carreon	09/15/21	12/01/24
	District 5	Otilia Morales	02/20/19	12/01/26
	District 6	**Vacant**	----	12/01/24
Youth Commission	Mayor	**Vacant**	----	----
	District 1	**Vacant**	----	----

	District 2	**Vacant**	----	----
	District 3	**Vacant**	----	----
	District 4	**Vacant**	----	----
	District 5	**Vacant**	----	----
	District 6	**Vacant**	----	----

LOCAL APPOINTMENT LIST

(Pursuant to California Government Code Section 54972)

GENERAL DESCRIPTION OF BOARDS / COMMITTEES / COMMISSIONS

ADA ADVISORY COUNCIL: Four-year term. The ADA Council is composed of seven members. Appointees shall be residents of the City of Madera. Regular meetings are held the third Tuesday of each month at 3:30 p.m. Each member of the City Council makes a nomination to be considered for appointment by the Mayor.

Responsibilities: Serves in an advisory capacity to the City Council and staff on ADA matters including: promote pedestrian safety and access to all public streets; ensure that all public buildings and facilities, services, programs and activities are in compliance with ADA regulations; promote inclusion of the disabled community in the City's emergency and disaster preparedness plans; develop disability awareness and educational outreach programs; work with the various City of Madera departments to ensure that all public buildings and facilities, remodeled and newly constructed are in compliance with current laws guaranteeing access for all people with disabilities; promote affordable and accessible housing in the community; make recommendations regarding unmet transit needs; and ensure grievance procedures are followed and enforced as described in the ADA bylaws.

AIRPORT ADVISORY COMMISSION: Four-year term. The Commission is composed of seven members. Appointees shall be residents of Madera County, and at least four members shall reside within the City. The commission meets at least quarterly at a date and time selected by the Commission. Each member of the City Council makes a nomination to be considered for appointment by the Mayor.

Responsibilities: Oversee, review, and make recommendations regarding the airport's annual budget for operational and capital improvement purposes, Airport operations and services, master planning and land use.

BEAUTIFICATION COMMITTEE: Four–year term. The Committee is composed of seven members. Appointees shall be residents of the City of Madera. Regular meetings of the Committee are held every second Thursday of the month at 5:30 p.m. Each member of the City Council makes a nomination to be considered for appointment by the Mayor.

Responsibilities: Serves in an advisory capacity to the City Council and staff on community beautification matters including: develop and formulate programs and projects to enhance the aesthetic appearance of the community; develop an ordinance which will establish landscape standards for new development projects; develop and recommend practices and policies which will enhance and upgrade existing properties; and coordinate periodic community clean up campaigns and encourage public participation therein.

CIVIL SERVICE COMMISSION: Four-year term, with holdovers until new appointment is made. The Commission is composed of seven members, each member of the City Council makes a nomination to be considered for appointment by the Mayor. Appointees shall be residents of the City of Madera. Commissioners shall not be employed with the City nor shall they be under the direct supervision of any existing Council Member. Meetings, as needed, are usually held on the first Tuesday of each month at 5:00 p.m.

Responsibilities: Certification of eligibility lists for hiring employees in the classified service at regularly scheduled meetings; conducts appeal hearings regarding disciplinary action or alleged violations of Civil Service rules and at the request of the City Council or Administrator; special meetings for hearings are scheduled as needed and my require multiple evenings to complete.

CDBG BLOCK GRANT COMMISSION: The Commission is composed of seven members; each member of the City Council makes a nomination to be considered for appointment by the Mayor. Meets during a weekday evening as required. Serves in an advisory capacity to staff and the City Council on matters pertaining to the use of CDBG funds allocated to the City of Madera to benefit persons of low and moderate income, disabled and elderly persons, minority groups, homeless persons, or persons at risk of homelessness and CDBG-funded activities in eligible Census Tracts where CDBG program activities are proposed. Accepts testimony from City staff and applicants presenting proposals to request CDBG funds. Evaluates proposals and recommends CDBG funding allocations consistent with policies, goals and priorities established by the City's CDBG Consolidated Plan and the Vision Madera 2025 Action Plan. Receives testimony from staff and provides comments about the City's CDBG-funded programs and projects overall annual outcomes and accomplishments. Promotes public participation in the CDBG planning process and any amendments.

Golf Course Advisory Committee: The committee consists of a 7-member body and is comprised of the following representatives: City Councilmember serves for Council Term, Parks Director – Continual Term, SGM Representative - Continual Term, Golfer/At-Large Community Member – Two-year Term, Food & Beverage Director/Representative – Continual Term, Non-Golfer/At-Large Community Member – Two-year Term, Service Organization Representative - Two-year Term. This position also has an additional caveat that the service organizations eligible are those that regularly meet at the Course, those being currently the Madera Evening Lions Club and the Morning Rotary Club. These service clubs will rotate representation, with the Madera Evening Lions Club having the initial representative. Should additional service organizations meet at the Course, they would be eligible to be added to the rotation of appointments. The Committee meets on the third Monday of the month at the Madera Municipal Golf Course. Meeting times and location may differ.

Responsibilities: Serve in an advisory capacity to the City Council and staff on local golf course matters including: providing feedback and input on matters related to the golf course operations, improvements, and maintenance; serve as a representative of the local community including golfers, residents, and other stakeholders, to ensure inclusion in decision-making process; serve as a communication channel between the golf course and the community; address and help resolve issues or concerns raised by golfers or community regarding the golf course; offer recommendations for improvements such as upgrades to facilities, landscaping, course layout, or other amenities; provide input on budgetary matters; and contribute to the development of policies and guidelines governing the use and management of the golf course.

LOAN REVIEW COMMITTEE: This committee consists of five members appointed by the City Council comprised of at least three residents of the City of Madera. Members shall possess backgrounds in residential mortgage lending, real estate or the building trades industry. Members do not serve specific terms, nor do they receive compensation/benefits. Meetings of the committee are held as needed to provide for the review of loan and grant applications for first time homebuyer down payment assistance and owner-occupied rehabilitation programs funded by State, Federal and local funds awarded to the City of Madera and from the Successor Agency to the Former Redevelopment Agency. Failure by a Committee member to attend three consecutive meetings shall be deemed an automatic resignation. A significant pattern of absences shall also be considered grounds for removal from the committee. Conflict of interest provisions apply as applicable to committee appointees serving the City of Madera or the Successor Agency to the Former Redevelopment Agency.

PLANNING COMMISSION: Four-year term. The Commission is composed of seven members, each member of the City Council makes a nomination to be considered for appointment by the Mayor. Appointees must reside within the City limits. Meetings are held on the second Tuesday of each month beginning at 6:00 p.m.

Responsibilities: Develop, maintain and amend the General Plan and Specific Plans as deemed appropriate; discretionary approval of development proposals, including subdivisions, use permits, and variances; discuss overall planning for the City, including ordinances, special studies, zoning, subdivisions and signs, with recommendations to the City Council.

TRANSIT ADVISORY BOARD: Four-year term. The Board consists of seven members appointed from a cross section of the community (general public, children, elderly, disabled, students, social service agencies, and minority family). The Board is composed of seven members, each member of the City Council makes a nomination to be considered for appointment by the Mayor. Appointees shall be residents of the City of Madera. Meetings are held quarterly in January, April, July, and September at a time and public place set by the advisory board.

Responsibilities: Recommend to the City Council a five (5) year transit and equipment plan; review, modify transit system proposals.

YOUTH COMMISSION: Two-year term. The Commission is composed of seven members, each member of the City Council makes a nomination to be considered for appointment by the Mayor. The Commission meets on the second Wednesday of each month at 5:00 p.m.

Responsibilities: Serves in an advisory capacity to the City Council about public safety, job opportunities for youth, recreation activities for youth, opportunities for effective participation by youth in governmental process, and

changes in city regulations that are necessary to improve the social, economic, educational, recreational advantages, health and well-being of youth.

REPORT TO CITY COUNCIL

Approved by:

Giachino Chiaramonte

Giachino Chiaramonte, Chief of Police

Arnoldo Rodriguez

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: D-1

SUBJECT:

Purchase of new Tasers for the Police Department

RECOMMENDATION:

Adopt Resolutions:

1. Approving the purchase of 71 Tasers from Axon Enterprises, Inc. for $265,686.35
2. Approving a Budget Amendment to the Fiscal Year 2024/25 Operating Budget to appropriate Measure K fund balance funds for the purchase of the Tasers

SUMMARY:

The Madera Police Department (MPD) currently equips its officers with tasers as part of their standard law enforcement toolkit. These tasers function by dispensing probes, which need to be replaced once deployed. However, the manufacturer of the existing tasers is phasing out the current model, making it increasingly difficult to obtain replacement parts and accessories. In light of this, staff recommends that the City purchase the latest model of tasers to ensure that its officers remain equipped with up-to-date technology, enhancing both officer and public safety. The adopted 2024/25 budget allocates $200k to purchase of new tasers; however, an additional budget amendment of $65,686.35 is necessary to cover the cost of replacing all tasers. This amendment will ensure that the City has the necessary funds to purchase 71 new Tasers, totaling $265,686.35.

DISCUSSION:

In 2017, MPD transitioned to the Taser X26 model, which was not the latest technology at the time but was the most cost-effective option available. However, a downside of this approach is that older technology is quickly phased out, with support and replacement parts becoming unavailable. Axon Enterprises, the parent company of Taser, frequently releases new models and remains the industry's primary producer of electronic control devices. As a result, MPD has faced

some challenges in acquiring necessary replacement parts, such as batteries and probes, for its Taser X26 model.

To ensure that officers are equipped with the latest technology, staff recommends upgrading to the latest taser model. Table 1 provides a comparison of MPD's current Taser X26 model and the latest Taser 10 model which staff recommends purchasing.

Table 1: *Comparison of the Taser X26 and 10*

Category of Functionality	Taser X26 (current)	Taser 10 (proposed)
Range Capacity	21 Feet	45 Feet
Battery System	Fixed	Rechargeable
Probe Deployment	Reload Required	10 Available Probes
Flashlight Included?	No	Yes

The Taser 10 model offers several key enhancements compared to the current X26 model. The increased range allows officers to engage threats from a safer distance, providing more time and opportunities to de-escalate situations and gain compliance from combative or armed individuals. Furthermore, the Taser 10 model features 10 available probes for deployment, compared to the X26 model, which requires reloading after each deployment. This allows officers to deploy additional probes if one fails to make contact without reloading. Beyond functionality, the Taser 10 includes a rechargeable battery and an integrated flashlight. These enhancements will minimize injuries to both officers and the public by reducing the need for physical contact and also offer a less-lethal alternative to firearms and increase life-saving potential in situations where lethal force would have otherwise been justified.

Procurement Process

While the City would typically prepare a Request for Proposals or obtain bids for equipment, Tasers are an exception, as they are exclusively manufactured and sold by Axon Enterprises, Inc. (Axon). Due to Axon's monopoly on the market, the procurement would be considered a sole source. As a result, staff recommends that the City purchase 71 Tasers, with an additional 2 Tasers provided at no cost due to bulk pricing, for a total of 73. The total cost is $265,686.35.

FINANCIAL IMPACT:

The proposed Taser purchase is allocated within the City's budget, with $150,000 earmarked from Measure K and $50,000 from the General Fund. The remaining $65,686.35 will be covered by Measure K fund balance. During budget preparations, staff initially budgeted for the price of the Taser X26. However, upon further consideration staff recommends purchasing the latest Taser 10 model to ensure every Officer has access to advanced technology for their safety and that of the public. Exhibit 1 to the second resolution contemplated with this report represents

the requested budget amendment appropriating additional funds to the Fiscal Year 2024/25 Measure K budget from the available Measure K fund balance.

Table 2: *Budget for the tasers*			
Source	Included in the 2024/25 Adopted Budget	Budget Amendment (this item)	Total per fund
General Fund	$50,000	-	$50,000
Measure K	$150,000	$65,686.35	$215,686.35
Total:	**$200,000**	**$65,686.35**	**$265,686.35**

ALTERNATIVES:

Council may request that staff return with additional information or request that staff purchase a different number of Tasers.

ATTACHMENTS:

1. Resolution approving purchase of Tasers
    a. Exhibit 1: Taser Energy Weapon Agreement and Quote
2. Resolution approving budget amendment
    a. Exhibit 1: Budget amendment

RESOLUTION NO. 24-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPROVING THE PURCHASE OF 71 TASERS FROM AXON ENTERPRISES, INC. IN THE AMOUNT OF $265,686.35

WHEREAS, the City of Madera Police Department Officers are equipped with Tasers as part of their standard law enforcement equipment; and

WHEREAS, the City's current Taser model has become obsolete due to a manufacturing cessation and replacement parts have become difficult to acquire; and

WHEREAS, the City desires to upgrade its current Taser model to the latest model; and

WHEREAS, Tasers provide necessary safety precautions for the City and the community, and proceeding with the requested upgrade will ensure the continuity of these benefits; and

WHEREAS, Axon Enterprises Inc. is the sole manufacturer and seller of Tasers; and

WHEREAS, the City, in compliance with the City's purchasing policy, has determined to purchase 71 new Tasers from Axon Enterprises Inc. in the amount of $265,686.35.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MADERA hereby resolves, finds, determines, and orders as follows:

1. The above recitals are true and correct.

2. The City Council approves Axon Enterprises Inc. Taser Energy Weapon Agreement, a copy of which is attached hereto as Exhibit 1, for the purchase of 71 Tasers from Axon Enterprises Inc. in the amount of $265,686.35.

3. This resolution is effective immediately upon adoption.

* * * * * * * *

EXHIBIT 1

Axon Enterprise, Inc.'s TASER Energy Weapon Agreement

This TASER Energy Weapon Agreement ("**Agreement**") applies to Agency's TASER 7 or TASER 10 purchase from Axon Enterprise, Inc. ("**Axon**"). Agency will receive TASER 7 or TASER 10 Conducted Energy Weapon ("**CEW**") hardware, accessories, warranty, and services documented in the attached Quote Appendix ("**Quote**").

1. **Term**. The start date is based on the initial shipment of TASER 7 or TASER 10 hardware ("**Start Date**"). If shipped in the first half of the month, the Start Date is the 1st of the following month. If shipped in the last half of the month, the Start Date is the 15th of the following month. The TASER 7 or TASER 10 term will end upon completion of the associated TASER 7 or TASER 10 subscription in the Quote ("**Term**"). If the Quote has multiple TASER 7 or TASER 10 ship dates, each shipment will have a sixty- (60-) month term, starting on the shipment of TASER 7 or TASER 10 as described above.

2. **Payment**. Axon invoices upon shipment, or on the date specified within the invoicing plan in the Quote. Payment is due net thirty (30) days from the invoice date. Payment obligations are non-cancelable. Unless otherwise prohibited by law, Agency will pay interest on all past-due sums at the lower of one-and-a-half percent (1.5%) per month or the highest rate allowed by law. Agency will pay invoices without setoff, deduction, or withholding. If Axon sends a past due account to collections, Agency is responsible for collection and attorneys' fees.

3. **Taxes**. Agency is responsible for sales and other taxes associated with the order unless Agency provides Axon a valid tax exemption certificate.

4. **Shipping**. Axon may make partial shipments and ship any hardware provided by Axon under this Agreement ("**Axon Devices**") from multiple locations, including Axon-manufactured Devices, which are a subset of Axon Devices. All shipments are EXW (Incoterms 2020) via common carrier. Title and risk of loss pass to Agency upon Axon's delivery to the common carrier. Agency is responsible for any shipping charges in the Quote.

5. **Returns**. All sales are final. Axon does not allow refunds or exchanges, except warranty returns or as provided by state or federal law.

6. **Warranty**.

   6.1. **Limited Warranty; Disclaimer**. Axon warrants that Axon-manufactured Devices are free from defects in workmanship and materials for one (1) year from the date of Agency's receipt, except Signal Sidearm and Axon-manufactured accessories, which Axon warrants for thirty (30) months and ninety (90) days, respectively, from the date of Agency's receipt. Used conducted energy weapon ("**CEW**") cartridges are deemed to have operated properly. Extended warranties run from the expiration of the one- (1-) year hardware warranty through the extended warranty term. **All software and Axon Cloud Services are provided "AS IS," without any warranty of any kind, either express or implied, including without limitation the implied warranties of merchantability, fitness for a particular purpose and non-infringement. Axon Devices and Services that are not manufactured, published or performed by Axon ("Third-Party Products") are not covered by Axon's warranty and are only subject to the warranties of the third-party provider or manufacturer.**

   6.2. **Claims**. If Axon receives a valid warranty claim for an Axon-manufactured Device during the warranty term, Axon's sole responsibility is to repair or replace the Axon-manufactured Device with the same or like Axon-manufactured Device, at Axon's option. A replacement Axon-manufactured Device will be new or like new. Axon will warrant the replacement Axon-manufactured Device for the longer of (a) the remaining warranty of the original Axon-manufactured Device or (b) ninety (90) days from the date of repair or replacement.

      6.2.1. If Agency exchanges an Axon Device or part, the replacement item becomes Agency's property, and the replaced item becomes Axon's property. Before delivering an Axon-manufactured Device for service, Agency must upload Axon-manufactured Device data to Axon Evidence or download it and retain a copy. Axon is not responsible for any loss of software, data, or other information contained in storage media or any part of the Axon-manufactured Device sent to Axon for service.

   6.3. **Spare Axon Devices**. At Axon's reasonable discretion, Axon may provide Agency a predetermined number of spare Axon Devices as detailed in the Quote ("**Spare Axon Devices**"). Spare Axon Devices

are intended to replace broken or non-functioning units while Agency submits the broken or non-functioning units, through Axon's warranty return process. Axon will repair or replace the unit with a replacement Axon Device. Title and risk of loss for all Spare Axon Devices shall pass to Agency in accordance with shipping terms under Section 5. Axon assumes no liability or obligation in the event Agency does not utilize Spare Axon Devices for the intended purpose.

6.4. **Limitations**. Axon's warranty excludes damage related to: (a) failure to follow Axon Device use instructions; (b) Axon Devices used with equipment not manufactured or recommended by Axon; (c) abuse, misuse, or intentional damage to Axon Device; (d) force majeure; (e) Axon Devices repaired or modified by persons other than Axon without Axon's written permission; or (f) Axon Devices with a defaced or removed serial number. Axon's warranty will be void if Agency resells Axon Devices.

6.4.1. **To the extent permitted by law, the above warranties and remedies are exclusive. Axon disclaims all other warranties, remedies, and conditions, whether oral, written, statutory, or implied. If statutory or implied warranties cannot be lawfully disclaimed, then such warranties are limited to the duration of the warranty described above and by the provisions in this Agreement. Agency confirms and agrees that, in deciding whether to sign this Agreement, it has not relied on any statement or representation by Axon or anyone acting on behalf of Axon related to the subject matter of this Agreement that is not in this Agreement.**

6.4.2. Axon's cumulative liability to any Party for any loss or damage resulting from any claim, demand, or action arising out of or relating to any Axon Device or Service will not exceed the purchase price paid to Axon for the Axon Device, or if for Services, the amount paid for such Services over the twelve (12) months preceding the claim. Neither Party will be liable for direct, special, indirect, incidental, punitive or consequential damages, however caused, whether for breach of warranty or contract, negligence, strict liability, tort or any other legal theory.

6.5. **Online Support Platforms**. Use of Axon's online support platforms (e.g., Axon Academy and MyAxon) is governed by the Axon Online Support Platforms Terms of Use Appendix available at www.axon.com/sales-terms-and-conditions.

6.6. **Third-Party Software and Services**. Use of software or services other than those provided by Axon is governed by the terms, if any, entered into between Agency and the respective third-party provider, including, without limitation, the terms applicable to such software or services located at www.axon.com/sales-terms-and-conditions, if any.

6.7. **Axon Aid**. Upon mutual agreement between Axon and Agency, Axon may provide certain products and services to Agency, as a charitable donation under the Axon Aid program. In such event, Agency expressly waives and releases any and all claims, now known or hereafter known, against Axon, and its officers, directors, employees, agents, contractors, affiliates, successors, and assigns (collectively, "**Releasees**"), including but not limited to, on account of injury, death, property damage, or loss of data, arising out of or attributable to the Axon Aid program whether arising out of the negligence of any Releasees or otherwise. Agency agrees not to make or bring any such claim against any Releasee, and forever release and discharge all Releasees from liability under such claims. Agency expressly allows Axon to publicly announce its participation in Axon Aid and use its name in marketing materials. Axon may terminate the Axon Aid program without cause immediately upon notice to the Agency.

7. **Axon Device Warnings**. See www.axon.com/legal for the most current Axon Device warnings.

8. **Design Changes**. Axon may make design changes to any Axon Device or Service without notifying Agency or making the same change to Axon Devices and Services previously purchased by Agency.

9. **Bundled Offerings**. Some offerings in bundled offerings may not be generally available at the time of Agency's purchase. Axon will not provide a refund, credit, or additional discount beyond what is in the Quote due to a delay of availability or Agency's election not to utilize any portion of an Axon bundle.

10. **Insurance**. Axon will maintain General Liability, Workers' Compensation, and Automobile Liability insurance. Upon request, Axon will supply certificates of insurance.

11. **IP Rights**. Axon owns and reserves all right, title, and interest in Axon-manufactured Devices and Services and suggestions to Axon, including all related intellectual property rights. Agency will not cause any Axon proprietary rights to be violated.

12. **Agency Responsibilities**. Agency is responsible for (a) Agency's use of Axon Devices; (b) breach of this Agreement or violation of applicable law by Agency or an Agency end user; (c) disputes between Agency and a third-party over Agency's use of Axon Devices; (d) ensuring Axon Devices are destroyed and disposed of securely and sustainably at Agency's cost; and (e) any regulatory violations or fines, as a result of improper destruction or disposal of Axon Devices.

13. **Termination**.

    13.1. **For Breach**. A Party may terminate this Agreement for cause if it provides thirty (30) days written notice of the breach to the other Party, and the breach remains uncured at the end of thirty (30) days. If Agency terminates this Agreement due to Axon's uncured breach, Axon will refund prepaid amounts on a prorated basis based on the effective date of termination.

    13.2. **By Agency**. If sufficient funds are not appropriated or otherwise legally available to pay the fees, Agency may terminate this Agreement. Agency will deliver notice of termination under this section as soon as reasonably practicable.

    13.3. **Effect of Termination**. Upon termination of this Agreement, Agency rights immediately terminate. Agency remains responsible for all fees incurred before the effective date of termination. If Agency purchases Axon Devices for less than the manufacturer's suggested retail price ("**MSRP**") and this Agreement terminates before the end of the Term, Axon will invoice Agency the difference between the MSRP for Axon Devices received, including any Spare Axon Devices, and amounts paid towards those Axon Devices. Only if terminating for non-appropriation, Agency may return Axon Devices to Axon within thirty (30) days of termination. MSRP is the standalone price of the individual Axon Device at the time of sale. For bundled Axon Devices, MSRP is the standalone price of all individual components.

14. **General**.

    14.1. **Force Majeure**. Neither Party will be liable for any delay or failure to perform due to a cause beyond a Party's reasonable control.

    14.2. **Independent Contractors**. The Parties are independent contractors. Neither Party has the authority to bind the other. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties.

    14.3. **Third-Party Beneficiaries**. There are no third-party beneficiaries under this Agreement.

    14.4. **Non-Discrimination**. Neither Party nor its employees will discriminate against any person based on race; religion; creed; color; sex; gender identity and expression; pregnancy; childbirth; breastfeeding; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local, state, or federal law.

    14.5. **Export Compliance**. Each Party will comply with all import and export control laws and regulations.

    14.6. **Waiver**. No waiver or delay by either Party in exercising any right under this Agreement constitutes a waiver of that right.

    14.7. **Severability**. If a court of competent jurisdiction holds any portion of this Agreement invalid or unenforceable, the remaining portions of this Agreement will remain in effect.

    14.8. **Survival**. The following sections will survive termination: Payment, Warranty, Axon Device Warnings, Indemnification, IP Rights, and Agency Responsibilities.

    14.9. **Governing Law**. The laws of the state where Agency is physically located, without reference to conflict of law rules, govern this Agreement and any dispute arising from it. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

    14.10. **Notices**. All notices must be in English. Notices posted on Agency's Axon Evidence site are effective

upon posting. Notices by email are effective on the sent date of the email. Notices by personal delivery are effective immediately. Notices to Agency shall be provided to the address on file with Axon. Notices to Axon shall be provided to Axon Enterprise, Inc. Attn: Legal, 17800 North 85th Street, Scottsdale, Arizona 85255 with a copy to legal@axon.com.

18.12 **Entire Agreement.** This Agreement, including the Appendices and any SOW(s), represents the entire agreement between the Parties. This Agreement supersedes all prior agreements or understandings, whether written or verbal, regarding the subject matter of this Agreement. This Agreement may only be modified or amended in a writing signed by the Parties.

Each representative identified below declares they have been expressly authorized to execute this Agreement as of the date of signature.

Axon Enterprise, Inc.	**Agency**
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

TASER Energy Weapon Axon Evidence Terms of Use Appendix

1 **Definitions**.
"**Agency Content**" is data uploaded into, ingested by, or created in Axon Evidence within Agency's tenant, including media or multimedia uploaded into Axon Evidence by Agency. Agency Content includes Evidence but excludes Non-Content Data.

"**Evidence**" is media or multimedia uploaded into Axon Evidence as 'evidence' by an Agency. Evidence is a subset of Agency Content.

"**Non-Content Data**" is data, configuration, and usage information about Agency's Axon Evidence tenant, Axon Devices and client software, and users that is transmitted or generated when using Axon Devices. Non-Content Data includes data about users captured during account management and customer support activities. Non-Content Data does not include Agency Content.

2 **Subscription Term**. The TASER 7 or TASER 10 Axon Evidence Subscription Term begins on the Start Date.

3 **Access Rights**. Upon Axon granting Agency a TASER 7 or TASER 10 Axon Evidence subscription, Agency may access and use Axon Evidence for the storage and management of data from TASER 7 or TASER 10 CEW devices during the TASER 7 or TASER 10 Axon Evidence Subscription Term. Agency may not upload any non-TASER 7 or TASER 10 data or any other files to Axon Evidence. Agency may not exceed the number of end-users than the Quote specifies.

4 **Agency Owns Agency Content**. Agency controls and owns all right, title, and interest in Agency Content. Except as outlined herein, Axon obtains no interest in Agency Content, and Agency Content is not Axon's business records. Agency is solely responsible for uploading, sharing, managing, and deleting Agency Content. Axon will only have access to Agency Content for the limited purposes set forth herein. Agency agrees to allow Axon access to Agency Content to (a) perform troubleshooting, maintenance, or diagnostic screenings; and (b) enforce this Agreement or policies governing use of the Axon products.

5 **Security**. Axon will implement commercially reasonable and appropriate measures to secure Agency Content against accidental or unlawful loss, access, or disclosure. Axon will maintain a comprehensive information security program to protect Axon Evidence and Agency Content including logical, physical access, vulnerability, risk, and configuration management; incident monitoring and response; encryption of uploaded digital evidence; security education; and data protection. Axon agrees to the Federal Bureau of Investigation Criminal Justice Information Services Security Addendum.

6 **Agency Responsibilities**. Agency is responsible for (a) ensuring Agency users comply with this Agreement; (b) ensuring Agency owns Agency Content and no Agency Content or Agency end user's use of Agency Content or Axon Evidence violates this Agreement or applicable laws; and (c) maintaining necessary computer equipment and Internet connections for use of Axon Evidence. If Agency becomes aware of any violation of this Agreement by an end-user, Agency will immediately terminate that end user's access to Axon Evidence.

Agency is also responsible for maintaining the security of end-user names and passwords and taking steps to maintain appropriate security and access by end-users to Agency Content. Login credentials are for Agency internal use only and Agency may not sell, transfer, or sublicense them to any other entity or person. Agency may download the audit log at any time. Agency shall contact Axon immediately if an unauthorized third party may be using Agency's account or Agency Content or if account information is lost or stolen.

7 **Privacy.** Your use of Axon Cloud Services is subject to the Axon Cloud Services Privacy Policy, a current

version of which is available at https://www.axon.com/legal/cloud-services-privacy-policy. Agency agrees to allow Axon access to Non-Content Data from Agency to (a) perform troubleshooting, maintenance, or diagnostic screenings; (b) provide, develop, improve, and support current and future Axon products and related services; and (c) enforce this Agreement or policies governing the use of Axon products.

8 **Storage.** Axon may place Agency Content that Agency has not viewed or accessed for six (6) months into archival storage. Agency Content in archival storage will not have immediate availability and may take up to twenty-four (24) hours to access.

9 **Location of Data Storage**. Axon may transfer Agency Content to third party subcontractors for storage. Axon will determine the locations of data centers where Agency Content will be stored. Axon will ensure all Agency Content stored in Axon Evidence remains within the country the Agency is located. Ownership of Agency Content remains with Agency.

10 **Suspension.** Axon may suspend Agency access or any end-user's right to access or use any portion or of Axon Evidence immediately upon notice, if:

10.1. The Termination provisions of the TASER 7 or TASER 10 Terms and Conditions apply;

10.2. Agency or an end-user's use of or registration for Axon Evidence (i) poses a security risk to Axon Evidence or any third party, (ii) may adversely impact Axon Evidence or the systems or content of any other customer, (iii) may subject Axon, Axon's affiliates, or any third party to liability, or (iv) may be fraudulent;

Agency remains responsible for all fees incurred through the date of suspension without any credits for any period of suspension. Axon will not delete any of Agency Content on Axon Evidence due to suspension, except as specified elsewhere in this Agreement.

11 **Axon Evidence Warranty**. Axon warrants that Axon Evidence will not infringe or misappropriate any patent, copyright, trademark, or trade secret rights of any third party. Axon disclaims any warranties or responsibility for data corruption or errors before the data is uploaded to Axon Evidence.

12 **Axon Evidence Restrictions**. All Axon Evidence subscriptions will immediately terminate if Agency does not comply with any term of this Agreement. Agency and Agency end-users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to:

12.1. copy, modify, tamper with, repair, or create derivative works of any part of Axon Evidence;

12.2. reverse engineer, disassemble, or decompile Axon Evidence or apply any other process to derive any source code included in Axon Evidence, or allow any others to do the same;

12.3. access or use Axon Evidence with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas;

12.4. use trade secret information contained in Axon Evidence, except as expressly permitted in this Agreement;

12.5. access Axon Evidence to build a competitive product or service or copy any features, functions, or graphics of Axon Evidence;

12.6. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within Axon Evidence; or

12.7. use Axon Evidence to store or transmit infringing, libelous, or otherwise unlawful or tortious material, material in violation of third-party privacy rights, or malicious code.

13 **After Termination.** Axon will not delete Agency Content for ninety (90) days following termination. During these ninety (90) days, Agency may retrieve Agency Content only if all amounts due have been paid. There will be no application functionality of Axon Evidence during these ninety (90) days other than the ability to retrieve Agency Content. Agency will not incur any additional fees if Agency Content is downloaded from Axon Evidence during these ninety (90) days. Axon has no obligation to maintain or provide any Agency Content after these ninety (90) days and will thereafter, unless legally prohibited delete all of Agency Content stored in Axon Evidence. Upon request, Axon will provide written proof that all Agency Content has been successfully deleted and fully removed from Axon Evidence.

14 **Post-Termination Assistance.** Axon will provide Agency with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring Agency Content, including requests for Axon's Data Egress Services, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.

15 **U.S. Government Rights**. If Agency is a U.S. Federal department or using Axon Evidence on behalf of U.S. Federal department, Axon Evidence is provided as a "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data," as defined in the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. If Agency is using Axon Evidence on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, Agency will immediately discontinue the use of Axon Evidence.

16 **Survival**. Upon any termination of this Agreement, the following sections will survive: Agency Owns Agency Content, Storage, Axon Evidence Warranty, and Axon Evidence Restrictions.

Axon Customer Experience Improvement Program Appendix

1 **Axon Customer Experience Improvement Program (ACEIP)**. The ACEIP is designed to accelerate Axon's development of technology, such as building and supporting automated features, to ultimately increase safety within communities and drive efficiency in public safety. To this end, subject to the limitations on Axon as described below, Axon, where allowed by law, may make limited use of Agency Content from all of its customers, to provide, develop, improve, and support current and future Axon products (collectively, "**ACEIP Purposes**"). However, at all times, Axon will comply with its obligations pursuant to the Axon Cloud Services Terms of Use Appendix to maintain a comprehensive data security program (including compliance with the CJIS Security Policy for Criminal Justice Information), privacy program, and data governance policy, including high industry standards of de-identifying Personal Data, to enforce its security and privacy obligations for the ACEIP. ACEIP has 2 tiers of participation, Tier 1 and Tier 2. By default, Agency will be a participant in ACEIP Tier 1. If Agency does not want to participate in ACEIP Tier 1, Agency can revoke its consent at any time. If Agency wants to participate in Tier 2, as detailed below, Agency can check the ACEIP Tier 2 box below. If Agency does not want to participate in ACEIP Tier 2, Agency should leave box unchecked. At any time, Agency may revoke its consent to ACEIP Tier 1, Tier 2, or both Tiers.

1.1 ACEIP Tier 1.

1.1.1. When Axon uses Agency Content for the ACEIP Purposes, Axon will extract from Agency Content and may store separately copies of certain segments or elements of the Agency Content (collectively, "**ACEIP Content**"). When extracting ACEIP Content, Axon will use commercially reasonable efforts to aggregate, transform or de-identify Agency Content so that the extracted ACEIP Content is no longer reasonably capable of being associated with, or could reasonably be linked directly or indirectly to a particular individual ("**Privacy Preserving Technique(s)**"). For illustrative purposes, some examples are described in footnote 1[1]. For clarity, ACEIP Content will still be linked indirectly, with an attribution, to the Agency from which it was extracted. This attribution will be stored separately from the data itself, but is necessary for and will be solely used to enable Axon to identify and delete all ACEIP Content upon Agency request. Once de-identified, ACEIP Content may then be further modified, analyzed, and used to create derivative works. At any time, Agency may revoke the consent granted herein to Axon to access and use Agency Content for ACEIP Purposes. Within 30 days of receiving the Agency's request, Axon will no longer access or use Agency Content for ACEIP Purposes and will delete any and all ACEIP Content. Axon will also delete any derivative works which may reasonably be capable of being associated with, or could reasonably be linked directly or indirectly to Agency. In addition, if Axon uses Agency Content for the ACEIP Purposes, upon request, Axon will make available to Agency a list of the specific type of Agency Content being used to generate ACEIP Content, the purpose of such use, and the retention, privacy preserving extraction technique, and relevant data protection practices applicable to the Agency Content or ACEIP Content ("Use Case"). From time to time, Axon may develop and deploy new Use Cases. At least 30 days prior to authorizing the deployment of any new Use Case, Axon will provide Agency notice (by updating the list of Use Case at https://www.axon.com/aceip and providing Agency with a mechanism to obtain

[1] For example; (a) when extracting specific text to improve automated transcription capabilities, text that could be used to directly identify a particular individual would not be extracted, and extracted text would be disassociated from identifying metadata of any speakers, and the extracted text would be split into individual words and aggregated with other data sources (including publicly available data) to remove any reasonable ability to link any specific text directly or indirectly back to a particular individual; (b) when extracting license plate data to improve Automated License Plate Recognition (ALPR) capabilities, individual license plate characters would be extracted and disassociated from each other so a complete plate could not be reconstituted, and all association to other elements of the source video, such as the vehicle, location, time, and the surrounding environment would also be removed; (c) when extracting audio of potential acoustic events (such as glass breaking or gun shots), very short segments (<1 second) of audio that only contains the likely acoustic events would be extracted and all human utterances would be removed.

notice of that update or another commercially reasonable method to Agency designated contact) ("**New Use Case**").

1.1.2. **Expiration of ACEIP Tier 1**. Agency consent granted herein, will expire upon termination of the Agreement. In accordance with section 1.1.1, within 30 days of receiving the Agency's request, Axon will no longer access or use Agency Content for ACEIP Purposes and will delete ACEIP Content. Axon will also delete any derivative works which may reasonably be capable of being associated with, or could reasonably be linked directly or indirectly to Agency.

1.2 **ACEIP Tier 2**. In addition to ACEIP Tier 1, if Agency wants to help further improve Axon's services, Agency may choose to participate in Tier 2 of the ACEIP. ACEIP Tier 2, grants Axon certain additional rights to use Agency Content, in addition to those set forth in Tier 1 above, without the guaranteed deployment of a Privacy Preserving Technique to enable product development, improvement, and support that cannot be accomplished with aggregated, transformed or de-identified data.

☐ Check this box if Agency wants to help further improve Axon's services by participating in ACEIP Tier 2 in addition to Tier 1. By checking this box, Agency hereby agrees to the Axon Customer Experience Improvement Program Tier 2 Terms of Service, available at https://www.axon.com/sales-terms-and-conditions and incorporated herein by reference.

Professional Services Appendix

If any of the professional services specified below are included on the Quote, this Appendix applies.

1 **Utilization of Services**. Agency must use pre-paid professional services as outlined in the Quote and this Appendix within six (6) months of the Effective Date.

2 **CEW Services Packages**. CEW Services Packages are detailed below:

System set up and configuration • Configure Axon Evidence categories & custom roles based on Agency need. • Troubleshoot IT issues with Axon Evidence. • Register users and assign roles in Axon Evidence. • **For the CEW Full Service Package**: On-site assistance included • **For the CEW Starter Package:** Virtual assistance included
Dedicated Project Manager Assignment of specific Axon representative for all aspects of planning the rollout (Project Manager). Ideally, Project Manager will be assigned to Agency 4–6 weeks before rollout
Best practice implementation planning session to: • Provide considerations for the establishment of CEW policy and system operations best practices based on Axon's observations with other agencies • Discuss the importance of entering metadata and best practices for digital data management • Provide referrals to other agencies using TASER CEWs and Axon Evidence • **For the CEW Full Service Package:** On-site assistance included • **For the CEW Starter Package:** Virtual assistance included
System Admin and troubleshooting training sessions On-site sessions providing a step-by-step explanation and assistance for Agency's configuration of security, roles & permissions, categories & retention, and other specific settings for Axon Evidence
Axon Evidence Instructor training • Provide training on the Axon Evidence to educate instructors who can support Agency's subsequent Axon Evidence training needs. • **For the CEW Full Service Package:** Training for up to 3 individuals at Agency • **For the CEW Starter Package:** Training for up to 1 individual at Agency
TASER CEW inspection and device assignment Axon's on-site professional services team will perform functions check on all new TASER CEW Smart weapons and assign them to a user on Axon Evidence.
Post go-live review **For the CEW Full Service Package**: On-site assistance included. **For the CEW Starter Package**: Virtual assistance included.

3 **Smart Weapon Transition Service**. The Smart Weapon Transition Service includes:

Archival of CEW Firing Logs Axon's on-site professional services team will upload CEW firing logs to Axon Evidence from all TASER CEW Smart Weapons that Agency is replacing with newer Smart Weapon models.
Return of Old Weapons Axon's on-site professional service team will ship all old weapons back to Axon's headquarters. Axon will provide Agency with a Certificate of Destruction

*Note: CEW Full Service packages for TASER 7 or TASER 10 include Smart Weapon Transition Service instead of 1-Day Device Specific Instructor Course.

4 **VR Services Package.** VR Service includes advance remote project planning and configuration support and one (1) day of on-site service and a professional services manager to work with Agency to assess Agency's deployment and determine which Services are appropriate. The VR Service

training options include:

System set up and configuration (Remote Support) • Instructor-led setup of Axon VR headset content • Configure agency settings based on Agency need • Troubleshoot IT issues with Axon VR headset
Axon instructor training (Train the Trainer) Training for up to five (5) Agency's in-house instructors who can support Agency's Axon VR CET and SIM training needs after Axon's has fulfilled its contracted on-site obligations
Classroom and practical training sessions Step-by-step explanation and assistance for Agency's configuration of Axon VR CET and SIM functionality, basic operation, and best practices

5 **Axon Air, On-Site Training.** Axon Air, On-Site training includes advance remote project planning and configuration support and one (1) day of on-site Services and a professional services manager to work closely with Agency to assess Agency's deployment and determine which Services are appropriate. If Agency requires more than one (1) day of on-site Services, Agency must purchase additional on-site Services. The Axon Air, On-Site training options include:

System set up and configuration (Remote Support) • Instructor-led setup of Axon Air App (ASDS) • Configure agency settings based on Agency need • Configure drone controller • Troubleshoot IT issues with Axon Evidence
Axon instructor training (Train the Trainer) Training for Agency's in-house instructors who can support Agency's Axon Air and Axon Evidence training needs after Axon's has fulfilled its contracted on-site obligations
Classroom and practical training sessions Step-by-step explanation and assistance for Agency's configuration of Axon Respond+ livestreaming functionality, basic operation, and best practices

6 **Axon Air, Virtual Training.** Axon Air, Virtual training includes all items in the Axon Air, On-Site Training Package, except the practical training session, with the Axon Instructor training for up to four hours virtually.

7 **Signal Sidearm Installation Service.**

7.1. **Purchases of 50 SSA units or more:** Axon will provide one day of on-site service and one professional services manager and will provide train the trainer instruction, with direct assistance on the first of each unique holster/mounting type. Agency is responsible for providing a suitable work/training area.

7.2. **Purchases of less than 50 SSA units:** Axon will provide a 1-hour virtual instruction session on the basics of installation and device calibration.

8 **Out of Scope Services**. Axon is only responsible to perform the professional services described in the Quote and this Appendix. Any additional professional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in the charges or schedule.

9 **Delivery of Services**. Axon personnel will work Monday through Friday, 8:30 a.m. to 5:30 p.m., except holidays. Axon will perform all on-site tasks over a consecutive timeframe. Axon will not charge Agency travel time by Axon personnel to Agency premises as work hours.

10 **Access Computer Systems to Perform Services**. Agency authorizes Axon to access relevant Agency computers and networks, solely for performing the Services. Axon will work to identify as soon as reasonably practicable resources and information Axon expects to use and will provide an initial itemized

list to Agency. Agency is responsible for and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information supplied by Agency.

11 **Site Preparation**. Axon will provide a hardcopy or digital copy of current user documentation for the Devices ("**User Documentation**"). User Documentation will include all required environmental specifications for the professional services and Devices to operate per the Device User Documentation. Before installation of Devices (whether performed by Agency or Axon), Agency must prepare the location(s) where Devices are to be installed ("**Installation Site**") per the environmental specifications in the Device User Documentation. Following installation, Agency must maintain the Installation Site per the environmental specifications. If Axon modifies Device User Documentation for any Devices under this Agreement, Axon will provide the update to Agency when Axon generally releases it.

12 **Acceptance**. When Axon completes professional services, Axon will present an acceptance form ("**Acceptance Form**") to Agency. Agency will sign the Acceptance Form acknowledging completion. If Agency reasonably believes Axon did not complete the professional services in substantial conformance with this Agreement, Agency must notify Axon in writing of the specific reasons for rejection within seven (7) calendar days from delivery of the Acceptance Form. Axon will address the issues and re-present the Acceptance Form for signature. If Axon does not receive the signed Acceptance Form or written notification of reasons for rejection within seven (7) calendar days of delivery of the Acceptance Form, Axon will deem Agency to have accepted the professional services.

13 **Agency Network**. For work performed by Axon transiting or making use of Agency's network, Agency is solely responsible for maintenance and functionality of the network. In no event will Axon be liable for loss, damage, or corruption of Agency's network from any cause.

TASER 7 Appendix

This TASER 7 Appendix applies to Agency's TASER 7, OSP 7, or OSP 7 Plus purchase from Axon, if applicable.

1. **Duty Cartridge Replenishment Plan**. If the Quote includes "**Duty Cartridge Replenishment Plan**", Agency must purchase the plan for each CEW user. A CEW user includes officers that use a CEW in the line of duty and those that only use a CEW for training. Agency may not resell cartridges received. Axon will only replace cartridges used in the line of duty.

2. **Training**. If the Quote includes a training voucher, Agency must use the voucher within one (1) year of issuance, or the voucher will be void. Axon will issue Agency a voucher annually beginning on the start of the TASER Subscription Term. The voucher has no cash value. Agency cannot exchange it for another device or service. Unless stated in the Quote, the voucher does not include travel expenses and will be Agency's responsibility. If the Quote includes Axon Online Training or Virtual Reality Content Empathy Development for Autism/Schizophrenia (collectively, "**Training Content**"), Agency may access Training Content. Axon will deliver all Training Content electronically.

3. **TASER Upgrade**. If Agency purchases Axon's 10-year certification program for Axon's latest version of its TASER energy weapon ("Certification Program") and has no outstanding payment obligations as of the beginning of the sixth (6^{th}) year of the Certification Program, Agency will qualify for an upgrade to any subsequent version of the Certification Program ("CEW Upgrade"). Agency will receive the CEW Upgrade at no additional cost, only to the extent such subsequent version of the Certification Program includes the same products or features as the Certification Program purchased by Agency. If Agency wants to upgrade to a Certification Program that includes additional products or features, Agency will pay the additional cost associated with such products and features. For the avoidance of doubt, Agency is not required to upgrade to any subsequent version of the Certification Program. Axon may ship the CEW Upgrade as scheduled in the Quote without prior confirmation from agency unless the Parties agree in writing otherwise at least ninety (90) days in advance. If necessary to maintain compatibility among Axon Devices, within thirty (30) days of receiving the CEW Upgrade, Agency must, if requested by Axon, return all hardware and related accessories received in connection with the Certification Program to Axon. In such event, Agency must ship batteries via ground shipping or in accordance with federal regulations in place at the time of the return. Axon will pay shipping costs for the return if Agency uses Axon's RMA process.

4. **Extended Warranty**. If the Quote includes an extended warranty, the extended warranty coverage period warranty will be for a five- (5-) year term, which includes the hardware manufacturer's warranty plus the four- (4-) year extended term.

5. **Trade-in**. If the Quote contains a discount on CEW-related line items, including items related to OSP, then that discount may only be applied as a trade-in credit, and Agency must return used hardware and accessories associated with the discount ("**Trade-In Units**") to Axon. Agency must ship batteries via ground shipping. Axon will pay shipping costs of the return. If Axon does not receive Trade-In Units within the timeframe below, Axon will invoice Agency the value of the trade-in credit. Agency may not destroy Trade-In Units and receive a trade-in credit.

Agency Size	Days to Return from Start Date of TASER 7 Subscription
Less than 100 officers	30 days
100 to 499 officers	90 days
500+ officers	180 days

6. **TASER 7 Subscription Term**. The TASER 7 Subscription Term for a standalone TASER 7 purchase begins on shipment of the TASER 7 hardware. The TASER 7 Subscription Term for OSP 7 begins on the OSP 7 Start Date.

7. **Access Rights**. Upon Axon granting Agency a TASER 7 Axon Evidence subscription, Agency may access and use Axon Evidence for the storage and management of data from TASER 7 CEW devices during the TASER 7 Subscription Term. Agency may not exceed the number of end users the Quote specifies.

8. **Privacy.** Axon will not disclose Agency Content or any information about Agency except as compelled by a court or administrative body or required by any law or regulation. Axon will give notice if any disclosure

request is received for Agency Content, so Agency may file an objection with the court or administrative body.

9. **Termination**. If payment for TASER 7 is more than thirty (30) days past due, Axon may terminate Agency's TASER 7 plan by notifying Agency. Upon termination for any reason, then as of the date of termination:

   9.1. TASER 7 extended warranties and access to Training Content will terminate. No refunds will be given.

   9.2. Axon will invoice Agency the remaining MSRP for TASER 7 products received before termination. If terminating for non-appropriations, Axon will not invoice Agency if Agency returns the CEW, rechargeable battery, holster, dock, core, training suits, and unused cartridges to Axon within thirty (30) days of the date of termination.

   9.3. Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TASER 7 plan.

TASER 10 Appendix

This TASER 10 Appendix applies to Agency's TASER 10, OSP 10, OSP Plus, or OSP 10 Plus Premium purchase from Axon, if applicable.

1. **Duty Cartridge Replenishment Plan**. If the Quote includes "**Duty Cartridge Replenishment Plan**", Agency must purchase the plan for each CEW user. A CEW user includes officers that use a CEW in the line of duty and those that only use a CEW for training. Agency may not resell cartridges received. Axon will only replace cartridges used in the line of duty.
2. **Training.** If the Quote includes a training voucher, Agency must use the voucher within one (1) year of issuance, or the voucher will be void. Axon will issue Agency a voucher annually beginning on the start of the TASER Subscription Term. The voucher has no cash value. Agency cannot exchange it for another device or service. Unless stated in the Quote, the voucher does not include travel expenses and will be Agency's responsibility. If the Quote includes Axon Online Training or Virtual Reality Content Empathy Development for Autism/Schizophrenia (collectively, "**Training Content**"), Agency may access Training Content. Axon will deliver all Training Content electronically.
3. **Extended Warranty**. If the Quote includes an extended warranty, the extended warranty coverage period warranty will be for a five- (5-) year term, which includes the hardware manufacturer's warranty plus the four- (4-) year extended term.
4. **Trade-in**. If the Quote contains a discount on CEW-related line items, including items related to OSP, then that discount may only be applied as a trade-in credit, and Agency must return used hardware and accessories associated with the discount ("**Trade-In Units**") to Axon. Agency must ship batteries via ground shipping. Axon will pay shipping costs of the return. If Axon does not receive Trade-In Units within the timeframe below, Axon will invoice Agency the value of the trade-in credit. Agency may not destroy Trade-In Units and receive a trade-in credit.

Agency Size	Days to Return from Start Date of TASER 10 Subscription
Less than 100 officers	60 days
100 to 499 officers	90 days
500+ officers	180 days

5. **TASER 10 Subscription Term**. The TASER 10 Subscription Term for a standalone TASER 10 purchase begins on shipment of the TASER 10 hardware. The TASER 10 Subscription Term for OSP 10 begins on the OSP 10 Start Date.
6. **Access Rights**. Upon Axon granting Agency a TASER 10 Axon Evidence subscription, Agency may access and use Axon Evidence for the storage and management of data from TASER 10 CEW devices during the TASER 10 Subscription Term. Agency may not exceed the number of end users the Quote specifies.
7. **Agency Warranty.** Agency warrants and acknowledges that TASER 10 is classified as a firearm and is being acquired for official Agency use pursuant to a law enforcement agency transfer under the Gun Control Act of 1968.
8. **Purchase Order.** To comply with applicable laws and regulations, Customer must provide a purchase order to Axon prior to shipment of TASER 10.
9. **Apollo Grant (US only).** If Agency has received an Apollo Grant from Axon, Agency must pay all fees in the Quote prior to upgrading to any new TASER CEW offered by Axon.

Axon Virtual Reality Content Terms of Use Appendix

1 **Term**. The Quote will detail the duration of the Virtual Reality Content license.

2 **Headsets**. Agency may purchase additional virtual reality headsets from Axon. In the event Agency decides to purchase additional virtual reality headsets for use with Axon's Virtual Reality Content, Agency must purchase those headsets from Axon.

3 **License Restrictions**. All licenses will immediately terminate if Agency does not comply with any term of this Agreement. If Agency utilizes more users than stated in this Agreement, Agency must purchase additional Virtual Reality Content licenses from Axon. Agency may not use Virtual Reality Content for any purpose other than as expressly permitted by this Agreement. Agency may not:

- **3.1** modify, tamper with, repair, or otherwise create derivative works of Virtual Reality Content;
- **3.2** reverse engineer, disassemble, or decompile Virtual Reality Content or apply any process to derive the source code of Virtual Reality Content, or allow others to do the same;
- **3.3** copy Virtual Reality Content in whole or part, except as expressly permitted in this Agreement;
- **3.4** use trade secret information contained in Virtual Reality Content;
- **3.5** resell, rent, loan or sublicense Virtual Reality Content;
- **3.6** access Virtual Reality Content to build a competitive device or service or copy any features, functions, or graphics of Virtual Reality Content; or
- **3.7** remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within Virtual Reality Content or any copies of Virtual Reality Content.

4 **Privacy**. Agency's use of the Virtual Reality Media is subject to the Axon Virtual Reality Privacy Policy, a current version of which is available at https://www.axon.com/legal/axon-virtual-reality-privacy-policy.

5 **Termination**. Axon may terminate Agency's license immediately for Agency's failure to comply with any of the terms in this Agreement.

Axon Enterprise, Inc.
17800 N 85th St.
Scottsdale, Arizona 85255
United States
VAT: 86-0741227
Domestic: (800) 978-2737
International: +1.800.978.2737

Q-633693-45610.772KP

Issued: 11/14/2024

Quote Expiration: 12/31/2024

Estimated Contract Start Date: 02/01/2025

Account Number: 524351

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Madera Police Dept. - CA 330 S C ST MADERA, CA 93638-3727 USA	Madera Police Dept. - CA 330 S C ST MADERA CA 93638-3727 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Kyle Panasewicz Phone: +1 4803294734 Email: kylep@axon.com Fax: (480) 905-2071	Mark Adams Phone: (559) 675-4200 Email: madams@cityofmadera.gov Fax: (559) 674-4844

Quote Summary

Program Length	60 Months
TOTAL COST	$249,431.06
ESTIMATED TOTAL W/ TAX	$265,686.35

Discount Summary

Average Savings Per Year	$9,891.72
TOTAL SAVINGS	$49,458.60

Payment Summary

Date	Subtotal	Tax	Total
Jan 2025	$249,431.06	$16,255.29	$265,686.35
Total	**$249,431.06**	**$16,255.29**	**$265,686.35**

Quote Unbundled Price:	**$298,889.66**
Quote List Price:	**$263,616.86**
Quote Subtotal:	**$249,431.06**

Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
Program									
T10Basic	TASER 10 Basic Bundle	71	60	$63.28	$55.00	$51.67	$220,114.20	$14,042.92	$234,157.12
A la Carte Hardware									
80090	AXON TASER - TARGET FRAME - PROFESSIONAL 27.5 IN X 75 IN	1			$88.97	$88.97	$88.97	$7.33	$96.30
80087	AXON TASER - TARGET - CONDUCTIVE PROFESSIONAL RUGGEDIZED	1			$177.89	$177.89	$177.89	$14.67	$192.56
100623	AXON TASER - TRAINING - ENHANCED HALT SUIT V2	1			$750.00	$750.00	$750.00	$61.87	$811.87
100394	AXON TASER 10 - MAGAZINE - HALT TRAINING BLUE	10			$160.00	$160.00	$1,600.00	$132.00	$1,732.00
100400	AXON TASER 10 - CARTRIDGE - HALT	500			$22.00	$22.00	$11,000.00	$907.50	$11,907.50
100399	AXON TASER 10 - CARTRIDGE - LIVE	600			$22.00	$22.00	$13,200.00	$1,089.00	$14,289.00
A la Carte Services									
101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1			$2,500.00	$2,500.00	$2,500.00	$0.00	$2,500.00
Total							**$249,431.06**	**$16,255.29**	**$265,686.35**

Delivery Schedule

Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
TASER 10 Basic Bundle	100390	AXON TASER 10 - HANDLE - YELLOW CLASS 3R	71	2	01/01/2025
TASER 10 Basic Bundle	100390	AXON TASER 10 - HANDLE - YELLOW CLASS 3R	2	2	01/01/2025
TASER 10 Basic Bundle	100393	AXON TASER 10 - MAGAZINE - LIVE DUTY BLACK	2	1	01/01/2025
TASER 10 Basic Bundle	100393	AXON TASER 10 - MAGAZINE - LIVE DUTY BLACK	71	1	01/01/2025
TASER 10 Basic Bundle	100399	AXON TASER 10 - CARTRIDGE - LIVE	710	1	01/01/2025
TASER 10 Basic Bundle	100611	AXON TASER 10 - SAFARILAND HOLSTER - RH	71	1	01/01/2025
TASER 10 Basic Bundle	20018	AXON TASER - BATTERY PACK - TACTICAL	12	1	01/01/2025
TASER 10 Basic Bundle	20018	AXON TASER - BATTERY PACK - TACTICAL	2	1	01/01/2025
TASER 10 Basic Bundle	20018	AXON TASER - BATTERY PACK - TACTICAL	71	1	01/01/2025
TASER 10 Basic Bundle	70033	AXON - DOCK WALL MOUNT - BRACKET ASSY	1	1	01/01/2025
TASER 10 Basic Bundle	71019	AXON BODY - DOCK POWERCORD - NORTH AMERICA	1	1	01/01/2025
TASER 10 Basic Bundle	74200	AXON TASER - DOCK - SIX BAY PLUS CORE	1	1	01/01/2025
A la Carte	100394	AXON TASER 10 - MAGAZINE - HALT TRAINING BLUE	10	1	01/01/2025
A la Carte	100399	AXON TASER 10 - CARTRIDGE - LIVE	600	1	01/01/2025
A la Carte	100400	AXON TASER 10 - CARTRIDGE - HALT	500	1	01/01/2025
A la Carte	100623	AXON TASER - TRAINING - ENHANCED HALT SUIT V2	1	1	01/01/2025
A la Carte	80087	AXON TASER - TARGET - CONDUCTIVE PROFESSIONAL RUGGEDIZED	1	1	01/01/2025

Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
A la Carte	80090	AXON TASER - TARGET FRAME - PROFESSIONAL 27.5 IN X 75 IN	1	1	01/01/2025

Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
TASER 10 Basic Bundle	20248	AXON TASER - EVIDENCE.COM LICENSE	71	02/01/2025	01/31/2030
TASER 10 Basic Bundle	20248	AXON TASER - EVIDENCE.COM LICENSE	1	02/01/2025	01/31/2030

Services

Bundle	Item	Description	QTY
A la Carte	101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1

Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
TASER 10 Basic Bundle	100704	AXON TASER 10 - EXT WARRANTY - HANDLE	71	01/01/2026	01/31/2030
TASER 10 Basic Bundle	100704	AXON TASER 10 - EXT WARRANTY - HANDLE	2	01/01/2026	01/31/2030
TASER 10 Basic Bundle	80374	AXON TASER - EXT WARRANTY - BATTERY PACK T7/T10	12	01/01/2026	01/31/2030
TASER 10 Basic Bundle	80374	AXON TASER - EXT WARRANTY - BATTERY PACK T7/T10	71	01/01/2026	01/31/2030
TASER 10 Basic Bundle	80374	AXON TASER - EXT WARRANTY - BATTERY PACK T7/T10	2	01/01/2026	01/31/2030
TASER 10 Basic Bundle	80396	AXON TASER - EXT WARRANTY - DOCK SIX BAY T7/T10	1	01/01/2026	01/31/2030

Shipping Locations

Location Number	Street	City	State	Zip	Country
1	330 S C ST	MADERA	CA	93638-3727	USA
2	330 S C ST	MADERA	CA	93638-3727	USA

Payment Details

Jan 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Annual Payment 1	100394	AXON TASER 10 - MAGAZINE - HALT TRAINING BLUE	10	$1,600.00	$132.00	$1,732.00
Annual Payment 1	100399	AXON TASER 10 - CARTRIDGE - LIVE	600	$13,200.00	$1,089.00	$14,289.00
Annual Payment 1	100400	AXON TASER 10 - CARTRIDGE - HALT	500	$11,000.00	$907.50	$11,907.50
Annual Payment 1	100623	AXON TASER - TRAINING - ENHANCED HALT SUIT V2	1	$750.00	$61.87	$811.87
Annual Payment 1	101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1	$2,500.00	$0.00	$2,500.00
Annual Payment 1	80087	AXON TASER - TARGET - CONDUCTIVE PROFESSIONAL RUGGEDIZED	1	$177.89	$14.67	$192.56
Annual Payment 1	80090	AXON TASER - TARGET FRAME - PROFESSIONAL 27.5 IN X 75 IN	1	$88.97	$7.33	$96.30
Annual Payment 1	T10Basic	TASER 10 Basic Bundle	71	$220,114.20	$14,042.92	$234,157.12
Total				**$249,431.06**	**$16,255.29**	**$265,686.35**

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon TASER Energy Weapon Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's TASER Energy Weapon Agreement (posted at https://www.axon.com/sales-terms-and-conditions), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at www.axon.com/legal/sales-terms-and-conditions), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature

Date Signed

11/14/2024

RESOLUTION NO. 24-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA AUTHORIZING AND APPROVING AN AMENDMENT TO THE CITY OF MADERA FISCAL YEAR 2024/2025 ADOPTED BUDGET TO APPROPRIATE MEASURE K FUNDS FOR THE PURCHASE OF TASERS FOR THE POLICE DEPARTMENT

WHEREAS, the City Council has authorized the purchase of Tasers from Axon Enterprises Inc. in the amount of $265,686.35; and

WHEREAS, the City appropriated $200,000 for the purchase in the City of Madera Fiscal Year 2024/2025 Budget; and

WHEREAS, the remaining $65,686.35 of the purchase was not included in the City of Madera Fiscal Year 2024/2025 Budget; and

WHEREAS, the amendment to the City of Madera Fiscal Year 2024/2025 Adopted Budget, listed in Exhibit 1, attached hereto, is necessary to appropriate funds for the expenditure of the Tasers.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MADERA hereby resolves, finds, determines, and orders as follows:

1. The above recitals are true and correct.

2. Funds shall be appropriated in the Fiscal Year 2024/25 operating budget in the amount of $65,686.35 from available Measure K fund balance in the Measure K vehicle and equipment account to fund the purchase of 71 Tasers.

3. The City Clerk is authorized and directed to forward a copy of the resolution to the Director of Financial Services who is authorized to take such action as necessary to implement the terms of this resolution.

4. This resolution is effective immediately upon adoption.

* * * * * * * *

EXHIBIT 1

CITY OF MADERA FISCAL YEAR 2024/25 BUDGET APPROPRIATION FOR POLICE DEPARTMENT TASER PURCHASE

FUND	ORG CODE	OBJECT CODE	DESCRIPTION	(+)	(-)
MEASURE K					
1025	10252000	4900	Budgetary Carryover		65,686
1025	10252000	7000	Vehicles & Equipment	65,686	
			TOTALS	**65,686**	**65,686**

REPORT TO CITY COUNCIL

Approved by:

Keith Helmuth, City Engineer

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: D-2

SUBJECT:

Contract Award for Fairgrounds Lift Station Modifications, City Project SS-00006

RECOMMENDATION:

Adopt a Resolution:

1. Approving the contract award for the Fairgrounds Lift Station Modifications, City Project SS-00006 for $1,902,002 to Telstar Instruments; and
2. Authorizing a contingency of 10 percent of the contract amount; and
3. Adopting a CEQA Class 2 Replacement or Reconstruction Categorical Exemption per Section 15302 (c).

SUMMARY:

The Fairgrounds Lift Station, located in a fenced area on the south side of Cleveland Avenue east of Schnoor Avenue, handles approximately 30 percent of the City's sewer flows. The pump station was constructed in the mid-1970s and rehabilitated in 1991. Two condition assessments completed in 2007 and 2018 identified significant deficiencies in the condition and operation of the pump station. A project to improve the Fairgrounds Lift Station has been included in the Capital Improvement Program for many years as CIP Project SS-00006.

AECOM Technical Services (AECOM) was hired through the City's On-call Consultant Services agreement to evaluate the existing lift station, provide recommendations for improvements, and ultimately prepare engineered construction drawings and specifications for bidding. The City received six bids for the project on November 20, 2024. Telstar Instruments submitted the lowest responsive and responsible bid. The project is primarily funded with Sewer Capital Outlay funds.

DISCUSSION:

On October 19, 2022 the City Council (Council) approved an On-Call Consultant Services agreement with AECOM for on-call, as-needed professional engineering services. This contract is in effect through October 19, 2025. AECOM was issued Task Order 1014-2023 to the Engineering Services Agreement for evaluation and design of upgrades to the Fairgrounds Sewage Lift Station.

The Fairgrounds Lift Station is responsible for pumping sewage collected from the area east of Schnoor Avenue between Cleveland Avenue and Avenue 16/Kennedy Avenue as well as the area between Schnoor Avenue, Granada Drive, the Fresno River, and Avenue 16/Kennedy Avenue. In 2023, flows into the lift station measured 1.6 MGD (million gallons per day). Average daily flows received at the Wastewater Treatment Plant (WWTP) measure 5.15 MGD. There is no secondary system to maintain sewer flows should the main lift station be out of service. Without this critical lift station in operation, sewage will not reach the WWTP.

Constructed in 1975, the lift station is a "dry pit" type lift station built in a confined space some 30 feet underground. The lift station was modified in 1991 to include installation of a comminutor, a sewage grinder to reduce the size of solids, with an associated vault and ventilation system and the installation of three variable frequency drives (VFDs) to control the pumps. The pump station site was enlarged to the north and the west when the comminutor and VFDs were installed.

A 2007 study by Blair, Church, and Flynn Consulting Engineers identified extensive deficiencies in the facility, primarily with the pumping units in the drywell. The condition assessment completed in 2018 by Stantec Consulting Engineers confirmed the continued mechanical issues of the pump station. The report indicated that significant repairs were needed to the mechanical equipment and that all the equipment had reached its end of useful life, and assigned a high priority for equipment replacement. One major issue is that replacement parts for the 50 year old pumps are no longer manufactured. In lieu of changing out pump equipment in the existing in-ground pit style pump station, the consultant proposed installing a new surface mounted lift station in the same base area. This utilizes new pumping equipment and allows staff to not work 30 feet underground or in confined space conditions. The new lift station design is a package unit to be housed within the existing footprint of the existing lift station and will accommodate the ultimate widening of Cleveland Avenue.

SITUATION:

AECOM completed engineered construction plans and specifications for the purposes of upgrading the existing lift station with new pumps, equipment, backup generator, concrete and electrical controls. The general scope of work consists of the following:

- New inlet channel coating and concrete
- New wet well coatings, instrumentation replacement, cover replacement and new

suction piping

- New packed pumping system utilizing 3 self-priming pumps. The old in-ground pumps will be abandoned.
- Electrical – Replacement of Motor Control Center panels.
- Electrical – New Variable Frequency Drive panels
- New Standby Generator
- Site Work – New site lighting and pavement repairs

On October 3, 2024, the construction plans and specifications were released for public bidding through the Planet Bids website portal. An "Advertisement for Bids" was published in the Madera Tribune on October 9th and again on October 16th.

On November 20, 2024, six bids were received. The bids were checked for accuracy against bidding requirements, validity of licenses, and bid security. Table 1 presents a summary of the bids received.

Table 1: *Bid Overview*

	Bidder	*Total Bid*
1.	Telstar Instruments	$1,902,002
2.	Rolfe Construction	$2,112,751
3.	Koch &Koch, Inc.	$2,388,000
4.	TSI Engineering	$2,570,786
5.	HPS Mechanical Inc.	$2,750,905
6.	W.M. Lyles	$2,895,000
	Engineer's Opinion of Cost	*$1,694,000*

Telstar Instruments submitted the lowest responsive and responsible bid that meets the contract requirements and is therefore recommended for award. An allowance of 10 percent of the contract amount for contingencies for unknown or unforeseen conditions is also recommended.

AECOM performed a preliminary environmental assessment of this project and determined that it qualifies for a Categorical Exemption, Class 2 Replacement or Reconstruction set forth in California Environmental Quality Act (CEQA) Guidelines section 15302 (c). The proposed project includes replacing the existing equipment at the pump station with a new self-priming triplex packaged pumping station, wet well refurbishment, concrete repair, new generator, and associated electrical work to improve the reliability and extend the life of the pump station. As such, the proposed project would be considered Replacement or Reconstruction and would be exempt under a Class 2 Categorical Exemption. The project does not meet any of the conditions for Exceptions to the Categorical Exemptions set forth in CEQA Guidelines section 15300.2 apply to this project. That is to say, there are no known potential impacts as defined by the CEQA Guidelines in section 15300. As such, staff recommends that Council adopt a Class 2 Categorical

Exemption for this project.

FINANCIAL IMPACT:

There is no fiscal impact on the City's General Fund. Rather, the project is funded with Sewer Capital Outlay funds in the Sewer Enterprise Fund Account.

Table 2: *Project Budget*	
Line Item	*Amount*
Telstar Instruments Contract (pending)	$1,902,002
Project Contingency	$190,200
Various Construction Administration Related Costs	$150,000
Total Project Budget	**$2,242,202**

ALTERNATIVES:

Reject all bids. Rebidding the project adds financial and operational risk by potentially increasing the construction cost and delay in construction.

ATTACHMENTS:

1. Resolution approving Contract
    a. Exhibit A – Contract

Attachment 1

Contract Award Resolution

RESOLUTION NO. 24-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA APPROVING THE CONTRACT AWARD FOR THE FAIRGROUNDS LIFT STATION MODIFICATIONS, CITY PROJECT SS-00006, IN THE AMOUNT OF $1,902,002 TO TELSTAR INSTRUMENTS AND ADOPTING A CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CLASS 2 CATEGORICAL EXEMPTION (EXISTING FACILITIES)

WHEREAS, on October 3, 2024, the City of Madera (City) Engineering Department advertised a solicitation for construction bids for the Fairgrounds Lift Station Modifications, City Project SS-00006 hereinafter referred to as "the Project";and

WHEREAS, six sealed bids were received on November 20, 2024, and opened by the City Engineer; and

WHEREAS, Telstar Instruments was selected as the lowest responsive and responsible bidder; and

WHEREAS, the Project is programmed in the Capital Improvement Projects Budget for Fiscal Year 2024/25 under CIP Projects SS-00006; and

WHEREAS, the City has determined that a Class 2 Categorical Exemption (Replacement or Reconstruction) as set forth in the CEQA Guidelines Section 15302, applies to the Project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA HEREBY finds, orders and resolves as follows:

1. The above recitals are true and correct.

2. The City Council (Council) has reviewed and considered all of the information presented including the report to Council from the Engineering Department.

3. The City finds that Telstar Instruments is the lowest responsible and responsive bidder.

4. The contract for the Project in the Amount of $1,902,002 to Telstar Instruments, a copy of which is attached hereto as Exhibit A and referred to for particulars, is approved.

5. Council authorizes Construction Contingencies of up to 10 percent as approved by the City Engineer

6. Council finds and determines that a Class 2 Categorical Exemption (Replacement or Reconstruction) as set forth in CEQA Guidelines 15302 applies to this project, as the Project replaces existing equipment. Further, none of the exceptions to Categorical Exemptions set forth in CEQA Guidelines 15300.2 apply to the Project.

7. This Resolution is effective immediately upon adoption.

****

Exhibit A

Contract Agreement

AGREEMENT

THIS AGREEMENT, made this 18th day of December, 2024, between the City of Madera, hereinafter called "**OWNER",** and Telstar Instruments, doing business as (an individual), or (a partnership), or (a corporation), hereinafter called **"CONTRACTOR"**.

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The **CONTRACTOR** shall commence and complete all **WORK** required for the **"FAIRGROUNDS LIFT STATION MODIFICATION, , City Project No. SS-00006"**

2. The **CONTRACTOR** shall furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the **WORK** described herein.

3. The **CONTRACTOR** shall commence the **WORK** required by the **CONTRACT DOCUMENTS** within 10 calendar days after the date of the **NOTICE TO PROCEED** and will complete the same within the time period set forth in the **CONTRACT DOCUMENTS**. The **CONTRACTOR** shall submit a Payment Bond and Performance Bond in the amount of **$1,902,002.00**, each and Insurance Certificates as specified in the **CONTRACT DOCUMENTS** prior to commencing any WORK.

4. The **CONTRACTOR** agrees to perform all of the **WORK** described in the **DOCUMENTS** for the unit and lump sum prices set forth in the Bid Schedule.

5. The term **"CONTRACT DOCUMENTS"** means and includes the following:

(A) Advertisement for Bids
(B) Information for Bidders
(C) Bid Proposal
(D) Bid Bond
(E) Agreement
(F) Payment Bond
(G) Performance Bond
(H) Insurance Requirements for Contractors
(I) Section 1, General Conditions
(J) Section 2, Special Conditions
(K) Section 3, City of Madera Standard Specifications and Drawings
(L) Section 4, Bid Items
(M) Section 5, Technical Specifications
(N) State Standard Plans and Specifications

Addendum No. 1 dated November 13, 2024

6. In the event the **CONTRACTOR** does not complete the **WORK** within the time limit specified herein or within such further time as authorized, the **CONTRACTOR** shall pay to the **OWNER** liquidated damages in the amount **of One Thousand Dollars ($1,000.00)** per day for each and every calendar day delay in finishing the **WORK** beyond the completion date so specified.

7. The **OWNER** will pay to the **CONTRACTOR** in the manner and at such times as set forth in the General Conditions such amounts as required by the **CONTRACT DOCUMENTS**. In no event shall total compensation exceed $1,902,002.00 except as may otherwise be authorized in writing per Section

16. For any moneys earned by the **CONTRACTOR** and withheld by the **OWNER** to ensure the performance of the Contract, the **CONTRACTOR** may, at his request and expense, substitute securities equivalent to the amount withheld in the form and manner and subject to the conditions provided in Division 2, Part 5, Section 22300 of the Public Contract Code of the State of California.

8. In the event of a dispute between the **OWNER** and the **CONTRACTOR** as to an interpretation of any of the specifications or as to the quality or sufficiency of material or workmanship, the decision of the **OWNER** shall for the time being prevail and the **CONTRACTOR**, without delaying the job, shall proceed as directed by the **OWNER** without prejudice to a final determination by negotiation, arbitration by mutual consent or litigation, and should the **CONTRACTOR** be finally determined to be either wholly or partially correct, the **OWNER** shall reimburse him for any added costs he may have incurred by reason of work done or material supplied beyond the terms of the contract as a result of complying with the **OWNER'S** directions as aforesaid. In the event the **CONTRACTOR** shall neglect to prosecute the work properly or fail to perform any provisions of the **CONTRACT**, the **OWNER**, after three days written notice to the **CONTRACTOR**, may, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due to the **CONTRACTOR**, subject to final settlement between the parties as in this paragraph herein above provided.

8A. CLAIMS RESOLUTION PROCESS FOR DISPUTES.

It is the intent of this Contract that disputes regarding the Contract be resolved promptly and fairly between the Contractor and the Owner. However, it is recognized that some disputes will require detailed investigation and review by one or both parties before a determination and resolution can be reached. For the protection of the rights of both the Contractor and the Owner, the following provisions are provided for the resolution of disputes which cannot be resolved by the Owner and the Contractor within three business days after either party gives verbal notice of dispute or potential dispute to the other's attention and prior to the commencement of such work.

The following provisions are intended by Contractor and Owner to comply with Public Contract Code Sections 9204 and 20104 et. seq.

A. Claims:

The term "claim" refers to a separate demand by Contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

1. A time extension, including, without limitation, for relief from damages or penalties for delay assessed by Owner under this Contract.

2. Payment by the Owner of money or damages arising from work done by, or on behalf of, the Contractor pursuant to the Contract and payment for which is not otherwise expressly provided or to which the Contractor is not otherwise entitled.

3. Payment of an amount that is disputed by the Owner.

B. The Claim Must Be Timely and in Writing:

For all claims the claim must be in writing and include the documents necessary to substantiate the claim. A notice of potential claim must be filed within five (5) business days of Contractor's completion of work that is a potential claim. Notice of an actual claim must be filed on or before the date of final payment.

C. Receipt of Claim by Owner:

Upon receipt of a claim pursuant to this section, the Owner will conduct a reasonable review of the claim and, within a period not to exceed 45 days from the date of receipt, will provide the Contractor with a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, Owner and Contractor may, by mutual agreement, extend the time period provided in this section.

The Contractor shall furnish reasonable documentation to support the claim. If additional information is thereafter required, it shall be requested and provided upon mutual agreement by the Owner and the Contractor. The District's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation.

D. City Council Approval:

If the Owner needs approval from the City Council to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the claim, and the City Council does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the Owner shall have up to three days following the next duly publicly noticed regular meeting of the City Council after the 45-day period or extension expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.

E. Payment of Claim:

Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the Owner issues its written statement. If the Owner fails to issue a written statement, paragraph F below shall apply.

F. Meet and Confer:

If the Contractor disputes the Owner's written response, or if the Owner fails to respond to a claim issued pursuant to this section within the time prescribed, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the Owner shall schedule a meet and confer conference within 30 days for settlement of the dispute.

Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the Owner shall provide the Contractor a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the Owner issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the Owner and the Contractor sharing the associated costs equally. The Owner and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

Under this Contract, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

Unless otherwise agreed to by the Owner and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced.

If mediation as set forth above does not resolve the parties' dispute, the parties will proceed to arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program.

G. Filing a Government Code Written Claim Notice:

Following the meet and confer conference, if the claim or any portion remains in dispute, the Contractor may file a claim under the Torts Claims Act as provided in Chapter 1 (commencing with Section 900) and Chapter 2 commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code Section 900.

H. Owner's Failure to Respond to Claim:

Failure by the Owner to respond to a claim from Contractor within the time periods described above or to otherwise meet the time requirements set forth above shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the Owner's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the Contractor.

I. Interest:

Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

J. Subcontractor Claims:

If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against Owner because privity of contract does not exist, the Contractor may present to the Owner a claim on behalf of a subcontractor or lower tier subcontractor. For purposes of this paragraph, the term "subcontractor' means any type of subcontractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with the Contractor or is a lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the Contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the Owner shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the Contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the Owner and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

K. Filing of Action on Unresolved Claims:

The parties shall follow the procedures set forth in Public Contracts Code Section 20104.4 if an action is filed to resolve claims under the foregoing provisions. Any action shall be filed in Madera County.

9. Attention is directed to Section 1735 of the Labor Code, which reads as follows:

"No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical conditions, marital status, or sex of such persons except as provided in Section 12940 of the Government Code, and every contractor for public works violating this section is subject to all the penalties imposed for by violation of this chapter".

10. In accordance with the provisions of Article 5, Chapter l, Part 7, Division 2 (commencing with Section 1860) and Chapter 4, Part l, Division 4 (commencing with Section 3700) of the Labor Code of the State of California, the **CONTRACTOR** is required to secure the payment of compensation to his employees and shall for that purpose obtain and keep in effect adequate Worker's Compensation Insurance.

The undersigned **CONTRACTOR** is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against Liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions before commencing the performance of the **WORK** of this Agreement.

11. The **CONTRACTOR** shall comply with Part 7, Chapter l, Article 2, Section 1775 of the Labor Code of the State of California. The **CONTRACTOR** shall, as a penalty to the **OWNER**, forfeit fifty dollars ($50.00) for each calendar day, or portion thereof, for each workman paid less than the prevailing rates for such work or craft in which such workman is employed for any public work done under the Contract by him or by any **SUBCONTRACTOR** under him. The difference between such prevailing wage rates and the amount paid to each workman for each calendar day or portion thereof for which each workman was paid less than a prevailing wage rate, shall be paid to each workman by the **CONTRACTOR**.

12. The **CONTRACTOR** shall comply with Part 7, Chapter l, Article 2, Section 1776 of the Labor Code of the State of California. The **CONTRACTOR** shall keep and require that all **SUBCONTRACTORS** keep accurate payroll records showing the name, address, social security number, work classification, 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 by him in connection with public work. Such payroll records shall be certified and shall be available for inspection at all reasonable hours at the principal office of the **CONTRACTOR** by the **OWNER**, its officers and agents and to the representatives of the Division of Labor Law Enforcement of the State Department of Industrial Relations. In the event of non-compliance with the requirements of Section 1776, the **CONTRACTOR** shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects the **CONTRACTOR** must comply. Should non-compliance still be evident after the ten (10) day period, the **CONTRACTOR** shall, as a penalty to the **OWNER** forfeit twenty-five dollars ($25.00) for each calendar day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

13. Attention is directed to the provisions in Sections 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the **CONTRACTOR** or any **SUBCONTRACTOR** under him. It is the **CONTRACTOR'S** responsibility to ensure compliance by both itself and all **SUBCONTRACTORS**.

Section 1777.5 provides, in part, as follows:

The **CONTRACTOR** or **SUBCONTRACTOR**, if he is covered by this section, upon the issuance of the approval certificate, or if he has been previously approved in the craft or trade, shall employ the

number of apprentices or the ratio of apprentices to journeyman stipulated in the apprenticeship standards. Upon proper showing by the **CONTRACTOR** that he employs apprentices in the craft or trade in the State on all of his/her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by a journeyman, or in the land surveyor classification, one apprentice for each five journeyman, the Division of Apprenticeship Standards may grant a certification exempting the **CONTRACTOR** from the one (1) to five (5) hourly ratio as set forth in this section. This section shall not apply to contracts of general **CONTRACTORS** or to contracts of specialty contractors not bidding for work through a general or prime **CONTRACTOR**, when the contracts of general **CONTRACTORS**, or those specialty **CONTRACTORS** involve less than thirty thousand dollars ($30,000). Any work performed by a journeyman in excess of eight hours per day or forty (40) hours per week shall not be used to calculate the hourly ratio required by this section.

Apprenticeable craft or trade, as used in this section, shall mean a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a **CONTRACTOR** from the 1 to 5 ratio set forth in this section when it finds that any one of the following conditions is met:

(a) In the event unemployment for the previous three-month period in such area exceeds an average of 15 percent, or

(b) In the event the number of apprentices in training in such area exceeds a ratio of 1 to 5, or

(c) If there is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either (1) on a statewide basis, or (2) on a local basis, or

(d) If assignment of an apprentice to any work performed under a public works contract would create a condition which should jeopardize his life or the life, safety, or property of fellow employees, or the public at large or if the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

When such exemptions are granted to an organization which represents **CONTRACTORS** in a specific trade from the 1 to 5 ratio on a local or statewide basis the member **CONTRACTORS** will not be required to submit individual applications for approval to local joint apprenticeship committees, provided they are already covered by the local apprenticeship standards.

The **CONTRACTOR** is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in apprenticeable trade on such contracts and if other **CONTRACTORS** on the public work site are making such contributions. The **CONTRACTOR**, and any **SUBCONTRACTOR** under him, shall comply with the requirements of Sections 1777.5 and 1777.6 of the Labor Code in the employment of apprentices. Information relative to number of apprentices, identifications, wages, hours of employment and standards of working conditions shall be obtained from the Division of Apprenticeship Standards. Consult the white pages of your telephone directory under California, State of, Industrial Relations, Apprenticeship Standards, for the telephone number and address of the nearest office. Willful failure by the **CONTRACTOR** to comply with the provisions of Sections 1777.5 will subject the **CONTRACTOR** to the penalties set forth in Section 1777.7 of the Labor Code.

14. Pursuant to California Labor Code Section 1813, eight hours in any one calendar day and forty (40) hours in any calendar week shall be the maximum hours any workman is required or

permitted to work, except in cases of extraordinary emergency caused by fires, flood, or danger to life and property. The **CONTRACTOR** doing the work, or his duly authorized agent, shall file with **OWNER** a report, verified by his oath, setting forth the nature of the said emergency, which report shall contain the name of said worker and the hours worked by him on the said day, and the **CONTRACTOR** and each **SUBCONTRACTOR** shall also keep an accurate record showing the names and actual hours worked of all workers employed by him in connection with the work contemplated by this Agreement, which record shall be open at all reasonable hours to the inspection of the **OWNER**, or its officer or agents and to the Chief of all Division of Labor Statistics and Law Enforcement of the Department of Industrial Relations, his deputies or agents; and it is hereby further agreed that said **CONTRACTOR** shall forfeit as a penalty to the **OWNER** the sum of Twenty-Five Dollars ($25.00) for each laborer, workman or any **SUBCONTRACTOR** under him for each calendar day during which such laborer, workman or mechanic is required or permitted to labor more than eight (8) hours in violation of this stipulation.

Overtime and shift work may be established as a regular procedure by the **CONTRACTOR** with reasonable notice and written permission of the **OWNER.** No work other than overtime and shift work established as a regular procedure shall be performed between the hours of 6:00 P.M. and 7:00 A.M. nor on Saturdays, Sundays or holidays except such work as is necessary for the proper care and protection of the work already performed or in case of an emergency.

CONTRACTOR agrees to pay the costs of overtime inspection except those occurring as a result of overtime and shift work established as a regular procedure. Overtime inspection shall include inspection required during holidays, Saturdays, Sundays and weekdays. Costs of overtime inspection will cover engineering, inspection, general supervision and overhead expenses which are directly chargeable to the overtime work. **CONTRACTOR** agrees that **OWNER** shall deduct such charges from payments due the **CONTRACTOR.**

15. The **CONTRACTOR** shall comply with Division 2, Chapter 4, Part 1 of the Public Contract Code relating to subletting and subcontracting, specifically included but not limited to Sections 4104, 4106, and 4110, which by this reference are incorporated into this Agreement as though fully set forth herein.

16. The **CONTRACTOR** and the **OWNER** agree that changes in this Agreement or in the work to be done under this Agreement shall become effective only when written in the form of a supplemental agreement or change order and approved and signed by the **OWNER** and the **CONTRACTOR**. It is specifically agreed that the **OWNER** shall have the right to request any alterations, deviations, reductions or additions to the contract or the plans and specifications or any of them, and the amount of the cost thereof shall be added to or deducted from the amount of the contract price aforesaid by fair and reasonable valuations thereof.

This contract shall be held to be completed when the work is finished in accordance with the original plans and specifications as amended by such changes. No such change or modification shall release or exonerate any surety upon any guaranty or bond given in connection with this contract.

17. **Contractor** shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, officials, employees, and volunteers from and against all liability, loss, damage, expense, and cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with **Contractor's** negligence, recklessness, or willful misconduct in the performance of work hereunder, or its failure to comply with any of its obligations contained in this AGREEMENT, except such loss or damage caused by the sole active negligence or willful misconduct of the City. Should conflict of interest principles preclude a single legal counsel from representing both City and **Contractor,** or should City otherwise find **Contractor's** legal counsel unacceptable, then **Contractor** shall reimburse the City its costs of defense, including

without limitation, reasonable legal counsel fees, expert fees, and all other costs and fees of litigation. The **Contractor** shall promptly pay any final judgment rendered against the City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of the **Contractor'**s negligent, reckless, or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

Contractor obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this agreement, **Contractor** shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of **Contractor** will be for that entire portion or percentage of liability not attributable to the active negligence of City.

Contractor agrees to obtain or cause to be obtained executed defense and indemnity agreements with provisions identical to those set forth in this Section from each and every Subcontractor and Subconsultant, of every Tier. In the event the **Contractor** fails to do so, **Contractor** agrees to be fully responsible to provide such defense and indemnification according to the terms of this Section.

18. Contractor must comply with the insurance requirements as described in the section "INSURANCE REQUIREMENTS FOR CONTRACTOR", pages 39-40 of the Contract Documents.

19. Amendments- Any changes to this Agreement requested by either City or **Telstar Instruments**. may only be effected if mutually agreed upon in writing by duly authorized representatives of the parties hereto. This Agreement shall not be modified or amended or any rights of a party to it waived except by such writing.

20. Termination.

A. This Agreement may be terminated at any time by either party upon fifteen (15) calendar days written notice. In the event the Agreement is terminated by either party, **Telstar Instruments** shall be compensated for services performed to the date of termination based upon the compensation rates and subject to the maximum amounts payable agreed to together with such additional services performed after termination which are authorized in writing by the City representative to wind up the work performed to date of termination.

B. City may immediately suspend or terminate this Agreement in whole or in part by written notice where, if in the determination of City, there is:

1. An illegal use of funds by **Telstar Instruments**;
2. A failure by **Telstar Instruments** to comply with any material term of this Agreement;
3. A substantially incorrect or incomplete report submitted by **Telstar Instruments** to City.

In no event shall any payment by City or acceptance by **Telstar Instruments** constitute a waiver by such party of any breach of this Agreement or any default which may then exist on the part of either party. Neither shall such payment impair or prejudice any remedy available to either party with respect to such breach or default. City shall have the right to demand of **Telstar Instruments** the repayment to City of any funds disbursed to **Telstar Instruments, Inc.** under this Agreement which, as determined by the appropriate court or arbitrator, were not expended in accordance with the terms of this Agreement.

Notice of termination shall be mailed to the City:

City of Madera
Engineering Department
428 E. Yosemite Avenue
Madera, Ca 93637

To the Contractor **Telstar Instruments**

Notices. All notices and communications from the **Telstar Instruments** shall be to City's designated Project Manager or Principal-In-Charge. Verbal communications shall be confirmed in writing. All written notices shall be provided and addressed as soon as possible, but not later than thirty (30) days after termination.

21. Compliance With Laws- City shall comply with all Federal, State and local laws, ordinances, regulations and provisions applicable in the performance of City's services.

Wherever reference is made in this Agreement to standards or codes in accordance with which work is to be performed or tested, the edition or revision of the standards or codes current on the effective date of this Agreement shall apply, unless otherwise expressly stated.

22. Attorneys' Fees/Venue- In the event that any action is brought to enforce the terms of this Agreement, the party found by the court to be in default agrees to pay reasonable attorneys' fees to the successful party in an amount to be fixed by the Court. The venue for any claim being brought for breach of this Agreement shall be in Madera County or as appropriate in the U.S. District Court for the Eastern District of California, located in the City of Madera.

23. Governing Law- The laws of the State of California shall govern the rights and obligations of the parties under the Agreement, including the interpretation of the Agreement. If any part of the Agreement is adjudged to be invalid or unenforceable, such invalidity shall not affect the full force and effect of the remainder of the Agreement.

24. City's Authority- Each individual executing or attesting to this Agreement on behalf of the City hereby covenants and represents: (i) that he or she is duly authorized to execute or attest and deliver this Agreement on behalf of such corporation in accordance with a duly adopted resolution of the corporation's articles of incorporation or charter and bylaws; (ii) that this Agreement is binding upon such corporation; and (iii) that Contractor is a duly organized and legally existing municipal corporation in good standing in the State of California.

25. Contractor's Legal Authority - Each individual executing or attesting this Agreement on behalf of **Telstar Instruments** hereby covenants and represents: (i) that he or she is duly authorized to execute or attest and deliver this Agreement on behalf of such corporation in accordance with such corporation's articles of incorporation or charter and by-laws; (ii) that this Agreement is binding upon such corporation; and (iii) that **Telstar Instruments** is a duly organized and legally existing corporation in good standing in the State of California.

26. Remedies for Default. Failure by a party to perform any term, condition or covenant required of the party under this Agreement shall constitute a "default" of the offending party under this Agreement. In the event that a default remains uncured for more than ten (10) days following receipt of written notice of default from the other party, a "breach" shall be deemed to have occurred. Any failure or delay by a party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any rights or remedies associated with a default.

27. Independent Contractor. In performance of the work, duties, and obligations assumed by the Contractor under this Agreement, it is mutually understood and agreed that the City, including any and all of City's officers, agents and employees will, at all times, be acting and performing as an

independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of **City.** Furthermore, **City** shall have no right to control or supervise or direct the manner or method by which City shall perform its work and functions. The City shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over the subject matter hereof.

Because of its status as an independent contractor, City shall have absolutely no right to employment rights and benefits available to **City** employees. City shall be solely liable and responsible for providing to, or on behalf of, its employees all legally required employee benefits. In addition, City shall be solely responsible and hold **City** harmless from all matters relating to payment of City's employees, including compliance with Social Security, withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, City may be providing services to others unrelated to **City** or to this Agreement.

28.Sole Agreement- This instrument constitutes the sole and only Agreement between City and **Telstar Instruments** in connection to the Project and correctly sets forth the obligations of the City and **Telstar Instruments** to each other as of its date. Any Agreements or representations in connection with the Project, not expressly set forth in this instrument are null and void.

29. Assignment-Neither the **Telstar Instruments** nor City will assign its interest in this Agreement without the written consent of the other.

30. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in THREE copies, each of which shall be deemed an original on the date first above written.

City of Madera
Herein Called OWNER

By: _____
Cece Gallegos, Mayor

APPROVE AS TO FORM:

_____
Shannon L. Chaffin, City Attorney

ATTEST:

_____
Alicia Gonzales, City Clerk

BY: **Telstar Instruments**
Herein Called CONTRACTOR

BY: _____

_____
Federal Tax I.D. No.

_____
Contractor License Number

_____
DIR Registration Number

NOTE: This Notary Acknowledgment on the following page is required for verification of Contractor's signature.

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.

California Notary acknowledgement required to be attached.

State of California

County of _____ } ss.

On _____ before me, _____,
Date *Here Insert Name and Title of the Officer*

Personally appeared _____
Name(s) of Signer(s)

_____

Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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 of Notary Public

Place Notary Seal/Stamp Above

REPORT TO CITY COUNCIL

Approved by:

Alicia Gonzales, City Clerk

Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024

Agenda Number: D-3

SUBJECT:

Approval of an Agreement with Wordly for Translation Services

RECOMMENDATION:

1. Adopt a Resolution approving the agreement with Wordly for the provision of AI-powered translation services at City Council meetings

2. Adopt a Resolution approving a budget amendment for the amount of $9,950

SUMMARY:

Effective communication and engagement with all members of the community is a priority for the City. The City's diverse population includes many residents who speak languages other than English, which can pose challenges in promoting full participation and ensuring transparency during City Council meetings. Among the most commonly spoken languages in the community are Spanish and Punjabi.

Following a presentation by Wordly's co-founder on October 10, 2024, Council directed staff to bring forward a contract proposal. Wordly offers real-time translations in multiple languages, including Spanish and Punjabi, meeting the City's needs for inclusivity and accessibility.

BACKGROUND:

Currently, the City provides translation services as needed, depending on anticipated audience requirements. Workshops held earlier this year on February 21 and September 18 explored implementing two-way Spanish-English interpretation and extending services to include Punjabi.

On October 2, 2024, staff introduced Wordly as a potential artificial intelligence (AI) solution. Following a presentation on October 10, the Council voted to proceed with drafting an agreement for its services.

DISCUSSION:

After thorough research and vendor outreach, staff identified Wordly as the AI translation service provider that best meets the City's needs. Staff contacted DeepL and 3Play Media for quotes; however, they did not meet one of the requirements of supporting Punjabi language translation. Wordly provides real-time translation in a wide variety of languages, including Spanish and Punjabi, which are commonly spoken in our community. Additionally, Wordly's services integrate seamlessly with the City's existing meeting structure, offering both audio and text-based translations accessible through personal devices and in-person displays.

The proposed agreement with Wordly includes an annual cost of $9,950 for 70 hours of service. Given that translation services were not included in FY 2024/25 budget, this item also requires a budget amendment.

It is worth noting that the City conducts approximately 19 Regular City Council meetings and 5 Special City Council meetings annually, totaling approximately 60 hours. Staff will monitor the contract usage and return to Council should additional hours be needed.

FINANCIAL IMPACT:

A budget amendment of $9,950 from the unassigned fund balance of the General Fund is required to cover the annual cost of Wordly's services.

ALTERNATIVES:

Should the Council require additional information, analysis, or research, staff can provide further details on translation services. Options include:

1. Conducting additional research or data collection to address specific concerns.
2. Exploring alternative interpreting services.
3. Continuing with the current in-person translation practices.

ATTACHMENTS:

1. Resolution Approving an Agreement with Wordly
    a. Exhibit A: Wordly Agreement
    b. Exhibit A: Wordly Privacy Policy
    c. Exhibit B: Wordly Terms of Service
2. Resolution Approving Budget Amendment
    a. Exhibit A: Budget Amendment

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPROVING AN AGREEMENT WITH WORDLY FOR AI TRANSLATION SERVICES AT CITY COUNCIL MEETINGS

WHEREAS, the City of Madera recognizes that effective communication and engagement with all members of the community is a priority for the City; and

WHEREAS, the City currently provides translation services as needed, depending on anticipated audience requirements.; and

WHEREAS, the City of Madera seeks to enhance language accessibility by entering into an agreement with Wordly to provide AI-powered translation services at City Council meetings; and

WHEREAS, after researching various AI translation service vendors, Wordly has been identified as the provider that best meets the City's needs; and

WHEREAS, the City, in compliance with the City's purchasing policy, has determined to enter into an agreement with Wordly for $9,950.

NOW THEREFORE, THE COUNCIL OF THE CITY OF MADERA, hereby resolves, determines, finds, and orders as follows:

1. The above recitals are true and correct and are incorporated herein by reference.

2. The agreement with Wordly for $9,950 is approved.

3. This resolution is effective immediately.

* * * * * * **

Exhibit A

Wordly
AI-Powered Translation

City of Madera - 2024/2025 Translation Services (70-Hours)

City of Madera
205 W 4th St
Madera, CA 93637
United States

Reference: 20240912-161551977
Quote created: September 12, 2024
Quote expires: December 30, 2024
Quote created by: Brandon Carter
Regional Sales Manager, West
brandon.carter@wordly.ai

Arnoldo Rodriguez
arodriguez@madera.gov
(559) 661-5402

Alicia Gonzales
agonzales@madera.gov
5596615409

About Wordly

Wordly provides AI-powered translation for attendees at in-person, virtual, hybrid, and webinar events. The Wordly platform provides remote, real-time, simultaneous translation without the use of human interpreters, making it faster, easier, and more affordable to collaborate across multiple languages at once. Wordly empowers organizations to unlock the potential of their multilingual teams and global markets by removing language barriers, increasing inclusivity, engagement, and productivity.

Wordly has been used by over 3 million attendees and 1,500+ organizations for a wide range of use cases, including industry conferences, customer webinars, sales kickoff meetings, partner training, employee onboarding, city council meetings, church services, and much more. Attendees join using their own device (mobile phone, tablet, or computer), can select from dozens of languages, and listen to live audio or read captions in the language of their choice. Organizers can also display the Wordly output on monitors in the meeting rooms. Wordly is available on-demand, 24/7 and all sessions include a text transcript which can also be translated.

For more information, please review the following resources:

- Overview Presentation
- Overview Video
- Datasheet
- Wordly Features

Products & Services

Item & Description	SKU	Quantity (Hours)	Unit Price (USD)	Unit Discount	Total Price (USD)
Wordly Account Set-up & Training Wordly will provide direct assistance in setting-up Wordly. This will include: * Account Setup * Walk through of Wordly portal * How to integrate with virtual platform or in-person * How to switch languages during live sessions * Best practices for in-person and Zoom meetings * Training of Meeting organizers * Guidance on Glossary development	Wordly-SUT-STN	1	$500.00		$500.00 for 1 month

Item & Description	SKU	Quantity (Hours)	Unit Price (USD)	Unit Discount	Total Price (USD)
Wordly Small All Wordly Languages Wordly Small Software-as-a-Service for up to 50 Wordly Users, Use of Wordly with all Wordly languages	WORDLY-S-UL-P	70	$150.00	10%	$9,450.00 after 10% discount for 1 year
		One-time subtotal			$9,950.00 after $1,050.00 discount
			Total (USD)		**$9,950.00**

Solution Description

- Attendees will access Wordly through one of several options, including the Wordly web app or integrations through other platforms such as Zoom. They will access directly on their own devices, using their own headsets or through a display showing Wordly resutls.
- From their own devices, attendees will both be able to see and hear the live translation in over 60 languages, including: Arabic, Bengali, Chinese (Simplified & Traditional), Czech, Dutch, English, French, German, Hebrew, Hindi, Italian, Japanese, Korean, Polish, Portuguese, Romanian, Russian, Spanish, Swedish, Tagalog, Tamil, Thai, and Vietnamese.
- **See the full list of Wordly languages**.
- Wordly works on all modern browsers, operating systems, and devices.

- Anticipated Start Date: December 23, 2024
- Payment is due upon receipt of invoice

Purchase Terms

1. This quotation is for services delivered in support of City of Madera.
2. Wordly and customer understand that there is no warranty or SLA for translation accuracy.
3. Wordly is requesting feedback of usage; setup, ease of use, quality of translation and attendee response.
4. Use of Wordly is restricted to this contract. For the period of time spanning this contract, there will be no restrictions to the use of Wordly within the hours and number of users contracted. Contract begins on the date of purchase, unless specified otherwise. The contract period is the time period defined in the specific line item in this quotation from the contract start date. The contract period is for 12 months unless otherwise specified. Subscriptions do not automatically renew.
5. Customer is responsible for providing access to good quality audio to Wordly either via the mobile application or streaming audio to Wordly.
6. Customer is responsible for selecting languages and switching between languages for bilingual or multilingual conversations. Wordly does not automatically switch languages.
7. Customer is responsible for testing set-up and configuration prior to meetings or events.
8. Customer is purchasing Wordly for up to a specific number of simultaneous attendees. Wordly reserves the right to limit the number of attendees using Wordly during a session to the purchased limit. Customer can upgrade hours to a larger number of simultaneous attendees by contacting Wordly sales, additional fees apply.
9. If customer purchases an option with a limited number of languages, Wordly reserves the right to limit the use of the Wordly product to the specific languages, or charge the client if they use more languages than contracted.
10. Unused Wordly credits will be rolled over if future purchase of Wordly occurs within subscription period at the same tier or higher.
11. If customer exceeds the contracted hours, the customer will be responsible for paying for overage at the hourly rate. Overage is rounded-up to the nearest hour.
12. Credit Card fee is 3.0% on purchases above USD $3,500
13. Wordly Privacy policy: https://www.wordly.ai/privacy-policy
14. Wordly Software Terms of Service: https://www.wordly.ai/wordly-inc-terms-of-service

15. Wordly expressly acknowledges that the City is a public entity, and that its meetings and other events (including those translated by Wordly Services) are authorized to be recorded, transmitted, posted, copied, or otherwise used the City or public, and provides any permissions (if any are so needed) to include the translations of the same.

16. **Indemnification.**

    Each party hereto will indemnify, defend and hold the other harmless from and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Losses") resulting from any claim, suit, action, or proceeding (each, an "Action") brought by any third party against the other or its affiliates alleging (i) the infringement or misappropriation of any intellectual property right relating to the delivery or use of the Services (but excluding any infringement contributorily caused by the other party); (ii) personal injury caused by the negligence or willful misconduct of the other party; and (iii) any violation of or failure to comply with the Terms of Use. Wordly, Inc. will have no liability to Customer if any claim of infringement is based solely upon the use of the services in a manner other than as expressly permitted herein. Customer will have no liability to Wordly, Inc. if any claim of infringement is based upon utilizing the services in a manner other than as expressly permitted herein.

    Each party's indemnification obligations hereunder shall be subject to (i) receiving prompt written notice of the existence of any Action; (ii) being able to, at its option, control the defense of such Action; (iii) permitting the indemnified party to participate in the defense of any Action; and (iv) receiving full cooperation of the indemnified party in the defense thereof.

17. **Insurance**

    Wordly, Inc. shall maintain Technology Errors & Omissions Liability insurance that insures against professional errors and omissions that may result from providing technology services with limits of not less than two million ($2,000,000) per claim and in the aggregate. Wordly, Inc. will list Client as an additional insured party under this insurance policy. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement and coverage shall be maintained for an additional period of no less than three (3) years following termination of the Agreement.

Signature

Before you sign this quote, an email must be sent to you to verify your identity. Find your profile below to request a verification email.

Arnoldo Rodriguez
arodriguez@madera.gov

Verification sent

Questions? Contact me

Brandon Carter
Regional Sales Manager, West
brandon.carter@wordly.ai
+19714206900

Wordly
175 S. San Antonio Road
Suite #102
Los Altos, CA 94022
United States

Privacy Policy

PRIVACY POLICY

Effective date: June 15, 2019

1. Introduction

Welcome to **wordly, Inc.**

Wordly, Inc. ("us", "we", or "our") operates wordly.ai, attend.wordly.ai and the wordly and wordly attend mobile applications (hereinafter referred to as "**Service**").

Our Privacy Policy governs your visit to wordly.ai, attend.wordly.ai and the wordly and wordly attend mobile applications, and explains how we collect, safeguard and disclose information that results from your use of our Service.

We use your data to provide and improve Service. By using Service, you agree to the collection and use of information in accordance with this policy. Unless otherwise defined in this Privacy Policy, the terms used in this Privacy Policy have the same meanings as in our Terms and Conditions.

Our Terms and Conditions ("**Terms**") govern all use of our Service and together with the Privacy Policy constitutes your agreement with us ("**agreement**").

2. Definitions

SERVICE means all wordly.ai websites and the wordly and wordly attend mobile applications operated by wordly, Inc.

PERSONAL DATA means data about a living individual who can be identified from those data (or from those and other information either in our possession or likely to come into our possession).

USAGE DATA is data collected automatically either generated by the use of Service or from Service infrastructure itself (for example, the duration of a page visit).

COOKIES are small files stored on your device (computer or mobile device).

DATA CONTROLLER means a natural or legal person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed. For the purpose of this Privacy Policy, we are a Data Controller of your data.

DATA PROCESSORS (OR SERVICE PROVIDERS) means any natural or legal person who processes the data on behalf of the Data Controller. We may use the services of various Service Providers in order to process your data more effectively.

DATA SUBJECT is any living individual who is the subject of Personal Data.

THE USER is the individual using our Service. The User corresponds to the Data Subject, who is the subject of Personal Data.

3. Information Collection and Use

We collect several different types of information for various purposes to provide and improve our Service to you.

4. Types of Data Collected

Personal Data

While using our Service, we may ask you to provide us with certain personally identifiable information that can be used to contact or identify you ("**Personal Data**"). Personally identifiable information may include, but is not limited to:

(a) Email address

(b) First name and last name

(c) Phone number

(d) Cookies and Usage Data

Usage Data

We may also collect information that your browser sends whenever you visit our Service or when you access Service by or through a mobile device ("**Usage Data**").

This Usage Data may include information such as your computer's Internet Protocol address (e.g. IP address), browser type, browser version, the pages of our Service that you visit, the time and date of your visit, the time spent on those pages, unique device identifiers and other diagnostic data.

When you access Service with a mobile device, this Usage Data may include information such as the type of mobile device you use, your mobile device unique ID, the IP address of your mobile device, your mobile operating system, the type of mobile Internet browser you use, unique device identifiers and other diagnostic data.

Tracking Cookies Data

We use cookies and similar tracking technologies to track the activity on our Service and we hold certain information.

Cookies are files with a small amount of data which may include an anonymous unique identifier. Cookies are sent to your browser from a website and stored on your device. Other tracking technologies are also used such as beacons, tags and scripts to collect and track information and to improve and analyze our Service.

You can instruct your browser to refuse all cookies or to indicate when a cookie is being sent. However, if you do not accept cookies, you may not be able to use some portions of our Service.

Examples of Cookies we use:

(a) **Session Cookies:** We use Session Cookies to operate our Service.

(b) **Preference Cookies:** We use Preference Cookies to remember your preferences and various settings.

(c) **Security Cookies:** We use Security Cookies for security purposes.

(d) **Advertising Cookies:** Advertising Cookies are used to serve you with advertisements that may be relevant to you and your interests.

5. Use of Data

wordly, Inc. uses the collected data for various purposes:

(a) to provide and maintain our Service;

(b) to notify you about changes to our Service;

(c) to allow you to participate in interactive features of our Service when you choose to do so;

(d) to provide customer support;

(e) to gather analysis or valuable information so that we can improve our Service;

(f) to monitor the usage of our Service;

(g) to detect, prevent and address technical issues;

(h) to fulfill any other purpose for which you provide it;

(i) to carry out our obligations and enforce our rights arising from any contracts entered into between you and us, including for billing and collection;

(j) to provide you with notices about your account and/or subscription, including expiration and renewal notices, email-instructions, etc.;

(k) to provide you with news, special offers and general information about other goods, services and events which we offer that are similar to those that you have already purchased or enquired about unless you have opted not to receive such information;

(l) in any other way we may describe when you provide the information;

(m) for any other purpose with your consent.

6. Retention of Data

We will retain your Personal Data only for as long as is necessary for the purposes set out in this Privacy Policy. We will retain and use your Personal Data to the extent necessary to comply with our legal obligations (for example, if we are required to retain your data to comply with applicable laws), resolve disputes, and enforce our legal agreements and policies.

We will also retain Usage Data for internal analysis purposes. Usage Data is generally retained for a shorter period, except when this data is used to strengthen the security or to improve the functionality of our Service, or we are legally obligated to retain this data for longer time periods.

7. Transfer of Data

Your information, including Personal Data, may be transferred to – and maintained on – computers located outside of your state, province, country or other governmental jurisdiction where the data protection laws may differ from those of your jurisdiction.

If you are located outside United States and choose to provide information to us, please note that we transfer the data, including Personal Data, to United States and process it there.

Your consent to this Privacy Policy followed by your submission of such information represents your agreement to that transfer.

wordly, Inc. will take all the steps reasonably necessary to ensure that your data is treated securely and in accordance with this Privacy Policy and no transfer of your Personal Data will take place to an organisation or a country unless there are adequate controls in place including the security of your data and other personal information.

8. Disclosure of Data

We may disclose personal information that we collect, or you provide:

(a) **Disclosure for Law Enforcement.**

Under certain circumstances, we may be required to disclose your Personal Data if required to do so by law or in response to valid requests by public authorities.

(b) **Business Transaction.**

If we or our subsidiaries are involved in a merger, acquisition or asset sale, your Personal Data may be transferred.

(c) **Other cases. We may disclose your information also:**

(i) to our subsidiaries and affiliates;

(ii) to contractors, service providers, and other third parties we use to support our business;

(iii) to fulfill the purpose for which you provide it;

(iv) if we believe disclosure is necessary or appropriate to protect the rights, property, or safety of the Company, our customers, or others.

9. Security of Data

The security of your data is important to us but remember that no method of transmission over the Internet or method of electronic storage is 100% secure. While we strive to use commercially acceptable means to protect your Personal Data, we cannot guarantee its absolute security.

10. Your Data Protection Rights Under General Data Protection Regulation (GDPR)

If you are a resident of the European Union (EU) and European Economic Area (EEA), you have certain data protection rights, covered by GDPR. – See more at https://eur-lex.europa.eu/eli/reg/2016/679/oj

We aim to take reasonable steps to allow you to correct, amend, delete, or limit the use of your Personal Data.

If you wish to be informed what Personal Data we hold about you and if you want it to be removed from our systems, please email us at contact@wordly.ai.

In certain circumstances, you have the following data protection rights:

(a) the right to access, update or to delete the information we have on you;

(b) the right of rectification. You have the right to have your information rectified if that information is inaccurate or incomplete;

(c) the right to object. You have the right to object to our processing of your Personal Data;

(d) the right of restriction. You have the right to request that we restrict the processing of your personal information;

(e) the right to data portability. You have the right to be provided with a copy of your Personal Data in a structured, machine-readable and commonly used format;

(f) the right to withdraw consent. You also have the right to withdraw your consent at any time where we rely on your consent to process your personal information;

Please note that we may ask you to verify your identity before responding to such requests. Please note, we may not able to provide Service without some necessary data.

You have the right to complain to a Data Protection Authority about our collection and use of your Personal Data. For more information, please contact your local data protection authority in the European Economic Area (EEA).

11. Your Data Protection Rights under the California Privacy Protection Act (CalOPPA)

CalOPPA is the first state law in the nation to require commercial websites and online services to post a privacy policy. The law's reach stretches well beyond California to require a person or company in the United States (and conceivable the world) that operates websites collecting personally identifiable information from California consumers to post a conspicuous privacy policy on its website stating exactly the information being collected and those individuals with whom it is being shared, and to comply with this policy. – See more at: https://consumercal.org/about-cfc/cfc-education-foundation/california-online-privacy-protection-act-caloppa-3/

According to CalOPPA we agree to the following:

(a) users can visit our site anonymously;

(b) our Privacy Policy link includes the word "Privacy", and can easily be found on the page specified above on the home page of our website;

(c) users will be notified of any privacy policy changes on our Privacy Policy Page;

(d) users are able to change their personal information by emailing us at contact@wordly.ai.

Our Policy on "Do Not Track" Signals:

We honor Do Not Track signals and do not track, plant cookies, or use advertising when a Do Not Track browser mechanism is in place. Do Not Track is a preference you can set in your web browser to inform websites that you do not want to be tracked.

You can enable or disable Do Not Track by visiting the Preferences or Settings page of your web browser.

12. Service Providers

We may employ third party companies and individuals to facilitate our Service ("**Service Providers**"), provide Service on our behalf, perform Service-related services or assist us in analysing how our Service is used.

These third parties have access to your Personal Data only to perform these tasks on our behalf and are obligated not to disclose or use it for any other purpose.

13. Payments

We may provide paid products and/or services within Service. In that case, we use third-party services for payment processing (e.g. payment processors).

We will not store or collect your payment card details. That information is provided directly to our third-party payment processors whose use of your personal information is governed by their Privacy Policy. These payment processors adhere to the standards set by PCI-DSS as managed by the PCI Security Standards Council, which is a joint effort of brands like Visa,

Mastercard, American Express and Discover. PCI-DSS requirements help ensure the secure handling of payment information.

The payment processors we work with are:

PayPal or Braintree:

Their Privacy Policy can be viewed at https://www.paypal.com/webapps/mpp/ua/privacy-full

14. Links to Other Sites

Our Service may contain links to other sites that are not operated by us. If you click a third party link, you will be directed to that third party's site. We strongly advise you to review the Privacy Policy of every site you visit.

We have no control over and assume no responsibility for the content, privacy policies or practices of any third party sites or services.

15. Children's Privacy

Our Service does not address anyone under the age of 18 ("**Children**").

We do not knowingly collect personally identifiable information from anyone under the age of 18. If you are a parent or guardian and you are aware that your Child has provided us with Personal Data, please contact us. If we become aware that we have collected Personal Data from children without verification of parental consent, we take steps to remove that information from our servers.

16. Changes to This Privacy Policy

We may update our Privacy Policy from time to time. We will notify you of any changes by posting the new Privacy Policy on this page.

We will let you know via email and/or a prominent notice on our Service, prior to the change becoming effective and update "effective date" at the top of this Privacy Policy.

You are advised to review this Privacy Policy periodically for any changes. Changes to this Privacy Policy are effective when they are posted on this page.

17. Contact Us

If you have any questions about this Privacy Policy, please contact us:

By email: contact@wordly.ai.

Products

- AI Translator
- Live Captioning
- Simultaneous Interpretation
- Translation Software
- Event Engagement
- Government Translation
- School Translation
- Zoom Translation
- Teams Translation

Resources

- Try it Now
- Blog
- Best Practices
- Translation Promotion
- Language Services Glossary
- Translation App
- Translation Companies
- Translation Services
- Translation Research
- App Store - Download
- Google Play - Download
- Create Wordly Account
- Wordly Samples
- Buy Wordly

About Us

- Why Wordly
- Leadership
- Careers
- Terms of Service
- Privacy Policy
- Security
- Support
- Trusted AI

Contact

175 S. San Antonio Rd
Suite #102
Los Altos, CA 94022
contact@wordly.ai

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Wordly, Inc Terms of Service

TERMS OF SERVICE

Last updated: June 20, 2024

1. Introduction

Welcome to the **Wordly, Inc** ("**Company**", "**we**", "**our**", "**us**", "**Wordly**") Terms of Service. Please read through the following information prior to using Wordly.

These Terms of Service ("**Terms**", "**Terms of Service**") govern your use of the Wordly Service ("**Service**", "**Services**"), which includes all Wordly affiliated websites, Wordly Mobile Applications, Wordly Web Applications, Wordly Portal, Wordly APIs, and Wordly Documentation.

Your agreement with us includes these Terms ("**Agreements**"). You acknowledge that you have read and understood Agreements, and agree to be bound by them.

If you do not agree with (or cannot comply with) Agreements, then you may not use the Service. These Terms apply to all visitors, users and others who wish to access or use Service.

Thank you for being a responsible user.

2. Communications

By creating an Account on Service, you agree to subscribe to newsletters, marketing or promotional materials and other information Company may send. You may opt out of receiving any, or all of these communications from Company by using the unsubscribe link or by emailing Company at contact@wordly.ai.

3. Subscriptions

Some parts of Service are billed on a subscription basis ("**Subscription(s)**"). You will be billed in advance on a recurring and periodic basis ("**Billing Cycle**"). Billing cycles are set either on

a monthly or annual basis, depending on the type of subscription plan you select when purchasing a Subscription.

At the end of each Billing Cycle, your Subscription may automatically renew under the exact same conditions unless you cancel it or Wordly cancels it. You may cancel your Subscription renewal either through your online account management page or by contacting Wordly Customer Support.

A valid payment method, including credit card or ACH bank payment commitment, is required to process the payment for your subscription. You shall provide Wordly with accurate and complete billing information including full name, address, state, zip code, telephone number, and valid payment method information. By submitting such payment information, you automatically authorize Wordly to charge all Subscription fees incurred through your account to any such payment instruments.

Should automatic billing fail to occur for any reason, Wordly will issue an electronic invoice indicating that you must proceed manually, within a certain deadline date, with the full payment corresponding to the billing period as indicated on the invoice.

4. Free Trial

Wordly may, at its sole discretion, offer a Subscription with a free trial for a limited period of time ("**Free Trial**").

You may be required to enter your billing information in order to sign up for Free Trial.

If you do enter your billing information when signing up for Free Trial, you will not be charged by Wordly until Free Trial has expired. On the last day of Free Trial period, unless you canceled your Subscription, you will be automatically charged the applicable Subscription fees for the type of Subscription you have selected.

At any time and without notice, Wordly reserves the right to (i) modify Terms of Service of Free Trial offer, or (ii) cancel such Free Trial offer.

5. Fee Changes

Wordly, in its sole discretion and at any time, may modify Subscription fees for the Subscriptions. Any Subscription fee change will become effective at the end of the then-current Billing Cycle.

Wordly will provide you with a reasonable prior notice of any change in Subscription fees to give you an opportunity to terminate your Subscription before such change becomes effective.

Your continued use of Service after Subscription fee change comes into effect constitutes your agreement to pay the modified Subscription fee amount.

6. Content

Content found on or through this Service are the property of Wordly. You may not distribute, modify, transmit, reuse, download, repost, copy, or use said Content, whether in whole or in part, for commercial purposes or for personal gain, without express advance written permission from us.

7. Prohibited Uses

You may use Service and Documentation only for lawful purposes and in accordance with Terms. You agree not to use Service for the following items:

(a) In any way that violates any applicable national or international law or regulation.

(b) For the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content or otherwise.

(c) To transmit, or procure the sending of, any advertising or promotional material, including any "junk mail", "chain letter," "spam," or any other similar solicitation.

(d) To impersonate or attempt to impersonate Company, a Company employee, another user, or any other person or entity.

(e) In any way that infringes upon the rights of others, or in any way is illegal, threatening, fraudulent, or harmful, or in connection with any unlawful, illegal, fraudulent, or harmful purpose or activity.

(f) To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of Service, or which, as determined by us, may harm or offend Company or users of Service or expose them to liability.

(g) Use Service in any manner that could disable, overburden, damage, or impair Service or interfere with any other party's use of Service, including their ability to engage in real time activities through Service.

(h) Use any robot, spider, or other automatic device, process, or means to access Service for any purpose, including monitoring or copying any of the material on Service.

(i) Use any manual process to monitor or copy any of the material on Service or for any other unauthorized purpose without our prior written consent.

(j) Use any device, software, or routine that interferes with the proper working of Service.

(k) Introduce any viruses, trojan horses, worms, logic bombs, or other material which is malicious or technologically harmful.

(l) Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of Service, the server on which Service is stored, or any server, computer, or database connected to Service.

(m) Attack Service via a denial-of-service attack or a distributed denial-of-service attack.

(n) Take any action that may damage or falsify Company reputation or rating.

(o) Attempt to interfere with the proper working of Service.

(p) Alter, modify or create any derivative works of the Services, the underlying source code, or the Documentation in any way.

(q) Use Service for benchmarking purposes or otherwise to analyze its workings and features for competitive purposes or in a manner that imposes unusual demands on Service outside of normal functions and operations - without explicit authorization and approval from Wordly. Furthermore, no Service benchmarking data can be published for public review without authorization and approval from Wordly.

(r) Modify or remove Wordly branding, marks, or logo from any Services without explicit permission from Company.

8. No Use By Minors

Service is intended only for access and use by individuals at least eighteen (18) years old. By accessing or using any Company Services, you warrant and represent that you are at least eighteen (18) years of age and with the full authority, right, and capacity to enter into this agreement and abide by all of the terms and conditions of Terms. If you are not at least eighteen (18) years old, you are prohibited from both the access and usage of Service.

9. Accounts

When you create an account with Company, you guarantee that you are above the age of 18, and that the information you provide Company is accurate, complete, and current at all times. Inaccurate, incomplete, or obsolete information may result in the immediate termination of your account on Service.

You are responsible for maintaining the confidentiality of your account and password, including but not limited to the restriction of access to your computer and/or account. You agree to accept responsibility for any and all activities or actions that occur under your account and/or password, whether your password is with Service or a third-party service. You must notify us immediately upon becoming aware of any breach of security or unauthorized use of your account.

You may not use as a username the name of another person or entity or that is not lawfully available for use, a name or trademark that is subject to any rights of another person or entity other than you, without appropriate authorization. You may not use as a username any name that is offensive, vulgar or obscene.

We reserve the right to refuse service, terminate accounts, remove or edit content, or cancel orders at our sole discretion.

10. Intellectual Property

Service and its original content (excluding Content provided by users), features and functionality are and will remain the exclusive property of Wordly and its licensors. Service is protected by copyright, trademark, and other laws of the United States. Our trademarks and

trade dress may not be used in connection with any product or service without the prior written consent of Wordly.

11. Copyright Policy

We respect the intellectual property rights of others. It is our policy to respond to any claim that Content posted on Service infringes on the copyright or other intellectual property rights ("**Infringement**") of any person or entity.

If you are a copyright owner, or authorized on behalf of one, and you believe that the copyrighted work has been copied in a way that constitutes copyright infringement, please submit your claim via email to contact@wordly.ai, with the subject line: "Copyright Infringement" and include in your claim a detailed description of the alleged Infringement as detailed below, under "DMCA Notice and Procedure for Copyright Infringement Claims"

You may be held accountable for damages (including costs and attorneys' fees) for misrepresentation or bad-faith claims on the infringement of any Content found on and/or through Service on your copyright.

12. DMCA Notice and Procedure for Copyright Infringement Claims

You may submit a notification pursuant to the Digital Millennium Copyright Act (DMCA) by providing our Copyright Agent with the following information in writing (see 17 U.S.C 512(c)(3) for further detail):

(a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright's interest;

(b) a description of the copyrighted work that you claim has been infringed, including the URL (i.e., web page address) of the location where the copyrighted work exists or a copy of the copyrighted work;

(c) identification of the URL or other specific location on Service where the material that you claim is infringing is located;

(d) your address, telephone number, and email address;

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You may provide us directly at contact@wordly.ai with information and feedback concerning errors, suggestions for improvements, ideas, problems, complaints, and other matters related to our Service ("**Feedback**"). You acknowledge and agree that: (i) you shall not retain, acquire or assert any intellectual property right or other right, title or interest in or to the Feedback; (ii) Company may have development ideas similar to the Feedback; (iii) Feedback does not contain confidential information or proprietary information from you or any third party; and (iv) Company is not under any obligation of confidentiality with respect to the Feedback. In the event the transfer of the ownership to the Feedback is not possible due to applicable mandatory laws, you grant Company and its affiliates an exclusive, transferable, irrevocable, free-of-charge, sub-licensable, unlimited and perpetual right to use (including copy, modify, create derivative works, publish, distribute and commercialize) Feedback in any manner and for any purpose.

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16. Limitation Of Liability

Except as prohibited by law, you will hold us and our officers, directors, employees, and agents harmless for any indirect, punitive, special, incidental, or consequential damage, however it arises (including attorneys' fees and all related costs and expenses of litigation and arbitration, or at trial or on appeal, if any, whether or not litigation or arbitration is instituted), whether in an action of contract, negligence, or other tortious action, or arising out of or in connection with this agreement, including without limitation any claim for personal injury or property damage, arising from this agreement and any violation by you of any federal, state, or local laws, statutes, rules, or regulations, even if Company has been previously advised of the possibility of such damage. Except as prohibited by law, if there is liability found on the part of Company, it will be limited to the amount paid for the products and/or services, and under no circumstances will there be consequential or punitive damages. Some states do not allow the exclusion or limitation of punitive, incidental or consequential damages, so the prior limitation or exclusion may not apply to you.

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We may terminate or suspend your account and bar access to Service immediately, without prior notice or liability, under our sole discretion, for any reason whatsoever and without limitation, including but not limited to a breach of Terms.

If you wish to terminate your account, you may simply discontinue using Service.

All provisions of Terms which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

18. Governing Law

These Terms shall be governed and construed in accordance with the laws of the State of California without regard to its conflict of law provisions.

Our failure to enforce any right or provision of these Terms will not be considered a waiver of those rights. If any provision of these Terms is held to be invalid or unenforceable by a court, the remaining provisions of these Terms will remain in effect. These Terms constitute the entire agreement between us regarding our Service and supersede and replace any prior agreements we might have had between us regarding Service.

19. Changes To Service

We reserve the right to withdraw or amend our Service, and any service or material we provide via Service, in our sole discretion without notice. We will not be liable if for any reason all or any part of Service is unavailable at any time or for any period. From time to time, we may restrict access to some parts of Service, or the entire Service, to users, including registered users.

20. Amendments To Terms

We may amend Terms at any time by posting the amended terms on this site. It is your responsibility to review these Terms periodically.

Your continued use of the Platform following the posting of revised Terms means that you accept and agree to the changes. You are expected to check this page frequently so you are aware of any changes, as they are binding on you.

By continuing to access or use our Service after any revisions become effective, you agree to be bound by the revised terms. If you do not agree to the new terms, you are no longer authorized to use Service.

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No waiver by Company of any term or condition set forth in Terms shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of Company to assert a right or provision under Terms shall not constitute a waiver of such right or provision.

If any provision of Terms is held by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of Terms will continue in full force and effect.

22. Acknowledgement

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA AUTHORIZING AND APPROVING AN AMENDMENT TO THE CITY OF MADERA FISCAL YEAR 2024/2025 BUDGET TO ENTER INTO AN AGREEMENT WITH WORDLY

WHEREAS, the City Council has approved an agreement with Wordly to provide AI-powered translation services at City Council meetings; and

WHEREAS, the City seeks to approve a budget amendment to transfer funds from the unassigned General Fund to the City Clerk Department's Contracted Services Fund for Fiscal Year 2024/2025, as detailed in Exhibit A, attached hereto; and

WHEREAS, the budget amendment is necessary to allocate funds for the expenditure associated with the agreement.

NOW THEREFORE, THE COUNCIL OF THE CITY OF MADERA, hereby resolves, determines, finds, and orders as follows:

1. The above recitals are true and correct.

2. The City Council approves the budget amendment to allocate funds to the City Clerk Department's Contracted Services Fund as outlined in Exhibit A.

3. This resolution is effective immediately.

* * * * * * **

EXHIBIT A
CITY OF MADERA

Budget Appropriations: Res. 24-_____

Budget Adjustments for Fiscal Year 2024/25

FUND	ORG CODE	OBJECT CODE	DESCRIPTION	(+)	(-)
General Fund	10200000	4900	Budgetary Carryover		$ 9,950
	10201010	6440	Contracted Services	9,950	
				$ 9,950	**$ 9,950**

REPORT TO CITY COUNCIL

Approved by: _____
Alicia Gonzales, City Clerk

_____
Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024
Agenda Number: D-4

SUBJECT:

City Council Appointment to Fill Vacancy in Council District 1

RECOMMENDATION:

It is recommended that the City Council:

1. Consider the applications for the City Council District 1 seat and, after deliberation, adopt a Resolution appointing a candidate to fill the vacancy; or

2. Direct staff to prepare a Resolution calling for a special election to fill the vacancy, with the election to be held no later than Sunday, February 2, 2025, as required by applicable law.

DISCUSSION:

On December 4, 2024, the City Council voted to move forward with an appointment process to fill the District 1 vacancy created by the election of Cece Gallegos as Mayor. Council also outlined expectations for the process, which included submission of a completed application, a brief presentation by each candidate, and participation in a question-and-answer session. By motion, the Council identified Tim Riche and Rohi Zacharia (in alphabetical order by last name) as potential appointees for the District 1 seat.

Both candidates were provided with applications and given a submission deadline of Wednesday, December 11, 2024, at 5:00 p.m.

The City received completed applications from both candidates by the deadline. Each applicant has been verified as a registered voter and confirmed to meet the required age and residency qualifications.

The two applicants are listed on Table 1.

Table 1: *Applicants; in alphabetical order by last name*
Tim Riche
Rohi Zacharia

Process

Per Council direction, candidates will introduce themselves, explain why they are seeking to fill the District 1 Councilmember seat for the remainder of the term, and respond to questions posed by Council. Public comments will also be invited.

Once presentations, Council questions, and public comment have concluded, Council may proceed with selection process as follows.

1. Deliberations
2. Motion and second to appoint one of the candidates
3. If the motion receives a majority vote, proceed to adopt a Resolution appointing the candidate
4. Should the motion fail to receive a majority vote, Council may entertain another motion and proceed as outlined above. Repeat as necessary until a candidate receives majority vote.

Should the Council be unable to reach a decision, a Resolution calling a special election will need to be adopted. Under Code Section 36512 (b) (1) the earliest a special election can occur is on the next regularly scheduled election date of November 4, 2025. As a result, the District 1 seat would remain vacant for nearly a year.

FINANCIAL IMPACT:

There is no significant fiscal impact associated with filling the vacancy through an appointment, apart from the monthly stipend of $500 and the cost of health benefits, should the appointed Councilmember choose to receive them. Alternatively, the appointee may elect to receive a $450 in-lieu payment in place of health benefits.

In contrast, the estimated cost of holding a special election in November 2025 is projected to range between $35,000 and $40,000.

ATTACHMENTS:

1. Resolution
2. Applications (in alphabetical order by last name):
    a. Tim Riche
    b. Rohi Zacharia

RESOLUTION NO. 24-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA TO FILL THE DISTRICT 1 VACANCY ON THE CITY COUNCIL FOLLOWING AN APPLICATION AND INTERVIEW PROCESS

WHEREAS, as a result of the November 8, 2024, election, Council Member Cece Gallegos was elected Mayor, resulting in a vacancy for the remaining two-year term for her Council seat in District 1; and

WHEREAS, the City of Madera has not enacted an ordinance as contemplated by Government Code Section 36512(c), which states that a city may enact an ordinance that requires that a special election be called immediately or provides that a person appointed to the vacant seat only hold the office until the date of the special election; and

WHEREAS, pursuant to Government Code Section 36512(b), if a vacancy occurs in an elective office, the Council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy; and

WHEREAS, pursuant to Government Code Section 36512, at the regular meeting of December 4, 2024, the newly seated City Council desired to explore the appointment process to fill that vacancy; and

WHEREAS, at that meeting, the Council also nominated candidates, and directed those candidates to file applications with the City Clerk by December 11, 2024; and

WHEREAS, the applications were timely filed by all candidates; and

WHEREAS, the Council reviewed those applications and, at its meeting of December 18, 2024, and the public and each candidate were provided an opportunity to address the Council; and

WHEREAS, the Council has duly considered input received at the meeting; and,

WHEREAS, the Council desires to select one of the applicants to fill the Council term vacated by Mayor Gallegos; and

WHEREAS, such an appointment would not result in a majority of the members serving on the Council having been appointed; and

WHEREAS, the person being appointed meets all of the following qualifications:

- A registered voter of the City (including age requirements).
- A legal residence or domicile within the City and District 1.

- Willingness to be appointed.

; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution and appointment have occurred.

NOW, THEREFORE, the City Council of the City of Madera resolves as follows:

1. The foregoing recitals are true and correct and incorporated herein as if set forth in full.

2. Pursuant to Government Code Section 36512, _____ is hereby appointed to the office of Council Member that was vacated by the election of former incumbent Cece Gallegos to the office of Mayor and shall serve for the unexpired term of that Council office. _____ shall be deemed to have taken that office immediately upon being sworn in on _____ and shall serve exactly as if elected at a municipal election for the office of Council Member.

3. The City Clerk shall notify the Madera County Registrar of Voters of the City Council's action.

4. This resolution is effective immediately upon adoption.

****

COMPENSATION & BENEFITS

Members of the City Council receive a stipend of $500 per month and are eligible for health care benefits.

APPLICATION FOR APPOINTMENT TO THE MADERA CITY COUNCIL

This application is a public record and will be included with the applicable City Council materials and may be posted on the City's website. Thank you for your interest in serving on the City of Madera City Council.

DISTRICT RESIDENCY

Please note that candidates must reside in City Council District 1.

GENERAL INFORMATION

Name: Timothy Riehe

Home Address: [redacted] 93637

Phone No.: [redacted]

Email: [redacted]

Occupation: [redacted] Employer: [redacted]

Number of years lived in Madera: 30

ATTACHMENTS:

In addition to completing this page, please attach:

1. A resume outlining your educational background and professional experience
2. Applicant questionnaire

I hereby certify that all statements made in this application are true and complete. I legally reside in the City of Madera. I am 18 years of age or older. In compliance with State law, I understand that I will be required to file a statement of Economic Interests upon appointment to office and annually thereafter. I understand that my application and materials will be considered a public record and thus will be available for public inspection and copying. The completed applications may also be published on the City's website.

Applicant's Signature

12/11/24
Date

Tim Riche'

ree-shay

[redacted]
[redacted]Madera, CA 93637
Cell: [redacted]

PROFILE

I was born in New Orleans and raised in Ponchatoula, LA until 1996 when I moved to Madera. Madera was home to me while I finished my degree at Fresno State then I moved to Los Angeles. While in Los Angeles, I realized that I enjoyed working with young people and being a positive influence. I am now in my 25th year teaching and I still love coming to work every day. I am married to Christina, the Principal of the new King Husein K 8 School in District 1, father to James, Samantha and Riley. James has autism and is in the Madera County Schools program, Sam is at Madera High and Riley is at Thomas Jefferson.

EXPERIENCE

Teacher - Madera Unified- Madera, CA 2000- Present I have taught five different classes of English, Journalism 1 and ROP/CTE Television Production. I wrote and started a Digital Imagery (photography) class that is now expanded to eight classes on two campuses. I was on the committee for the separation of the two high schools. I have been an advisor for Link Crew, Humanities Academy, Junior and Senior Class, Blue Crew, Safe School Ambassador Program, Foster Student Mentor and Bluetone. Bluetone was a TV show that my ROP television class produced 5 times a year and broadcast at that time via VHS to the entire school. Department Chair multiple years. I was a Golf Coach and Academic Coach for the Coyote football team raising the average GPA from 2.35 to 3.25. For over 10 years I have worked in BTSA as a mentor to new teachers at many levels.

Work Experience As the only teacher providing Work Experience for the last twelve years, I service students from elementary schools through the high schools. My job is to issue Work Permits, validate Entertainment Permits and ensure that the students are working in safe and healthy environments by often visiting those sites. Students that are Junior or Senior students can enroll in Work Experience where they obtain credits for their time on their job and meeting state standards in curriculum. Currently I am the only person certified on the rules and guidelines for work permits in Madera County. I am part of the team that is launching a Graduate Profile program by coordinating dates, securing facilities and arranging interviewers for seniors to present. I manage the website for our Career Technical Education program that is one of the best programs in the state. Inside the department I have the opportunity to work with teachers, students and the community in developing pathways that allow our students success. Example is our World Champion Robotics Team.

Community Involvement I have built relationships and spoken at Lions Club, Key Club, Rotary Club, Morning Rotary, Breakfast Lions, MMA and most recently at the City of Madera Youth Leadership Conference. I was digital media director for the Measure K campaign that had failed three times prior and this time passed with 80 percent of the votes in favor. I am currently part of the Madera Vision 2025 class that is helping develop vision for the city of Madera. I have coached multiple sports in the city and support the city's program for handicapped children. I was a Commissioner for City of Madera ADA counsel. I also have helped put together videos and websites for the SecondWind5k that raised over $100,000 dollars for the Madera Food Bank and Rescue Mission. I am President of the Linkage Foundation that raises tens of thousands of dollars for Madera Unified Students. I am part of the Madera Compact that supports students like my son that attend Madera County Run Schools. Currently I am serving as President of the CAB board for Valley Public Broadcasting System - PBS. The OLIVE Foundation chose me as their

treasurer for the last couple of years as we work to rescue sex trafficked victims. It is my honor to serve on the elder board at Valley West Christian Center where our vision is to bless the city of Madera with God's love. The Madera County Workforce Development Agency has allowed me to be on their board going on four years where we have hired a new director and are developing the programs that will enable a workforce. I am President of the statewide program called CAWEE where we get to mentor new teachers from Chico to San Diego and everywhere in between. The California Work Experience Educators was in disarray and we have now stabilized the organization.

Prior Work

Owner Small Business TimRicheMedia Conulting Produced media and content, helped established branding and helped businesses market themselves internally and externally.

Teacher - Violet Heintz Academy - Caruthers, CA 1999-2000 On the site of Elkhorn Correctional Facility (Boot Camp), I taught an inclusive class of six subjects to Juvenile Violent Felons.

Health Unit Coordinator - Valley Children's Hospital - Fresno, CA 1998-1999 In Craycroft Unit, I managed patient care and operations of the unit.

Videographer KMPH Fox 26 Fresno, CA 1998-1999 Videoed news stories, edited and had them prepared for the nightly broadcast.

Children's Pastor - Valley West Christian Center - Madera, CA 1996-1999 Took over all aspects of organizing services, classes, camps and whatever else the kids were doing. Partnered with United Way and helped develop an after school program for the students in the neighborhood.

Playground Director Lily Street Housing Complex Organized activities for the children at Lily Street and Knox complexes. Was the first job I ever had in Madera and easily the best job I ever had!

Other Pertinent Job Skills Competent on Google Apps, Adobe Photoshop, QuickPermit, Final Cut Pro, Imovie, Livefeed, Word, Powerpoint, Excel and Youtube Codec Streaming, Tik Tok, Facebook Insta Creative Studio

Still know the FFA creed and was a state placer in FFA Public Speaking, Timber Judging and was a Louisiana State Officer at Large

EDUCATION

Graduated 2010 Fresno Pacific University with a Masters in Educational Leadership and Organization as well as have an Administrative Services Credential

Graduated 2005, CSU San Bernardino with my ROP Teaching Credential

Graduated 2003, CSU Fresno with my Multi-Subject Credential from the Cal State Teach Program
Graduated 1997, CSU Fresno with a B.A. in Mass Communication and a minor in English

1. **Please explain why you would like to be appointed to the City Council.**

I would like to be appointed to the Madera City Council because I am deeply committed to the future of this community that has been my home for over 30 years. Madera has given so much to me and my family, and I feel it's time to give back in a meaningful way. I've spent my career teaching, mentoring, and working alongside the incredible people of Madera, and I've seen firsthand the challenges we face as well as the incredible potential we have to grow and thrive.

I've always believed in the power of education and community engagement, and my work in the schools and with local organizations has shown me how vital it is to have strong leadership that listens to the needs of its residents. Whether it's creating pathways to success for our youth through Career Technical Education, advocating for vulnerable populations, or ensuring that Madera's growth benefits all its residents, I want to be part of the decision-making process that shapes our city's future.

As a father, educator, and active community member, I've had the privilege of working with a wide range of people—from local businesses to school leaders to nonprofit organizations—and I've learned that collaboration and a long-term vision are key to solving the challenges we face. Serving on the City Council would allow me to bring that spirit of cooperation and problem-solving to the table. I'm passionate about creating a Madera where families can thrive, where local businesses grow, and where our youth have the tools and opportunities they need to succeed.

I also believe it's essential to be a voice for everyone in our community, especially the underserved. Whether it's advocating for more resources for our students, supporting programs for individuals with disabilities, or working on issues like affordable housing and job creation, I want to ensure that all residents—regardless of their background—feel heard and supported.

Ultimately, I'm driven by a simple goal: to make Madera a better place for everyone who lives here. I have the experience, the relationships, and the commitment to do that. Serving on the City Council would give me the platform to turn my vision for Madera into action and contribute to a brighter, more inclusive future for our city.

2. What qualifies you to serve on the City Council?

1. Commitment to Education and Workforce Development

- **25 years of experience as an educator**: Your long-standing career in teaching, including working in leadership roles like Department Chair and mentoring new teachers, showcases your dedication to education and community development.
- **Innovative in developing career pathways**: You've created and expanded curriculum programs, like the Digital Imagery class and the Work Experience program, which help students build skills for future careers.
- **Involvement in Madera's Career Technical Education (CTE) programs**: Your hands-on experience working with Madera Unified's top-ranked CTE program and helping students gain practical, job-ready skills aligns with the city's need for workforce development.

2. Leadership Experience

- **Leadership roles in community organizations**: Serving as president of multiple local and statewide organizations (e.g., Linkage Foundation, CAWEE, Madera Compact), you've demonstrated your ability to lead and collaborate with a wide range of stakeholders to achieve common goals.
- **Workforce development leadership**: Your four years of experience with the Madera County Workforce Development Agency and your role on its board show your commitment to growing Madera's workforce and improving local employment opportunities.
- **Organizational stabilization and growth**: As president of CAWEE, you successfully helped stabilize the organization, highlighting your ability to manage challenges and lead initiatives to success.

3. Community Engagement and Service

- **Active community volunteer**: Your involvement in organizations like the Lions Club, Rotary, Madera Vision 2025, and Valley Public Broadcasting System demonstrates your commitment to civic engagement and improving Madera.
- **Passion for supporting underserved communities**: Your work with programs like the SecondWind5k (benefiting the Madera Food Bank), the OLIVE Foundation (rescuing sex-trafficked victims), and the Madera City ADA Council shows your passion for social justice and helping vulnerable populations.

- **Youth mentorship and support**: Through roles like Link Crew advisor, Blue Crew, Safe School Ambassador, and mentoring foster youth, you have a proven track record of advocating for and working directly with Madera's youth, an essential focus for city leadership.

4. Commitment to Madera's Growth and Future

- **Role in Measure K campaign**: Your leadership in the successful Measure K campaign, where you helped pass the measure with 80% approval, shows your ability to rally support for important city initiatives.
- **Vision for Madera's development**: As a participant in Madera Vision 2025, you have contributed to shaping the city's long-term growth strategies, demonstrating your forward-thinking approach to urban planning and development.
- **Deep connection to Madera**: Your personal and professional ties to Madera (having taught in the district for over 20 years, raising a family here, and engaging in city initiatives) give you a unique, long-term perspective on the needs of the community.

5. Skills in Communication and Media

- **Media and digital communication expertise**: Your background in media (e.g., video production, digital media direction for Measure K, managing CTE websites) equips you with the skills needed for effective public communication and outreach, essential for engaging with the community as a City Council member.
- **Social media and digital engagement**: Your proficiency with platforms like TikTok, Instagram, and YouTube, combined with your experience creating digital content, will be a great asset in reaching younger constituents and promoting transparency through digital channels.

6. Fiscal Responsibility and Organizational Development

- **Fundraising and resource development**: Your work with the Linkage Foundation, Madera Unified, and other nonprofits demonstrates your ability to raise significant funds and mobilize resources for community initiatives.
- **Experience with budgets and financial oversight**: As treasurer for the OLIVE Foundation and as president of the Linkage Foundation, you have practical experience managing finances and ensuring accountability in nonprofit and community-based organizations.

7. Knowledge of Local and State Government

- **Experience with local government and advocacy**: Your work as a commissioner for the City of Madera ADA council and participation in various civic initiatives shows your knowledge of local governance and your ability to advocate for the needs of the community.
- **Experience with education policy**: Your background in education policy (including working with the Madera Unified school board and helping develop the Graduate Profile program) positions you as a knowledgeable advocate for public education, a key area of focus for city development.

8. Proven Track Record of Collaborative Leadership

- **Collaboration across sectors**: Your extensive work across education, business, government, and non-profit sectors demonstrates your ability to bring together diverse groups and work collaboratively to solve complex issues.
- **Engagement with key community stakeholders**: Your relationships with local organizations, businesses, and government entities (such as the Madera County Workforce Development Agency and Valley West Christian Center) show that you are well-connected and respected in the community.

In summary:

Your qualifications for serving on the Madera City Council are compelling due to your deep-rooted connection to the city, leadership experience, dedication to education and community service, and ability to advocate for sustainable growth and development. You have demonstrated a capacity for making informed decisions, collaborating with diverse stakeholders, and driving positive change in Madera, making you well-suited to contribute to the city's future success on the City Council.

3. What are the greatest opportunities for the City from your perspective?

Madera is a city positioned for significant growth, with a wealth of opportunities that can lead to a successful and sustainable future. Its strategic location, agricultural base, and evolving demographics provide a strong foundation for future development. To ensure that Madera grows in a way that benefits all of its residents and creates lasting economic and social impact, the city can focus on several key areas of opportunity. Here are the greatest opportunities for Madera in terms of growth and long-term success:

1. Economic Diversification and Job Creation

- **Manufacturing & Logistics**: Madera is strategically located near major transportation corridors (like Highway 99 and rail lines), making it ideal for attracting manufacturing and distribution companies. The growth of e-commerce, along with Madera's proximity to larger cities like Fresno and the Bay Area, positions the city to become a hub for logistics and warehousing. This could create jobs in both high-skill and entry-level positions, benefiting the local economy.
- **Agri-Tech and Innovation**: Agriculture remains a cornerstone of Madera's economy, but the future lies in transforming this sector through technology and innovation. The rise of agri-tech solutions—such as precision farming, water-efficient technologies, and sustainable farming practices—provides an opportunity for Madera to lead in the development and adoption of these innovations. Attracting agri-tech startups and research initiatives could diversify the local economy and create high-tech jobs.
- **Renewable Energy & Green Jobs**: With abundant sunshine, Madera has significant potential for expanding its renewable energy sector, particularly solar power. By investing in clean energy projects, Madera could create green jobs, attract new businesses in the energy sector, and potentially serve as a model for sustainability in the Central Valley.

2. Housing Development and Urban Growth

- **Affordable Housing Expansion**: Like many California cities, Madera faces a housing shortage. However, this also represents a major opportunity for growth. The city can work to create more affordable housing options, including mixed-use

developments that combine residential, retail, and public spaces. Expanding affordable housing will support the growing population, reduce pressure on housing prices, and provide opportunities for new residents to settle in the area.

- **Revitalization of Downtown**: Madera's downtown area has the potential to be transformed into a vibrant, mixed-use district that attracts residents, businesses, and tourists. With the right investment in infrastructure, the downtown area could become a hub for retail, dining, cultural activities, and residential development. A revitalized downtown would boost the local economy, enhance the city's identity, and improve quality of life for residents.
- **Smart Growth and Infrastructure Planning**: As the city expands, it's important to focus on "smart growth" principles, ensuring that infrastructure—such as transportation, utilities, and public services—keeps pace with development. This includes focusing on sustainable land use, integrating green spaces, and ensuring that new developments are well-connected to transportation networks and other key amenities.

3. Tourism and Economic Development

- **Gateway to Yosemite and Outdoor Recreation**: Madera is located just south of Yosemite National Park, making it an ideal base for tourists heading to the park. The city can capitalize on its proximity by expanding tourism-related businesses, including hotels, restaurants, outdoor recreation companies, and visitor services. Madera could also develop recreational parks, trails, and nature reserves to enhance local tourism and attract visitors year-round.
- **Cultural Tourism and Heritage Preservation**: Madera's rich agricultural history, cultural diversity, and proximity to historic landmarks provide opportunities to build a vibrant cultural tourism sector. Festivals, events, and community activities that highlight Madera's unique cultural assets—such as music, arts, food, and local history—could attract visitors from around the region, the state, and beyond.

4. Education and Workforce Development

- **Partnerships with Educational Institutions**: Madera can leverage its position in the Central Valley by working with local universities, community colleges, and vocational schools to provide workforce training, technical education, and research opportunities. Strengthening partnerships with institutions like California State University, Fresno, and Merced College could help align Madera's workforce with the needs of emerging industries like advanced manufacturing, tech, renewable energy, and agri-tech.
- **Building a Skilled Workforce**: As Madera diversifies its economy, developing a skilled, adaptable workforce will be crucial. This includes offering job training in

high-demand fields such as health care, information technology, construction, and renewable energy. Ensuring that young people and adults alike have access to these opportunities will be essential for long-term economic growth.

5. Sustainability and Environmental Stewardship

- **Water Management and Conservation**: Water is a precious resource in California, and Madera, being part of the agricultural heartland, is particularly impacted by water management issues. Investing in water-efficient technologies and promoting sustainable water practices for both agriculture and urban development will be critical for the city's growth. Madera could become a leader in water conservation techniques and policies, which would help secure its future as a viable place for both farming and urban living.
- **Green Infrastructure and Smart City Solutions**: Madera can take steps toward becoming a more sustainable city by embracing green infrastructure, such as stormwater management systems, energy-efficient buildings, and urban green spaces. Additionally, adopting smart city technologies—such as sensors to optimize traffic flow, energy use, and waste management—can improve the city's efficiency and livability while reducing its environmental footprint.

6. Public Safety and Quality of Life

- **Community Policing and Crime Prevention**: As Madera grows, ensuring public safety is a top priority. Emphasizing community policing, crime prevention programs, and youth engagement initiatives could help reduce crime and create safer, more connected neighborhoods. Proactively investing in public safety measures will contribute to the overall quality of life and attract families and businesses to the area.
- **Health and Wellness Initiatives**: Expanding access to healthcare services, mental health resources, and public health campaigns would help ensure that Madera's growth is accompanied by an improved quality of life. Promoting wellness programs and community centers that offer recreational activities and social services could further enhance Madera's appeal as a family-friendly, healthy place to live.

7. Regional Collaboration

- **Building Regional Partnerships**: As a city within the Central Valley, Madera stands to benefit from regional collaboration with neighboring cities, counties, and regional organizations. Working together on regional transportation projects, economic development, environmental issues, and public services can help Madera punch above its weight and gain access to additional resources. For

instance, collaborating on transportation infrastructure projects could reduce congestion and improve regional connectivity, benefiting both Madera and its neighbors.

- **Attracting Regional Investments**: Madera could take a proactive role in attracting regional, state, and federal investments, particularly in areas like transportation, housing, and public infrastructure. By positioning itself as a city of opportunity for investment, Madera could secure funding for key projects that drive long-term growth and prosperity.

8. Technology and Innovation

- **Tech Hubs and Startups**: The growth of technology industries across California presents an opportunity for Madera to build a tech-friendly ecosystem. This could include incubators for startups, co-working spaces, and collaborations with universities to create a thriving tech scene. Madera's relatively low cost of living compared to coastal cities could make it an attractive location for entrepreneurs and tech companies looking for more affordable bases of operations.
- **Smart Agriculture Technologies**: Given the city's agricultural roots, Madera has the potential to become a leader in smart farming technologies. By fostering innovation in this sector, Madera could attract investment from companies focused on developing and scaling agri-tech solutions, further diversifying its economy and creating high-tech jobs.

Conclusion

For Madera to achieve growth and success in the coming years, it must leverage its unique position in the Central Valley while embracing diversification, sustainability, and innovation. Key areas such as economic diversification, smart urban development, renewable energy, workforce development, and cultural tourism present significant opportunities for long-term prosperity. By prioritizing these areas and investing in infrastructure, education, and community well-being, Madera can shape a successful future that enhances the quality of life for all its residents.

4. What other information do you think is relevant to your application?

These include personal qualities, leadership experiences, and specific examples that highlight your suitability for a role that requires collaboration, problem-solving, and a deep understanding of the community's needs. Below are some additional points that are relevant for the City Council board to know:

1. Long-Term Commitment to Madera and Its Residents

- **Deep roots in Madera**: Having lived in Madera for over two decades and raised a family here, you have a genuine understanding of the community's needs and priorities. Your connection to Madera is not just professional, but personal. This long-term perspective ensures that decisions you make will prioritize the city's well-being for future generations.
- **Dedication to Madera Unified School District**: Your ongoing involvement in Madera Unified, including teaching for over 20 years and your leadership roles in education, speaks to your long-standing commitment to the city's youth and their futures. Serving as a mentor to new teachers and supporting the district through various initiatives demonstrates a commitment to improving Madera's educational landscape—a cornerstone of any thriving city.

2. Proven Experience in Stakeholder Engagement and Collaboration

- **Effective collaboration with diverse community groups**: You have worked with a wide array of organizations and community groups (e.g., Lions Club, Rotary Club, Madera Vision 2025, Measure K campaign). This broad range of collaboration proves you understand the importance of engaging different community stakeholders in the decision-making process and building consensus around key issues.
- **Community leader with a focus on service**: Your consistent involvement in leadership roles, including as president of the Linkage Foundation, as well as your work with the Madera County Workforce Development Agency, show you are an advocate for both the city's future and the people in it. You can unify disparate groups to work toward a common vision, an essential trait for any elected official.

3. Passion for Social Justice and Equity

- **Work supporting vulnerable populations**: Your service with the OLIVE Foundation (rescuing sex-trafficked victims), your involvement in the Madera ADA Council, and your work with the Madera Food Bank and Rescue Mission highlight your strong commitment to social justice, equity, and improving the lives of Madera's most vulnerable residents. This focus on inclusivity and equality is crucial in government and ensures that decisions will be made with the interests of all citizens in mind.
- **Commitment to youth and at-risk populations**: Your work mentoring foster youth, creating programs for young people, and leading initiatives such as the Safe School Ambassador Program underscores your dedication to empowering the next generation. These efforts show you prioritize the well-being of Madera's youth, who will shape the city's future.

4. Practical Problem-Solving Skills and Results

- **Successful implementation of Measure K campaign**: As the digital media director for the Measure K campaign, you played a key role in turning a measure that had failed three times into one that passed with 80% approval. This achievement demonstrates your ability to strategize, communicate effectively, and unite the community around important initiatives. It also highlights your understanding of local politics and how to get things done within the framework of city governance.
- **Work Experience and Job Placement**: Your leadership in running the Work Experience program for Madera Unified, particularly with students and employers, shows that you are adept at identifying and implementing solutions to real-world challenges. Your direct work with local businesses to ensure safe work environments and your management of work permits demonstrate a hands-on approach to addressing the needs of Madera's workforce.

5. Data-Driven Decision Making and Organizational Management

- **Managing complex programs and budgets**: Your experience managing programs such as Work Experience, the Career Technical Education program, and fundraising for the Linkage Foundation highlights your ability to manage budgets, resources, and staff effectively. You have the skills to balance financial oversight with program development, ensuring efficient use of city funds and resources.
- **Proven record in organizational development**: From stabilizing the California Work Experience Educators (CAWEE) association to managing the career-focused programs in Madera Unified, you have a track record of building and sustaining successful organizations. You know how to create systems,

evaluate their success, and continuously improve operations—skills that are critical for managing a city's budget and programs.

6. Strong Communication and Public Relations Skills

- **Media expertise**: With your background in digital media and video production, you bring a unique set of skills that can help the City Council engage effectively with residents through social media, online platforms, and public outreach campaigns. In today's digital age, transparent communication with the public is more important than ever, and your ability to manage websites, create digital content, and leverage social media tools will be an asset for the city.
- **Public speaking and advocacy**: You've demonstrated your comfort in speaking to diverse groups—from Lions Clubs to the Madera City Youth Leadership Conference to educational stakeholders. Your ability to communicate clearly, advocate for causes you believe in, and inspire others will help ensure that the voices of the community are heard at City Council meetings.

7. Focus on Economic Development and Workforce Empowerment

- **Understanding of Madera's workforce needs**: Your work with the Madera County Workforce Development Agency and Madera Unified's CTE programs shows that you are focused on creating pathways to employment and empowering residents with the skills they need for the future. This focus on job creation, workforce readiness, and career pathways will be essential in shaping Madera's economic future.
- **Support for local businesses and entrepreneurship**: Through your small business, TimRicheMedia Consulting, you helped businesses with branding and marketing. This background gives you an understanding of the challenges and opportunities facing local businesses. You can bring this perspective to the City Council to support Madera's economic growth by fostering entrepreneurship, attracting new businesses, and supporting small businesses.

8. Strong Ethical Foundation and Integrity

- **Personal values and community-focused leadership**: Your involvement in the church and various nonprofit organizations shows a strong ethical foundation based on service and integrity. As President of the CAB board for Valley Public Broadcasting System and as an elder at Valley West Christian Center, your values align with public service and community-focused leadership. These roles reinforce your commitment to serving the public good, advocating for fairness, and upholding the city's values.

9. Willingness to Lead and Evolve

- **Adaptive leadership and continued professional development**: Your career trajectory shows a willingness to learn, adapt, and grow. From working as a Health Unit Coordinator to becoming an educator and community leader, you've continually taken on new challenges and expanded your skill set. You earned a Master's degree in Educational Leadership and Organizational Development, highlighting your commitment to professional growth—an important trait for effective leadership in local government.

Conclusion:

Tim Riche' stands out as a highly qualified and committed candidate for Madera City Council due to his extensive experience in education, workforce development, community service, leadership, and organizational management. His long-standing connection to Madera, hands-on involvement in local initiatives, and proven success in engaging with diverse stakeholders all make him an ideal representative for the city. His practical problem-solving skills, ability to communicate effectively, and dedication to serving the community further enhance his qualifications. Tim Riche' not only has the experience and passion needed for public service, but he also possesses the vision and commitment to make Madera an even better place for future generations.

COMPENSATION & BENEFITS

Members of the City Council receive a stipend of $500 per month and are eligible for health care benefits.

APPLICATION FOR APPOINTMENT TO THE MADERA CITY COUNCIL

This application is a public record and will be included with the applicable City Council materials and may be posted on the City's website. Thank you for your interest in serving on the City of Madera City Council.

DISTRICT RESIDENCY

Please note that candidates must reside in City Council District 1.

GENERAL INFORMATION

Name: Rohi Zacharia

Home Address: [redacted] Madera, Ca 93637

Phone No.: [redacted]

Email: [redacted]

Occupation: [redacted] Employer: [redacted]

Number of years lived in Madera: 38

ATTACHMENTS:

In addition to completing this page, please attach:

1. A resume outlining your educational background and professional experience
2. Applicant questionnaire

I hereby certify that all statements made in this application are true and complete. I legally reside in the City of Madera. I am 18 years of age or older. In compliance with State law, I understand that I will be required to file a statement of Economic Interests upon appointment to office and annually thereafter. I understand that my application and materials will be considered a public record and thus will be available for public inspection and copying. The completed applications may also be published on the City's website.

Applicant's Signature

12-11-2024
Date

ROHI ZACHARIA

CONTACT

PHONE:

WEBSITE:

EMAIL:

EDUCATION

California State University, Fresno
2000 - 2006
Bachelors in Computer Science

Crisis Prevention Institute
2009
Non-Violent Crisis Intervention Instructor

Fresno Pacific University
2012 - 2014
Designated Subject Education program

Fresno City College
2024
Post Certified Firearms Instructor

PROFESSIONAL EXPERIENCE

Zaks Security One HR Manager
2005–Present

Teacher ROP Computer Networking and Repair
2012–2014

NRA Firearms Training NRA Certified Law Enforcement Firearms Instructor
2015–Present

City of Madera Planning Commissioner
2021 - Present

Rohi Zacharia
[redacted]
Madera, Ca 93637

Applicant Questionnaire

1. Please explain why you would like to be appointed to the City Council.

The City Council position has the ability to shape and move our great city forward and also decide into which direction. As an applicant I have dedicated my life to helping improve our city through public outreach as well as my service on the Planning Commission. I firmly believe this opportunity allows me a chance to bring my skillset to help continue the work this council has done collectively. I fully understand that only through a united council can we do the service we need to continue growing our community.

2. What qualifies you to serve on the City Council?

I began my civic duties serving for our city on the Beautification Committee, allowing to experience the process of city government and how its laws and governing power work. Later I was appointed to the Planning Commission for which I have been serving for almost 3 years, working with city staff, in a capacity similar to that of the city council. For the last 20 years of my life, I have worked in a professional setting as a manager for a mid-sized company employing around 40 people, as well as running my own business which has grown dramatically in the last 12 years of operation. I believe these two additional assets give me insight into fiscal responsibility, personnel management, and negotiation matters.

3. What are the greatest opportunities for the City from your perspective?

I believe our city is prime for a lot great business opportunities as well as residential growth. Madera has many projects, like the new casino, as well as the revamping of the downtown district that will shape how our city will grow. In addition to this, our city is set to expand dramatically with the approval of Village D to the west. I believe it is important during this time to have a unified council so that these projects, as well as any new projects move forward with consideration for all residents and in a timely manner.

4. What other information do you think is relevant to your application?

Beyond my experience with serving our city, I have been serving this community in any way possible to make this the greatest place to live. From a young age I was taught the importance of civil service and how giving of ourselves is what makes the biggest changes. This appointment is no different, it will require a lot of work and time for which I am prepared to dedicate myself to. I do this knowing that the results will be lasting even if not recognized fully by our community.

REPORT TO CITY COUNCIL

Approved by:

Arnoldo Rodriguez, City Manager

Council Meeting of: December18, 2024

Agenda Number: E-1

SUBJECT:

Informational Report on attendance of City Board, Commission, Committee members

RECOMMENDATION:

Staff recommends that the City Council receive and review this report as an informational item.

SUMMARY:

This report offers an overview of attendance by appointed members to City boards, commissions, and committees. The purpose is to promote transparency and provide the City Council with insight into participation levels of their appointees. A attendance list for each entity, along with calculated percentages is included.

BACKGROUND:

The City Council appoints individuals to serve on various boards, commissions, and committees to represent the community and provide input on key policies and programs. Regular attendance is crucial for these entities to effectively conduct business and achieve their objectives. Monitoring attendance ensures accountability and informs the Council about member engagement levels. This report is intended to provide attendance information for the various appointees for active commissions.

DISCUSSION:

The 2024 Annual Local Appointments List is attached, which displays a list of appointees, date of appointment, date the term expires, and the necessary qualifications for the position. For the purposes of this report, the Local Appointments List serves as a reference to identify appointees, their nominating district, and any existing vacancies.

Attendance records have been compiled for the following boards, commissions, and committees, sans those commissions that are considered “inactive”:

- Civil Service Commission
- Americans with Disability Act Advisory Council (ADA)
- Planning Commission
- Airport Advisory Commission
- Community Development Block Grant (CDBG) Commission
- Golf Course Advisory Committee
- Transit Advisory Board

Inactive Commissions:

- Youth Commission
- Beautification Committee
- Loan Review Committee

Civil Service Commission:

Council	Commissioner	2/6/24	3/5/24	4/2/24	5/7/24	6/4/24	7/2/24	8/6/24	9/3/24	10/8/24	11/5/24	12/3/2024	Att. Rate
Mayor	**Dennis Smith**	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent	Yes	Yes	Yes	91%
District 1	**Nick Salinas**	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Yes	Absent	Yes	Yes	81 %
District 2	**Celeste Voyles**	Yes	Yes	Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes	81%
District 3	**Said Mohammad**	Absent	Yes	Absent	Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	73%
District 4	**Shawn Griffin**	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	100%
District 5	**Vacant**	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
District 6	**Vacant**	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Note: The following 2024 monthly meeting was canceled: January.

ADA Advisory Council

Council	Advisor	1/16/2024	2/20/2024	5/21/2024	6/18/2024	9/17/2024	Att. Rate
Mayor	**DJ Becker**	Yes	Yes	Yes	Yes	Yes	100%
District 1	**Jack Porter**	Yes	Absent	Zoom	Yes	Absent	60%
District 2	**Cynthia Ortegon**	Yes	Yes	Yes	Yes	Yes	100%
District 3	**Said Mohammad**	Yes	Yes	Yes	Absent	Yes	73%
District 4	**Vacant**	N/A	N/A	N/A	N/A	N/A	N/A
District 5	**Gladys Marroquin**	Absent	Absent	Absent	Absent	Yes	20%
District 6	**Diana Robbins**	Yes	Yes	Yes	Yes	Yes	100%

Note: The following 2024 monthly meetings were canceled: March, April, July, August, October, November, and December.

Planning Commission

Council	Commissioner	1/9/24	2/13/24	3/12/24	4/9/24	4/30/24	5/14/24	6/11/24	8/13/24	9/10/24	10/8/24	11/12/24	Att. Rate
Mayor	**Bobby Sheikh**	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent	Yes	Yes	92%
District 1	**Robert Gran Jr.**	Yes	Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Yes	Yes	92%
District 2	**Rohi Zacharia**	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	100%
District 3	**Saim Mohammad**	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	100%
District 4	**Balwinder Singh**	Yes	Yes	Yes	Absent	Yes	Absent	Absent	Yes	Yes	Yes	Yes	75%
District 5	**Jose Chavez**	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent	Yes	Absent	83%
District 6	**Ramon Lopez**	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Absent	Yes	92%

Note: The following 2024 monthly meetings were canceled: July.

Airport Advisory Board

Council	Commissioner	10/8/2024	7/9/2024	4/9/2024	4/11/2023	5/10/2022	1/11/2022	10/22/2021	7/30/2021	Att. Rate
Mayor	**Jerry Holiday**	Yes	Yes	Yes	Absent	Absent	Absent	Yes	Yes	63%
District 1	**Issa Zacharia**	Absent	Yes	Absent	Absent	Absent	Yes	Yes	Yes	50%
District 2	**Johanna Torres**	Absent	Absent	Yes	Yes	Yes	Absent	Yes	Yes	63%
District 3	**Stanley Mackey**	Absent	Absent	Absent	Absent	Absent	Yes	Yes	Absent	25%
District 4	**Felipe Grimaldo Jimenez**	Absent	Absent	Absent	Absent	Yes	Yes	Absent	Yes	38%
District 5	**Ramon Lopez-Maciel**	Absent	Yes	Yes	Yes	Yes	Yes	Yes	Yes	88%
District 6	**Miguel Gonzalez**	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	0%

Note: The Airport Advisory Committee has been unable to establish a quorum since January 2022.

CDBG Block Grant Commission

Council	Commissioner	10/9/24	3/21/24	2/6/24	1/17/24	12/18/23	10/17/23	7/18/23	3/21/23	1/17/23	10/17/2022	6/8/22	Att. Rate
Mayor	Gabriela Gonzalez-Gutierrez	Absent	Absent	Absent	Yes	Yes	Absent	Absent	Absent	Absent	Absent	Absent	15%
District 1	Candy Talley	Yes	Yes	Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Yes	92%
District 2	Alyssia Arredondo	Yes	Yes	Absent	Absent	Absent	Absent	Yes	Yes	Yes	Yes	Yes	69%
District 3	Stephanie Nathan	Absent	Yes	Yes	Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	77%
District 4	Dj Becker	Yes	Yes	Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Yes	92%
District 5	Olga P Garcia	Yes	Absent	Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Yes	85%
District 6	Dulce Arredondo	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	Absent	8%

Golf Course Advisory Committee

Commissioner	10/21/24	9/23/24	8/19/24	6/17/24	5/20/24	4/22/24	1/22/24	12/18/23	11/13/23	10/16/2023	9/18/23	8/21/23	Att. Rate
Joseph Hebert	Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Absent	Yes	Yes	Yes	75%
Jose Rodriguez	Absent	Yes	Yes	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Absent	Yes	75%
Dan Bacci	Yes	Yes	Absent	Yes	Yes	Yes	Yes	Absent	Yes	Yes	Yes	Yes	83%
Chito Romero	Absent	Absent	Yes	Absent	Absent	Yes	Absent	Yes	Absent	Yes	Absent	Yes	42%
Lisa Gill	Yes	Absent	Yes	Yes	Yes	Yes	Yes	Absent	Yes	Yes	Yes	Yes	83%
Ed McIntyre	Absent	Absent	Yes	Absent	Yes	Absent	Absent	Yes	Yes	Yes	Yes	Yes	58%
Karla Gran	Yes	Yes	Absent	Yes	Absent	Yes	Absent	Yes	Yes	Absent	Yes	Yes	67%

Note: The following 2024 monthly meetings were canceled: February and March.

Transit Advisory Board

Council	Commissioner	8/27/24	4/16/24	1/23/24	7/25/23	3/28/23	1/24/23	8/3/22	5/24/22	1/27/22	Att. Rate
Mayor	Cynthia Ortegon	Yes	Yes	Yes	Yes	Zoom	Yes	Yes	Yes	Yes	89%
District 1	Andrew Albonico	Yes	Yes	Yes	Absent	Zoom	Yes	Yes	Yes	Yes	78%
District 2	Vacant	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
District 3	Marie Luna	Yes	Yes	Absent	Absent	Absent	Absent	Absent	Absent	Absent	22%
District 4	Patricia Carreon	Absent	Absent	Yes	Yes	Yes	Absent	Absent	Yes	Yes	56%
District 5	Otilia Morales	Yes	Yes	Absent	Absent	Zoom	Yes	Absent	Absent	Absent	33%
District 6	Vacant	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

FINANCIAL IMPACT:

There is no financial impact associated with this report, apart from the staff time required to prepare it. Members of the various City boards, commissions, and committees serve on a voluntary basis and are not compensated for their contributions.

ALTERNATIVES:

None as this item is for informational purposes only.

ATTACHMENTS:

1. 2024 Local Appointments List

LOCAL APPOINTMENT LIST

(Pursuant to California Government Code Section 54972)

On or before December 31 of each year, each legislative body shall prepare an appointments list of all regular and ongoing boards, commissions, and committees which are appointed by the legislative body of the local agency. This list shall be known as the Local Appointments List. The list shall contain the following information: (a) A list of all appointive terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position, (b) A list of all boards, commissions, and committees whose members serve at the pleasure of the legislative body, and the necessary qualifications for each position.

The City of Madera encourages residents to apply for service on City Boards, Commissions and Committees that are currently vacant or that will have vacancies. To obtain an application or request additional information, please contact the City of Madera, Office of the City Clerk at (559) 661-5405; by visiting the City Clerk Department page at www.madera.gov; or by email at agonzales@madera.gov.

	District	*Committee Member*	*Date Appointed*	*Term Expires*
Americans with Disabilities Act (ADA) Advisory Council	Mayor	DJ Becker	05/04/22	12/01/24
	District 1	Jack Porter	08/24/22	12/01/26
	District 2	Cynthia Ortegon	01/16/19	12/01/24
	District 3	Saim Mohammad	05/04/22	12/01/26
	District 4	**Vacant**	--	12/01/24
	District 5	Gladys Marroquin	08/24/22	12/01/26
	District 6	Diana Robbins	01/06/21	12/01/24
Airport Advisory Commission	Mayor	Miguel Gonzalez	09/01/21	12/01/24
	District 1	Jerry Holiday	03/20/19	12/01/26
	District 2	Issa Zacharia	05/16/18	12/01/24
	District 3	Johanna Torres	05/19/21	12/01/26
	District 4	Stanley Mackey	05/19/21	12/01/24
	District 5	**Vacant**	----	12/01/26
	District 6	Ramon Lopez-Maciel	01/06/21	12/01/24
Beautification Committee	Mayor	Miguel Gonzalez	02/03/21	12/01/24
	District 1	Karen Huerta	02/07/18	12/01/26
	District 2	Rohi Zacharia	02/15/17	12/01/24
	District 3	Debra M. Basila	03/17/21	12/01/26
	District 4	Robert Gonzalez	05/19/21	12/01/24
	District 5	Agapita Rocha	01/16/19	12/01/26
	District 6	Cynthia Moreno-Procopio	03/17/21	12/01/24
Civil Service Commission	Mayor	Dennis Smith	10/05/22	12/01/24
	District 1	Nick Salinas	02/02/22	12/01/26
	District 2	Celeste Voyles	02/02/22	12/01/24
	District 3	Saim Mohammad	02/02/22	12/01/26
	District 4	Shawn Griffin	01/17/24	12/01/24
	District 5	**Vacant**	----	12/01/26
	District 6	**Vacant**	----	12/01/24

LOCAL APPOINTMENT LIST
(Pursuant to California Government Code Section 54972)

	District	*Committee Member*	*Date Appointed*	*Term Expires*
CDBG Block Grant Commission	Mayor	Gabriela Gonzalez-Gutierrez	02/17/21	12/01/24
	District 1	Candace Talley	03/01/17	12/01/26
	District 2	Alyssia Arredondo	03/01/17	12/01/24
	District 3	Stephanie Nathan	03/18/20	12/01/26
	District 4	DJ Becker	01/20/21	12/01/24
	District 5	Olga P. Garcia	01/16/19	12/01/26
	District 6	Dulce Arredondo	03/03/21	12/01/24
Golf Course Advisory Committee	Varies. Includes At-Large Appointments by Type and Appointments by Category	Jose Rodriguez (Councilmember)	09/06/23	12/01/24
		Joseph Hebert (Parks Director)	09/06/23	Continual
		Dan Bacci (SGM Rep.)	09/06/23	Continual
		Karla Gran (Service Organization Rep.)	09/06/23	09/06/25
		Chito Romero (Golfer/At-Large Community Member)	09/06/23	09/06/25
		Lisa Gill (Food and Beverage Rep.)	09/06/23	Continual
		Edward McIntyre (Non-Golfer/At-Large Community Member)	09/06/23	09/06/25
Loan Review Committee	At-Large Appointment	Elvin Martin	03/1/06	N/A
		John Molina	03/1/06	N/A
		Vacant	----	N/A
		Matilda Villafan	02/20/19	N/A
		Johanna Torres	09/21/22	N/A
Planning Commission	Mayor	Khubaib Seikh	01/20/21	12/01/24
	District 1	Robert Gran Jr.	01/16/19	12/01/26
	District 2	Rohi Zacharia	01/06/21	12/01/24
	District 3	Saim Mohammad	05/04/22	12/01/26
	District 4	Balwinder Singh	06/02/21	12/01/24
	District 5	Jose Eduardo Chavez	05/04/22	12/01/26
	District 6	Ramon Lopez-Maciel	01/06/21	12/01/24
Transit Advisory Board	Mayor	Cynthia Ortegon	05/19/21	12/01/24
	District 1	Andrew Albonico	09/02/20	12/01/26
	District 2	**Vacant**	----	12/01/24
	District 3	Marie Luna	02/20/19	12/01/26
	District 4	Patricia Carreon	09/15/21	12/01/24
	District 5	Otilia Morales	02/20/19	12/01/26
	District 6	**Vacant**	----	12/01/24
Youth Commission	Mayor	**Vacant**	----	----
	District 1	**Vacant**	----	----

	District 2	**Vacant**	----	----
	District 3	**Vacant**	----	----
	District 4	**Vacant**	----	----
	District 5	**Vacant**	----	----
	District 6	**Vacant**	----	----

LOCAL APPOINTMENT LIST

(Pursuant to California Government Code Section 54972)

GENERAL DESCRIPTION OF BOARDS / COMMITTEES / COMMISSIONS

ADA ADVISORY COUNCIL: Four-year term. The ADA Council is composed of seven members. Appointees shall be residents of the City of Madera. Regular meetings are held the third Tuesday of each month at 3:30 p.m. Each member of the City Council makes a nomination to be considered for appointment by the Mayor.

Responsibilities: Serves in an advisory capacity to the City Council and staff on ADA matters including: promote pedestrian safety and access to all public streets; ensure that all public buildings and facilities, services, programs and activities are in compliance with ADA regulations; promote inclusion of the disabled community in the City's emergency and disaster preparedness plans; develop disability awareness and educational outreach programs; work with the various City of Madera departments to ensure that all public buildings and facilities, remodeled and newly constructed are in compliance with current laws guaranteeing access for all people with disabilities; promote affordable and accessible housing in the community; make recommendations regarding unmet transit needs; and ensure grievance procedures are followed and enforced as described in the ADA bylaws.

AIRPORT ADVISORY COMMISSION: Four-year term. The Commission is composed of seven members. Appointees shall be residents of Madera County, and at least four members shall reside within the City. The commission meets at least quarterly at a date and time selected by the Commission. Each member of the City Council makes a nomination to be considered for appointment by the Mayor.

Responsibilities: Oversee, review, and make recommendations regarding the airport's annual budget for operational and capital improvement purposes, Airport operations and services, master planning and land use.

BEAUTIFICATION COMMITTEE: Four–year term. The Committee is composed of seven members. Appointees shall be residents of the City of Madera. Regular meetings of the Committee are held every second Thursday of the month at 5:30 p.m. Each member of the City Council makes a nomination to be considered for appointment by the Mayor.

Responsibilities: Serves in an advisory capacity to the City Council and staff on community beautification matters including: develop and formulate programs and projects to enhance the aesthetic appearance of the community; develop an ordinance which will establish landscape standards for new development projects; develop and recommend practices and policies which will enhance and upgrade existing properties; and coordinate periodic community clean up campaigns and encourage public participation therein.

CIVIL SERVICE COMMISSION: Four-year term, with holdovers until new appointment is made. The Commission is composed of seven members, each member of the City Council makes a nomination to be considered for appointment by the Mayor. Appointees shall be residents of the City of Madera. Commissioners shall not be employed with the City nor shall they be under the direct supervision of any existing Council Member. Meetings, as needed, are usually held on the first Tuesday of each month at 5:00 p.m.

Responsibilities: Certification of eligibility lists for hiring employees in the classified service at regularly scheduled meetings; conducts appeal hearings regarding disciplinary action or alleged violations of Civil Service rules and at the request of the City Council or Administrator; special meetings for hearings are scheduled as needed and my require multiple evenings to complete.

CDBG BLOCK GRANT COMMISSION: The Commission is composed of seven members; each member of the City Council makes a nomination to be considered for appointment by the Mayor. Meets during a weekday evening as required. Serves in an advisory capacity to staff and the City Council on matters pertaining to the use of CDBG funds allocated to the City of Madera to benefit persons of low and moderate income, disabled and elderly persons, minority groups, homeless persons, or persons at risk of homelessness and CDBG-funded activities in eligible Census Tracts where CDBG program activities are proposed. Accepts testimony from City staff and applicants presenting proposals to request CDBG funds. Evaluates proposals and recommends CDBG funding allocations consistent with policies, goals and priorities established by the City's CDBG Consolidated Plan and the Vision Madera 2025 Action Plan. Receives testimony from staff and provides comments about the City's CDBG-funded programs and projects overall annual outcomes and accomplishments. Promotes public participation in the CDBG planning process and any amendments.

Golf Course Advisory Committee: The committee consists of a 7-member body and is comprised of the following representatives: City Councilmember serves for Council Term, Parks Director – Continual Term, SGM Representative - Continual Term, Golfer/At-Large Community Member – Two-year Term, Food & Beverage Director/Representative – Continual Term, Non-Golfer/At-Large Community Member – Two-year Term, Service Organization Representative - Two-year Term. This position also has an additional caveat that the service organizations eligible are those that regularly meet at the Course, those being currently the Madera Evening Lions Club and the Morning Rotary Club. These service clubs will rotate representation, with the Madera Evening Lions Club having the initial representative. Should additional service organizations meet at the Course, they would be eligible to be added to the rotation of appointments. The Committee meets on the third Monday of the month at the Madera Municipal Golf Course. Meeting times and location may differ.

Responsibilities: Serve in an advisory capacity to the City Council and staff on local golf course matters including: providing feedback and input on matters related to the golf course operations, improvements, and maintenance; serve as a representative of the local community including golfers, residents, and other stakeholders, to ensure inclusion in decision-making process; serve as a communication channel between the golf course and the community; address and help resolve issues or concerns raised by golfers or community regarding the golf course; offer recommendations for improvements such as upgrades to facilities, landscaping, course layout, or other amenities; provide input on budgetary matters; and contribute to the development of policies and guidelines governing the use and management of the golf course.

LOAN REVIEW COMMITTEE: This committee consists of five members appointed by the City Council comprised of at least three residents of the City of Madera. Members shall possess backgrounds in residential mortgage lending, real estate or the building trades industry. Members do not serve specific terms, nor do they receive compensation/benefits. Meetings of the committee are held as needed to provide for the review of loan and grant applications for first time homebuyer down payment assistance and owner-occupied rehabilitation programs funded by State, Federal and local funds awarded to the City of Madera and from the Successor Agency to the Former Redevelopment Agency. Failure by a Committee member to attend three consecutive meetings shall be deemed an automatic resignation. A significant pattern of absences shall also be considered grounds for removal from the committee. Conflict of interest provisions apply as applicable to committee appointees serving the City of Madera or the Successor Agency to the Former Redevelopment Agency.

PLANNING COMMISSION: Four-year term. The Commission is composed of seven members, each member of the City Council makes a nomination to be considered for appointment by the Mayor. Appointees must reside within the City limits. Meetings are held on the second Tuesday of each month beginning at 6:00 p.m.

Responsibilities: Develop, maintain and amend the General Plan and Specific Plans as deemed appropriate; discretionary approval of development proposals, including subdivisions, use permits, and variances; discuss overall planning for the City, including ordinances, special studies, zoning, subdivisions and signs, with recommendations to the City Council.

TRANSIT ADVISORY BOARD: Four-year term. The Board consists of seven members appointed from a cross section of the community (general public, children, elderly, disabled, students, social service agencies, and minority family). The Board is composed of seven members, each member of the City Council makes a nomination to be considered for appointment by the Mayor. Appointees shall be residents of the City of Madera. Meetings are held quarterly in January, April, July, and September at a time and public place set by the advisory board.

Responsibilities: Recommend to the City Council a five (5) year transit and equipment plan; review, modify transit system proposals.

YOUTH COMMISSION: Two-year term. The Commission is composed of seven members, each member of the City Council makes a nomination to be considered for appointment by the Mayor. The Commission meets on the second Wednesday of each month at 5:00 p.m.

Responsibilities: Serves in an advisory capacity to the City Council about public safety, job opportunities for youth, recreation activities for youth, opportunities for effective participation by youth in governmental process, and

changes in city regulations that are necessary to improve the social, economic, educational, recreational advantages, health and well-being of youth.

REPORT TO CITY COUNCIL

Approved by:
Arnoldo Rodriguez
Arnoldo Rodriguez, City Manager

Council Meeting of: December 18, 2024
Agenda Number: E-2

SUBJECT:

Seek Direction Regarding the Regular City Council Meetings Scheduled for 2025

RECOMMENDATION:

Direction on, and Adoption of, a Meeting Schedule for Council

DISCUSSION:

The City Council (Council) meets on the 1st and 3rd Wednesday evenings. Attachment 1 identifies tentative Council meeting dates for 2025. A few items worth highlighting:

- The first regular Council meeting in 2025 falls on Wednesday, January 1, 2025.
- The City is a member of the League of California Cities which hosts various conferences. A couple of conferences that Council members commonly attend include:
  - Mayors and Councilmembers Academy: January 22-23, 2025
  - City Leaders Summit: April 23-25, 2025
  - Annual Conference & Expo: October 8-10, 2025
- Madera Unified School District - Jr. High and Alternative High School, and High School Graduations: June 3-6, 2025
- Tuesday, November 4, 2025 – Special Election

Potential Schedule Conflicts

Similar to many events, there are schedule conflicts with holidays and other events. Some possible options:

- City Holiday - January 1, 2025: Potential options include:

    - Conduct a special meeting on Wednesday, January 29, 2025, the 5th Wednesday of the month, or another Special Meeting date

- Mayors & Councilmembers Academy, Sacramento, CA: January 22-24, 2025
    - No anticipated conflicts

- City Leaders Summit, Sacramento, CA: April 23-25, 2025
    - No anticipated conflicts

- Summer Recess: August 6, 2025
    - The cancellation of the August 6, 2025, City Council meeting provides staff an opportunity to reset and prepare for the upcoming academic school year. The first day of school for Madera Unified School District is Thursday, August 7, 2025.

- Annual Conference & Expo: Long Beach, CA: October 8-10, 2025
    - No anticipated conflicts

- Madera Unified School District – Jr. High and Alternative High School, and High School Graduations: June 3-6, 2025
    - Cancel the meeting, thus only having one meeting in June
    - Conduct the meeting as scheduled

- Tuesday, November 4, 2025, Special Election (Should Council elect to hold an election for District 1)
    - Cancel the meeting, thus only having one meeting in November
    - Conduct the meeting as scheduled

FINANCIAL IMPACT:

There are no financial impacts associated with the number of Council meetings. Councilmembers receive a fixed stipend of $500 per month, regardless of the number of meetings held.

ALTERNATIVES:

Council may direct staff to conduct additional research and bring the item back to Council at a future meeting.

ATTACHEMENT:

1. 2025 Draft City Council Meeting Schedule

The City of MADERA

City Council
2025 Meeting Schedule

January						
S	M	T	W	T	F	S
			~~1~~	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
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26	27	28	29	30	31	

February						
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March						
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30	31					

April						
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13	14	15	16	17	~~18~~	19
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27	28	29	30			

May						
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	~~26~~	27	28	29	30	31

June						
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22	23	24	25	26	27	28
29	30					

July						
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27	28	29	30	31		

August						
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24	25	26	27	28	29	30
30						

September						
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October						
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26	27	28	29	30	31	

November						
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30						

December						
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28	29	30	~~31~~			

Meetings are held on the 1st & 3rd Wednesday of the month at 6 PM in the Council Chambers at City Hall, 205 W. 4th St., Madera

- City Council Meeting
- ½ day closure (Good Friday, Dec. 24/31)
- City Holiday

- LOCC – Mayors & Council Academy 1/22-1/24/25
- LOCC – City Leaders Summit 4/23-4/25/25
- LOCC – 2024 Annual Conference & Expo 10/8-10/10/25