



Revised 01/09/18

**AGENDA
REGULAR MEETING**

**City Council of the Town of Colma
Colma Community Center
1520 Hillside Boulevard
Colma, CA 94014**

**Wednesday, January 10, 2018
7:00 PM**

PLEDGE OF ALLEGIANCE AND ROLL CALL

ADOPTION OF AGENDA

PRESENTATION

- Swearing In of Vice Mayor Joanne F. del Rosario
- Introduction of New Recreation Employees: Yvette Gomez, Jose Ascencio and Angelica Vigil
- Introduction of New Police Dispatcher: Thelma Coffee
- Holiday House Decorating Contest Winners
- Farewell Presentation to Mike Cully

PUBLIC COMMENTS

Comments on the Consent Calendar and Non-Agenda Items will be heard at this time.
Comments on Agenda Items will be heard when the item is called.

CONSENT CALENDAR

1. Motion to Accept the Minutes from the December 12, 2017 Special Meeting.
2. Motion to Accept the Minutes from the December 13, 2017 Regular Meeting.
3. Motion to Approve Report of Checks Paid for December 2017.
4. Motion to Adopt an Ordinance Amending Colma Municipal Code Subchapter 1.16 Regarding a Reserve Police Officer Program.
5. Motion to Accept Informational Report on Recreation Department Programs, Activities, Events, and Trips for the Fourth Quarter of 2017.
6. Motion to Adopt a Resolution Approving and Authorizing the Execution of the Pooled Liability Assurance Network [Plan] Joint Exercise of Powers Agreement.
7. Motion to Adopt a Resolution Approving and Authorizing the City Manager to Execute a Non-Exclusive Easement Agreement (Air Rights) for Serra Center Pursuant to CEQA Guideline 15311.

PUBLIC HEARING

8. DAVY TREE EXPERT COMPANY CONDITIONAL USE PERMIT

Consider: Motion to Adopt a Resolution Approving an Amended Conditional Use Permit for a Landscape Contractor's Yard, Modular Office, and the Storage of Landscaping Materials at Holy Cross Cemetery Pursuant to CEQA Guideline 15301.

9. ORDINANCE REAUTHORIZING ORDINANCE NO. 669

Consider: Motion to Introduce an Ordinance Reauthorizing Ordinance No. 669 (Codified as Sections 4.08.500 Through 4.08.570 of Subchapter 4.08 - Cable System, Open Video, Telecommunications and Franchises), Including the Fee Paid to the Town By State Video Franchise Holders For Public, Educational, and Government Access Purposes, and Amending Section 4.08.560 of the Colma Municipal Code.

NEW BUSINESS

10. ADDITION OF ONE RECREATION COORDINATOR POSITION

Consider: Motion to Adopt a Resolution Authorizing the Hiring of One Additional Recreation Coordinator Position for a Total of Two to the Recreation Services Department.

11. TOWN HALL PROJECT - FURNITURE, FIXTURES AND EQUIPMENT - BASIS OF DESIGN AND CONTRACT DOCUMENTS

Consider: Motion to Adopt Resolution Approving Basis of Design and Contract Documents for the Furniture, Fixtures and Equipment "FF&E" Project (Phase 5 Of The Town Hall Renovation Project) and Authorizing Staff to Advertise Notice Inviting Bids From Contractors for Said Project

STUDY SESSION

12. CANNABIS ORDINANCE STUDY SESSION

This item is for discussion only; no action will be taken at this meeting.

REPORTS

Mayor/City Council

City Manager

ADJOURNMENT

The City Council Meeting Agenda Packet and supporting documents are available for review at the Colma Town Hall, 1188 El Camino Real, Colma, CA during normal business hours (Mon – Fri 8am-5pm). Persons interested in obtaining an agenda via e-mail should call Caitlin Corley at 650-997-8300 or email a request to ccorley@colma.ca.gov.

Reasonable Accommodation

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**MINUTES
SPECIAL MEETING**

City Council of the Town of Colma
Colma Community Center, 1520 Hillside Boulevard
Colma, CA 94014

Tuesday, December 12, 2017

6:30 p.m.

CALL TO ORDER

Mayor Fiscaro called the Special Meeting of the City Council to order at 6:39 p.m.

Council Present – Mayor Helen Fiscaro, Vice Mayor Raquel “Rae” Gonzalez, Council Members John Irish Goodwin and Diana Colvin were present. Council Member Joanne F. del Rosario was absent.

INTRODUCTIONS

Mayor Fiscaro welcomed the audience and acknowledged local dignitaries and elected officials in attendance:

Dennis Fiscaro, Former Mayor
Mary Brodzin, Former Council Member
Maureen O'Connor, President of the Colma Historical Association
Richard Rochetta, Board Secretary of the Colma Historical Association
Pat Hatfield, President Emerita of the Colma Historical Association
Mark Nagales, Congresswoman Jackie Speier's Office
Geoff Balton, Fire Chief

Mayor Fiscaro introduced the following Town of Colma Staff members:

William C. Norton, Interim City Manager
Brian Dossey, Administrative Services Director
Kirk Stratton, Police Chief
Sherwin Lum, Police Commander
Brad Donohue, Director of Planning and Public Works
Michael Laughlin, City Planner
Caitlin Corley, City Clerk

REMARKS BY OUT-GOING MAYOR

Mayor Fiscaro presented Victor Hung, owner of Vivana Fair, with a proclamation in honor of being selected as the Mayor's Diversity Award recipient.

Mayor Fiscaro presented Interim City Manager Bill Norton with a proclamation in honor of his service to Colma. The City Council also presented him with a 1 year employee pin and pen, a Colma jacket, and flowers for his wife.

Mayor Fiscaro made remarks as the out-going Mayor. The City Council presented her with a gavel, proclamation, flowers and a donation to the Mercy Housing, to benefit future residents of Veterans Village in Colma.

NOMINATION AND APPOINTMENT OF MAYOR

Mayor Fiscaro nominated Raquel Gonzalez for Mayor, and the nomination was seconded by Council Member Colvin. There were no other nominations, and Mayor Fiscaro closed the nominations for Mayor and called for a vote.

Action: Mayor Fiscaro moved to select Raquel Gonzalez as Mayor, and the motion was seconded by Council Member Colvin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Helen Fiscaro, Mayor	✓				
Raquel Gonzalez	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
Diana Colvin	✓				
	4	0			

ADMINISTRATION OF THE OATH OF OFFICE TO NEW MAYOR

Out-going Mayor Fiscaro called Ruby Paniagua to the podium to administer the Oath of Office to the new Mayor. After receiving the Oath of Office, Mayor Gonzalez introduced her guests and gave her remarks as the in-coming Mayor.

NOMINATION AND APPOINTMENT OF VICE MAYOR

Mayor Gonzalez called upon the Council to make nominations for Vice Mayor. Council Member Colvin nominated Joanne F. del Rosario for Vice Mayor, and the nomination was seconded by Mayor Gonzalez. There were no other nominations, and Mayor Gonzalez closed the nominations for Mayor and called for a vote.

Action: Council Member Colvin moved to select Joanne F. del Rosario as Vice Mayor, and the motion was seconded by Mayor Gonzalez and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Raquel "Rae" Gonzalez, Mayor	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fiscaro	✓				
	4	0			

ADMINISTRATION OF THE OATH OF OFFICE TO VICE MAYOR

Because Council Member del Rosario was not present at the meeting, she was not sworn in as Vice Mayor. She will be sworn in at the next City Council Meeting.

PRESENTATIONS

Maureen O'Connor of the Colma Historical Association presented out-going Mayor Fiscaro with a certificate and flowers.

Rebecca C. Husted of the Colma Daly City Chamber of Commerce presented out-going Mayor Fiscaro and in-coming Mayor Gonzalez with a poinsettia plant.

SIGNING OF THE VALUES BASED CODE OF CONDUCT

Mayor Gonzalez gave each Council Member a Values Based Code of Conduct and they each signed the pledge.

ADJOURNMENT

Mayor Gonzalez adjourned the Special Meeting at 7:42 p.m. in memory of Ed Lee, Mayor of San Francisco, Eric Reed, Belmont Council Member, and Bunny Gillespie, founder of the Daly City History Guild and Daly City's official historian.

Mayor Gonzalez invited everyone to join the Council in the reception that followed.

Respectfully submitted,

Caitlin Corley
City Clerk



**REVISED
MINUTES
REGULAR MEETING**

City Council of the Town of Colma
Colma Community Center, 1520 Hillside Boulevard
Colma, CA 94014

Wednesday, December 13, 2017
7:00 p.m.

CALL TO ORDER

Mayor Raquel Gonzalez called the Regular Meeting of the City Council to order at 7:02 p.m.

Council Present – Mayor Raquel “Rae” Gonzalez, Council Members John Irish Goodwin, Diana Colvin and Helen Fiscaro were present. Vice Mayor Joanne F. del Rosario was absent.

Staff Present – Interim City Manager William C. Norton, City Attorney Christopher Diaz, Administrative Services Director Brian Dossey, Police Chief Kirk Stratton, Contract Director of Public Works Brad Donohue, Contract City Planner Michael Laughlin, Contract Assistant Planner Jonathan Kwan, and Administrative Technician Darcy De Leon were in attendance.

ADOPTION OF THE AGENDA

Mayor Gonzalez asked if there were any changes to the agenda. None were requested. The Mayor asked for a motion to adopt the agenda.

Action: Mayor Gonzalez moved to adopt the agenda; the motion was seconded by Council Member Fiscaro and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Raquel Gonzalez, Mayor	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fiscaro	✓				
	4	0			

PUBLIC COMMENTS

Mayor Gonzalez opened the public comment period at 7:04 p.m. Resident Alexander Gomez made a comment about the recent changes to the parking permit policy. The Mayor closed the public comment at 7:12 p.m.

CONSENT CALENDAR

1. Motion to Accept the Minutes from the November 8, 2017 Regular Meeting.
2. Motion to Accept the Minutes from the November 22, 2017 Regular Meeting.
3. Motion to Approve Report of Checks Paid for November 2017.
4. Motion to Adopt a Resolution Approving Bid Document Package for the Access Control Project and Authorizing Staff to Advertise Notice Inviting bids from Contractors for the

Access Control Project.

5. Motion to Appoint Joe Silva to the San Mateo County Mosquito and Vector Control District Board of Trustees.
6. Motion to Adopt a Resolution Establishing Salary or New Executive Assistant to the Chief of Police Position.

Action: Council Member Fiscaro moved to approve the Consent Calendar items #1 through 6; the motion was seconded by Council Member Diana Colvin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Raquel Gonzalez, Mayor	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fiscaro	✓				
	4	0			

PUBLIC HEARING

7. METRO 280 – DIGITAL POLE SIGN

Assistant Planner presented the staff report. Mayor Gonzalez opened the public comment period at 7:25 p.m. Residents Patricia Simpson and Alexander Gomez made a comment about the sign. The Mayor closed the public comment at 7:31 p.m. Council discussion followed.

Action: Council Member Fiscaro moved to Adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program in Compliance with the California Environmental Quality Act for a 120' Tall Digital Pole Sign at 280 Metro Center; the motion was seconded by Council Member Goodwin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Raquel Gonzalez, Mayor	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fiscaro	✓				
	4	0			

Action: Council Member Colvin moved to Adopt a Resolution Approving an Amended Master Sign Program, Sign Permit and Tree Removal Permit to Allow a 120' Tall Digital Pole Sign at 280 Metro Center; the motion was seconded by Council Member Goodwin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Raquel Gonzalez, Mayor	✓				
Joanne F. del Rosario					✓

John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fiscaro	✓				
	4	0			

Mayor Gonzalez inadvertently skipped Natali Rodriguez from HIP Housing during the public comment period. Ms. Rodriguez was called up after item #7 and she presented calendars to Council.

8. POLICE RESERVES PROGRAM

Chief of Police Kirk Stratton presented the staff report. Mayor Gonzalez opened the public comment period at 7:46 p.m. Residents Mary Brodzin made a comment. The Mayor closed the public comment period at 7:48 p.m. Council discussion followed.

Action: Council Member Goodwin moved to Introduce an Ordinance Amending Colma Municipal Code Subchapter 1.16 Regarding a Reserve Police Officer Program, Authorizing the Chief of Police to Appoint Reserve Police Officers, and Waive a Further Reading of the Ordinance; the motion was seconded by Council Member Fiscaro and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Raquel Gonzalez, Mayor	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fiscaro	✓				
	4	0			

NEW BUSINESS

9. CHIEF OF POLICE CONTRACT AMENDMENT

Interim City Manager Bill Norton presented the staff report. Mayor Gonzalez opened the public comment period at 7:55 p.m. and seeing no one come forward to speak, she closed the public comment period. Council discussion followed.

Action: Council Member Fiscaro moved to Adopt a Resolution Approving Third Amendment to Employment Contract with Kirk Stratton; the motion was seconded by Council Member Goodwin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Raquel Gonzalez, Mayor	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fiscaro	✓				
	4	0			

10. **COUNCIL COMMITTEE ASSIGNMENTS 2018**

Administrative Technician Darcy De Leon presented the staff report. Mayor Gonzalez opened the public comment period at 8:04 p.m. and seeing no one come forward to speak, she closed the public comment period. Council discussion followed. **Below is the list of 2018 Committee Assignments that the Council discussed and proposed:**

Committee Name	2018 Primary	2018 Secondary
Office of Emergency Services (EMERGENCY SERVICES COUNCIL, MEETS QUARTERLY 3 RD THURSDAYS IN JANUARY, APRIL, JUNE & SEPTEMBER, , AT 5:30 PM, AT THE HALL OF JUSTICE IN REDWOOD CITY IN JURY ASSEMBLY ROOM)	Colvin	del Rosario
Colma Creek Flood District (MEETS QUARTERLY, 2 ND TUESDAY @ 3PM IN MARCH, JUNE, SEPTEMBER AND DECEMBER AT CITY HALL, SOUTH SAN FRANCISCO)	Fiscaro	
Peninsula Congestion Relief Alliance - "The Alliance" Board of Directors member (6 X A YEAR, THURSDAY MORNINGS)	Gonzalez	Colvin
C/CAG (2 ND THURSDAY OF THE MONTH, 7PM)	Colvin	Goodwin
League of California Cities (ANNUAL CONFERENCE, AND WORKSHOPS THROUGHOUT THE YEAR)	All	
San Mateo County Council of Cities (MONTHLY DINNER AND MEETING)	Gonzalez is the voting representative	All Council Members can attend
Mayor/Chamber Walks (SCHEDULED BETWEEN THE MAYOR, CITY MANAGER & CHAMBER OF COMMERCE, APPROXIMATELY 5+ OUTINGS)	Gonzalez	All other Council Members
City Representative at Colma-Daly City Chamber of Commerce (1-2 MEETINGS A YEAR, AS NEEDED)	Gonzalez	Goodwin
Legislative Committee (C/CAG) (ONCE PER MONTH, ON 2 ND THURSDAYS AT 5PM)	Colvin	
ABAG Representative (GENERAL ASSEMBLY MEETS TWICE PER YEAR APRIL & OCTOBER)	del Rosario	Gonzalez
Grand Boulevard Task Force (MEETS 3 RD WEDNESDAY, 10AM-12 NOON, MARCH, JUNE, SEPTEMBER, DECEMBER AT EITHER SAM TRANS IN SAN CARLOS OR CITY HALL IN SANTA CLARA)	Goodwin	Gonzalez
Peninsula Clean Energy Board of Directors (MEETS 4 TH THURSDAY, 6:30PM AT THE COUNTY OFFICE OF EDUCATION BUILDING IN REDWOOD CITY)	Gonzalez	del Rosario

Action: Council Member Fiscaro moved to Approve Committee Assignments for 2018 and Granting to the Appointee Discretion in Voting on Matters Brought Before the Committee; the motion was seconded by Council Member Colvin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Raquel Gonzalez, Mayor	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fiscaro	✓				
	4	0			

11. COUNCIL OF CITIES CITY SELECTION COMMITTEE VOTING MEMBER

Administrative Technician Darcy De Leon presented the staff report. Mayor Gonzalez opened the public comment period at 8:07 p.m. and seeing no one come forward to speak, she closed the public comment period. Council discussion followed.

Action: Council Member Fiscaro moved to Confirm the Designation of the Mayor as the Voting Member for the Council of Cities, Designating an Alternate Voting Member, and Giving the Voting Member Discretion on Any and All Matters to be Considered; the motion was seconded by Council Member Colvin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Raquel Gonzalez, Mayor	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
Diana Colvin	✓				
Helen Fiscaro	✓				
	4	0			

STUDY SESSION

12. PERS UNFUNDED ACCRUED LIABILITY

Interim City Manager presented the staff report. Mayor Gonzalez opened the public comment period at 8:31 p.m. and seeing no one come forward to speak, she closed the public comment. Council discussion followed.

This item was for discussion only; no action was taken at this meeting.

COUNCIL CALENDARING

The next Regular City Council Meeting will be on Wednesday, January 10, 2017 at 7:00 p.m.

REPORTS

Raquel "Rae" Gonzalez
Town Holiday Party, 12/9/17

Joanne F. del Rosario
Town Holiday Party, 12/9/17

John Irish Goodwin

Chamber of Commerce Soiree, 12/7/17
Town Holiday Party, 12/9/17

Helen Fiscaro

Chamber of Commerce Soiree, 12/7/17
Town Holiday Party, 12/9/17

Interim City Manager Bill Norton reported this was his last Council meeting.

ADJOURNMENT

Mayor Gonzalez adjourned the meeting at 8:59 p.m.

Respectfully submitted,

Darcy De Leon

Bank: first FIRST NATIONAL BANK OF DALY

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
46960	12/4/2017	00020	ASSOCIATED SERVICES INC 117113462	11/15/2017	6 SPRING WATER 5 GAL	37.50	37.50
46961	12/4/2017	00049	CALIFORNIA PEACE OFFICER95880	11/15/2017	SWORN PEACE OFFICER ME	125.00	125.00
46962	12/4/2017	00071	CSG CONSULTANTS, INC. 09/30/17 - 10/27	11/27/2017	CSG	122,942.99	122,942.99
46963	12/4/2017	00112	DEPARTMENT OF JUSTICE 267030	11/3/2017	HR ACCOUNT #145931	179.00	179.00
46964	12/4/2017	00280	OFFICE DEPOT, INC. 982979060001	11/22/2017	COPY PAPER, ADDRESS LAB	145.16	145.16
46965	12/4/2017	00307	PACIFIC GAS & ELECTRIC 0678090639-9	11/29/2017	0678090639-9 S/E CORNER H	53.77	53.77
46966	12/4/2017	00364	SMC SHERIFF'S OFFICE CL05298	11/30/2017	LAB FEES	436.10	436.10
46967	12/4/2017	00394	TENNANT 915029070	11/20/2017	SWEEPER/SCRUBBER, RIDE	564.00	564.00
			915029069	11/20/2017	LITTER VACUUM MATLV4300	373.88	
			915029071	11/20/2017	LITTER VACUUM MATLV4300	357.00	1,294.88
46968	12/4/2017	00452	CA PARK & RECREATION SOC2018 Membershi	9/19/2017	2018 MEMBERSHIP TAPIA #11	170.00	170.00
46969	12/4/2017	00500	SMC CONTROLLERS OFFICE FY 2017/2018 L	11/14/2017	FY 2017/2018 LAFCO APPORT	1,901.00	1,901.00
46970	12/4/2017	00614	DENINA, PERLA 2001006.003	11/28/2017	11.28.17 DEPOSIT REFUND	275.00	275.00
46971	12/4/2017	01030	STEPFORD, INC. 1702206	11/20/2017	MONTHLY SERVICE CONTRA	5,622.00	5,622.00
			1702154	11/20/2017	OCTOBER 2017 26.5 HOURS	4,107.50	9,729.50
46972	12/4/2017	01037	COMCAST CABLE 11/25-12/24 427	11/20/2017	8155 20 022 0097028 427 F ST	286.16	286.16
			11/25-12/24 Intei	11/20/2017	8155 20 022 0097051 Internet	286.16	286.16
			11/27-12/26 XFII	11/17/2017	8155 20 022 0002770 1520 HIL	10.20	582.52
46973	12/4/2017	01370	VERIZON WIRELESS SERVICE9796323509	11/15/2017	CELL PHONE SERVICE	1,756.04	1,756.04
46974	12/4/2017	01569	DARLING INTERNATIONAL IN(600:3022411	11/21/2017	TRAP SERVICE CHARGE	102.71	102.71
46975	12/4/2017	02132	WOLLMAN, JASON Nov 13-15, 2017	11/23/2017	NOV 13-15, 2017 CIT MILEAGI	60.67	60.67
46976	12/4/2017	02144	DOMINICA. DE LUCCA DBA D1872	11/27/2017	TAE KWON DO	700.00	700.00
46977	12/4/2017	02179	HUB INTERNATIONAL OF CA Nov 2017	11/30/2017	INSURANCE EVENTS	256.08	256.08
46978	12/4/2017	02274	FRANK AND GROSSMAN LANI40447413	11/15/2017	CUT BACK WILLOW TREE ON	1,038.24	1,038.24
			40447415	11/15/2017	REMOVE EXISTING/SUMMER	791.77	791.77
			40447412	11/15/2017	REMOVE EXPIRED JUNIPERS	710.72	710.72
			40447414	11/15/2017	INSTALL 4 YARDS SMALL 3/4	688.68	688.68
			40447417	11/15/2017	REPLACE 8 EXISTING ROTOF	379.20	379.20
			40447418	11/15/2017	REPLACE LEAKING VALVE IN	252.11	252.11
			40447416	11/15/2017	APPLY FERTILIZER IN PLANT	203.45	203.45
46979	12/4/2017	02637	Z.A.P. MANUFACTURING INC. 838	11/22/2017	28 DECALS 5.5X5.5 H.I.P.	781.25	781.25
46980	12/4/2017	02788	LUNA-SEVILLA, MARGARET-R16	11/29/2017	ZUMBA CLASSES	300.00	300.00
			15	11/29/2017	PALANGO/TONING CLASSES	280.00	280.00
46981	12/4/2017	02799	WAVE 03919010	11/23/2017	RIMS INTERNET W/SSF	400.00	400.00

Bank : first FIRST NATIONAL BANK OF DALY (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
46982	12/4/2017	02849	U.S. BANK PARSACCOUNT, 6 Dec 2017 OPEB	12/4/2017	OPEB CONTRIBUTION	100,798.00	100,798.00
46983	12/4/2017	02864	MOBILE MODULAR MANAGEN 1480582 1475813	11/14/2017	24 X 60 HCD OFFICE RENTAL	790.28	
				11/8/2017	8 X 20 OFFICE HCD, RAMP RI	471.65	1,261.93
46984	12/4/2017	02931	1158 Replaceme 1186	10/6/2017	REPLACES CK 46677 ISSUED	1,027.08	
				11/28/2017	GOLD EMBROIDERY FRONT I	64.64	1,091.72
46985	12/4/2017	02949	WELLS FARGO VENDOR FINA99743168	11/20/2017	ADMIN COPY MACHINE	1,362.61	1,362.61
46986	12/4/2017	02994	JRD PRODUCTIONS 12/09/17 DJ	2/20/2017	12/09/17 DJ FOR HOLIDAY PA	1,000.00	1,000.00
46987	12/4/2017	03110	BHM CONSTRUCTION, INC. 2	11/30/2017	TOWN HALL BUILDING INFILL	283,938.00	283,938.00
46988	12/4/2017	03113	AIRGAS USA, LLC 9069824532	11/15/2017	SURVEYOR VESTS (30)	401.04	401.04
46989	12/4/2017	03114	LIGHTING SYSTEMS, LLC 0000264	11/29/2017	10% DEPOSIT SCOTT ARCHIT	371.60	371.60
46990	12/4/2017	03115	COLE LIGHTING 26034-01	11/12/2017	10% DEPOSIT DUE TO REFUI	5,949.17	5,949.17

total for FIRST NATIONAL BANK OF DALY CITY: 542,747.41

31 checks in this report.

Grand Total All Checks:

542,747.41

Bank : first FIRST NATIONAL BANK OF DALY

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
46991	12/8/2017	00068	COLMA PEACE OFFICERS 12082017 B	12/8/2017	COLMA PEACE OFFICERS: P/	690.83	690.83
46992	12/8/2017	01340	NAVIA BENEFIT SOLUTIONS 12082017 B	12/8/2017	FLEX 125 PLAN: PAYMENT	331.16	331.16
46993	12/8/2017	01375	NATIONWIDE RETIREMENT S\12082017 B	12/8/2017	NATIONWIDE: PAYMENT	6,100.00	
			12082017 M	12/8/2017	NATIONWIDE: PAYMENT	1,200.00	7,300.00
46994	12/8/2017	02377	CALIFORNIA STATE DISBURS\12082017 B	12/8/2017	WAGE GARNISHMENT: PAYM	917.53	917.53
46995	12/8/2017	02944	PEACE OFFICERS RESEARCH\12082017 B	12/8/2017	PORAC: PAYMENT	14.00	14.00
46996	12/8/2017	02945	PORAC LEGAL DEFENSE FUN\12082017 B	12/8/2017	PORAC LDF: PAYMENT	144.55	144.55
93631	12/8/2017	00521	UNITED STATES TREASURY 12082017 M	12/8/2017	FEDERAL TAX: PAYMENT	940.97	940.97
93632	12/8/2017	01360	VANTAGE TRANSFER AGENT\12082017 M	12/8/2017	ICMA CONTRIBUTION: PAYME	463.86	463.86
93633	12/8/2017	00631	P.E.R.S. 12082017 M	12/8/2017	PERS MISC NON-TAX: PAYME	588.13	588.13
93635	12/8/2017	00130	EMPLOYMENT DEVELOPMEN 12082017 B	12/8/2017	CALIFORNIA STATE TAX: PAY	9,353.22	9,353.22
93636	12/8/2017	00521	UNITED STATES TREASURY 12082017 B	12/8/2017	FEDERAL TAX: PAYMENT	42,784.56	42,784.56
93637	12/8/2017	00631	P.E.R.S. 12082017 B	12/8/2017	PERS - BUYBACK: PAYMENT	38,405.95	38,405.95
93638	12/8/2017	01360	VANTAGE TRANSFER AGENT\12082017 B	12/8/2017	ICMA CONTRIBUTION: PAYME	3,023.65	3,023.65
total for FIRST NATIONAL BANK OF DALY CITY:						104,958.41	

13 checks in this report.

Grand Total All Checks:

104,958.41

Bank : first FIRST NATIONAL BANK OF DALY

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
46997	12/12/2017	00013	Novmeber 2017	11/30/2017	TIRE SERVICE	305.78	305.78
46998	12/12/2017	00082	64486	11/1/2017	2018 DUES RENEWAL DMY64 CSMFO	110.00	110.00
46999	12/12/2017	00093	CITY OF SOUTH SAN FRANCISCO	11/28/2017	TRAFFIC SIGNAL MAINTENANCE	1,148.49	1,148.49
47000	12/12/2017	00099	D.C. LOCK & SECURITY SERVICE	10/12/2017	2 EVIDENCE LOCKER KEYS	6.51	6.51
47001	12/12/2017	00181	IEDA	12/1/2017	LABOR RELATIONS CONSULTING	1,371.00	1,371.00
47002	12/12/2017	00254	METRO MOBILE COMMUNICATIONS	11/24/2017	PVP WIRELESS MOTOR KIT F	1,623.29	2,225.29
			171210	12/1/2017	MAINTENANCE CONTRACT	602.00	
47003	12/12/2017	00307	0092128195-2	11/22/2017	0092128195-2 1520 HILLSIDE	1,927.65	
			0567147369-1	11/29/2017	0567147369-1 JSB S/O SERRA	157.75	
			2039987372-6	11/22/2017	2039987372-6 OPPOSITE 507	11.03	
			9956638930-2	11/22/2017	9956638930-2 NEXT TO 540 B	9.55	2,105.98
47004	12/12/2017	00500	SMC CONTROLLERS OFFICE	12/4/2017	ALLOCATION OF PARKING PERMITS	1,733.30	1,733.30
47005	12/12/2017	00619	LUM, SHERWIN	11/29/2017	11/29/17 MAGNETIC SPEAKIN	35.00	35.00
47006	12/12/2017	00623	ARAMARK	11/30/2017	UNIFORM SERVICE	412.00	412.00
47007	12/12/2017	01037	COMCAST CABLE	11/26/2017	8155 20 022 0094769 TOWN C	13,510.48	
			12/02/17-01/01/17	11/27/2017	8155 20 022 0097069 INTERNET	291.16	13,801.64
47008	12/12/2017	01183	BEST BEST & KRIEGER LLP	12/2/2017	CITY ATTORNEY SERVICES	18,325.34	
			810064	12/2/2017	DOW CHEMICAL PUBLIC SAFETY	2,526.75	
			810068	12/2/2017	CITY ATTORNEY SPECIAL SERVICES	2,068.30	
			810065	12/2/2017	CITY ATTORNEY THIRD PARTY	557.55	
			810067	12/2/2017	EMPLOYEE BENEFITS/TAX	144.00	23,621.94
			810066	12/2/2017	UNIFORMS	855.55	855.55
47009	12/12/2017	01184	PENINSULA UNIFORMS & EQUIPMENT	11/30/2017	SECTION 125 PARTICIPANT & BENEFIT	75.00	75.00
47010	12/12/2017	01340	NAVIA BENEFIT SOLUTIONS	11/30/2017	12.01.17 YOUTH & COOKING	8.00	8.00
47011	12/12/2017	01345	GOODWIN, JOHN	12/1/2017	EMERGENCY SATELLITE PHONES	4,026.41	4,026.41
47012	12/12/2017	01413	GLOBALSTAR USA	11/16/2017	AUDIT SERVICES	1,260.00	1,260.00
47013	12/12/2017	01629	R. J. RICCIARDI INC., CPAS	11/30/2017	12/01/17 TO 11/30/18 FULL MAINTENANCE	3,543.15	3,543.15
47014	12/12/2017	01865	THYSSENKRUPP ELEVATOR	12/1/2017	CARDROOM BACKGROUNDS	880.00	880.00
47015	12/12/2017	01995	CELESTE, MIKE L.	12/16/2017	12/02/17 BALLOON TWISTING	200.00	200.00
47016	12/12/2017	02002	DIZCO, INC.	11/14/2017	OFFICER PORTRAITS, DEPT OF PUBLIC WORKS	1,888.81	1,888.81
47017	12/12/2017	02012	VACCARO, BRANDON	11/30/2017	COLMA PD 368 PL HELMET PHOTOGRAPHY	108.07	108.07
47018	12/12/2017	02143	ENTENMANN-ROVIN COMPANY	12/16/2017	MILEAGE REIMBURSEMENT	61.36	61.36
47019	12/12/2017	02190	GOGAN, REA	12/4/2017	12.04.17 DEPOSIT REFUND	275.00	275.00
47020	12/12/2017	02303	MALDONADO, VICTOR	12/1/2017	INTERNET ACCESS 128070	716.40	716.40
47021	12/12/2017	02743	UTILITY TELEPHONE, INC	12/1/2017			

Bank : first FIRST NATIONAL BANK OF DALY (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
47022	12/12/2017	02769	WC653352	11/26/2017	HAVE A THRILL OF A TIME IN	3,919.50	4,919.50
			WC655202	11/26/2017	VID 30 HAVE A THRILL OF A T	1,000.00	1,115.63
47023	12/12/2017	02773	3059	10/21/2017	SUV VEHICLE #1 METALLIC S	1,115.63	93.54
47024	12/12/2017	02793	17088	12/11/2017	SERVICE	39.78	3,265.04
47025	12/12/2017	02817	12/05/17 Reimbu	12/05/17	SAFEWAY REIMBUR	3,110.52	2,620.87
47026	12/12/2017	03015	11/22/17 Dossey	11/22/2017	CREDIT CARD PURCHASE	1,333.77	332.83
			11/22/17 Morque	11/22/2017	CREDIT CARD PURCHASE	283.97	10,947.00
			11/22/17 Gogan	11/22/2017	CREDIT CARD PURCHASE	160.00	160.00
			11/22/17 Lum	11/22/2017	CREDIT CARD PURCHASE	8.00	8.00
			11/22/17 Burns	11/22/2017	CREDIT CARD PURCHASE	50.00	50.00
			11/22/17 De Leo	11/22/2017	COLMA FLORAL SHOP GET V		
47027	12/12/2017	03034	101326	11/30/2017	RETIREE ADMIN AND PROCE	160.00	8.00
47028	12/12/2017	03096	2001010.003	12/1/2017	12.01.17 YOUTH & COOKING	8.00	50.00
47029	12/12/2017	03116	2001012.003	12/4/2017	12.04.17 DEPOSIT REFUND	50.00	

b total for FIRST NATIONAL BANK OF DALY CITY: 78,108.13

33 checks in this report.

Grand Total All Checks: 78,108.13

Bank : first FIRST NATIONAL BANK OF DALY

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
47030	12/12/2017	00051	CALIFORNIA WATER SERVICE	11/28/2017	WATER BILL	4,686.14	4,686.14
47031	12/12/2017	00057	CINTAS CORPORATION #2	Nov 2017	11/30/2017 CLEANING SERVICE	1,282.24	1,282.24
47032	12/12/2017	00077	SMC HEALTH SYSTEMS	AC17-18-Colma	FY 2017-18 ANIMAL CONTROL	34,132.00	34,132.00
47033	12/12/2017	00140	FIRST NAT BANK OF NO CA	11/20/17 Corley	HR INDEED ADVERTISING	20.44	20.44
47034	12/12/2017	00174	HOME DEPOT CREDIT SERVI	11/29/2017	PW PURCHASES OCT 30 - NC	1,448.92	1,448.92
47035	12/12/2017	00280	OFFICE DEPOT, INC.	984248310001	HP 130A BLACK TONER	44.49	44.49
47036	12/12/2017	00307	PACIFIC GAS & ELECTRIC	9248309814-8	11/28/2017 9248309814-8 601 F STREET	182.58	182.58
47037	12/12/2017	00507	COLMA FIRE DISTRICT	Oct & Nov 2017	10/21 & 11/17 FALSE FIRE ALF	1,000.00	1,000.00
47038	12/12/2017	01076	API CONSULTING	17-12 Colma	12/7/2017 RECORDS MANAGEMENT	4,940.00	4,940.00
47039	12/12/2017	02082	VINCE'S OFFICE SUPPLY, INC	Nov 2017	11/30/2017 OFFICE SUPPLIES	940.09	940.09
47040	12/12/2017	02132	WOLLMAN, JASON	Nov 29-Dec 2, 2017	12/6/2017 NOV 28-DEC 2, 2017 SLI REIM	417.08	417.08
47041	12/12/2017	02216	RAMOS OIL CO. INC.	950316	11/30/2017 PD GASOLINE PURCHASES 2	1,352.30	1,352.30
				919964	11/10/2017 PD GASOLINE PURCHASES 1	1,246.92	1,246.92
				948796	11/10/2017 PD GASOLINE PURCHASES 1	1,169.29	1,169.29
				929447	11/10/2017 RECREATION GASOLINE PUF	52.28	52.28
47042	12/12/2017	02970	PRODUCTIVE PRINTING & GR	32152	10/10/2017 500 BUSINESS CARDS MORC	135.94	135.94
47043	12/12/2017	03015	U.S. BANK CORPORATE PMT	11/22/17 Tapia	11/22/2017 CREDIT CARD PURCHASE	3,742.60	3,742.60
				11/22/17 Corley	11/22/2017 CREDIT CARD PURCHASE	559.13	559.13
				11/22/17 Pfortent	11/22/2017 CREDIT CARD PURCHASE	173.29	173.29
47044	12/12/2017	03117	KITTELSON & ASSOCIATES,	11/24/2017	COLMA SYSTEMIC SAFETY A	6,838.06	6,838.06

b total for FIRST NATIONAL BANK OF DALY CITY: 64,363.79

15 checks in this report.

Grand Total All Checks:

64,363.79

Bank : first FIRST NATIONAL BANK OF DALY

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
47045	12/19/2017	00020	ASSOCIATED SERVICES INC 117120076 117120075	12/1/2017 12/1/2017	MTN INSPIRATIONS H/C BWC MTN H/C BWC	58.00 9.00	67.00 145.61
47046	12/19/2017	00057	CINTAS CORPORATION #2 8403443236	11/30/2017	NOV 2017 FIRST AID SUPPLIE	145.61	37.70
47047	12/19/2017	00057	CINTAS CORPORATION #2 8403443221	12/1/2017	PW FIRST AID SUPPLIES 601	37.70	50.80
47048	12/19/2017	00095	CLEARLITE TROPHIES 81528	12/8/2017	10' WALNUT GAVE WITH BAN	50.80	27.31
47049	12/19/2017	00112	DEPARTMENT OF JUSTICE 81635	12/8/2017	1.5 X 3 BLUE LAMICOID NAME	27.31	692.00
47050	12/19/2017	00213	STRATTON, KIRK 272875	12/5/2017	PD ACCOUNT #140503	49.00	26.14
47051	12/19/2017	00307	PACIFIC GAS & ELECTRIC Dec 5-7, 2017 M	12/11/2017	DEC 5-7, 2017 MEAL REIMBUJ	26.14	3,494.29
47052	12/19/2017	00366	CRITICAL REACH 12/07/2017	12/7/2017	PG&E	3,494.29	285.00
47053	12/19/2017	00388	SONITROL 18-109	12/5/2017	APBNET LAW ENFORCEMEN	285.00	113.00
47054	12/19/2017	00412	TELECOMMUNICATIONS ENG45167 1310581-IN	12/1/2017	427 F ST. MONTHLY MONITO	113.00	1,328.00
47055	12/19/2017	00414	TERMINEX INTERNATIONAL L370779453 370779454	12/10/2017 12/18/2017	Facilities Mgmt & Maintenance PEST CONTROL	1,328.00 450.00	513.00
47056	12/19/2017	00534	SMC INFORMATION SERVICE:1YCL11711 370779454	12/18/2017	601 F St.	63.00	782.50
47057	12/19/2017	00575	C.A.P.E. ACCOUNTING 06178	12/8/2017	MICRO CHANNEL & LINES	782.50	225.00
47058	12/19/2017	00649	DAVEY TREE EXPERT COMP911996038	12/11/2017	2018 ANNUAL TRAINING SEM	225.00	1,440.00
47059	12/19/2017	00682	KENDRICK, MONIQUE Dec 6, 2017 Reir	12/1/2017	450 CLARK AVENUE TREE PR	1,440.00	42.15
47060	12/19/2017	00830	STAPLES ADVANTAGE 8047598712	12/12/2017	MEAL & MILEAGE REIMBURS	42.15	149.65
47061	12/19/2017	01030	STEPFORD, INC. 1702248	11/25/2017	SHEET PROTECTORS, 10 X1:	149.65	1,736.67
47062	12/19/2017	01037	COMCAST CABLE 12/11/17-01/10/1	12/8/2017	HP ELITEONE 800 G3, ALL IN	1,736.67	106.16
47063	12/19/2017	01118	SWRCB ACCOUNTING OFFICISW-0144757 WD-0130976	12/7/2017 11/20/2017	8155 20 022 0096715 601 F ST COLMA STORM WATER	106.16 5,692.00	2,088.00
47064	12/19/2017	01296	SOUTH SAN FRANCISCO COM16-11631	12/5/2017	COLM CITY CS	2,088.00	27,156.57
47065	12/19/2017	01307	O'CONNOR, MAUREEN 2001014.003	12/11/2017	12/09/17 TOWN HOLIDAY PAR	27,156.57	27.00
47066	12/19/2017	01367	DUO DANCE ACADEMY Nov 2017	12/7/2017	12.07.17 REFUND ALADDIN TI	27.00	390.00
47067	12/19/2017	01399	WESTLAKE TOUCHLESS CARNOV 2017	12/13/2017	DANCE CLASSES	390.00	13.95
47068	12/19/2017	01414	VERANO HOMEOWNERS ASS1	12/1/2017	PD CAR WASH	13.95	320.00
47069	12/19/2017	01549	BURNS, LORI HRA Meeting Mli	1/1/2018	VERANO OWNERS ASSOCIAI	320.00	27.18
47070	12/19/2017	01565	BAY CONTRACT MAINTENANDec 2017 20159	12/15/2017 12/10/2017	12/13/17 HRA MEETING MILE/ JANITORIAL SERVICES	27.18 8,312.18	1,271.92
47071	12/19/2017	01569	DARLING INTERNATIONAL IN(600:3030808	11/17/2017	PAPER & CLEANING SUPPLIE	1,271.92	102.71
47072	12/19/2017	01625	ECOLAB EQUIPMENT CARE: (94985542	12/12/2017	TRAP SERVICE CHARGE	102.71	369.74
				11/15/2017	THERMOCOUPLE, STANDARI	369.74	

Bank : first FIRST NATIONAL BANK OF DALY (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
47073	12/19/2017	01687	UNITED SITE SERVICES OF 114-6109735	11/30/2017	STANDARD AND REGULAR S	136.73	136.73
47074	12/19/2017	02182	DALY CITY KUMON CENTER Nov 2017	12/18/2017	TUTORING	4,765.00	4,765.00
47075	12/19/2017	02198	BAYSIDE PRINTED PRODUCT 109089	12/12/2017	RECREATION GUIDE	1,736.97	1,736.97
47076	12/19/2017	02274	FRANK AND GROSSMAN LANI152057	12/11/2017	LANDSCAPE MAINTENANCE	10,608.00	10,608.00
47077	12/19/2017	02357	GHILARDUCCI, VERONICA 2001016.003	12/11/2017	12.11.17 DEPOSIT REFUND	300.00	300.00
47078	12/19/2017	02386	VIBO MUSIC SCHOOL Sept 1-Dec 17, 2	12/18/2017	MUSIC LESSONS	1,616.00	1,616.00
47079	12/19/2017	02407	PARKER, MARILYN 2001015.003	12/7/2017	12.07.17 SENIOR LUNCH REF	10.00	10.00
47080	12/19/2017	02499	GE CAPITAL INFORMATION 99832111	12/7/2017	PD COPY MACHINE RENTAL	826.35	
			99814957	12/5/2017	REC COPY MACHINE RENTAL	601.18	1,427.53
47081	12/19/2017	02510	REGIONAL GOVERNMENT SE7741	11/30/2017	CONTRACT FINANCE SERVIC	5,174.50	5,174.50
47082	12/19/2017	02637	Z.A.P. MANUFACTURING INC. 888	12/11/2017	W1-7 48X24 & W1-8 18X24SIC	322.31	322.31
47083	12/19/2017	02827	CORODATA SHREDDING, INC.RS2937435	11/30/2017	STORAGE, PICKUP/DELIVER	221.70	221.70
47084	12/19/2017	02827	CORODATA SHREDDING, INC.DN1176278	11/30/2017	SHREDDING	95.74	95.74
47085	12/19/2017	02970	PRODUCTIVE PRINTING & GR32368	12/14/2017	500 BUSINESS CARDS BRIAN	135.94	135.94
47086	12/19/2017	03061	NORTH BAY PETROLEUM 1893685	11/30/2017	PW GAS PURCHASES	294.28	294.28
47087	12/19/2017	03092	MICROSOFT CORPORATION E01004XW02	12/15/2017	SEPT 15-DEC 14, 2017 MICRC	81.65	81.65
47088	12/19/2017	03118	BBI-CON, INC., DBA BBI CONSettlement & Rel	12/18/2017	VALUE ENGINEERING SETTLE	50,000.00	50,000.00
b total for FIRST NATIONAL BANK OF DALY CITY:							134,008.58

44 checks in this report.

Grand Total All Checks:

134,008.58

Bank : first FIRST NATIONAL BANK OF DALY

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
47089	12/19/2017	00325	ROMAN CATHOLIC ARCHBISHOP-988B C&D Refur	11/16/2017	988B C&D REFUND (04.17.17)	959.00	959.00
47090	12/19/2017	01653	KAISER FOUNDATION HEALTHFeb - Sept 2017	12/9/2017	FEB - SEPT 2017 TESTING: TI	1,543.00	1,543.00
47091	12/19/2017	02274	FRANK AND GROSSMAN LANI40447471	12/12/2017	REPLACE (3) 1 1/2" VALVES C	960.77	
			40447469	12/12/2017	REPLACE EXISTING SOLAR C	778.82	
			40447472	12/12/2017	REPAIR BROKEN MAINLINE V	576.85	
			40447470	12/12/2017	REPLACE LEAKING QUICK C	422.44	
			40447466	12/12/2017	REMOVE (6) EXISTING 4" SPF	385.00	
			40447468	12/12/2017	INFILL BARE AREAS WITH (8)	258.88	
			40447467	12/12/2017	REPLACE LEAKING VALVE OI	252.11	3,634.87
47092	12/19/2017	02542	TYCO INTEGRATED SECURIT 29767933	12/9/2017	FIRE SYSTEM AT SR. HOUSIN	410.53	410.53
47093	12/19/2017	02913	FARALLON COMPANY	12/11/2017	PMT 14 RELEASE RETENTION IO	72,430.86	
			#4 Release Rete	12/11/2017	#4 RELEASE RETENTION PR	49,280.13	121,710.99
47094	12/19/2017	03015	U.S. BANK CORPORATE PMT	11/22/2017	CREDIT CARD PURCHASE	1,486.94	1,486.94
47095	12/19/2017	03119	B. DAVIS INC.	11/29/2017	1055B C&D REFUND (08.18.17	1,000.00	1,000.00
47096	12/19/2017	03120	CARLSON, JAMES	12/14/2017	983B RELEASE SURETY DEP	2,000.00	2,000.00

o total for FIRST NATIONAL BANK OF DALY CITY: 132,745.33

8 checks in this report.

Grand Total All Checks:

132,745.33

Bank : first FIRST NATIONAL BANK OF DALY

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
47097	12/22/2017	00047	12222017 B	12/22/2017	CLEA: PAYMENT	294.00	294.00
47098	12/22/2017	00068	12222017 B	12/22/2017	COLMA PEACE OFFICERS: P/	690.83	690.83
47099	12/22/2017	01340	12222017 B	12/22/2017	COLMA PEACE OFFICERS: P/	690.83	690.83
47100	12/22/2017	01375	12222017 B	12/22/2017	FLEX 125 PLAN: PAYMENT	331.16	331.16
47101	12/22/2017	02224	12222017 B	12/22/2017	NATIONWIDE RETIREMENT S/	6,100.00	6,100.00
47102	12/22/2017	02377	12222017 B	12/22/2017	NATIONWIDE: PAYMENT	6,100.00	6,100.00
93634	12/22/2017	00282	12222017 B	12/22/2017	LIFE INSURANCE: PAYMENT	411.00	411.00
93642	12/22/2017	00130	12222017 B	12/22/2017	WAGE GARNISHMENT: PAYM	917.53	917.53
93643	12/22/2017	00521	12222017 B	12/22/2017	BLUE SHIELD ACCESS BAY: F	4,981.36	4,981.36
93644	12/22/2017	00631	12222017 B	12/22/2017	CALIFORNIA STATE TAX: PAY	9,399.92	9,399.92
93645	12/22/2017	01360	12222017 B	12/22/2017	CALIFORNIA STATE TAX: PAY	9,399.92	9,399.92
					FEDERAL TAX: PAYMENT	41,636.54	41,636.54
					P.E.R.S.	37,851.93	37,851.93
					VANTAGE TRANSFER AGENT:12222017 B	3,223.65	3,223.65
<p>o total for FIRST NATIONAL BANK OF DALY CITY:</p>						105,837.92	105,837.92

11 checks in this report.

Grand Total All Checks:

105,837.92

Bank : first FIRST NATIONAL BANK OF DALY

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
47103	12/27/2017	00051	CALIFORNIA WATER SERVICE1727052702	12/12/2017	1727052702 JSB ACROSS FR	116.01	116.01
47104	12/27/2017	00064	COLMA.FLORAL SHOP 2600	12/15/2017	12/12/17 COUNCIL RE-ORG F	163.13	163.13
47105	12/27/2017	00280	OFFICE DEPOT, INC. 989936682001	12/15/2017	RETRACTABLE PENS, DESK	80.28	80.28
47106	12/27/2017	00300	COMMUNITY GATEPATH FY 2017/2018 G	10/27/2017	FY 2017/2018 COUNCIL APPR	6,000.00	6,000.00
47107	12/27/2017	00307	PACIFIC GAS & ELECTRIC 0512181543-4	12/7/2017	0512181543-4 STREET & HIGH	1,835.70	1,835.70
47108	12/27/2017	00309	PAUL'S FLOWERS 12297	11/30/2017	11/22/17 COUNCIL MEETING I	54.38	54.38
47109	12/27/2017	00311	PITNEY BOWES INC. 1005996356	12/11/2017	#0012828896 POSTAGE METE	274.05	274.05
47110	12/27/2017	00352	SERRAMONTE FORD, INC. 2018 Ford Explo	12/15/2017	2018 FORD EXPLORER UT AV	31,075.67	31,075.67
47111	12/27/2017	00360	SAN MATEO COUNTY COMM LFY 2017/2018 G	10/27/2017	FY 2017/2018 COUNCIL APPR	3,000.00	3,000.00
47112	12/27/2017	00851	COLMA FIRE DISTRICT SOCIA12/16/17 Council	12/19/2017	12/16/17 COUNCIL OF CITIES	630.00	630.00
47113	12/27/2017	01036	MANAGED HEALTH NETWORKIPRM-017490	12/17/2017	EMPLOYEE ASSISTANCE PR	99.20	99.20
47114	12/27/2017	01037	COMCAST CABLE 8155 20 022 018	12/12/2017	11/14/17 TROUBLE CALL SER	70.00	70.00
47115	12/27/2017	02056	GOTELLI, LOUIS 2001023.003	12/18/2017	12.18.17 DEPOSIT REFUND	50.00	50.00
47116	12/27/2017	02073	SAFETYLINE INC. 29758	12/14/2017	ORANGE CLASS 2 TOW JAC	187.95	187.95
47117	12/27/2017	02545	MURRAY, JOHN MICHAEL 2001022.003	12/18/2017	12.18.17 DEPOSIT REFUND	50.00	50.00
47118	12/27/2017	02666	MORPHOTRUST USA, INC. 112150	10/2/2017	10/01/17 TO 09/30/18 ANNUAL	2,694.00	2,694.00
47119	12/27/2017	02676	DYETT & BHATIA, URBAN ANE17-552-02	12/15/2017	URBAN DESIGN & GENERAL	5,749.50	5,749.50
47120	12/27/2017	02864	MOBILE MODULAR MANAGEM1507724	12/14/2017	24 X 60 HCD OFFICE RENTAL	790.28	790.28
			1502741	12/8/2017	8 X 20 OFFICE HCD, RAMP RI	471.65	1,261.93
47121	12/27/2017	02988	DALY CITY PENINSULA FY 2017/2018 G	10/27/2017	FY 2017/2018 COUNCIL APPR	15,000.00	15,000.00

b total for FIRST NATIONAL BANK OF DALY CITY: 68,391.80

19 checks in this report.

Grand Total All Checks:

68,391.80



ORDINANCE NO. ____
OF THE CITY COUNCIL OF THE TOWN OF COLMA

**ORDINANCE AMENDING COLMA MUNICIPAL CODE SUBCHAPTER 1.16 REGARDING
A RESERVE POLICE OFFICER PROGRAM**

The City Council of the Town of Colma does ordain as follows:

ARTICLE 1. RECITALS.

- (a) Penal Code Section 830.6 provides that a proper authority of a city, such as the chief of police, may deputize or appoint reserve police officers as designated in a city ordinance.
- (b) Penal Code Section 832.6 outlines the different classes of reserve police officers that a chief of police may deputize or appoint, including level I reserve officer, level II reserve officer and level III reserve officer.
- (c) The Town of Colma would like to establish a police reserve officer program in the Town.
- (d) The Town of Colma does not currently have an ordinance which grants the Town's Chief of Police the authority to deputize or appoint police reserve police officers pursuant to Penal Code Sections 830.6 and 832.6.
- (e) In order to implement a Town police reserve officer program, the City Council now desires to authorize the Chief of Police to deputize or appoint classes of reserve police officers.
- (f) The reserve police officer program will not be implemented in such a way that violates any Town labor agreement or state or federal law.
-

ARTICLE 2. CMC SUBCHAPTER 1.16 AMENDED.

Subchapter 1.16 is hereby amended by amending the title of the subchapter as noted below, and by adding in a new section 1.16.060 as follows:

"Subchapter 1.16: Police Training, ~~and~~ Public Safety
Dispatcher Standards, and Reserve Police Officers

1.16.060 Reserve Police Officers.

A. A police reserve force is established in the Town of Colma. The Chief of Police, or his or her designee, is hereby empowered to deputize or appoint qualified persons as reserve police officers pursuant to Sections 830.6 and 832.6 of the Penal Code. Qualifying persons may be appointed to the position of reserve police officer in the following categories pursuant to California Penal Code Section 832.6: Level I Reserve Police Officer, Level II Reserve Police Officer or Level III Reserve Police Officer.

B. Those persons deputized or appointed by the Chief of Police, or his or her designee, as a "designated" Level I Reserve Police Officer as provided by California Penal Code Section 830.6(a)(2), shall have the full powers and duties of a peace officer as provided in Section 830.1 of the Penal Code. Any reserve police officer within the Level I Reserve Police Officer job classification not appointed as "designated" is a "nondesignated" Level I Reserve Police Officer as provided by California Penal Code Section 830.6(a)(1). The authority of "nondesignated" Level I Reserve Police Officers shall extend only for the duration of assignment to specific police functions, as determined by the chief of police.

ARTICLE 3. SEVERABILITY.

Each of the provisions of this Ordinance is severable from all other provisions. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE 4. NOT A CEQA PROJECT.

The City Council finds that this ordinance is not a "project," as defined in the California Environmental Quality Act pursuant to CEQA Guideline 15061(b)(3) because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

ARTICLE 5. EFFECTIVE DATE.

This ordinance, or a summary thereof prepared by the City Attorney, shall be posted on the three (3) official bulletin boards of the Town of Colma within 15 days of its passage and is to take force and effect thirty (30) days after its passage.

Certificate of Adoption

I certify that the foregoing Ordinance No. ___ was duly introduced at a regular meeting of the City Council of the Town of Colma held on December 13, 2017 and duly adopted at a regular meeting of said City Council held on _____, 2017 by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	

<i>Voting Tally</i>					

Dated _____

Mayor

Attest: _____
Caitlin Corley, City Clerk





STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Cynthia Morquecho, Recreation Manager
 VIA: Brian Dossey, City Manager
 MEETING DATE: January 10, 2018
 SUBJECT: Recreation Services Department Quarterly Review, October - December 2017

RECOMMENDATION

Staff recommends that the City Council adopt:

A MOTION TO ACCEPT INFORMATIONAL REPORT ON RECREATION DEPARTMENT PROGRAMS, ACTIVITIES, EVENTS, AND TRIPS FOR THE FOURTH QUARTER OF 2017.

EXECUTIVE SUMMARY

In the fourth quarter of 2017, a total of 1,468 participants attended 60 programs. This represents a decrease of 12 participants from the fourth quarter of 2016. Staff attributes the decrease to fewer participants in the fitness programs, teen trips, and a couple of programs not offered due to scheduling conflicts.

Staff estimates that 40 percent of the population had a current Colma I.D. during the fourth quarter of 2017, suggesting that residents participated in multiple programs.

There were a total of 76 rentals, which is a decrease of 1 rental from the third quarter of 2017.

BACKGROUND

Participation

The Recreation Services Department offered programs, activities, events and trips for all age groups during the past quarter. Below is a summary of participation levels by demographic:

- A total of 132 adults and seniors participated in enrichment programs. This represents an increase of 28 participants from the fourth quarter of 2016. Staff attributes the increase to more participants in new classes added during the fourth quarter.

- A total of 459 adults and seniors participated in trips and events. This represents a decrease of 30 participants from the fourth quarter of 2016. Staff attributes the decrease to fewer participants on trips.
- A total of 373 youth and teens participated in Enrichment Programs. This represents a decrease of 13 participants from the fourth quarter of 2016. Staff attributes the decrease to fewer participants in the afterschool program and fall day camp, and the cancellation of youth cooking classes.
- A total of 158 youths and teens participated in events and trips. This represents a decrease of 48 participants from the fourth quarter of 2016. Staff attributes the decrease to the cancellation of several teen trips and teen programs.
- A total of 346 youth, adults and seniors participated in Community Programs. This represents an increase of 31 participants from the fourth quarter of 2016. Staff attributes the increase to the high participation in Holiday Craft Night and Holiday House Decorating Contest.

The attachment contains a detailed breakdown of participation by program.

Rental Activity

The Colma Community Center was rented for 56 different events:

- Resident Rentals (27 social events, one fundraiser and four meetings)
- Non-Resident Rentals (two funeral receptions and one social event)
- Non-Resident Non-profit Groups (6 programs and one meeting)
- In House Reservations (14 meetings/trainings)

The Sterling Park Recreation Center was rented for 20 different events:

- Sterling Park Resident Rentals (20 social events)

Sustainability Impact

Staff coordinates and implements program and activities which are in alignment with the Town's Climate Action Plan and Sustainability Policy. For example, staff used paper plates, fork, knives, cups, etc. made from recycled content.

ATTACHMENTS

- A. 2017 Recreation Services Department Quarterly Review – Participation Detail

**Recreation Services Department Quarterly Review
October - December 2017
Participation Detail**

Adult/Senior Enrichment Programs

Program	Registered	Sessions	New or Existing Program
Boot Camp Fitness	9	2	Existing
Citizenship Workshops	Cancelled	4	<i>NEW</i>
Cooking Classes	24	3	Existing
Create Your Own Craft	5	2	<i>NEW</i>
Creekside Villas Activities	38	3	Existing
Dragon Boat Paddling for Beginners	3	1	<i>NEW</i>
Eat Well, Be Well	10	2	<i>NEW</i>
First Aid/CPR	11	1	Existing
Golf	Cancelled	3	Existing
Gentle & Invigorating Yoga	12	2	Existing
Vinyasa Yoga	Cancelled	2	<i>NEW</i>
Yoga for Seniors	8	1	Existing
Zumba	12	1	Existing

Adult & Senior Trips & Events

Program	Registered	Sessions	New or Existing Program
Adult Holiday Event	222	1	Existing
Arm Chair Travel	17	2	Existing
Breakfast with Santa	32	1	Existing
Conservatory of Flowers	12	1	<i>NEW</i>
Precita Eyes Mural Tour	Cancelled	1	<i>NEW</i>
Friday Films	30	3	Existing
Potomac Dockside Tour	20	1	<i>NEW</i>
Senior Holiday Luncheon (including staff)	48	1	Existing
Senior Luncheon	53	2	Existing
The Great Dickens Fair	25	1	Existing

Youth & Teen Enrichment Programs

Program	Registered	Sessions	New or Existing Program
Ballet, Tap & Hip Hop	7	8	Existing
Cooking	Cancelled	3	Existing
Fall Day Camp Early Morning Care	14	1	Existing
Fall Day Camp	26	1	Existing
Fall Day Camp Afternoon Care	16	1	Existing
Gleeshiner's Choir	Cancelled	1	<i>NEW</i>
Golf	1	3	Existing
Guitar Workshop	Cancelled	1	Existing

Jazz Guitar & Musicianship	Cancelled	1	<i>NEW</i>
Keyboard	5	2	Existing
Kids' Club Afterschool Program	64	5	Existing
Kumon Math Tutoring	84	3	Existing
Kumon Reading Tutoring	58	3	Existing
Parents' Night Out	5	3	Existing
Tae Kwon Do	26	3	Existing
Traditional Ukulele	2	1	Existing
Vibo Youth Ensemble	2	1	Existing
Violin Workshop	2	1	Existing
Winter Day Camp Early Morning Care	13	1	Existing
Winter Day Camp	30	1	Existing
Winter Day Camp Afternoon Care	18	1	Existing

Youth and Teen Events & Trips

Program	Registered	Sessions	New or Existing Program
Breakfast with Santa	74	1	Existing
Halloween Costume Parade	35	1	Existing
HOWL-O-WEEN Pet Parade	5	1	Existing
Ice Cream Arts & Crafts	7	3	Existing
Pumpkin Carving Party	37	1	Existing
Teen Activity Group	Cancelled	1	Existing
Teen Center Hours	Cancelled	1	Existing
Teen Fright Night	Cancelled	1	Existing

Community Programs

Program	Registered	Sessions	New or Existing Program
Colma Game Night	42	1	Existing
Halloween House Decorating Contest	46	1	Existing
Holiday Craft Night/Tree Lighting	94	1	Existing
Holiday House Decorating Contest	85	1	Existing
Project Read Learning Wheels	25	2	Existing
Project Read Nutrition Program	29	2	Existing
Project Read Science Club	25	2	Existing

Note: Programs were cancelled due to insufficient participation.



STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Brian Dossey, City Manager
 Christopher J. Diaz, City Attorney
 MEETING DATE: January 10, 2018
 SUBJECT: ABAG PLAN JPA Agreement

RECOMMENDATION

Staff recommends that the City Council adopt the following resolution:

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF THE POOLED
 LIABILITY ASSURANCE NETWORK [PLAN] JOINT EXERCISE OF POWERS AGREEMENT

EXECUTIVE SUMMARY

ABAG PLAN was established in 1986 as an independent non-profit corporation when the Association of Bay Area Governments (ABAG) agreed to form a pooled liability insurance program among the cities throughout the Bay Area. The Town joined ABAG PLAN by resolution in 1998 as a cost savings measure to the taxpayers for risk management and administrative services for its insurance programs. ABAG employees are assigned to ABAG PLAN to manage these services.

BACKGROUND

ABAG is primarily a planning agency along with the Metropolitan Transportation Commission (MTC). In 2015 and 2016 these two agencies merged and many community programs such as ABAG PLAN were included in the merger under the ABAG umbrella.

During the merger, ABAG PLAN thought it would be prudent to send out RFP's for risk management and administrative services just in case the merger between ABAG and MTC was not favorable to ABAG PLAN. Proposals were submitted by five private companies that provide these services and four out of the five respondents bids were less than ABAG/MTC FY2017-18 budget for ABAG PLAN's services.

At the ABAG PLAN Board of Directors meeting on June 23, 2017, the Board voted unanimously to award a contract to Bickmore Risk Services to provide contracted risk management and administrative services to ABAG PLAN saving up to \$500,000 annually.

While ABAG PLAN performed well under ABAG's management and oversight, ABAG PLAN is in the process of separating from ABAG/MTC, and forming a new JPA for risk management and administrative services.

ANALYSIS

In order to complete the transition of pool administrative services from ABAG/MTC and achieve the significant savings in administrative cost to the existing program, both ABAG General Counsel and PLAN Counsel have recommended a separate Joint Powers Authority (JPA) be formed to exclusively manage the existing and future risk management and coverage needs of the members. The new JPA is required to act as fiscal agent and manage the transfer of all of the current assets and liabilities from the ABAG PLAN non-profit corporation to the new PLAN JPA. The new PLAN JPA will no longer be directly affiliated with MTC but will continue to provide a stable, cost-effective self-insurance, risk sharing and risk management program for the member participants.

In particular, the JPA Agreement provides for the following:

- Establishes the Purposes of the Agreement and the JPA, including to develop effective risk management programs to reduce the amount and frequency of losses, share the risk of self-insured losses, jointly purchase insurance and administrative and other services, and assume the assets, liabilities and obligations of the ABAG PLAN Corporation;
- Authorizes the JPA, through its Board of Directors, to do all acts necessary to fulfill the Purposes of the Agreement, including but not limited to making and entering into contracts and revising the Risk Coverage Agreement and Memorandum of Coverage, and to incur debts, liabilities and obligations;
- Member Entities, including the Town, agree to cooperate with the Authority, pay premiums and other charges due to the Authority, provide statistical and loss experience, data, and other information as may be necessary, and to assume the assets, liabilities and obligations of the ABAG PLAN Corporation;
- The JPA Board of Directors will be comprised of one director and one alternate director appointed from each Member Entity;
- Member Entities may withdraw from the JPA only at the end of a fiscal year after giving at least 6 months written notice of the intent to withdraw, and the JPA may expel Member Entities from membership in the event of a material breach of the JPA Governing Documents, upon 2/3 vote of the Board of Directors;
- Member Entities may terminate the JPA Agreement upon written consent of 2/3 of the Member Entities.

The Town's City Manager is represented on the ABAG PLAN Executive Committee, Board of Directors and Chairs the Risk Management Committee, and has been attending the meetings regarding this matter and supports the transition away from ABAG/MTC to the new JPA for the following reasons:

1. Cost savings – The pool of member agencies can save over \$500,000 annually by contracting out for risk management and administrative services.

2. Experience – Bickmore Risk Services has a proven track record of providing risk management and pool administration since 1986; whereas ABAG/MTC staff is not accustomed to providing risk management services.
3. Resources – Bickmore Risk Services will be able to provide additional resources that may not be readily available by ABAG/MTC staff.

If the Town chooses not to enter into the new JPA for risk management and administrative services for its liability and property insurance programs, the Town will have to seek other alternatives; for ABAG PLAN will dissolve after the new JPA is formed and transfer of the Memorandum of Coverage to the new JPA.

Council Adopted Values

The City Council's adoption of the resolution and approval of the new JPA Agreement is *responsible* and *visionary* as it is looking to the future by reducing costs of on-going risk management services.

Alternatives

The City Council could choose not to adopt the resolution and not approve the new JPA agreement. If the Town chooses not to enter into the new JPA for risk management and administrative services for its liability and property insurance programs, the Town will have to seek other alternatives; for ABAG PLAN will dissolve after the new JPA is formed and transfer of the Memorandum of Coverage to the new JPA.

CONCLUSION

The City Council should adopt the resolution.

ATTACHMENTS

- A. Resolution
- B. JPA Agreement



RESOLUTION NO. 2018-____
Of the City Council of the Town of Colma

**RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF THE
POOLED LIABILITY ASSURANCE NETWORK [PLAN] JOINT EXERCISE OF
POWERS AGREEMENT**

The City Council of the Town of Colma does hereby resolve:

1. Background.

(a) The Town of Colma is a member of PLAN corporation, a California non-profit corporation ("PLAN Corporation") comprised of twenty-eight member agencies pooling their property and liability risk in conjunction with the Association of Bay Area Governments ("ABAG") Joint Exercise of Powers Authority ("JPA"), established pursuant to California Government Code §6500 et seq., and

(b) In 1986 ABAG and PLAN Corporation entered into an Agency Agreement which irrevocably assigned the risk management duties and obligations of ABAG to PLAN Corporation.

(c) The Member Agencies of PLAN Corporation have entered into a Risk Coverage Agreement with each other and ABAG to provide for pooled liability services through PLAN Corporation, and

(d) A JPA is required to act as fiscal agent and manage the transfer and assignment of all of the current assets and liabilities from PLAN Corporation to the new PLAN JPA, and

(e) The Members of PLAN Corporation seek to separate from the current model of service involving the necessity of the Agency Agreement and use of the ABAG JPA to the new risk management focused PLAN JPA that would provide pooled risk coverage for its member agencies, with preference for the existing members of PLAN, under a new risk coverage agreement within the PLAN JPA, and

(f) As part of the transition the Bickmore Contract with PLAN Corporation will be assigned to the PLAN JPA, so that these services can continue in a seamless manner.

2. Order.

(a) The City Council approves and authorizes the City Manager to execute the Pooled Liability Assurance Network (PLAN) Joint Exercise of Powers Agreement, pursuant to California Government Code §6500 et seq., including the powers delegated therein, conditioned on the transfer of the assets of PLAN to the PLAN JPA.

(b) The Town's PLAN Corporation representative is authorized to approve of the assignment of assets from PLAN Corporation to the JPA, and to approve the assignment of risk management services from PLAN Corporation to PLAN JPA.

Certification of Adoption

I certify that the foregoing Resolution No. 2018-___ was duly adopted at a regular meeting of said City Council held on January 10, 2018 by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Raquel Gonzalez, Mayor					
Joanne del Rosario					
John Irish Goodwin					
Diana Colvin					
Helen Fisicaro					
Voting Tally					

Dated _____

Raquel Gonzalez, Mayor

Attest: _____
Caitlin Corley, City Clerk

JOINT POWERS AGREEMENT

CREATING THE

POOLED LIABILITY ASSURANCE NETWORK [PLAN] JOINT POWERS AUTHORITY

**JOINT POWERS AGREEMENT
TABLE OF CONTENTS**

ARTICLE I	CREATION OF THE POOLED LIABILITY ASSURANCE NETWORK [PLAN] JOINT POWERS AUTHORITY	4
ARTICLE II	PURPOSES	5
ARTICLE III	DEFINITIONS	6
ARTICLE IV	PARTIES TO AGREEMENT	6
ARTICLE V	TERM OF AGREEMENT	6
ARTICLE VI	POWERS OF THE AUTHORITY	6
ARTICLE VII	MEMBERSHIP	7
ARTICLE VIII	MEMBER ENTITY RESPONSIBILITIES	8
ARTICLE IX	POWERS RESERVED TO THE MEMBERSHIP	8
ARTICLE X	BOARD OF DIRECTORS	9
ARTICLE XI	POWERS RESERVED TO THE BOARD	9
ARTICLE XII	COMMITTEES	9
ARTICLE XIII	BOARD AND COMMITTEE MEETINGS	9
ARTICLE XIV	OFFICERS AND EMPLOYEES	10
ARTICLE XV	ANNUAL AUDITS AND AUDIT REPORTS	10
ARTICLE XVI	INDEMNIFICATION OF DIRECTORS, OFFICERS, AND EMPLOYEES	10
ARTICLE XVII	SELF INDEMNIFICATION AMONG THE MEMBER ENTITIES	11
ARTICLE XVIII	NEW MEMBERS	11
ARTICLE XIX	WITHDRAWAL	12

ARTICLE XX	EXPULSION	12
ARTICLE XX I	TERMINATION AND DISTRIBUTION	12
ARTICLE XXII	NOTICES	13
ARTICLE XXIII	BINDING EFFECT OF BYLAWS AND OTHER GOVERNING DOCUMENTS	13
ARTICLE XXIV	ENFORCEMENT	13
ARTICLE XXV	PROHIBITION AGAINST ASSIGNMENT	13
ARTICLE XXVI	AMENDMENTS	13
ARTICLE XXVII	SEVERABILITY	14

**POOLED LIABILITY ASSURANCE NETWORK [PLAN] JOINT POWERS
AUTHORITY**

JOINT POWERS AGREEMENT

This Agreement is made by and among the public entities listed in Appendix A (“Member Entities”), all of which are public entities organized and operating under the laws of the State of California and each of which is a local public entity as defined in California Government Code Section 989, as it may be amended from time to time.

RECITALS

- I. The following state laws, among others, authorize the Member Entities to enter into the Pooled Liability Assurance Network Joint Powers Authority [PLAN] Joint Powers Agreement (“Agreement”):
1. Labor Code Section 3700 allowing a local public entity to fund its own workers’ compensation claims;
 2. Government Code Sections 989 and 990 permitting a local public entity to insure itself against liability and other losses;
 3. Government Code Section 990.4 permitting a local public entity to provide insurance and self-insurance in any desired combination;
 4. Government Code Section 990.8 permitting two or more local public entities to enter into an agreement to jointly fund such expenditures under the authority of Government Code Sections 6500-6515; and
 5. Government Code Sections 6500-6515 permitting two or more local public entities to jointly exercise under an agreement any power which is common to each of them.
- II. The governing board of each Member Entity has determined that it is in the Member Entity’s best interest and in the public interest that this Agreement be executed and that it shall participate as a member of the public entity created by this Agreement.

Now, therefore, the Member Entities, by, between, and among themselves, in consideration of the mutual benefits, promises, and agreements set forth below, hereby agree as follows:

ARTICLE I

**CREATION OF THE “POOLED LIABILITY ASSURANCE NETWORK [PLAN] JOINT
POWERS AUTHORITY”**

Pursuant to Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California (commencing with Section 6500), the Member Entities create a public agency, separate and apart from the Member Entities, to be known as the “Pooled Liability Assurance Network [PLAN] Joint Powers Authority” (the “Authority”). Pursuant to Government Code Section 6508.1, the debts, liabilities, and obligations of this Authority shall not constitute debts, liabilities, or obligations of the Member Entities.

ARTICLE II

PURPOSES

This Agreement is entered into by Member Entities under California Government Code Sections 990, 990.4, 990.8, and 6500, et. seq. and Labor Code Section 3700 in order to do one or more of the following:

1. Develop effective risk management programs to reduce the amount and frequency of losses;
2. Share the risk of self-insured losses;
3. Jointly purchase insurance either with or without any self-insured portion underlying the insurance, and administrative and other services including, but not limited to claims adjusting, data processing, risk management, loss prevention, accounting services, actuarial services, and legal services in connection with the Programs;
4. Provide administrative and other services including, but not limited to, claims adjusting, data processing, risk management, loss prevention, treasury, investment management, accounting services, audit, actuarial services, and legal services in connection with the various programs;
5. Assume the assets, liabilities and obligations of the ABAG PLAN CORPORATION (a California non-profit corporation), also known as Association of Bay Area Governments Pooled Liability Assurance Network on the basis of each Member Entity’s responsibilities under those previously binding documents, including the Memorandum of Coverage, and Risk Coverage Agreement, as amended to reflect the formation of this JPA and its policies and procedures; and

These purposes shall be accomplished through the exercise of the powers of the Member Entities jointly in the creation and operation of the Authority.

It is also the purpose of this Agreement to provide, to the extent permitted by law, procedures for the addition, at subsequent date, of public entities to become parties to this Agreement and members of the Authority, subject to Article XVIII, and to provide for the removal of Member

Entities for cause or upon request, subject to Articles XIX and XX.

ARTICLE III

DEFINITIONS

In this Agreement unless the context otherwise requires:

1. **Board** or **Board of Directors** is the governing body of the Authority constituted as set forth in Article X of this Agreement;
2. **Governing Documents** include this Agreement, the Bylaws of the Authority, and any other document identified as a Governing Document in the Bylaws.
3. **Member Entity** includes each public agency which is a party to this Agreement.
4. **Program** is the specific method used to provide coverage for a risk, scope, type, or area of insurance services, including, without limitation, the funding of loss reserves, where applicable, as prescribed in a Governing Document for a specific type of coverage, and may encompass such specific areas as general liability (including errors and omissions), property, automobile, workers' compensation, or employee benefits.

ARTICLE IV

PARTIES TO THE AGREEMENT

Each Member Entity certifies that it intends to and does contract with every other Member Entity who is a signatory to this Agreement and, in addition, with such other Member Entity as may later be added as a Member Entity under Article XVIII. Each Member Entity also certifies that the deletion of any Member Entity from this Agreement does not affect this Agreement nor each Member Entity's intent to contract with the Member Entities then remaining.

ARTICLE V

TERM OF AGREEMENT

This Agreement will become effective as of January 1, 2018 and continues in full force until terminated in accordance with Article XXI.

ARTICLE VI

POWERS OF THE AUTHORITY

The Authority, through its Board of Directors, is authorized, in its own name, to do all acts necessary to fulfill the purposes of this Agreement referred to in Article II including, but not limited to, each of the following:

1. Make and enter into contracts, including but not limited to revision to the Risk Coverage Agreement and Memorandum of Coverage;
2. Incur debts, liabilities, and obligations; but no debt, liability, or obligation of the Authority is a debt, liability, or obligation of a Member Entity;
3. Acquire, hold, or dispose of real and personal property;
4. Receive contributions and donations of property, funds, services, and other forms of assistance from any source;
5. Sue and be sued in its own name;
6. Employ agents and employees;
7. Acquire, construct, manage, and maintain buildings;
8. Lease real or personal property, including that of a Member Entity;
9. Receive, collect, invest, and disburse monies;
10. Issue revenue bonds or other forms of indebtedness, as provided under Government Code Sections 6500, et. seq.; and
11. Carry out other duties as required to accomplish other responsibilities as set forth in this Agreement.
12. Hire attorneys, accountants, auditors and other professionals.

These powers shall be exercised in the manner provided by applicable law and as expressly set forth in this Agreement.

ARTICLE VII

MEMBERSHIP

Membership shall be restricted to public agencies located within the State of California as set forth in the Bylaws.

Upon a Member Entity organization or re-organization, including dissolution, merger, or

consolidation, which results in extinguishment or dissolution of the legal existence of a Member Entity, the rights, obligations, and liabilities of such Member Entity under this Agreement, the Bylaws, or other Governing Documents or resolutions of the Board shall be the rights, obligations, and liabilities of the successor public entity.

ARTICLE VIII

MEMBER ENTITY RESPONSIBILITIES

Each Member Entity has the obligations and responsibilities set forth in the Governing Documents as defined in the Bylaws and any resolution of the Board of Directors. Such responsibilities and obligations may include, but are not limited to, the following:

1. Cooperate with the Authority in determining the cause of losses and in the settlement of claims;
2. Pay all premiums, assessments, penalties, interest, and other charges promptly to the Authority when due;
3. Provide the Authority with statistical and loss experience, data, and other information as may be necessary;
4. Cooperate with and assist the Authority and any insurer, claims adjuster, or legal counsel retained by the Authority in matters relating to this Agreement, the Authority Bylaws, any other Governing Documents, and policies and procedures adopted by the Board;
5. Except for any new Member Entities as allowed for in Article XVIII, agree the Authority will assume the assets, liabilities and obligations of ABAG PLAN CORPORATION (a California non-profit corporation) also known as the Association of Bay Area Governments Pooled Liability Assurance Network, on the basis of its documents, including but not limited to the Memorandum of Coverage, and Risk Coverage Agreement, as amended to reflect the formation of this JPA and its policies and procedures; and

ARTICLE IX

POWERS RESERVED TO THE MEMBERSHIP

The Member Entities retain the following powers:

1. The designation of the Board of Directors as specified in Article X; and
2. Approval of amendments to this Agreement as specified in Article XXVI.

ARTICLE X

BOARD OF DIRECTORS

There shall be a Board of Directors to govern the affairs of the Authority. The Board shall be comprised of one director, and one alternate director, from each Member Entity who shall have the authority to bind the Member Entity on any and all matters relating to the business of the Authority. Each director has one vote. Each director shall be appointed by the governing body of the Member Entity. The alternate director shall be appointed by and serve at the pleasure of the Member Entity. The alternate director may cast a vote as a member of the Board of Directors only in the absence of the director.

ARTICLE XI

POWERS RESERVED TO THE BOARD

The powers of the Board are the powers of the Authority not specifically reserved to the Member Entities by this Agreement. The Board has authority to delegate its powers and authority. However, the Board shall retain unto itself the power to change the Bylaws, to expel a member by a two-thirds vote, and to establish a Program.

ARTICLE XII

COMMITTEES

EXECUTIVE COMMITTEE

The Board may create an Executive Committee comprised of members of the Board and delegate one or more of its powers to the Executive Committee except those powers not delegable. An appointment to the Executive Committee, if any, is by an election of the Board of Directors.

OTHER COMMITTEES

Other committees may be created by, or in accordance with, the procedures described in the Bylaws.

ARTICLE XIII

BOARD AND COMMITTEE MEETINGS

The Board shall hold at least one regular meeting each year. The Board shall fix the date, hour, and place at which each regular meeting is to be held. A special meeting may be called upon written request by the President or at least one-third of the Board members.

Each regular, adjourned regular and special meeting of the Board, the Executive Committee, or any other Standing Committee shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act (Section 54950 et. seq. of the Government Code).

The Secretary shall keep or have kept minutes of each regular or special meeting of the Board and any Committee. As soon as possible after each meeting, the Secretary shall have a copy of those minutes forwarded to each member of the Board.

No business may be transacted by the Board or a Committee without a quorum of members being present. A quorum consists of a majority of the members.

ARTICLE XIV

OFFICERS AND EMPLOYEES

The Officers of the Authority are the President, Vice President, Administrator, Secretary, Treasurer, and others as may be declared in the Bylaws or resolution of the Board. The Officers are elected or appointed in accordance with the procedures described in the Bylaws. The Officers shall have the authorities and responsibilities as defined in the Bylaws.

The Board may appoint such officers and employees and may contract with such persons or firms as it considers necessary to carry out the purposes of this Agreement.

Any Member Entity which provides or performs assigned duties pursuant to this Article may be reimbursed by the Authority for services rendered on the Authority's behalf.

ARTICLE XV

ANNUAL AUDITS AND AUDIT REPORTS

The Treasurer shall cause an annual financial audit to be made by an independent Certified Public Accountant with respect to all Authority receipts, disbursements, other transactions and entries into the books. A report of the financial audit shall be filed as a public record with each Member Entity. The audit shall be conducted in accordance with Government Code Section 6505 and filed with the County Auditor or others as required by the laws of California. The Authority shall pay the cost of the financial audit and charge the cost against the Member Entities in the same manner as other administrative costs.

ARTICLE XVI

INDEMNIFICATION OF DIRECTORS, OFFICERS, AND EMPLOYEES

The members of the Board of Directors and the officers and employees of the Authority shall

act in good faith and in the best interests of the Authority in the performance of their duties hereunder. The members of the Board of Directors and the officers and employees of the Authority shall be liable for any act or omission within the scope of their office or employment by the Authority as a public entity only in the event that they act or fail to act because of actual fraud, corruption, or actual malice or willfully fail or refuse to conduct the defense of a claim or action in good faith or to reasonably cooperate in good faith in the defense conducted by the Authority. No member of the Board shall be liable for any action taken or omitted by any other member of the Board. No member of the Board, officer, or employee shall be required to deposit premium on a bond or other security to guarantee the faithful performance of his or her duties hereunder, although the Authority may provide such bonds. Funds of the Authority shall be used to defend and to indemnify members of the Board, officers, and employees of the Authority for any act or omission pursuant to the provisions of Government Code Sections 910 to 996.6. The Authority may purchase insurance to provide coverage for acts or omissions of directors, officers, and employees.

The Authority shall indemnify, protect, defend, and hold harmless each and all of the Member Entities, and their officers and employees, for and from any and all liability, claims, causes of action, damages, losses, judgments, costs, or expenses (including attorney's fees) resulting from an injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement by the Authority, by one or more of the Member Entities, or any of their officers, employees, agents, or independent contractors. This indemnification provision is intended to supplant and supersede the pro rata right of contribution formula set forth in Government Code Section 895.6.

ARTICLE XVII

SELF-INDEMNIFICATION AMONG THE MEMBER ENTITIES

Section 895.2 of the California Government Code imposes certain tort liability jointly upon entities solely by reason of such entities being parties to an agreement as defined in Section 895 of said Code. Therefore, the Member Entities hereto, as between themselves, pursuant to the authorization contained in Sections 895.4 and 895.6 of the California Government Code, each assumes the full liability imposed upon it for any of its officers, agents, or employees by law for injuries caused by a negligent or wrongful act or omission occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve this purpose, each Member Entity indemnifies and holds harmless all other Member Entities for any loss, cost, or expense that may be imposed upon such other Member Entities solely by virtue of Section 895.2 of the California Code.

ARTICLE XVIII

NEW MEMBERS

A public agency may be admitted as a Member Entity only upon a two-thirds vote of the Board of Directors. The application of any Member Entity to participate in any Program shall be determined under the Program's Governing Documents. Notwithstanding the above, members of

ABAG Plan Corporation in good standing as of July 1, 2017 shall be automatically admitted upon adoption of a resolution by its governing body authorizing the execution of this Joint Powers Agreement, provided that said action occurs by June 30, 2018.

Each applicant for membership shall pay all fees and expenses set by the Board.

ARTICLE XIX

WITHDRAWAL

A Member Entity may withdraw from the Authority only at the end of a fiscal year, provided it has given the Authority at least six months written notice of its intent to withdraw. A notice of intent to withdraw shall be final and irrevocable upon its receipt by the Authority unless the Board authorizes it to be rescinded by the Member Entity. A Member Entity joining after June 30, 2018 may only withdraw from the Authority after three (3) consecutive fiscal years following commencement of membership.

The withdrawal of a Member Entity from membership in the Authority shall not terminate its responsibility, as defined by any of the Governing Documents of the Authority, to contribute its share of premiums or funds to any fund or coverage program created by the Authority in which the withdrawing Member Entity has participated.

ARTICLE XX

EXPULSION

The Authority may expel a Member Entity from membership in the Authority by a two-thirds vote of the Board of Directors for a breach of any of the Governing Documents determined by the Board to be a material breach. Such expulsion shall automatically, and simultaneously, terminate the Member Entity's participation in any and all Programs in which it may be a Program participant. The procedure for hearing and notice of expulsion of a Member Entity shall be as provided in the Authority Bylaws.

The expulsion procedures from any Program shall be defined in the Governing Documents for that Program.

The expulsion of a Member Entity from membership in the Authority shall not terminate its responsibility, as defined by any of the Governing Documents of the Authority, to contribute its share of premiums or funds to any fund or coverage Program created by the Authority in which the expelled Member Entity has participated.

ARTICLE XXI

TERMINATION AND DISTRIBUTION

This Agreement may be terminated by the written consent of two-thirds of the Member

Entities. However, this Agreement and the Authority shall continue to exist after termination for the purpose of disposing of all claims, debts and other obligations, distribution of assets, and all other functions necessary to conclude the obligations and affairs of the Authority.

Upon termination of this Agreement, after disposition of all claims debts and other obligations, the remaining assets of the Authority shall be distributed and apportioned among the Member Entities that have been participants in its Programs, including those Member Entities which previously withdrew or were expelled pursuant to Articles XIX and XX of this Agreement, as provided in the Authority Bylaws.

ARTICLE XXII

NOTICES

Notice to each Member Entity under this Agreement is sufficient if mailed to its respective address on file with the Authority.

ARTICLE XXIII

BINDING EFFECT OF BYLAWS AND OTHER GOVERNING DOCUMENTS

Each party to this Agreement by its execution agrees to be bound by and to comply with all of the terms and conditions of the Governing Documents, and any Resolution adopted by the Board of Directors as they now exist or may hereafter be adopted or amended.

ARTICLE XXIV

ENFORCEMENT

The Authority is hereby granted authority to enforce this Agreement. In the event action is instituted by the Authority to enforce any term of any of the Governing Documents of any Program or otherwise against any Member Entity, the prevailing party shall be entitled to reasonable attorney fees and costs incurred because of said action, in addition to other appropriate relief.

ARTICLE XXV

PROHIBITION AGAINST ASSIGNMENT

No Member Entity may assign a right, claim, or interest it may have under this Agreement. No creditor, assignee, or third-party beneficiary of a Member Entity has a right, claim, or title to any part, share, interest, fund, premium, or asset of the Authority.

ARTICLE XXVI

AMENDMENTS

This Agreement may be amended if at least 2/3rds of the total Member Entities vote in favor of the amendment. A proposed amendment must be submitted to each Member Entity at least thirty (30) days prior to the date the amendment is considered by the Authority. An amendment will be effective immediately unless otherwise specified. Appendix A to the Agreement may be amended to correctly list current Member Entities without separate action by the Member Entities or the Board.

ARTICLE XXVII

SEVERABILITY

If a portion, term, condition, or provision of this Agreement is determined by a court to be illegal or in conflict with a law of the State of California, or is otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions, and provisions is not affected.

In witness whereof, the following parties have each executed this Agreement as amended on the dates set forth below and acknowledge their membership in the Authority:

Entity:

Date: _____

Title:

APPENDIX A MEMBER

ENTITIES

City of American Canyon
Town of Atherton
City of Benicia
City of Burlingame
City of Campbell
Town of Colma
City of Cupertino
City of Dublin
City of East Palo Alto
City of Foster City
City of Half Moon Bay
Town of Hillsborough
Town of Los Altos Hills
Town of Los Gatos
City of Millbrae
City of Milpitas
City of Morgan Hill
City of Newark
City of Pacifica
Town of Portola Valley
Town of Ross
City of San Bruno
City of San Carlos
City of Saratoga
City of South San Francisco
City of Suisun City
Town of Tiburon
Town of Woodside



STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Christopher J. Diaz, City Attorney
 VIA: Brian Dossey, City Manager
 MEETING DATE: January 10, 2018
 SUBJECT: Non-Exclusive Easement Agreement (Air Rights) for Serra Center

RECOMMENDATION

Staff recommends the Council adopt the following:

RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A
 NON-EXCLUSIVE EASEMENT AGREEMENT (AIR RIGHTS) FOR SERRA CENTER
 PURSUANT TO CEQA GUIDELINE 15311

EXECUTIVE SUMMARY

The proposed non-exclusive easement agreement (air rights) for Serra Center is intended to fulfill a condition of approval to the City Council's prior entitlements for Serra Center's Master Sign Program and new pole sign granted on April 12, 2017. The new pole sign will hang over a portion of the public right of way. The original condition required an encroachment type agreement to ensure the Town was protected from any liability associated with the pole sign and/or to address potential removal if the Town needed unrestricted access to the public right of way. Based on discussions between the Town and Serra Center, a Non-Exclusive Easement Agreement (Air Rights) ("Agreement") worked best to address the Town's concerns.

FISCAL IMPACT

None. The Applicant is required to pay all fees for building permit and required compliance with provisions of the Non-Exclusive Easement Agreement.

ANALYSIS

On April 12, 2017, the City Council adopted Resolution No. 2017-17 approving revisions to the Master Sign Program for Serra Center and approving a Sign Permit for a pole sign and other related matters. As required pursuant to condition of approval 5(c), in planning to install the pole sign that will hang over a portion of the public right of way, Serra Center Associates has approached the Town to memorialize the arrangement between the Town and Serra Center. Although the original condition proposed an encroachment type agreement, upon further discussion between the Town and Serra Center, an easement agreement provided better protection to the Town and is being proposed in order to satisfy the condition of approval.

The City owns in fee simple Junipero Serra Boulevard located adjacent to the Serra Shopping Center as shown in Exhibit B to the Non-Exclusive Easement Agreement (Air Rights).

Under the terms of the Agreement, the Town would allow certain above-ground portions of the pole sign being constructed on the Serra Shopping Center to encroach upon the airspace over the City Property. The City Property at issue is a portion of land next to Mancini's Sleepworld currently occupied with landscaping. The pole sign will not encroach over the actual roadway on Junipero Serra Boulevard. As part of this arrangement, the Town's right to use the City Property would trump Serra Center's use of the airspace. Further, Serra Center is agreeing to take on all the risk associated with the pole sign, not only on their property, but also the City Property. Serra Center is also agreeing to fully indemnify the Town for any third party claims. Finally, the City has the right to revoke the Agreement on 30 days notice with Serra Center being obligated to pay all costs associated with removal of the pole sign.

Reasons For the Recommended Action

Authorization of the Non-Exclusive Easement Agreement (Air Rights) allows for prior actions of the City Council to be implemented.

Council Adopted Values

The Staff recommendation is consistent with the Council adopted values of:

- *Responsibility*: Making decisions after prudent consideration of their impact and ensuring the Town will be fully protected from all activities in the public right of way area.

Alternatives

The City Council could choose not to adopt the resolution and not approve the agreement. Doing so is not recommended, however, as it will prevent Serra Center from installing new signage in the shopping center. New signage may draw more customers to the center and lead to increased sales tax revenue for the Town. Further, the Agreement has been reviewed extensively by the City Attorney's office and it will best protect the Town with the new pole sign proposed.

CONCLUSION

The City Council should adopt the resolution.

ATTACHMENTS

- A. Resolution Authorizing An Non-Exclusive Easement Agreement (Air Rights)
- B. Draft Non-Exclusive Easement Agreement (Air Rights) with exhibits

**RESOLUTION NO. 2018-XX
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO
EXECUTE A NON-EXCLUSIVE EASEMENT AGREEMENT (AIR RIGHTS) FOR
SERRA CENTER PURSUANT TO CEQA GUIDELINE 15311**

The City Council of the Town of Colma does hereby resolve as follows:

1. Background

- (a) On April 12, 2017, the City Council adopted Resolution No. 2017-17 approving revisions to the Master Sign Program for Serra Center and approving a Sign Permit for a pole sign and other related matters.
- (b) As required pursuant to condition of approval 5(c), in planning to install the pole sign that will hang over a portion of the public right of way, Serra Center Associates has approached the Town to memorialize the arrangement between the Town and Serra Center.
- (c) Although the original condition of approval proposed an encroachment type agreement, upon further discussion between the Town and Serra Center, an easement agreement provided better protection to the Town and is being proposed in order to satisfy the condition of approval.

2. Findings

- (a) The City Council finds that the original application was reviewed and determined to be Categorically Exempt from further environmental review under the California Environmental Quality Act, Section 15311(a), Class 11, which exempts the addition of commercial signage accessory to a main building on a property.

3. Order

- (a) The City Council hereby approves the Non-Exclusive Easement Agreement (Air Rights), a copy of which is one file with the City Clerk.
- (b) The City Manager is authorized to execute the Non-Exclusive Easement Agreement (Air Rights), subject to any technical changes deemed necessary by the City Attorney.

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Certification of Adoption

I certify that the foregoing Resolution No. 2018-__ was duly adopted at a regular meeting of the City Council of the Town of Colma held on January 10, 2018, by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Raquel "Rae" Gonzalez, Mayor					
Helen Fiscaro					
Joanne F. del Rosario					
John Irish Goodwin					
Diana Colvin					
<i>Voting Tally</i>					

Dated _____

Raquel Gonzalez, Mayor

Attest: _____
Caitlin Corley, City Clerk

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

**City Clerk
Town of Colma
1198 El Camino Real
Colma, CA 94014**

Exempt from Recording Fee per
Government Code § 6103

(Space above for Recorder's Use)

NON-EXCLUSIVE EASEMENT AGREEMENT (AIR RIGHTS)

THIS NON-EXCLUSIVE EASEMENT AGREEMENT (AIR RIGHTS) ("AGREEMENT") is issued by the TOWN OF COLMA, a California municipal corporation and general law city ("CITY"), to Serra Center Associates, a California limited partnership ("GRANTEE"). CITY and GRANTEE are sometimes hereinafter referred to individually as "Party" and collectively as the "Parties."

RECITALS

A. GRANTEE has asked for a non-exclusive easement from CITY in connection with GRANTEE's project located on certain real property in the County of San Mateo, State of California, commonly referred to as the Serra Shopping Center, Colma, California, and legally described in Exhibit A, attached hereto and incorporated herein by this reference ("SERRA PROPERTY").

B. CITY owns in fee simple Junipero Serra Boulevard located adjacent to the SERRA PROPERTY shown in Exhibit B, attached hereto and incorporated herein by this reference ("CITY PROPERTY").

C. GRANTEE has requested CITY to enter into this AGREEMENT, whereby GRANTEE would be authorized to allow certain above-ground portions of the pylon sign being constructed on the SERRA PROPERTY (the "SIGN") to encroach upon the airspace over the CITY PROPERTY.

D. CITY agrees to grant to GRANTEE a non-exclusive easement to allow certain above-ground portions of the SIGN shown on Exhibit C attached hereto and incorporated herein by this reference (the "SIGN IMPROVEMENTS") to encroach upon the airspace over the CITY PROPERTY as shown on Exhibit C attached hereto and incorporated herein by this reference (the "EASEMENT AREA"), subject to the terms and conditions contained herein. GRANTEE is installing the SIGN on the SERRA PROPERTY in accordance with a building permit to be issued separately by CITY.

CITY HEREBY GRANTS A NON-EXCLUSIVE EASEMENT PURSUANT TO THE TERMS OF THIS AGREEMENT TO GRANTEE AS FOLLOWS:

1. Grant of Non-Exclusive Easement. CITY hereby grants to GRANTEE, its successors and assigns, a non-exclusive easement for the encroachment of the SIGN IMPROVEMENTS into the EASEMENT AREA, subject to the limitations set forth herein and GRANTEE's fulfillment and ongoing compliance with the terms and conditions set forth herein (the "EASEMENT"). The EASEMENT shall benefit the SERRA PROPERTY and burden the CITY PROPERTY. Any use of the SIGN IMPROVEMENTS shall be subordinate to any use and operations which CITY may conduct during the effective period of this AGREEMENT, and GRANTEE shall not cause any unreasonable delay or interference with CITY'S access to the EASEMENT AREA, provided that CITY will use reasonable efforts not to create or allow an obstruction on the CITY PROPERTY located directly below the EASEMENT AREA that blocks visibility of the SIGN, unless required by law or due to an emergency. GRANTEE shall not interfere with the operations of CITY in the EASEMENT AREA, whether or not such interference is considered material.

2. Authorized Sign Improvements. The SIGN IMPROVEMENTS will be installed by GRANTEE on the SERRA PROPERTY pursuant to a building permit to be issued separately by the CITY. The right of GRANTEE to use the EASEMENT AREA for the encroachment of the SIGN IMPROVEMENTS is subject to the following limitations, and conditioned upon GRANTEE implementing the following protective measures and physical construction standards in connection with the SIGN IMPROVEMENTS:

a. Detailed design drawings prepared by a registered engineer depicting the SIGN IMPROVEMENTS within the EASEMENT AREA shall be provided to, reviewed by, and approved by CITY prior to construction. The design drawings shall include an accurate depiction of the horizontal and vertical position of the proposed improvements relative to the EASEMENT AREA.

b. CITY reserves the right, and GRANTEE hereby acknowledges, that CITY may reject without liability the design drawings for any proposed SIGN IMPROVEMENTS and/or require any changes thereto if CITY determines, in its sole and absolute discretion, that such action is necessary to ensure CITY can adequately inspect, clean, maintain, repair, and replace CITY's existing improvements located within the CITY PROPERTY and/or install additional improvements and appurtenances within the CITY PROPERTY.

c. Upon CITY's approval of the final design drawings for the SIGN IMPROVEMENTS, GRANTEE will construct and install the SIGN in accordance with the building permit to be issued separately by CITY. A temporary encroachment permit is required to use CITY PROPERTY to install the sign. GRANTEE shall install and maintain the SIGN IMPROVEMENTS in strict compliance with the approved final design drawings, and no changes or deviations therefrom shall be permitted without GRANTEE first obtaining the prior written consent of CITY, which may be granted or denied in the CITY's sole reasonable discretion. The issuance of building and encroachment permits by the CITY for any changes and modifications shall be presumed to constitute consent of such changes and modifications under this AGREEMENT.

d. In the event GRANTEE fails to perform work to support or protect the EASEMENT AREA within thirty (30) days after receiving written notice from CITY of such failure, or if CITY must immediately perform such work in the event of an emergency or to perform legally mandated duties, CITY may proceed with such work at the expense of GRANTEE. GRANTEE shall reimburse City within thirty (30) days after receiving written demand and a statement from CITY detailing the costs incurred by CITY.

e. GRANTEE shall be required to obtain all other necessary and required licenses, permits and authorizations from any governmental agency with jurisdiction over the SIGN IMPROVEMENTS and to pay all fees and charges associated therewith prior to commencing any work on the SIGN IMPROVEMENTS. This AGREEMENT does not constitute, nor grant, permission to use or occupy property not belonging to, or under the control of CITY, and permission to use or occupy such property must be obtained from the owner or controller of such property, separate from and in addition to this AGREEMENT.

f. GRANTEE shall not alter, replace, or otherwise change the SIGN IMPROVEMENTS without complying with the terms of this Section 2, and/or obtaining any other permits, licenses, entitlements, or any other authorization needed for the change.

3. Repair of Damage. It is the responsibility of the GRANTEE to maintain the SIGN IMPROVEMENTS through regular inspections, maintenance and repair. Any damage caused directly or indirectly by GRANTEE to the EASEMENT AREA or to CITY's improvements therein and other property shall be repaired by CITY, at GRANTEE's sole cost and expense, or if authorized by CITY may be repaired by GRANTEE at its sole cost and expense. If CITY elects to perform the repair work itself, GRANTEE shall reimburse CITY for the full costs of the repair work within thirty (30) days after receiving written demand and a statement from CITY detailing such costs.

4. Termination. Subject to Section 12 below, the term of this AGREEMENT shall be for Fifty (50) Years and may automatically be extended for additional and successive Ten (10) Year periods unless and until earlier terminated by either party in accordance with the terms of this AGREEMENT. A request for an extension of this agreement by GRANTEE shall be accompanied by an inspection report by a licensed structural engineer noting the condition of the sign pole, the remaining useful life of the sign pole and recommended inspection intervals recommended to assure the sign pole remains in a structurally sound condition. If GRANTEE fails to submit a request for an extension, the AGREEMENT shall be extended only at the sole and absolute discretion of the CITY. Upon the termination of this AGREEMENT, GRANTEE shall have ninety (90) days to remove all SIGN IMPROVEMENTS located within the EASEMENT AREA. If GRANTEE fails to abide by the removal order of CITY within the time prescribed, CITY shall have the right to remove the SIGN IMPROVEMENTS located within the EASEMENT AREA without reimbursement to GRANTEE and the reasonable cost of such removal shall be paid by GRANTEE to CITY, and shall constitute a debt owed to CITY which shall be paid within thirty (30) days after GRANTEE receives written demand and a statement from CITY detailing such costs. In the event payment is not made within said thirty (30) day period, the payment shall include interest at a rate of ten percent (10%) per annum from the end of the thirty (30) day period until paid. CITY is hereby authorized to record a Notice of Termination of Easement after the termination of the 90-day period referenced above. If at any

time GRANTEE removes the SIGN IMPROVEMENTS from the EASEMENT AREA for any reason, GRANTEE shall have the right to terminate this AGREEMENT upon written notice to CITY.

5. Waiver and Release. GRANTEE, in perpetuity, expressly waives, releases and relinquishes any and all claims, causes of action, rights and remedies GRANTEE may now or hereafter have against CITY, and its officials, officers, employees, and agents, whether known or unknown, with respect to liability for any damage to or loss, upon, above, beneath, or across the EASEMENT AREA pursuant to this AGREEMENT unless such damage or loss is caused by the sole active negligence or willful misconduct of CITY. As a material part of CITY's decision to issue this AGREEMENT, GRANTEE hereby assumes all risk of damage to the SIGN IMPROVEMENTS in, upon, or about the EASEMENT AREA arising, from any cause attributable to CITY's exercising its rights hereunder, and GRANTEE hereby waives all claims in respect thereto against CITY, except if caused by the sole active negligence or willful misconduct of CITY.

GRANTEE HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 ("SECTION 1542"), WHICH IS SET FORTH BELOW:

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

BY INITIALING BELOW, GRANTEE HEREBY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:


GRANTEE's Initials

The waivers and releases by GRANTEE contained herein shall survive the term of this AGREEMENT and shall be binding upon the assignees, transferees, and successors in interest of GRANTEE.

6. Access, Restricted Use, and Temporary Removal of Improvements. GRANTEE acknowledges that the CITY PROPERTY contains certain public improvements, collectively and hereinafter referred to as PUBLIC IMPROVEMENTS. CITY acknowledges that the EASEMENT AREA is located high above ground as shown on Exhibit C hereto and that the SIGN IMPROVEMENTS cannot be removed from the EASEMENT AREA without removing the entire SIGN, including the sign pole, from the SERRA PROPERTY. Accordingly, CITY may temporarily restrict the use of or access to the EASEMENT AREA only in order to respond to an emergency or to exercise CITY's rights with respect to the PUBLIC IMPROVEMENTS and then only if such response or exercise of rights cannot reasonably be accomplished without restricting the use of or access to the EASEMENT AREA. In such event,

CITY shall exercise reasonable efforts to notify GRANTEE either in writing or by telephone, of the need to gain access to, temporarily restrict the use of or access to, the EASEMENT AREA and GRANTEE hereby agrees that upon written or telephonic notice from CITY, GRANTEE shall at its own cost and expense do one or more of the following as requested by CITY in the notice: (1) within twenty-four (24) hours after receiving notice, provide CITY access to the EASEMENT AREA; and (2) within a reasonable time period after receiving the notice as requested by CITY, temporarily remove the SIGN IMPROVEMENTS, but only if necessary to allow CITY to respond to an emergency or to make any repairs, replacement, or improvements to the PUBLIC IMPROVEMENTS. If GRANTEE fails to remove the SIGN IMPROVEMENTS within said time period, for whatever reason, then CITY shall have the right to remove the SIGN IMPROVEMENTS without reimbursement to GRANTEE and without any obligation to restore, replace, or repair the removed SIGN IMPROVEMENTS. In the case of an emergency, CITY shall have immediate access to the SIGN IMPROVEMENTS (or the appropriate portion thereof) without written or telephonic notice to GRANTEE or reimbursement to GRANTEE. CITY shall provide notice of the emergency to GRANTEE as soon as possible, and upon receipt of such notice GRANTEE shall immediately cease all further use of the EASEMENT AREA until the emergency has been mitigated. The term "emergency" shall be defined in accordance with California law and in general, shall be considered as an unforeseen circumstance which calls for immediate action.

7. Recovery of Costs for Enforcement. The terms of this AGREEMENT may be enforced by CITY, GRANTEE or their successors or assigns. In the event of any controversy, claim or dispute relating to this AGREEMENT, or the breach thereof, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys' fees and costs.

8. Damage to PUBLIC IMPROVEMENTS. GRANTEE shall pay to CITY, within thirty (30) days of written notice from CITY and a statement detailing such costs and expenses, all reasonable costs and expenses which result from any damage to PUBLIC IMPROVEMENTS, where such damage is caused by the location, construction, maintenance, reconstruction, repair, use, or removal of the SIGN IMPROVEMENTS. In the event payment is not made within said thirty (30) day period, said payment shall include interest at a rate of ten percent (10%) per annum from the end of said thirty (30) day period until paid.

9. Revocation of Easement. Notwithstanding any other term or provision of this AGREEMENT, CITY shall have the right to revoke this AGREEMENT for any of the following reasons: a default by GRANTEE of any term, covenant or provision of this AGREEMENT that is not cured within thirty (30) days after receipt of notice from CITY (or such longer period of time reasonably necessary to complete the cure). Notification of such revocation shall be in writing. Any waiver by CITY of any breach by GRANTEE shall not constitute a waiver of the right to revoke this AGREEMENT for any subsequent breach which may occur, or to enforce any other provision of this AGREEMENT. Upon revocation, GRANTEE shall remove all SIGN IMPROVEMENTS from the EASEMENT AREA.

10. Hazardous Materials Use.

a. GRANTEE covenants that it will not handle or transport Hazardous Materials on the SIGN IMPROVEMENTS or the EASEMENT AREA. As used in this

AGREEMENT, the term "Hazardous Materials" means: (a) any substance, products, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 United States Code Section 9601 et seq.; the Resources Conservation and Recovery Act, 42 United States Code Section 6901 et seq.; the Hazardous Materials Transportation Conservation and Recovery Act, 42 United States Code Section 1801 et seq.; the Clean Water Act, 33 United States Code Section 1251 et seq.; the Toxic Substances Control Act, 15 United States Code Section 2601 et seq.; the California Hazardous Waste Control Act, Health and Safety Code Section 25100 et seq.; the Hazardous Substance Account Act, Health and Safety Code Section 25330 et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Section 25249.5 et seq.; California Health and Safety Code Section 25280 et seq. (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Section 25170.1 et seq.; California Health and Safety Code Section 25501 et seq. (Hazardous Materials Release Response Plans and Inventory); or the California Porter-Cologne Water Quality Control Act, Water Code Section 13000 et seq., all as amended (the above cited California state statutes are hereinafter collectively referred to as "the State Toxic Substances Law"); or any other federal, state, or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance, now or at any time hereinafter in effect; (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court; (c) petroleum or crude oil, other than petroleum and petroleum products which are contained within regularly operated motor vehicles; and (d) asbestos.

In the event the SIGN IMPROVEMENTS are now or in the future used in the handling or transporting of Hazardous Materials, GRANTEE agrees fully to comply with all applicable federal, state, and local laws, rules, regulations, orders, decisions and ordinances (hereinafter referred to as "Hazardous Materials Standards") concerning Hazardous Materials. GRANTEE further agrees that at CITY's request it will furnish CITY with proof, satisfactory to CITY, that GRANTEE is in compliance with all such laws, rules, regulations, orders, decisions and ordinances.

b. Notwithstanding anything else contained in this AGREEMENT and to the fullest extent permitted by law, in case of a breach of the obligations contained in this Section, GRANTEE agrees to assume liability for and to save, indemnify, defend and hold harmless CITY from and against any and all injuries to any person, including wrongful death, and damage to property, including without limitation, property of CITY and GRANTEE, and all related expenses, including without limitation reasonable attorneys' fees, investigators' fees, litigation expenses, and mitigation costs resulting in whole or in part from GRANTEE's failure to comply with any Hazardous Materials Standards issued by any governmental authority concerning Hazardous Materials. GRANTEE, at its cost, shall assume the defense of all claims, in accordance with Section 15 hereof. GRANTEE agrees to reimburse CITY for all reasonable costs of any kind incurred as a result of the GRANTEE's failure to comply with this Section, including, but not limited to, judicial or administrative fines, penalties, clean-up and disposal costs, and reasonable legal costs incurred as a result of GRANTEE's handling, transporting, or

disposing of Hazardous Materials on, over, or across the SIGN IMPROVEMENTS and EASEMENT AREA.

11. Standards. GRANTEE shall comply with all statutes, ordinances, rules, regulations, orders and decisions (hereinafter referred to as "Standards"); issued by any federal, state or local governmental body or agency established thereby relating to GRANTEE's use of the SIGN IMPROVEMENTS and EASEMENT AREA hereunder. In its use of the SIGN IMPROVEMENTS and EASEMENT AREA, GRANTEE shall at all times be in full compliance with all Standards, present or future, including, but not limited to, Standards concerning air quality, water quality, noise, and Hazardous Materials. In the event GRANTEE fails to be in full compliance with Standards, CITY may, but shall not be obligated to, after giving notice of the failure to GRANTEE, and if GRANTEE, within thirty (30) days of such notice (or such longer period of time as may be reasonably necessary to complete such correction), fails to correct such non-compliance, take whatever action it determines in its sole discretion to be necessary to protect the PUBLIC IMPROVEMENTS, EASEMENT AREA, and other adjacent property. GRANTEE shall reimburse CITY for all reasonable costs (including but not limited to, consulting, engineering, clean-up and disposal, and reasonable legal costs) incurred by CITY as a result of GRANTEE's failure to comply with such Standards, and also such reasonable costs incurred by CITY in abating a violation of such Standards, protecting against a threatened violation of such Standards, defending any claim of violation of such Standards in any proceeding before any agency or court, and paying any fines or penalties imposed for such violations. GRANTEE shall, to the extent permitted by law, assume liability for and shall save and hold harmless CITY from any claim of a violation of the Standards regardless of the nature thereof or the agency or person asserting such claim, which results from GRANTEE's use of the SIGN IMPROVEMENTS and EASEMENT AREA; provided, however, that the foregoing shall not apply to the extent of CITY's sole active negligence or willful misconduct. GRANTEE, at its cost, shall assume the defense of all such claims.

12. Tests and Inspections. After the 20th anniversary of this AGREEMENT, GRANTEE shall provide City with an inspection report each ten (10) years by a licensed structural engineer noting the condition of the sign pole, the remaining useful life of the sign pole and recommended inspection intervals recommended to assure the sign pole remains in a structurally sound condition. GRANTEE shall covenant to the City that the SIGN IMPROVEMENTS remains in a structurally sound condition. CITY shall have the right at any time to inspect the SIGN IMPROVEMENTS, EASEMENT AREA, and PUBLIC IMPROVEMENTS so as to monitor compliance with this AGREEMENT. If, in CITY's sole judgment, any installation, use, or condition of the SIGN IMPROVEMENTS may have an adverse effect on the PUBLIC IMPROVEMENTS, EASEMENT AREA, or CITY's operations, CITY shall be permitted to, at its sole cost and expense, conduct any tests or assessments, including but not limited to environmental assessments, of, on or about the EASEMENT AREA and PUBLIC IMPROVEMENTS, as it determines to be necessary or useful to evaluate the condition of the EASEMENT AREA and PUBLIC IMPROVEMENTS. GRANTEE shall cooperate with CITY in any tests or inspections deemed necessary by CITY. GRANTEE shall pay or reimburse CITY, as appropriate, for all reasonable costs and expenses incurred due to any necessary corrective work and inspections required due to the SIGN IMPROVEMENTS or GRANTEE'S use of the EASEMENT AREA thereafter within thirty (30) days of a request for payment and a statement detailing such costs and expenses.

13. Insurance.

a. Types; Amounts. GRANTEE shall obtain, and shall require any subcontractor to obtain, insurance in the amounts described below unless specifically altered or waived by CITY ("Required Insurance"). If any of the Required Insurance contains a general aggregate limit, such insurance shall apply separately to this AGREEMENT or be no less than two times the specified occurrence limit. As this is a long-term AGREEMENT, the Required Insurance shall be subject to modification by City in its reasonable discretion in consultation with its insurance carrier and risk manager upon three months notice to GRANTEE.

- (i) *General Liability Insurance.* GRANTEE shall maintain occurrence version general liability insurance, or equivalent form, with a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence. The general liability insurance policy must include coverage for the following:
 - (1) Bodily Injury and Property Damage
 - (2) Personal Injury/Advertising Injury
 - (3) Premises/Operations Liability
 - (4) Products/Completed Operations Liability
 - (5) Explosion, Collapse and Underground (UCX) exclusion deleted
 - (6) Contractual Liability with respect to this AGREEMENT
 - (7) Broad Form Property Damage
 - (8) Independent Contractor Coverage
- (ii) *Business Automobile Liability Insurance.* GRANTEE shall maintain business automobile liability insurance with an accident limit of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage, which shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).
- (iii) *"All Risk" Property Insurance.* GRANTEE shall maintain a policy of property insurance for perils usual to a standard "all risk" insurance policy on all its improvements or alterations in, on, or about the EASEMENT AREA, with limits equal to the value of all such improvements or alterations.

b. General Provisions. The general liability insurance policy and the business automobile liability insurance policy shall (1) name CITY, its officials, officers, employees and agents as additional insureds; (2) be endorsed to waive subrogation against CITY, its officials,

officers, employees and agents as additional insureds; and (3) be primary and non-contributory. All Required Insurance herein shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of protection provided to CITY, its officials, officers, employees and agents.

c. Certificates; Insurer Rating; Cancellation Notice. Prior to conducting any work in the EASEMENT AREA, GRANTEE shall furnish to CITY properly executed certificates of insurance which evidence all Required Insurance. GRANTEE shall maintain the Required Insurance at all times while this AGREEMENT is in effect, and shall replace any certificate, policy, or endorsement which will expire prior to that date. All policies shall be endorsed to provide the Required Insurance shall not be suspended, voided, reduced, canceled, or allowed to expire except on thirty (30) days prior written notice to CITY. Unless approved in writing by CITY, GRANTEE shall place the Required Insurance with insurers licensed to do business in the State of California and with a current A.M. Best rating of at least A-:VII.

d. Waiver of Subrogation. Each Party releases the other Party, its officials, officers, employees and agents from any claims for damage or harm to any person, the SERRA PROPERTY, CITY PROPERTY, the EASEMENT AREA, or the SIGN IMPROVEMENTS, caused by, or which result from, risks insured under any insurance policy carried by the other Party at the time of such damage or harm. Each Party shall cause each insurance policy required herein or carried by such Party to provide a waiver of subrogation in favor of the other Party, its officials, officers, employees and agents.

14. Indemnity. Except to the extent arising from the sole active negligence or willful misconduct of CITY or its officials, officers, employees or agents, GRANTEE hereby agrees to defend, indemnify and hold CITY and its officials, officers, agents and employees free and harmless from and against any and all claims, demands, causes of action, costs, liabilities, expenses, losses, damages or injuries of any kind in law or equity, to persons or property, including wrongful death, in any manner arising out of or incident to any acts, omissions or willful misconduct of GRANTEE, its partners, affiliates, agents officials, officers or employees in performance of this AGREEMENT, use of the EASEMENT AREA, or the operation of the SIGN IMPROVEMENTS. Except to the extent arising from the sole active negligence or willful misconduct of CITY, or its officials, officers, employees or agents, GRANTEE shall further defend, indemnify and hold harmless the CITY and its officials, officers, agents and employees from all claims, demands, lawsuits, writs of mandamus, and other actions or proceedings (brought against the CITY or its departments, commissions, agents, officers, officials, or employees to challenge, attack seek to modify, set aside, void or annul any City decision made in connection with this AGREEMENT or GRANTEE's use of the EASEMENT AREA. GRANTEE shall defend, with counsel of CITY's choosing and at GRANTEE's sole expense, any and all aforesaid suits, actions or proceedings, legal or affirmative, that may be brought or instituted against CITY, its officials, officers, agents or employees. GRANTEE shall pay and satisfy any judgment, award or decree that may be rendered against CITY, its officials, officers, agents or employees. GRANTEE shall reimburse such parties for any and all legal expenses and costs incurred by one or all of them in connection with this AGREEMENT or the indemnity herein provided. GRANTEE's obligation shall survive termination or expiration of this AGREEMENT, and shall not be restricted to insurance proceeds, if any, received by CITY or its officials, officers, agents or employees.

15. Covenant Running With Land. This AGREEMENT shall be deemed a covenant running with the SERRA PROPERTY. All of the covenants, obligations, and provisions of this AGREEMENT shall be binding upon and inure to the benefit of successors, legal representatives and assigns of the Parties. Every person who now or hereafter owns or acquires any right, title, or interest in and to any portion of the SERRA PROPERTY and CITY PROPERTY shall be conclusively deemed to have notice of this AGREEMENT, whether or not reference to this AGREEMENT is contained in the instrument by which such person acquires an interest in such property. Therefore, each and every contract, deed or other instrument hereinafter executed, covering or conveying the SERRA PROPERTY and the CITY PROPERTY shall conclusively be deemed to have been executed, delivered and accepted subject to this AGREEMENT.

16. Miscellaneous.

a. Amendments. The provisions of this AGREEMENT may be amended by mutual written consent of both parties. GRANTEE and CITY agree that once the SIGN IMPROVEMENTS have been completed, GRANTEE shall have the right to prepare a survey depicting the specific location and dimensions of the EASEMENT AREA, in which case following CITY's approval of such survey, the parties will enter into an amendment to this AGREEMENT in order to record such survey as the updated description of the EASEMENT AREA.

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

GRANTEE: Serra Center Associates
c/o CRES Management Company, LLC
2000 Powell Street, Suite 1280
Emeryville, CA 94608
Attn: Catherine J. Hughes, Co-Manager
o: (510) 428-1880

CITY: Town of Colma
1198 El Camino Real
Colma, CA 94014
Attn: City Manager

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

c. Entire Understanding. This AGREEMENT constitutes the entire understanding between the Parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained herein.

d. Invalidity. If any provision of this AGREEMENT is invalid or unenforceable with respect to any Party, the remainder of this AGREEMENT or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.

e. Successors and Assigns. This AGREEMENT shall be binding on and inure to the benefit of the successors and permitted assignees of the respective parties.

f. Consent to Jurisdiction and Venue. This AGREEMENT shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this AGREEMENT, or which in any way arises out of the Parties' activities undertaken pursuant to this AGREEMENT, shall be filed and prosecuted in the appropriate California State Court in the County of San Mateo, California. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, GRANTEE expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

g. Exhibits. All exhibits attached hereto form material parts of this AGREEMENT.

h. Counterparts. This AGREEMENT may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original, and all such counterparts taken together shall constitute one and the same instrument.

17. Possessory Interest. In accordance with Revenue and Taxation Code Section 107.6, this AGREEMENT may create a possessory interest subject to personal property taxation for which GRANTEE shall be responsible.

18. Effective Date. The Parties hereby agree that the effective date of this AGREEMENT, and the effective date for all obligations of the Parties hereunder, shall be the date on which this AGREEMENT has been fully executed by both Parties.

SIGNATURES ON FOLLOWING PAGE

**SIGNATURE PAGE TO
NON-EXCLUSIVE EASEMENT AGREEMENT (AIR RIGHTS)
BETWEEN
TOWN OF COLMA
AND SERRA CENTER ASSOCIATES**

IN WITNESS WHEREOF, this AGREEMENT has been duly issued by CITY on the date of execution by CITY below.

**TOWN OF COLMA,
A California municipal corporation and general
law city**

By: _____
Brian Dossey, City Manager

Date: _____

**ACCEPTANCE OF TERMS
AND CONDITIONS OF AGREEMENT:**

GRANTEE

SERRA CENTER ASSOCIATES, a California limited partnership

By: CRES Management Company, LLC,
a California limited liability company
Its General Partner

By: Catherine J. Hughes
Catherine J. Hughes
Title: Co-Manager

**PLEASE SEE ATTACHED
NOTARY CERTIFICATE**

Date: December 21, 2017

ACKNOWLEDGMENT

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

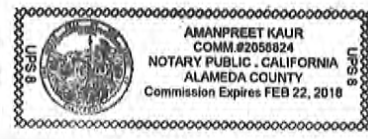
State of California
County of Alameda)

On 12 / 21 / 2017 before me, Amanpreet Kaur , Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.



Signature  (Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF SERRA PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF COLMA, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

Parcels 21 and 22 as shown on Parcel Map filed in the Office of the Recorder of San Mateo County, California on December 26, 1973 in Book 23 of Parcel Maps, Page 17.

PARCEL TWO:

Parcel 19, as shown on the Parcel Map filed in the Office of the Recorder of San Mateo County, California on May 17, 1973 in Book 20 of Parcel Maps, Page 44.

Excepting from Parcels One and Two all oil, gas, hydrocarbon substances and mineral rights now or hereafter in or under or recoverable from said real property, lying below a depth of five hundred (500) beneath the present surface of said real property, such reservation and exception however, not to include any right to enter on or perform any mining or drilling operations in or on any part of the surface of the real property above a depth of five hundred (500) feet below the present surface of said real property for the purpose of recovering any such reserved oil, gas, hydrocarbon or minerals, as reserved in the Deed from Zita Corporation Recorded December 29, 1965 in Book 5086, Page 741, Series No. 24430-Z, Official Records.

Joint Plant Nos.: 008-037-373-34A, 008-037-373-35A, 008-037-373-36A and 008-037-373-37A
APN: 008-373-340, 380, 410

EXHIBIT "B"

MAP OF CITY PROPERTY

Exhibit B

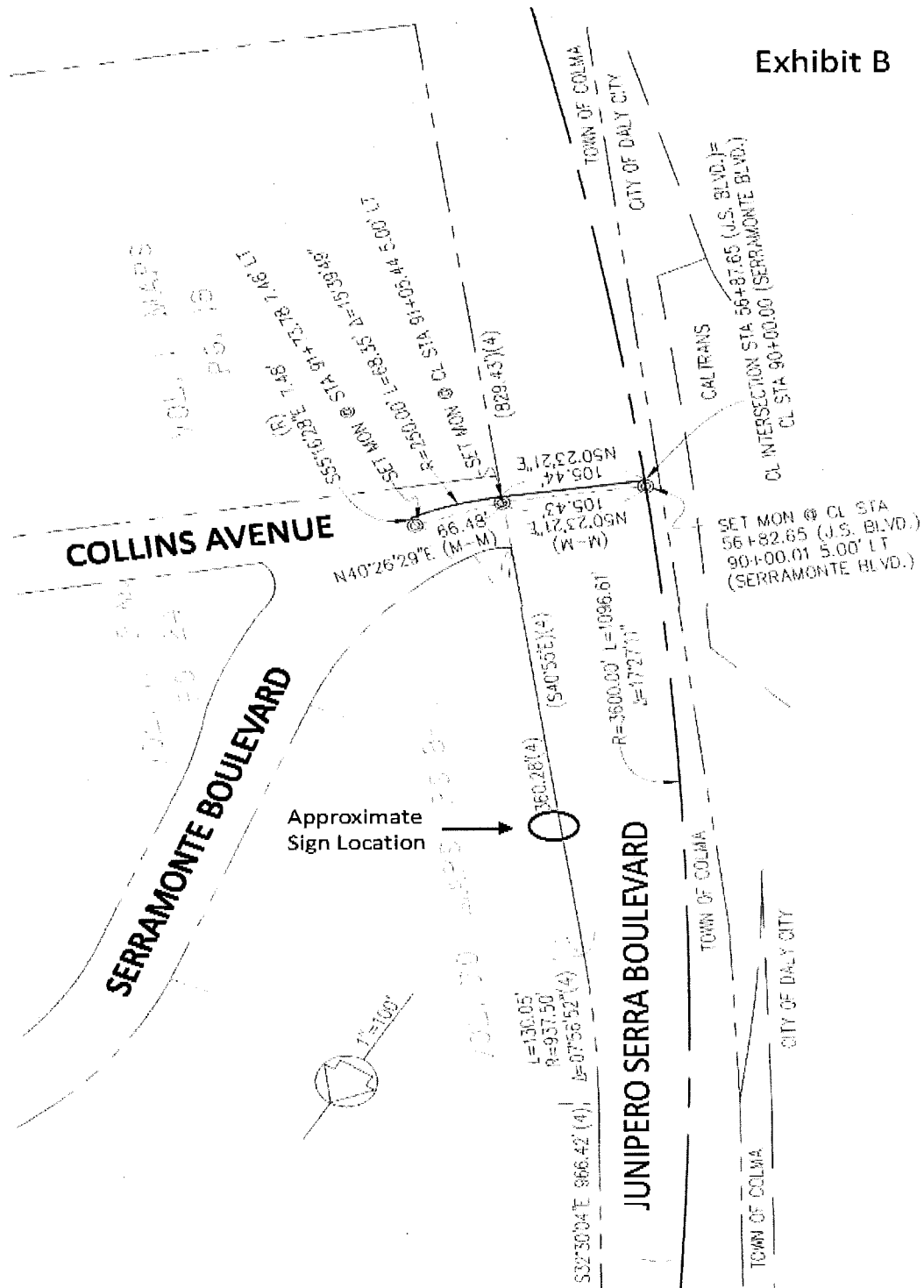
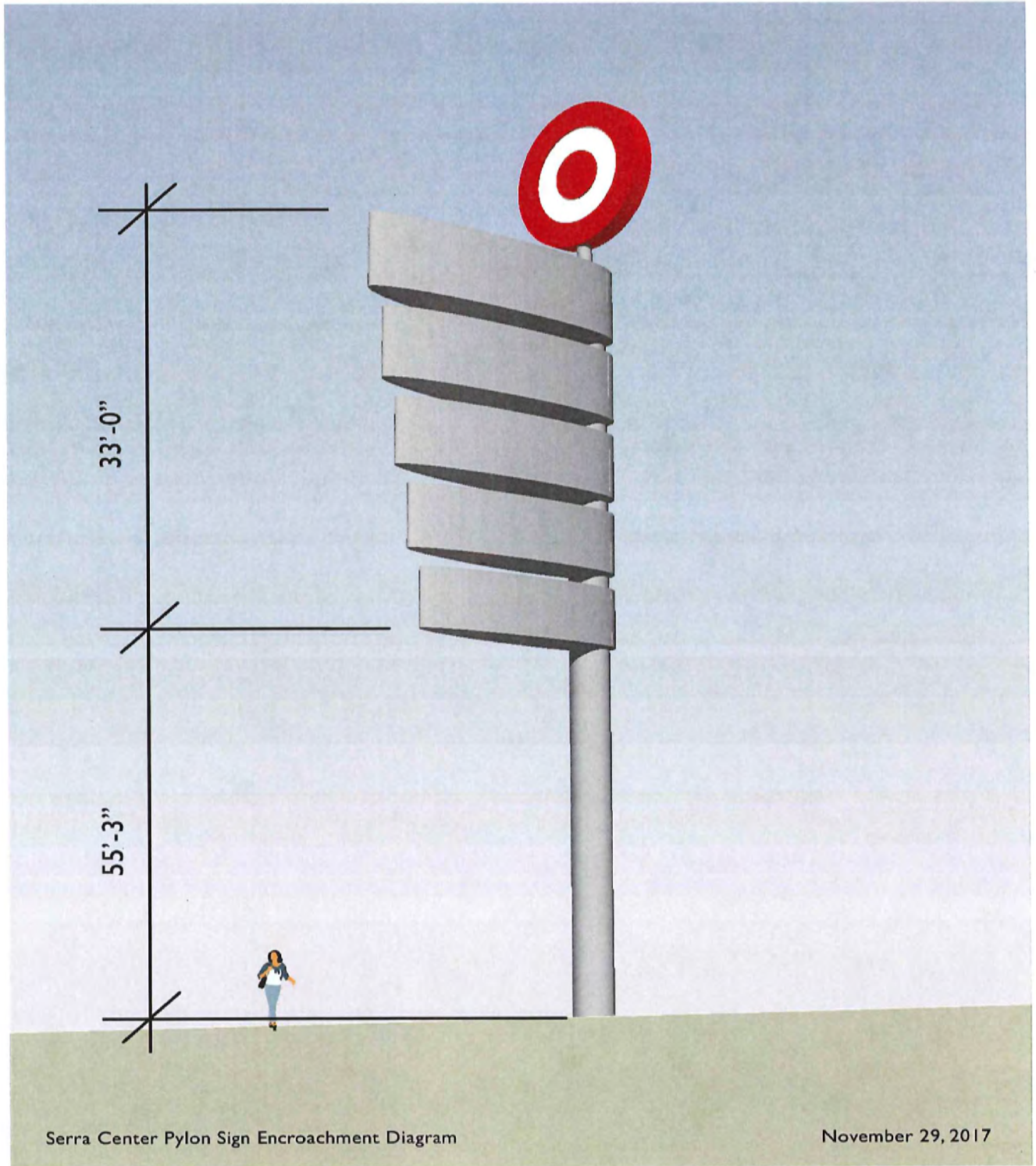
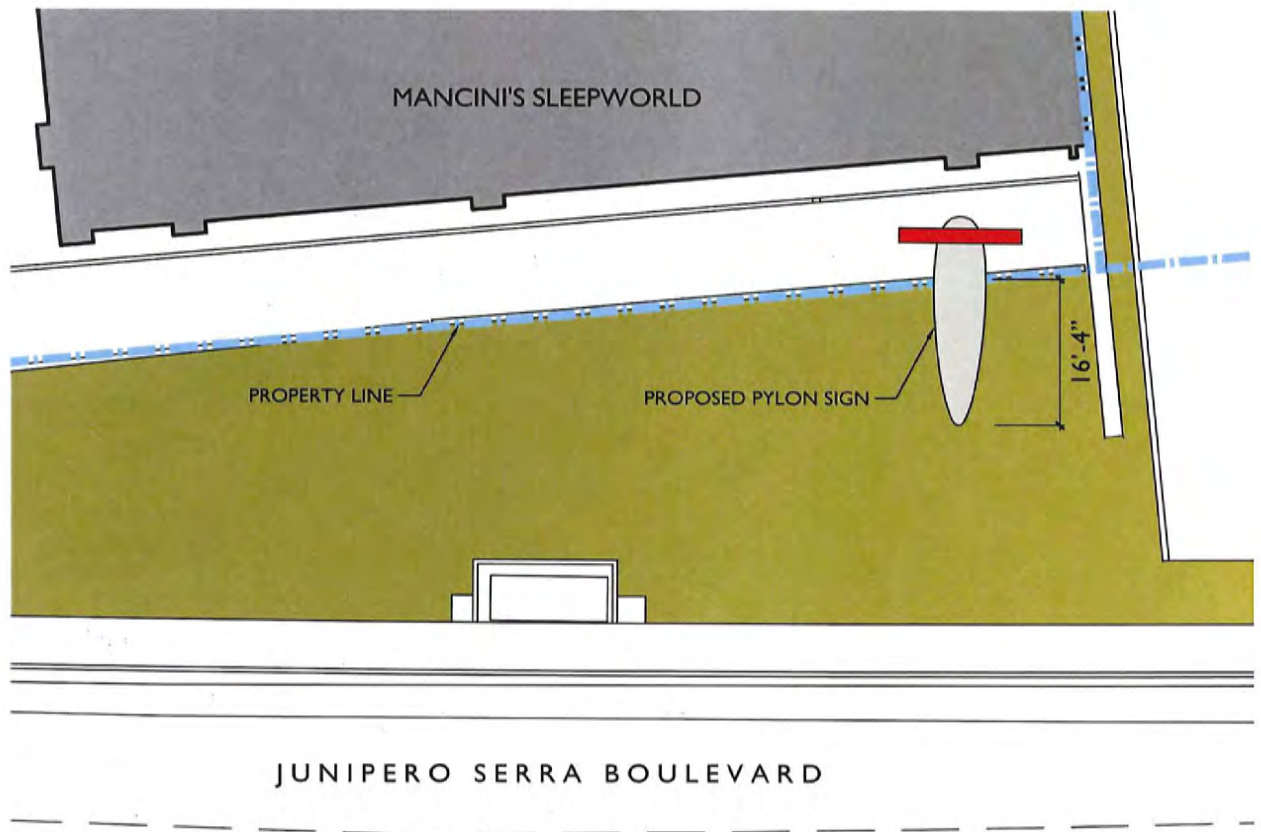


EXHIBIT "C"
EASEMENT AREA AND SIGN IMPROVEMENTS



Serra Center Pylon Sign Encroachment Diagram

November 29, 2017



Serra Center Pylon Sign Encroachment Diagram

November 29, 2017





REVISED Jan 9, 2018

STAFF REPORT

TO: Mayor and Members of the City Council

FROM: Michael P. Laughlin, AICP, City Planner, CSG Consultants
Jonathan Kwan, Assistant Planner, CSG Consultants

VIA: Brian Dossey, City Manager

MEETING DATE: January 10, 2018

SUBJECT: Davey Tree Expert Company – Conditional Use Permit Amendment

RECOMMENDATION

Staff recommends that the City Council adopt:

RESOLUTION APPROVING AN AMENDED CONDITIONAL USE PERMIT FOR A LANDSCAPE CONTRACTOR'S YARD, MODULAR OFFICE, AND THE STORAGE OF LANDSCAPING MATERIALS AT HOLY CROSS CEMETERY PURSUANT TO CEQA GUIDELINE 15301

EXECUTIVE SUMMARY

The Davey Tree Expert Company, is requesting to amend the existing Conditional Use Permit to allow a modular building for an office, storage of landscaping and employee vehicles and storage of landscape materials at three sites within the Holy Cross Cemetery. With the conditions of approval, the use is an appropriate landscape contractor use in the "G" cemetery zone.

FISCAL IMPACT

Approving this project will not have a material impact on the Town's budget.

BACKGROUND

On February 22, 2017, the City Council conditionally approved a Use Permit to allow a modular office and landscape storage yard for landscaping vehicles and equipment within a paved/gravel area at 2300 Hillside Boulevard with a condition of approval requiring a new fire hydrant along Hillside Boulevard to serve the location in case of an emergency.

On March 23, 2017, the Town administratively approved a Temporary Use Permit to allow the modular office at 1400 Mission Road so that the business could operate at a temporary location prior to installing the new fire hydrant. The modular office is located in the maintenance area by the All Saints Mausoleum, with access from Mission Road. The applicant has since considered the cost of providing the fire hydrant to the southeast quadrant of the cemetery and has found the cost to be prohibitive due to the long line extension on Hillside Boulevard. As a result, the applicant

is requesting that the location of the modular office be permitted to remain permanent at its present location. If granted, the proposed Use Permit amendment would allow the modular office to remain at 1400 Mission Road permanently, and would remove the previous location granted at 2300 Hillside Boulevard.

Since moving to the site, Holy Cross Cemetery granted permission to Davey Tree to store landscape debris behind a mausoleum building, which is also an area where Holy Cross stores tree trimmings. This area is accessible from Hillside Boulevard. On August 2, 2017, San Mateo County Environmental Health notified the Town that the storage of landscape materials by Davey Tree requires approvals and inspections from the agency since the storage of woodchips and tree debris are considered a composting operation. The proposed amendment to the Use Permit would allow the storage of green waste, wood chips, and logs given that all of the conditions and San Mateo County Environmental Health requirements are met.

In summary, the requested Use Permit amendment will amend the existing Use Permit to allow the storage of landscape materials at Holy Cross Cemetery, while continuing to allow for the storage of landscape vehicles and equipment at 2300 Hillside Boulevard and a modular office at 1400 Mission Road.

The aerial map and table below describes the approved uses and requested uses:



	Existing Conditional Use Permit (Approved February 22, 2017)	Existing Temporary Use Permit (Approved March, 23, 2017)	Proposed Amended Conditional Use Permit
1. 2300 Hillside Boulevard	Storage of landscape vehicles and equipment Modular Office for Davey Tree Expert Co.	N/A	Storage of landscape vehicles and equipment
2. 1400 Mission Road	N/A	Modular Office for Davey Tree Expert Co.	Modular Office for Davey Tree Expert Co.
3. 1500 Hillside Boulevard (Area behind existing Mausoleum)	N/A	N/A	Storage of landscape materials such as green waste, wood chips, and logs

ANALYSIS

Findings Relating to the California Environmental Quality Act (CEQA)

Pursuant to the Section 15301 of the State CEQA Guidelines, Class 1, operation and minor alteration of existing private facilities, involving negligible expansion of use. The proposed amendment to the existing Conditional Use Permit will allow for the storage of landscape materials such as green waste, wood chips and logs. The proposed use is incidental to a landscape contract use and is allowed on the subject property with the approval of a Use Permit.

Findings Related to the Amended Conditional Use Permit

Section 5.03.410(a) of the Colma Municipal Code requires that certain findings be made for approval of a Conditional Use Permit. These findings are also required for an amended Conditional Use Permit. These findings apply to the project as follows:

a) The proposed Conditional Use Permit will be consistent with the provisions of the Colma General Plan and Zoning Ordinance.

Holy Cross Cemetery is zoned "G/DR" Cemetery/Design Review. The Colma Municipal code allows agricultural uses and uses incidental to agricultural uses such as a landscape contractor's yard with the approval of a Use Permit. In addition to the previously approved uses, the proposed Use Permit amendment allows the storage of landscaping materials, a use that is incidental to an agricultural use and is consistent with the provisions of the Zoning Ordinance.

The Town's General Plan allows for uses incidental to agricultural uses if the proposed use maintains the greenbelt aesthetic from public view. An existing privacy fence screens the proposed landscape storage area from Hillside Boulevard. Staff recommends a condition of

approval for the Permittee to maintain the fence and screening between the landscape storage area and Hillside Boulevard to protect the greenbelt aesthetic.

b) Granting the Conditional Use Permit will not be detrimental to the public health, safety or public welfare, or materially injurious to the properties or improvements in the vicinity.

The proposed project area for the storage of landscape materials is surrounded by the Holy Cross Cemetery and other lots zoned G. The proposed use is consistent with the zoning and is unlikely to impact the other properties. Additionally, the storage of landscape waste materials, if stored in compost piles, is regulated by the San Mateo County Environmental Health department. The agency enforces strict regulations on how the materials are stored and handled, based on state law.

Staff recommends a condition of approval to comply with all applicable codes and regulations set forth by the San Mateo County Environmental Health department. Additionally, the Colma Fire Protection District has determined that a new fire hydrant and a separate address for the landscape material storage area are required to meet fire safety standards. Staff recommends a condition of approval to have the premises inspected by the Colma Fire Protection District and comply with all the recommendations of the District. Since the landscape material storage area is not as far south as the vehicle storage area, the hydrant line extension will be shorter and cost less. As conditioned, the granting of the Conditional Use Permit will not be detrimental to the public health, safety, or public welfare, or materially injurious to the properties or improvements in the vicinity.

c) Existing property uses, large or small, will not be detrimentally affected by the proposed Use Permit.

The proposed landscape storage area is limited to an area located next to the existing mausoleum on Hillside Boulevard. The landscape materials are screened from the roadway by an existing privacy fence (chain link with green fence fabric) and topography so that the proposed use will not be readily visible from public view. Minor grading is required to create a flat area for the storage of landscaping materials due to the topography sloping toward the mausoleum and the location of the storage area. Staff recommends a condition of approval that the storage area behind the mausoleum be covered with a minimum 6" permeable surface such as gravel and graded to direct the flow of water away from or around the existing mausoleum. The proposed use is not anticipated to substantially increase the amount of noise generated at the site and traffic conditions are anticipated to be similar to existing conditions. As conditioned, the proposed Use Permit is not expected to detrimentally affect existing property uses, large or small.

d) The granting of the Use Permit will not constitute a grant of special privilege inconsistent with the limitations imposed by the Zoning Ordinance on the existing use of properties, large or small, within the Town of Colma.

The granting of the Use Permit will not constitute the grant of a special privilege since the storage of landscape materials is incidental to the existing cemetery and agricultural uses and is a use that is allowed with the approval of a Use Permit. Use Permits have been granted in the past for similar uses such as nurseries in close proximity to Holy Cross Cemetery.

e) The City Council is satisfied that the proposed structure or building conforms to the purpose and intent of the General Plan and Zoning Ordinance.

The modular office that was approved with the Temporary Use Permit is located in a fenced area that is surrounded by vegetation. As a result, the structure is not visible from Mission Road or any other vantage point. This office is for staff use only since customers call for service and personnel are dispatched to job sites. An additional structure required to implement this project is a retaining wall located along Hillside Boulevard to create the landscape storage area. If the wall exceeds 36" in height, the Permittee is required to apply for a building permit and is subject to all applicable Building Code requirements. Therefore, the City Council is satisfied that the proposed structure conforms to the purpose and intent of the General Plan and Zoning Ordinance.

f) The use will not constitute a nuisance to neighboring persons or properties.

The proposed landscape storage area by the existing mausoleum is surrounded by the Holy Cross Cemetery with the exception of the side abutting the Hillside Boulevard roadway. The proposed use is screened by an existing privacy fence. Any increase in traffic would not be substantial and would likely be unnoticeable to neighboring persons or properties.

The City Council already approved and considered the vehicle storage area. This area will also not constitute a nuisance to neighboring persons or property.

Due to the distance away from Mission Road and complete screening of the office from surrounding vantage points, the office will not constitute a nuisance to neighboring persons or property.

Recommended Conditions of Approval

Based on a review of the application, staff is recommending approval with several key conditions of approval (see Section 3 of the attached Resolution) including:

- The Permittee shall maintain the fence and screening between the landscape storage area and Hillside Boulevard to screen the storage of landscape materials from public view and protect the greenbelt aesthetic to the satisfaction of the City Planner.
- The Permittee shall comply with all applicable codes and regulations set forth by the San Mateo County Environmental Health department.
- The landscape material storage area shall be inspected by the Colma Fire Protection District and comply with all the recommendations of the Fire Marshal including the installation of a new fire hydrant within 180 days of use permit issuance.
- The landscape material storage area shall be covered with a minimum 6" of gravel and graded to direct the flow of water away from or around the existing mausoleum within 30 days of use permit issuance.
- The landscape materials stored behind the mausoleum shall be from Holy Cross Cemetery and Davey Tree business operations. The acceptance, storage and processing of landscape materials from all other sources is prohibited.

- The Permittee shall complete and submit quarterly reports of the landscape materials generated to the Town. Failure to submit the quarterly reports for any reporting period is grounds for revocation of this permit.
- The Permittee shall maintain an active business registration with the Town for as long as the applicant is operating within the Town.

Council Adopted Values

The recommendation is consistent with the Council value of *responsibility* because the proposed use has been carefully reviewed and conditioned so that it will be consistent with adopted development policies and regulations, and compatible within its setting.

Sustainability Impact

The proposed use within Colma will have no impact to the Town's sustainability activities.

Alternatives

The following courses of action are available to the City Council:

1. Adopt the resolution amending the Conditional Use Permit with modified or additional conditions of approval, which would allow the storage of landscaping materials and permanent use of a modular office at Holy Cross Cemetery. This alternative may increase or reduce restrictions on the project to satisfy specific City Council concerns.
2. Direct staff to bring back a resolution to deny the amended Conditional Use Permit. This alternative is not recommended since it will not allow for Davey Tree to continue operations at the present location.

CONCLUSION

Staff recommends that the City Council adopt the resolution approving amending the Use Permit with findings and recommended conditions of approval.

ATTACHMENTS

- A. Resolution for Amended Use Permit
- B. Existing Use Permit Resolution 2017-11 (Adopted 2/22/17)
- C. Landscape Material Storage Area Site Plan

RESOLUTION NO. 2018-__

OF THE CITY COUNCIL OF THE TOWN OF COLMA

RESOLUTION APPROVING AN AMENDED CONDITIONAL USE PERMIT FOR A LANDSCAPE CONTRACTOR'S YARD, MODULAR OFFICE, AND THE STORAGE OF LANDSCAPING MATERIALS AT HOLY CROSS CEMETERY PURSUANT TO CEQA GUIDELINE 15301

Property Owner: Holy Cross Cemetery

Location: 1400 Mission Road, 1500 Hillside Boulevard and 2300 Hillside Boulevard

Assessor's Parcel Number: 011-370-180

The City Council of the Town of Colma does resolve as follows:

1. Background

This resolution was adopted after the following proceedings had occurred:

- (a) On February 22, 2017, the City Council conditionally approved a Conditional Use Permit to allow a modular office and landscape storage yard for landscaping vehicles and equipment within a paved/gravel area at 2300 Hillside Boulevard.
- (b) On March 23, 2017, the Town administratively approved a Temporary Use Permit to allow the modular office at 1400 Mission Road so that the business could operate at a temporary location.
- (c) The Town received an application from the Davey Tree Expert Company to amend the existing Conditional Use Permit to allow a landscape contractor's yard, modular office, and the storage of landscaping materials at Holy Cross Cemetery.
- (d) Pursuant to Section 15301 of State CEQA Guidelines, Class 1 operation and minor alteration of existing private facilities, involving negligible expansion of use, the application is categorically exempt from California Environmental Quality Act (CEQA) review.
- (e) A Notice of Public Hearing was duly posted on the three official bulletin boards of the Town and in a conspicuous place on or near the subject property and was duly mailed to the persons to whom given, as required by law, on December 29, 2017.
- (f) A public hearing was held on this matter on January 10, 2018 and evidence was taken at the public hearing.
- (g) The City Council has duly considered said application, the staff report and public comments thereon.

2. Findings

The City Council finds that:

Findings Related to the California Environmental Quality Act (CEQA)

Pursuant to the Section 15301 of the State CEQA Guidelines, Class 1, operation and minor alteration of existing private facilities, involving negligible expansion of use. The proposed amendment to the existing Conditional Use Permit will allow for the storage of landscape materials such as green waste, wood chips and logs. The proposed use is incidental to a landscape contract use and is allowed on the subject property with the approval of a Use Permit.

Findings Related to the Conditional Use Permit

Section 5.03.410(a) of the Colma Municipal Code requires that certain findings be made for approval of a Conditional Use Permit. These findings are also required for an amended Conditional Use Permit. These findings apply to the project as follows:

(a) **The proposed Conditional Use Permit will be consistent with the provisions of the Colma General Plan and Zoning Ordinance.**

Holy Cross Cemetery is zoned "G/DR" Cemetery/Design Review. The Colma Municipal code allows agricultural uses and uses incidental to agricultural uses such as a landscape contractor's yard with the approval of a Use Permit. In addition to the previously approved uses, the proposed Use Permit amendment allows the storage of landscaping materials, a use that is incidental to an agricultural use and is consistent with the provisions of the Zoning Ordinance.

The Town's General Plan allows for uses incidental to agricultural uses if the proposed use maintains the greenbelt aesthetic from public view. An existing privacy fence screens the proposed landscape storage area from Hillside Boulevard. Staff recommends a condition of approval for the Permittee to maintain the fence and screening between the landscape storage area and Hillside Boulevard to protect the greenbelt aesthetic.

(b) **Granting the Conditional Use Permit will not be detrimental to the public health, safety or public welfare, or materially injurious to the properties or improvements in the vicinity.**

The proposed project area for the storage of landscape materials is surrounded by the Holy Cross Cemetery and other lots zoned G. The proposed use is consistent with the zoning and is unlikely to impact the other properties. Additionally, the storage of landscape waste materials, if stored in compost piles, is regulated by the San Mateo County Environmental Health department. The agency enforces strict regulations on how the materials are stored and handled, based on state law.

Staff recommends a condition of approval to comply with all applicable codes and regulations set forth by the San Mateo County Environmental Health department. Additionally, the Colma Fire Protection District has determined that a new fire hydrant and a separate address for the landscape material storage area are required to meet fire safety standards. Staff recommends a

condition of approval to have the premises inspected by the Colma Fire Protection District and comply with all the recommendations of the District. Since the landscape material storage area is not as far south as the vehicle storage area, the hydrant line extension will be shorter and cost less. As conditioned, the granting of the Conditional Use Permit will not be detrimental to the public health, safety, or public welfare, or materially injurious to the properties or improvements in the vicinity.

(c) Existing property uses, large or small, will not be detrimentally affected by the proposed Use Permit.

The proposed landscape storage area is limited to an area located next to the existing mausoleum on Hillside Boulevard. The landscape materials are screened from the roadway by an existing privacy fence (chain link with green fence fabric) and topography so that the proposed use will not be readily visible from public view. Minor grading is required to create a flat area for the storage of landscaping materials due to the topography sloping toward the mausoleum and the location of the storage area. Staff recommends a condition of approval that the storage area behind the mausoleum be covered with a minimum 6" permeable surface such as gravel and graded to direct the flow of water away from or around the existing mausoleum. The proposed use is not anticipated to substantially increase the amount of noise generated at the site and traffic conditions are anticipated to be similar to existing conditions. As conditioned, the proposed Use Permit is not expected to detrimentally affect existing property uses, large or small.

(d) The granting of the Use Permit will not constitute a grant of special privilege inconsistent with the limitations imposed by the Zoning Ordinance on the existing use of properties, large or small, within the Town of Colma.

The granting of the Use Permit will not constitute the grant of a special privilege since the storage of landscape materials is incidental to the existing cemetery and agricultural uses and is a use that is allowed with the approval of a Use Permit. Use Permits have been granted in the past for similar uses such as nurseries in close proximity to Holy Cross Cemetery.

(e) The City Council is satisfied that the proposed structure or building conforms to the purpose and intent of the General Plan and Zoning Ordinance.

The modular office that was approved with the Temporary Use Permit is located in a fenced area that is surrounded by vegetation. As a result, the structure is not visible from Mission Road or any other vantage point. This office is for staff use only since customers call for service and personnel are dispatched to job sites. An additional structure required to implement this project is a retaining wall located along Hillside Boulevard to create the landscape storage area. If the wall exceeds 36" in height, the Permittee is required to apply for a building permit and is subject to all applicable Building Code requirements. Therefore, the City Council is satisfied that the proposed structure conforms to the purpose and intent of the General Plan and Zoning Ordinance.

(f) The use will not constitute a nuisance to neighboring persons or properties.

The proposed landscape storage area by the existing mausoleum is surrounded by the Holy Cross Cemetery with the exception of the side abutting the Hillside Boulevard roadway. The proposed use is screened by an existing privacy fence. Any increase in traffic would not be substantial and would likely be unnoticeable to neighboring persons or properties.

The City Council already approved and considered the vehicle storage area. This area will also not constitute a nuisance to neighboring persons or property.

Due to the distance away from Mission Road and complete screening of the office from surrounding vantage points, the office will not constitute a nuisance to neighboring persons or property.

3. Conditions of Approval

The City Council approves the Conditional Use Permit amendment to allow a landscape contractor's yard, modular office and the storage of landscaping materials at Holy Cross Cemetery (011-370-180), subject to the full and faithful performance of each of the general terms and conditions set forth in this Resolution and the following project-specific conditions:

Conditional Use Permit

- (a) Allowed Uses. This Conditional Use Permit shall specifically allow the operations of the Davey Tree Expert Company, including the storage of landscape vehicles and equipment, placement of a modular office and storage of landscaping materials at Holy Cross Cemetery as specified in application materials date stamped September 20, 2017 and on file with the Planning Department. Any additional proposed building uses shall require review by the Town of Colma as an amendment to this Conditional Use Permit.
- (b) Privacy Screening. The Permittee shall maintain the fence and screening between the landscape storage area and Hillside Boulevard to screen the storage of landscape materials from public view and protect the greenbelt aesthetic to the satisfaction of the City Planner.
- (c) San Mateo County Environmental Health Requirements. The Permittee shall comply with all applicable codes and regulations set forth by the San Mateo County Environmental Health Department.
- (d) Colma Fire Protection District Requirements. The requirements of the Colma Fire Protection District, including the assignment of a new address for the landscape material storage area and the installation of a new fire hydrant, shall be met prior to operation of the landscape material storage area. For further information on the requirements of the District, the applicant may contact the Deputy Fire Marshal, Bill Pardini at bpardini@colmafd.org or (650)740-2023. Failure to install the necessary fire hydrant within 180 days of the approval of this Conditional Use Permit will cause the landscape waste storage aspect of the business to cease and all materials removed from the site.
- (e) Grading. The landscape material storage area shall be covered with a minimum 6" of gravel and graded to direct the flow of water away from or around the existing mausoleum within 60 days of approval of this Conditional Use Permit. Failure to grade

site and provide gravel surface within 60 days will cause the landscape waste storage aspect of the business to cease and all materials removed from the site.

- (f) Quarterly Reporting. The Permittee shall complete and submit quarterly reports of the landscape materials generated to the Town. Failure to submit the quarterly reports for any reporting period is grounds for revocation of this permit.
- (g) Business Registration. The Permittee shall maintain an active business registration with the Town for as long as the applicant is operating within the Town.
- (h) Landscape Materials. The landscape materials stored behind the mausoleum shall be from Holy Cross Cemetery and Davey Tree business operations. The acceptance, storage and processing of landscape materials from all other sources is prohibited.
- (i) Nuisances. The Permittee shall not allow any nuisance to be maintained at the premises.
- (j) Permits. The Permittee shall obtain all necessary permits, including Building Permits, prior to construction.
- (k) Minor Changes. Minor changes to the approved interior layout may be approved administratively by the City Planner or designee.
- (l) Trash and Hauling Service. The Permittee shall be required to subscribe to a regular refuse and recyclable items collection service for the tenant space (minimum pick-up of once per week) from Republic Waste Services. Pursuant to the Town's Franchise Agreement, dumpsters can only be obtained from Republic Services. Violation of this condition will constitute cause for the Town to revoke this permit.
- (m) Parking. Parking of landscape vehicles and equipment associated with Davey Tree Expert Company for more than 48 hours shall be restricted to 2300 Hillside Boulevard. Parking and equipment storage areas shall be on existing paved surfaces or on a minimum of 6" of gravel.
- (n) Off-street Parking. Parking on Hillside Boulevard by vehicles associated with this business is prohibited. All parking must be contained to the site.
- (o) USA North. The applicant should contact USA North to assure that there are no utilities that conflict with the proposed improvements (USA North: 811/1-800-227-2600).

4. General Conditions

- (a) This Conditional Use Permit shall run with the land and be freely and automatically transferred to each user of the property described herein, subject to each of the specific and general conditions herein. As used in this Conditional Use Permit, the word "Permittee" shall mean each person using the property pursuant to the permit granted herein, including successors to the person first obtaining the permit.
- (b) The Permittee must comply with all applicable federal, state and municipal laws, codes and regulations, including the California Building and Fire Codes. Nothing herein shall be

construed as authorizing any approvals under, or any exceptions to any other law, code or regulation, or as authorizing any change to the occupancy classification of the premises or any buildings thereon as defined on the California Building Code. Without limiting the generality of the foregoing:

- (i) The Permittee shall maintain an annual Colma Business Registration;
 - (ii) Prior to issuance of a Business Registration, the Permittee shall arrange for the project site to be inspected for Fire and Life Safety requirements of California Fire Code by the Colma Fire Protection District; and
- (c) *Indemnification.* The Permittee shall indemnify, pay and hold the Town of Colma harmless from all costs and expenses, including attorney's fees, with reasonable counsel selected and controlled by the Town, incurred by the Town or held to be the liability of the Town in connection with the Town's defense of its actions in any proceeding brought in any state or federal court challenging the Town's actions with respect to the Permittee's project and this approval.
- (d) The Conditional Use Permit may be modified or revoked should it be determined that:
- (i) The property is being operated or maintained in a manner that is detrimental to the public health or welfare, is materially injurious to property or improvements in the vicinity, constitutes a public nuisance, or is contrary to any law, code or regulation, or;
 - (ii) If the Permittee fails to comply with and satisfy the conditions herein.
- (e) The Permittee must agree to comply with each and every term and condition herein by countersigning a copy of this Resolution and returning the counter-signed copy to the City Clerk no more than 45 days following City Council approval of the permit. If Permittee is not the property owner, then the property owner must consent to use of the property on the terms and conditions herein by counter-signing a copy of this resolution and returning the counter-signed copy to the City Clerk no later than 45 days following City Council approval of the permit. Failure to return the counter-signed copy as specified shall render this permit null and void.

* * * * *

Certification of Adoption

I certify that the foregoing Resolution No. 2018-__ was duly adopted at a regular meeting of the City Council of the Town of Colma held on January 10, 2018, by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Raquel "Rae" Gonzalez, Mayor					
Joanne F. del Rosario, Vice Mayor					
John Irish Goodwin					
Diana Colvin					
Helen Fisicaro					
<i>Voting Tally</i>					

Dated _____

Raquel "Rae" Gonzalez, Mayor

Attest: _____

Caitlin Corley, City Clerk

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

Res 2018-____
Davey Tree Expert Company

AGREEMENT

Property Owner/Permittee

The undersigned agrees to use the property on the terms and conditions set forth in this resolution.

Dated: _____

Archdiocese of San Francisco, Property Owner

Dated: _____

Brian Baker, District Manager
The Davey Tree Expert Co., Permittee

**RESOLUTION NO. 2017-11
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ALLOW A MODULAR
OFFICE AND LANDSCAPE STORAGE YARD AT 2300 HILLSIDE BOULEVARD (APN:
011-370-180) PURSUANT TO CEQA GUIDELINE 15303(C)**

The City Council of the Town of Colma does resolve as follows:

1. Background

This resolution was adopted after the following proceedings had occurred:

- (a) The Town has received an application from the Davey Tree Expert Company for approval of Conditional Use Permit to allow a modular office and landscape storage yard at 2300 Hillside Boulevard (APN: 011-370-180)
- (b) Pursuant to Section 15303(c) of State CEQA Guidelines, Class 3, New Construction of Small Structures, the application is categorically exempt from California Environmental Quality Act (CEQA) review.
- (c) A public hearing was held on this matter on February 22, 2017 and evidence was taken at the public hearing;
- (d) The City Council has duly considered said application, the staff report and public comments thereon.

2. Findings

The City Council finds that:

Findings Related to the California Environmental Quality Act (CEQA)

Pursuant to the Section 15303(c) of the State CEQA Guidelines, Class 3, New Construction of Small Structures, the project is exempt. The project is Categorically Exempt from further environmental review because proposed structure is considered a small structure for a use that does not involve the use of significant amounts of hazardous substances and does not exceed 2500 square feet in floor area.

Findings Related to the Conditional Use Permit

- (a) The proposed Conditional Use Permit will be consistent with the provisions of the Colma General Plan and Zoning Ordinance.

Discussion: The General Plan designation for the property is cemetery and the lot is zoned "G" for cemetery and memorial parks. Section 5.02.142 of the Colma General Plan requires Use Permits for corporation yards and other uses which could detract from the green belt theme if they are not designed or sited properly. Additionally, the Colma Municipal Code allows landscape contractor's yards with a Use Permit on lots zoned G.

Provided that the proposed landscape contractor yard complies with the conditions of the Use Permit, the proposed use will not create a substantial visual disturbance from the public roadway or detract from the Town's green belt theme and is consistent with the goals and objectives of the General Plan and Zoning Ordinance.

- (b) Granting the Conditional Use Permit will not be detrimental to the public health, safety or public welfare, or materially injurious to properties or improvements in the vicinity.

Discussion: The Project Site was previously used as an area for a caretaker unit. The area does not appear to be maintained regularly. Allowing the use will likely improve the upkeep of the area. The area is surrounded by mature vegetation and is screened from both the Holy Cross Cemetery (on three sides) and Hillside Boulevard. The proposed use will utilize a currently unused space that is not readily visible from Hillside Boulevard. Additionally, a condition of approval has been included to ensure that none of the landscape waste materials will be composted or be retained on site. Any debris brought from jobsites at the end of the day will be removed from the site within 48 hours. The use will not have a significant negative impact to the public health, safety or public welfare, or be materially injurious to nearby properties or improvements so long as the use complies with the various conditions imposed on the Use Permit.

- (c) Existing property uses, large or small, would not be detrimentally affected by the proposed use.

Discussion: Existing uses will not be detrimentally affected as the proposed use is surrounded by dense vegetation and is conditioned such that no materials will be processed on site. The proposed use will not be readily visible and will not substantially increase the amount of noise generated at the site. Additionally, a condition has been added to restrict the access of the Project Site to the driveway on Hillside Boulevard to ensure that vehicles do not impact the accessibility of the cemetery. Employees will be required to park on site so that street parking is not affected.

- (d) The granting of a Conditional Use Permit will not constitute a grant of special privilege inconsistent with the limitations imposed by the Zoning Ordinance on the existing use of properties, large or small, within the Town of Colma.

Discussion: The granting of the Use Permit will not constitute the grant of a special privilege since the Zoning Ordinance allows for the issuance of Use Permits for landscape contractor yards on lots zoned G based on findings and conditions of approval. Additionally, Use Permits have been granted in the past for nurseries in close proximity to the Project Site, east of Hillside Boulevard which is consistent with the proposed use.

- (e) The City Council is satisfied that the proposed structure or building conforms to the purposes and intent of the General Plan and this subchapter.

Discussion: Landscape contractor's yards are allowed in the "G" Zone subject to the issuance of a Use Permit. The proposed use will not be readily visible from the public right of way or neighboring properties and will not generate a significant amount of noise. Further, the Town's existing greenbelt theme will be maintained through existing vegetative screening that will ensure it is not visible from the right of way as required by

the General Plan. Therefore, the City Council is satisfied that the proposed use conforms to the purpose and intent of the General Plan and Zoning Ordinance.

- (f) The Conditional Use Permit would not constitute a nuisance to neighboring persons or properties.

Discussion: The Project Site is surrounded by the Holy Cross Cemetery with the exception of the side abutting the Hillside Boulevard roadway. The proposed use is limited to storage and an office which is screened by mature vegetation. Any increase in traffic would not be substantial and would likely be unnoticeable to neighboring persons or properties.

3. Conditions of Approval

The City Council approves the Conditional Use Permit to allow a modular office and landscape storage yard at 2300 Hillside Boulevard, subject to the full and faithful performance of each of the general terms and conditions set forth in this Resolution and the following project-specific conditions:

- (a) Allowed Uses. This Use Permit shall specifically allow the operations of the Davey Tree Expert Company, including the placement of a modular office building of less than 1,500 square feet and storage of landscape vehicles and equipment at 2300 Hillside Boulevard as specified in the attached site plan. No extended boom trucks shall be permitted on the site.
- (b) Access. Employees associated with this use shall access the Project Site through the driveway from Hillside Boulevard only.
- (c) Disposal of Landscape Debris. The materials associated with the proposed use shall be processed off site. No landscape debris shall remain on the site more than 48 hours. No composting of material is permitted.
- (d) Nuisances. The Permittee shall not allow any nuisance to be maintained at the premises.
- (e) Signage. The only permitted signage for the use is a sign on the Hillside gate limited to approximately six (6) square feet.
- (f) Permits. The Permittee shall obtain all necessary permits, including Building Permits, prior to construction.
- (g) Minor Changes. Minor changes to the approved use of the site may be approved administratively by the City Planner or designee.
- (h) Trash and Hauling Service. The Permittee must subscribe to a regular refuse and recyclable items collection service for the office (minimum pick-up of once per week) from Republic Waste Services. In addition, a covered enclosure for the residential sized containers shall be provided on-site. If a dumpster is used for off-hauling of landscape debris, a location closed to Hillside entrance shall be provided that is not readily visible from Hillside Boulevard. Pursuant to the Town's Franchise Agreement, dumpsters can only be obtained from Republic

Services. Violation of this provision of this condition will constitute cause for the Town to revoke this permit.

(i) Parking. Prior to issuance of building permits, the Applicant shall submit a Parking Plan. The Plan shall specify locations for 25 parking spaces onsite for employees. The landscape equipment storage area shall accommodate a maximum of 14 vehicles. The parking spaces shall not be converted to any other use without the approval of the City Council. Parking and equipment storage areas shall be on existing paved surfaces or on a minimum of 6" of gravel.

(j) Off-street Parking. Parking on Hillside Boulevard is allowed for emergency parking only.

(k) Business License. The Permittee shall maintain a Town of Colma Business Registration.

(l) Colma Building Department Requirements: The applicant shall comply with all requirements of the Building Department, including obtaining a demolition permit for the existing structure and obtaining a building permit for the set-up of the modular office.

- i. If gravel is used for the parking area, Stormwater BMP's will have to be implemented.
- ii. A demolition permit and hazardous material testing is required prior to demolition of the existing building on site.

(m) Colma Fire Protection District. The applicant shall comply with the requirements of the Colma Fire Protection District including but not limited to:

- i. Address numbers for the business shall be clearly visible from Hillside Boulevard and from the internal driveway in Holy Cross Cemetery.
- ii. A Knox box shall be provided at each gate.
- iii. Fire vehicle access shall be maintained and marked from Hillside Boulevard to the office structure to the satisfaction of the Colma Fire Protection District.
- iv. Fire suppression shall be required to the satisfaction of the Colma Fire Protection District.

(n) USA North. The applicant should contact USA North to assure that there are no utilities that conflict with the proposed improvements (USA North: 811/1-800-227-2600).

(o) Traffic Control Plan. The Permittee shall submit a Traffic Control Plan to the City Engineer for review and approval prior to commencing any work on the project, including demolition and bringing in the modular structure. The Plan shall include at least the following: the route(s) that construction trucks shall use to access the property, identification of the access point(s) to the site, any proposed staging area for trucks waiting to enter the site, traffic management for any work within the improved portion of a public right-of-way, and any proposed traffic controls, such as the use of flag persons, to ensure the safe entry and exit of trucks accessing the project site. Throughout the construction period for the project, the Permittee must faithfully implement the approved Traffic Control Plan.

(p) This Conditional Use Permit shall run with the land and be freely and automatically transferred to each user of the property described herein, subject to each of the specific and general conditions herein. As used in this Conditional Use Permit, the word "Permittee" shall mean each person using the property pursuant to the permit granted herein, including successors to the person first obtaining the permit.

(q) The Permittee must comply with all applicable federal, state and municipal laws, codes and regulations, including the California Building and Fire Codes. Nothing herein shall be construed as authorizing any approvals under, or any exceptions to any other law, code or regulation, or as authorizing any change to the occupancy classification of the premises or any buildings thereon as defined on the California Building Code.; and

(r) The Permittee shall indemnify, pay and hold the Town of Colma harmless from all costs and expenses, including attorney's fees, incurred by the Town or held to be the liability of the Town in connection with this application, or the Town's defense of its actions in any proceeding brought in any state or federal court challenging the Town's actions with respect to this Project.

- (s) The Conditional Use Permit may be modified or revoked should it be determined that:
- i. the property is being operated or maintained in a manner that is detrimental to the public health or welfare, is materially injurious to property or improvements in the vicinity, constitutes a public nuisance, or is contrary to any law, code or regulation, or;
 - ii. if the Permittee fails to comply with and satisfy the conditions herein.

(t) The Permittee must agree to comply with each and every term and condition herein by countersigning a copy of this Resolution and returning the counter-signed copy to the City Clerk no more than forty-five (45) days following City Council approval of the permit. If Permittee is not the property owner, then the property owner must consent to use of the property on the terms and conditions herein by counter-signing a copy of this resolution and returning the counter-signed copy to the City Clerk no later than forty-five (45) days following City Council approval of the permit. Failure to return the counter-signed copy as specified shall render this permit null and void.

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Certification of Adoption

I certify that the foregoing Resolution No. 2017-11 was duly adopted at a regular meeting of the City Council of the Town of Colma held on February 22, 2017, by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Helen Fiscaro, Mayor	X				
Raquel "Rae" Gonzalez	X				
Joanne F. del Rosario	x				
John Irish Goodwin			X		
Diana Colvin					x
<i>Voting Tally</i>	3	0			

Dated 3/8/17

Helen Fiscaro
Helen Fiscaro, Mayor

Attest: Caitlin Corley
Caitlin Corley, City Clerk

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

AGREEMENT

Property Owner/Permittee

The undersigned agrees to use the property on the terms and conditions set forth in this resolution.

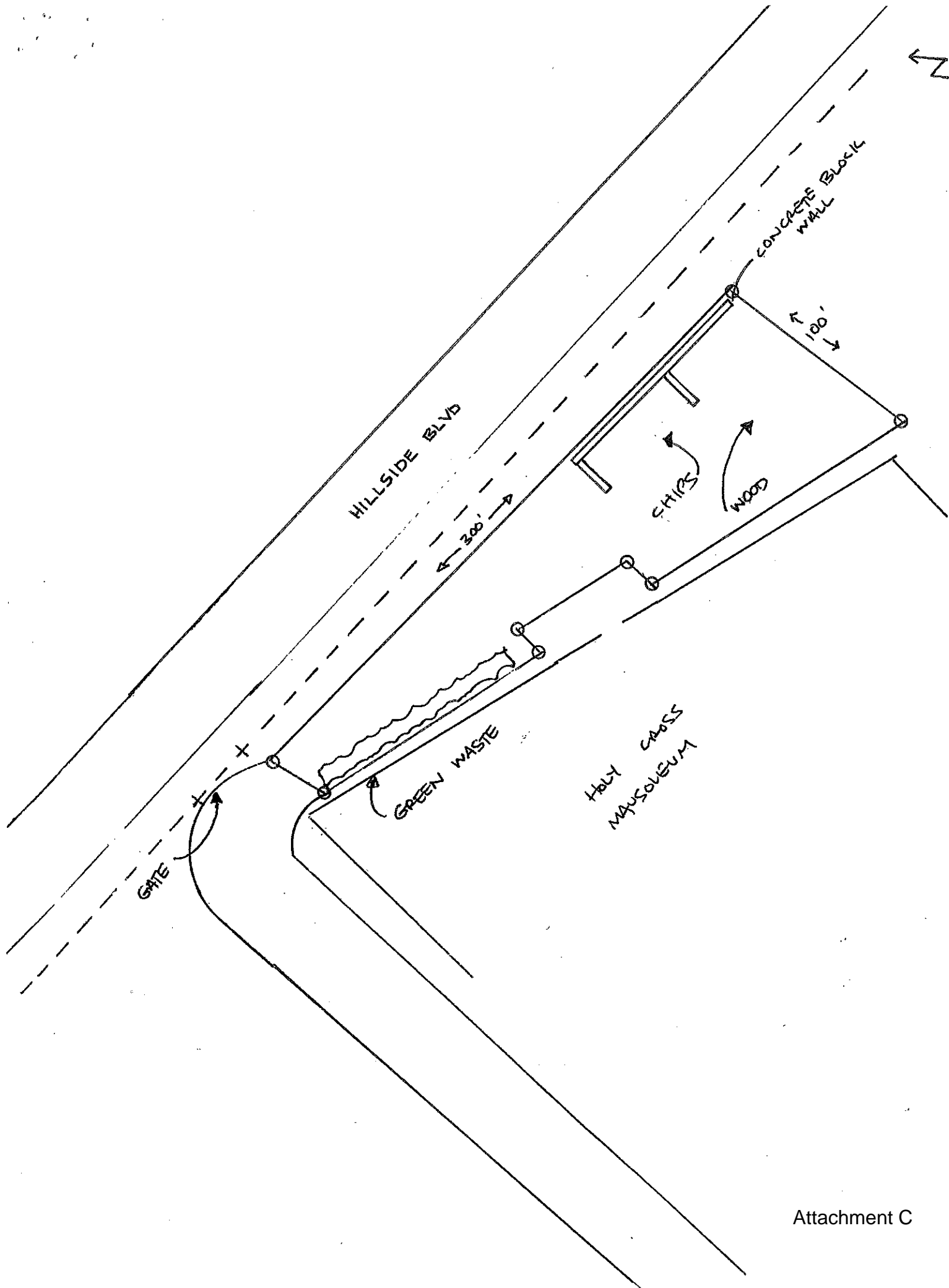
Dated: 12/14/2017

John Bermudez
Archdiocese of San Francisco, Property Owner

Dated: 12/14/17

BSB
The Davey Tree Expert Co., Permittee









STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Christopher J. Diaz, City Attorney
 VIA: Brian Dossey, City Manager
 MEETING DATE: January 10, 2018
 SUBJECT: Ordinance Reauthorizing Ordinance No. 669

RECOMMENDATION

Staff recommends that the City Council introduce and waive a further reading of the following Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF COLMA REAUTHORIZING ORDINANCE NO. 669 (CODIFIED AS SECTIONS 4.08.500 THROUGH 4.08.570 OF SUBCHAPTER 4.08 - CABLE SYSTEM, OPEN VIDEO, TELECOMMUNICATIONS AND FRANCHISES), INCLUDING THE FEE PAID TO THE TOWN BY STATE VIDEO FRANCHISE HOLDERS FOR PUBLIC, EDUCATIONAL, AND GOVERNMENT ACCESS PURPOSES, AND AMENDING SECTION 4.08.560 OF THE COLMA MUNICIPAL CODE

EXECUTIVE SUMMARY

The Digital Infrastructure and Video Competition Act ("DIVCA") authorizes the California Public Utilities Commission to grant State video franchises with a term of 10 years, and authorizes local jurisdictions to take certain actions, including to establish a fee by ordinance to be paid by holders of state video franchises operating within the jurisdiction to support public, educational, and government ("PEG") access. In 2008, the Town of Colma adopted Ordinance No. 669, which implemented the Town's limited authority under DIVCA including, among other things, establishing a PEG fee in the amount of 1% of gross revenues (as defined in California Public Utilities Code Section 5860) of each state video franchise holder. The provision of DIVCA authorizing localities to establish a PEG fee also includes language indicating that an ordinance establishing such a fee shall expire, and may be renewed, upon the expiration of a state video franchise. DIVCA is ambiguous and it is unclear if the statute would require the reauthorization of the PEG fee established by Colma.

Nonetheless, as the 10-year state video franchises issued pursuant to DIVCA have recently begun to expire and be renewed, to the extent any action is required of Colma under DIVCA, it is in the best interests of the Town to reauthorize the relevant Municipal Code provisions to ensure that state video franchise holders continue paying PEG fees. Comcast, whose state video franchise expired and renewed as of January 2, 2018, has indicated that it believes reauthorization is required for continued payment. The attached Ordinance reauthorizes

Ordinance No. 669, and amends Section 4.08.560 of the Municipal Code to provide for automatic reauthorizations, including the PEG fee, in the future.

FISCAL IMPACT

Colma currently receives PEG fees from state video franchise holders. Comcast only pays PEG fees on gross revenues other than those received from the Town under the bulk services contract. If the Ordinance is not adopted, state video franchise holders may stop paying PEG fees to the Town as their state franchises expire and are renewed, based on a claim that reauthorization is required.

BACKGROUND

In 2006, the Digital Infrastructure and Video Competition Act was signed into law and codified at California Public Utilities Code section 5800, et seq., ("DIVCA"). DIVCA established a state video franchising system that replaced local cable franchising but left some limited local authority over State video franchise holders. In 2008, Colma adopted Ordinance No. 669, which implemented its limited authority over State video franchise holders, including establishing a PEG fee, by adding Sections 4.08.500 through 4.08.570 to Subchapter 4.08 (Cable System, Open Video, Telecommunications and Franchises) of the Colma Municipal Code.

ANALYSIS

Under DIVCA, state video franchises are issued by the CPUC and have a stated term of 10 years. At present, two state video franchises include the Town of Colma, held by Comcast and AT&T.

The DIVCA provision authorizing local jurisdictions to establish a PEG fee by ordinance also includes language indicating that an ordinance establishing a PEG fee shall expire, and may be reauthorized, upon the expiration of the state video franchise. The statute is ambiguous and subject to different interpretations as to its meaning and application, and it is unclear if it would require the reauthorization of the PEG fee established by Colma. AT&T's state video franchise covering Colma expired and was renewed in 2017 without any state video franchise holders ceasing to make PEG fee payments. However, Subchapter 4.08 does not specifically address reauthorization, and, Comcast whose state video franchise expired and was renewed as of January 2, 2018, has indicated that it believes reauthorization is required. Thus, to the extent any action is required of Colma under DIVCA, it is in the best interests of the Town to adopt an ordinance reauthorizing Ordinance No. 669 which added provisions implementing the Town's limited authority under DIVCA.

If approved, this Ordinance will reauthorize Ordinance No. 669 and amend Section 4.08.560 of the Municipal Code to provide for future reauthorizations to take place automatically, without further action by Council.

RECOMMENDATION

Staff recommends that the City Council introduce the attached Ordinance.

ATTACHMENTS

- A. Ordinance

ORDINANCE NO. _____
OF THE CITY COUNCIL OF THE TOWN OF COLMA

AN ORDINANCE REAUTHORIZING ORDINANCE NO. 669 (CODIFIED AS SECTIONS 4.08.500 THROUGH 4.08.570 OF SUBCHAPTER 4.08 - CABLE SYSTEM, OPEN VIDEO, TELECOMMUNICATIONS AND FRANCHISES), INCLUDING THE FEE PAID TO THE TOWN BY STATE VIDEO FRANCHISE HOLDERS FOR PUBLIC, EDUCATIONAL, AND GOVERNMENT ACCESS PURPOSES, AND AMENDING SECTION 4.08.560 OF THE COLMA MUNICIPAL CODE

The City Council of the Town of Colma does ordain as follows:

ARTICLE 1. RECITALS.

- (a) In 2006, the Digital Infrastructure and Video Competition Act was signed into law and codified at California Public Utilities Code section 5800, et seq., ("DIVCA"); and
- (b) DIVCA established a state video franchising system that replaced local cable franchising but also recognized the continued need to protect local revenues and control of public rights of way; and
- (c) DIVCA provides that state video franchises are issued by the California Public Utilities Commission ("CPUC") and have a stated term of 10 years; and
- (d) DIVCA provides that a local entity may, by ordinance, establish a fee to support public access, educational and governmental ("PEG") purposes payable by state video franchise holders; and
- (e) In 2008, the City Council of the Town of Colma ("Colma") adopted Ordinance No. 669, adding Sections 4.08.500 through 4.08.570 to Subchapter 4.08 (Cable System, Open Video, Telecommunications and Franchises) of the Colma Municipal Code ("Municipal Code"), in order to implement its limited authority over state video franchise holders pursuant to DIVCA, which included adoption of a PEG fee payable by state video franchise holders in the amount of one percent (1%) of gross revenues; and
- (f) The State video franchises of Comcast and AT&T currently entitle them to serve Colma, and have either recently expired and been renewed by the CPUC, or will expire and may be renewed in the future; and
- (g) DIVCA provides that the ordinance establishing a PEG fee shall expire, and may be reauthorized, upon the expiration of the state franchise, but there is uncertainty as to what circumstance, if any, the provision applies to Colma's PEG fee; and
- (h) To the extent any action is required of Colma, it is deemed to be in the best interests of Colma to adopt an ordinance reauthorizing Ordinance No. 669, and amending Section 4.08.560 so that as each state video franchise expires and is renewed by the CPUC now and in future years, state video franchise holders continue to pay PEG fees.

ARTICLE 2. INCORPORATION OF RECITALS.

The City Council hereby finds that all of the foregoing recitals and the staff report presented herewith are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

ARTICLE 3. AMENDMENTS TO CMC CHAPTER 4.08

To the extent reauthorization is required by law, Ordinance No. 669, adding Sections 4.08.500 through 4.08.570 of this Subchapter 4.08 (Cable System, Open Video, Telecommunications and Franchises), is hereby reauthorized, and further Section 4.08.560 is amended by adding the following subsection (5) to Section 4.08.560(b):

- (5) To the extent reauthorization is required by law, Sections 4.08.500 through 4.08.570 of this subchapter, including the PEG fee specified in this subsection (b) in the amount of one percent (1%) of gross revenues, are automatically reauthorized as to each affected state video franchise holder upon the expiration of any state video franchise. Any and all reauthorizations shall be effective for so long as such reauthorization is required by law.
-

ARTICLE 4. SEVERABILITY.

If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Town Council of the Town of Colma hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

ARTICLE 5. NOT A CEQA PROJECT.

This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule 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. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Mateo in accordance with CEQA Guidelines.

ARTICLE 6. EFFECTIVE DATE.

This Ordinance shall be posted on the three (3) official bulletin boards of the Town of Colma and within fifteen (15) days of its passage and is to take effect thirty (30) days after its passage.

CERTIFICATION OF ADOPTION

I certify that the foregoing Ordinance No. ____ was introduced at an adjourned regular meeting of the City Council of the Town of Colma held on January 10 2018, and duly adopted at a regular meeting of said City Council held on _____, 20__ by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Raquel Gonzalez, Mayor					
Joanne F. del Rosario					
John Irish Goodwin					
Diana Colvin					
Helen Fisicaro					
<i>Voting Tally</i>					

Dated _____

Raquel "Rae" Gonzalez, Mayor

Attest:

Caitlin Corley, City Clerk





STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Brian Dossey, City Manager
 MEETING DATE: January 10, 2018
 SUBJECT: Addition of one Recreation Coordinator Position

RECOMMENDATION

Staff recommends that City Council adopt the following resolution:

RESOLUTION AUTHORIZING THE HIRING OF ONE ADDITIONAL RECREATION COORDINATOR POSITION FOR A TOTAL OF TWO TO THE RECREATION SERVICES DEPARTMENT

EXECUTIVE SUMMARY

Staff recommends the City Council adopt a resolution authorizing the hiring of one additional Recreation Coordinator position to the Recreation Services Department. This is a full-time, non-exempt, benefited position. With the promotion of the Administrative Services Director to City Manager, Recreation Services is under staffed and needs additional support to maintain the level of service the department provides to the community.

Staff intends to: (1) recruit for an Administrative Services Director, (2) change the Recreation related responsibilities to Finance and special projects (CIP) and (3) make the Administrative Services Director a full-time position located at Town Hall.

FISCAL IMPACT

None at this time. With the vacancies to the City Manager position and Administrative Services Director position in fiscal year 2017-18, the existing budget can support the additional Recreation Coordinator position for the remainder of the fiscal year.

BACKGROUND

Prior to the addition of the Administrative Services Director position in July 2016, the Recreation Services Department had a staffing level of three full time, benefited employees from 2005-2016. Below is a table that shows the staffing changes over the past few years.

Recreation Department Staffing

Position	FY2005-06 thru FY2015-16	FY2016-17	FY2017-18 (July-December)	Proposed
Administrative Services Director	None	.75	.50	None
Director of Recreation Services	1	None	None	None
Recreation Manager	None	None	1	1
Recreation Coordinator	2	2	1	2
Total	3	2.75	2.5	3

In fiscal years 2016-17 and during the first six month of fiscal year 2017-18, staff filled the staffing shortage with Recreation Leaders and Facility Attendants. However, there is a limit to how many hours part time employees can work before CalPERS, state and federal laws are triggered. The capacity for the Recreation Manager and Recreation Coordinator to manage the work and deliver quality services and programs is constrained with the reduced staffing available.

Staff is proposing the Administrative Services Director position become a full-time position located at Town Hall, responsible for Finance, Human Resources, Information Technology, Risk Management and Special Projects (i.e. CIP).

The Recreation Manager and two Recreation Coordinators would be responsible for all Recreation functions, whereas in previous years the Director of Recreation Services and Administrative Services Director had other responsibilities (i.e. Risk Management, Safety Committee, ADA Coordinator, Landscape/Custodial Services Contract Management, etc.) while managing the Recreation Services Department.

ANALYSIS

If the City Council approves the additional Recreation Coordinator position, the Administrative Services Director will work at Town Hall full time and be responsible for Human Resources, Finance, Information Technology, Risk Management and Special Projects as assigned by the City Manager.

The Recreation Manager will be responsible for the overall day to day operations and administration of the Recreation Services Department. Duties will include supervision of Recreation Coordinators, budget, accounts payable, recruiting, hiring and training, website and recreations software management, community-wide special events and recreation CIP.

The Recreation Coordinators will responsible for their specific program areas;

Recreation Coordinator (A) – Adult and senior programming, contract programs, facility attendant supervision, facility rentals, facility and office supplies, Livewire, Colma identification cards and filing.

Recreation Coordinator (B) – Youth and teen programming, afterschool and day camp programming, Recreation Leader supervision, Leaders in Training supervision, honor roll, and family programs and events.

For a detailed breakdown of all assigned tasks and duties, please see attachment B.

The proposed staffing change will allow for the Recreation Services Department to function at a high level, providing quality recreation programs and activities to the community. The change will also fill a need at Town Hall by recruiting and hiring an Administrative Services Director with a background in Finance and Human Resources.

Council Adopted Values

The recommendation is consistent with the Council value of *responsibility* because the Recreation Services Department has provided high quality recreation programming for several years and will not be able to perform at such a high level at the current staffing level.

Alternatives

The City Council could choose not to approve the proposed staffing change; however, this would leave the Recreation Services Department understaffed, putting a strain on the department's ability to provide high quality recreation programs.

CONCLUSION

Staff recommends the City Council adopt a resolution authorizing the hiring of one additional Recreation Coordinator position to the Recreation Services Department.

ATTACHMENTS

- A. Resolution
- B. Assigned Tasks & Duties



RESOLUTION NO. 2018-____
Of the City Council of the Town of Colma

**RESOLUTION AUTHORIZING THE HIRING OF ONE ADDITIONAL RECREATION
COORDINATOR POSITION FOR A TOTAL OF TWO TO THE RECREATION
SERVICES DEPARTMENT**

The City Council of the Town of Colma does hereby resolve:

1. Background.

(a) In July of 2016, the Town's Recreation Services Director was promoted to the newly created Administrative Services Director position.

(b) Prior to this date, the Recreation Services Department consisted of a Director and two Recreation Coordinators.

(c) When the Town created the Administrative Services Director position, the position was tasked with overseeing the Recreation Services Department, amongst other duties.

(d) With the recent promotion of the Administrative Services Director to City Manager, the Recreation Services Department is currently understaffed and needs additional support to maintain the level of service the department provides to the community.

(e) The City Manager is now proposing the hiring of one additional Recreation Coordinator for the Recreation Services Department for a total of two Recreation Coordinators, in addition to the current Recreation Manager in the Department.

(f) The second Recreation Coordinator position will be a full-time, non-exempt, benefited position.

(g) Funding for this new Recreation Coordinator position can be accommodated in the current Fiscal Year 2017-2018 budget.

2. Order.

(a) The City Council hereby authorizes the hiring of one additional Recreation Coordinator position for a total of two to the Recreation Services Department.

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Certification of Adoption

I certify that the foregoing Resolution No. 2018-___ was duly adopted at a regular meeting of said City Council held on January 10, 2018 by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Raquel Gonzalez, Mayor					
Helen Fisicaro					
Joanne del Rosario					
Diana Colvin					
John Irish Goodwin					
Voting Tally					

Dated _____

Raquel Gonzalez, Mayor

Attest: _____

Caitlin Corley, City Clerk

Recreation Dept. Tasks and Responsibilities

Program/Task	Rec Manager	Rec Coordinator	Rec Coordinator
Rec Dept - Supervision/Support/Programming	X		
Web Site Maintenance & Posting	X		
CIP (Rec)	X		
Special Projects assigned by City Manager	X		
Special Event Supplies	X		
Rec Coordinator Supervision	X		
Recreation Software	X		
Safety Committee	X		
Timesheets	X		
Brochure	X		
Scoopy Doo		X	
Budget	X		
Tickets - Sports/Theater/Events	X		
Town Picnic	X		
Accounts Payable for Rec	X		
Alternative Day Camp	X		
Adult Holiday Event	X		
Holiday Decorating Contest	X		
Halloween Decorating Contest	X		
Marketing	X		
Facility Maint.	X		
Clean Up Day	X		
Street Fair	X		
Super Bowl Party	X		
Hiring & Recruiting	X		
Facility Attendants		X	
Facility Rentals		X	
Adult & Senior Programming		X	
LiveWire Volunteers		X	
Rec Supplies - Adult/Senior		X	
Office Supplies		X	
Facility Supplies		X	
LiveWire		X	
Special Event Insurance		X	
Facility Equipment CCC		X	
Volunteer Recognition Lunch		X	
Colma ID's		X	
Filing System		X	
Senior Lunches		X	
Senior Programs		X	
Senior Outings		X	
Contract Programs		X	
Garage Sale	X		
Senior Holiday Lunch		X	
Facility Attendant Scheduling		X	

Recreation Dept. Tasks and Responsibilities

Adult Events & Outings		X	
Social Media		X	
Deposits	X		
Youth & Teen programming			X
Teen Commission			X
Recreation Leaders			X
Youth Volunteers			X
Rec Supplies - Youth			X
Afterschool Program			X
Day Camp			X
PNO			X
Arts & Crafts Projects			X
Project Read			X
Honor Roll			X
Youth & Teen Events			X
Facility Equipment SP			X
Family Events/Outings		X	
Eggstravaganza			X
Earth Day			X
Halloween Events			X
Breakfast with Santa			X
Letters to Santa			X
Day in the Snow			X
Rec Leader Scheduling			X
Colma Game Night			X
LIT Recognition			X
Active Mailings & Communications			X
Holiday Craft Night-Tree Lighting			X
Summer Concerts			X



STAFF REPORT

TO: Mayor and Members of the City Council

FROM: Brad Donohue, Public Works Director/CSG Consultants
Mahan Bozorginia, Project Manager/CSG Consultants

VIA: Brian Dossey, City Manager

MEETING DATE: January 10, 2018

SUBJECT: Town Hall Project - Furniture, Fixtures and Equipment - Basis of Design and Contract Documents

RECOMMENDATION

Staff recommends that the City Council adopt the following Resolution:

RESOLUTION APPROVING BASIS OF DESIGN AND CONTRACT DOCUMENTS FOR THE FURNITURE, FIXTURES AND EQUIPMENT "FF&E" PROJECT (PHASE 5 OF THE TOWN HALL RENOVATION PROJECT) AND AUTHORIZING STAFF TO ADVERTISE NOTICE INVITING BIDS FROM CONTRACTORS FOR SAID PROJECT.

EXECUTIVE SUMMARY

The Resolution that is being presented tonight will accomplish two items;

- City Council and members of the public will view the proposed furniture selection that is being proposed for the City Council Chamber, various public areas and administrative offices.
- With City Council's approval of the FF&E package which is inclusive of the basis of design, floor and furniture layout (Plan) and project and product specifications, Staff will then be allowed to advertise the project and solicit bids from qualified vendors and contractors to procure and install the proposed FF&E package.

The FF&E plan and project specifications denotes styles, types, patterns, finish material, etc. for the various pieces of furniture being provided for the New Town Hall Facility. It is important to understand that the proposed furniture is what is called the "Basis of Design". What this means is that the design team and staff came up with a FF&E design package that hopefully complements the various venues (Chamber, Public areas & Administrative offices) within Town Hall. The FF&E package has also been priced out through procurement agencies to make sure that the cost of purchasing the various items and installation fits the Town's proposed budget for this phase of the project. The Vendor/Contractors who propose will take the basis of design package and to their business/manufacture contacts and provide a FF&E package that meets the Town's Basis of Design and budget.

FISCAL IMPACT

The Architect estimate for the procurement and installation of the proposed FF&E package is estimated to be \$250,000.00 The Architect's estimate is within the Town's Phase 5 budget amount of \$325,000.00.

BACKGROUND

As part of the overall Town Hall Project design, Ratcliff Architects produced a schematic space plan where proposed furniture layouts were shown in plan for the Infill Contractor's (Phase 4) reference. At this stage of the Town Hall construction project, the furniture schematic design is a conceptual but somewhat accurate overview of the furniture layout so that the Infill Contractor can familiarize themselves with the various office, public area and Council Chamber uses in the facility while constructing. Typically, Contractors would review the FF&E design schematics ahead of installing electrical, data and/or telecom systems in the office space. The schematic design indicates locations for desks, cabinets, tables etc., many of which receive electronic and data controls. The Design Team produced four design/layout iterations highlighting various furniture types and styles with an array of patterns and finish materials. The design choices were brought before various members of Staff from different departments requesting their input and endorsement of the FF&E items as well as furniture layout and orientation. Enlarged floor plans were provided for typical staff offices, the City Manager's office, Council office, conference rooms, Staff workstations, reception desk, Council Chambers, gallery, staff kitchen, staff pantry, etc. Upon each iteration Staff reviewed and provided the necessary feedback to the Design Team.

The Construction Documents consist of a floor plan layout of both floors in Town Hall, an FF&E item schedule indicating quantities and types for bid, standard specifications, bid manual and installation instructions. These documents shall be provided to bidders as part of the Contract Documents and are attached for review (Attachments B, C & D).

ANALYSIS

Because this is a public contract, Staff and Architect could only provide a basis for design selection for the FF&E package for the Town Hall Facility. The contractors who will propose on this project will need to review the proposed FF&E inventory and propose on what is being offered or provide an equal. Many of the contractors and vendors that will be proposing on this project have business relationships with a select group of manufactures. It will be the responsibility of the Contractor to demonstrate that the FF&E package that is submitted is equal to or better than what is being proposed in the construction documents. Upon review and feedback from the City Council and Public, Staff will make all revisions as directed by City Council and with City Council's approval, proceed with advertising the Bid Package. Staff and the project management team will continue to update the City Council and a construction contract will likely be brought to the City Council for consideration in February of 2018.

Council Adopted Values

Adoption of the resolution is consistent with the City Council adopted value of *Fairness*. The City Council is promoting open and fair competition to qualified contractors to bid on the proposed FF&E package for the Town Hall Renovation Project.

CONCLUSION

Staff request City Council adopt the resolution to approve the Basis of Design and Contract Documents and proceed with advertising the notice to invite qualified contractors to bid on the Town Hall Renovation Furniture, Fixtures and Equipment (Phase 5) project.

ATTACHMENTS

- A. Resolution
- B. Bid Manual
- C. Bid Plans
- D. Bid Specifications



RESOLUTION NO. 2018-__
OF THE CITY COUNCIL OF THE TOWN OF COLMA

**RESOLUTION APPROVING BID DOCUMENT PACKAGE FOR THE FURNITURE,
FIXTURES, AND EQUIPMENT FOR THE TOWN HALL RENOVATION PROJECT AND
AUTHORIZING STAFF TO ADVERTISE NOTICE INVITING BIDS FROM CONTRACTORS**

1. Background.

- (a) The City Council of the Town of Colma has reviewed the plans and specifications for the Furniture, Fixtures, and Equipment portion of the Town Hall Renovation Project
- (b) These plans and specifications have been available to the City Council for viewing at Town Hall beginning on January 5, 2018. Further, the plans and specifications have also been made available to the public at the City Council meeting held on January 10, 2018; and
- (c) Staff is recommending approval of said plans and specifications; and
- (d) The proposed project is a public works project requiring competitive bidding.

2. Findings.

- (a) The City Council finds that the design set forth in the plans and specifications is reasonable.
- (b) The project is within the Town budget and was previously authorized by the City Council at prior City Council meetings through various budget appropriations.

3. Approval and Authorization.

- (a) The plans and specifications for the Furniture, Fixtures, and Equipment portion of the Town Hall Renovation Project, a copy of which is on file at Town Hall, are hereby approved;
- (b) Staff shall be and hereby is authorized to advertise for bids to construct said Project.

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Certification of Adoption

I certify that the foregoing Resolution No. ### was duly adopted at a regular meeting of the City Council of the Town of Colma held on January 10, 2018 by the following vote:

Name	Counted toward Quorum			Not Counted toward Quorum	
	Aye	No	Abstain	Present, Recused	Absent
Raquel Gonzalez, Mayor					
Helen Fisicaro					
Joanne del Rosario					
Diana Colvin					
John Irish Goodwin					
Voting Tally					

Dated _____

Raquel Gonzalez, Mayor

Attest: _____
Caitlin Corley, City Clerk

TOWN OF COLMA

COLMA, CALIFORNIA



BID MANUAL

CONTRACT DOCUMENTS AND SPECIFICATIONS

TOWN HALL PROJECT – FURNITURE, FIXTURES & EQUIPMENT “FF&E”

PUBLISHED: JANUARY 12, 2018

BID OPENING: TUESDAY, FEBRUARY 6TH, 2018 BY 2P.M.

TABLE OF CONTENTS

	<u>Page</u>
NOTICE INVITING BIDS.....	4
INSTRUCTIONS TO BIDDERS	7
ARTICLE 1. SECURING DOCUMENTS.....	7
ARTICLE 2. EXAMINATION OF SITE AND CONTRACT DOCUMENTS.....	7
ARTICLE 3. INTERPRETATION OF DRAWINGS AND DOCUMENTS	7
ARTICLE 4. PRE-BID CONFERENCE	8
ARTICLE 5. ADDENDA	8
ARTICLE 6. ALTERNATE BIDS	8
ARTICLE 7. COMPLETION OF BID FORMS	8
ARTICLE 8. MODIFICATIONS OF BIDS	9
ARTICLE 9. SUBCONTRACTORS.....	9
ARTICLE 10. LICENSING REQUIREMENTS.....	9
ARTICLE 11. BID GUARANTEE (BOND).....	9
ARTICLE 12. IRAN CONTRACTING ACT OF 2010	10
ARTICLE 13. NONCOLLUSION DECLARATION.....	10
ARTICLE 14. PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION	10
ARTICLE 15. BIDDER INFORMATION AND EXPERIENCE FORM.....	10
ARTICLE 16. WORKERS' COMPENSATION CERTIFICATION.....	10
ARTICLE 17. SIGNING OF BIDS	11
ARTICLE 18. SUBMISSION OF SEALED BIDS	11
ARTICLE 19. OPENING OF BIDS.....	11
ARTICLE 20. WITHDRAWAL OF BID.....	12
ARTICLE 21. BIDDERS INTERESTED IN MORE THAN ONE BID	12
ARTICLE 22. SUBSTITUTION OF SECURITY.....	12
ARTICLE 23. PREVAILING WAGES	12
ARTICLE 24. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS	12
ARTICLE 25. INSURANCE REQUIREMENTS	13
ARTICLE 26. PERFORMANCE BOND AND PAYMENT BOND REQUIREMENTS.....	13
ARTICLE 27. SALES AND OTHER APPLICABLE TAXES, PERMITS, LICENSES AND FEES	13
ARTICLE 28. PERMIT AND INSPECTION FEE ALLOWANCE	13
ARTICLE 29. FILING OF BID PROTESTS	13

ARTICLE 30. BASIS OF AWARD; BALANCED BID	14
ARTICLE 31. AWARD PROCESS	14
ARTICLE 32. EXECUTION OF CONTRACT	14
ARTICLE 33. QUESTIONS.....	15
BID FORMS	16
ARTICLE 1. INFORMATION ABOUT BIDDER	25
ARTICLE 2. LIST OF CURRENT PROJECTS (BACKLOG).....	28
ARTICLE 3. LIST OF COMPLETED PROJECTS – LAST THREE YEARS.....	29
ARTICLE 4. EXPERIENCE AND TECHNICAL QUALIFICATIONS QUESTIONNAIRE	30
ARTICLE 5. VERIFICATION AND EXECUTION.....	31
CONTRACT	36
BOND FORMS.....	40
EXHIBIT A.....	41

NOTICE INVITING BIDS

NOTICE IS HEREBY GIVEN that the City Council of the Town of Colma ("Town") invites and will receive sealed Bids up to but not later than **2p.m Tuesday, February 6th, 2018** at the office of the Department of Public Works, located at 1190 El Camino Real, Colma, CA 94014, for the furnishing to Town of all labor, equipment, materials, tools, services, transportation, permits, utilities, and all other items necessary for the Town Hall FF&E (the "Project"). At said time, Bids will be publicly opened and read aloud at the Town Office. Bids received after said time shall be returned unopened. Bids shall be valid for a period of 90 calendar days after the Bid opening date.

Bids must be submitted on the Town's Bid Forms. **Bidders may obtain a copy of the Contract Documents from <https://www.colma.ca.gov/rfp-and-bids>**. Hard copy plans and specs are available for viewing ONLY at the Colma Public Works Department at 1190 El Camino Real Colma, CA 94014. To the extent required by section 20103.7 of the Public Contract Code, upon request from a contractor plan room service, the Town shall provide an electronic copy of the Contract Documents at no charge to the contractor plan room.

It is the responsibility of each prospective bidder to download and print all Bid Documents for review and to verify the completeness of Bid Documents before submitting a bid. Any Addenda will be posted on <https://www.colma.ca.gov/rfp-and-bids/>. It is the responsibility of each prospective bidder to check <https://www.colma.ca.gov/rfp-and-bids/> on a daily basis through the close of bids for any applicable addenda or updates. The Town does not assume any liability or responsibility based on any defective or incomplete copying, excerpting, scanning, faxing, downloading or printing of the Bid Documents. Information on <https://www.colma.ca.gov/rfp-and-bids/> may change without notice to prospective bidders. The Contract Documents shall supersede any information posted or transmitted by <https://www.colma.ca.gov/rfp-and-bids/>.

Each Bid shall be accompanied by cash, a certified or cashier's check, or Bid Bond secured from a surety company satisfactory to the City Council, the amount of which shall not be less than ten percent (10%) of the submitted Total Bid Price, made payable to Town of Colma as bid security. The bid security shall be provided as a guarantee that within five (5) working days after the Town provides the successful bidder the Notice of Award, the successful Bidder will enter into a contract and provide the necessary bonds and certificates of insurance. The bid security will be declared forfeited if the successful Bidder fails to comply within said time. No interest will be paid on funds deposited with Town.

A NON-MANDATORY Pre-Bid Conference is scheduled for Tuesday, January 23rd, 2018 at 10 a.m. to answer questions and concerns pertaining to the bid at 1190 El Camino Real, Colma, CA 94014. Representatives of the Town and consulting engineers, if any, will be present. Questions asked by Bidders at the Pre-Bid Conference not specifically addressed within the Contract Documents shall be answered in writing, and shall be sent to all Bidders present at the Pre-Bid Conference.

The successful Bidder will be required to furnish a Faithful Performance Bond and a Labor and Material Payment Bond each in an amount equal to one hundred percent (100%) of the Contract Price. Each bond shall be in the forms set forth herein, shall be secured from a surety company that meets all State of California bonding requirements, as defined in California Code of Civil Procedure Section 995.120, and that is a California admitted surety insurer.

Pursuant to Section 22300 of the Public Contract Code of the State of California, the successful Bidder may substitute certain securities for funds withheld by Town to ensure its performance under the contract.

Pursuant to Labor Code Section 1773, Town has obtained the prevailing rate of per diem wages and the prevailing wage rate for holiday and overtime work applicable in San Mateo County from the Director of the Department of Industrial Relations for each craft, classification, or type of worker needed to execute this contract. A copy of these prevailing wage rates may be obtained via the internet at: www.dir.ca.gov/dlsr/

In addition, a copy of the prevailing rate of per diem wages is available at the Town's Public Works Department and shall be made available to interested parties upon request. The successful bidder shall post a copy of the prevailing wage rates at each job site. It shall be mandatory upon the Bidder to whom the Contract is awarded, and upon any subcontractors, to comply with all Labor Code provisions, which include but are not limited to the payment of not less than the said specified prevailing wage rates to all workers employed by them in the execution of the Contract, employment of apprentices, hours of labor and debarment of contractors and subcontractors.

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No Bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a contract, the Bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project.

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. In bidding on this Project, it shall be the Bidder's sole responsibility to evaluate and include the cost of complying with all labor compliance requirements under this contract and applicable law in its Bid.

Unless otherwise provided in the Instructions for Bidders, each Bidder shall hold the appropriate California Contractor's License pursuant to sections 7000 et seq. of the Business and Professions Code throughout the time it submits its Bid and for the duration of the contract.

Substitution requests shall be made within 35 calendar days after the award of the contract. Pursuant to Public Contract Code Section 3400(b), the Town may make findings designating that certain additional materials, methods or services by specific brand or trade name other than those listed in the Standard Specifications be used for the Project. Such findings, if any, as well as the materials, methods or services and their specific brand or trade names that must be used for the Project may be found in the Special Conditions.

Pursuant to Public Contract Code section 7201, the Town has made a determination that the project described herein is substantially complex, and therefore a retention of 5% will be withheld from payment until after the work is complete.

Town shall award the contract for the Project to the lowest responsive, responsible Bidder as determined by the Town from the BASE BID, "Total Bid Price". Town reserves the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the bidding process.

For further information, contact Mahan Bozorginia, Project Manager-CSG Consultants, Inc., at public.works@colma.ca.gov or (650) 757-8888

END OF NOTICE INVITING BIDS

INSTRUCTIONS TO BIDDERS

ARTICLE 1. SECURING DOCUMENTS

Bids must be submitted to the Town on the Bid Forms which are a part of the Bid Package for the Project. Bid and Contract Documents may be obtained from <https://www.colma.ca.gov/rfp-and-bids> in the Notice Inviting Bids. Prospective bidders are encouraged to telephone in advance to determine the availability of Contract Documents. Any charge for the Contract Documents is stated in the Notice Inviting Bids.

The Town may also make the Contract Documents available for review at one or more plan rooms, as indicated in the Notice Inviting Bids. Please Note: Prospective Bidders who choose to review the Contract Documents at a plan room must contact the Town to obtain the required Contract Documents if they decide to submit a bid for the Project.

Any Addenda will be posted on <https://www.colma.ca.gov/rfp-and-bids> Failure to acknowledge addenda may make a bid nonresponsive and not eligible for award of the contract.

ARTICLE 2. EXAMINATION OF SITE AND CONTRACT DOCUMENTS

At its own expense and prior to submitting its Bid, each Bidder shall visit the site of the proposed work and fully acquaint itself with the conditions relating to the construction and labor required so that the Bidder may fully understand the work, including but not limited to difficulties and restrictions attending the execution of the work under the contract. Each Bidder shall carefully examine the Drawings, and shall read the Specifications, Contract, and all other documents referenced herein. Each Bidder shall also determine the local conditions which may in any way affect the performance of the work, including local tax structure, contractors' licensing requirements, availability of required insurance, the prevailing wages and other relevant cost factors, shall familiarize itself with all federal, state and local laws, ordinances, rules, regulations and codes affecting the performance of the work, including the cost of permits and licenses required for the work, and shall make such surveys and investigations, including investigations of subsurface or latent physical conditions at the site or where work is to be performed as may be required. Bidders are responsible for consulting the standards referenced in the Contract. The failure or omission of any Bidder to receive or examine any contract documents, forms, instruments, addenda, or other documents, or to visit the site and acquaint itself with conditions there existing shall in no way relieve any Bidder from any obligation with respect to its Bid or to the contract and no relief for error or omission will be given except as required under State law. The submission of a Bid shall be taken as conclusive evidence of compliance with this Article.

ARTICLE 3. INTERPRETATION OF DRAWINGS AND DOCUMENTS

Prospective Bidders unclear as to the true meaning of any part of the Drawings, Specifications or other proposed contract documents may submit to the Engineer of the Town a written request for interpretation. The prospective Bidder submitting the request is responsible for prompt delivery. Interpretation of the Drawings, Specifications or other proposed contract documents will be made only by a written addendum duly issued and a copy of such addenda will be mailed or delivered to each prospective Bidder who has purchased a set of Drawings and Specifications. The Town will not be responsible for any other explanation or interpretations of the proposed documents. If a Prospective Bidders becomes aware of any errors or omissions in any part of the Contract Documents, it is the obligation of the Prospective Bidder to promptly bring it to the attention of the Town.

ARTICLE 4. PRE-BID CONFERENCE

A NON-MANDATORY Pre-Bid Conference is scheduled for Tuesday, January 23rd, 2018 at 10 a.m. to answer questions and concerns pertaining to the bid at 1190 El Camino Real, Colma, CA 94014. Representatives of the Town and consulting engineers, if any, will be present. Questions asked by Bidders at the Pre-Bid Conference not specifically addressed within the Contract Documents shall be answered in writing, and shall be sent to all Bidders present at the Pre-Bid Conference.

ARTICLE 5. ADDENDA

The Town reserves the right to revise the Contract Documents prior to the Bid opening date. Revisions, if any, shall be made by written Addenda. All Addenda issued by the Town shall be included in the Bid and made part of the Contract Documents. Pursuant to Public Contract Code Section 4104.5, if the Town issues an Addendum which includes material changes to the Project less than 72 hours prior to the deadline for submission of Bids, the Town will extend the deadline for submission of Bids. The Town may determine, in its sole discretion, whether an Addendum warrants postponement of the Bid submission date. Each prospective Bidder shall provide Town a name, address, email address, and facsimile number to which Addenda may be sent, as well as a telephone number by which the Town can contact the Bidder. Copies of Addenda will be furnished by email, facsimile, first class mail, express mail or other proper means of delivery without charge to all parties who have obtained a copy of the Contract Documents and provided such current information. Please Note: Bidders are responsible for ensuring that they have received any and all Addenda. To this end, each Bidder should contact the Dept. of Public Works to verify that it has received all Addenda issued, if any, prior to the Bid opening. The Bidder shall indicate the Addenda received prior to bidding in the space provided in the Bid Form. Failure to indicate all Addenda may be sufficient cause for rejecting the Bid.

ARTICLE 6. ALTERNATE BIDS

If alternate bid items are called for in the Contract Documents, the time required for completion of the alternate bid items has already been factored into the Contract duration and no additional Contract time will be awarded for any of the alternate bid items. The Town may elect to include one or more of the alternate bid items, or to otherwise remove certain work from the Project scope of work. Accordingly, each bidder must ensure that each bid item contains a proportionate share of profit, overhead, and other costs or expenses which will be incurred by the bidder.

ARTICLE 7. COMPLETION OF BID FORMS

Bids shall only be prepared using copies of the Bid Forms which are included in the Contract Documents. The use of substitute Bid Forms other than clear and correct photocopies of those provided by the Town will not be permitted. Bids shall be executed by an authorized signatory as described in these Instructions to Bidders. In addition, Bidders shall fill in all blank spaces (including inserting "N/A" where applicable), and initial all interlineations, alterations, or erasures to the Bid Forms. Bidders shall neither delete, modify, nor supplement the printed matter on the Bid Forms nor make substitutions thereon. USE OF BLACK OR BLUE INK, INDELIBLE PENCIL, OR A TYPEWRITER IS REQUIRED. Deviations in the Bid Forms may result in the Bid being deemed non-responsive.

ARTICLE 8. MODIFICATIONS OF BIDS

Each Bidder shall submit its Bid in strict conformity with the requirements of the Contract Documents. Unauthorized additions, modifications, revisions, conditions, limitations, exclusions or provisions attached to a Bid may render it non-responsive and may cause its rejection. Bidders shall not delete, modify, or supplement the printed matter on the Bid Forms, or make substitutions thereon. Oral, telephonic and electronic modifications will not be considered.

ARTICLE 9. SUBCONTRACTORS

Bidder shall set forth the name, address of the place of business, and contractor license number of each subcontractor who will perform work, labor, furnish materials or render services to the bidder on said contract and each subcontractor licensed by the State of California who, under subcontract to bidder, specially fabricates and installs a portion of the Work described in the Drawings and Specifications in an amount in excess of one half of one percent (0.5%) of the total bid price, and shall indicate the portion of the work to be done by such subcontractor in accordance with Public Contract Code Section 4104.

ARTICLE 10. LICENSING REQUIREMENTS

Pursuant to Business and Professions Code Section 7028.15 and Public Contract Code Section 3300, all bidders must possess proper licenses for performance of this Contract. Subcontractors must possess the appropriate licenses for each specialty subcontracted. Pursuant to Business and Professions Code Section 7028.5, the Town shall consider any bid submitted by a contractor not currently licensed in accordance with state law and pursuant to the requirements found in the Contract Documents to be nonresponsive, and the Town shall reject the Bid. The Town shall have the right to request, and Bidders shall provide within ten (10) calendar days, evidence satisfactory to the Town of all valid license(s) currently held by that Bidder and each of the Bidder's subcontractors, before awarding the Contract.

Notwithstanding anything contained herein, if the Work involves federal funds, the Contractor shall be properly licensed by the time the Contract is awarded, pursuant to the provisions of Public Contract Code section 20103.5.

ARTICLE 11. BID GUARANTEE (BOND)

Each bid shall be accompanied by: (a) cash; (b) a certified or cashier's check made payable to Town of Colma; or (c) a Bid Bond secured from a surety company satisfactory to the City Council, the amount of which shall not be less than ten percent (10%) of the Total Bid Price, made payable to Town of Colma as bid security. Personal sureties and unregistered surety companies are unacceptable. The surety insurer shall be California admitted surety insurer, as defined in Code of Civil Procedure Section 995.120. The bid security shall be provided as a guarantee that within ten (10) working days after the Town provides the successful bidder the Notice of Award, the successful bidder will enter into a contract and provide the necessary bonds and certificates of insurance. The bid security will be declared forfeited if the successful bidder fails to comply within said time, and Town may enter into a contract with the next lowest responsive responsible bidder, or may call for new bids. No interest shall be paid on funds deposited with the Town. Town will return the security accompanying the bids of all unsuccessful bidders no later than 60 calendar days after award of the contract.

ARTICLE 12. IRAN CONTRACTING ACT OF 2010

In accordance with Public Contract Code Section 2200 *et seq.*, the Town requires that any person that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the Town with respect to goods or services of one million dollars (\$1,000,000) or more, certify at the time the bid is submitted or the contract is renewed, that the person is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

The form of such Iran Contracting Certificate is included with the bid package and must be signed and dated under penalty of perjury.

ARTICLE 13. NONCOLLUSION DECLARATION

Bidders on all public works contracts are required to submit a declaration of noncollusion with their bid. This form is included with the bid package and must be signed and dated under penalty of perjury.

ARTICLE 14. PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a contract, the bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project. To this end, Bidder shall sign and submit with its Bid the Public Works Contractor Registration Certification on the form provided, attesting to the facts contained therein. Failure to submit this form may render the bid non-responsive. In addition, each Bidder shall provide the registration number for each listed subcontractor in the space provided in the Designation of Subcontractors form.

ARTICLE 15. BIDDER INFORMATION AND EXPERIENCE FORM

Each Bidder shall complete the questionnaire provided herein and shall submit the questionnaire along with its Bid. Failure to provide all information requested within the questionnaire along with the Bid may cause the bid to be rejected as non-responsive. The Town reserves the right to reject any Bid if an investigation of the information submitted does not satisfy the Engineer that the Bidder is qualified to properly carry out the terms of the contract.

ARTICLE 16. WORKERS' COMPENSATION CERTIFICATION

In accordance with the provisions of Labor Code Section 3700, Contractor shall secure the payment of compensation to its employees. Contractor shall sign and file with the Town the following certificate prior to performing the work under this Contract:

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will

comply with such provisions before commencing the performance of the work of this contract.

The form of such Workers' Compensation Certificate is included as part of this document.

ARTICLE 17. SIGNING OF BIDS

All Bids submitted shall be executed by the Bidder or its authorized representative. Bidders may be asked to provide evidence in the form of an authenticated resolution of its Board of Directors or a Power of Attorney evidencing the capacity of the person signing the Bid to bind the Bidder to each Bid and to any Contract arising therefrom.

If a Bidder is a joint venture or partnership, it may be asked to submit an authenticated Power of Attorney executed by each joint venturer or partner appointing and designating one of the joint venturers or partners as a management sponsor to execute the Bid on behalf of Bidder. Only that joint venturer or partner shall execute the Bid. The Power of Attorney shall also: (1) authorize that particular joint venturer or partner to act for and bind Bidder in all matters relating to the Bid; and (2) provide that each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of Bidder assumed under the Bid and under any Contract arising therefrom. The Bid shall be executed by the designated joint venturer or partner on behalf of the joint venture or partnership in its legal name.

ARTICLE 18. SUBMISSION OF SEALED BIDS

Once the Bid and supporting documents have been completed and signed as set forth herein, they shall be placed, along with the Bid Guarantee and other required materials, in a sealed envelope, addressed and delivered or mailed, postage prepaid, to the Engineering Department of the Town before the time and day set for the receipt of bids. The envelope shall bear the title of the work and the name of the bidder. No oral or telephonic bids will be considered. No forms transmitted via the internet, e-mail, facsimile, or any other electronic means will be considered unless specifically authorized by the Town as provided herein. Bids received after the time and day set for the receipt of bids shall be returned to the bidder unopened. The envelope shall also contain the following in the lower left-hand corner thereof:

Bid of _____ (Bidder's Name)
for the _____ TOWN HALL – FF&E

Only where expressly permitted in the Notice Inviting Bids may bidders submit their bids via electronic transmission pursuant to Public Contract Code sections 1600 and 1601. Any acceptable method(s) of electronic transmission shall be stated in the Notice Inviting Bids. Town may reject any bid not strictly complying with Town's designated methods for delivery.

ARTICLE 19. OPENING OF BIDS

At the time and place set for the opening and reading of bids, or any time thereafter, each and every bid received prior to the time and day set for the receipt of bids will be publicly opened and read. The Town will leave unopened any Bid received after the specified date and time, and any such unopened Bid will be returned to the bidder. It is the bidder's sole responsibility to ensure that its Bid is received as specified. Bids may be submitted earlier than the date(s) and time(s) indicated.

The public reading of each bid will include the following information:

- A. The name and business location of the bidder.
- B. The nature and amount of the bid security furnished by bidder.
- C. The bid amount.

Bidders or their representatives and other interested persons may be present at the opening of the bids. The Town may, in its sole discretion, elect to postpone the opening of the submitted Bids. The Town reserves the right to reject any or all Bids and to waive any informality or irregularity in any Bid.

ARTICLE 20. WITHDRAWAL OF BID

Any bid may be withdrawn either personally or by written request, incurring no penalty, at any time prior to the scheduled closing time for receipt of bids. Requests to withdraw bids shall be worded so as not to reveal the amount of the original bid. Withdrawn bids may be resubmitted until the time and day set for the receipt of bids, provided that resubmitted bids are in conformance with the instructions herein.

Bids may be withdrawn after bid opening only by providing written notice to Town within five (5) working days of the bid opening and in compliance with Public Contract Code Section 5100 *et seq.*, or as otherwise may be allowed with the consent of the Town.

ARTICLE 21. BIDDERS INTERESTED IN MORE THAN ONE BID

No Bidder shall be allowed to make, file or be interested in more than one bid for the same work unless alternate bids are specifically called for. A person, firm or corporation that has submitted a sub-proposal to a Bidder, or that has quoted prices of materials to a Bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other bidders. No person, firm, corporation, or other entity may submit a sub-proposal to a Bidder, or quote prices of materials to a Bidder, when also submitting a prime Bid on the same Project.

ARTICLE 22. SUBSTITUTION OF SECURITY

The Contract Documents call for monthly progress payments based upon the percentage of the Work completed. The Town will retain a percentage of each progress payment as provided by the Contract Documents. At the request and expense of the successful Bidder, the Town will substitute securities for the amount so retained in accordance with Public Contract Code Section 22300.

ARTICLE 23. PREVAILING WAGES

The Town has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages in the locality in which this work is to be performed for each craft or type of worker needed to execute the Contract. These rates may be obtained online at <http://www.dir.ca.gov>. Bidders are advised that a copy of these rates must be posted by the successful Bidder at the job site(s).

ARTICLE 24. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS

In accordance with the provisions of the Labor Code, contractors or subcontractors may not

perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Labor Code Sections 1777.1 or 1777.7. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the Contractor for the Project shall be returned to the Town. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

ARTICLE 25. INSURANCE REQUIREMENTS

Prior to commencing work, the successful bidder shall purchase and maintain insurance as set forth in the General Conditions.

ARTICLE 26. PERFORMANCE BOND AND PAYMENT BOND REQUIREMENTS

The successful bidder will be required to furnish a Labor and Material Payment Bond and a Faithful Performance Bond each in an amount equal to one hundred percent (100%) of the contract price. Each bond shall be secured from a surety company that meets all State of California bonding requirements, as defined in California Code of Civil Procedure Section 995.120 and is admitted by the State of California. Each bond shall be accompanied, upon the request of Town, with all documents required by California Code of Civil Procedure Section 995.660 to the extent required by law. All bonding and insurance requirements shall be completed and submitted to Town within ten (10) working days from the date the Town provides the successful bidder with the Notice of Award.

ARTICLE 27. SALES AND OTHER APPLICABLE TAXES, PERMITS, LICENSES AND FEES

Contractor and its subcontractors performing work under this Contract will be required to pay California sales tax and other applicable taxes, and to pay for permits, licenses and fees required by the agencies with authority in the jurisdiction in which the Work will be located, unless otherwise expressly provided by the Contract Documents.

ARTICLE 28. PERMIT AND INSPECTION FEE ALLOWANCE

Notwithstanding anything contained herein, the Bid Form contains an allowance for the Contractor's cost of acquiring traffic control permits and for construction inspection fees that may be charged to the Contractor by the Agency of Jurisdiction. The allowance is included within the Bid Form to eliminate the need by bidders to research or estimate the costs of traffic control permits and construction inspection fees prior to submitting a bid. The allowance is specifically intended to account for the costs of traffic control permits and construction inspection fees charged by the local Agency of Jurisdiction only. No other costs payable by Contractor to the Agency of Jurisdiction are included within the allowance.

ARTICLE 29. FILING OF BID PROTESTS

Bidders may file a "protest" of a Bid with the Town's City Manager. In order for a Bidder's protest to be considered valid, the protest must:

- A. Be filed in writing within five (5) calendar days after the bid opening date;

- B. Clearly identify the specific irregularity or accusation;
- C. Clearly identify the specific Town staff determination or recommendation being protested;
- D. Specify in detail the grounds for protest and the facts supporting the protest; and
- E. Include all relevant, supporting documentation with the protest at time of filing.

If the protest does not comply with each of these requirements, the Town may reject the protest without further review.

If the protest is timely and complies with the above requirements, the Town's City Manager or other designated Town staff member, shall review the protest, any response from the challenged Bidder(s), and all other relevant information. The City Manager will provide a written decision to the protestor.

The procedure and time limits set forth in this Article are mandatory and are the sole and exclusive remedy in the event of a Bid protest. Failure to comply with these procedures shall constitute a failure to exhaust administrative remedies and a waiver of any right to further pursue the Bid protest, including filing a Government Code Claim or legal proceedings.

ARTICLE 30. BASIS OF AWARD; BALANCED BID

The Town shall award the Contract to the lowest responsible Bidder submitting a responsive Bid. The lowest Bid will be determined on the basis of the BASE BID, "Total Bid Price".

The Town may reject any Bid which, in its opinion when compared to other Bids received or to the Town's internal estimates, does not accurately reflect the cost to perform the Work. The Town may reject as non-responsive any Bid which unevenly weights or allocates costs, including but not limited to overhead and profit to one or more particular bid items.

ARTICLE 31. AWARD PROCESS

Once all Bids are opened and reviewed to determine the lowest responsive and responsible Bidder, the City Council may award the contract. The apparent successful Bidder should begin to prepare the following documents: (1) the Performance Bond; (2) the Payment Bond; and (3) the required insurance certificates and endorsements. Once the Town notifies the Bidder of the award, the Bidder will have ten (10) working days from the date of this notification to execute the Contract and supply the Town with all of the required documents and certifications. Regardless of whether the Bidder supplies the required documents and certifications in a timely manner, the Contract time will begin to run twenty (10) working days from the date of the notification. Once the Town receives all of the properly drafted and executed documents and certifications from the Bidder, the Town shall issue a Notice to Proceed to that Bidder.

ARTICLE 32. EXECUTION OF CONTRACT

As required herein the Bidder to whom an award is made shall execute the Contract in the amount determined by the Contract Documents. The Town may require appropriate evidence that the persons executing the Contract are duly empowered to do so. The Contract and bond forms to be executed by the successful Bidder are included within these Specifications and shall not be detached.

ARTICLE 33. QUESTIONS

Questions regarding this Notice Inviting Bids may be directed to Mahan Bozorginia, Project Manager-CSG Consultants, Inc., AT (650) 757-8888 or email at public.works@colma.ca.gov. No other members of the Town's staff or City Council should be contacted about this procurement during the bidding process. Any and all inquiries and comments regarding this Bid must be communicated in writing, unless otherwise instructed by the Town. The Town may, in its sole discretion, disqualify any Bidder who engages in any prohibited communications.

BID FORMS

1.1 Bid.

Bids will be received at the Town of Colma Town Hall, 1198 El Camino Real, Colma, CA 94014, until **2p.m Tuesday, February 6th, 2018.**

NAME OF BIDDER: _____

To the Honorable City Council
of the Town of Colma
1198 El Camino Real
Colma, California 94014

The undersigned hereby declare that we have carefully examined the location of the proposed Work, and have read and examined the Contract Documents, including all plans, specifications, and all addenda, if any for the following Project:

TOWN HALL – FF&E

We hereby propose to furnish all labor, materials, equipment, tools, transportation, and services, and to discharge all duties and obligations necessary and required to perform and complete the Project, as described and in strict conformity with the Drawings, and these Specifications for TOTAL BID PRICE indicated herein.

The undersigned acknowledges receipt, understanding, and full consideration of the following addenda to the Contract Documents:

Addenda No. _____

1. Attached is the required Bid Guarantee in the amount of not less than 10% of the Total Bid Price.
2. Attached is the completed Designation of Subcontractors form.
3. Attached is the fully executed Noncollusion Declaration form.
4. Attached is the completed Iran Contracting Act Certification form.
5. Attached is the completed Public Works Contractor Registration Certification form.
6. Attached is the completed Contractor's Certificate Regarding Workers' Compensation form.
7. Attached is the completed Bidder Information and Experience form.

A. BID SCHEDULE

NO.	ITEM DESCRIPTION	UNIT OF MEASURE	UNIT PRICE	ITEM COST
1.	Project Management – Coordination with Staff, Correspondence, Submittals, RFIs, etc.	LS	1	
2.	Protection – At existing finishes	LS	1	
3.	FF&E Materials – <u>Sub-total</u> from Exhibit A*	LS	1	
4.	FF&E Labor for Install (Prevailing Wage)	LS	1	
5.	Insurance & Bonding	LS	1	
6.	OH&P – Overhead & Profit	LS/Fee	1	
7.	<u>Total Bid Price (tax included)</u>	Total	-	

*Exhibit A is provided at the end of the Bid Manual and must be filled out complete for the bid to be accepted.

The Town will register with bidder’s stated/selected procurement agency if necessary.

The costs for any Work shown or required in the Contract Documents, but not specifically identified as a line item are to be included in the related line items and no additional compensation shall be due to Contractor for the performance of the Work.

In case of discrepancy between the Unit Price and the Item Cost set forth for a unit basis item, the unit price shall prevail and shall be utilized as the basis for determining the lowest responsive, responsible Bidder. However, if the amount set forth as a unit price is ambiguous, unintelligible or uncertain for any cause, or is omitted, or is the same amount as the entry in the “Item Cost” column, then the amount set forth in the “Item Cost” column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the Unit Price.

For purposes of evaluating Bids, the Town will correct any apparent errors in the extension of unit prices and any apparent errors in the addition of lump sum and extended prices.

The estimated quantities for Unit Price items are for purposes of comparing Bids only and the Town makes no representation that the actual quantities of work performed will not vary from the estimates. Final payment shall be determined by the Engineer from measured quantities of work performed based upon the Unit Price.

B. TOTAL BID PRICE:

TOTAL BID PRICE BASED ON BID SCHEDULE TOTAL OF UNIT PRICES FOR Town Hall – FF&E	
\$ _____	Total Bid Price in Numbers
\$ _____	Total Bid Price in Written Form
In case of discrepancy between the written price and the numerical price, the written price shall prevail.	

The undersigned agrees that this Bid Form constitutes a firm offer to the Town which cannot be withdrawn for the number of calendar days indicated in the Notice Inviting Bids from and after the Bid opening, or until a Contract for the Work is fully executed by the Town and a third party, whichever is earlier.

The successful bidder hereby agrees to sign the contract and furnish the necessary bonds and certificates of insurance within ten (10) working days after the Town provides the successful bidder with the Notice of Award.

Upon receipt of the signed contract and other required documents, the contract will be executed by the Town, after which the Town will prepare a letter giving Contractor Notice to Proceed. The official starting date shall be the date of the Notice to Proceed, unless otherwise specified. The undersigned agrees to begin the Work within ten (10) working days of the date of the Notice to Proceed, unless otherwise specified.

The undersigned has examined the location of the proposed work and is familiar with the Drawings and Specifications and the local conditions at the place where work is to be done.

If awarded the contract, the undersigned agrees that there shall be paid by the undersigned and by all subcontractors to all laborers, workers and mechanics employed in the execution of such contract no less than the prevailing wage rate within San Mateo County for each craft, classification, or type of worker needed to complete the Work contemplated by this contract as established by the Director of the Department of Industrial Relations. A copy of the prevailing rate of per diem wages are on file at the Town's Administration Office and shall be made available to interested parties upon request.

Enclosed find cash, bidder's bond, or cashier's or certified check No. _____ from the _____ Bank in the amount of _____, which is not less than ten percent (10%) of this bid, payable to Town of Colma as bid security and which is

given as a guarantee that the undersigned will enter into a contract and provide the necessary bonds and certificates of insurance if awarded the Work.

The bidder furthermore agrees that in case of bidder's default in executing said contract and furnishing required bonds and certificates of insurance, the cash, bidder's bond, or cashier's or certified check accompanying this proposal and the money payable thereon shall become and shall remain the property of the Town of Colma.

Bidder is an individual _____, or corporation _____, or partnership _____, organized under the laws of the State of _____.

Bidder confirms license(s) required by California State Contractor's License Law for the performance of the subject project are in full effect and proper order. The following are the Bidder's applicable license number(s), with their expiration date(s) and class of license(s):

If the Bidder is a joint venture, each member of the joint venture must include the required licensing information.

Sureties that will furnish the Faithful Performance Bond and the Labor and Material Payment Bond, in the form specified herein, in an amount equal to one hundred percent (100%) of the contract price within ten (10) working days from the date the Town provides the successful bidder the Notice of Award. Sureties must meet all of the State of California bonding requirements, as defined in California Code of Civil Procedure Section 995.120 and must be authorized by the State of California.

The insurance company or companies to provide the insurance required in the contract documents must have a Financial Strength Rating of not less than "A-" and a Financial Size Category of not less than "Class VII" according to the latest Best Key Rating Guide. At the sole discretion of the Town, the Town may waive the Financial Strength Rating and the Financial Size Category classifications for Workers' Compensation insurance.

(signatures continued on next page)

I hereby certify under penalty of perjury under the laws of the State of California that all of the information submitted in connection with this Bid and all of the representations made herein are true and correct.

Executed at _____, on this ____ day of _____, _____.

(Bidders Name – Print or Type)

(Name and Title)

(Corporate Seal)

(Signature)

Names of individual members of firm or names and titles of all officers of corporation and their addresses are listed below:

Name _____ Title _____

Complete Address _____

Phone _____ FAX _____

Name _____ Title _____

Complete Address _____

Phone _____ FAX _____

Name _____ Title _____

Complete Address _____

Phone _____ FAX _____

Name _____ Title _____

Complete Address _____

Phone _____ FAX _____

1.2 Bid Bond

[Note: Not required when other form of Bidder's Security, e.g. cash, certified check or cashier's check, accompanies bid.]

The makers of this bond are, _____, as Principal, and _____, as Surety and are held and firmly bound unto the Town of Colma, hereinafter called the Town, in the penal sum of TEN PERCENT (10%) OF THE TOTAL BID PRICE of the Principal submitted to TOWN for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the accompanying bid dated _____, 20____, for Town Hall - FF&E.

If the Principal does not withdraw its Bid within the time specified in the Contract Documents; and if the Principal is awarded the Contract and provides all documents to the Town as required by the Contract Documents; then this obligation shall be null and void. Otherwise, this bond will remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents shall in affect its obligation under this bond, and Surety does hereby waive notice of any such changes.

In the event a lawsuit is brought upon this bond by the Town and judgment is recovered, the Surety shall pay all litigation expenses incurred by the Town in such suit, including reasonable attorneys' fees, court costs, expert witness fees and expenses.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their several seals this _____ day of _____, 20____, the name and corporate seal of each corporation.

(Corporate Seal)

Contractor/ Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title _____

Notary Acknowledgment

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

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
appeared _____, who proved to me on the basis of satisfactory
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

Title or Type of Document

- Partner(s) Limited
- General

Number of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Date of Document

Signer is representing:
Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Notary Acknowledgment

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

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
appeared _____, who proved to me on the basis of satisfactory
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

OPTIONAL

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CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

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- Corporate Officer

Title(s)

Title or Type of Document

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- General

Number of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Date of Document

Signer is representing:
Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

END OF BID BOND

1.3 List of Subcontractors

In compliance with the Subletting and Subcontracting Fair Practices Act Chapter 4 (commencing at Section 4100), Part 1, Division 2 of the Public Contract Code of the State of California and any amendments thereof, Bidder shall set forth below: (a) the name and the location of the place of business, (b) the California contractor license number, (c) the DIR public works contractor registration number, and (d) the portion of the work which will be done by each subcontractor who will perform work or labor or render service to the Bidder in or about the construction of the work or improvement to be performed under this Contract in an amount in excess of one-half of one percent (0.5%) of the Bidder's Total Bid Price. Notwithstanding the foregoing, if the work involves the construction of streets and highways, then the Bidder shall list each subcontractor who will perform work or labor or render service to the Bidder in or about the work in an amount in excess of one-half of one percent (0.5%) of the Bidder's Total Bid Price or \$10,000, whichever is greater. No additional time shall be granted to provide the below requested information.

If a Bidder fails to specify a subcontractor or if a contractor specifies more than one subcontractor for the same portion of work, then the Bidder shall be deemed to have agreed that it is fully qualified to perform that portion of work and that it shall perform that portion itself.

Work to be done by Subcontractor	Name of Subcontractor	Location of Business	CSLB Contractor License No.	DIR Registration Number	% of Work

Name of Bidder _____

Signature _____

Name and Title _____

Dated _____

1.4 Bidder Information and Experience Form

ARTICLE 1. INFORMATION ABOUT BIDDER

(Indicate not applicable ("N/A") where appropriate.)

NOTE: Where Bidder is a joint venture, pages shall be duplicated and information provided for all parties to the joint venture.

1.0 Name of Bidder: _____

2.0 Type, if Entity: _____

3.0 Bidder Address: _____

Facsimile Number

Telephone Number

Email Address

4.0 How many years has Bidder's organization been in business as a Contractor?

5.0 How many years has Bidder's organization been in business under its present name? _____

5.1 Under what other or former names has Bidder's organization operated? _____

6.0 If Bidder's organization is a corporation, answer the following:

6.1 Date of Incorporation: _____

6.2 State of Incorporation: _____

6.3 President's Name: _____

6.4 Vice-President's Name(s): _____

6.5 Secretary's Name: _____

6.6 Treasurer's Name: _____

7.0 If an individual or a partnership, answer the following:

7.1 Date of Organization: _____

7.2 Name and address of all partners (state whether general or limited partnership):

8.0 If other than a corporation or partnership, describe organization and name principals:

9.0 List other states in which Bidder's organization is legally qualified to do business.

10.0 What type of work does the Bidder normally perform with its own forces?

11.0 Has Bidder ever failed to complete any work awarded to it? If so, note when, where, and why:

12.0 Within the last five years, has any officer or partner of Bidder's organization ever been an officer or partner of another organization when it failed to complete a contract? If so, attach a separate sheet of explanation:

13.0 List Trade References:

14.0 List Bank References (Bank and Branch Address):

15.0 Name of Bonding Company and Name and Address of Agent:

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

ARTICLE 2. LIST OF CURRENT PROJECTS (BACKLOG)

[**Duplicate Page if needed for listing additional current projects.**]

Project	Description of Bidder's Work	Completion Date	Cost of Bidder's Work

ARTICLE 3. LIST OF COMPLETED PROJECTS – LAST THREE YEARS

[**Duplicate Page if needed for listing additional completed projects.**]

Please include only those projects which are similar enough to demonstrate Bidder's ability to perform the required Work.

Project	Description of Bidder's Work	Completion Date	Cost of Bidder's Work

ARTICLE 4. EXPERIENCE AND TECHNICAL QUALIFICATIONS QUESTIONNAIRE

Personnel:

The Bidder shall identify the key personnel to be assigned to this project in a management, construction supervision or engineering capacity.

1. List each person's job title, name and percent of time to be allocated to this project:

2. Summarize each person's specialized education:

3. List each person's years of construction experience relevant to the project:

4. Summarize such experience:

Bidder agrees that personnel named in this Bid will remain on this Project until completion of all relevant Work, unless substituted by personnel of equivalent experience and qualifications approved in advance by the Town.

Changes Occuring Since Prequalification

If any substantive changes have occurred since Bidder submitted its prequalification package for this Project, Bidder shall list them below. If none are listed, Bidder certifies that no substantive changes have occurred.

Additional Bidder's Statements:

If the Bidder feels that there is additional information which has not been included in the questionnaire above, and which would contribute to the qualification review, it may add that information in a statement here or on an attached sheet, appropriately marked:

ARTICLE 5. VERIFICATION AND EXECUTION

These Bid Forms shall be executed only by a duly authorized official of the Bidder:

I declare under penalty of perjury under the laws of the State of California that the foregoing information is true and correct:

Name of Bidder_____

Signature_____

Name_____

Title_____

Date_____

1.5 Non-Collusion Declaration

The undersigned declares:

I am the _____ of _____, the party making the foregoing Bid.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid. The Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham bid, or to refrain from bidding. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid Price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost element of the Bid Price, or of that of any other Bidder. All statements contained in the Bid are true. The Bidder has not, directly or indirectly, submitted his or her Bid Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____ [date], at _____ [city], _____ [state].

Name of Bidder _____

Signature _____

Name _____

Title _____

1.6 Iran Contracting Act Certification.
(Public Contract Code section 2200 et seq.)

As required by California Public Contract Code Section 2204, the Contractor certifies subject to penalty for perjury that the option checked below relating to the Contractor's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 *et seq.*) is true and correct:

The Contractor is not:

(1) identified on the current list of person and entities engaged in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or

(2) a financial instruction that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.

The Town has exempted the Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, the Town will be unable to obtain the goods and/or services to be provided pursuant to the Contract.

The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000.

Signature: _____

Printed Name: _____

Title: _____

Firm Name: _____

Date: _____

Note: In accordance with Public Contract Code Section 2205, false certification of this form shall be reported to the California Attorney General and may result in civil penalties equal to the greater of \$250,000 or twice the Contract amount, termination of the Contract and/or ineligibility to bid on contracts for three years.

1.7 Public Works Contractor Registration Certification

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information.

No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Bidder hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.

Name of Bidder: _____

DIR Registration Number: _____

DIR Registration Expiration: _____

Bidder further acknowledges:

1. Bidder shall maintain a current DIR registration for the duration of the project.
2. Bidder shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.
3. Failure to submit this form or comply with any of the above requirements may result in a finding that the bid is non-responsive.

Name of Bidder _____

Signature _____

Name and Title _____

Dated _____

1.8 Contractor's Certificate Regarding Workers' Compensation.

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

Name of Bidder _____

Signature _____

Name _____

Title _____

Dated _____

CONTRACT

This CONTRACT, No. _____ is made and entered into this ____ day of _____, _____, by and between Town of Colma, sometimes hereinafter called "Town," and _____, sometimes hereinafter called "Contractor."

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

a. **SCOPE OF WORK.** The Contractor shall perform all Work within the time stipulated in the Contract, and shall provide all labor, materials, equipment, tools, utility services, and transportation to complete all of the Work required in strict compliance with the Contract Documents as specified in Article 5, below, for the following Project:

TOWN HALL – FF&E

The Contractor and its surety shall be liable to the Town for any damages arising as a result of the Contractor's failure to comply with this obligation.

b. **TIME FOR COMPLETION.** Time is of the essence in the performance of the Work. The Work shall be commenced on the date stated in the Distric's Notice to Proceed. The Contractor shall complete all Work required by the Contract Documents within 105 calendar days from the commencement date stated in the Notice to Proceed. By its signature hereunder, Contractor agrees the time for completion set forth above is adequate and reasonable to complete the Work.

c. **CONTRACT PRICE.** The Town shall pay to the Contractor as full compensation for the performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the sum of _____ Dollars (\$ _____). Payment shall be made as set forth in the General Conditions.

d. **LIQUIDATED DAMAGES.** In accordance with Government Code section 53069.85, it is agreed that the Contractor will pay the Town the sum set forth in Section 00 73 13, Article 1.11 for each and every calendar day of delay beyond the time prescribed in the Contract Documents for finishing the Work, as Liquidated Damages and not as a penalty or forfeiture. In the event this is not paid, the Contractor agrees the Town may deduct that amount from any money due or that may become due the Contractor under the Contract. This Article does not exclude recovery of other damages specified in the Contract Documents.

e. **COMPONENT PARTS OF THE CONTRACT.** The "Contract Documents" include the following:

- Bid Manual
 - Notice Inviting Bids
 - Instructions to Bidders
 - Bid Form
 - Bid Bond
 - Designation of Subcontractors
 - Information Required of Bidders

Non-Collusion Declaration Form
Iran Contracting Act Certification
Public Works Contractor Registration Certification
Performance Bond
Payment (Labor and Materials) Bond
Bid Specifications
 General Conditions
 Special Conditions
 Technical Specifications
Install Instructions
Addenda
Plans and Drawings
Standard Specifications for Public Works Construction “Greenbook”, latest edition, Except
 Sections 1-9
Applicable Local Agency Standards and Specifications, as last revised
Approved and fully executed change orders
Any other documents contained in or incorporated into the Contract

The Contractor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. This Contract shall supersede any prior agreement of the parties.

f. **PROVISIONS REQUIRED BY LAW AND CONTRACTOR COMPLIANCE.** Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Work.

g. **INDEMNIFICATION.** Contractor shall provide indemnification and defense as set forth in the General Conditions.

h. **PREVAILING WAGES.** Contractor shall be required to pay the prevailing rate of wages in accordance with the Labor Code which such rates shall be made available at the Town’s Administrative Office or may be obtained online at <http://www.dir.ca.gov> and which must be posted at the job site.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year above written.

TOWN OF COLMA

COINTRACTOR

By: _____
Brian Dossey
City Manager

By: _____
Its: _____
Printed Name: _____

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

**(CONTRACTOR'S SIGNATURE MUST BE
NOTARIZED AND CORPORATE
SEAL AFFIXED, IF APPLICABLE)**

END OF CONTRACT

Notary Acknowledgment

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

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
appeared _____, who proved to me on the basis of satisfactory
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

Title or Type of Document

- Partner(s) Limited
- General

Number of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Date of Document

Signer is representing:
Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

BOND FORMS

1.1 Performance Bond.

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the Town of Colma, (hereinafter referred to as "Town") has awarded to _____, (hereinafter referred to as the "Contractor") an agreement for **Contract No.** _____, (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, _____, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the Town in the sum of _____ DOLLARS, (\$ _____), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one (1) year guarantee of all materials and workmanship; and shall indemnify and save harmless the Town, its officials, officers, employees, and authorized volunteers, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorney's fees, incurred by Town in enforcing such obligation.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by Town, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the Town from loss or damage resulting from or caused by defective materials or faulty workmanship. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the Town's rights or the Contractor or Surety's obligations

under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure Section 337.15.

Whenever Contractor shall be, and is declared by the Town to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the Town's option:

- i. Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or
- ii. Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the Town, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the Town under the Contract and any modification thereto, less any amount previously paid by the Town to the Contractor and any other set offs pursuant to the Contract Documents.
- iii. Permit the Town to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the Town under the Contract and any modification thereto, less any amount previously paid by the Town to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the Town may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the Town, when declaring the Contractor in default, notifies Surety of the Town's objection to Contractor's further participation in the completion of the Project.

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

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

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

(Corporate Seal)

Contractor/ Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title _____

The rate of premium on this bond is _____ per thousand. The total amount of premium charges is \$_____.
(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

Notary Acknowledgment

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

STATE OF CALIFORNIA
 COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
 appeared _____, who proved to me on the basis of satisfactory
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Place Notary Seal Above

 Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

Title or Type of Document

- Partner(s) Limited
- General

Number of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Date of Document

Signer is representing:
 Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

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STATE OF CALIFORNIA
 COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
 appeared _____, who proved to me on the basis of satisfactory
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Place Notary Seal Above

 Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
-----------------------------------	---

- Individual
- Corporate Officer

Title(s)

Title or Type of Document

- | | |
|---|----------------------------------|
| <input type="checkbox"/> Partner(s) | <input type="checkbox"/> Limited |
| <input type="checkbox"/> Attorney-In-Fact | <input type="checkbox"/> General |

Number of Pages

- Trustee(s)
- Guardian/Conservator
- Other:

Date of Document

Signer is representing:
 Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of Attorney to local representatives of the bonding company must also be attached.

END OF PERFORMANCE BOND

1.2 Payment Bond (Labor and Materials).

KNOW ALL MEN BY THESE PRESENTS That

WHEREAS, the Town of Colma (hereinafter designated as the "Town"), by action taken or a resolution passed _____, 20____, has awarded to _____ hereinafter designated as the "Principal," a contract for the work described as follows: **Contract No.** _____ (the "Project"); and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the Town in the penal sum of _____ Dollars (\$_____) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Civil Code Section 9100, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Revenue and Taxation Code Section 18663, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by the Town in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that

this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or Town and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Civil Code Section 9100, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

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

(Corporate Seal)

Contractor/ Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title _____

Notary Acknowledgment

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

STATE OF CALIFORNIA
 COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
 appeared _____, who proved to me on the basis of satisfactory
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Place Notary Seal Above

 Signature of Notary Public

OPTIONAL

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CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
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- Individual
- Corporate Officer

Title(s)

Title or Type of Document

- | | |
|---|----------------------------------|
| <input type="checkbox"/> Partner(s) | <input type="checkbox"/> Limited |
| <input type="checkbox"/> Attorney-In-Fact | <input type="checkbox"/> General |

Number of Pages

- Trustee(s)
- Guardian/Conservator
- Other:

Date of Document

Signer is representing:
 Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Notary Acknowledgment

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

STATE OF CALIFORNIA
COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
appeared _____, who proved to me on the basis of satisfactory
Name(s) of Signer(s)

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

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

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CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

Title or Type of Document

- Partner(s) Limited
- General

Number of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Date of Document





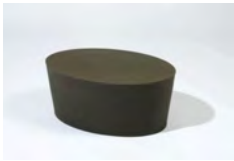

Signer is representing:
Name Of Person(s) Or Entity(ies)







Signer(s) Other Than Named Above







NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.







END OF PAYMENT BOND







EXHIBIT A
SEE NEXT PAGE







RATCLIFF	MATERIAL PRICING SHEET					
	Item #	Item	Qty	Item Description	Unit Price	Total
L0 - Basement Level						
007 Staff Kit. & Breakroom						
	C16	Armless 'Poly' Stacker	8	Armless, Stacking, Poly. Seat & Back, Sled or 4-leg base, Clear Glides for hard-surface floor		
	T16	Cafe Table	2	30"H x 48"Square, Metal Pedestal Base, Wood-Look Laminate Top, Laminate Edge banding		
	C19	Lounge Chair	1	Lounge chair w/arms, wood or metal legs, fully upholstered (stain-resistant or polyurethane)		
	C18	Lounge Sofa	1	Sectional, wood or metal legs, fully upholstered (stain-resistant or polyurethane), modular w/open back areas, L-shaped w/ Corner		
	T13	Coffee Table	1	Oval or Round, Laminate or Poly finish		
002 Basement Office						
	C10	Ergonomic Task Chair	1	Knit Back, Upholstery Seat, Hard Castors, Adjustable Height, Arms & Seat		






	Item #	Item	Qty	Item Description	Unit Price	Total
	D10	Freestanding Work Surface(s)	1	Sit-Stand Work Surface + Straight Work Surfaces		
		Height-Adjustable Work Surfaces (30D x 60W)				
		Return Work Surface (24D x78W x30H) w/(4) leg supports				
		Laminate Surface, Powder Coated Metal Supports to match Storage.				
	F3	Mobile Box/Box/File	1	3-drawer box/box/file pedestal file, 15W x 18D. Locking, keyed alike. W/Castors *all storage items should have similar pull style & coordinating paint finish		
	F8	2-Drawer Lateral File	1	2-drawer Lateral file, 30W x 18D. Locking, keyed alike. *all storage items should have similar pull style & coordinating paint finish		
	BK2	Legal Depth Bookcase	3	4-High Bookcase, 18x36, Metal, Painted. Adjustable Shelves *all storage items should have similar pull style & coordinating paint finish		
	C19	Lounge Chair	2	Lounge chair w/ arms, wood or metal legs, fully upholstered (stain-resistant or polyurethane)		
	T13	Coffee Table	1	Oval or Round, Laminate or Poly finish		







	Item #	Item	Qty	Item Description	Unit Price	Total
005 File Storage						
	F1	5-High Lateral File (36W x 18D)	12	Lateral File, Metal, Painted. Locking, All Drawers Keyed Alike *all storage items should have similar pull style & coordinating paint finish		
	F2	5-High Lateral File (42W x 18D)	6	Lateral File, Metal, Painted. Locking, All Drawers Keyed Alike *all storage items should have similar pull style & coordinating paint finish		
	F6	4-High Lateral File (37W x 22D)	6	Fireproof Lateral File, Metal, Painted. Locking, All Drawers Keyed Alike. *all storage items should have similar pull style & coordinating paint finish		
	BK2	Legal Depth Bookcase	3	4-High Bookcase, 18x36, Metal, Painted. Adjustable Shelves *all storage items should have similar pull style & coordinating paint finish		
	F5	Flat File	2	Flat File Storage w/base Metal, Painted. Locking, All Drawers Keyed Alike. *all storage items should have similar pull style & coordinating paint finish		
	BK3	Racking Bookcase	2	5-high metal bookcase		







	Item #	Item	Qty	Item Description	Unit Price	Total
	L1 - First Floor Level					
	104 Council Chambers					
	C11	Executive Chair (High Back)	5	Upholstery Seat & Back (leather-look), Hard Castors, Adjustable Height Back , Articulating Head & Seat Depth/Height Adjustment.		
	C12	Executive Chair (Mid Back)	4	Upholstery Seat & Back (leather-look), Hard Castors, Adjustable Height Back, Articulating Head & Seat Depth/Height Adjustment.		
	C14	Guest Chair	48	Upholstered armless chair (stain-resistant or polyurethane), stacking, & metal legs. *should have a more Traditional look*		
	101 Gallery					
	C12	Executive Chair (Low Back)	10	Upholstery Seat & Back (leather-look), Hard Castors, Adjustable Height Back, Articulating Head & Seat Depth/Height Adjustment.		
	T10	Conference Table	1	48D x 144W x 30H 'Traditional' looking wooden conference room table, with wood panel legs.		
	108 Lobby					
	C15	Single Guest Chairs	4	Upholstered Seat & Back (stain-resistant or polyurethane), Wood Arms & Legs, Open Arm		







	Item #	Item	Qty	Item Description	Unit Price	Total
	C24	Settee	2	Upholstered Seat & Back (stain-resistant or polyurethane), Wood Arms & Legs, Open Arm		
	T17	Side Table, Square	3	24x24, wood side table		
	ST11	Literature Rack	1	Free-standing, rotating, metal literature rack		
	C13	Guest Chairs	4	Upholstered Seat (stain-resistant or polyurethane) & Wood or Upholstered Back, Wood or Metal Arms & Legs, Open Arm w/ Arm Caps		
	C10	Ergonomic Task Chair	2	Knit Back, Upholstery Seat, Hard Castors, Adjustable Height Arms & Seat		
Reception Workstation 109						
	D10	Freestanding Desk	1	Sit-Stand Work Surface + Straight Work Surfaces		
		Height-Adjustable Work Surfaces (30D x 60W)				
		Return Work Surface (24D x78W x30H) w/(4) leg supports				
		Laminate Surface, Powder Coated Metal Supports to match Storage.				







	Item #	Item	Qty	Item Description	Unit Price	Total
	F3	Mobile Box/Box/File	1	3-drawer box/box/file pedestal file, 18x24, Locking, All Drawers Keyed Alike *all storage items should have similar pull style & coordinating paint finish		
	F8	2-Drawer Lateral File	1	2-drawer Lateral file, 30W x 18D. Locking, keyed alike. *all storage items should have similar pull style & coordinating paint finish		
	C10	Ergonomic Task Chair	1	Knit Back, Upholstery Seat, Hard Castors, Adjustable Height Arms & Seat		
120 Lg. Conference Room						
	C21	Conference Chair	18	Upholstery Seat & Back (pricing for in-grade Polyurethane), Hard Castors, Adjustable Height & Arms		
	T11	Conference Table	1	36 - 60D x 180W x 30H (approximately), Boat shaped, Wood-Look Laminate Top, Wood edge.		
	ST10	Credenza	1	18 x 72 (approximately), Wood laminate, combo of drawers and cabinets.		







	Item #	Item	Qty	Item Description	Unit Price	Total
113 Open Office						
	S10	Panel System Work Surface(s) (2 work stations per Item #)	5	Sit-Stand Work Surface + Straight Work Surfaces, Divider Panels		
		Sit-Stand Work Surfaces (30D x96W)				
		Return Work Surface (24D x96W)				
		Laminate Surface, Powder Coated Metal Supports to match Storage.				
		Panels: Tack Fabric up to 36" w/ 12" of Translucent Glazing at the top				
		Include Cable Management				
	C10	Ergonomic Task Chair	10	Knit Back, Upholstery Seat, Hard Castors, Adjustable Height Arms & Seat		
	F3	Mobile Box/Box/File	10	3-drawer box/box/file pedestal file, 18x24, Locking, All Drawers Keyed Alike *all storage items should have similar pull style & coordinating paint finish		
	F7	2-High Lateral File (36W x 18D)	10	Lateral File, Metal, Painted. Locking, All Drawers Keyed Alike *all storage items should have similar pull style & coordinating paint finish		
	C25	Ergonomic Task Stool	2	Knit Back, Upholstery Seat, Armless, Hard Castors, Adjustable Height Seat		


	Item #	Item	Qty	Item Description	Unit Price	Total
	Private Office(s) 130, 133, 135, 136, 137, 138					
	D10	Freestanding Desk	1/room	Sit-Stand Work Surface + Straight Work Surfaces		
		Height-Adjustable Work Surfaces (30D x 60W)				
		Return Work Surface (24D x78W x30H) w/(4) leg supports				
		Laminate Surface, Powder Coated Metal Supports to match Storage.				
	F3	Mobile Box/Box/File	1/room	3-drawer box/box/file pedestal file, 18x24, Locking, All Drawers Keyed Alike *all storage items should have similar pull style & coordinating paint finish		
	F8	2-Drawer Lateral File	1/room	2-drawer Lateral file, 30W x 18D. Locking, keyed alike. *all storage items should have similar pull style & coordinating paint finish		
	C10	Ergonomic Task Chair	1/room	Knit Back, Upholstery Seat, Hard Castors, Adjustable Height Arms & Seat		
	BK1	Book Shelf	1/room	3-height bookcase, 15x36, Powder Coat finish *all storage items should have similar pull style & coordinating paint finish		
	C15	Single Guest Chairs	2/room	Upholstered Seat & Back, Wood Arms & Legs, Open Arm		

	Item #	Item	Qty	Item Description	Unit Price	Total
HR Office 132						
	D10	Freestanding Desk	1	Sit-Stand Work Surface + Straight Work Surfaces		
		Height-Adjustable Work Surfaces (30D x 60W)				
		Return Work Surface (24D x78W x30H) w/(4) leg supports				
		Laminate Surface, Powder Coated Metal Supports to match Storage.				
	F3	Mobile Box/Box/File	1	3-drawer box/box/file pedestal file, 18x24, Locking, All Drawers Keyed Alike *all storage items should have similar pull style & coordinating paint finish		
	F8	2-Drawer Lateral File	1	2-drawer Lateral file, 30W x 18D. Locking, keyed alike. *all storage items should have similar pull style & coordinating paint finish		
	C10	Ergonomic Task Chair	1	Knit Back, Upholstery Seat, Hard Castors, Adjustable Height Arms & Seat		
	F2	5-High Lateral File (42W x 18D)	1	Lateral File, Metal, Painted. Locking, All Drawers Keyed Alike *all storage items should have similar pull style & coordinating paint finish		
	C15	Single Guest Chairs	2	Upholstered Seat & Back, Wood Arms & Legs, Open Arm		
131 Accounting Double Office & 131A Records						

	Item #	Item	Qty	Item Description	Unit Price	Total	
	D10	Freestanding Desk	2	Sit-Stand Work Surface + Straight Work Surfaces			
		Height-Adjustable Work Surfaces (30D x 60W)					
		Return Work Surface (24D x78W x30H) w/(4) leg supports					
		Laminate Surface, Powder Coated Metal Supports to match Storage.					
	F3	Mobile Box/Box/File	2	3-drawer box/box/file pedestal file, 18x24, Locking, All Drawers Keyed Alike *all storage items should have similar pull style & coordinating paint finish			
	F8	2-Drawer Lateral File	2	2-drawer Lateral file, 30W x 18D. Locking, keyed alike. *all storage items should have similar pull style & coordinating paint finish			
	C10	Ergonomic Task Chair	2	Knit Back, Upholstery Seat, Hard Castors, Adjustable Height Arms & Seat			
	F9	4-High Lateral File (36W x 18D)	2	Lateral File, Metal, Painted. Locking, All Drawers Keyed Alike *all storage items should have similar pull style & coordinating paint finish			
	BK4	Book Shelf	2	4-height bookcase (15x36), Powder Coat finish *all storage items should have similar pull style & coordinating paint finish			

	Item #	Item	Qty	Item Description	Unit Price	Total
134 City Manager Office						
	D11	Freestanding U-shaped desk	1	Sit-Stand Work Surface + Return Work Surfaces + 2nd Return Work surface		
		Height-Adjustable Work Surfaces (30D x 60W)				
		Return Work Surface (24D x78W x30H) w/(4) leg supports				
		Back Return Work Surfaces (24D x72W x30H) w/(4) leg supports				
		Laminate Surface, Powder Coated Metal Supports to match Storage.				
	F3	Mobile Box/Box/File	1	3-drawer box/box/file pedestal file, 18x24, Powder Coat finish, Locking, All Drawers Keyed Alike *all storage items should have similar pull style & coordinating paint finish		
	F8	2-Drawer Lateral File	1	2-drawer Lateral file, 30W x 18D. Locking, keyed alike. *all storage items should have similar pull style & coordinating paint finish		
	C10	Ergonomic Task Chair	1	Knit Back, Upholstery Seat, Hard Castors, Adjustable Height Arms & Seat		
	C15	Single Guest Chairs	2	Upholstered Seat & Back, Wood Arms & Legs, Open Arm		
	T14	Meeting Table	1	30"Dia, Metal Pedestal Base, Wood-Look Laminate Top, 3mm Edge banding		

	Item #	Item	Qty	Item Description	Unit Price	Total
	C17	Meeting Chair	3	Upholstered Seat, Plastic or Upholstered Back, Without Arms, Hard Casters		
139 Small Conference						
	T12	Conference Table	1	60" Dia, Metal Pedestal Base, Wood-Look Laminate Top, 3mm Edge banding		
	C21	Conference Chair	6	Upholstery Seat & Back, Hard Castors, Adjustable Height & Arms		
115 Pantry						
	C22	Bar Height Stool	2	Molded Seat/Back, Metal legs		
	C23	Counter Height Stool	2	Molded Seat/Back, Metal legs		
114 Shared Copy						
	T18	Standing Height Work Table	1	36x60 Approximately, Standing Height, Storage Drawers Below, Laminate Top, 3mm Edge banding		

	Item #	Item	Qty	Item Description	Unit Price	Total
	201 Patio					
	T19	Picnic Table	2	Top w/ Attached Seats, Metal Pedestal Base, Umbrella, Combo of Wood & Powder Coated Metal finishes.		
Sub-Total					-	

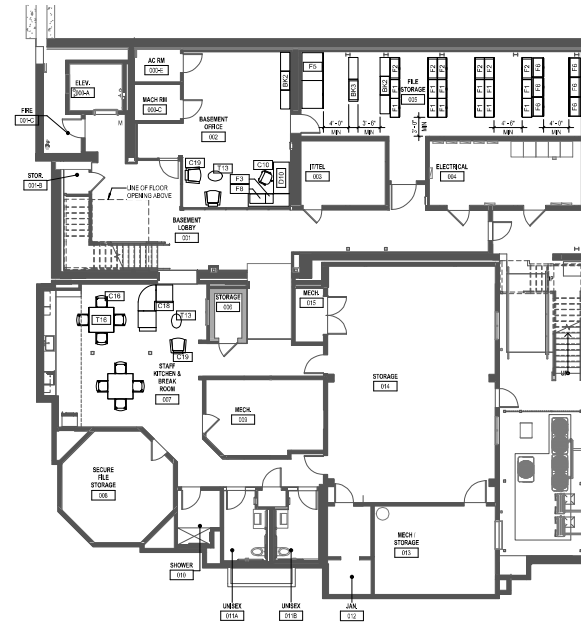
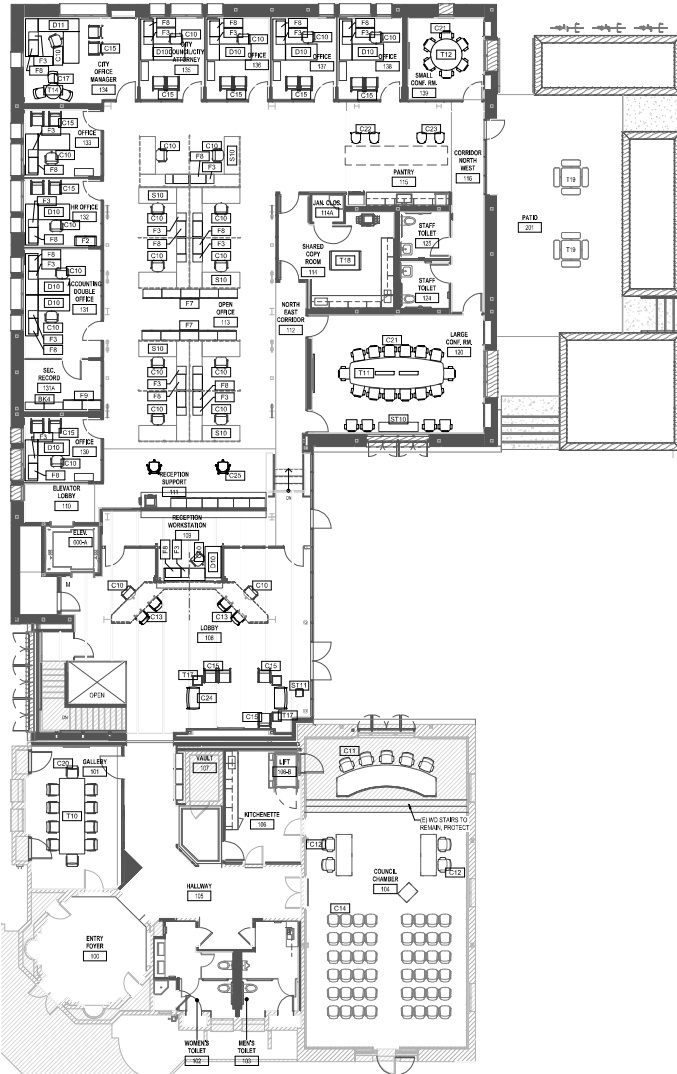
RATCLIFF

5855 Doyle Street
 Emeryville, CA 94608
 Tel 510 899 6400
 www.ratcliffarch.com

I. Labor	A. Union - Prevailing Wage
II. Receipt of Shipment	A. No Drop-Ship B. Off-Site Receiver/Warehouse C. Quality Assurance at Receiver/Warehouse D. Quality Assurance Approval by Dealer
III. Delivery	A. Two Floors - Ground Floor and Basement B. No Loading Dock C. No Freight Elevator D. Pedestrian Elevator Available E. Site Entry and Traffic Route specified by Owner F. Truck and Unloading Area specified by Owner G. Building Entrance specified by Owner H. Furniture Staging Area specified by Owner I. Temporary Locked Storage Area specified by Owner
IV. Site Protection	A. Path of Travel Walls & Corners: Full Blanket Wrap B. Path of Travel Floors: Taped Plywood C. Packing Waste to be carried off-site by Furniture Dealer D. Initial Delivery Cleaning by Delivery Crew or Crew specified by Dealer E. Second Furniture Cleaning by Furniture Dealer F. Third Post-IT Installation Furniture Cleaning specified by Owner



ISSUE SCHEDULE	NO.	DATE
BID ADDENDUM 1	2	9-21-2017



TOWN OF COLMA

1198 EL CAMINO REAL
 COLMA, CA 94014

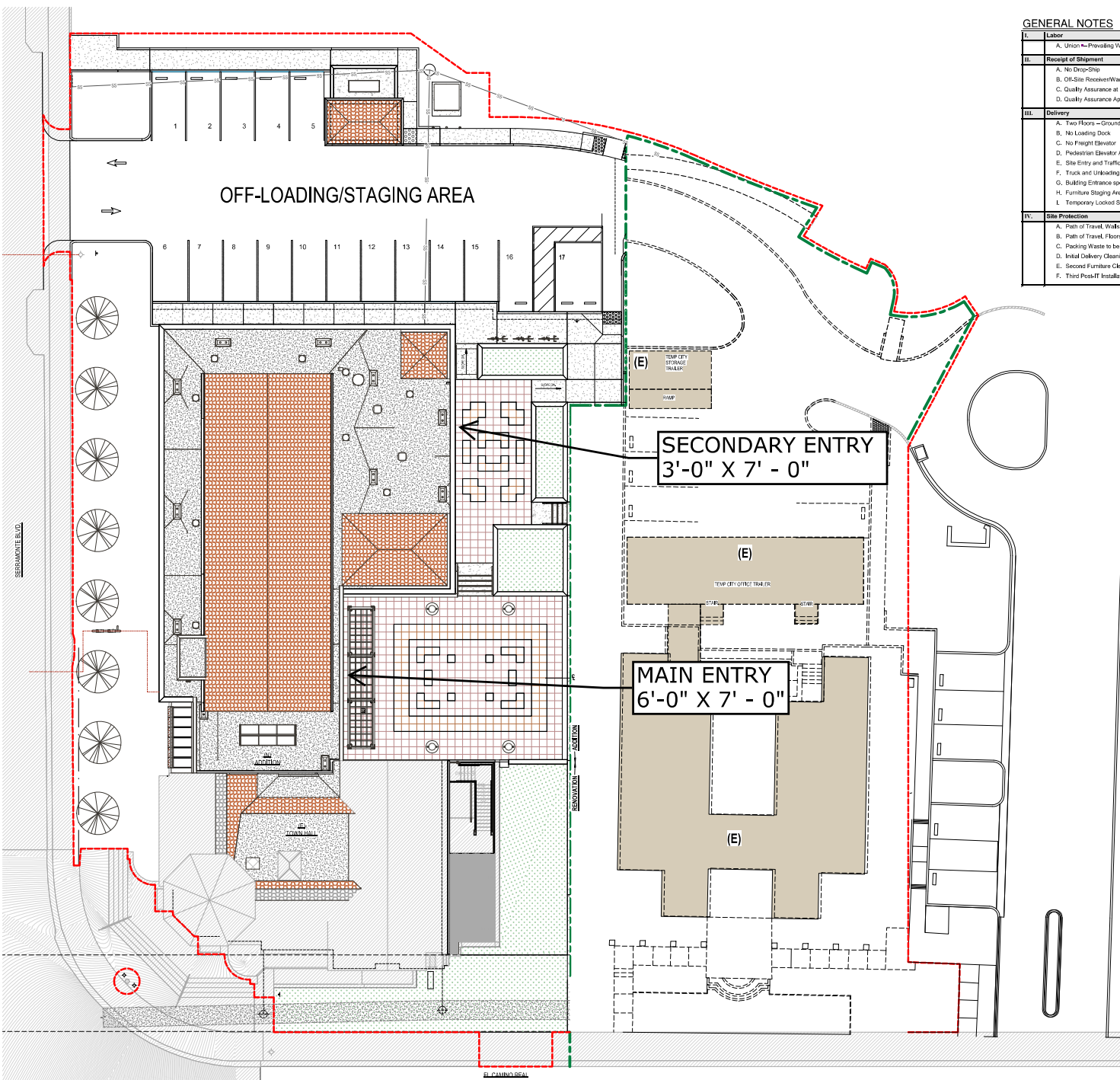
**COLMA TOWN HALL
 CAMPUS -
 RENOVATIONS AND
 ADDITIONS**

SHEET TITLE:

**FURNITURE
 DISTRIBUTION PLAN**

SCALE: 1/8" = 1'-0"
 PROJECT NUMBER: 34003.10

SHEET NUMBER:



GENERAL NOTES

I.	Labor A. Union - Prevailing Wage
II.	Receipt of Shipment A. No Drop-Skip B. On-Site Receiver/Warehouse C. Quality Assurance at Receiver/Warehouse D. Quality Assurance Approval by Dealer
III.	Delivery A. Two Floors - Ground Floor and Basement B. No Loading Dock C. No Freight Elevator D. Pedestrian Elevator Available E. Site Entry and Traffic Route specified by Owner F. Truck and Unloading Area specified by Owner G. Building Entrance specified by Owner H. Furniture Staging Area specified by Owner I. Temporary Locked Storage Area specified by Owner
IV.	Site Protection A. Path of Travel, Walks & Corners - Full Blisivet Wrap B. Path of Travel, Floors - Taped Plywood C. Packing Waste to be carried off-site by Furniture Dealer D. Initial Delivery Cleaning by Delivery Crew or Crew specified by Dealer E. Second Furniture Cleaning by Furniture Dealer F. Third Post-IF Installation Furniture Cleaning specified by Owner



ISSUE SCHEDULE	NO.	DATE

TOWN OF COLMA
1198 EL CAMINO REAL
COLMA, CA 94014
COLMA TOWN HALL
CAMPUS -
RENOVATIONS AND
ADDITIONS

SHEET TITLE:
SITE LOGISTICS PLAN -
PHASE 1 SITE PLAN

SCALE: 1" = 10'-0"
PROJECT NUMBER: 34003.10

SHEET NUMBER: ID-001

Basement Lounge 1



C16



T16



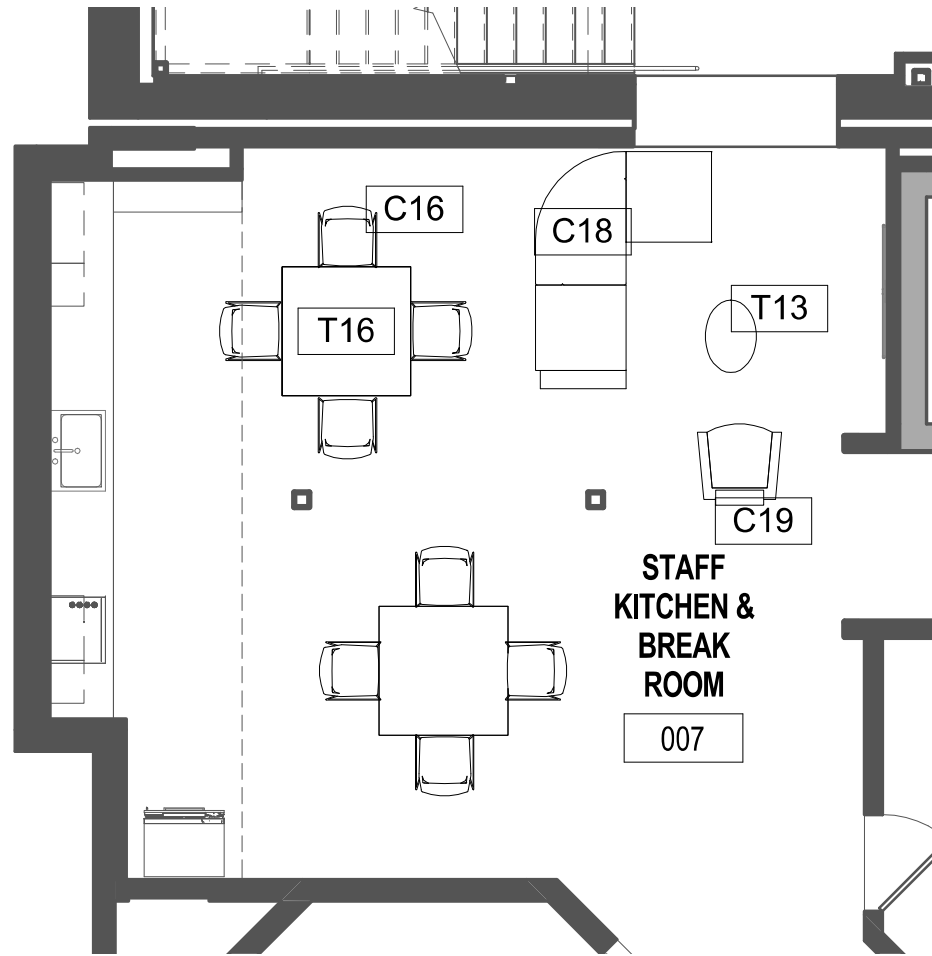
C19



T13



C18





D12

Adjustable height table, with fixed return. Box/Box/File pedestal & 2-Drawer Lateral storage.



F3

F8



C10



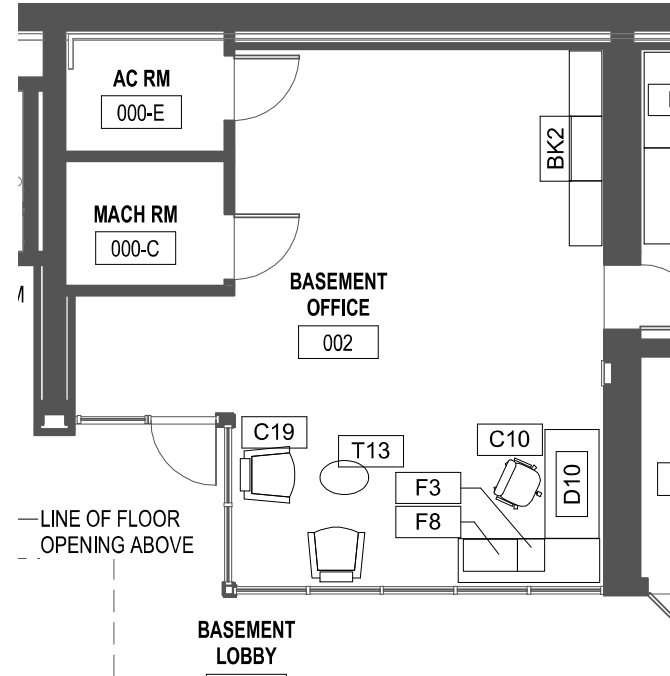
BK2
18" deep bookcase



C19



T13



File Storage **2b**



BK3
Racking bookcase

80 linear feet of fire/ water tight lateral files



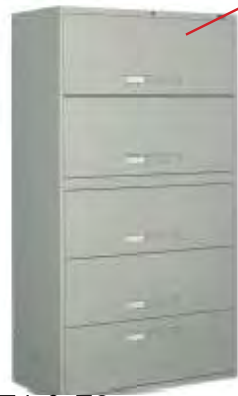
F5
Fire Proof Lateral File



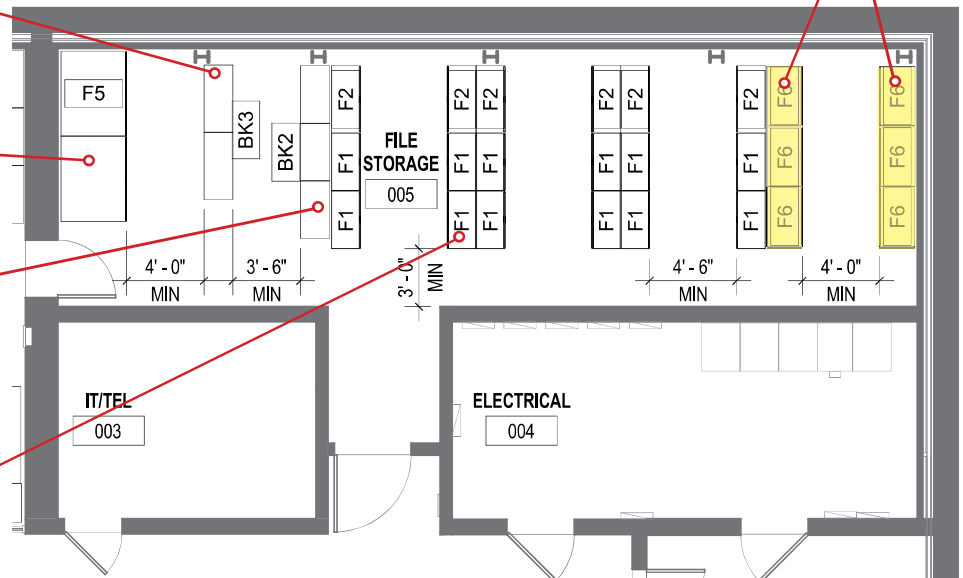
F5
Flat files



BK2
18" deep bookcase



F1 & F2





C11



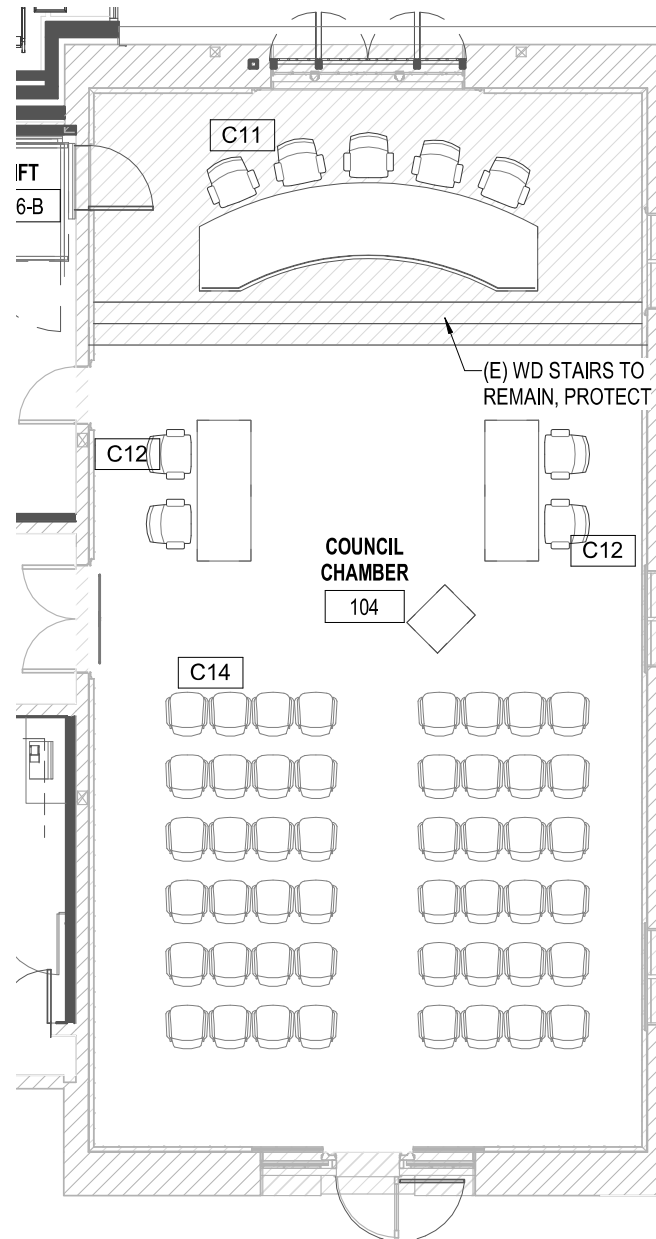
C12

C11 & C12 both upholstered in dark 'leather' on seat & back.



C14

C14 upholstered in dark polyurathen on seat and back.



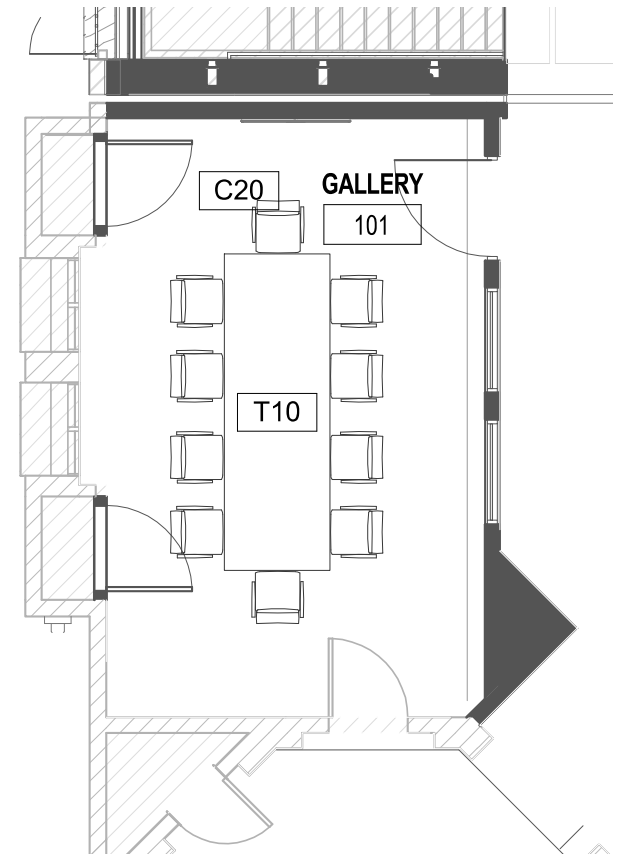


C12

C12 upholstered in dark 'leather' on seat & back.



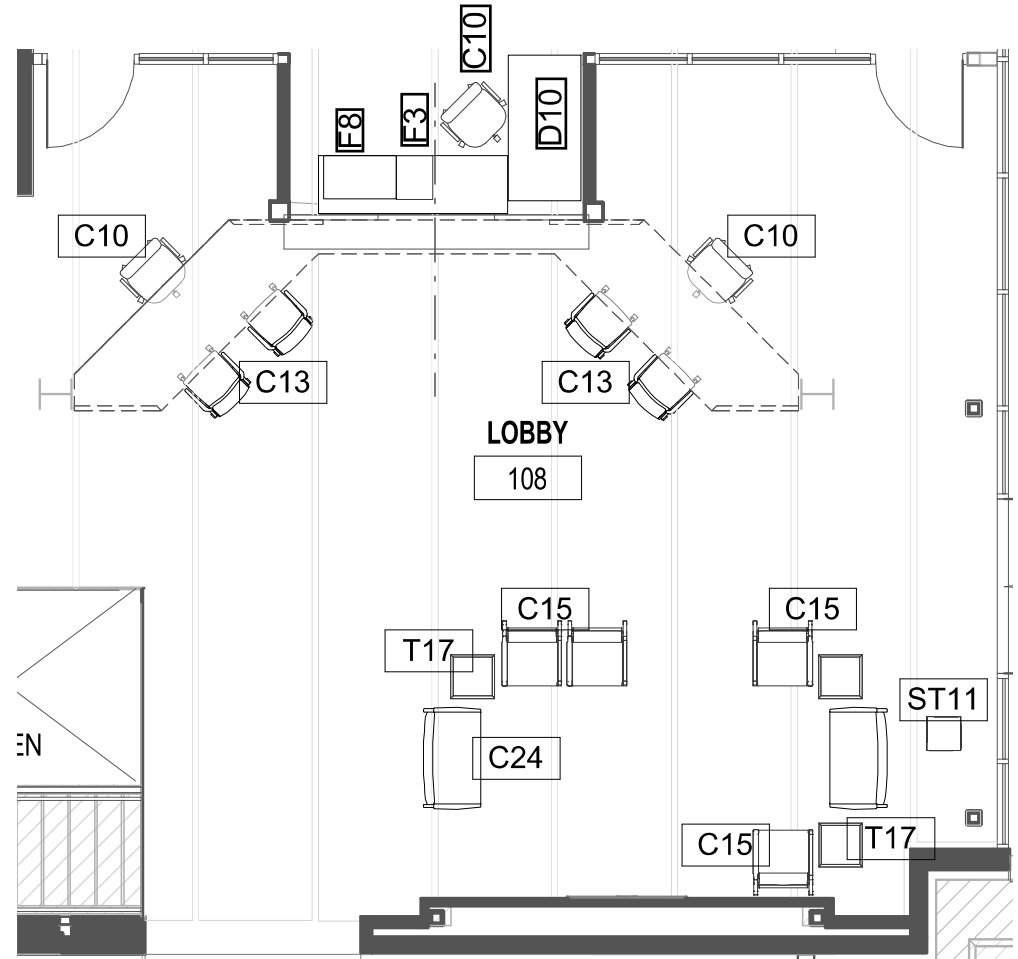
T10



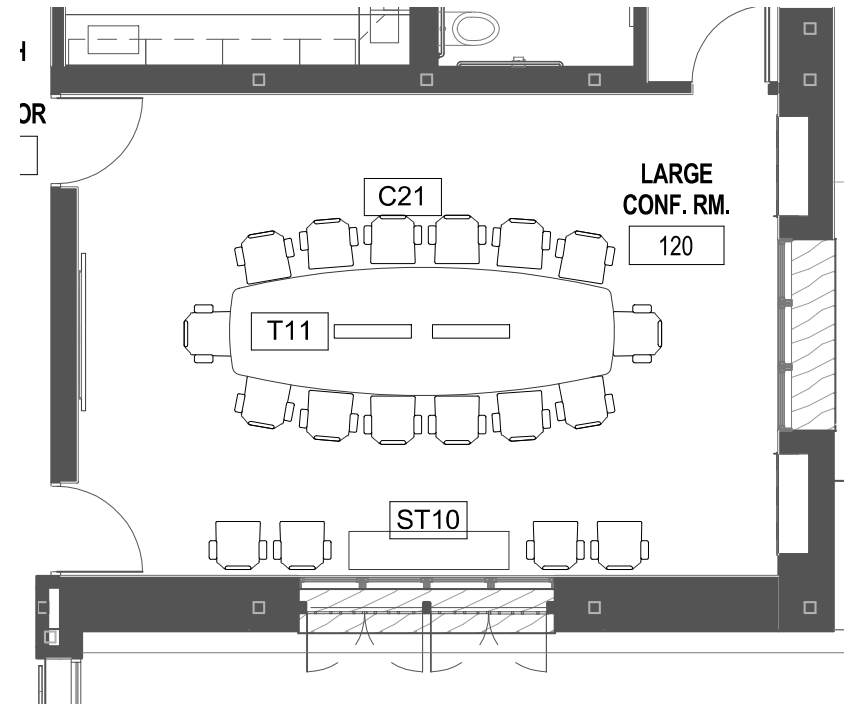
Reception Workstation / Lobby 5



C15 & C24 upholstered in polyurathen on seat and back.



C21 upholstered in graded-in polyurathen on seat and back.



manager's office



D11



C17

T14



C10



C15



BK1

typ offices



D10

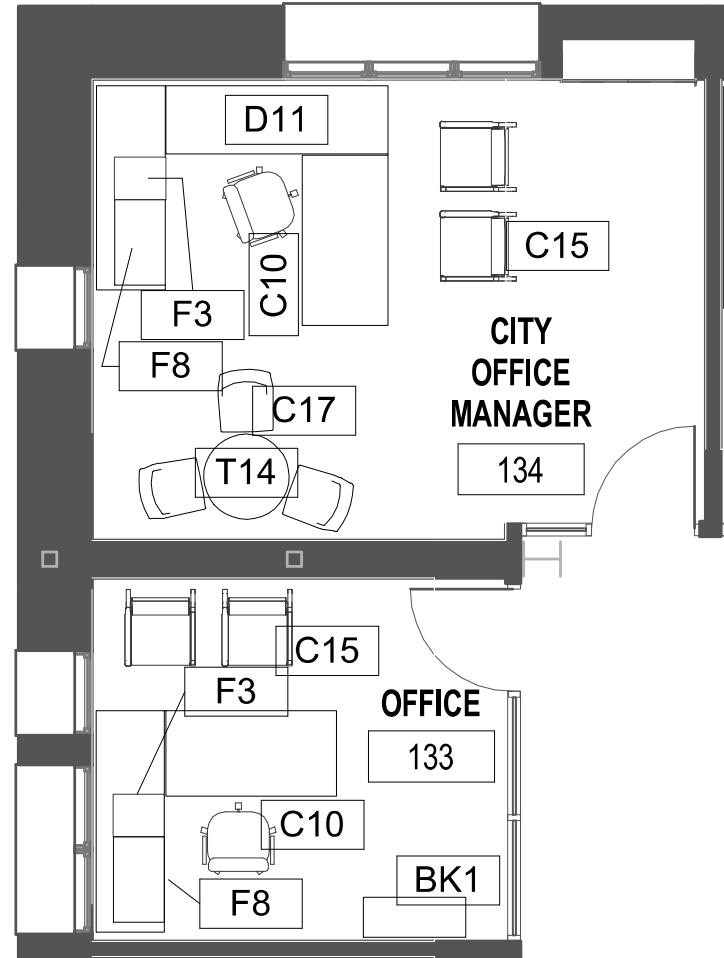
Adjustable height table, with fixed return.
Box/Box/File pedestal & 2-Drawer
Lateral storage.

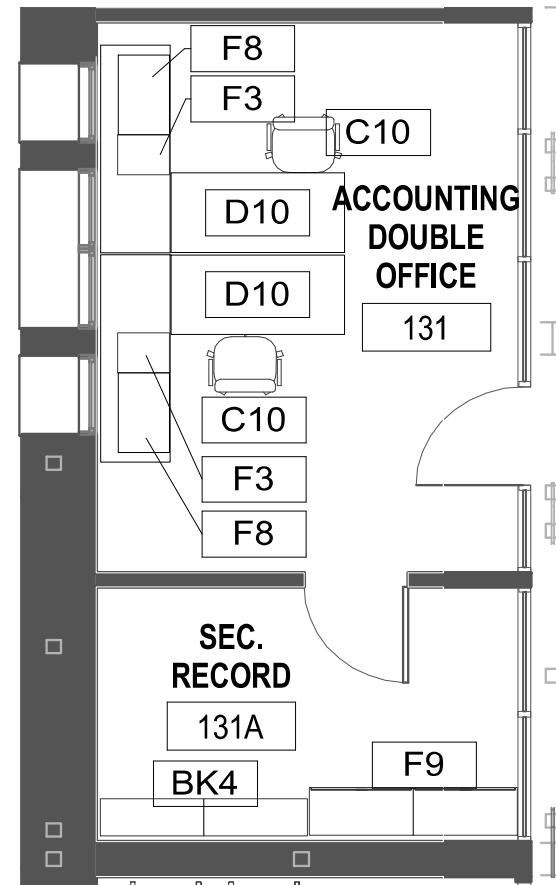


F3



F8







S10



C10



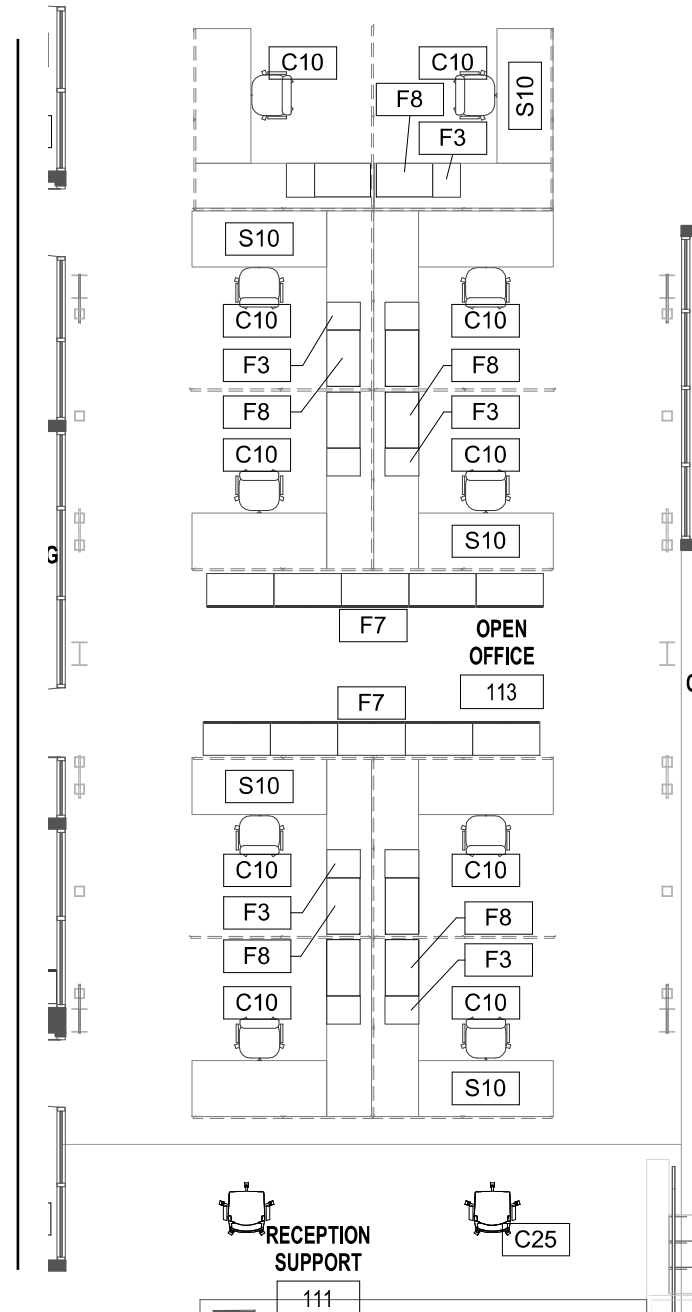
F3



C25



F7



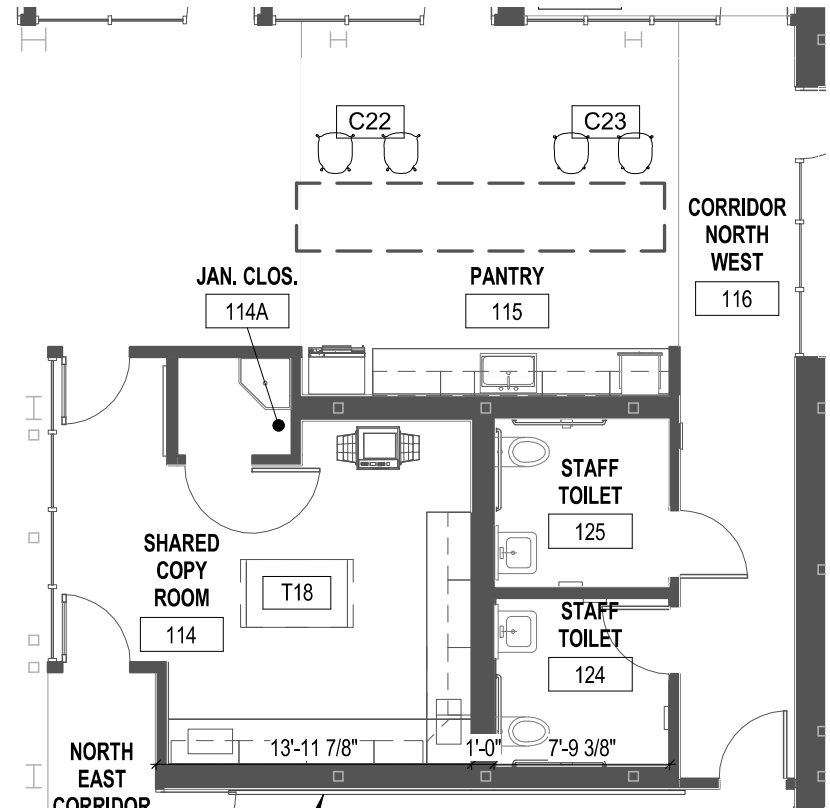
Pantry / Copy Room 9



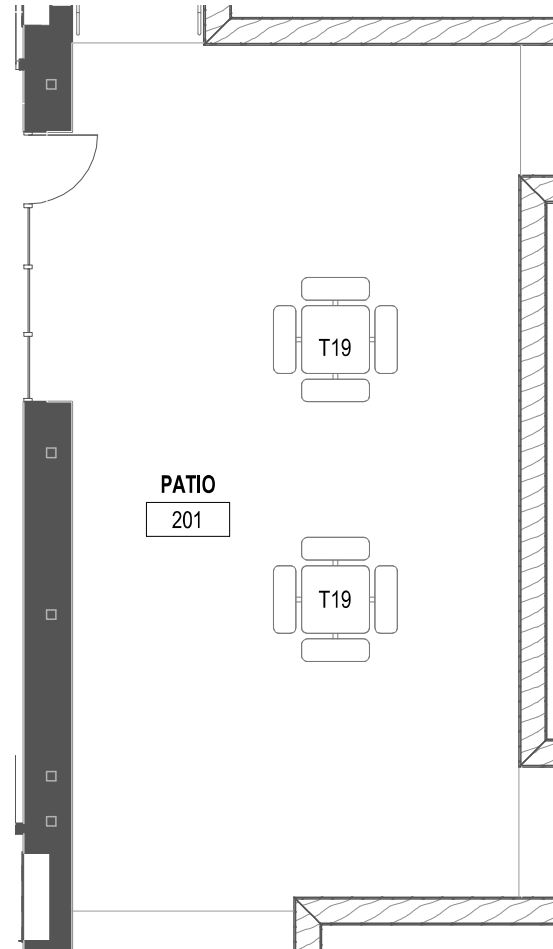
C22 & C23



T18



Patio 10





Town of Colma
COLMA, CALIFORNIA

Town of Colma – Furniture, Fixtures & Equipment BID SPECIFICATIONS

January 12, 2018

RATCLIFF

BID SPECIFICATIONS

DIVISION 00 – PROCUREMENT AND CONTRACTING REQUIREMENTS or DIVISION 00 – INTRODUCTORY INFORMATION

00 01 10 Table of Contents
00 72 13 General Conditions
00 73 13 Special Conditions

DIVISION 01 - GENERAL REQUIREMENTS

01 00 00 General Requirements

END OF SECTION

00 72 13 – GENERAL CONDITIONS

ARTICLE 1. DEFINED TERMS

Whenever used in the Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined below, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

- A. Act of God – An earthquake of magnitude of 3.5 or higher on the Richter scale or a tidal wave.
- B. Addenda -- Written or graphic instruments issued prior to the submission of Bids which clarify, correct, or change the Contract Documents.
- C. Additional Work -- New or unforeseen work will be classified as “Additional Work” when the Town’s Representative determines that it is not covered by the Contract.
- D. Applicable Laws -- The laws, statutes, ordinances, rules, codes, regulations, permits, and licenses of any kind, issued by local, state or federal governmental authorities or private authorities with jurisdiction (including utilities), to the extent they apply to the Work.
- E. Bid -- The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices and other terms for the Work to be performed.
- F. Bidder -- The individual or entity who submits a Bid directly to the Town.
- G. Change Order (“CO”) -- A document that authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Contract, in accordance with the Contract Documents and in the form contained in the Contract Documents.
- H. Change Order Request (“COR”) -- A request made by the Contractor for an adjustment in the Contract Price and/or Contract Times as the result of a Contractor-claimed change to the Work. This term may also be referred to as a Change Order Proposal (“COP”), or Request for Change (“RFC”).
- I. Town -- The Town of Colma.
- J. City Council, Council -- The City Council of the Town.
- K. Town’s Representative -- The individual or entity as identified in the Special Conditions to act as the Town’s Representative.
- L. Claim -- A demand or assertion by the Town or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

- M. Contract -- The entire integrated written agreement between the Town and Contractor concerning the Work. "Contract" may be used interchangeably with "Agreement" in the Contract Documents. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral, and includes all Contract Documents.
- N. Contract Documents -- The documents listed in Section 00 52 13, Article 5. Some documents provided by the Town to the Bidders and Contractor, including but not limited to reports and drawings of subsurface and physical conditions are not Contract Documents.
- O. Contract Price -- Amount to be paid by the Town to the Contractor as full compensation for the performance of the Contract and completion of the Work, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs.
- P. Contract Times -- The number of days or the dates stated in the Contract Documents to: achieve defined Milestones, if any; and to complete the Work so that it is ready for final payment.
- Q. Contractor -- The individual or entity with which the Town has contracted for performance of the Work.
- R. Contractor's Designated On-Site Representative -- The Contractor's Designated On-Site Representative will be as identified in Section 00 72 13, Article 3 and shall not be changed without prior written consent of the Town.
- S. Daily Rate -- The Daily Rate stipulated in the Contract Documents as full compensation to the Contractor due to the Town's unreasonable delay to the Project that was not contemplated by the parties.
- T. Day -- A calendar day of 24 hours measured from midnight to the next midnight.
- U. Defective Work -- Work that is unsatisfactory, faulty, or deficient; or that does not conform to the Contract Documents; or that does not meet the requirements of any inspection, reference standard, test, or approval referenced in the Contract Documents.
- V. Demobilization -- The complete dismantling and removal by the Contractor of all of the Contractor's temporary facilities, equipment, and personnel at the Site.
- W. Drawings -- That part of the Contract Documents prepared by of the Engineer of Record which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
- X. Effective Date of the Contract -- The date indicated in the Contract on which it becomes effective, but if no such date is indicated, it means the date on which the Contract is signed and delivered by the last of the two parties to sign and deliver.
- Y. Engineer, whenever not qualified, shall mean the Representative of the Town, acting either directly or through properly authorized agents, such agents acting severally

within the scope of the particular duties entrusted to them. On all questions concerning the acceptance of materials, machinery, the classifications of material, the execution of work, conflicting interest of the contractors performing related work and the determination of costs, the decision of the Engineer, duly authorized by the City Council, shall be binding and final upon both parties.

Z. Engineer of Record -- The individual, partnership, corporation, joint venture, or other legal entity named as such in Section 00 73 13, Article 1.1. or any succeeding entity designated by the Town.

AA. Green Book -- The current edition of the Standard Specifications for Public Works Construction.

BB. Hazardous Waste -- The term "Hazardous Waste" shall have the meaning provided in Section 104 of the Solid Waste Disposal Act (42 U.S.C. § 6903) as amended from time to time or, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a class I, class II, or class III disposal site in accordance with provisions of existing law, whichever is more restrictive.

CC. Holiday -- The Holidays occur on:

New Year's Day - January 1
President's Day -- Third Monday in February
Memorial Day - Last Monday in May
Independence Day - July 4
Labor Day - First Monday in September
Veteran's Day - November 11
Thanksgiving Day - Fourth Thursday in November
Friday after Thanksgiving
Christmas Eve -- December 24
Christmas Day - December 25
Day After Christmas -- December 26
New Year's Eve -- December 31

If any Holiday listed above falls on a Saturday, Saturday and the preceding Friday are both Holidays. If the Holiday should fall on a Sunday, Sunday and the following Monday are both Holidays.

DD. Notice of Award -- The written notice by the Town to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, the Town will sign and deliver the Contract.

EE. Notice of Completion -- The form which may be executed by the Town and recorded by the county where the Project is located constituting final acceptance of the Project.

FF. Notice to Proceed -- A written notice given by the Town to Contractor fixing the date on which the Contractor may proceed with the Work and when Contract Times will commence to run.

GG. Project -- The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

- HH. Recyclable Waste Materials -- Materials removed from the Site which are required to be diverted to a recycling center rather than an area landfill. Recyclable Waste Materials include asphalt, concrete, brick, concrete block, and rock.
- II. Schedule of Submittals -- A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to facilitate scheduled performance of related construction activities.
- JJ. Shop Drawings -- All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
- KK. Specifications -- That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
- LL. Stop Payment Notice -- A written notice as defined in Civil Code section 8044.
- MM. Subcontractor -- An individual or entity other than a Contractor having a contract with any other entity than the Town for performance of any portion of the Work at the Site.
- NN. Submittal -- Written and graphic information and physical samples prepared and supplied by the Contractor demonstrating various portions of the Work.
- OO. Successful Bidder -- The Bidder submitting a responsive Bid to whom the Town makes an award.
- PP. Supplier -- A manufacturer, fabricator, supplier, distributor, material man, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment used in the performance of the Work or to be incorporated in the Work.
- QQ. Underground Facilities -- All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
- RR. Unit Price Work -- Work to be paid for on the basis of unit prices as provided by the Contractor in its bid or as adjusted in accordance with the Contract Documents.
- SS. Warranty -- A written guarantee provided to the Town by the Contractor that the Work will remain free of defects and suitable for its intended use for the period required by the Contract Documents or the longest period permitted by the law of this State, whichever is longer.
- TT. Work -- The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce

such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

ARTICLE 2. CONTRACT DOCUMENTS

- A. **Contract Documents.** The Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all.

- B. **Interpretations.** The Contract Documents are intended to be fully cooperative and complementary. If the Contractor observes that any documents are in conflict, the Contractor shall promptly notify the Engineer in writing. In case of conflicts between the Contract Documents, the order of precedence shall be as follows:
 - 1. Change Orders
 - 2. Addenda
 - 3. Special Conditions
 - 4. Technical Specifications
 - 5. Plans (Contract Drawings)
 - 6. Contract
 - 7. General Conditions
 - 8. Instructions to Bidders
 - 9. Notice Inviting Bids
 - 10. Contractor's Bid Forms
 - 11. Standard Specifications for Public Works Construction (Sections 1-9 Excluded)
 - 12. Applicable Local Agency Standards and Specifications
 - 13. Standard Drawings
 - 14. Reference Documents

With reference to the Drawings, the order of precedence shall be as follows:

- 1. Figures govern over scaled dimensions
 - 2. Detail drawings govern over general drawings
 - 3. Addenda or Change Order drawings govern over Contract Drawings
 - 4. Contract Drawings govern over Standard Drawings
 - 5. Contract Drawings govern over Shop Drawings
- C. **Conflicts in Contract Documents.** Notwithstanding the orders of precedence established above, in the event of conflicts, the higher standard, higher quality, and most expensive shall always apply.

 - D. **Organization of Contract Documents.** Organization of the Contract Documents into divisions, sections, and articles, and arrangement of drawings shall not control the Contractor in dividing Project Work among subcontractors or in establishing the extent of Work to be performed by any trade.

ARTICLE 3. PRECONSTRUCTION AND CONSTRUCTION COMMUNICATION

Before any Work at the site is started, a conference attended by the Town, Contractor, Town's Representative, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to herein, procedures for

handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

At this conference the Town and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

ARTICLE 4. CONTRACT DOCUMENTS: COPIES & MAINTENANCE – NOT USED

ARTICLE 5. EXAMINATION OF DRAWINGS, SPECIFICATIONS AND SITE OF WORK

- A. **Examination of Contract Documents.** Before commencing any portion of the Work, Contractor shall again carefully examine all applicable Contract Documents, the Project site, and other information given to Contractor as to materials and methods of construction and other Project requirements. Contractor shall immediately notify the Engineer of any potential error, inconsistency, ambiguity, conflict, or lack of detail or explanation. If Contractor performs, permits, or causes the performance of any Work which is in error, inconsistent or ambiguous, or not sufficiently detailed or explained, Contractor shall bear any and all resulting costs, including, without limitation, the cost of correction. In no case shall the Contractor or any subcontractor proceed with Work if uncertain as to the applicable requirements.
- B. **Additional Instructions.** After notification of any error, inconsistency, ambiguity, conflict, or lack of detail or explanation, the Engineer will provide any required additional instructions, by means of drawings or other written direction, necessary for proper execution of Work.
- C. **Quality of Parts, Construction and Finish.** All parts of the Work shall be of the best quality of their respective kinds and the Contractor must use all diligence to inform itself fully as to the required construction and finish.
- D. **Contractor's Variation from Contract Document Requirements.** If it is found that the Contractor has varied from the requirements of the Contract Documents including the requirement to comply with all applicable laws, ordinances, rules and regulations, the Engineer may at any time, before or after completion of the Work, order the improper Work removed, remade or replaced by the Contractor at the Contractor's expense.

ARTICLE 6. MOBILIZATION

- A. When a bid item is included in the Bid Form for mobilization, the costs of Work in advance of construction operations and not directly attributable to any specific bid item will be included in the progress estimate ("Initial Mobilization"). When no bid item is provided for "Initial Mobilization," payment for such costs will be deemed to be included in the other items of the Work.
- B. Payment for Initial Mobilization based on the lump sum provided in the Bid Form, which shall constitute full compensation for all such Work. No payment for Initial Mobilization will be made until all of the listed items have been completed to the satisfaction of the

Engineer. The scope of the Work included under Initial Mobilization shall include, but shall not be limited to, the following principal items:

1. Obtaining and paying for all bonds, insurance, and permits.
2. Moving on to the Project site of all Contractor's plant and equipment required for the first month's operations.
3. Installing temporary construction power, wiring, and lighting facilities, as applicable.
4. Establishing fire protection system, as applicable.
5. Developing and installing a construction water supply, if applicable.
6. Providing and maintaining the field office trailers for the Contractor, if necessary, and the Engineer (if specified), complete, with all specified furnishings and utility services.
7. Providing on-site sanitary facilities and potable water facilities as specified per Cal-OSHA and these Contract Documents.
8. Furnishing, installing, and maintaining all storage buildings or sheds required for temporary storage of products, equipment, or materials that have not yet been installed in the Work. All such storage shall meet manufacturer's specified storage requirements, and the specific provisions of the specifications, including temperature and humidity control, if recommended by the manufacturer, and for all security.
9. Contractor shall provide off-site storage of materials and products until building is ready for receipt and install.
10. Include storage carts for items specified; include stacking capacity
11. Arranging for and erection of Contractor's work and storage yard.
12. Posting all OSHA required notices and establishment of safety programs per Cal-OSHA.
13. Full-time presence of Contractor's superintendent at the job site as required herein.
14. Submittal of Construction Schedule as required by the Contract Documents.

ARTICLE 7. EXISTENCE OF UTILITIES AT THE WORK SITE – NOT USED

ARTICLE 8. SOILS INVESTIGATIONS – NOT USED

ARTICLE 9. CONTRACTOR'S SUPERVISION

Contractor shall continuously keep at the Project site, a competent and experienced full-time Project superintendent acceptable to the Town. Superintendent must be able to proficiently speak, read and write in English and shall have the authority to make decisions on behalf of the

Contractor. Contractor shall continuously provide efficient supervision of the Project.

ARTICLE 10. WORKERS

- A. Contractor shall at all times enforce strict discipline and good order among its employees. Contractor shall not employ on the Project any unfit person or any one not skilled in the Work assigned to him or her.
- B. Any person in the employ of the Contractor whom the Town may deem incompetent or unfit shall be dismissed from the Work and shall not be employed on this Project.

ARTICLE 11. INDEPENDENT CONTRACTORS

Contractor shall be an independent contractor for the Town and not an employee. Contractor understands and agrees that it and all of its employees shall not be considered officers, employees, or agents of Town and are not entitled to benefits of any kind normally provided employees of Town, including but not limited to, state unemployment compensation or workers' compensation. Contractor assumes full responsibility for the acts and omissions of its employees or agents related to the Work.

ARTICLE 12. SUBCONTRACTS

- A. Contractor agrees to bind every subcontractor to the terms of the Contract Documents as far as such terms are applicable to subcontractor's portion of the Work. Contractor shall be as fully responsible to the Town for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by its subcontractors, as Contractor is for acts and omissions of persons directly employed by Contractor. Nothing contained in these Contract Documents shall create any contractual relationship between any subcontractor and the Town.
- B. The Town reserves the right to accept all subcontractors. The Town's acceptance of any subcontractor under this Contract shall not in any way relieve Contractor of its obligations in the Contract Documents.
- C. Prior to substituting any subcontractor listed in the Bid Forms, Contractor must comply with the requirements of the Subletting and Subcontracting Fair Practices Act pursuant to California Public Contract Code section 4100 et seq.

ARTICLE 13. VERIFICATION OF EMPLOYMENT ELIGIBILITY

By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subcontractors, sub-subcontractors and consultants to comply with the same. Each person executing this Contract on behalf of Contractor verifies that he or she is a duly authorized officer of Contractor and that any of the following shall be grounds for the Town to terminate the Contract for cause: (1) failure of the Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in this Article; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any person found not to be in compliance with such requirements.

ARTICLE 14. REQUESTS FOR SUBSTITUTION

- A. For the purposes of this provision, the term “substitution” shall mean the substitution of any material, method or service substantially equal to or better in every respect to that indicated in the Standard Specifications or otherwise referenced herein.
- B. Pursuant to Public Contract Code section 3400(b), the Town may make a finding that is described in the Notice Inviting Bids that designates certain products, things, or services by specific brand or trade name.
- C. Unless specifically designated in the Special Conditions, whenever any material, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such specifications shall be deemed to be used for the purpose of facilitating the description of the material, process, or article desired and shall be deemed to be followed by the words “or equal.” Contractor may, unless otherwise stated, offer for substitution any material, process, or article which may be substantially equal to or better in every respect to that so indicated or specified in the Contract Documents. However, the Town has adopted uniform standards for certain materials, processes, and articles.
- D. The Contractor shall submit substitution requests, together with substantiating data, for substitution of any “or equal” material, process, or article no later than thirty-five (35) calendar days after award of Contract. Provisions regarding submission of substitution requests shall not in any way authorize an extension of time for the performance of this Contract. If a substitution request is rejected by the Town, the Contractor shall provide the material, method or service specified herein. The Town shall not be responsible for any costs incurred by the Contractor associated with substitution requests. The burden of proof as to the equality of any material, process, or article shall rest with the Contractor. The Engineer has the complete and sole discretion to determine if a material, process, or article is substantially equal to or better than that specified and to approve or reject all substitution requests.
- E. Substantiating data as described above shall include, at a minimum, the following information:
 - 1. A signed affidavit from the Contractor stating that the material, process, or article proposed as a substitution is substantially equal to or better than that specified in every way except as may be listed on the affidavit.
 - 2. Illustrations, specifications, catalog cut sheets, and any other relevant data required to prove that the material, process, or article is substantially equal to or better than that specified.
 - 3. A statement of the cost implications of the substitution being requested, indicating whether and why the proposed substitution will reduce or increase the amount of the contract.
 - 4. Information detailing the durability and lifecycle costs of the proposed substitution.
- F. Failure to submit all the required substantiating data detailed above in a timely manner so that the substitution request can be adequately reviewed may result in rejection of

the substitution request. The Engineer is not obligated to review multiple submittals related the same substitution request resulting from the Contractor's failure to initially submit a complete package.

- G. Time limitations within this Article shall be strictly complied with and in no case will an extension of time for completion of the contract be granted because of Contractor's failure to provide substitution requests at the time and in the manner described herein.
- H. The Contractor shall bear the costs of all Town work associated with the review of substitution requests.
- I. If substitution requests approved by the Engineer require that Contractor furnish materials, methods or services more expensive than that specified, the increased costs shall be borne by Contractor.

ARTICLE 15. SHOP DRAWINGS – NOT USED

ARTICLE 16. SUBMITTALS

- A. Contractor shall furnish to the Engineer for approval, prior to purchasing or commencing any Work, a log of all samples, material lists and certifications, shop drawings, schedules, and other submittals, as required in these Contract Documents. The log shall indicate whether samples will be provided in accordance with other provisions of this Contract.
- B. Contractor will provide samples and product data, together with catalogs and supporting data required by the Engineer, to the Engineer within a reasonable time period to provide for adequate review and avoid delays in the Work.
- C. These requirements shall not authorize any extension of time for performance of this Contract. Engineer will check and approve such samples, but only for conformance with design concept of work and for compliance with information given in the Contract Documents. Work shall be in accordance with approved samples and submittals.
- D. Material and/or product samples shall be made available for review and selection by Town Staff for a duration of 10 Working Days. Contractor shall deliver samples to specified location by Engineer.

ARTICLE 17. MATERIALS

- A. Except as otherwise specifically stated in the Contract Documents, Contractor shall provide and pay for all materials, labor, tools, equipment, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this Contract within specified time.
- B. Unless otherwise specified, all materials shall be new and the best of their respective kinds and grades as noted and/or specified, and workmanship shall be of good quality.
 - 1. Provide medium grade finishes

2. Provide wood and/or metal powder coat finish where called out in Exhibit A “Material Pricing Sheet”
 3. Provide UltraFabric, Brisa for upholstery fabrics
- C. Materials shall be furnished in ample quantities and at such times as to ensure uninterrupted progress of the Work and shall be stored properly and protected as required by the Contract Documents. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or Work.
 - D. No materials, supplies, or equipment for Work under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in the Work and agrees upon completion of all work to deliver the Project, to the Town free from any claims, liens, or charges.
 - E. Materials shall be stored on the Project site in such manner so as not to interfere with any operations of the Town or any independent contractor.
 - F. Contractor shall verify all measurements, dimensions, elevations, and quantities before ordering any materials or performing any Work, and the Town shall not be liable for Contractor’s failure to do so. No additional compensation, over and above payment for the actual quantities at the prices set out in the Bid Form, will be allowed because of differences between actual measurements, dimension, elevations and quantities and those indicated on the Plans and in the Specifications. Any difference therein shall be submitted to the Engineer for consideration before proceeding with the Work.

ARTICLE 18. PERMITS AND LICENSES – NOT USED

ARTICLE 19. TRENCHES – NOT USED

ARTICLE 20. DIVERSION OF RECYCLABLE WASTE MATERIALS

In compliance with the applicable Town’s waste reduction and recycling efforts, Contractor shall divert all Recyclable Waste Materials to appropriate recycling centers as required for compliance with the local jurisdiction’s waste diversion ordinances. Contractor will be required to submit weight tickets and written proof of diversion with its monthly progress payment requests. Contractor shall complete and execute any certification forms required by Town or other applicable agencies to document Contractor’s compliance with these diversion requirements. All costs incurred for these waste diversion efforts shall be the responsibility of the Contractor.

ARTICLE 21. REMOVAL OF HAZARDOUS MATERIALS – NOT USED

ARTICLE 22. SANITARY FACILITIES – NOT USED

ARTICLE 23. AIR POLLUTION CONTROL

Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes, including, but not limited to, those required by the South Coast Air Quality Management District. All containers of paint, thinner, curing compound, solvent or liquid asphalt shall be labeled to

indicate that the contents fully comply with the applicable material requirements.

ARTICLE 24. LAYOUT AND FIELD ENGINEERING – NOT USED

ARTICLE 25. TESTS AND INSPECTIONS – NOT USED

ARTICLE 26. PROTECTION OF WORK AND PROPERTY

- A. The Contractor shall be responsible for all damages to persons or property that occurs as a result of the Work. Contractor shall be responsible for the proper care and protection of all materials delivered and Work performed until completion and final Acceptance by the Town. All Work shall be solely at the Contractor's risk. Contractor shall adequately protect existing conditions. Contractor shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the Project site where Work is being performed. Contractor shall erect and properly maintain at all times, as required by field conditions and progress of work, all necessary safeguards, signs, barriers, lights, and watchmen for protection of workers and the public, and shall post danger signs warning against hazards created in the course of construction.
- B. In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from the Engineer, is hereby permitted to act to prevent such threatened loss or injury; and Contractor shall so act, without appeal, if so authorized or instructed by the Engineer or the Town. Any compensation claimed by Contractor on account of emergency work shall be determined by and agreed upon by the Town and the Contractor.

ARTICLE 27. CONTRACTOR'S MEANS AND METHODS

Contractor is solely responsible for the means and methods utilized to perform the Work. In no case shall the Contractor's means and methods deviate from commonly used industry standards.

ARTICLE 28. AUTHORIZED REPRESENTATIVES

The Town shall designate representatives, who shall have the right to be present at the Project site at all times. The Town may designate an inspector who shall have the right to observe all of the Contractor's Work. The inspector shall not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. Contractor shall provide safe and proper facilities for such access.

ARTICLE 29. HOURS OF WORK

- A. As provided in Article 3 (commencing at section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, Contractor stipulates that eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Contractor or by any subcontractor on any subcontract under this Contract upon the Work or upon any part of the Work contemplated by this Contract is limited and restricted to eight (8) hours during any one calendar day and 40 hours during any one calendar week, except as hereinafter provided. Notwithstanding the provisions herein above set forth, work performed by employees of Contractor in excess of eight (8) hours per day, and 40 hours during any one week, shall be permitted upon this public

work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

- B. The Contractor and every subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed in connection with the Work or any part of the Work contemplated by this Contract. The record shall be kept open at all reasonable hours to the inspection of the Town and to the Division of Labor Law Enforcement, Department of Industrial Relations of the State of California.
- C. The Contractor shall pay to the Town a penalty of twenty-five dollars (\$25.00) for each worker employed in the execution of this Contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Article 3 (commencing at section 1810), Chapter 1, Part 7, Division 2 of the Labor Code.
- D. Any work necessary to be performed after regular working hours, or on Saturdays and Sundays or other holidays, shall be performed without additional expense to the Town.
- E. Town will provide inspection during normal working hours from 7:00 a.m. to 3:30 p.m. Monday through Friday. Inspection before or after this time will be charged to the Contractor as reimbursable inspection time. Inspections on weekends requires two days' notice for review and approval. Upon written request and approval the 8.5 hour working day may be changed to other limits subject to city/county ordinance.
- F. It shall be unlawful for any person to operate, permit, use, or cause to operate any of the following at the Project site, other than between the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, with no Work allowed on the Town-observed holidays, unless otherwise approved by the Town:
 - 1. Powered Vehicles
 - 2. Construction Equipment
 - 3. Loading and Unloading Vehicles
 - 4. Domestic Power Tools

ARTICLE 30. PAYROLL RECORDS

- A. Pursuant to Labor Code section 1776, Contractor and all subcontractors shall maintain weekly certified payroll records, showing the names, addresses, Social Security numbers, work classifications, 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 them in connection with the Work under this Contract. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury.

- B. In accordance with Labor Code section 1771.4, the Contractor and each subcontractor shall furnish the certified payroll records directly to the Department of Industrial Relations (“DIR”) on the specified interval and format prescribed by the DIR, which may include electronic submission. Contractor shall comply with all requirements and regulations from the DIR relating to labor compliance monitoring and enforcement.
- C. The payroll records described herein shall be certified and submitted by the Contractor at a time designated by the Town. The Contractor shall also provide the following:
 - 1. A certified copy of the employee’s payroll records shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
 - 2. A certified copy of all payroll records described herein shall be made available for inspection or furnished upon request of the DIR.
- D. Unless submitted electronically, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement (“DLSE”) of the DIR or shall contain the same information as the forms provided by the DLSE.
- E. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency, the Town, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor awarded the Contract or performing the contract shall not be marked or obliterated.
- F. In the event of noncompliance with the requirements of this Article, the Contractor shall have ten (10) calendar days in which to comply subsequent to receipt of written notice specifying in what respects the Contractor must comply with this Article. Should noncompliance still be evident after such 10-day period, the Contractor shall pay a penalty of one hundred dollars (\$100.00) to the Town 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, such penalties shall be withheld from progress payment then due.
- G. The responsibility for compliance with this Article shall rest upon the Contractor.

ARTICLE 31. PREVAILING RATES OF WAGES

- A. The Contractor is aware of the requirements of Labor Code sections 1720 *et seq.* and 1770 *et seq.*, as well as California Code of Regulations, Title 8, Section 16000 *et seq.* (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. Since this Project involves an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Contract from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov. In the alternative, the Contractor may view a copy of the prevailing rate of per diem wages

which are on file at the Town's Administration Office and shall be made available to interested parties upon request. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the Project site. Contractor shall defend, indemnify and hold the Town, its officials, officers, employees and authorized volunteers free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

- B. The Contractor shall forfeit as a penalty to the Town not more than Two Hundred Dollars (\$200.00), pursuant to Labor Code section 1775, for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate as determined by the Director of the Department of Industrial Relations for such work or craft in which such worker is employed for any public work done under the Contract by it or by any subcontractor under it. The difference between such prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.
- C. Contractor shall post, at appropriate conspicuous points on the Project site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

ARTICLE 32. PUBLIC WORKS CONTRACTOR REGISTRATION

Pursuant to Labor Code sections 1725.5 and 1771.1, the Contractor and its subcontractors must be registered with the Department of Industrial Relations prior to the execution of a contract to perform public works. By entering into this Contract, Contractor represents that it is aware of the registration requirement and is currently registered with the DIR. Contractor shall maintain a current registration for the duration of the Project. Contractor shall further include the requirements of Labor Code sections 1725.5 and 1771.1 in any subcontract and ensure that all subcontractors are registered at the time this Contract is entered into and maintain registration for the duration of the Project.

ARTICLE 33. EMPLOYMENT OF APPRENTICES

- A. Contractor and all subcontractors shall comply with the requirements of Labor Code sections 1777.5 and 1777.6 in the employment of apprentices.
- B. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.
- C. Knowing violations of Labor Code section 1777.5 will result in forfeiture not to exceed one hundred dollars (\$100.00) for each calendar day of non-compliance pursuant to Labor Code section 1777.7.
- D. The responsibility for compliance with this Article shall rest upon the Contractor.

ARTICLE 34. NONDISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY

Pursuant to Labor Code section 1735 and other applicable provisions of law, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, or any other classifications protected by law on this Project. The Contractor will take affirmative action to insure that employees are treated during employment or training without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, or any other classifications protected by law.

Employment Eligibility; Contractor. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Contract, and shall not violate any such law at any time during the term of the Contract. Contractor shall avoid any violation of any such law during the term of this Contract by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the Town or its representatives for inspection and copy at any time during normal business hours. The Town shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for or referred to herein.

Employment Eligibility; Subcontractors, Sub-subcontractors and Consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any part of the Work or of this Contract to make the same verifications and comply with all requirements and restrictions provided for herein.

Employment Eligibility; Failure to Comply. Each person executing this Contract on behalf of Contractor verifies that he or she is a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the Town to terminate the Contract for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for herein; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any person found not to be in compliance with such requirements.

ARTICLE 35. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS

Contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Labor Code section 1777.1 or 1777.7. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid, or may have been paid to a debarred subcontractor by a contractor on the

project shall be returned to the Town. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.

ARTICLE 36. LABOR/EMPLOYMENT SAFETY

The Contractor shall comply with all applicable laws and regulations of the federal, state, and local government, including Cal/OSHA requirements and requirements for verification of employees' legal right to work in the United States.

The Contractor shall maintain emergency first aid treatment for his employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 *et seq.*), and California Code of Regulations, Title 8, Industrial Relations Division 1, Department of Industrial Relations, Chapter 4. The Contractor shall ensure the availability of emergency medical services for its employees in accordance with California Code of Regulations, Title 8, Section 1512.

The Contractor shall submit the Illness and Injury Prevention Program and a Project site specific safety program to the Town prior to beginning Work at the Project site. Contractor shall maintain a confined space program that meets or exceeds the Town Standards. Contractor shall adhere to the Town's lock out tag out program.

ARTICLE 37. INSURANCE

The Contractor shall obtain, and at all times during performance of the Work of Contract, maintain all of the insurance described in this Article. Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to the Town that it has secured all insurance required hereunder. Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the Town that the subcontractor has secured all insurance required under this Article. Failure to provide and maintain all required insurance shall be grounds for the Town to terminate this Contract for cause. Contractor shall furnish Town with original certificates of insurance and endorsements effective coverage required by this Contract on forms satisfactory to the Town. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms acceptable to the Town. All certificates and endorsements must be received and approved by the Town before Work commences.

- A. **Additional Insureds; Waiver of Subrogation.** The Town, its officials, officers, employees, agents and authorized volunteers shall be named as Additional Insureds on Contractor's All Risk policy and on Contractor's and its subcontractors' policies of Commercial General Liability and Automobile Liability insurance using, for Contractor's policy/ies of Commercial General Liability insurance, ISO CG forms 20 10 and 20 37 (or endorsements providing the exact same coverage, including completed operations), and, for subcontractors' policies of Commercial General Liability insurance, ISO CG form 20 38 (or endorsements providing the exact same coverage). Notwithstanding the minimum limits set forth in this Contract for any type of insurance coverage, all available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as Additional Insureds hereunder. Contractor and its insurance carriers shall provide a Waiver of Subrogation in favor of those parties.
- B. **Workers' Compensation Insurance.** The Contractor shall provide workers' compensation insurance for all of the employees engaged in Work under this Contract,

on or at the Site, and, in case of any sublet Work, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees as prescribed by State law. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in work under this Contract, on or at the Site, is not protected under the Workers' Compensation Statutes, the Contractor shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected. The Contractor is required to secure payment of compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. The Contractor shall file with the Town certificates of his insurance protecting workers. Company or companies providing insurance coverage shall be acceptable to the Town, if in the form and coverage as set forth in the Contract Documents.

- C. **Employer's Liability Insurance.** Contractor shall provide Employer's Liability Insurance, including Occupational Disease, in the amount of at least one million dollars (\$1,000,000.00) per person per accident. Contractor shall provide Town with a certificate of Employer's Liability Insurance. Such insurance shall comply with the provisions of the Contract Documents. The policy shall be endorsed, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement and contain a Waiver of Subrogation in favor of the Town.
- D. **Commercial General Liability Insurance.** Contractor shall provide "occurrence" form Commercial General Liability insurance coverage at least as broad as the most current ISO CGL Form 00 01, including but not limited to, premises liability, contractual liability, products/completed operations, personal and advertising injury which may arise from or out of Contractor's operations, use, and management of the Site, or the performance of its obligations hereunder. The policy shall not contain any exclusion contrary to this Contract including but not limited to endorsements or provisions limiting coverage for (1) contractual liability (including but not limited to ISO CG 24 26 or 21 39); or (2) cross-liability for claims or suits against one insured against another. Policy limits shall not be less than \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Defense costs shall be paid in addition to the limits.
1. Such policy shall comply with all the requirements of this Article. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it limit Contractor's indemnification obligations to the Town, and shall not preclude the Town from taking such other actions available to the Town under other provisions of the Contract Documents or law.
 2. All general liability policies provided pursuant to the provisions of this Article shall comply with the provisions of the Contract Documents.

3. All general liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, under-ground excavation, removal of lateral support, and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the performance by Contractor of that part of the indemnification contained in these General Conditions relating to liability for injury to or death of persons and damage to property.
 4. If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, the Town may require additional coverage to be purchased by Contractor to restore the required limits. Contractor may combine primary, umbrella, and as broad as possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy shall include the additional insured endorsement described in the Contract Documents.
 5. All policies of general liability insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.
- E. **Automobile Liability Insurance.** Contractor shall provide “occurrence” form Automobile Liability Insurance at least as broad as ISO CA 00 01 (Any Auto) in the amount of, at least, one million dollars (\$1,000,000) per accident for bodily injury and property damage. Such insurance shall provide coverage with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible, in a form and with insurance companies acceptable to the Town. All policies of automobile insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.
- F. Contractor shall require all tiers of sub-contractors working under this Contract to provide the insurance required under this Article unless otherwise agreed to in writing by Town. Contractor shall make certain that any and all subcontractors hired by Contractor are insured in accordance with this Contract. If any subcontractor’s coverage does not comply with the foregoing provisions, Contractor shall indemnify and hold the Town harmless from any damage, loss, cost, or expense, including attorneys’ fees, incurred by the Town as a result thereof.

ARTICLE 38. FORM AND PROOF OF CARRIAGE OF INSURANCE

- A. Any insurance carrier providing insurance coverage required by the Contract Documents shall be admitted to and authorized to do business in the State of California unless waived, in writing, by the Town’s Risk Manager. Carrier(s) shall have an A.M. Best rating of not less than an A:VII. Insurance deductibles or self-insured retentions must be declared by the Contractor. At the election of the Town the Contractor shall either 1) reduce or eliminate such deductibles or self-insured retentions, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses. If umbrella or excess liability

coverage is used to meet any required limit(s) specified herein, the Contractor shall provide a “follow form” endorsement satisfactory to the Town indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

- B. Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or cancelled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Town; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the Town, its officials, officers, agents, employees, and volunteers.
- C. The Certificate(s) and policies of insurance shall contain or shall be endorsed to contain the covenant of the insurance carrier(s) that it shall provide no less than thirty (30) days written notice be given to the Town prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, the Town may terminate the Contract or stop the Work in accordance with the Contract Documents, unless the Town receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage’s set forth herein and the insurance required herein is in full force and effect. Contractor shall not take possession, or use the Site, or commence operations under this Contract until the Town has been furnished original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this Article. The original endorsements for each policy and the Certificate of Insurance shall be signed by an individual authorized by the insurance carrier to do so on its behalf.
- D. The Certificate(s) of Insurance, policies and endorsements shall so covenant and shall be construed as primary, and the Town’s insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- E. Town reserves the right to adjust the monetary limits of insurance coverages during the term of this Contract including any extension thereof if, in the Town’s reasonable judgment, the amount or type of insurance carried by the Contractor becomes inadequate.
- F. Contractor shall report to the Town, in addition to the Contractor’s insurer, any and all insurance claims submitted by the Contractor in connection with the Work under this Contract.

ARTICLE 39. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

- A. **Time for Completion/Liquidated Damages.** Time is of the essence in the completion of the Work. Work shall be commenced within ten (10) Days of the date stated in the Town’s Notice to Proceed and shall be completed by Contractor in the time specified in the Contract Documents. The Town is under no obligation to consider early completion of the Project; and the Contract completion date shall not be amended by the Town’s receipt or acceptance of the Contractor’s proposed earlier completion date. Furthermore, Contractor shall not, under any circumstances, receive additional compensation from the Town (including but not limited to indirect, general,

administrative or other forms of overhead costs) for the period between the time of earlier completion proposed by the Contractor and the Contract completion date. If the Work is not completed as stated in the Contract Documents, it is understood that the Town will suffer damage. In accordance with Government Code section 53069.85, being impractical and infeasible to determine the amount of actual damage, it is agreed that Contractor shall pay to the Town as fixed and liquidated damages, and not as a penalty, the sum stipulated in the Contract for each calendar day of delay until the Work is fully completed. Contractor and its surety shall be liable for any liquidated damages. Any money due or to become due the Contractor may be retained to cover liquidated damages.

- B. **Inclement Weather.** Contractor shall abide by the Engineer's determination of what constitutes inclement weather. Time extensions for inclement weather shall only be granted when the Work stopped during inclement weather is on the critical path of the Project schedule.
- C. **Extension of Time.** Contractor shall not be charged liquidated damages because of any delays in completion of the Work due to unforeseeable causes beyond the control and without the fault or negligence of Contractor (or its subcontractors or suppliers). Contractor shall within five (5) Days of identifying any such delay notify the Town in writing of causes of delay. The Town shall ascertain the facts and extent of delay and grant extension of time for completing the Work when, in its judgment, the facts justify such an extension. Time extensions to the Project shall be requested by the Contractor as they occur and without delay. No delay claims shall be permitted unless the event or occurrence delays the completion of the Project beyond the Contract completion date.
- D. **No Damages for Reasonable Delay.** The Town's liability to Contractor for delays for which the Town is responsible shall be limited to only an extension of time unless such delays were unreasonable under the circumstances. In no case shall the Town be liable for any costs which are borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and other ongoing costs. Damages caused by unreasonable Town delay, including delays caused by items that are the responsibility of the Town pursuant to Government Code section 4215, shall be based on actual costs only, no proportions or formulas shall be used to calculate any delay damages.

ARTICLE 40. COST BREAKDOWN AND PERIODIC ESTIMATES

Contractor shall furnish on forms Approved by the Town:

- A. Within ten (10) Days of Notice to Proceed with the Contract, a detailed estimate giving a complete breakdown of the Contract price, if the Contract amount is a lump sum.
- B. A monthly itemized estimate of Work done for the purpose of making progress payments. In order for the Town to consider and evaluate each progress payment application, the Contractor shall submit a detailed measurement of Work performed and a progress estimate of the value thereof before the tenth (10th) Day of the following month.

- C. Contractor shall submit, with each of its payment requests, an adjusted list of actual quantities, verified by the Engineer, for unit price items listed, if any, in the Bid Form.
- D. Following the Town's Acceptance of the Work, the Contractor shall submit to the Town a written statement of the final quantities of unit price items for inclusion in the final payment request.
- E. The Town shall have the right to adjust any estimate of quantity and to subsequently correct any error made in any estimate for payment.

Contractor shall certify under penalty of perjury, that all cost breakdowns and periodic estimates accurately reflect the Work on the Project.

ARTICLE 41. PROGRESS ESTIMATES AND PAYMENT

- A. By the tenth (10th) Day of the following calendar month, Contractor shall submit to Engineer a payment request which shall set forth in detail the value of the Work done for the period beginning with the date work was first commenced and ending on the end of the calendar month for which the payment request is prepared. Contractor shall include any amount earned for authorized extra work. From the total thus computed, a deduction shall be made in the amount of five percent (5%) for retention, except where the Town has adopted a finding that the Work done under the Contract is substantially complex, and then the amount withheld as retention shall be the percentage specified in the Notice Inviting Bids. From the remainder a further deduction may be made in accordance with Section B below. The amount computed, less the amount withheld for retention and any amounts withheld as set forth below, shall be the amount of the Contractor's payment request.
- B. The Town may withhold a sufficient amount or amounts of any payment or payments otherwise due to Contractor, as in his judgment may be necessary to cover:
 - 1. Payments which may be past due and payable for just claims against Contractor or any subcontractors for labor or materials furnished in and about the performance of work on the Project under this Contract.
 - 2. Defective work not remedied.
 - 3. Failure of Contractor to make proper payments to his subcontractor or for material or labor.
 - 4. Completion of the Contract if there is a reasonable doubt that the Work can be completed for balance then unpaid.
 - 5. Damage to another contractor or a third party.
 - 6. Amounts which may be due the Town for claims against Contractor.
 - 7. Failure of Contractor to keep the record ("as-built") drawings up to date.
 - 8. Failure to provide update on construction schedule as required herein.

9. Site cleanup.
 10. Failure to comply with Contract Documents.
 11. Liquidated damages.
 12. Legally permitted penalties.
- C. The Town may apply such withheld amount or amounts to payment of such claims or obligations at its discretion with the exception of subsections (B)(1), (3), and (5) of this Article, which must be retained or applied in accordance with applicable law. In so doing, the Town shall be deemed the agent of Contractor and any payment so made by the Town shall be considered as a payment made under contract by the Town to Contractor and the Town shall not be liable to Contractor for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligations. The Town will render Contractor a proper accounting of such funds disbursed on behalf of Contractor.
- D. Upon receipt, the Engineer shall review the payment request to determine whether it is undisputed and suitable for payment. If the payment request is determined to be unsuitable for payment, it shall be returned to Contractor as soon as practicable but not later than seven (7) Days after receipt, accompanied by a document setting forth in writing the reasons why the payment request is not proper. The Town shall make the progress payment within 30 calendar days after the receipt of an undisputed and properly submitted payment request from Contractor, provided that a release of liens and claims has been received from the Contractor pursuant to Civil Code section 8132. The number of days available to the Town to make a payment without incurring interest pursuant to this paragraph shall be reduced by the number of days by which the Engineer exceeds the seven (7) Day requirement.
- E. A payment request shall be considered properly executed if funds are available for payment of the payment request and payment is not delayed due to an audit inquiry by the financial officer of the Town.

ARTICLE 42. SECURITIES FOR MONEY WITHHELD

Pursuant to section 22300 of the Public Contract Code of the State of California, Contractor may request the Town to make retention payments directly to an escrow agent or may substitute securities for any money withheld by the Town to ensure performance under the contract. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with the Town or with a state or federally chartered bank as the escrow agent who shall return such securities to Contractor upon satisfactory completion of the contract. Deposit of securities with an escrow agent shall be subject to a written agreement substantially in the form provided in section 22300 of the Public Contract Code.

ARTICLE 43. CHANGES AND EXTRA WORK.

A. Contract Change Orders.

1. The Town, without invalidating the Contract, may order changes in the Work consisting of additions, deletions or other revisions, and the Contract Price and

Contract Time shall be adjusted accordingly. Except as otherwise provided herein, all such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents. A Change Order signed by the Contractor indicates the Contractor's agreement therewith, including any adjustment in the Contract Price or the Contract Time, and the full and final settlement of all costs (direct, indirect and overhead) related to the Work authorized by the Change Order.

2. Contractor shall promptly execute changes in the Work as directed in writing by the Town even when the parties have not reached agreement on whether the change increases the scope of Work or affects the Contract Price or Contract Time. All claims for additional compensation to the Contractor shall be presented in writing. No claim will be considered after the Work in question has been done unless a written Change Order has been issued or a timely written notice of claim has been made by Contractor.
3. Whenever any change is made as provided for herein, such change shall be considered and treated as though originally included in the Contract, and shall be subject to all terms, conditions, and provisions of the original Contract.
4. Contractor shall not be entitled to claim or bring suit for damages, whether for loss of profits or otherwise, on account of any decrease or omission of any item or portion of Work to be done.
5. No dispute, disagreement, or failure of the parties to reach agreement on the terms of the Change Order shall relieve the Contractor from the obligation to proceed with performance of the work, including Additional Work, promptly and expeditiously.
6. Contractor shall make available to the Town any of the Contractor's documents related to the Project immediately upon request of the Town, as set forth in Article 52.
7. Any alterations, extensions of time, Additional Work, or any other changes may be made without securing consent of the Contractor's surety or sureties.

B. Contract Price Change.

1. Process for Determining Adjustments in Contract Price.
 - a. Owner Initiated Change. The Contractor must submit a complete cost proposal, including any change in the Contract Price or Contract Time, within seven (7) Days after receipt of a scope of a proposed change order initiated by the Town, unless the Town requests that proposals be submitted in less than seven (7) Days.
 - b. Contractor Initiated Change. The Contractor must give written notice of a proposed change order required for compliance with the Contract Documents within seven (7) Days of discovery of the facts giving rise to the proposed change order.

- c. Whenever possible, any changes to the Contract amount shall be in a lump sum mutually agreed to by the Contractor and the Town.
- d. Price quotations from the Contractor shall be accompanied by sufficiently detailed supporting documentation to permit verification by the Town, including but not limited to estimates and quotations from subcontractors or material suppliers, as the Town may reasonably request. Contractor shall certify the accuracy of all Change Order Requests under penalty of perjury.
- e. If the Contractor fails to submit a complete cost proposal within the seven (7) Day period (or as requested), the Town has the right to order the Contractor in writing to commence the Work immediately on a time and materials basis and/or issue a lump sum change to the Contract Price and/or Contract Time in accordance with the Town's estimate. If the change is issued based on the Town's estimate, the Contractor will waive its right to dispute the action unless within fifteen (15) Days following completion of the added/deleted work, the Contractor presents written proof that the Town's estimate was in error.

2. Unit Price Change Orders.

- a. When the actual quantity of a Unit Price item varies from the Bid Form, compensation for the change in quantity will be calculated by multiplying the actual quantity by the Unit Price. This calculation may result in either an additive or deductive Final Change Order pursuant to the Contract Documents.
- b. No Mark up for Overhead and Profit. Because the Contract Unit Prices provided in the Bid Form include Overhead and Profit as determined by Contractor at the time of Bid submission, no mark up or deduction for Overhead and Profit will be included in Unit Price Change Orders.
- c. Bid items included on the Bid Form may be deducted from the Work in their entirety without any negotiated extra costs.
- d. Contractor acknowledges that unit quantities are estimates and agrees that the estimated unit quantities listed on the Bid Form will be adjusted to reflect the actual unit quantities which may result in an adjustment to the Contract Unit Prices. Such an adjustment will be made by execution of a final additive or deductive Change Order following Contractor's completion of the Work. Upon notification, Contractor's failure to respond within seven (7) Days will result in Town's issuance of a unit quantity adjustment to the Contract Unit Prices and/or Contract Time in accordance with the Contract Documents.
- e. The Town or Contractor may make a Claim for an adjustment in the Unit Price in accordance with the Contract Documents if:
 - i. the quantity of any item of Unit Price Work performed by Contractor differs by twenty-five percent (25%) or more from the estimated quantity of such item indicated in the Contract; and
 - ii. there is no corresponding adjustment with respect to any other item of Work; and

- iii. Contractor believes that Contractor is entitled to an increase in Unit Price as a result of having incurred additional expense or the Town believes that the Town is entitled to a decrease in Unit Price and the parties are unable to agree as to the amount of any such increase or decrease..
3. Lump Sum Change Orders. Compensation for Lump Sum Change Orders shall be limited to expenditures necessitated specifically by the Additional Work, and shall be segregated as follows:
 - a. Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft or type of worker at the time the Additional Work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State or local laws, as well as assessment or benefits required by lawful collective bargaining agreements. The use of a labor classification which would increase the Additional Work cost will not be permitted unless the Contractor establishes the necessity for such new classifications. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.
 - b. Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available in the quantities involved, plus sales tax, freight, and delivery. Materials costs shall be based upon supplier or manufacturer's invoice. If invoices or other satisfactory evidence of cost are not furnished within fifteen (15) Days of delivery, then the Town shall determine the materials cost, at its sole discretion.
 - c. Tool and Equipment Use. Costs for the use of small tools, which are tools that have a replacement value of \$1,000 or less, shall be considered included in the Overhead and Profit mark-ups established below. Regardless of ownership, the rates to be used in determining equipment use costs shall not exceed listed rates prevailing locally at equipment rental agencies, or distributors, at the time the Work is performed.
4. Time and Materials Change Orders.
 - a. General. The term Time and Materials means the sum of all costs reasonably and necessarily incurred and paid by Contractor for labor, materials, and equipment in the proper performance of Additional Work. Except as otherwise may be agreed to in writing by the Town, such costs shall be in amounts no higher than those prevailing in the locality of the Project, and shall include only the following items.
 - b. Timely and Final Documentation.
 - i. T&M Daily Sheets. Contractor must submit timesheets, materials invoices, records of equipment hours, and records of rental equipment hours to the Town's Representative for an approval signature **each day** Additional Work is performed. Failure to get the Town's Representative's approval signature each Day shall result in a waiver of Contractor's right to claim these costs. The Town's Representative's signature on time sheets only

serves as verification that the Work was performed and is not indicative of Town's agreement to Contractor's entitlement to the cost.

- ii. T&M Daily Summary Sheets. All documentation of incurred costs ("T&M Daily Summary Sheets") shall be submitted by Contractor within **three (3) Days** of incurring the cost for labor, material, equipment, and special services as Additional Work is performed. Contractor's actual costs shall be presented in a summary table in an electronic spreadsheet file by labor, material, equipment, and special services. Each T&M Daily Summary Sheet shall include Contractor's actual costs incurred for the Additional Work performed that day and a cumulative total of Contractor's actual costs incurred for the Additional Work. Contractor's failure to provide a T&M Daily Summary Sheet showing a total cost summary within three (3) Days but within five (5) Days of performance of the Work will result in the Contractor's otherwise allowable overhead and profit being reduced by 50% for that portion of Additional Work which was not documented in a timely manner. Contractor's failure to submit the T&M Daily Summary Sheet within five (5) Days of performance of the Work will result in a total waiver of Contractor's right to claim these costs.
- iii. T&M Total Cost Summary Sheet. Contractor shall submit a T&M Total Cost Summary Sheet, which shall include total actual costs, within **seven (7) Days** following completion of Town approved Additional Work. Contractor's total actual cost shall be presented in a summary table in an electronic spreadsheet file by labor, material, equipment, and special services. Contractor's failure to submit the T&M Total Cost Summary Sheet within seven (7) Days of completion of the Additional Work will result in Contractor's waiver for any reimbursement of any costs associated with the T&M Summary Sheets or the performance of the Additional Work.
- c. Labor. The Contractor will be paid the cost of labor for the workers used in the actual and direct performance of the Work. The cost of labor will be the sum of the actual wages paid (which shall include any employer payments to or on behalf of the workers for health and welfare, pension, vacation, and similar purposes) substantiated by timesheets and certified payroll for wages prevailing for each craft or type of workers performing the Additional Work at the time the Additional Work is done, and the labor surcharge set forth in the Department of Transportation publication entitled *Labor Surcharge and Equipment Rental Rates*, which is in effect on the date upon which the Work is accomplished and which is a part of the Contract. The labor surcharge shall constitute full compensation for all payments imposed by Federal, State, or local laws and for all other payments made to, or on behalf of, the workers, other than actual wages.
 - i. Equipment Operator Exception. Labor costs for equipment operators and helpers shall be paid only when such costs are not included in the invoice for equipment rental.
 - ii. Foreman Exception. The labor costs for foremen shall be proportioned to all of their assigned work and only that applicable to the Additional Work shall be paid. Indirect labor costs, including, without limitation, the

superintendent, project manager, and other labor identified in the Contract Documents will be considered Overhead.

- d. Materials. The cost of materials reported shall be itemized at invoice or lowest current price at which materials are locally available and delivered to the Project site in the quantities involved, plus the cost of sales tax, freight, delivery, and storage.
 - i. Trade discounts available to the purchaser shall be credited to the Town notwithstanding the fact that such discounts may not have been taken by Contractor.
 - ii. For materials secured by other than a direct purchase and direct billing to the purchaser, the cost shall be deemed to be the price paid to the actual supplier as determined by the Town's Representative.
 - iii. Payment for materials from sources owned wholly or in part by the purchaser shall not exceed the price paid by the purchaser for similar materials from said sources on Additional Work items or the current wholesale price for such materials delivered to the Project site, whichever price is lower.
 - iv. If, in the opinion of the Town's Representative, the cost of materials is excessive, or Contractor does not furnish satisfactory evidence of the cost of such materials, then the cost shall be deemed to be the lowest current wholesale price for the total quantity concerned delivered to the Project site less trade discounts.
 - v. The Town reserves the right to furnish materials for the Additional Work and no Claim shall be allowed by Contractor for costs of such materials or Indirect Costs or profit on Town furnished materials.
- e. Equipment.
 - i. Rental Time. The rental time to be paid for equipment on the Project site shall be the time the equipment is in productive operation on the Additional Work being performed and, in addition, shall include the time required to move the equipment to the location of the Additional Work and return it to the original location or to another location requiring no more time than that required to return it to its original location; except that moving time will not be paid if the equipment is used on other than the Additional Work, even though located at the site of the Additional Work.
 - (a) Rental Time Not Allowed. Rental time will not be allowed while equipment is inoperative due to breakdowns.
 - (b) Computation Method. The following shall be used in computing the rental time of equipment on the Project site.
 - (i) When hourly rates are paid, any part of an hour less than 30 minutes of operation shall be considered to be 1/2-hour of

operation, and any part of an hour in excess of 30 minutes will be considered one hour of operation.

(ii) When daily rates are paid, any part of a day less than 4 hours operation shall be considered to be 1/2-day of operation, and any part of an hour in excess of 4 hours will be considered one day of operation.

ii. Rental Rates. Contractor will be paid for the use of equipment at the lesser of (i) the actual rental rate, or (ii) the rental rate listed for that equipment in the California Department of Transportation publication entitled *Labor Surcharge and Equipment Rental Rates*, which is in effect on the date upon which the Contract was executed. Such rental rates will be used to compute payments for equipment whether the equipment is under Contractor's control through direct ownership, leasing, renting, or another method of acquisition. The rental rate to be applied for use of each item of equipment shall be the rate (i.e., daily, monthly) resulting in the least total cost to the Town for the total period of use. If it is deemed necessary by Contractor to use equipment not listed in the publication, an equitable rental rate for the equipment will be established by the Town's Representative. Contractor may furnish cost data which might assist the Town's Representative in the establishment of the rental rate.

iii. Contractor-Owned Equipment.

(a) For Contractor-owned equipment, the allowed equipment rental rate will be limited to the monthly equipment rental rate using a utilization rate of 173 hours per month.

(b) For Contractor-owned equipment, the rental time to be paid for equipment on the Site shall be the time the equipment is in productive operation, unless, in the instance of standby time, the equipment could be actively used by Contractor on another project, then Town shall pay for the entirety of the time the equipment is on Site. It shall be Contractor's burden to demonstrate to the Town that the equipment could be actively used on another project.

iv. All equipment shall, in the opinion of the Town's Representative, be in good working condition and suitable for the purpose for which the equipment is to be used.

v. Before construction equipment is used on the Additional Work, Contractor shall plainly stencil or stamp an identifying number thereon at a conspicuous location, and shall furnish to the Town's Representative, in duplicate, a description of the equipment and its identifying number and the scheduled Additional Work activities planned.

vi. Unless otherwise specified, manufacturer's rating and manufacturer approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct

power unit shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

- f. Special Services. Special work or services are defined as that Additional Work characterized by extraordinary complexity, sophistication, or innovation or a combination of the foregoing attributes which are unique to the construction industry.
 - i. Invoices for Special Services. When the Town's Representative and Contractor determine that a special service is required which cannot be performed by the forces of Contractor or those of any of its Subcontractors, the special service may be performed by an entity especially skilled in the Additional Work. Invoices for special services based upon the current fair market value thereof may be accepted without complete itemization of labor, material, and equipment rental costs, after validation of market values by the Town's Representative.
 - ii. Discount and Allowance. All invoices for special services will be adjusted by deducting all trade discounts offered or available, whether the discounts were taken or not. In lieu of Overhead and Profit specified herein, a total allowance not to exceed fifteen percent (15%) for Overhead and Profit will be added to invoices for Special Services.
 - iii. When the Town determines, in its sole discretion, that competitive bidding is necessary for certain special services, Contractor shall solicit competitive bids for those special services.
- g. Excluded Costs. The term Time and Material shall not include any of the following costs or any other home or field office overhead costs, all of which are to be considered administrative costs covered by Contractor's allowance for Overhead and Profit.
 - i. Overhead Cost. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, timekeepers, clerks, and other personnel employed by Contractor whether at the Site or in Contractor's principal office or any branch office, material yard, or shop for general administration of the Additional Work;
 - ii. Office Expenses. Expenses of Contractor's principal and branch offices;
 - iii. Capital Expenses. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Additional Work and charges against Contractor for delinquent payments;
 - iv. Negligence. Costs due to the negligence of Contractor or any Subcontractor or Supplier, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including without limitation the correction of Defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property;

- v. Other. Other overhead or general expense costs of any kind and the cost of any item not specifically and expressly included in the Contract Documents;
 - vi. Small Tools. Cost of small tools valued at less than \$1,000 and that remain the property of Contractor;
 - vii. Administrative Costs. Costs associated with the preparation of Change Orders (whether or not ultimately authorized), cost estimates, or the preparation or filing of Claims;
 - viii. Anticipated Lost Profits. Expenses of Contractor associated with anticipated lost profits or lost revenues, lost income or earnings, lost interest on earnings, or unpaid retention;
 - ix. Home Office Overhead. Costs derived from the computation of a “home office overhead” rate by application of the *Eichleay, Allegheny*, burden fluctuation, or other similar methods;
 - x. Special Consultants and Attorneys. Costs of special consultants or attorneys, whether or not in the direct employ of Contractor, employed for services specifically related to the resolution of a Claim, dispute, or other matter arising out of or relating to the performance of the Additional Work.
- h. Overhead, Profit and Other Charges. The mark-up for overhead (including supervision) and profit on work added to the Contract shall be according to the following:
- i. “Net Cost” is defined as consisting of costs of labor, materials, and tools and equipment only excluding overhead and profit. The costs of applicable insurance and bond premium will be reimbursed to the Contractor and subcontractors at cost only, without mark-up. Contractor shall provide Town with documentation of the costs, including, but not limited to, payroll records, invoices, and such other information as Town may reasonably request.
 - ii. For Work performed by the Contractor’s forces, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the Net Cost of the Work.
 - iii. For Work performed by a subcontractor, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the subcontractor’s Net Cost of the Work to which the Contractor may add five percent (5%) of the subcontractor’s Net Cost.
 - iv. For Work performed by a sub-subcontractor, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the sub-subcontractor’s Net Cost for Work to which the subcontractor and general contractor may each add an additional five percent (5%) of the Net Cost of the lower tier subcontractor.

- v. No additional mark-up will be allowed for lower tier subcontractors, and in no case shall the added cost for overhead and profit payable by Town exceed twenty-five percent (25%) of the Net Cost as defined herein, of the party that performs the Work.
5. All of the following costs are included in the markups for overhead and profit described above, and Contractor shall not receive any additional compensation for: Submittals, drawings, field drawings, Shop Drawings, including submissions of drawings; field inspection; General Superintendence; General administration and preparation of cost proposals, schedule analysis, Change Orders, and other supporting documentation; computer services; reproduction services; Salaries of project engineer, superintendent, timekeeper, storekeeper, and secretaries; Janitorial services; Small tools, incidentals and consumables; Temporary On-Site facilities (Offices, Telephones, High Speed Internet Access, Plumbing, Electrical Power, Lighting; Platforms, Fencing, Water), Jobsite and Home office overhead or other expenses; vehicles and fuel used for work otherwise included in the Contract Documents; Surveying; Estimating; Protection of Work; Handling and disposal fees; Final Cleanup; Other Incidental Work; Related Warranties; insurance and bond premiums.
 6. For added or deducted Work by subcontractors, the Contractor shall furnish to the Town the subcontractor's signed detailed record of the cost of labor, material and equipment, including the subcontractor markup for overhead and profit. The same requirement shall apply to sub-subcontractors
 7. For added or deducted work furnished by a vendor or supplier, the Contractor shall furnish to the Town a detailed record of the cost to the Contractor, signed by such vendor or supplier.
 8. Any change in the Work involving both additions and deletions shall indicate a net total cost, including subcontracts and materials. Allowance for overhead and profit, as specified herein, shall be applied if the net total cost is an increase in the Contract Price; overhead and profit allowances shall not be applied if the net total cost is a deduction to the Contract Price. The estimated cost of deductions shall be based on labor and material prices on the date the Contract was executed.
 9. Contractor shall not reserve a right to assert impact costs, extended job site costs, extended overhead, constructive acceleration and/or actual acceleration beyond what is stated in the Change Order for Work. No claims shall be allowed for impact, extended overhead costs, constructive acceleration and/or actual acceleration due to a multiplicity of changes and/or clarifications. The Contractor may not change or modify the Town's change order form in an attempt to reserve additional rights.
 10. If the Town disagrees with the proposal submitted by Contractor, it will notify the Contractor and the Town will provide its opinion of the appropriate price and/or time extension. If the Contractor agrees with the Town, a Change Order will be issued by the Town. If no agreement can be reached, the Town shall have the right to issue a unilateral Change Order setting forth its determination of the reasonable additions or savings in costs and time attributable to the extra or deleted work. Such determination shall become final and binding if the Contractor fails to submit a claim in writing to the Town within fifteen (15) Days of the issuance

of the unilateral Change Order, disputing the terms of the unilateral Change Order, and providing such supporting documentation for its position as the Town may require.

C. Change of Contract Times.

1. The Contract Times may only be changed by a Change Order.
2. All changes in the Contract Price and/or adjustments to the Contract Times related to each change shall be included in Contractor's COR pursuant to this Article. No cost or time will be allowed for cumulative effects of multiple changes. All Change Orders must state that the Contract Time is not changed or is either increased or decreased by a specific number of days. Failure to include a change to time shall waive any change to the time unless the parties mutually agree in writing to postpone a determination of the change to time resulting from the Change Order.
3. Notice of the amount of the request for adjustment in the Contract Times with supporting data shall be delivered within seven (7) Days after such start of occurrence, unless Town's Representative allows an additional period of time to ascertain more accurate data in support of the request. No extension of time or additional compensation shall be given for a delay if the Contractor failed to give notice in the manner and within the time prescribed.
4. Town may elect, at Town's sole discretion, to grant an extension in Contract Times, without Contractor's request, because of delays or other factors.
5. Use of Float and Critical Path.
 - a. Float is for the benefit of the Project. Float shall not be considered for the exclusive use or benefit of either the Town or the Contractor.
 - b. Contractor shall not be entitled to compensation, and Town will not compensate Contractor, for delays which impact early completion. Any difference in time between the Contractor's early completion and the Contract Time shall be considered a part of the Project float.
6. Contractor's entitlement to an extension of the Contract Times is limited to a Town-caused extension of the critical path, reduced by the Contractor's concurrent delays, and established by a proper time impact analysis. No time extension shall be allowed unless, and then only to the extent that, the Town-caused delay extends the critical path beyond the previously approved Contract Time. If approved, the increase in time required to complete the Work shall be added to the Contract Time.
 - a. Contractor shall not be entitled to an adjustment in the Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.
 - b. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions (as determined by the Town),

Acts of God, acts or failures to act of utility owners not under the control of Town, or other causes not the fault of and beyond control of Town and Contractor, then Contractor shall be entitled to an time extension when the Work stopped is on the critical path. Such a non-compensable adjustment shall be Contractor's sole and exclusive remedy for such delays. Contractor must submit a timely request in accordance with the requirements of this Article.

c. Utility-Related Delays.

- i. Contractor shall immediately notify in writing the utility owner and Town's Representative of its construction schedule and any subsequent changes in the construction schedule which will affect the time available for protection, removal, or relocation of utilities. Requests for extensions of time arising out of utility relocation or repair delays shall be filed in accordance with this Article.
- ii. Contractor shall not be entitled to damages or additional payment for delays attributable to utility relocations or alterations if correctly located, as noted in the Contract Documents or by the Underground Service Alert survey.

7. Content for Requests for Contract Extension. Contractor's justification for entitlement shall be clear and complete citing specific Contract Document references and reasons on which Contractor's entitlement is based. At a minimum, each request for a time extension must include:

- a. Each request for an extension of Contract Time must identify the impacting event, in narrative form, providing a description of the delay event and sufficient justification as to why the Contractor is entitled to a time extension. Contractor must demonstrate that the delay arises from unforeseeable causes beyond the control and without the fault or negligence of both Contractor and any Subcontractors or Suppliers, or any other persons or organizations employed by any of them or for whose acts any of them may be liable, and that such causes in fact lead to performance or completion of the Work, or specified part in question, beyond the corresponding Contract Times, despite Contractor's reasonable and diligent actions to guard against those effects.
- b. Each request for an extension of Contract Time must include a time impact analysis in CPM format, using the Contemporaneous Impacted As-Planned Schedule Analysis to calculate the impact of the delay event.

8. No Damages for Reasonable Delay.

- a. Town's liability to Contractor for delays for which Town is responsible shall be limited to only an extension of time unless such delays were unreasonable under the circumstances. In no case shall Town be liable for any costs which are borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and other ongoing costs.

- b. Damages caused by unreasonable Town delay that impact the critical path, including delays caused by items that are the responsibility of the Town pursuant to Government Code section 4215, shall be compensated at the Daily Rate established in the Special Conditions. No other calculations, proportions or formulas shall be used to calculate any delay damages.
 - c. Town and Town's Representative, and the officers, members, partners, employees, agents, consultants, or subcontractors of each of them, shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
9. Contractor's failure, neglect, or refusal to comply with the requirements of the Contract Documents, or any portion thereof, shall bar Contractor's request for extensions of the Contract Times. Such failure, neglect, or refusal prejudices Town's and Town's Representative's ability to recognize and mitigate delay, and such failure, neglect, or refusal prevent the timely analysis of requests for extensions of Contract Times, and whether such extensions may be warranted. Contractor hereby waives all rights to extensions of Contract Times due to delays or accelerations that result from or occur during periods of time for which Contractor fails, neglects, or refuses to fully comply with the requirements of this Article.

ARTICLE 44. FINAL ACCEPTANCE AND PAYMENT

- A. The acceptance of the Work on behalf of the Town will be made by the Engineer. Such acceptance by the Town shall not constitute a waiver of defects. When the Work has been accepted there shall be paid to Contractor a sum equal to the contract price less any amounts previously paid Contractor and less any amounts withheld by the Town from Contractor under the terms of the contract. The final five percent (5%), or the percentage specified in the notice inviting bids where the Town has adopted a finding of substantially complete, shall not become due and payable until five (5) calendar days shall have elapsed after the expiration of the period within which all claims may be filed under the provisions of Civil Code section 9356. If the Contractor has placed securities with the Town as described herein, the Contractor shall be paid a sum equal to one hundred percent (100%) of the contract price less any amounts due the Town under the terms of the Contract.
- B. Unless Contractor advises the Town in writing prior to acceptance of the final five percent (5%) or the percentage specified in the notice inviting bids where the Town has adopted a finding of substantially complete, or the return of securities held as described herein, said acceptance shall operate as a release to the Town of all claims and all liability to Contractor for all things done or furnished in connection with this work and for every act of negligence of the Town and for all other claims relating to or arising out of this work. If Contractor advises the Town in writing prior to acceptance of final payment or return of the securities that there is a dispute regarding the amount due the Contractor, the Town may pay the undisputed amount contingent upon the Contractor furnishing a release of all undisputed claims against the Town with the disputed claims in stated amounts being specifically excluded by Contractor from the

operation of the release. No payments, however, final or otherwise, shall operate to release Contractor or its sureties from the Faithful Performance Bond, Labor and Material Payment Bond, or from any other obligation under this contract.

- C. In case of suspension of the contract any unpaid balance shall be and become the sole and absolute property of the Town to the extent necessary to repay the Town any excess in the cost of the Work above the contract price.
- D. Final payment shall be made no later than 60 days after the date of acceptance of the Work by the Town or the date of occupation, beneficial use and enjoyment of the Work by the Town including any operation only for testing, start-up or commissioning accompanied by cessation of labor on the Work, provided that a release of liens and claims has been received from the Contractor pursuant to Civil Code section 8136. In the event of a dispute between the Town and the Contractor, the Town may withhold from the final payment an amount not to exceed 150% of the disputed amount.
- E. Within ten (10) calendar days from the time that all or any portion of the retention proceeds are received by Contractor, Contractor shall pay each of its subcontractors from whom retention has been withheld each subcontractor's share of the retention received. However, if a retention payment received by Contractor is specifically designated for a particular subcontractor, payment of the retention shall be made to the designated subcontractor if the payment is consistent with the terms of the subcontract.

ARTICLE 45. OCCUPANCY

The Town reserves the right to occupy or utilize any portion of the Work at any time before completion, and such occupancy or use shall not constitute acceptance of any part of Work covered by this Contract. This use shall not relieve the Contractor of its responsibilities under the Contract.

ARTICLE 46. INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall immediately defend (with counsel of the Town's choosing), indemnify and hold harmless the Town, officials, officers, agents, employees, and representatives, and each of them from and against:

- A. Any and all claims, demands, causes of action, costs, expenses, injuries, losses or liabilities, in law or in equity, of every kind or nature whatsoever, but not limited to, injury to or death, including wrongful death, of any person, and damages to or destruction of property of any person, arising out of, related to, or in any manner directly or indirectly connected with the Work or this Contract, including claims made by subcontractors for nonpayment, including without limitation the payment of all consequential damages and attorney's fees and other related costs and expenses, however caused, regardless of whether the allegations are false, fraudulent, or groundless, and regardless of any negligence of the Town or its officers, employees, or authorized volunteers (including passive negligence), except the sole negligence or willful misconduct or active negligence of the Town or its officials, officers, employees, or authorized volunteers.

- B. Contractor's defense and indemnity obligation herein includes, but is not limited to damages, fines, penalties, attorney's fees and costs arising from claims under the Americans with Disabilities Act (ADA) or other federal or state disability access or discrimination laws arising from Contractor's Work during the course of construction of the improvements or after the Work is complete, as the result of defects or negligence in Contractor's construction of the improvements.
- C. Any and all actions, proceedings, damages, costs, expenses, fines, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of Contractor;
- D. Any and all losses, expenses, damages (including damages to the Work itself), attorney's fees, and other costs, including all costs of defense which any of them may incur with respect to the failure, neglect, or refusal of Contractor to faithfully perform the Work and all of Contractor's obligations under the agreement. Such costs, expenses, and damages shall include all costs, including attorney's fees, incurred by the indemnified parties in any lawsuit to which they are a party.

Contractor shall immediately defend, at Contractor's own cost, expense and risk, with the City Council's choosing, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the Town, its officials, officers, agents, employees and representatives. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the Town, its officials, officers, employees, agents, employees and representatives, in any such suit, action or other legal proceeding. Contractor shall reimburse the Town, its officials, officers, agents, employees and representatives for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The only limitations on this provision shall be those imposed by Civil Code section 2782.

ARTICLE 47. PROCEDURE FOR RESOLVING DISPUTES

In accordance with Public Contract Code sections 20104 *et seq.* and other applicable law, public works claims of \$375,000 or less which arise between the Contractor and the Town shall be resolved under the following statutory procedure unless the Town has elected to resolve the dispute pursuant to Public Contract Code section 10240 *et seq.*

- A. **All Claims.** All claims shall be submitted in writing and accompanied by substantiating documentation. Claims must be filed on or before the date of final payment unless other notice requirements are provided in the contract. "Claim" means a separate demand by the Contractor for (1) a time extension, (2) payment of money or damages arising from work done by or on behalf of the Contractor and payment of which is not otherwise expressly provided for or the Contractor is not otherwise entitled, or (3) an amount the payment of which is disputed by the Town.
- B. **Claims Under \$50,000.** The Town shall respond in writing to the claim within 45 calendar days of receipt of the claim, or, the Town may request, in writing, within 30 calendar days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the Town may have. If additional information is needed thereafter, it shall be provided upon mutual agreement of the Town and the Contractor. The Town's written response shall be submitted 15 calendar days after

receiving the additional documentation, or within the same period of time taken by the Contractor to produce the additional information, whichever is greater.

- C. **Claims over \$50,000 but less than or equal to \$375,000.** The Town shall respond in writing within 60 calendar days of receipt, or, may request in writing within 30 calendar days of receipt of the claim, any additional documents supporting the claim or relating to defenses or claims the Town may have against the Town. If additional information is needed thereafter, it shall be provided pursuant to mutual agreement between the Town and the Contractor. The Town response shall be submitted within 30 calendar days after receipt of the further documents, or within the same period of time taken by the Contractor to produce the additional information or documents, whichever is greater. The Contractor shall make these records and documents available at all reasonable times, without any direct charge.
- D. **All Claims.** The Contractor will submit the claim justification in the following format:
1. Summary of claim merit and price, and Contract clause pursuant to which the claim is made.
 2. List of documents relating to claim:
 - a. Specifications
 - b. Drawings
 - c. Clarifications (Requests for Information)
 - d. Schedules
 - e. Other (All Related Documents)
 3. Chronology of events and correspondence.
 4. Analysis of claim merit.
 5. Analysis of claim cost.
 6. Analysis of time impact analysis in CPM format.
 7. Cover letter and certification of validity of the claim.
- E. **All Claims.** Notwithstanding the foregoing, all public works claims between the Contractor and the Town shall be resolved pursuant to the procedures set forth in Public Contract Code section 9204. The Town will provide a written response to the Contractor identifying what portion of the claim is disputed and what portion is undisputed within 45 days of receipt of the claim, unless the parties mutually agree to extend the time for response. If the Town does not respond within the 45-day time period, or as extended by mutual agreement, the claim shall be deemed rejected in its entirety.
- F. **All Claims.** If the Contractor disputes the Town's response, or if the Town fails to respond within the statutory time period(s), the Contractor may so notify the Town within 15 calendar days of the receipt of the response or the failure to respond, and demand an informal conference to meet and confer for settlement. Upon such

demand, the Town shall schedule a meet and confer conference within 30 calendar days.

- G. **All Claims.** Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion thereof remains in dispute, the Town shall provide the Contractor with a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any portion of the claim that remains in dispute shall be submitted to nonbinding mediation. The selection of the mediator shall be in accordance with Public Contract Code section 9204, and the Town and the Contractor shall equally share the associated mediator fees. Each party will be responsible for its own attorneys' fees and other costs.
- H. The Contractor must comply with the claims filing procedures set forth in Government Code sections 900 *et seq.* for any claim or any portion thereof that remains in dispute, after the meet and confer conference. For purposes of those provisions, the time within which a claim must be filed shall be tolled from the time the Contractor submits the written claim until the time the claim is denied, including any time utilized for the meet and confer conference. Submission of a claim, properly certified, with all required supporting documentation, and written rejection or denial of all or part of the claim by the Town, is a condition precedent to any action, proceeding, litigation, suit, general conditions claim, or demand for arbitration by Contractor.
- I. **Government Code Claim.** In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, construction claims and/or changed conditions, the Contractor must comply with the claim procedures set forth in Government Code sections 900 *et seq.* prior to filing any lawsuit against the Town. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, construction claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if the prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the Town.

ARTICLE 48. TOWN'S RIGHT TO TERMINATE CONTRACT

A. Termination for Cause by the Town:

- 1. In the sole estimation of the Town, if the Contractor refuses or fails to prosecute the Work or any separable part thereof with such diligence as will insure its completion within the time specified by the Contract Documents, or any extension thereof, or fails to complete such Work within such time, or if the Contractor should be adjudged a bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or the Contractor or any of its subcontractors should violate any of the provisions of this Contract, the Town may serve written notice upon the Contractor and its Surety of the Town's intention to terminate this Contract. This notice of intent to terminate shall contain the reasons for such intention to terminate this Contract, and a statement to the effect that the Contractor's right to perform this Contract shall cease and terminate upon the expiration of ten (10) calendar days unless such

violations have ceased and arrangements satisfactory to the Town have been made for correction of said violations.

2. In the event that the Town serves such written notice of termination upon the Contractor and the Surety, the Surety shall have the right to take over and perform the Contract. If the Surety does not: (1) give the Town written notice of Surety's intention to take over and commence performance of the Contract within 15 calendar days of the Town's service of said notice of intent to terminate upon Surety; and (2) actually commence performance of the Contract within 30 calendar days of the Town's service of said notice upon Surety; then the Town may take over the Work and prosecute the same to completion by separate contract or by any other method it may deem advisable for the account and at the expense of the Contractor.
3. In the event that the Town elects to obtain an alternative performance of the Contract as specified above: (1) the Town may, without liability for so doing, take possession of and utilize in completion of the Work such materials, appliances, plants and other property belonging to the Contractor that are on the site and reasonably necessary for such completion (A special lien to secure the claims of the Town in the event of such suspension is hereby created against any property of Contractor taken into the possession of the Town under the terms hereof and such lien may be enforced by sale of such property under the direction of the City Council without notice to Contractor. The proceeds of the sale after deducting all expenses thereof and connected therewith shall be credited to Contractor. If the net credits shall be in excess of the claims of the Town against Contractor, the balance will be paid to Contractor or Contractor's legal representatives.); and (2) Surety shall be liable to the Town for any cost or other damage to the Town necessitated by the Town securing an alternate performance pursuant to this Article.

B. Termination for Convenience by the Town:

1. The Town may terminate performance of the Work called for by the Contract Documents in whole or, from time to time, in part, if the Town determines that a termination is in the Town's interest.
2. The Contractor shall terminate all or any part of the Work upon delivery to the Contractor of a Notice of Termination specifying that the termination is for the convenience of the Town, the extent of termination, and the Effective Date of such termination.
3. After receipt of Notice of Termination, and except as directed by the Town's Representative, the Contractor shall, regardless of any delay in determining or adjusting any amounts due under this Termination for Convenience clause, immediately proceed with the following obligations:
 - a. Stop Work as specified in the Notice.
 - b. Complete any Work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality called for under the Contract Documents.

- c. Leave the property upon which the Contractor was working and upon which the facility (or facilities) forming the basis of the Contract Document is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety.
 - d. Terminate all subcontracts to the extent that they relate to the portions of the Work terminated.
 - e. Place no further subcontracts or orders, except as necessary to complete the continued portion of the Contract.
 - f. Submit to the Town's Representative, within ten (10) calendar days from the Effective Date of the Notice of Termination, all of the usual documentation called for by the Contract Documents to substantiate all costs incurred by the Contractor for labor, materials and equipment through the Effective Date of the Notice of Termination. Any documentation substantiating costs incurred by the Contractor solely as a result of the Town's exercise of its right to terminate this Contract pursuant to this clause, which costs the contractor is authorized under the Contract documents to incur, shall: (1) be submitted to and received by the Engineer no later than 30 calendar days after the Effective Date of the Notice of Termination; (2) describe the costs incurred with particularity; and (3) be conspicuously identified as "Termination Costs occasioned by the Town's Termination for Convenience."
4. Termination of the Contract shall not relieve Surety of its obligation for any just claims arising out of or relating to the Work performed.
5. In the event that the Town exercises its right to terminate this Contract pursuant to this clause, the Town shall pay the Contractor, upon the Contractor's submission of the documentation required by this clause and other applicable provisions of the Contract Documents, the following amounts:
 - a. All actual reimbursable costs incurred according to the provisions of this Contract.
 - b. A reasonable allowance for profit on the cost of the Work performed, provided Contractor establishes to the satisfaction of the Town's Representative that it is reasonably probable that Contractor would have made a profit had the Contract been completed and provided further, that the profit allowed shall in no event exceed fifteen (15%) percent of the costs.
 - c. A reasonable allowance for Contractor's administrative costs in determining the amount payable due to termination of the Contract under this Article.
- C. Notwithstanding any other provision of this Article, when immediate action is necessary to protect life and safety or to reduce significant exposure or liability, the Town may immediately order Contractor to cease Work on the Project until such safety or liability issues are addressed to the satisfaction of the Town or the Contract is terminated.

ARTICLE 49. WARRANTY AND GUARANTEE OF WORK

- A. Contractor hereby warrants that materials and Work shall be completed in conformance with the Contract Documents and that the materials and Work provided will fulfill the requirements of this Warranty. Contractor hereby agrees to repair or replace, at the discretion of the Town, any or all Work that may prove to be defective in its workmanship, materials furnished, methods of installation or fail to conform to the Contract Document requirements together with any other Work which may be damaged or displaced by such defect(s) within a period of one (1) year from the date of the Notice of Completion of the Project without any expense whatever to the Town, ordinary wear and tear and unusual abuse and neglect excepted. Contractor shall be required to promptly repair or replace defective equipment or materials, at Contractor's option. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstatement of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor.
- B. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an additional one (1) year period, commencing with the date of acceptance of such corrected Work. The reinstatement of the one (1) year warranty shall apply only to that portion of work that was corrected. Contractor shall perform such tests as Town may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. In the event of Contractor's failure to comply with the above-mentioned conditions within ten (10) calendar days after being notified in writing of required repairs, to the reasonable satisfaction of the Town, the Town shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the Town for any expenses incurred hereunder immediately upon demand.
- C. In addition to the warranty set forth in this Article, Contractor shall obtain for Town all warranties that would be given in normal commercial practice and assign to Town any and all manufacturer's or installer's warranties for equipment or materials not manufactured by Contractor and provided as part of the Work, to the extent that such third-party warranties are assignable and extend beyond the warranty period set forth in this Article. Contractor shall furnish the Town with all warranty and guarantee documents prior to final Acceptance of the Project by the Town as required.
- D. When specifically indicated in the Contract Documents or when directed by the Engineer, the Town may furnish materials or products to the Contractor for installation. In the event any act or failure to act by Contractor shall cause a warranty applicable to any materials or products purchased by the Town for installation by the Contractor to be voided or reduced, Contractor shall indemnify Town from and against any cost, expense, or other liability arising therefrom, and shall be responsible to the Town for the cost of any repairs, replacement or other costs that would have been covered by the warranty but for such act or failure to act by Contractor.
- E. The Contractor shall remedy at its expense any damage to Town-owned or controlled real or personal property.

- F. The Town shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage. The Contractor shall within ten (10) calendar days after being notified commence and perform with due diligence all necessary Work. If the Contractor fails to promptly remedy any defect, or damage; the Town shall have the right to replace, repair or otherwise remedy the defect, or damage at the Contractor's expense.
- G. In the event of any emergency constituting an immediate hazard to health, safety, property, or licensees, when caused by Work of the Contractor not in accordance with the Contract requirements, the Town may undertake at Contractor's expense, and without prior notice, all Work necessary to correct such condition.
- H. Acceptance of Defective Work.
1. If, instead of requiring correction or removal and replacement of Defective Work, the Town prefers to accept it, Town may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Town's evaluation of and determination to accept such Defective Work and for the diminished value of the Work.
 2. If any acceptance of defective work occurs prior to release of the Project Retention, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Town shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work and all costs incurred by Town.
 3. If the Project Retention is held in an escrow account as permitted by the Contract Documents, Contractor will promptly alert the escrow holder, in writing, of the amount of Retention to be paid to Town.
 4. If the acceptance of Defective Work occurs after release of the Project Retention, an appropriate amount will be paid by Contractor to Town.
- I. Town May Correct Defective Work.
1. If Contractor fails within a reasonable time after written notice from Town's Representative to correct Defective Work, or to remove and replace rejected Work as required by Town, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Town may, after seven (7) Days' written notice to Contractor, correct, or remedy any such deficiency.
 2. In connection with such corrective or remedial action, Town may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Town has paid Contractor but which are stored elsewhere. Contractor shall allow Town and Town's Representative, and the agents, employees, other contractors,

and consultants of each of them, access to the Site to enable Town to exercise the rights and remedies to correct the Defective Work.

3. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Town correcting the Defective Work will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions into the Contract Documents with respect to the Work; and Town shall be entitled to an appropriate decrease in the Contract Price.
 4. Such claims, costs, losses and damages will include, but not be limited to, all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Defective Work.
 5. If the Change Order is executed after all payments under the Contract have been paid by Town and the Project Retention is held in an escrow account as permitted by the Contract Documents, Contractor will promptly alert the escrow holder, in writing, of the amount of Retention to be paid to Town.
 6. If the Change Order is executed after release of the Project Retention, an appropriate amount will be paid by Contractor to Town.
 7. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to Town correcting Defective work.
- J. Nothing in the Warranty or in the Contract Documents shall be construed to limit the rights and remedies available to Town at law or in equity, including, but not limited to, Code of Civil Procedure section 337.15.

ARTICLE 50. DOCUMENT RETENTION & EXAMINATION

- A. In accordance with Government Code section 8546.7, records of both the Town and the Contractor shall be subject to examination and audit by the State Auditor General for a period of three (3) years after final payment.
- B. Contractor shall make available to the Town any of the Contractor's other documents related to the Project immediately upon request of the Town.
- C. In addition to the State Auditor rights above, the Town shall have the right to examine and audit all books, estimates, records, contracts, documents, bid documents, subcontracts, and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the modification in order to evaluate the accuracy and completeness of the cost or pricing data at no additional cost to the Town, for a period of four (4) years after final payment.

ARTICLE 51. SEPARATE CONTRACTS

- A. The Town reserves the right to let other contracts in connection with this Work or on the Project site. Contractor shall permit other contractors reasonable access and

storage of their materials and execution of their work and shall properly connect and coordinate its Work with theirs.

- B. To ensure proper execution of its subsequent Work, Contractor shall immediately inspect work already in place and shall at once report to the Engineer any problems with the Work in place or discrepancies with the Contract Documents.
- C. Contractor shall ascertain to its own satisfaction the scope of the Project and nature of any other contracts that have been or may be awarded by the Town in prosecution of the Project to the end that Contractor may perform this Contract in the light of such other contracts, if any. Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy at site of the Project. Contractor shall not cause any unnecessary hindrance or delay to any other contractor working on the Project. If simultaneous execution of any contract for the Project is likely to cause interference with performance of some other contract or contracts, the Engineer shall decide which Contractor shall cease Work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously. The Town shall not be responsible for any damages suffered or for extra costs incurred by Contractor resulting directly or indirectly from award, performance, or attempted performance of any other contract or contracts on the Project site.

ARTICLE 52. NOTICE AND SERVICE THEREOF

All notices shall be in writing and either served by personal delivery or mailed to the other party as designated in the Bid Forms. Written notice to the Contractor shall be addressed to Contractor's principal place of business unless Contractor designates another address in writing for service of notice. Notice to Town shall be addressed to the Town as designated in the Notice Inviting Bids unless Town designates another address in writing for service of notice. Notice shall be effective upon receipt or five (5) calendar days after being sent by first class mail, whichever is earlier. Notice given by facsimile shall not be effective unless acknowledged in writing by the receiving party.

ARTICLE 53. NOTICE OF THIRD PARTY CLAIMS

Pursuant to Public Contract Code section 9201, the Town shall provide the Contractor with timely notification of the receipt of any third-party claims relating to the Contract. The Town is entitled to recover reasonable costs incurred in providing such notification.

ARTICLE 54. STATE LICENSE BOARD NOTICE

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

ARTICLE 55. INTEGRATION

- A. **Oral Modifications Ineffective.** No oral order, objection, direction, claim or notice by any party or person shall affect or modify any of the terms or obligations contained in the Contract Documents.
- B. **Contract Documents Represent Entire Contract.** The Contract Documents represent the entire agreement of the Town and Contractor.

ARTICLE 56. ASSIGNMENT OF CONTRACT

Contractor shall not assign, transfer, convey, sublet or otherwise dispose of the rights or title of interest of any or all of this contract without the prior written consent of the Town. Any assignment or change of Contractor's name of legal entity without the written consent of the Town shall be void. Any assignment of money due or to become due under this Contract shall be subject to a prior lien for services rendered or Material supplied for performance of Work called for under the Contract Documents in favor of all persons, firms, or corporations rendering such services or supplying such Materials to the extent that claims are filed pursuant to the Civil Code, the Code of Civil Procedure or the Government Code.

ARTICLE 57. CHANGE IN NAME AND NATURE OF CONTRACTOR'S LEGAL ENTITY

Should a change be contemplated in the name or nature of the Contractor's legal entity, the Contractor shall first notify the Town in order that proper steps may be taken to have the change reflected on the Contract and all related documents. No change of Contractor's name or nature will affect Town's rights under the Contract, including but not limited to the bonds.

ARTICLE 58. ASSIGNMENT OF ANTITRUST ACTIONS

Pursuant to Public Contract Code section 7103.5, in entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, Contractor or subcontractor offers and agrees to assign to the Town all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC, Section 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from the purchase of goods, services, or materials pursuant to this contract or any subcontract. This assignment shall be made and become effective at the time the Town tenders final payment to the Contractor, without further acknowledgment by the parties.

ARTICLE 59. PROHIBITED INTERESTS

No Town official or representative who is authorized in such capacity and on behalf of the Town to negotiate, supervise, make, accept, or approve, or to take part in negotiating, supervising, making, accepting or approving any engineering, inspection, construction or material supply contract or any subcontract in connection with construction of the project, shall be or become directly or indirectly interested financially in the Contract.

ARTICLE 60. CONTROLLING LAW

Notwithstanding any subcontract or other contract with any subcontractor, supplier, or other person or organization performing any part of the Work, this Contract shall be governed by the law of the State of California excluding any choice of law provisions.

ARTICLE 61. JURISDICTION; VENUE

Contractor and any subcontractor, supplier, or other person or organization performing any part of the Work agrees that any action or suits at law or in equity arising out of or related to the bidding, award, or performance of the Work shall be maintained in the Superior Court of San Mateo County, California, and expressly consent to the jurisdiction of said court, regardless of residence or domicile, and agree that said court shall be a proper venue for any such action.

ARTICLE 62. LAWS AND REGULATIONS

- A. Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct of work as indicated and specified. If Contractor observes that drawings and specifications are at variance therewith, it shall promptly notify the Engineer in writing and any necessary changes shall be adjusted as provided for in this Contract for changes in work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Engineer, it shall bear all costs arising therefrom.

- B. Contractor shall be responsible for familiarity with the Americans with Disabilities Act (“ADA”) (42 U.S.C. § 12101 et seq.). The Work will be performed in compliance with ADA regulations.

ARTICLE 63. PATENTS

Contractor shall hold and save the Town, officials, officers, employees, and authorized volunteers harmless from liability of any nature or kind of claim therefrom including costs and expenses for or on account of any patented or unpatented invention, article or appliance manufactured, furnished or used by Contractor in the performance of this contract.

ARTICLE 64. OWNERSHIP OF CONTRACT DOCUMENTS

All Contract Documents furnished by the Town are Town property. They are not to be used by Contractor or any subcontractor on other work nor shall Contractor claim any right to such documents. With exception of one complete set of Contract Documents, all documents shall be returned to the Town on request at completion of the Work.

ARTICLE 65. NOTICE OF TAXABLE POSSESSORY INTEREST

In accordance with Revenue and Taxation Code section 107.6, the Contract Documents may create a possessory interest subject to personal property taxation for which Contractor will be responsible.

ARTICLE 66. SURVIVAL OF OBLIGATIONS

All representations, indemnifications, warranties, and guarantees made in, required by, or given

in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor

00 73 13 – SPECIAL CONDITIONS

1.1 Engineer of Record.

- A. For purposes of this Project, the Engineer of Record or Engineer shall be: Director of Public Works.

1.2 Location of the Project.

- A. The Project is located at 1198 El Camino Real Colma, CA 94014.
- B. The general location of the Project is shown on Town Drawing No. ID-101.

1.3 Status of the Project Area and Rights-of-Way. – NOT USED

1.4 Site Data. – NOT USED

1.5 Pre-Purchased or Pre-Negotiated Material. – NOT USED

1.6 Designation of Town’s Representative.

- A. Unless otherwise modified by Town, Town’s Representative shall be Director of Public Works.

1.7 Modification of Hours of Work.

M – F: 8AM – 7PM

SAT/SUN: 9AM – 5PM

1.8 Project Retention

In accordance with Public Contract Code § 7201, Town will withhold 5% of each progress payment as retention on the Project.

1.9 Reverse Liquidated Damages Due to Unreasonable Town Delay.

- A. In compliance with the provisions of California Public Contract Code § 7102, the Contractor will be compensated for damages incurred due to delays in completing the Work due solely to the fault of the Town, where such delay is unreasonable under the circumstances and not contemplated by the parties and such delay is not the result of Additional Work. The Contractor and Town agree that determining actual damages is impracticable and extremely difficult. As such, the Contractor shall be entitled to the appropriate time extension and to payment of liquidated damages in the sum of **\$150.00** per Day of delay in excess of the time specified for the Completion of the Work. Such amount shall constitute the only payment allowed and shall necessarily include all overhead (direct or indirect), all profit, all administrative costs, all bond costs, all labor, materials, equipment and rental costs, and any other costs, expenses and fees incurred or sustained as a result of such delay. The Contractor expressly agrees to be limited solely to the liquidated damages for all such delays as defined in this subsection.

1.10 Liquidated Damages Due to Contractor Delay.

- A. Time is of the essence. Should Contractor fail to complete all or any part of the Work within the time specified in the Contract Documents, Town will suffer damage, the amount of which is difficult, if not impossible, to ascertain and, pursuant to the authority of Government Code section 53069.85, Town shall therefore be entitled to **\$250.00** per Day as liquidated damages for each Day or part thereof that actual completion extends beyond the time specified.
- B. Liquidated damages may be deducted from progress payments due Contractor, Project retention or may be collected directly from Contractor, or from Contractor's surety. These provisions for liquidated damages shall not prevent Town, in case of Contractor's default, from terminating the Contractor.

1.11 Utility Outages – Notices to Residents. – NOT USED

1.12 Schedule Constraints.

- A. It is anticipated that the Contractor will be unable to access the site prior to:

June 2018

- B. Town has considered these Schedule Constraints when determining the Contract Times and no additional time or compensation will be added to the Contract due to these Constraints.

1.13 Noise Restrictions – NOT USED

1.14 Safety Programs.

- A. In addition to all other safety requirements of the Contract Documents, Contractor must comply with Cal/OSHA at all times during the completion of the Work.
- B. Town has considered these Safety Programs when determining the Contract Times and no additional time or compensation will be added to the Contract due to these Programs.]

1.15 Coordination with Other Contractors.

- A. In addition to the Contract requirements relating to other work at the Site, Town anticipates that other contractors will be performing work within the Site. Specifically:

BHM CONSTRUCTION INC. AND THEIR SUBCONTRACTORS

- B. Town has considered these other contractors when determining the Contract Times and no additional time or compensation will be added to the Contract due to these other contractors.

END OF SPECIAL CONDITIONS

01 00 00 – GENERAL REQUIREMENTS

PART 1 -- GENERAL

1.1 DESCRIPTION

- A. To be added

1.2 RELATED REQUIREMENTS SPECIFIED ELSEWHERE

PART 2 -- PRODUCTS – NOT USED

PART 3 -- EXECUTION

3.1 LAYOUT OF WORK AND QUANTITY SURVEYS – NOT USED

3.2 SCHEDULE

- A. **Estimated Schedule.** Within 14 Days after the issuance of the Notice to Proceed, Contractor shall prepare a Project schedule and shall submit this to the Engineer for Approval. The receipt or Approval of any schedules by the Engineer or the Town shall not in any way relieve the Contractor of its obligations under the Contract Documents. The Contractor is fully responsible to determine and provide for any and all staffing and resources at levels which allow for good quality and timely completion of the Project. Contractor's failure to incorporate all elements of Work required for the performance of the Contract or any inaccuracy in the schedule shall not excuse the Contractor from performing all Work required for a completed Project within the specified Contract time period. If the required schedule is not received by the time the first payment under the Contract is due, Contractor shall not be paid until the schedule is received, reviewed and accepted by the Engineer.
- B. **Schedule Contents.** The schedule shall indicate the beginning and completion dates of all phases of construction; critical path for all critical, sequential time related activities; and "float time" for all "slack" or "gaps" in the non-critical activities. The schedule shall clearly identify all staffing and other resources which in the Contractor's judgment are needed to complete the Project within the time specified for completion. The overall Project Schedule duration shall be within the Contract time.
- C. **Schedule Updates.** Contractor shall continuously update its construction schedule. Contractor shall submit an updated and accurate construction schedule to the Engineer monthly when requested to do so by Engineer. Contractor shall also submit schedules showing a three week detailed look-ahead at bi-weekly meetings conducted with the Town. The Engineer may withhold progress payments or other amounts due under the Contract Documents if Contractor fails to submit an updated and accurate construction schedule.

3.3 TEMPORARY FIELD OFFICE – NOT USED

3.4 PROTECTION OF WORK AND PROPERTY

1. Deliver materials to the Project site over a route designated by the Engineer.
 2. Confine Contractor's apparatus, the storage of materials, and the operations of its workers to limits required by law, ordinances, permits, or directions of the Engineer. Contractor shall not unreasonably encumber the Project site with its materials.
 3. Ensure that existing facilities and other structures are all adequately protected and that, upon completion of all Work, all facilities that may have been damaged are restored to a condition acceptable to the Town.
 4. Preserve and protect from injury all buildings.
 5. At the completion of work each day, leave the Project site in a clean, safe condition.
 6. Comply with any stage construction and traffic control plans. Access to residences and businesses shall be maintained at all times, unless otherwise permitted in writing by the Town.
- B. These precautionary measures will apply continuously and not be limited to normal working hours. Full compensation for the Work involved in the preservation of life, safety and property as above specified shall be considered as included in the prices paid for the various contract items of Work, and no additional allowance will be made therefore.
- C. Should damage to persons or property occur as a result of the Work, Contractor shall be responsible for proper investigation, documentation, including video or photography, to adequately memorialize and make a record of what transpired. The Town shall be entitled to inspect and copy any such documentation, video, or photographs.

3.5 SITE CONDITIONS SURVEYS

A. Work Included.

Contractor shall conduct thorough pre-construction and post-construction site condition surveys of the entire project area. Site Conditions surveys shall include written documentation of the conditions found, as well as photographs and video recordings of the area within at least 80 feet of any construction area and staging area. The written notes, photographs, and video shall be suitable for forensic purposes to resolve any damage claims that may arise as a result of construction.

3.6 SUBMITTAL REQUIREMENTS - MANUALS AND RECORD DRAWINGS – NOT USED

3.7 MATERIALS

A. Materials to be Furnished by the Contractor

1. Inspection of Materials. Materials furnished by the Contractor which will become a part of the Project shall be subject to inspection at any one or more of the following locations, as determined by Town's Representative: at the place of production or manufacture, at the shipping point, or at the site of the Work. To allow sufficient time to provide for inspection, the Contractor shall submit to Town's Representative, at the time of issuance, copies of purchase orders or other written instrument confirming procurement of the materials, including drawings and other pertinent information, covering materials on which inspection will be made.
2. No later than fourteen (14) Days prior to manufacture of material, Contractor shall inform Town's Representative, in writing, the date the material is to be manufactured.
3. Contractors Obligations. The inspection of materials at any of the locations specified above or the waiving of the inspection thereof shall not impact whether the materials and equipment conform to the Contract Documents. Contractor will not be relieved from furnishing materials meeting the requirements of the Contract Documents due to Town's inspection or lack of inspection of the equipment or materials. Acceptance of any materials will be made only after materials are installed in the Project.
4. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to accommodate Town's testing efforts, including any travel required by Contractor's forces, shall be included in Contractor's bid and distributed in the Schedule of Pay Items related to the materials requiring testing. No additional compensation shall be made to the Contractor for this Work.

3.8 LOCAL CONDITIONS AND REQUIREMENTS

A. Access to Work and Haul Routes

1. The Contractor shall maintain and repair any damage arising out of Contractor's operations to all roads used during construction of the Project, and upon completion of all Work, but prior to final acceptance, the roads shall be restored to their original condition. Prior to using any road for access to the Site, the Contractor shall conduct a photograph and/or video survey of the roadway with a copy submitted to Town's Representative.
2. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete this Work, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

B. Traffic Control

1. General. Contractor shall abide by traffic control plans approved by the appropriate jurisdiction.
2. Protections. Roads subject to interference by the Work shall be kept open or suitable temporary passages through the Work shall be provided and maintained

by the Contractor. The Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient flasher lights, flag persons, danger signals, and signs, and shall take all necessary precautions for the protection of the Work and the safety of the public. No construction work along public or private roads may proceed until the Contractor has proper barricades, flasher lights, flag persons, signals, and signs in place at the construction site.

3. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete this Work, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

C. Cleaning Up

1. Contractor at all times shall keep premises free from debris such as waste, rubbish, and excess materials and equipment. Contractor shall not store debris under, in, or about the premises. Contractor shall also clean all asphalt and concrete areas to the degree necessary to remove oil, grease, fuel, or other stains caused by Contractor operations or equipment. The use of water, resulting in mud on streets, will not be permitted as substitute for sweeping or other methods. Dust control may require having a water truck onsite for the duration of the project, and/or use of temporary hoses and pipelines to convey water.
2. Contractor shall fully clean up the site at the completion of the Work. If the Contractor fails to immediately clean up at the completion of the Work, the Town may do so and the cost of such clean up shall be charged back to the Contractor.

3.9 ENVIRONMENTAL QUALITY PROTECTION – NOT USED

END OF GENERAL REQUIREMENT



STAFF REPORT

TO: Mayor and Members of the City Council

FROM: Michael Laughlin, City Planner, CSG Consultants
Christopher Diaz, City Attorney
Kirk Stratton, Chief of Police

VIA: Brian Dossey, City Manager

MEETING DATE: January 10, 2018

SUBJECT: Cannabis Ordinance Study Session

RECOMMENDATION

This item is a study session for informational purposes only. No City Council action is required; however, staff seeks comments, questions, impressions and opinions from each Council member regarding issues and concerns.

EXECUTIVE SUMMARY

In response to the voter's approval of Proposition 64 which allows the adult use of cannabis, the State of California has established a permitting process for medical and adult use operators. In addition to the state permitting structure, local jurisdictions have the ability to determine which, if any, of the aspects of the industry that they want to permit in their jurisdictions. Jurisdictions, by voter initiative, can also enact a local tax (which is in addition to state and sales taxes). This report and the study session are intended to update the City Council on the state permitting process and regulatory options available to jurisdictions, including Colma.

FISCAL IMPACT

None.

ANALYSIS

Legal Framework and Background

The following is a summary of the key legislation relating to marijuana:

1996 - Proposition 215

- Decriminalized medical marijuana use

2003-4 MMPA (SB 420)

- Collectives and cooperatives decriminalized

- Statewide voluntary ID program

2015 - The Medical Marijuana Regulation and Safety Act

- Known as the “MMRSA” and “MCRSA”
- Three bills co-joined AB 243, AB 266, SB 643
- Adopted regulations and licensing for medical marijuana businesses

2016 - Proposition 64

- Known as the Adult Use Marijuana Act “AUMA”
- Authorized non-medical/recreational marijuana use
- Legalized using and growing marijuana for personal use effective November 9, 2016.
- Allows for the sale and taxation of recreational marijuana after January 1, 2018.

2017 – Senate Bill 94

- Known as Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”)
- Marijuana now termed “cannabis”
- Repealed the MCRSA and amended AUMA to consolidate the state licensing rules for both medical and adult-use commercial cannabis activity under a single law
- State licensing is divided among three state agencies: the Department of Consumer Affairs’ Bureau of Cannabis Control, Department of Public Health’s Manufactured Cannabis Safety Branch and Department of Food and Agriculture’s CalCannabis Cultivation Licensing Program

AUMA legalized possession, transport, purchase, use, and transfer of recreational marijuana (now termed “cannabis” by SB 94) for individuals 21 years of age or older. Under AUMA, adults can possess up to 28.5 grams of cannabis, up to 8 grams of concentrated cannabis, which may be present in cannabis products such as edibles, and up to six living cannabis plants, and any cannabis produced by those plants.

AUMA allows for local control of cannabis uses. It allows local governments to:

- Ban all cannabis-related businesses outright, including cannabis dispensaries, cultivators, delivery services, and any recreational cannabis retail services. A local government cannot prevent transportation of cannabis or cannabis products on public roads *through* their jurisdiction.
- Ban outdoor cultivation of cannabis for personal use, unless the California Attorney General determines cannabis is no longer illegal under federal law (If cannabis is federally legalized, outdoor cultivation could be regulated, but not prohibited).
- Reasonably regulate indoor cultivation for personal use in private residences, but not ban it outright. AUMA allows individuals to grow up to six cannabis plants in their home, and to possess all of the cannabis those plants provide.

On December 14, 2016, the City Council adopted a prohibition of cannabis businesses. The Town’s prohibition expressly includes cannabis (marijuana) cultivation, transportation, delivery, storage, distribution, sale, manufacturing, testing and any business licensed by the state or any other government entity under Division 10 of the California Business and Professions Code (MAUCRSA). Adult use by persons 21 years of age or older is permitted under state law, and individuals may cultivate up to 6 plants inside their home and smoke or consume products. Currently, the Town Code prohibits outdoor cannabis cultivation for personal use. A number of

jurisdictions, including Daly City, Brisbane and Pacifica allow *outdoor* cultivation of up to 6 plants.

State Licensing Process to Implement AUMA

Within the last year, the state has established a licensing process that begins on January 1, 2018 (MAUCRSA). Summary sheets of each of the types of state licenses required by operators is attached (Exhibit A). Planning staff is registered to receive notification of current updates from the Bureau of Cannabis Control, the Department of Public Health (CDPH) and the Department of Consumer Affairs (DCA). Since a copy of the Town's ordinance listing prohibitions has been provided to the Bureau, no individuals or businesses can apply for any type of state license for a business in Colma. Staff continues to receive inquiries about the Town's ordinance from operators on the status of Colma's prohibition.

Issues Related to Cannabis Businesses

The cultivation, transportation, and distribution of cannabis can create problems relating to public health and safety, crime, water and air quality, and energy consumption. Cannabis uses can create nuisance activity such as loitering and criminal activity in business and residential districts. Specifically, mobile delivery can create issues relating to responsibility and resources to monitor and enforce state law, and risks relating to the high use of large sums of cash for mobile transactions. Cultivation can create air quality, energy, and water quality damage and impair building maintenance and safety. For example, the increased moisture necessary to grow indoors can create excessive mold growth and structural damage. Additionally, the equipment utilized to grow indoors can pose a risk of fire and electrical hazards due to dangerous electrical alterations and use. Further, inadequate ventilation combined with the use of pesticides and fertilizers in an enclosed space can lead to chemical contamination within structures. The following specific resource concerns have also been identified by Colma staff:

- **Plant and Product Value.** Cannabis plants and products have high value and are subject to theft. The industry is still largely cash based, and armed robberies of cash and products is possible and will require additional police resources. A delivery driver was recently robbed at gunpoint in the East Bay after an order was placed by the robbers who requested delivery in a remote area. Extensive coordination with on-site security and delivery drivers would be required by the Colma Police Department. The Police Foundation has produced a fact sheet about the legalization of marijuana and public safety based on Colorado's legalization several years ago (see Exhibit C).
- **Fire Protection/Hazardous Materials.** Cannabis plants are flammable, emit unpleasant odors and create unique challenges for fire protection agencies. Cultivation operations elevate CO₂ levels in the grow area and use hazardous materials (Sulphur dioxide) for fumigation. Cannabis processing into oil and other products uses flammable solvents. If these operations are not in stand-alone buildings, they provide potential hazards to occupants, workers and adjacent tenants. Any cannabis business will require additional resources from the Colma Fire Protection District that may exceed the existing property tax assessment used to cover the cost of their services.
- **Environmental Impacts:** Cultivation, particularly indoor cultivation, uses copious quantities of water and electricity. Cultivation within Colma could potentially reduce the gains the Town has made in GHG reductions over the past 5 years, since most of Colma's reductions have been through a reduction in electric use, and grow operations use substantial energy and water. Carbon offsets should be considered to reduce these

impacts. With the exception of unincorporated San Mateo County, all other jurisdictions within the County which are permitting some type of cannabis business activity are continuing to prohibit cultivation. Half Moon Bay is still considering cultivation in existing agricultural areas.

- **Cost/Benefits:** The state has initiated a 15% excise tax on cannabis and a cultivation tax, which is in addition to any sales or local taxes that may apply. The proceeds of the state excise and cultivation taxes are distributed to the state agencies regulating cannabis, the CHP, research activities, social programs for low-income residents and health services. The remaining 20% of the funds collected will be available to jurisdictions as grants which can be used to offset any local impacts of cannabis business activity. To be eligible, the Town would have to have a cannabis business and allow outdoor cultivation for personal use. Grant amounts will be determined on a per capita basis. Since Colma has a small local population, the Town would likely not benefit from any grant funding, even if a cannabis business is located in the Town.

Recreational cannabis is subject to sales tax. Medical cannabis purchased with a medical cannabis identification card is exempt from retail sales tax, but is subject to 15% state excise tax. Nevertheless, it is unclear whether there would be a significant financial benefit to the Town, especially when considering the additional staff resources required for this type of business. Similar to other retail businesses, only 1% of the retail sales tax on cannabis products sold in the Town will come back to the Town. The Town will receive no revenue from delivery (if point of sale is outside of the Town), manufacturing, testing or distribution.

Cannabis businesses should only be considered if a local tax is enacted (similar to the cardroom) to offset staff resource impacts. Any tax would be required to be established by the voters, and there are costs associated with a ballot measure. City of Pacifica voters recently approved a 10% local tax on cannabis businesses. Little or no tax would come to the town for distribution, delivery, warehousing, testing or processing without enacting a specific local tax based on either square footage of the use or gross receipts.

- **Town Permit Process:** A local permitting process and ongoing monitoring would be required. This would include requirements for background checks of all employees and ongoing inspections. This would be in addition to licenses and inspections by the state, which only requires background checks on the owners of the facility. Consideration of the total number of locations in town would also have to be established. The locally established permit process should cover all costs to monitor the business on an ongoing basis. Staff anticipates a Use Permit requirement that will regulate the land use, and a separate permit for just the operator. This will allow the town to approve or deny an operator if the approved operator decides to sell the business in the future.
- **Lack of Appropriate Space:** The Town of Colma only has a few vacancies, primarily a few small tenant spaces at the 280 Metro Center. It is unlikely that either Kimco or Serra Center would lease to a cannabis business, largely due to existing tenant prohibitions on leasing to these types of businesses. In addition, a recent article about an Oakland dispensary and cannabis school on Broadway notes that adjacent tenants were complaining about a decline in business due to loitering at the facility.

There are few, if any, appropriate spaces for a cannabis business on Collins Avenue, Serramonte Boulevard or Mission Road. The small, multi-tenant light industrial buildings on Collins Avenue and Mission Road were not designed for retail use, and lack parking

for any type of retail operation. Storage, cultivation or processing in these spaces is problematic for the reasons stated above. Substantial fire and security upgrades would be required for any existing tenant space. These spaces are small (about 2,000 square feet each) and likely could only be used for the warehousing of products.

Similar to San Carlos, staff would recommend a distance requirement from a residence to any type of facility (San Carlos has a 600' requirement). Depending on the distance, this could preclude a business on Mission Road due to the presence of Verano; scattered residences across from Holy Cross; homes behind Malloy's; and new residences at Veteran's Village. It would also could preclude any businesses on El Camino Real adjacent to the Sterling Park neighborhood and from residences on El Camino Real in front of Kohl's.

Status of San Mateo County Cannabis Laws

Jurisdictions in the state have wrestled with which types of cannabis activities to allow within in their jurisdictions. Staff has prepared a table with the various types of activities (and associated state permitting) required (Exhibit B). In addition, staff has added a "considerations" column that includes issues that would need to be addressed in permit processing.

Here is a summary of actions taken by San Mateo County jurisdictions (remaining jurisdictions have moratoriums or prohibitions):

Pacifica – testing, manufacturing, retail

After careful analysis and based on the will of voters, the City of Pacifica recently enacted laws to allow only testing, manufacturing and retail operations. The City already has two medical marijuana dispensaries. The City has placed a total limit of retail permits that it will issue to six, with further limits by geographic area to prohibit concentration. A 10% local tax will be collected on all operations.

Brisbane – testing, warehousing, distribution, manufacturing, retail (delivery only)

In July of 2017, the Brisbane City Council voted to allow laboratory testing, warehousing, distribution, manufacturing, and delivery-only retail (retail storefronts are not permitted). Most businesses will require a Conditional Use Permit so that the City can understand and condition the business. No commercial cultivation is permitted. The City has not enacted an additional tax on the product.

Redwood City – retail (delivery only)

Redwood City has adopted a phased approach, adopting only Phase 1 at this time.

- Phase 1: Adopt Zoning Code amendment to which bans outdoor and commercial cultivation, manufacturing, testing, retail, and distribution, but continue to allow medical cannabis deliveries. Medical and adult use deliveries will be allowed on January 1, 2018.
- Phase 2: Notify delivery operators who may be delivering that they need obtain a business license and pay the business license tax. Develop a cannabis regulatory fee to offset staff costs involved with licensing, regulating, and enforcing cannabis activity and regulations associated with deliveries. Return to the Council for approval of the proposed fee and regulations.
- Phase 3: Implement regulations to allow cannabis delivery from warehouses or distribution facilities located in the City.

- Phase 4: This phase involves expanding the regulations to allow storefront retail cannabis businesses.

San Mateo County – cultivation only

San Mateo County recently introduced an ordinance allowing mixed-light (greenhouse) cannabis cultivation in the unincorporated areas and prohibiting for another year all other commercial cannabis-related activities. If approved by the Board at its second reading on December 12, 2017, the County will only issue licenses for mixed-light cultivation and greenhouse nursery cultivation in areas designated "agriculture" by the County General Plan or on land with documented agriculture use for at least three prior years. All parcels proposed for cultivation must also be set back a minimum of 1,000 feet from residential parcels, schools, youth centers, playgrounds and alcohol or drug treatment facilities.

San Carlos – Manufacturing, distribution, testing, nurseries and microbusinesses

The City of San Carlos adopted ordinances recently which prohibit cannabis related businesses within 600 feet of a school or residence. The ordinance allows manufacturing, distributing, testing, nurseries and microbusinesses without a retail component. This effectively serves to limit the location of potential businesses to existing light industrial and commercial areas east of El Camino Real and south of existing residential areas. A separate permit process has been established for these businesses. Retail and deliveries are not permitted. Staff will study appropriate locations for possible retail establishments. The City intends to consider a local tax at a later time.

Council Adopted Values

The study session is consistent with the Council value of responsibility because it allows the City Council to consider all aspects of the marijuana industry, including impacts to services provided by the Town.

Sustainability Impact

N/A

Alternatives

None

CONCLUSION

The City Council is encouraged to ask questions and provide direction to staff about options for regulating cannabis businesses in Colma. The City Council should indicate to staff if there is interest in considering a particular cannabis business type in Colma or affirm the existing prohibition. If interest is expressed, staff can come back to the City Council with additional information on specific business types.

ATTACHMENTS

- A. State of California Permitting information sheets
- B. Summary Table of Marijuana business types
- C. Police Foundation information sheet "5 Things"



BUREAU OF CANNABIS CONTROL

CALIFORNIA

BUREAU OF CANNABIS CONTROL

MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

ALL BUREAU LICENSES

■ Temporary License – Allows for Operations while Annual License Application is Pending

- A temporary license allows a business to engage in commercial cannabis activity for a period of 120 days.
- The Bureau can only issue a temporary license if the applicant has a valid license, permit, or other authorization issued by the local jurisdiction in which the applicant is operating.

■ Annual Licenses

- All commercial cannabis activity shall be conducted between licensees.
- There is no specific number limit to the licenses that may be held by an applicant. There is no restriction on the types of cannabis licenses a person can hold, except a person who holds a testing laboratory license is prohibited from licensure for any other commercial activity.

- An annual license issued by the Bureau is valid for 12 months from the date of issuance and may be renewed annually.

■ Local Compliance Verification

- If the applicant provides a local license, permit, or other authorization, the Bureau will contact the local jurisdiction to verify the information and will allow at least 10 days for the jurisdiction to respond before issuing the license, unless a response is received from the local jurisdiction sooner.
- If an applicant for an annual license does not provide a local license, permit, or other authorization, the Bureau will contact the local jurisdiction to verify that issuing the license would not violate a local ordinance or regulation. After 60 days, if there is no acknowledgement by the local jurisdiction, the Bureau shall presume the applicant is in compliance and may issue a license.

BUREAU OF CANNABIS CONTROL

MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

■ License Type Designation

- Licensees must hold an A-license to engage in adult use commercial cannabis activity and an M-license to engage in medicinal commercial cannabis activity. The exception is testing laboratories, which may test cannabis goods for both license types.

■ Ownership

- An owner is a person who: holds at least 20 percent aggregate ownership interest in a commercial cannabis business; is a chief executive officer or member of the board of directors of a non-profit; or will be participating in the direction, control, or management of the entity applying for licensure.
- Owners must submit fingerprints, information regarding any criminal convictions, and disclose whether they have a financial interest in any other commercial cannabis business licensed under MAUCRSA.

■ Priority Licensing

- Priority application review will be provided for annual licenses only.
- To be eligible for priority licensing, an applicant must be able to demonstrate that the business was in operation and in good standing with the local jurisdiction by September 1, 2016.

■ Premises Requirements

- Applicants must identify the designated structure(s) and real property under the control of the applicant or licensee where commercial cannabis activity will take place.
- Each license must have a separate licensed premises, unless all of the following requirements are met:
 - ◆ A licensee holds both an M-license and A-license for the identical type of commercial cannabis activity;
 - ◆ The licensee holding both licenses is identical in name, business formation, and ownership;
 - ◆ The licensee only conducts one type of commercial cannabis activity on the premises;
 - ◆ All cannabis and cannabis products are clearly marked with an “M” or “A”; and
 - ◆ Records are kept separately for each license and clearly indicate the records are related to the M-license or A-license.
- Security measures are required at licensed premises. Measures include:
 - ◆ Employee badges, designated limited-access areas, and security personnel.



BUREAU OF CANNABIS CONTROL

MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- ◆ 24-hour video surveillance for areas containing cannabis and cannabis products as well as all entryways and exits. Retailers must also have video surveillance in point-of-sale areas and security personnel.
- ◆ Alarm systems, commercial grade locks, and secure storage of cannabis and cannabis products.
- All employees of the licensee must be at least 21 years old.

■ Cannabis Waste

- Cannabis waste must be contained in a secured waste receptacle or secured area on the licensed premises.
- Licensees may not sell cannabis waste and must comply with all applicable waste management laws.

■ Labor Peace Agreement

- Applicants for a license with more than 20 employees must either: (1) attest that they have entered into a labor peace agreement and that they will abide by the terms of the agreement, and provide a copy of the agreement to the Bureau, or (2) provide a notarized statement indicating the applicant will enter into and abide by the terms of the labor peace agreement.

ADDITIONAL REQUIREMENTS BY LICENSE TYPE

Distributor License – Arrange for testing, check for appropriate packaging and labeling, collect taxes, transport cannabis and cannabis products, and may act as a wholesaler. All transportation shall be conducted by distributor licensees and their direct employees.

- Cannabis and cannabis products must pass through a distributor prior to being sold to customers at a retail establishment.
- Distributors must arrange for the laboratory testing and quality assurance for cannabis and cannabis products.
- Distributors may package and label cannabis (dried flower) but may not package cannabis products pursuant to the distributor license.

Distributor Transport-Only License – A distributor can choose to be a Transport Only Distributor, which transports only its own cannabis and cannabis products, or transports for other licensees, but does not perform any of the other functions of a distributor. Transportation to retail licensees is prohibited by this type of license, unless the licensees are transporting immature plants and seeds from a nursery to a retailer.



BUREAU OF CANNABIS CONTROL

MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

Additional Transport Requirements for All Distributors

- Cannabis goods may only be transported in a vehicle or trailer, must not be visible from outside of the vehicle, and must be kept in a locked box, container, or cage that is secured to the commercial vehicle or trailer.
- Transport vehicles must be equipped with alarm systems and remain secure at all times.
- Packages or containers holding cannabis goods may not be tampered with, or opened during transport.
- No vehicle or trailer containing cannabis goods shall be left unattended in a residential area or parked overnight in a residential area.
- All transports must have a shipping manifest with specific information about the cannabis and cannabis products being transported. The shipping manifest must identify the licensee shipping, the licensee transporting, and the licensee receiving the shipment.

Retailer License – Sell cannabis and cannabis products to customers, often referred to as dispensaries.

- Retailers are not allowed to package or label cannabis or cannabis products on the premises. All cannabis or cannabis products sold at a retailer must be packaged and labeled before arriving at the retail premises, except during the transition period.

- Retailers may only sell and deliver cannabis goods between the hours of 6 a.m. and 10 p.m.
- Before leaving the retail premises, cannabis purchases must be placed in an opaque exit package.
- Deliveries must be made in person by a direct employee of the licensee to a physical address within the State of California.
- Delivery vehicles may not contain more than \$3,000 of cannabis product at any time. The retailer must be able to immediately locate all delivery vehicles.

Microbusinesses License – Microbusiness licensees must engage in at least three of the following commercial cannabis activities: cultivation (less than 10,000 square feet), manufacturing (Level 1, Type 6), distribution, and retail.

- A holder of a microbusiness license may only engage in the commercial cannabis activity requested in the license application and approved by the Bureau. If a microbusiness licensee wants to engage in additional commercial cannabis activity after the license is issued, the licensee shall submit an application to the Bureau identifying the requested changes and providing all information required for an application for the commercial cannabis activity the licensee wants to conduct.



BUREAU OF CANNABIS CONTROL

MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- Licensees will be required to comply with the rules and regulations applicable to the commercial cannabis activities the microbusiness is conducting.

Testing Laboratory License – Test cannabis and cannabis products.

■ Provisional Testing Laboratory License

- Testing laboratories that meet all other requirements, but are awaiting ISO (the joint technical committee of the International Organization for Standardization and the International Electrotechnical Commission) 17025 accreditation may obtain a provisional license.
- Provisional licenses expire 12 months after issuance.
- The Bureau may renew the provisional license for an additional 12 months if the laboratory's ISO 17025 accreditation application is still pending.

■ Sampling

- Laboratory personnel will take samples from harvest batches and cannabis product batches to be tested. Harvest batches may not exceed 50 pounds. Samples collected from batches weighing more than 50 pounds will be deemed invalid.
- Samplers must follow requirements pertaining to minimum sample sizes, minimum sample increments, transportation and storage of samples, and documentation of all sampling activity.

- Samples received by a laboratory that do not adhere to the requirements will be rejected.

■ Tests Performed

- Testing laboratories will be required to perform testing on cannabis goods to measure the following:
 - ◆ Cannabinoids;
 - ◆ Foreign material;
 - ◆ Heavy metals;
 - ◆ Microbial impurities;
 - ◆ Mycotoxins;
 - ◆ Moisture content and water activity;
 - ◆ Residual pesticides;
 - ◆ Residual solvents and processing chemicals; and
 - ◆ Terpenoids.
- Edible cannabis products that contain more than one serving per unit will be tested for homogeneity to ensure consistent concentrations of tetrahydrocannabinol (THC) or cannabidiol (CBD).

■ Certificate of Analysis

- After testing is completed, the laboratory will generate a certificate of analysis that contains the results of the testing and whether the tested batch passed or failed.



BUREAU OF CANNABIS CONTROL

MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- Batches that pass testing may be sold to customers via retailers.
- Harvest batches or cannabis product batches that fail testing may be additionally processed for remediation, with the exception of edibles. A batch may only be remediated twice. If the batch fails after a second remediation attempt and second retesting, the entire batch shall be destroyed.
- Cannabis harvested on or after December 31, 2018, and cannabis products manufactured on or after December 31, 2018, minor relative health risks compared to the group above and contaminants that are seldom or not tested for.

TRANSITION PERIOD

■ Quality Assurance and Quality Control

- Testing laboratories are required to develop and implement a quality assurance program that is sufficient to ensure the reliability and validity of the analytical data produced by the laboratory.

■ Phase-In of Required Types of Testing

- The required tests for cannabis will be phased in throughout 2018.
- Cannabis harvested on or after January 1, 2018, and cannabis products manufactured on or after January 1, 2018, will be tested for potency, contaminants with a high public health risk, and contaminants that the industry is largely already testing for.
- Cannabis harvested on or after July 1, 2018, and cannabis products manufactured on or after July 1, 2018, will be tested for moderate relative health risks compared to the group above and contaminants that are currently largely not tested for.

- To support a smooth transition of businesses into a newly regulated market, beginning January 1, 2018 and before July 1, 2018, licensees may do the following:

- Conduct business with other licensees irrespective of the M or A designation on their licenses.
- Transport cannabis goods that do not meet the labeling requirements (prescribed by MAUCRSA or the California Department of Public Health) if a sticker with the appropriate warning statement is affixed.
- Sell cannabis goods held in inventory that are not in child-resistant packaging if they are placed into child-resistant packaging by the retailer at the time of sale.
- Sell cannabis products that do not meet the THC limits per package established by the State Department of Public Health.



BUREAU OF CANNABIS CONTROL

MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

- Sell and transport cannabis goods that have not undergone laboratory testing if a label stating that they have not been tested is affixed to each package containing the goods prior to transport by a distributor or prior to sale if held by a retailer.
 - Individually package and sell dried flower held in inventory by a retailer at the time of licensure.
 - Cannabis products held in inventory by a retailer that do not meet the requirements set by the State Department of Public Health for ingredients or appearance may be sold by a retailer.
- **Beginning January 1, 2018, licensees shall not transport or sell any edible cannabis product that exceeds 10 milligrams per serving. Adult-use products may not exceed 100 milligrams per package; however, medicinal cannabis products may exceed 100 milligrams per package.**

ENFORCEMENT

■ Right of Access

- Licensees shall provide the Bureau's investigators, compliance monitors, agents, or employees full access to enter licensed premises; and inspect cannabis or cannabis products in the licensee's possession.

- Review and copy any materials, books, or records in the licensee's possession.
- Failure to cooperate and participate in the Bureau's investigation may result in a licensing violation subject to discipline.
- Prior notice of investigation, inspection, or audit is not required.

■ Notice to Comply

- The Bureau may issue a written notice to comply to a licensee for minor violations of MAUCRSA or its implementing regulations, observed during an inspection.
- The notice to comply will describe the nature and facts of the violation, including a reference to the statute or regulation violated, and may indicate the manner in which the licensee must correct the violation to achieve compliance.
- Within 15 calendar days, the licensee may sign and return the notice to comply, declaring under penalty of perjury that the violation was corrected and describing how compliance was achieved. Failure to do so may result in a disciplinary action.

■ Minor Decoys

- Peace officers may use a person under 21 years of age to attempt to purchase cannabis goods to ensure that licensees and their employees are not selling cannabis goods to minors.



BUREAU OF CANNABIS CONTROL

MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT REGULATIONS OVERVIEW

■ Disciplinary Actions

- The Bureau may take disciplinary action against any license by way of revocation, suspension, fine, restrictions upon any licensee, or any combination thereof.
- The assessed penalty shall take into consideration: the nature and severity of the violation; evidence that the violation was willful; history of violations of the same nature; the extent to which the person or entity has cooperated with the Bureau; the extent to which the person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation; and the extent to which the conduct is a public nuisance or danger to public safety.
- Any Bureau accusation recommending disciplinary action will be served on the licensee and a hearing will be conducted to determine if cause exists to take action against the licensee.

- An accusation may be terminated by written stipulation at any time prior to the conclusion of the hearing on the accusation.

■ Citations and Notices to Comply

- The Bureau may issue citations containing orders of abatement and fines to a licensee or unlicensed person in writing.
- The Bureau may issue a notice to comply to a licensee for violations of the act or regulations observed during an inspection. The licensee may within 15 calendar days return the notice indicating the violation was corrected and how compliance was achieved.



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For the latest updates, follow
the Bureau on social media



EMERGENCY REGULATIONS

SUMMARY FOR CANNABIS MANUFACTURING



The California Department of Public Health (CDPH) is one of three state licensing authorities charged with licensing and regulating commercial cannabis activity in California. CDPH is responsible for regulation of the *manufacturing* component of the industry, which it will do through the Manufactured Cannabis Safety Branch.

In November 2017, CDPH released Emergency Regulations that outline the standards and licensing procedures for both medicinal and adult-use commercial cannabis manufacturing and products. These replace the medicinal regulations released in April 2017 developed in response to previous versions of state law.

Key Components of Cannabis Manufacturing Emergency Regulations

Temporary Licenses

CDPH will issue temporary licenses that allow a business to engage in commercial cannabis activity. Once issued, these licenses will be valid for 120 days and may be extended for additional periods of 90 days, if the business has submitted a complete annual license application. The application will be available on the CDPH website and can be submitted by mail or email. City or county authorization to conduct commercial cannabis activity must be submitted with the temporary license application. Once the application is received, CDPH will contact the city or county to verify the local authorization, and the office will have 10 days to respond. There is no fee for the temporary license.

Annual Licenses

Applications for annual licenses will be accepted through an online licensing system that will launch in December 2017. This application will require information on the business, owners and financial interest holders, and operating premises, as well as descriptions of procedures for waste disposal, inventory and quality control, transportation and security. Businesses in operation under the Compassionate Use Act prior to September 1, 2016, will receive priority application review. Applicants must be in compliance with city or county ordinances. During the application review process, CDPH will contact the city or county to verify the local authorization. If the applicant does not provide a copy of their local authorization, the local office will have 60 days to respond. If the applicant includes a copy of their local authorization with their application, the local office will have 10 days to respond.

License Categories & Types

Anyone conducting commercial cannabis manufacturing must obtain a license from CDPH. Each license issued will have one category and one type.

The two license categories are:

A-License

Cannabis products for sale in the adult-use market

M-License

Cannabis products for sale in the medicinal market

A business may hold both M- and A-Licenses at the same premises as long as separate applications are completed.

The four license types are:

Type 7

Extraction using volatile solvents (ex: butane, hexane, pentane)

Type 6

Extraction using a non-volatile solvent or mechanical method (ex: food-grade butter, oil, water, ethanol, or carbon dioxide)

Type N

Infusions (ex: using pre-extracted oils to create edibles, beverages, capsules, vape cartridges, tinctures or topicals)

Type P

Packaging and labeling only

Operational Requirements

Licenses must have written procedures for inventory control, quality control, transportation, security and cannabis waste disposal. Descriptions of these procedures or Standard Operating Procedures (SOPs) must be submitted with the annual license application. Cannabis waste cannot be sold, must be placed in a secured area and be disposed of according to applicable waste management laws.

Good manufacturing practices must be followed to ensure production occurs in a sanitary and hazard-free environment, cannabis products are contaminant free and THC levels are consistent throughout the product and within required limits.

Extractions using CO₂ or a volatile solvent must be conducted using a closed-loop system, certified by a California-licensed engineer. Volatile, hydrocarbon-based solvents must have at least 99% purity. Finally, volatile solvent, CO₂ and ethanol extractions must be certified by the local fire code official.

Product Standards and Prohibited Products

Products cannot be infused with nicotine or alcohol or have added caffeine. Edible products cannot be shaped like a human, animal, insect, or fruit. Some potentially-hazardous foods, such as meat and seafood, and other products requiring refrigeration, are prohibited for sale as cannabis products. Juice and dried meat made in accordance with requirements are allowed. Perishable ingredients, such as eggs and milk, may be used as long as the final product meets regulatory standards.

THC Limits

Edible products are limited to a maximum of 10 mg of THC per serving and 100 mg of THC per package. Other cannabis products, such as tinctures, capsules and topicals, are limited to a maximum of 1,000 mg per package for the adult-use market and 2,000 mg of THC per package for the medicinal-use market.

Packaging & Labeling

Cannabis product packaging cannot resemble traditionally available food packages, and edibles packaging must be opaque. All manufactured products must be packaged before they are released to a distributor. In addition to these requirements, statute requires that cannabis product packaging not be attractive to children and be tamper-evident, re-sealable if the product includes multiple servings, and child-resistant.

Cannabis product labels must include an ingredient list, some nutritional facts and the CDPH-issued universal symbol. The label may not refer to the product as a candy. In addition to these requirements, statute requires that labels not be attractive to individuals under age 21 and include mandated warning statements and the amount of THC content.

Annual License Fees

Application Fee – Processing fee of \$1,000.00 per license

License Fee – Scaled according to the gross annual revenue of the licensed premises. These fees are intended to cover costs of administering the manufactured cannabis safety program and range from \$2,000 to \$75,000.

Transition Period

The state licensing authorities have established a transition period, from January 1 until July 1, 2018, to support a smooth transition into a newly regulated market. During this period, product will be allowed to move between A- and M-licensees. Products manufactured prior to January 1, 2018, can be packaged in secondary packaging that is child resistant, and stickers may be used for the government warning statement and amount of THC/CBD per serving. All products manufactured on or after January 1, 2018 must meet THC limits and product restrictions.

Shared Manufacturing Facilities

CDPH is currently developing an additional license type, Type S, which will allow businesses to share facility space. This license type will reduce barriers to entry into the legal, regulated market and ensure that cannabis products are manufactured in clean, regulated facilities. This license type should be ready to be issued in early 2018.

Other Laws to Know:

California Business & Professions Code – Includes requirements set forth by MAUCRSA

Emergency Regulations released by the Bureau of Cannabis Control – Includes specific requirements for retailers, distributors, third-party testing laboratories and microbusinesses

Emergency Regulations released by the CalCannabis Cultivation Licensing – Includes specific requirements for cultivators and the track-and-trace system

Your Local City or County Ordinances

California Department of Public Health
Manufactured Cannabis Safety Branch

www.cdph.ca.gov/mcsb mcsb@cdph.ca.gov
www.cannabis.ca.gov



CDFA Cannabis Cultivation Regulations at a Glance

LICENSING

- **License Application Fees.** CDFA will charge a one-time fee to review an annual cultivation license application. Application fees are scaled based on the average annual production of the license type and range from \$135 to \$8,655.
- **Annual License Fees.** The license fee schedule has been updated based on an economic analysis of CDFA costs. License fees are scaled based on the average annual production of the license type and range from \$1,205 to \$77,905.
- **Temporary Licenses.** Applicants must present a local permit, license, or authorization to be considered for a temporary license, which will allow cultivation before an annual license is issued.
- **Processor License.** An additional license type not included in the original statute has been added for processors, permitting them to trim, dry, cure, grade, and package cannabis. Processors may not grow cannabis under their license.

TRACK-AND-TRACE SYSTEM

- **Track-and-Trace System/Requirements.** Covers the requirements for licensees and/or designated track-and-trace account managers, including training, registration, plant tagging, and inventory tracking. The track-and-trace system will record the movement of cannabis and cannabis products through the state's supply chain—from cultivation to sale.
- **Applicant Track-and-Trace Training Requirement.** Requires applicants to complete a training session for the track-and-trace system within 10 days of receiving notice that their complete application has been received and approved by CDFA.

RESOURCE MANAGEMENT

- **Cannabis Waste Management.** Requires licensees to comply with current state waste-management laws and include requirements for on-site composting, using a waste hauler, or self-hauling.
- **Renewable Energy Requirements.** Renewable energy requirements allow a phase-in period. Beginning in 2022, licensees will need to provide details regarding energy use and sources. Beginning in 2023, licensees must meet the average electricity greenhouse-gas-emissions intensity required of their local utility provider.

- **Generator Requirements.** Specifies allowable generator types and use restrictions. For example, generators rated at 50 horsepower or greater must demonstrate compliance with California Airborne Toxic Control Measures. Generators rated below 50 horsepower will have to meet compliance measures by 2023.

INSPECTIONS/VIOLATIONS

- **Inspections, Investigations, and Audits.** All inspections, investigations, and audits of the licensed premises shall be conducted during standard business hours or at a time mutually agreed to by the Department and the licensee. For the purposes of this section, standard business hours are 8:00am–5:00pm (Pacific Standard Time). Prior notice of inspection, investigation, or audit is not required.
- **Record Retention/Sales Invoice or Receipt Requirements.** Governs the maintenance of records and sales invoices for licensees.
- **Licensing Actions.** Enforcement actions may be taken for any violation(s) of license conditions or requirements. If the licensee holds multiple cultivation licenses, the Department may take any one of, or a combination of, the following actions for all of the licensee's cultivation licenses:
 - Revocation;
 - Suspension for a specified period of time;
 - Issuance of a probationary license with terms and conditions; and
 - Order an administrative hold of cannabis and nonmanufactured cannabis products.
- **Administrative Fines.** Violation Classes: MINOR (Fine range: \$100 to \$500); MODERATE (Fine range: \$501 to \$1,000); SERIOUS (Fine range: \$1,001 to \$5,000). Repeat violations may result in an escalation of the violation class.
- **Administrative Hold Procedure.** Details procedures for establishing administrative holds on cannabis and nonmanufactured cannabis products.

**Exhibit B - Cannabis Business Types and Regulation Summary – December 2017
Town of Colma**

<i>Business Type</i>	<i>License types</i>	<i>State Licensing Agency</i>	<i>Considerations for Colma or Notes</i>
All	A – Adult Use M – Medical Use	Bureau of Cannabis Control (BCC)	All business owners with 20% or more interest must obtain a license from BCC and any other additional licenses depending on activity. Owner is fingerprinted and background check conducted. Person holding a testing laboratory license may not obtain any other commercial license.
Distribution	Distributor License (type 11)	Bureau of Cannabis Control (BCC)	<ul style="list-style-type: none"> • Distributor carrying cash (\$3000 max) • Distributor carrying valuable product • cost/benefit consideration – sales tax revenue not at delivery location
Retail	Retail License (type 10)	Bureau of Cannabis Control (BCC)	<ul style="list-style-type: none"> • Valuable product • Cash • Employee background check needed • Retail walk-up sales concerns (crime) • Security • Possible Flammable product • Potential on-site smoking of product • Should not be adjacent to school or residences • Limited or no available location in Colma • Cost/benefit consideration – will sales tax revenue exceed town resource expenses?
Microbusiness	Microbusiness License (at least 3 activities: Cultivation less than 10,000 sq.ft.; manufacturing Level 1 type 6; distribution; retail) (type 12)	Bureau of Cannabis Control (BCC)	See considerations for cultivation, manufacturing, distribution, and retail.
Testing	Testing Laboratory License	Bureau of Cannabis Control (BCC)	<ul style="list-style-type: none"> • Valuable product • Security • Some hazardous materials • Cost/benefit (no sales tax?)

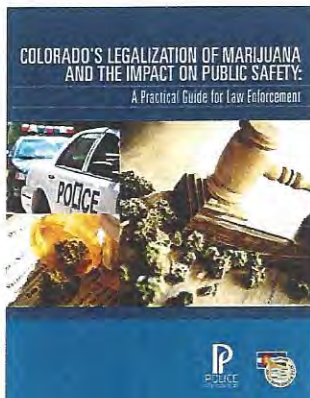
**Exhibit B - Cannabis Business Types and Regulation Summary – December 2017
Town of Colma**

<i>Business Type</i>	<i>License types</i>	<i>State Licensing Agency</i>	<i>Considerations for Colma or Notes</i>
Manufacturing (Adult Use, A License)	Type 7 – Extraction with volatile solvents Type 6 – Non-volatile extraction Type N – Infusions using pre-extracted oils Type P – Packaging and labeling only	California Department of Public Health (CDPH)	<ul style="list-style-type: none"> • Valuable product • Security • Hazardous materials in processing • Possible Flammable product • Potential high water and energy use • Cost/benefit (no sales tax?) • Limited or no available location in Colma
Manufacturing (Medical, M License)	Type 7 – Extraction with volatile solvents Type 6 – Non-volatile extraction Type N – Infusions using pre-extracted oils Type P – Packaging and labeling only	California Department of Public Health (CDPH)	<ul style="list-style-type: none"> • Valuable product • Security • Hazardous materials in processing • Possible Flammable product • Potential high water use • Potential high energy use • Limited or no available location in Colma • Cost/benefit (no sales tax?)
Cultivation (6 plants for personal use)	None – permitted by state law	None	Plant value - theft
Cultivation (commercial)	Type 1—Cultivation; Specialty outdoor; Small Type 1A—Cultivation; Specialty indoor; Small Type 1B—Cultivation; Specialty mixed-light; Small Type 1C—Cultivation; Specialty cottage; Small Type 2—Cultivation; Outdoor; Small Type 2A—Cultivation; Indoor; Small Type 2B—Cultivation; Mixed-light; Small Type 3—Cultivation; Outdoor; Medium Type 3A—Cultivation; Indoor; Medium Type 3B—Cultivation; Mixed-light; Medium Type 4—Cultivation; Nursery. Type 5, A, B —Cultivation; Large (not available until 2023)	California Department of Food and Agriculture (CDFA)	<ul style="list-style-type: none"> • Valuable product • Security • Hazardous materials in processing • Flammable product • High water use • High energy use • Hazards to employees and neighboring businesses • Limited or no available location in Colma • Cost/benefit (no sales tax?)

5 THINGS YOU NEED TO KNOW ABOUT MARIJUANA LEGALIZATION'S IMPACT ON PUBLIC SAFETY

Colorado legalized recreational marijuana use in 2012 – and the state's residents became the first to legally grow and possess marijuana for non-medical use in January 2014. The state legalized medical marijuana use in 2000, and was one of the first to allow commercial sales for medical use in 2009.

Across our nation law enforcement executives are building knowledge and expertise to address the unexpected consequences of marijuana legalization. Three other states – Washington, Oregon, and Alaska – have legalized recreational marijuana, and other state and local jurisdictions have been dealing with the secondary impacts of Colorado's marijuana legalization law.



The Police Foundation and the Colorado Association of Chiefs of Police have partnered to share Colorado's challenges, successes, and lessons learned in a practical guide to legalized marijuana for law enforcement. The guide is available at www.policefoundation.org/colorado-marijuana-guidebook



1 MARIJUANA LEGALIZATION CREATES MORE RATHER THAN LESS LAW ENFORCEMENT CHALLENGES FOR POLICE OFFICERS AND SHERIFF'S DEPUTIES.

Legalization creates new resource needs because officers must address crime and disorder issues associated with the new law. "Driving under the influence" testing requires new training and policies. Determining the difference between legal amounts and uses of marijuana requires review and more training. Safety training must be increased because of "legal" but unsafe processing operations. Homeless shelters report an increase in out-of-state homeless youth, drawn by legal marijuana, who are creating other crime problems, according to media accounts.



2 LAW ENFORCEMENT FACES A NEW CHALLENGE IN EDUCATING THE PUBLIC ON THE CONTINUING RISKS OF MARIJUANA.

Because the public believes legal marijuana is safe to use, law enforcement leaders face a new challenge in alerting the public to the continued safety and health risks. The message to the public can no longer simply be "marijuana is illegal," but must emphasize the public safety problems that legal marijuana causes.



3 MARIJUANA CULTIVATIONS CREATE HIGH RISKS TO LAW ENFORCEMENT, GROWERS, RESIDENTS AND COMMUNITIES THAT ARE HOME TO CULTIVATION FACILITIES.

"Hash oil" extraction operations involve highly flammable and potentially explosive solvents such as butane and alcohol. The result can be as dangerous to law enforcement and the public as methamphetamine labs. As marijuana availability increases, these extraction operations can create this danger in urban and suburban communities. Also, many marijuana cultivators ignore standard building codes, increasing the potential for fire with poorly installed electrical and ventilation systems.



4 NEW PRODUCTION METHODS CAN INCREASE THE HEALTH RISKS OF MARIJUANA USE.

The increased potency of marijuana, combined with widespread "edible" versions in baked goods and candy, have increased the risk of people overdosing on edible THC. Emergency rooms have documented a growing number of THC overdoses, with patients experiencing psychotic episodes, excited delirium, or heightened anxiety. Additionally, the packaging and marketing of products are directed to youth with candy, cookies, soda pop, and like products. A marijuana user has over four times the risk of a heart attack for up to an hour after smoking the drug. Driving impairment can last up to 24 hours after ingestion.



5 YOUTH MARIJUANA USE MAY SOON BECOME A PUBLIC HEALTH PROBLEM RIVALING YOUTH ALCOHOL USE

Marijuana legalization increases availability of the drug and especially decreases youth perception of health risks, mirroring the trends of teen consumption of alcohol. Youth are especially vulnerable for both health and safety reasons. Researchers at Northwestern University and Harvard Medical Center have demonstrated youth marijuana use causes permanent brain impairment during critical growth stages during adolescents; decreases IQ as much as 8 points; increases delinquency and risky behavior; and increases suicidal thoughts.

