

**CITY OF REDONDO BEACH  
CITY COUNCIL AGENDA  
Tuesday, May 10, 2022**

**415 DIAMOND STREET, REDONDO BEACH**

**CITY COUNCIL CHAMBER**

**THE CITY COUNCIL HAS RESUMED PUBLIC MEETINGS IN THE COUNCIL CHAMBER. MEMBERS OF THE PUBLIC MAY PARTICIPATE IN-PERSON, BY ZOOM, eCOMMENT OR EMAIL.**

City Council meetings are broadcast live through Spectrum Cable, Channel 8, and Frontier Communications, Channel 41 and/or rebroadcast on Wednesday at 3PM and Saturday at 3PM following the date of the meeting. Live streams and indexed archives of meetings are available via internet. Visit the City's official website at [www.Redondo.org/rbtv](http://www.Redondo.org/rbtv).

**TO WATCH MEETING LIVE ON CITY'S WEBSITE:**

<https://redondo.legistar.com/Calendar.aspx>

\*Click "In Progress" hyperlink under Video section of meeting

**TO WATCH MEETING LIVE ON YOUTUBE:**

<https://www.youtube.com/c/CityofRedondoBeachIT>

**TO JOIN ZOOM MEETING (FOR PUBLIC INTERESTED IN SPEAKING. OTHERWISE, PLEASE SEE ABOVE TO WATCH/LISTEN TO MEETING):**

Register in advance for this meeting:

[https://us02web.zoom.us/webinar/register/WN\\_dhNQNhLSqWZxoMi74q2bA](https://us02web.zoom.us/webinar/register/WN_dhNQNhLSqWZxoMi74q2bA)

After registering, you will receive a confirmation email containing information about joining the meeting.

If you are participating by phone, be sure to provide your phone # when registering. You will be provided a Toll Free number and a Meeting ID to access the meeting. Note; press # to bypass Participant ID. Attendees will be muted until the public participation period is opened. When you are called on to speak, press \*6 to unmute your line. Note, comments from the public are limited to 3 minutes per speaker.

**eCOMMENT: COMMENTS MAY BE ENTERED DIRECTLY ON WEBSITE AGENDA PAGE:**

<https://redondo.granicusideas.com/meetings>

- 1) Public comments can be entered before and during the meeting.
- 2) Select a SPECIFIC AGENDA ITEM to enter your comment;
- 3) Public will be prompted to Sign-Up to create a free personal account (one-time) and then comments may be added to each Agenda item of interest.
- 4) Public comments entered into eComment (up to 2200 characters; equal to approximately 3 minutes of oral comments) will become part of the official meeting record. Comments may be read out loud during the meeting.

**EMAIL: TO PARTICIPATE BY WRITTEN COMMUNICATION, EMAILS MUST BE RECEIVED BEFORE 3:00PM THE DAY OF THE MEETING (EMAILS WILL NOT BE READ OUT LOUD):**  
Written materials pertaining to matters listed on the posted agenda received after the agenda has been published will be added as supplemental materials under the relevant agenda item.

Public comments may be submitted by email to [cityclerk@redondo.org](mailto:cityclerk@redondo.org). Emails must be received before 3:00 p.m. on the date of the meeting to ensure Council and staff have the ability to review materials prior to the meeting.

## **4:30 PM - CLOSED SESSION - ADJOURNED REGULAR MEETING**

- A. CALL MEETING TO ORDER**
- B. ROLL CALL**
- C. SALUTE TO FLAG AND INVOCATION**
- D. BLUE FOLDER ITEMS - ADDITIONAL BACK UP MATERIALS**

*Blue folder items are additional back up material to administrative reports and/or public comments received after the printing and distribution of the agenda packet for receive and file.*

### **E. PUBLIC COMMUNICATIONS ON CLOSED SESSION ITEMS AND NON-AGENDA ITEMS**

*This section is intended to provide members of the public with the opportunity to comment on Closed Session Items or any subject that does not appear on this agenda for action. This section is limited to 30 minutes. Each speaker will be afforded three minutes to address the Mayor and Council. Each speaker will be permitted to speak only once. Written requests, if any, will be considered first under this section.*

### **F. RECESS TO CLOSED SESSION**

- F.1. [CONFERENCE WITH LEGAL COUNSEL AND LABOR NEGOTIATOR - The Closed Session is authorized by the Government Code Sec. 54957.6.](#)**

#### AGENCY NEGOTIATOR:

Mike Witzansky, City Manager

Diane Strickfaden, Director of Human Resources

#### EMPLOYEE ORGANIZATIONS:

Redondo Beach Teamsters

**CONTACT:** DIANE STRICKFADEN, DIRECTOR OF HUMAN RESOURCES

- F.2. [CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED POTENTIAL LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Section 54956.9\(d\)\(4\).](#)**

One potential case

- G. RECONVENE TO OPEN SESSION**
- H. ROLL CALL**
- I. ANNOUNCEMENT OF CLOSED SESSION ACTIONS**
- J. ADJOURN TO REGULAR MEETING**

## **6:00 PM - OPEN SESSION - REGULAR MEETING**

- A. CALL TO ORDER**



- B. ROLL CALL**
- C. SALUTE TO THE FLAG AND INVOCATION**
- D. PRESENTATIONS/PROCLAMATIONS/ANNOUNCEMENTS**
- E. APPROVE ORDER OF AGENDA**
- F. AGENCY RECESS**
- G. BLUE FOLDER ITEMS - ADDITIONAL BACK UP MATERIALS**

*Blue folder items are additional back up material to administrative reports and/or public comments received after the printing and distribution of the agenda packet for receive and file.*

**G.1. [For Blue Folder Documents Approved at the City Council Meeting](#)**

**H. CONSENT CALENDAR**

*Business items, except those formally noticed for public hearing, or those pulled for discussion are assigned to the Consent Calendar. The Mayor or any City Council Member may request that any Consent Calendar item(s) be removed, discussed, and acted upon separately. Items removed from the Consent Calendar will be taken up under the "Excluded Consent Calendar" section below. Those items remaining on the Consent Calendar will be approved in one motion. The Mayor will call on anyone wishing to address the City Council on any Consent Calendar item on the agenda, which has not been pulled by Council for discussion. Each speaker will be permitted to speak only once and comments will be limited to a total of three minutes.*

**H.1. [APPROVE AFFIDAVIT OF POSTING FOR THE CITY COUNCIL ADJOURNED REGULAR AND REGULAR MEETING OF MAY 10, 2022](#)**

**CONTACT:** ELEANOR MANZANO, CITY CLERK

**H.2. [APPROVE MOTION TO READ BY TITLE ONLY AND WAIVE FURTHER READING OF ALL ORDINANCES AND RESOLUTIONS LISTED ON THE AGENDA.](#)**

**CONTACT:** ELEANOR MANZANO, CITY CLERK

**H.3. [APPROVE CONTRACTS UNDER \\$35,000:](#)**

[1. APPROVE AN AGREEMENT WITH DOCUSIGN, INC. FOR ELECTRONIC SIGNATURE SERVICES IN AN AMOUNT OF \\$4,424.94 FOR UP TO 500 E-SIGNATURE ENVELOPES AND \\$8.80 PER EACH ADDITIONAL E-SIGNATURE ENVELOPE EXCEEDING THE ALLOWANCE FOR THE TERM MAY 10, 2022 TO MAY 9, 2023.](#)

**CONTACT:** JENNIFER PAUL, FINANCE DIRECTOR

**H.4. [ADOPT BY TITLE ONLY RESOLUTION NO. CC-2205-027, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, LEASING CERTAIN PROPERTY TO CALIFORNIA LOCAL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY](#)**

[APPROVE THE LEASE WITH CALIFORNIA LOCAL, LLC FOR A RESTAURANT USE FOR THE PREMISES AT 245 NORTH HARBOR DRIVE FOR A MONTHLY MINIMUM RENT OF \\$11,032 AND A TERM OF MAY 10, 2022 THROUGH MARCH 9, 2028](#)

**CONTACT:** GREG KAPOVICH, WATERFRONT AND ECONOMIC DEVELOPMENT DIRECTOR

- H.5.** [APPROVE SECOND AMENDMENT TO THE AGREEMENT WITH INTERWEST CONSULTING GROUP, INC. FOR AS-NEEDED BUILDING PLAN CHECK AND INSPECTION SERVICES AND TEMPORARY BUILDING OFFICIAL SERVICES FOR AN INCREASE OF \\$30,000 AND A NEW TOTAL NOT TO EXCEED AMOUNT OF \\$140,000 FOR THE TERM FEBRUARY 1, 2022 THROUGH FEBRUARY 8, 2024](#)

**CONTACT:** BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

- H.6.** [APPROVE THE SECOND AMENDMENT TO THE LEGAL SERVICES AGREEMENT WITH MCCUNE & HARBER LLP](#)

**CONTACT:** MICHAEL W. WEBB, CITY ATTORNEY

- H.7.** [APPROVE A MARKETING AGREEMENT WITH OHMCONNECT REGARDING OUR PARTNERSHIP TO BUILD A "VIRTUAL POWER PLANT".](#)

**CONTACT:** MICHAEL W. WEBB, CITY ATTORNEY

**I. EXCLUDED CONSENT CALENDAR ITEMS**

**J. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS**

*This section is intended to provide members of the public with the opportunity to comment on any subject that does not appear on this agenda for action. This section is limited to 30 minutes. Each speaker will be afforded three minutes to address the Mayor and Council. Each speaker will be permitted to speak only once. Written requests, if any, will be considered first under this section.*

- J.1.** [For eComments and Emails Received from the Public](#)

**K. EX PARTE COMMUNICATIONS**

*This section is intended to allow all elected officials the opportunity to reveal any disclosure or ex parte communication about the following public hearings*

**L. PUBLIC HEARINGS**

**M. ITEMS CONTINUED FROM PREVIOUS AGENDAS**

**N. ITEMS FOR DISCUSSION PRIOR TO ACTION**

- N.1.** [DISCUSSION AND POSSIBLE ACTION REGARDING UPDATES TO THE WEST BASIN MUNICIPAL WATER DISTRICT'S RECYCLED WATER EXPANSION ASSESSMENT STUDY IN REDONDO BEACH AND CURRENT RECYCLED WATER POLICIES](#)

**CONTACT:** TED SEMAAN, PUBLIC WORKS DIRECTOR

- N.2.** [DISCUSSION AND POSSIBLE ACTION REGARDING DRAFT ORDINANCES AMENDING TITLE 6 BUSINESSES, PROFESSIONS, AND TRADES, TITLE 10, CHAPTER 2, ZONING AND LAND USE AND TITLE 10, CHAPTER 5 COASTAL LAND USE PERTAINING TO CANNABIS REGULATIONS AND RECOMMENDING THAT THE CITY COUNCIL ADOPT CATEGORICAL EXEMPTIONS FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT \(CEQA\) FOR THE AMENDMENTS](#)

CONSIDERATION OF THE RECOMMENDATIONS MADE BY THE PLANNING COMMISSION REGARDING THE DRAFT CANNABIS ORDINANCES AND ADDITIONAL INPUT PROVIDED BY THE PUBLIC

**CONTACT:** BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

**N.3.** DISCUSSION AND POSSIBLE ACTION REGARDING THE FORMATION OF BUSINESS IMPROVEMENT DISTRICTS

**CONTACT:** GREG KAPOVICH, WATERFRONT & ECONOMIC DEVELOPMENT DIRECTOR

**O. CITY MANAGER ITEMS**

**P. MAYOR AND COUNCIL ITEMS**

**P.1.** DISCUSSION AND POSSIBLE ACTION ON OPTIONS FOR ENHANCED RESPONSE TO HELP ADDRESS HOMELESSNESS INCLUDING IMPROVED COORDINATION WITH THE COUNTY.

**Q. MAYOR AND COUNCIL REFERRALS TO STAFF**

**R. RECESS TO CLOSED SESSION**

**R.1.** CONFERENCE WITH LEGAL COUNSEL AND LABOR NEGOTIATOR - The Closed Session is authorized by the Government Code Sec. 54957.6.

- AGENCY NEGOTIATOR:

Mike Witzansky, City Manager

Diane Strickfaden, Director of Human Resources

- EMPLOYEE ORGANIZATIONS:

Redondo Beach Teamsters

**CONTACT:** DIANE STRICKFADEN, DIRECTOR OF HUMAN RESOURCES

**R.2.** CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED POTENTIAL LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Section 54956.9(d)(4).

One potential case

**S. RECONVENE TO OPEN SESSION**

**T. ADJOURNMENT**

The next meeting of the City Council of the City of Redondo Beach will be an Adjourned Regular meeting to be held at 4:30 p.m. (Closed Session) and a Regular meeting to be held at 6:00 p.m. (Open Session) on Tuesday, May 17, 2022, in the Redondo Beach City Hall Council Chamber, 415 Diamond Street, Redondo Beach, California.



# Administrative Report

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R.1., File # 22-4141

Meeting Date: 5/10/2022

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## **TITLE**

CONFERENCE WITH LEGAL COUNSEL AND LABOR NEGOTIATOR - The Closed Session is authorized by the Government Code Sec. 54957.6.

## **AGENCY NEGOTIATOR:**

Mike Witzansky, City Manager

Diane Strickfaden, Director of Human Resources

## **EMPLOYEE ORGANIZATIONS:**

Redondo Beach Teamsters



# Administrative Report

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F.2., File # 22-4148

Meeting Date: 5/10/2022

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CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED POTENTIAL LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Section 54956.9(d)(4).

One potential case



# Administrative Report

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G.1., File # 22-4111

Meeting Date: 5/10/2022

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## **TITLE**

*For Blue Folder Documents Approved at the City Council Meeting*



# Administrative Report

H.1., File # 22-4112

Meeting Date: 5/10/2022

To: MAYOR AND CITY COUNCIL  
From: ELEANOR MANZANO, CITY CLERK

## **TITLE**

APPROVE AFFIDAVIT OF POSTING FOR THE CITY COUNCIL ADJOURNED REGULAR AND REGULAR MEETING OF MAY 10, 2022

## **EXECUTIVE SUMMARY**

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS  
CITY OF REDONDO BEACH )

## **AFFIDAVIT OF POSTING**

In compliance with the Brown Act, the following materials have been posted at the locations indicated below.

Legislative Body	City Council
Posting Type	Adjourned Regular and Regular Agenda
Posting Locations	415 Diamond Street, Redondo Beach, CA 90277 ✓ Adjacent to Council Chambers
Meeting Date & Time	MAY 10, 2022 4:30 p.m. Closed Session 6:00 p.m. Open Session

As City Clerk of the City of Redondo Beach, I declare, under penalty of perjury, the document noted above was posted at the date displayed below.

*Eleanor Manzano, City Clerk*

Date: May 6, 2022



# Administrative Report

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H.2., File # 22-4113

Meeting Date: 5/10/2022

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**TITLE**

APPROVE MOTION TO READ BY TITLE ONLY AND WAIVE FURTHER READING OF ALL ORDINANCES AND RESOLUTIONS LISTED ON THE AGENDA.





# Administrative Report

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H.3., File # 22-4138

Meeting Date: 5/10/2022

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**To:** MAYOR AND CITY COUNCIL  
**From:** JENNIFER PAUL, FINANCE DIRECTOR

**TITLE**

APPROVE CONTRACTS UNDER \$35,000:

1. APPROVE AN AGREEMENT WITH DOCUSIGN, INC. FOR ELECTRONIC SIGNATURE SERVICES IN AN AMOUNT OF \$4,424.94 FOR UP TO 500 E-SIGNATURE ENVELOPES AND \$8.80 PER EACH ADDITIONAL E-SIGNATURE ENVELOPE EXCEEDING THE ALLOWANCE FOR THE TERM MAY 10, 2022 TO MAY 9, 2023.

**EXECUTIVE SUMMARY**

Approve Contracts Under \$35,000

**APPROVED BY:**

*Mike Witzansky, City Manager*

**ATTACHMENTS**

Contract & Insurance



DocuSign, Inc.  
221 Main Street, Suite 1550  
San Francisco, CA 94105

**Offer Valid Through:** May 10, 2022

**Prepared By:** Ashley Bolanos  
**Quote Number:** Q-00747164

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## ORDER FORM

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### Address Information

**Bill To:**

City of Redondo Beach  
415 Diamond St,  
Redondo Beach, CA, 90277  
United States

**Ship To:**

City of Redondo Beach  
P.O. BOX 270,  
Redondo Beach, CA, 90277-0270  
United States

**Billing Contact Name:**

Eleanor Manzano

**Billing Email Address:**

eleanor.manzano@redondo.org

**Billing Phone:**

(310) 318-0656

**Shipping Contact Name:**

Eleanor Manzano

**Shipping Email Address:**

eleanor.manzano@redondo.org

**Shipping Phone:**

(310) 318-0656

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### Order Details

**Order Start Date:** May 10, 2022

**Order End Date:** May 9, 2023

**Billing Frequency:** Annual

**Payment Method:** Check

**Payment Terms:** Net 30

**Currency:** USD

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### Products

Product Name	Start Date	End Date	Quantity	Net Price
eSignature Enterprise Pro Edition - Envelope Subs.	May 10, 2022	May 9, 2023	500	\$3,627.00
Enterprise Premier Support	May 10, 2022	May 9, 2023	1	\$797.94

**Grand Total: \$4,424.94**

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### Product Details

eSignature Envelope Allowance: 500

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### Overage/Usage Fees

eSignature Enterprise Pro Edition - Envelope Subs. (Per Transaction): \$8.80

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## Order Special Terms

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## Terms & Conditions

This Order Form covers the products and services described herein and is governed by the attached terms and conditions.

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## Billing Information

Prices shown above do not include any state and local taxes that may apply. Any such taxes are the responsibility of the Customer and will appear on the final Invoice.

Is the contracting entity exempt from sales tax?

**Please select Yes or No:**

If yes, please send the required tax exemption documents immediately to [taxexempt@docusign.com](mailto:taxexempt@docusign.com).

Invoices for this order will be emailed automatically from [invoicing@docusign.com](mailto:invoicing@docusign.com). Please make sure this email is on an approved setting or safe senders list so notifications do not go to a junk folder or caught in a spam filter.

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## Purchase Order Information

Is a Purchase Order (PO) required for the purchase or payment of the products on this Order Form?

Please select Yes or No:

If yes, please complete the following:

PO Number:

PO Amount: \$

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**By signing this Agreement, I certify that I am authorized to sign on behalf of the Customer and agree to the Terms and Conditions of this Order Form and any documents incorporated herein.**

**Customer**

Signature:

Name: William C. Brand

Job Title: Mayor

Date:

**DocuSign,  
Inc.**

Signature:

Name:

Job Title:

Date:

ATTEST:

\_\_\_\_\_  
Eleanor Manzano, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael W. Webb, City Attorney

## DOCUSIGN MASTER SERVICES AGREEMENT

This DocuSign Master Services Agreement (“**MSA**”) is made between DocuSign, Inc., a Delaware corporation (“**DocuSign**”), and the contracting party identified on the Order Form (“**Customer**”), together referred to as the “**Parties**” and each individually as a “**Party**”, as of the date of last signature below (the “**MSA Effective Date**”). The Parties hereby agree to the terms and conditions of this MSA, including any specific services terms, product details and any applicable license and/or subscription terms will be set forth in Attachment A DocuSign Service Schedule, Attachment B CLM Service Schedule, Attachment C Security for DocuSign Services, Attachment D Data Protection for DocuSign Services, Order Form(s) and SOW(s), each of which become binding on the Parties and are incorporated into this MSA upon execution of an Order Form and/or SOW. Each Order Form and/or SOW is governed by and incorporates the following documents in effect as of the effective date of the applicable Order Form or SOW, collectively referred to as the “**Agreement**”, that consists of:

1. the Order Form and/or Statement of Work;
2. any attachments, addenda, and/or appendix(ices) to this MSA or a Service Schedule;
3. Service Schedule(s); and
4. this MSA.

The applicable attachment(s), addenda, appendix(ices), and Service Schedule(s) is determined by the DocuSign Service(s) purchased on the Order Form and/or SOW. In the event of a conflict, the order of precedence is as set out above in descending order of control.

**MSA Version:** September 20, 2021

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### 1. DEFINITIONS

“**Account**” means a unique account established by Customer to enable its Authorized Users to access and use a DocuSign Service.

“**Account Administrator**” is an Authorized User who is assigned and expressly authorized by Customer as its agent to manage Customer’s Account, including, without limitation, to configure administration settings, assign access and use authorizations, request different or additional services, provide usage and performance reports, manage templates, execute approved campaigns and events, assist in third-party product integrations, and to receive privacy disclosures. Customer may appoint an employee or a third-party business partner or contractor to act as its Account Administrator and may change its designation at any time through its Account.

“**Affiliate**” of a Party means any entity that the Party directly or indirectly owns or controls more than fifty percent (50%) of the voting interests of the subject entity. Any legal entity will be considered a Party’s Affiliate as long as that interest is maintained.

“**Authorized User**” means one individual natural person, whether an employee, business partner, contractor, or agent of Customer or its Affiliates who is registered by Customer in Customer’s Account to use the DocuSign Services. An Authorized User must be identified by a unique email address and user name, and two or more persons may not use the DocuSign Services as the same Authorized User. If the Authorized User is not an employee of Customer, use of the DocuSign Services will be allowed only if the

user is under confidentiality obligations with Customer at least as restrictive as those in the Agreement and is accessing or using the DocuSign Services solely to support Customer's and/or Customer Affiliates' internal business purposes.

**"Confidential Information"** means: (a) for DocuSign and its Affiliates, the DocuSign Services, Documentation and other related technical information, security policies and processes, product roadmaps, and pricing; (b) for Customer and its Affiliates, Customer Data; (c) any other information of a Party or its Affiliates that is disclosed in writing or orally and is designated as confidential or proprietary at the time of disclosure to the Party, including its Affiliates, receiving Confidential Information ("**Recipient**") (and, in the case of oral disclosures, summarized in writing and delivered to the Recipient within thirty (30) days of the initial disclosure), or that due to the nature of the information the Recipient should reasonably understand it to be confidential information of the disclosing Party; and (d) the terms and conditions of the Agreement between the Parties. Confidential Information does not include any information that: (i) was or becomes generally known to the public through no fault or breach of the Agreement by the Recipient; (ii) was rightfully in the Recipient's possession at the time of disclosure without restriction on use or disclosure; (iii) was independently developed by the Recipient without use of or reference to the disclosing Party's Confidential Information; or (iv) was rightfully obtained by the Recipient from a third party not under a duty of confidentiality and without restriction on use or disclosure.

**"Customer Data"** means any content, eDocuments, materials, data and information that Customer or its Authorized Users enter into the DocuSign Services, including, but not limited to, any Customer personal data and information contained in eDocuments. Customer Data does not include any component of the DocuSign Cloud Services or material provided by or on behalf of DocuSign.

**"Documentation"** means DocuSign's then-current technical and functional documentation for the DocuSign Services as made generally available by DocuSign.

**"DocuSign Service(s)"** means the services provided by DocuSign under an Order Form or SOW, and may include software, source code, or other technology licensed to DocuSign from third parties and embedded into the services that DocuSign provides to Customer. Notwithstanding the foregoing, DocuSign Services do not include Third-Party Services (defined below).

**"eDocument"** refers to a contract, notice, disclosure, or other record or document deposited into the DocuSign Service by Customer for processing.

**"Indemnified Party(ies)"** means the Party (whether DocuSign or Customer) being indemnified under Section 9 (Third-Party Claims), including its employees, directors, agents, and representatives.

**"Indemnifying Party(ies)"** means the Party (whether DocuSign or Customer) that is providing indemnification under Section 9 (Third-Party Claims).

**"Order Form"** means the order form provided by DocuSign that sets forth the pricing and the DocuSign Services selected by Customer.

**"Order Start Date"** means the start date of the applicable Order Form as defined in that Order Form.

**"Professional Services"** means any integration, consulting, architecture, training, transition, configuration, administration, and similar ancillary DocuSign Services that are set forth in an Order Form or Statement of Work ("**SOW**").

**"Service Schedule"** means the service-specific terms and conditions applicable to the DocuSign Service(s).

**"System"** means the software systems and programs, the communication and network facilities, and the hardware and equipment used by DocuSign or its agents to make available the DocuSign Services via the Internet.

**"Third-Party Services"** means services, software, products, applications, integrations and other features or offerings that are provided by Customer or obtained by Customer from a third party.

## **2. USAGE AND ACCESS RIGHTS**

**2.1 Right to Use.** DocuSign will provide the DocuSign Services to Customer as set forth in the Order Form and/or SOW. Subject to the terms and conditions of the Agreement, DocuSign grants to Customer a worldwide, limited, non-exclusive, non-transferable right and license during the Term, solely for its and its Affiliates' internal business purposes, and in accordance with the Documentation, to: (a)

access and use the DocuSign Services; (b) implement, configure, and through its Account Administrator, permit its Authorized Users to access and use the DocuSign Services; and (c) access and use the Documentation. Customer will ensure that its Affiliates and all Authorized Users using the DocuSign Services under its Account comply with all of Customer's obligations under the Agreement, and Customer is responsible for their acts and omissions relating to the Agreement as though they were those of Customer. A Customer Affiliate may enter into an Order Form or SOW directly with DocuSign under this MSA by a mutually executed Order Form or SOW that references this MSA. In such event: (i) the Customer Affiliate will be bound by this MSA and will be fully responsible for its liabilities and obligations under the applicable Order Form or SOW; and (ii) all references to "**Customer**" in the Agreement will be deemed references to the Customer Affiliate set forth on the Order Form or SOW for purposes of defining the rights and obligations of the Parties hereunder.

**2.2 Restrictions.** Customer shall not, and shall not permit its Authorized Users or others under its control to, do the following with respect to the DocuSign Services:

- (a) use the DocuSign Services, or allow access to it, in a manner that circumvents contractual usage restrictions or that exceeds Customer's authorized use or usage metrics set forth in the Agreement, including the applicable Order Form or SOW;
- (b) license, sub-license, sell, re-sell, rent, lease, transfer, distribute, time share or otherwise make any portion of the DocuSign Services or Documentation available for access by third parties except as otherwise expressly provided in the Agreement;
- (c) access or use the DocuSign Services or Documentation for the purpose of: (i) developing or operating products or services intended to be offered to third parties in competition with the DocuSign Services, or (ii) allowing access to its Account by a direct competitor of DocuSign;
- (d) reverse engineer, decompile, disassemble, or copy any of the DocuSign Services or technologies, or otherwise attempt to derive source code or other trade secrets or create any derivative works from or about any of the DocuSign Services or technologies, or use the machine-learning algorithm output generated from the DocuSign Services to train, calibrate, or validate, in whole or in part, any other systems, programs or platforms, or for benchmarking, software-development, or other competitive purposes, except pursuant to Customer's non-waivable rights under applicable law, without DocuSign's written consent;
- (e) use the DocuSign Services or Documentation in a way that: (i) violates or infringes upon the rights of a third party, including those pertaining to: contract, intellectual property, privacy, or publicity; or (ii) effects or facilitates the storage or transmission of libelous, tortious, or otherwise unlawful material including, but not limited to, material that is harassing, threatening, or obscene;
- (f) fail to use commercially reasonable efforts to avoid interference with or disruption to the integrity, operation, performance, or use or enjoyment by others of the DocuSign Services;
- (g) use the DocuSign Services to create, use, send, store, or run viruses or other harmful computer code, files, scripts, agents, or other programs, or circumvent or disclose the user authentication or security of the DocuSign Services or any host, network, or account related thereto or use any aspect of the DocuSign Services components other than those specifically identified in an Order Form or SOW, even if technically possible; or
- (h) use, or allow the use of, the DocuSign Services in violation of Section 13.5 (Trade Restrictions).

**2.3 Suspension of Access.** DocuSign may suspend any use of the DocuSign Services or remove or disable any Account or content that DocuSign reasonably and in good faith believes violates the Agreement. DocuSign will use commercially reasonable efforts to notify Customer prior to any such suspension or disablement, unless DocuSign reasonably believes that: (a) it is prohibited from doing so under applicable law or under legal process (such as court or government administrative agency processes, orders, mandates, and the like); or (b) it is necessary to delay notice in order to prevent imminent harm to the DocuSign Services or a third party. Under circumstances where notice is delayed, DocuSign will provide notice if and when the related restrictions in the previous sentence no longer apply.

**2.4 Third-Party Services.** Customer may choose to obtain Third-Party Services from third parties and/or DocuSign (for example, through a reseller arrangement or otherwise). Any acquisition by Customer of Third-Party Services is solely between Customer and the applicable Third-Party Service

provider and DocuSign does not warrant, support, or assume any liability or other obligation with respect to such Third-Party Services, unless expressly provided otherwise in the Order Form or the Agreement. In the event Customer chooses to integrate or interoperate Third-Party Services with DocuSign Services in a manner that requires DocuSign or the DocuSign Services to exchange Customer Data with such Third-Party Service or Third-Party Service provider, Customer: (a) grants DocuSign permission to allow the Third-Party Service and Third-Party Service provider to access Customer Data and information about Customer's usage of the Third-Party Services as appropriate and necessary to enable the interoperation of that Third-Party Service with the DocuSign Services; (b) acknowledges that any exchange of data between Customer and any Third-Party Service is solely between Customer and the Third-Party Service provider and is subject to the Third-Party Service provider's terms and conditions governing the use and provision of such Third-Party Service (the presentation and manner of acceptance of which is controlled solely by the Third-Party Service provider); and (c) agrees that DocuSign is not responsible for any disclosure, modification or deletion of Customer Data resulting from access to such data by Third-Party Services and Third-Party Service providers.

### **3. OWNERSHIP**

**3.1 Customer Data.** Customer Data processed using the DocuSign Services is and will remain, as between Customer and DocuSign, owned by Customer. Customer hereby grants DocuSign the right to process, transmit, store and disclose the Customer Data in order to provide the DocuSign Services to Customer, subject to the terms of Section 11.2 (Required Disclosure) below.

**3.2 DocuSign Services.** DocuSign, its Affiliates, or its licensors own all right, title, and interest in and to any and all copyrights, trademark rights, patent rights, database rights, and other intellectual property or other rights in and to the DocuSign Services and Documentation, any improvements, design contributions, or derivative works thereto, and any knowledge or processes related thereto (including any machine learning algorithms output from the DocuSign Services) and/or provided hereunder. Unless otherwise specified in the applicable SOW, all deliverables provided by or for DocuSign in the performance of Professional Services, excluding Customer Data and Customer Confidential Information, are owned by DocuSign and constitute part of the DocuSign Service(s) under the Agreement.

**3.3 Feedback.** DocuSign encourages Customer to provide suggestions, proposals, ideas, recommendations, or other feedback regarding improvements to DocuSign Services and related resources ("**Feedback**"). To the extent Customer provides Feedback, Customer grants to DocuSign and its Affiliates a royalty-free, fully paid, sub-licensable, transferable (notwithstanding Section 13.2 (Assignability)), non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import, and otherwise exploit Feedback (including by incorporation of such feedback into the DocuSign Services) without restriction. Customer shall ensure that: (a) Feedback does not identify Customer, its Affiliates, or Authorized Users, or include any Customer Data; and (b) Customer has obtained requisite authorization from any Authorized User or other third party to grant the license described herein. For the avoidance of doubt, Feedback does not constitute Customer Confidential Information.

### **4. SECURITY AND CUSTOMER DATA**

**4.1 Security.** DocuSign will use commercially reasonable industry standard security technologies in providing the DocuSign Services. DocuSign has implemented and will maintain appropriate technical and organizational measures, including information security policies and safeguards, designed to preserve the security, integrity, and confidentiality of Customer Data and Customer personal data and to protect against unauthorized or unlawful disclosure or corruption of or access to such data in accordance with Attachment C Security Attachment for DocuSign Additional or differing security obligations, if any, will be expressly set forth in the applicable Service Schedule, Order Form, or separate written agreement between the Parties.

**4.2 Customer Data.** Customer is responsible for Customer Data (including Customer personal data) as entered into, supplied or used by Customer and its Authorized Users in the DocuSign Services. Further, Customer is solely responsible for determining the suitability of the DocuSign Services for Customer's business and complying with any applicable data privacy and protection regulations, laws or conventions applicable to Customer Data and Customer's use of the DocuSign Services. Customer grants to DocuSign the non-exclusive right to process Customer Data (including personal data) in accordance with the Data Protection Attachment D for DocuSign Services, for the sole purpose of and



only to the extent necessary for DocuSign, for the sole purpose of and only to the extent necessary for DocuSign: (a) to provide the DocuSign Services; (b) to verify Customer's compliance with the restrictions set forth in Section 2.2 (Restrictions) if DocuSign has a reasonable belief of Customer's non-compliance; and (c) as otherwise set forth in the Agreement.

**4.3 Usage Data.** DocuSign may collect and use data, information, or insights generated or derived from the use of the DocuSign Services ("**Usage Data**") for its business purposes, including industry analysis, benchmarking, analytics, marketing, and developing, training and improving its products and services. DocuSign will deidentify and anonymize all Usage Data, and will disclose such Usage Data in aggregate form only in a manner that does not identify Customer, its Authorized Users, Customer Data, or Customer's Confidential Information.

## **5. PAYMENT OF FEES**

**5.1 Fees.** Except as expressly set forth in the applicable Order Form or SOW, Customer will pay all fees set forth in the Order Form or SOW in accordance with the following: (a) DocuSign Services fees are invoiced annually in advance; (b) the first invoice will coincide with the Order Start Date of an Order Form or the effective date of a SOW; (c) payment will be due within thirty (30) days from the date of the invoice; and (d) all amounts will be denominated and payable in the currency specified in the Order Form and/or SOW. Unless otherwise agreed to by the Parties and expressly noted in the Order Form and/or SOW, invoices will be sent to Customer via email. Upon execution by Customer and DocuSign, each Order Form and/or SOW is non-cancellable and non-refundable except as provided in the Agreement, and the Term as set forth in the Order Form for DocuSign Services is a continuous and non-divisible commitment for the full duration of the Term regardless of any invoice schedule. Customer may withhold from payment any charge or amount disputed by Customer in good faith pending resolution of such dispute, provided that Customer: (i) notifies DocuSign of the dispute prior to the date such payment is due, specifying in such notice (A) the amount in dispute, and (B) the reason for the dispute set out in sufficient detail to facilitate investigation by DocuSign and resolution by the Parties; (ii) makes timely payment of all undisputed charges and amounts; (iii) works diligently with DocuSign to resolve the dispute promptly; and (iv) pays all amounts that are determined to be payable by resolution of the dispute (by adversarial proceedings, agreement or otherwise) within ten (10) days following such resolution.

**5.2 Purchase Orders.** If Customer issues a purchase order, then it shall be for the full amount set forth in the applicable Order Form or SOW, and DocuSign hereby rejects any additional or conflicting terms appearing in a purchase order or any other ordering materials submitted by Customer, and conditions assent solely based on the terms and conditions of the Agreement as offered by DocuSign. Upon request, DocuSign shall reference the purchase order number on its invoices, provided, however, that Customer acknowledges that it is Customer's responsibility to provide the corresponding purchase order information (including a purchase order number) to DocuSign upon the signing of any Order Form. Customer agrees that a failure to provide DocuSign with the corresponding purchase order shall not relieve Customer of its obligations to provide payment to DocuSign pursuant to Section 5.1 (Fees) above.

**5.3 Offsets; Late Charges; Attorneys' Fees.** If DocuSign owes any amounts to Customer that are not derived from the Agreement, such amounts will not be withheld or offset against any invoice issued under the Agreement. DocuSign may assess late charges equal to the lesser of one and one-half percent (1.5%) of the unpaid balance per month or the highest rate permitted by applicable law. Customer will be responsible for any reasonable attorneys' fees, costs, and expenses incurred by DocuSign to collect any amounts that are not paid when due. If Customer fails to timely pay any amounts due under the Agreement, then without limitation of any of its other rights or remedies, DocuSign may suspend performance of those DocuSign Services until DocuSign receives all past due amounts from Customer.

## **6. TAXES**

**6.1 Tax Responsibility.** All payments required by the Agreement are stated exclusive of all taxes, duties, levies, imposts, fines or similar governmental assessments, including sales and use taxes, value-added taxes ("**VAT**"), goods and services taxes ("**GST**"), excise, business, service, and similar transactional taxes imposed by any jurisdiction and the interest and penalties thereon (collectively, "**Taxes**"). Without limiting the foregoing, Customer shall be responsible for and bear Taxes associated with its purchase of, payment for, access to or use of the DocuSign Services. Taxes shall not be deducted from the payments to DocuSign, except as required by law, in which case Customer shall increase the amount payable as necessary so that after making all required deductions and withholdings, DocuSign receives and retains (free from any Tax liability) an amount equal to the amount it would have received

had no such deductions or withholdings been made. If Customer claims tax exempt status for amounts due under the Agreement, it shall provide DocuSign with a valid tax exemption certificate (authorized by the applicable governmental authority) to avoid application of Taxes to Customer's invoice. Each Party is responsible for and shall bear Taxes imposed on its net income. Customer hereby confirms that DocuSign can rely on the ship-to name and address set forth in the Order Form(s) or SOW Customer places directly with DocuSign as being the place of supply for Tax purposes. The Parties' obligations under this Section 6.1 (Tax Responsibility) shall survive the termination or expiration of the Agreement.

**6.2 Invoicing Taxes.** If DocuSign is required to invoice or collect Taxes associated with Customer's purchase of, payment for, access to or use of the DocuSign Services, DocuSign will issue an invoice to Customer including the amount of those Taxes, itemized where required by law. If applicable, Customer shall provide to DocuSign its VAT, GST or similar tax identification number(s) on the Order Form or SOW. Customer shall use the ordered DocuSign Services for Customer's business use in the locations set forth on the Order Form or SOW in accordance with the provided VAT or GST identification number(s).

## **7. TERM AND TERMINATION**

**7.1 Term.** The term of an Order Form and any associated Service Schedule(s) is the period of time, including all renewals thereto, that begins on the Order Start Date and, unless terminated sooner as provided herein, will continue until the Order End Date, both dates as specified on the Order Form (the "Term"). In the case of a SOW for Professional Services, if no end date is specified in the SOW, then the SOW shall expire upon completion of Professional Services or early termination as permitted by the Agreement. The term of this MSA and the Agreement shall continue as long as an Order Form or SOW referencing or incorporated into this MSA remains valid and in effect. Termination or expiration of any Order Form or SOW shall leave other Order Forms or SOWs unaffected.

**7.2 Termination for Breach; Termination for Insolvency.** If either Party commits a material breach or default in the performance of any of its obligations under the Agreement, then the other Party may terminate the Agreement in its entirety by giving the defaulting Party written notice of termination, unless the material breach or default in performance is cured within thirty (30) days after the defaulting Party receives notice thereof. Either Party may terminate the Agreement in its entirety upon written notice if the other Party becomes the subject of a petition in bankruptcy or any proceeding related to its insolvency, receivership or liquidation, in any jurisdiction, that is not dismissed within sixty (60) days of its commencement, or an assignment for the benefit of creditors.

**7.3 Post-Termination Obligations.** If the Agreement expires or is terminated for any reason: (a) Customer will pay to DocuSign any amounts that have accrued before, and remain unpaid as of, the effective date of the expiration or termination; (b) any and all liabilities of either Party to the other Party that have accrued before the effective date of the expiration or termination will survive; (c) licenses and use rights granted to Customer with respect to the DocuSign Services and related intellectual property will immediately terminate; (d) DocuSign's obligation to provide any further DocuSign Services to Customer under the Agreement will immediately terminate, except any such DocuSign Services that are expressly to be provided following the expiration or termination of the Agreement; and (e) the Parties' rights and obligations under Sections 4.3, 6.1, 7.3, 8.3, and 10 through 13 will survive.

## **8. WARRANTIES AND DISCLAIMERS**

**8.1 DocuSign Service Warranties.** DocuSign warrants that: (a) during the applicable Term, the DocuSign Services, when used as authorized under the Agreement, will perform substantially in conformance with the Documentation associated with the applicable DocuSign Services; and (b) DocuSign will use commercially reasonable efforts to ensure that the DocuSign Services do not introduce files, scripts, agents, or programs intended to do harm, including, for example, viruses, worms, time bombs, and Trojan horses into Customer's system. Customer's sole and exclusive remedy for any breach of these warranties by DocuSign is for DocuSign to repair or replace the affected DocuSign Services to make them conform, or, if DocuSign determines that the foregoing remedy is not commercially reasonable, then either Party may terminate the Agreement.

**8.2 Mutual Warranties.** Each Party represents and warrants that: (a) the Agreement has been duly executed by a person authorized to sign the Agreement and delivered and constitutes a valid and binding agreement enforceable against it in accordance with the terms of the Agreement; and (b) no authorization or approval from any third party is required in connection with its execution of the Agreement.

**8.3 DISCLAIMER.** EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THE AGREEMENT, DOCUSIGN: (A) MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED IN FACT OR BY OPERATION OF LAW, OR STATUTORY, AS TO ANY MATTER WHATSOEVER; (B) DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND TITLE; AND (C) DOES NOT WARRANT THAT THE DOCUSIGN SERVICES ARE OR WILL BE ERROR-FREE OR MEET CUSTOMER'S REQUIREMENTS. CUSTOMER HAS NO RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF DOCUSIGN TO ANY THIRD PARTY.

## **9. THIRD-PARTY CLAIMS**

**9.1 By DocuSign.** DocuSign will defend and, in accordance with Section 9.3 (Procedures), indemnify Customer's Indemnified Parties from and against, any: (a) third-party claim; (b) third-party legal action; or (c) administrative agency action or proceeding (each, a "**Claim**") to the extent arising from: (i) any actual breach by DocuSign of specified security safeguards under the Agreement related to the DocuSign Services that results in the breach of its confidentiality obligations in Section 11 (Confidentiality); and (ii) any alleged infringement of any third-party intellectual property right occurring from Customer's use of the DocuSign Services as authorized under the Agreement. Notwithstanding the foregoing, DocuSign will not be responsible for any Claim due to Customer's or its Authorized User's combination of DocuSign Services with goods or services provided by third parties, including any Third-Party Services; adherence to specifications, designs, or instructions furnished by Customer; or Customer's modification of the DocuSign Services not described in the Documentation or otherwise expressly authorized by DocuSign in writing.

**9.2 By Customer.** Customer will defend and, in accordance with Section 9.3 (Procedures), indemnify DocuSign's Indemnified Parties from and against, any Claim to the extent arising from: (a) use of the DocuSign Services by Customer or its Authorized Users in violation of the Agreement, the Documentation, or applicable law; (b) any breach by Customer of its obligations under Section 2.2 (e) through (h) (Restrictions) or Section 11 (Confidentiality); or (c) the nature and content of all Customer Data processed by the DocuSign Services.

**9.3 Procedures.** The Parties' respective obligations in this Section 9 (Third-Party Claims) are conditioned on: (a) the Indemnified Parties giving the Indemnifying Party prompt written notice of the Claim, except that the failure to provide prompt notice will only limit the indemnification obligations to the extent the Indemnifying Party is prejudiced by the delay or failure; (b) the Indemnifying Party being given full and complete control over the defense and settlement of the Claim; and (c) the relevant Indemnified Parties providing assistance in connection with the defense and settlement of the Claim, as the Indemnifying Party may reasonably request. The Indemnifying Party will indemnify the Indemnified Parties against: (i) all damages, costs, and attorneys' fees finally awarded against any of them with respect to any Claim; (ii) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by any of them in connection with the defense of the Claim (other than attorneys' fees and costs incurred without the Indemnifying Party's consent after it has accepted defense of such Claim); and (iii) all amounts that the Indemnifying Party agreed to pay to any third party in settlement of any Claims arising under this Section 9 (Third-Party Claims) and settled by the Indemnifying Party or with its approval. The Indemnifying Party shall not, without the relevant applicable Indemnified Parties' prior written consent, agree to any settlement on behalf of such Indemnified Parties which includes either the obligation to pay any amounts, or any admissions of liability, whether civil or criminal, on the part of any of the Indemnified Parties.

**9.4 Infringement Remedy.** If Customer is enjoined or otherwise prohibited from using any of the DocuSign Services or a portion thereof based on a Claim covered by DocuSign's indemnification obligations under Section 9.1 (By DocuSign) above, then DocuSign will, at its sole expense and option, either: (a) obtain for Customer the right to use the affected portions of the DocuSign Services; (b) modify the allegedly infringing portions of the DocuSign Services so as to avoid the Claim without substantially diminishing or impairing their functionality; or (c) replace the allegedly infringing portions of the DocuSign Services with items of substantially similar functionality so as to avoid the Claim. If DocuSign determines that the foregoing remedies are not commercially reasonable and notifies Customer of such determination, then either Party may terminate the Agreement, and in such case, DocuSign will provide a prorated refund to Customer for any prepaid fees for the infringing DocuSign Services received by DocuSign under the Agreement that correspond to the unused portion of the Term. The remedies set out

in this Section 9 (Third-Party Claims) are Customer's sole and exclusive remedies for any actual or alleged infringement by the DocuSign Services of any third-party intellectual property right.

## **10. LIMITATION OF LIABILITY**

**10.1 Exclusion of Damages.** EXCEPT FOR THE PARTIES' EXPRESS OBLIGATIONS UNDER SECTION 9 (THIRD-PARTY CLAIMS), UNDER NO CIRCUMSTANCES, AND REGARDLESS OF THE NATURE OF THE CLAIM, SHALL EITHER PARTY (OR THEIR RESPECTIVE AFFILIATES) BE LIABLE TO THE OTHER PARTY FOR LOSS OF PROFITS, SALES OR BUSINESS, LOSS OF ANTICIPATED SAVINGS, LOSS OF USE OR CORRUPTION OF SOFTWARE, DATA OR INFORMATION, WORK STOPPAGE OR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, COVER, PUNITIVE, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE AGREEMENT, EVEN IF APPRISED OF THE LIKELIHOOD OF SUCH LOSSES.

**10.2 Limitation of Liability.** EXCEPT FOR: (A) THE PARTIES' EXPRESS OBLIGATIONS UNDER SECTION 9 (THIRD-PARTY CLAIMS); (B) DAMAGES RESULTING FROM DEATH OR BODILY INJURY, OR PHYSICAL DAMAGE TO TANGIBLE REAL OR PERSONAL PROPERTY, CAUSED BY EITHER PARTY'S NEGLIGENCE; (C) DAMAGES RESULTING FROM EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; AND (D) DOCUSIGN'S RIGHT TO COLLECT UNPAID FEES DUE HEREUNDER, TO THE EXTENT PERMITTED BY LAW, THE TOTAL, CUMULATIVE LIABILITY OF EACH PARTY (AND THEIR RESPECTIVE AFFILIATES) ARISING OUT OF OR RELATED TO THE AGREEMENT WILL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE DOCUSIGN SERVICE(S) DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR ANY OTHER LEGAL OR EQUITABLE THEORY. THE PARTIES FURTHER ACKNOWLEDGE THAT CUSTOMER MAY HAVE STATUTORY RIGHTS AGAINST DOCUSIGN FRANCE SAS AND CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY AMOUNTS RECOVERED BY CUSTOMER AGAINST DOCUSIGN FRANCE SAS PURSUANT TO SUCH RIGHTS SHALL BE AGGREGATED WITH ANY OTHER CLAIMS HEREUNDER FOR PURPOSES OF THE CAP ON DAMAGES SET FORTH ABOVE.

**10.3 Independent Allocations of Risk.** Each provision of the Agreement that provides for a limitation of liability, disclaimer of warranties, or exclusion of damages represents an agreed allocation of the risks of this Agreement between the Parties. This allocation is reflected in the pricing offered by DocuSign to Customer and is an essential element of the basis of the bargain between the Parties. Each of these provisions is severable and independent of all other provisions of the Agreement, and each of these provisions will apply even if the warranties in the Agreement have failed of their essential purpose.

## **11. CONFIDENTIALITY**

**11.1 Restricted Use and Nondisclosure.** During and after the Term, Recipient will: (a) use the Confidential Information of the disclosing Party solely for the purpose for which it is provided; (b) not disclose such Confidential Information to a third party, except on a need-to-know basis to its Affiliates, attorneys, auditors, consultants, and service providers who are under confidentiality obligations at least as restrictive as those contained herein; and (c) protect such Confidential Information from unauthorized use and disclosure to the same extent (but using no less than a reasonable degree of care) that it protects its own Confidential Information of a similar nature.

**11.2 Required Disclosure.** If Recipient is required by law to disclose Confidential Information of the disclosing Party, Recipient will give prompt written notice to the disclosing Party before making the disclosure, unless prohibited from doing so by legal or administrative process, and cooperate with the disclosing Party to obtain where reasonably available an order protecting the Confidential Information from public disclosure.

**11.3 Ownership.** Recipient acknowledges that, as between the Parties, all Confidential Information it receives from the disclosing Party, including all copies thereof in Recipient's possession or control, in any media, is proprietary to and exclusively owned by the disclosing Party. Nothing in the Agreement grants Recipient any right, title or interest in or to any of the disclosing Party's Confidential Information. Recipient's incorporation of the disclosing Party's Confidential Information into any of its own materials will not render Confidential Information non-confidential.

**11.4 Remedies.** Recipient acknowledges that any actual or threatened breach of this Section 11 (Confidentiality) may cause irreparable, non-monetary injury to the disclosing Party, the extent of which may be difficult to ascertain. Accordingly, the disclosing Party is entitled to (but not required to) seek injunctive relief in addition to all remedies available to the disclosing Party at law and/or in equity, to prevent or mitigate any breaches of the Agreement or damages that may otherwise result from those breaches. Absent written consent of the disclosing Party to the disclosure, the Recipient, in the case of a breach of this Section 11 (Confidentiality), has the burden of proving that the disclosing Party's Confidential Information is not, or is no longer, confidential or a trade secret and that the disclosure does not otherwise violate this Section 11 (Confidentiality).

## **12. GOVERNING LAW AND VENUE**

### **12.1**

The Agreement is governed by the laws of the State of Michigan, U.S.A., without reference to its choice of law rules to the contrary. The Parties hereby irrevocably consent to the exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in Washtenaw County, Michigan, for the purposes of adjudicating any dispute arising out of the Agreement. To the extent permitted by law, choice of law rules, the 1980 U.N. Convention on Contracts for the International Sale of Goods, and the Uniform Computer Information Transactions Act as enacted, shall not apply. Notwithstanding the foregoing, either Party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding such Party's intellectual property rights. Each Party hereby irrevocably waives, to the fullest extent permitted by law, any and all right to trial by jury in any legal proceeding arising out of or relating to the Agreement.

**12.2** To the extent allowed by law, the English version of the Agreement is binding, and other translations are for convenience only.

## **13. GENERAL**

**13.1 Relationship.** The Parties are independent contractors. The Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties. Except as set forth in the Agreement, nothing in the Agreement, expressed or implied is intended to give rise to any third-party beneficiary.

**13.2 Assignability.** Neither Party may assign its rights or obligations under the Agreement without the other Party's prior written consent. Notwithstanding the foregoing, either Party may assign its rights and obligations under the Agreement to an Affiliate as part of a reorganization, or to a purchaser of its business entity or substantially all of its assets or business to which rights and obligations pertain without the other Party's consent, provided that: (a) the purchaser is not insolvent or otherwise unable to pay its debts as they become due; (b) the purchaser is not a competitor of the other Party; and (c) any assignee is bound hereby. Other than the foregoing, any attempt by either Party to transfer its rights or obligations under the Agreement will be void.

**13.3 Notices.** Any notice required or permitted to be given in accordance with the Agreement will be effective only if it is in writing and sent using: (a) DocuSign Services; (b) certified or registered mail; or (c) a nationally recognized overnight courier, to the appropriate Party at the address set forth on the Order Form, with a copy, in the case of DocuSign, to legal@docusign.com. Each Party hereto expressly consents to service of process by registered mail. Either Party may change its address for receipt of notice by notice to the other Party through a notice provided in accordance with this Section 13.3 (Notices). Notices are deemed given upon receipt if delivered using DocuSign Services, two (2) business days following the date of mailing, or one (1) business day following delivery to a courier.

**13.4 Force Majeure.** In the event that either Party is prevented from performing, or is unable to perform, any of its obligations under the Agreement due to any cause beyond the reasonable control of the Party invoking this provision (including, without limitation, for causes due to war, fire, earthquake, flood, hurricane, riots, acts of God, telecommunications outage not caused by the obligated Party, or other similar causes) ("**Force Majeure Event**"), the affected Party's performance will be excused and the time for performance will be extended for the period of delay or inability to perform due to such occurrence; provided that the affected Party: (a) provides the other Party with prompt notice of the nature and expected duration of the Force Majeure Event; (b) uses commercially reasonable efforts to address and mitigate the cause and effect of such Force Majeure Event; (c) provides periodic notice of relevant developments; and (d) provides prompt notice of the end of such Force Majeure Event. Delays in fulfilling

the obligations to pay hereunder are excused only to the extent that payments are entirely prevented by the Force Majeure Event.

**13.5 Trade Restrictions.** The DocuSign Services, Documentation, and the provision and any derivatives thereof are subject to the export control and sanctions laws and regulations of the United States and other countries that may prohibit or restrict access by certain persons or from certain countries or territories ("**Trade Restrictions**").

(a) Each Party shall comply with all applicable Trade Restrictions in performance of the Agreement. For the avoidance of doubt, nothing in this Agreement is intended to induce or require either Party to act in any manner which is penalized or prohibited under any applicable laws, rules, regulations or decrees.

(b) Customer represents that it is not a Restricted Party. "**Restricted Party**" means any person or entity that is: (i) located or organized in a country or territory subject to comprehensive U.S. sanctions (currently including Cuba, Crimea, Iran, North Korea, Syria) ("**Sanctioned Territory**"); (ii) owned or controlled by or acting on behalf of the government of a Sanctioned Territory; (iii) an entity organized in or a resident of a Sanctioned Territory; (iv) identified on any list of restricted parties targeted under U.S., EU or multilateral sanctions, including, but not limited to, the U.S. Department of the Treasury, Office of Foreign Assets Control's ("**OFAC**") List of Specially Designated Nationals and Other Blocked Persons, the OFAC Sectoral Sanctions List, the U.S. State Department's Nonproliferation Sanctions and other lists, the U.S. Commerce Department's Entity List or Denied Persons List located on the Website of the International Trade Administration, where you will find the consolidated list of persons, groups and entities subject to EU financial sanctions from time to time; or (v) owned or controlled by, or acting on behalf of, any of the foregoing. (c) Customer acknowledges and agrees that it is solely responsible for complying with, and shall comply with, Trade Restrictions applicable to any of its own or its Affiliates' or Authorized Users' content or Customer Data transmitted through the DocuSign Services. Customer shall not and shall not permit any Authorized User to access, use, or make the DocuSign Services available to or by any Restricted Party or to or from within any Sanctioned Territory.

**13.6 Anti-Corruption.** In connection with the DocuSign Services performed under the Agreement and Customer's use of the DocuSign Services, the Parties agree to comply with all applicable anti-corruption and anti-bribery related laws, statutes, and regulations.

**13.7 U.S. Government Rights.** All DocuSign Services, including Documentation, and any software as may be provided under an applicable Service Schedule, are deemed to be "commercial computer software" and "commercial computer software documentation". "Commercial computer software" has the meaning set forth in Federal Acquisition Regulation ("**FAR**") 2.101 for civilian agency purchases and the Department of Defense ("**DOD**") FAR Supplement ("**DFARS**") 252.227-7014(a)(1) for defense agency purchases. If the software is licensed or the DocuSign Services are acquired by or on behalf of a civilian agency, DocuSign provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of the Agreement as required in FAR 12.212 (Computer Software) and FAR 12.211 (Technical Data) and their successors. If the software is licensed or the DocuSign Services are acquired by or on behalf of any agency within the DOD, DocuSign provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of the Agreement as specified in DFARS 227.7202-3 and its successors. Only if this is a DOD prime contract or DOD subcontract, the Government acquires additional rights in technical data as set forth in DFARS 252.227-7015. Except as otherwise set forth in an applicable Service Schedule, this Section 13.7 (U.S. Government Rights) is in lieu of, and supersedes, any other FAR, DFARS or other clause or provision that addresses U.S. Government rights in computer software or technical data.

**13.8 Publicity.** Neither Party shall refer to the identity of the other Party in promotional material, publications, or press releases or other forms of publicity relating to the DocuSign Services unless the prior written consent of the other Party has been obtained, provided, however, that DocuSign may use Customer's name and logo for the limited purpose of identifying Customer as a customer of the DocuSign Services.

**13.9 Waiver.** The waiver by either Party of any breach of any provision of the Agreement does not waive any other breach. The failure of any Party to insist on strict performance of any covenant or

obligation in accordance with the Agreement will not be a waiver of such Party's right to demand strict compliance in the future, nor will the same be construed as a novation of the Agreement.

**13.10 Severability.** If any part of the Agreement is found to be illegal, unenforceable, or invalid, the remaining portions of the Agreement will remain in full force and effect.

**13.11 Entire Agreement.** The Agreement is the final, complete, and exclusive expression of the agreement between the Parties regarding the DocuSign Services provided under the Agreement. The Agreement supersedes and replaces, and the Parties disclaim any reliance on, all previous oral and written communications (including any confidentiality agreements pertaining to the DocuSign Services under the Agreement), representations, proposals, understandings, undertakings, and negotiations with respect to the subject matter hereof and apply to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by trade, custom, practice, or course of dealing. The Agreement may be changed only by a written agreement signed by an authorized agent of both Parties. The Agreement will prevail over terms and conditions of any Customer-issued purchase order or other ordering documents, which will have no force and effect, even if DocuSign accepts or does not otherwise reject the purchase order or other ordering document.

**The below signatories are authorized to sign on behalf of their respective Party(ies) and to agree to the terms of this MSA and any documents incorporated herein as of the MSA Effective Date.**

**Customer**

**DocuSign, Inc.**

Signature:

Signature:

Name: William C. Brand

Name:

Title: Mayor

Title:

Date:

Date:

ATTEST:

\_\_\_\_\_  
Eleanor Manzano, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael W. Webb, City Attorney

## ADDENDUM to the DocuSign MSA for U.S. PUBLIC ENTITIES

This Addendum to the DocuSign MSA for U.S. Public Entities (“**Addendum**”) is made part of the Master Services Agreement between the Parties. Unless otherwise defined in this Addendum, capitalized terms will have the meaning given to them in the Agreement. This Addendum applies to Customer only if Customer is (i) a United States state or local government or agency thereof, or (ii) a United States public school (including both K-12 and university institutions), but only to the extent the DocuSign Services are being used in an Authorized User’s official capacity as a state, local government, or school official or employee (“**Official Use**”). If there is any conflict between the Addendum and the Agreement, the applicable terms of this Addendum will prevail. Nothing in this Addendum makes DocuSign a government contractor for any federal, state, local, or foreign government.

**1. Licensed Use.** The phrase “internal business purposes” as used in the Agreement means Official Use by Authorized Users for Customer’s internal purposes.

**2. Terms Prohibited by Law.** Provisions of the Agreement that cannot be accepted by Customer under Customer’s state constitution or laws shall not apply to the extent of such prohibitions, but will apply to the full extent, if any, permitted by applicable law.

**3. Public Records.** The provisions of the Agreement regarding Customer’s use of DocuSign Confidential Information are hereby modified to be consistent with Customer’s state law with respect to use and disclosure of public records including without limitation any applicable “Freedom of Information” laws. If Customer is required by law to disclose any information that would be considered to Confidential Information under DocuSign’s standard terms, Customer agrees to make reasonable efforts to notify DocuSign of such disclosure, to limit such disclosure to only that information that is required to be disclosed by law by redacting or withholding information where possible, and to cooperate in any effort reasonably made by DocuSign to prevent or limit such disclosure.

**4. Governing Law and Venue.** Provisions of the Agreement pertaining to governing law and venue do not apply to Official Use of the DocuSign Services to the extent such provisions are prohibited by Customer’s state constitution or laws, in which case this Agreement is governed by the laws of Customer’s state.

**5. No Endorsement.** DocuSign agrees that Customer’s seals, trademarks, logos, service marks, trade names, and the fact that Customer has a presence on one of DocuSign’s websites or uses the DocuSign Services, will not be used by DocuSign in such a manner as to state or imply that DocuSign’s products or services are endorsed, sponsored or recommended by Customer or are considered by Customer to be superior to any other products or services without prior approval from Customer or by other relevant government authority. Except for pages whose design and content is under the control of the Customer, or for links to or promotion of such pages, DocuSign agrees not to display any Customer or government seals, trademarks, logos, service marks, and trade names on our homepage or elsewhere on one of DocuSign’s hosted sites unless permission to do so has been granted by Customer or by other relevant government authority. Notwithstanding the foregoing, Customer hereby agrees that DocuSign may list Customer’s name in a publicly available customer list on a DocuSign website or elsewhere so long as the name is not displayed in a more prominent fashion than that of any other third-party customer name.

**6. Discrimination and Non-Segregation.** DocuSign, Inc. is a federal contractor. As a result, the Equal Opportunity Clause set forth in 41 C.F.R. parts 60-1.4(a), and the employee notice found at 29 C.F.R. Part 471, Appendix A to Subpart A are incorporated by reference herein. In addition, DocuSign shall abide by the requirements of 41 C.F.R. §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

**7. FERPA.** If Customer wants its students to use the DocuSign Services (permitted only for students age 13 and older), Customer is responsible for complying with the U.S. Family Educational Rights and Privacy Act (“**FERPA**”). This means Customer must notify those students’ parents/guardians of the personally identifiable information that it will collect and share with DocuSign and obtain parental/guardian consent before its students sign up or use the DocuSign Services. When obtaining such consent, Customer should provide parents/guardians with a copy of DocuSign’s Privacy Policy (available upon request). Customer must keep all consents on file and provide them to DocuSign at DocuSign’s reasonable request. If Customer is located outside of the United States, DocuSign will rely upon Customer to obtain any required consents or approvals from the parent or guardian of any student covered



by similar laws and, as a condition to Customer's and its students' use of the DocuSign Services, Customer will comply with such laws. DocuSign acknowledges that, as between DocuSign and Customer, DocuSign may be considered a "School Official" as that term is used in FERPA and its implementing regulations. As such, DocuSign agrees that it will hold all Customer Data (including personal data therein) in strict confidence pursuant to the terms of the Agreement and will not use or disclose Customer Data except: (a) as required to provide the DocuSign Services to Customer or (b) as required by law, but only to the extent permitted and only in the manner prescribed by the law, and (c) as otherwise expressly authorized by the Agreement and in accordance with DocuSign's Privacy Policy (available upon request). This section will not create any obligations on the part of DocuSign outside those set forth in this Agreement.

**8. Gramm-Leach-Bliley Act.** DocuSign agrees and warrants it has implemented information security policies and safeguards to preserve the security, integrity, and confidentiality of eDocument and to protect against unauthorized access and anticipated threats or hazards thereto, that meet the objectives of the Interagency Guidelines Establishing Standards for Safeguarding Customer Information as set forth in Section 501(b) of the Gramm-Leach-Bliley Act.

## Attachment A: SERVICE SCHEDULE for DOCUSIGN SIGNATURE

Service Schedule revision date: August 1, 2019. Unless otherwise defined in this Service Schedule, capitalized terms will have the meaning given to them in the Agreement.

### 1. DEFINITIONS

“DocuSign Signature” means the on-demand electronic signature DocuSign Service, which provides online display, certified delivery, acknowledgement, electronic signature, and storage services for eDocuments via the Internet.

“Envelope” means an electronic record containing one or more eDocuments consisting of a single page or a group of pages of data uploaded to the System.

“Signer” means a person designated by an Authorized User to access and/or take action upon the eDocuments sent to such individual via DocuSign Signature.

“System” refers to the software systems and programs, the communication and network facilities, and the hardware and equipment used by DocuSign or its agents to make available the DocuSign Signature service via the Internet.

“Transaction Data” means the metadata associated with an Envelope (such as transaction history, image hash value, method and time of Envelope deletion, sender and recipient names, email addresses and signature IDs) that DocuSign may use to generate and maintain the digital audit trail required by DocuSign Signature.

### 2. ADDITIONAL USAGE LIMITATIONS AND CUSTOMER RESPONSIBILITIES

2.1 DocuSign’s provision of DocuSign Signature is conditioned on Customer’s acknowledgement of and agreement to the following:

(a) DocuSign Signature facilitates the execution of eDocuments between the parties to those eDocuments. Nothing in this Service Schedule may be construed to make DocuSign a party to any eDocument processed through DocuSign Signature, and DocuSign makes no representation or warranty regarding the transactions sought to be effected by any eDocument;

(b) Between DocuSign and Customer, Customer has exclusive control over and responsibility for the content, quality, and format of any eDocument. Without limiting the foregoing, all eDocuments, together with any messages included within an Envelope, stored by DocuSign on the System are maintained in an encrypted form, and DocuSign has no control of or access to their contents except to the extent access is requested in writing and made available by Customer to DocuSign;

(c) Certain types of agreements and documents may be excepted from electronic signature laws (e.g. wills and agreements pertaining to family law) or may be subject to specific regulations promulgated by various government agencies regarding electronic signatures and electronic records. DocuSign is not responsible or liable to determine whether any particular eDocument is subject to an exception to applicable electronic signature laws, or whether it is subject to any particular agency promulgations, or whether it can be legally formed by electronic signatures;

(d) DocuSign is not responsible for determining how long any contracts, documents, and other records are required to be retained or stored under any applicable laws, regulations, or legal or administrative agency processes. Further, DocuSign is not responsible for or liable to produce any of Customer’s eDocuments or other documents to any third parties;

(e) Certain consumer protection or similar laws or regulations may impose special requirements with respect to electronic transactions involving one or more “consumers,” such as (among others) requirements that the consumer consent to the method of contracting and/or that the consumer be provided with a copy, or access to a copy, of a paper or other non-electronic, written record of the transaction. DocuSign does not and is not responsible to: (i) determine whether any particular transaction involves a “consumer”; (ii) furnish or obtain any such consents or determine if any such consents have

been withdrawn; (iii) provide any information or disclosures in connection with any attempt to obtain any such consents; (iv) provide legal review of, or update or correct any information or disclosures currently or previously given; (v) provide any such copies or access, except as expressly provided in the Documentation for all transactions, consumer or otherwise; or (vi) comply with any such special requirements;

(f) Customer undertakes to determine whether any “consumer” is involved in any eDocument presented by its Authorized Users for processing, and, if so, to comply with all requirements imposed by law on such eDocuments or their formation;

(g) Customer agrees that its assigned Account Administrator has authority to provide DocuSign with any required authorizations, requests, or consents on behalf of Customer with respect to Customer’s Account; and

(h) Customer agrees it is solely responsible for the accuracy and appropriateness of instructions given by it and its personnel to DocuSign in relation to the Services, including without limitation instructions through its Account as made by the assigned Account Administrator.

### 3. eDOCUMENT STORAGE AND DELETION

3.1 During the Term. Customer may retrieve electronic copies of its stored eDocuments at any time while this Service Schedule is in effect at no additional cost. DocuSign will store all completed eDocuments sent by Customer during the Term, by default. However, Customer has the option through its Account Administrator to change its Account settings to direct the deletion of all or certain designated eDocuments at an earlier date or periodic interval. If Customer fails to retrieve its eDocuments prior to the expiration or termination of the Service Schedule, Customer may request, no later than ninety (90) days after such expiration or termination, that DocuSign provide Professional Services to assist in retrieving completed eDocuments still remaining in the System, the details of which Professional Services will be set out in a SOW. After such ninety (90)-day period, DocuSign shall have no obligation to maintain or provide any eDocuments and DocuSign shall have the right to delete all eDocuments in the System or otherwise in its possession or under its control and delete Customer’s Account.

3.2 DocuSign may retain Transaction Data for as long as it has a business purpose to do so, provided that any Transaction Data that constitutes Confidential Information of Customer will at all times maintain that status, and DocuSign will comply with its confidentiality obligations as provided in the Agreement.

### 4. INFORMATION SECURITY AND DATA PROCESSING

4.1 Security. DocuSign will use commercially reasonable technical and organizational measures designed to prevent unlawful or unauthorized access, use, alteration, or disclosure of Customer Data in accordance with the provisions of the Security Attachment for DocuSign Services found at: <https://www.docusign.com/company/terms-and-conditions/security-attachment-docusign-services>.

4.2 Data Storage/Transfer. If Customer or Customer Affiliate is established in the United Kingdom, a Member State of the European Economic Area, or Switzerland, the Data Protection Attachment for DocuSign Services found at:

<https://www.docusign.com/company/terms-and-conditions/data-protection-attachment>, applies to the processing of any personal data (as defined the General Data Protection Regulation).

### 5. SUBSCRIPTION PLANS AND FEES

DocuSign Signature is made available based on a prepaid subscription, which is subject to the restrictions set forth in the applicable Order Form.

5.1 “Seat Allowance” means the maximum number of Authorized Users (“Seats”) that Customer may have active in its Account as assigned by Customer’s Account Administrator. For purposes of determining usage of Seats:

(a) The number of Seats in use is determined by the total number of Authorized Users registered in Customer’s Account with access to DocuSign Signature at any time during the Term.

(b) No two individuals may log onto or use DocuSign Signature as the same Authorized User, but Customer through its Account Administrator may unregister or deactivate Authorized Users and replace them with other Authorized Users without penalty, so long as the number of active Authorized Users registered at any one time does not exceed the number of Seats purchased.

5.2 “Envelope Allowance” means the cumulative number of Envelopes that may be sent by Authorized Users registered in Customer’s Account. There is no individual limit on number of Envelopes that may be sent by each Authorized User, so long as the total volume sent by all Authorized Users does not exceed the Envelope Allowance. For purposes of calculating Envelope usage:

(a) An Envelope is consumed when sent by an Authorized User, regardless of whether the Envelope has been received by any recipients or whether any recipients have performed any actions upon any eDocument in the Envelope;

(b) Usage of a Powerform will be applied against the Envelope Allowance. A Powerform will be deemed consumed at the time it is accessed by any user regardless of whether any actions are subsequently performed upon such Envelope. “Powerform” means an Envelope that may be accessed and completed by accessing a hyperlink (i.e. which does not need to be individually sent to each recipient);

(c) An Envelope sent via bulk send or automated batch sending, including through a DocuSign API, will be applied against the Envelope Allowance.

5.3 Calculation of Envelope Allowance. Unless otherwise set forth in the Order Form, the Envelope Allowance for each twelve (12)-month period during the Order Term is calculated by multiplying the Seat Allowance times one hundred (100) Envelopes. For example, a three (3)-year subscription for ten (10) Seats would result in an Envelope Allowance of one thousand (1000) Envelopes per year. An Envelope Allowance may be augmented by purchasing additional Seats (each of which supply an additional one hundred (100) Envelopes unless otherwise set forth in the Order Form) or additional batches of Envelopes, pursuant to an Order Form.

#### 5.4 Overage.

(a) Seats. If Customer through its Account Administrator adds more Authorized Users than the amount permitted under the Seat Allowance, then Customer hereby agrees that additional charges of one Seat per additional Authorized User for the remainder of the Order Term will become immediately due and payable. Additional Seats will be charged as a pro-rata portion (calculated based on the amount of time remaining in the Order Term) of the then-current list price for Seats under the applicable subscription type, or such other amount as is specified in the Order Form, and will include a pro-rata allocation of Envelopes.

(b) Envelopes. Customer hereby agrees that all Envelopes sent in excess of the Envelope Allowance during the Term will incur a per-Envelope overage charge at the then-current list price for the applicable subscription type, or such other amount as is specified in the Order Form. Envelope overage charges will be invoiced monthly in arrears.

5.5 Optional features, such as Authentication Measures or fax-back services, may be purchased on a subscription or per-use basis, as set forth in the Order Form.

### 6. DOCUSIGN PAYMENTS

6.1 DocuSign Signature may be ordered with “DocuSign Payments,” which means functionality that allows Customer to submit agreements, invoices, and other documents to Signers via DocuSign Signature to facilitate the submission of Signer payment credentials and authorizations directly to payment applications, gateways, processors, and service providers that store, process, or transmit cardholder data as part of authorization or settlement (“Payment Applications”).

6.2 DocuSign’s provision of DocuSign Payments is conditioned on Customer’s acknowledgement of and agreement to the following:

(a) The payment processing activities facilitated through DocuSign Payments are between Customer and a Payment Application or another third party designated by Customer and not with DocuSign. Customer is solely responsible for registering and maintaining an account with Payment Applications to facilitate the payment processing via DocuSign Payments and for complying with all agreements, terms of use, or other terms and conditions between Customer and such Payment Applications. Payment Applications are independent contractors and not agents, employees, or subcontractors of DocuSign. DocuSign does not control the payment methods (i.e., credit card, debit card, ACH transfer) made available by the Payment Applications through DocuSign Signature nor the products or services that are sold or purchased by Customer via DocuSign Payments. Customer acknowledges and agrees that

DocuSign cannot ensure that a Payment Application Signer or third party will complete a payment processing or that it is authorized to do so.

(b) Customer authorizes DocuSign to store, process, and transmit Customer Data as necessary for a Payment Application to facilitate payment processing between Customer and a third party designated by Customer. DocuSign Payments will temporarily store information received from Customer, such as account information for a Payment Application, only to facilitate the payment processing.

(c) Customer is solely responsible for complying with: (1) any applicable standards developed and published by payment networks (such as Visa, Mastercard, American Express, and any other credit, debit, or electronic funds transfer network), including but not limited to, the current Payment Card Industry Data Security Standard ("PCI DSS"); and (2) all laws and regulations applicable to the payment processing conducted by Customer via DocuSign Payments, including but not limited to, those that may apply to Customer: in connection with collecting and storing information, including payment credentials about Signers; making adequate, clear, and conspicuous disclosures related to the storage and use of Signers' payment credentials; and the use of stored payment credentials to collect future payments.

(d) Customer is solely responsible for any and all disputes with any Payment Applications or Signers related to or in connection with a payment processing sought to be facilitated via DocuSign Payments, including but not limited to: (1) chargebacks; (2) products or services not received; (3) return of, delayed delivery of, or cancelled products or services; (4) cancelled transactions; (5) duplicate transactions or charges; (6) electronic debits and credits involving bank accounts, debit cards, credit cards, and check issuances; and (7) the amount of time to complete payment processing.

6.3 To the extent applicable to DocuSign in the provision of DocuSign Payments, DocuSign represents that it is presently in compliance, and will remain in compliance, with the current PCI DSS Standard. DocuSign acknowledges that credit and debit card account numbers or related data processed via DocuSign Payments is, as applicable, owned exclusively by Customer, credit card issuers, the relevant payment networks, and entities licensed to process credit and debit card transactions on behalf of Customer, and further acknowledges that such information may be used by DocuSign solely to assist the foregoing parties in completing the processing activities described in the Agreement.

## 7. ADDITIONAL WARRANTIES AND DISCLAIMERS

7.1 Additional DocuSign Warranties. DocuSign warrants that: (a) DocuSign Signature will not introduce files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses ("Malicious Code") into Customer's system; (b) the proper use of DocuSign Signature by Customer in accordance with the Documentation and applicable law will be sufficient to meet the definition of an "electronic signature" as defined in the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. ch. 96 §§ 7001 et seq. (the "ESIGN Act"); and in Regulation 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market ("eIDAS").

7.2 DISCLAIMER. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS SECTION 7 AND IN THE MSA, AND SUBJECT TO THE ADDITIONAL LIMITATIONS OF LIABILITY THEREIN, DOCUSIGN: (A) MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND -- WHETHER EXPRESS, IMPLIED IN FACT OR BY OPERATION OF LAW, OR STATUTORY -- AS TO ANY MATTER WHATSOEVER; (B) DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THE LIKE; AND (C) DOES NOT WARRANT THAT DOCUSIGN SIGNATURE IS OR WILL BE UNINTERRUPTED OR ERROR-FREE OR MEET CUSTOMER'S REQUIREMENTS. CUSTOMER HAS NO RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF DOCUSIGN TO ANY THIRD PARTY.

## Attachment B: SERVICE SCHEDULE for DOCUSIGN CLM

Service Schedule revision date: November 19, 2019. Unless otherwise defined in this Service Schedule, capitalized terms will have the meaning given to them in the Agreement.

### 1. DEFINITIONS

“DocuSign CLM” means the on-demand DocuSign Service consisting of enterprise contract management software applications and platform solutions provided via the Internet. This definition shall include, but not be limited to, DocuSign’s enterprise contract management software applications and platform solutions previously called “SpringCM”.

“System” refers to the software systems and programs, the communication and network facilities, and the hardware and equipment used by DocuSign or its agents to make available the DocuSign CLM service via the Internet.

### 2. ADDITIONAL USAGE LIMITATIONS AND CUSTOMER RESPONSIBILITIES

2.1 DocuSign’s provision of DocuSign CLM is conditioned on Customer’s acknowledgement of and agreement to the following:

(a) DocuSign CLM facilitates the generation, management and revision of agreements, forms and other content. Nothing in this Service Schedule may be construed to make DocuSign a party to any such content generated by and/or processed through DocuSign CLM, and DocuSign makes no representation or warranty regarding the Customer Data and/or other content generated, stored and/or shared using DocuSign CLM;

(b) Between DocuSign and Customer, Customer has exclusive control over and responsibility for the quality, format and contents of any Customer Data generated, stored and/or shared using DocuSign CLM. Without limiting the foregoing, DocuSign shall not access Customer Data or other Customer content except to the extent Customer authorizes DocuSign to access the Customer’s Account;

(c) Customer may use DocuSign CLM to send requests for electronic review of specific content or Customer Data generated by and/or stored on the System to third-party users who are not Authorized Users (e.g., Customer’s customers and/or vendors), or to otherwise make Customer Data available to such third-party users through DocuSign CLM. Customer shall be responsible for the activities conducted by its third-party users within DocuSign CLM;

(d) DocuSign is not responsible for determining how long any contracts, documents, and/or other content are required to be retained or stored under any applicable laws, regulations, or legal or administrative agency processes. Further, DocuSign is not responsible for or liable to produce any of Customer’s eDocuments, Customer Data or other documents to any third parties;

(e) Customer agrees that its assigned Account Administrator has authority to provide DocuSign with any required authorizations, requests, or consents on behalf of Customer with respect to Customer's Account; and

(f) Customer agrees it is solely responsible for the accuracy and appropriateness of instructions given by it and its personnel to DocuSign in relation to the DocuSign Services, including without limitation instructions through its Account as made by the assigned Account Administrator.

3. DOCUMENT STORAGE AND DELETION. If Customer fails to retrieve its Customer Data prior to the expiration or termination of the Service Schedule, Customer may request, no later than ninety (90) days after such expiration or termination, that DocuSign provide Professional Services to assist in retrieving Customer Data still remaining on the System, the details of which Professional Services will be set out in a SOW. After such ninety (90) day period, DocuSign shall have no obligation to maintain or provide any Customer Data and DocuSign shall have the right to delete all Customer Data in the System or otherwise in its possession or under its control and delete Customer's Account.

#### 4. INFORMATION SECURITY AND DATA PROCESSING

4.1 Security. DocuSign will use commercially reasonable technical and organizational measures designed to prevent unlawful or unauthorized access, use, alteration, or disclosure of Customer Data or other Customer content in accordance with the provisions of the Security Attachment for DocuSign Services.

4.2 Data Storage/Transfer. If Customer or Customer Affiliate is established in the United Kingdom, a Member State of the European Economic Area, or Switzerland, the Data Protection Attachment for DocuSign Services will apply to the processing of any personal data (as defined in the General Data Protection Regulation).

5. DISCLAIMER. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THE MSA, AND SUBJECT TO THE ADDITIONAL LIMITATIONS OF LIABILITY THEREIN, DOCUSIGN: (A) MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND -- WHETHER EXPRESS, IMPLIED IN FACT OR BY OPERATION OF LAW, OR STATUTORY -- AS TO ANY MATTER WHATSOEVER; (B) DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THE LIKE; AND (C) DOES NOT WARRANT THAT DOCUSIGN CLM IS OR WILL BE UNINTERRUPTED OR ERROR-FREE OR MEET CUSTOMER'S REQUIREMENTS. CUSTOMER HAS NO RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF DOCUSIGN TO ANY THIRD PARTY.

This Security Attachment for DocuSign Services (“Security Attachment”) sets forth DocuSign’s commitments for the protection of Customer Data and is made part of Agreement. Unless otherwise defined in this Security Attachment, capitalized terms will have the meaning given to them in the Agreement.

## 1. DEFINITIONS

“Personnel” means all employees and agents of DocuSign engaged in the performance of DocuSign Services to Customer.

“Process” or “Processing” means, with respect to this Security Attachment, any operation or set of operations that is performed upon Customer Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination,

“Production Environment” means the System setting where software, hardware, data, processes, and programs are executed for their final and intended operations by end users of DocuSign Services.

“Subcontractor” means a third party that DocuSign has engaged to perform all or a portion of DocuSign Services on behalf of DocuSign.

## 2. INFORMATION SECURITY PROGRAM

2.1 Information Security Program. DocuSign maintains and will continue to maintain a written information security program that includes policies, procedures, and controls governing the Processing of Customer Data through DocuSign Services (“Information Security Program”). The Information Security Program is designed to protect the confidentiality, integrity, and availability of Customer Data by using a multi-tiered technical, procedural, and people-related control approach in accordance with industry best practices and applicable laws and regulations.

2.2 Permitted Use of Customer Data. DocuSign will not Process Customer Data in any manner other than as permitted or required by the Agreement.

2.3 Acknowledgement of Shared Responsibilities. The security of data and information that is accessed, stored, shared, or otherwise Processed via the DocuSign Services are shared responsibilities between DocuSign and Customer. DocuSign is responsible for the implementation and operation of the Information Security Program and the protection measures described in the Agreement and this Security Attachment. Customer is responsible for properly implementing access and use controls and configuring certain features and functionalities of DocuSign Services that Customer may elect to use DocuSign Services in the manner that Customer deems adequate to maintain appropriate security, protection, deletion, and backup of Customer Data.

2.4 Applicability to Customer Data. This Security Attachment and the Information Security Program apply specifically to the Customer Data Processed via DocuSign Services and does not extend to data held on Customer’s systems or environments or to any on-premise solutions that may be offered by



DocuSign. To the extent Customer exchanges data and information with DocuSign that does not meet the definition of “Customer Data,” DocuSign will treat such data and information in accordance with the confidentiality terms set forth in the Agreement.

### 3. SECURITY MANAGEMENT

3.1 Maintenance of Information Security Program. DocuSign will take and implement appropriate technical and organizational measures to protect Customer Data located in DocuSign Services and will maintain the Information Security Program in accordance with ISO 27001 standards or such other alternative standards that are substantially equivalent to ISO 27001. DocuSign may update or modify the Information Security Program from time to time provided that such updates and modifications do not result in the degradation of the overall security of DocuSign Services.

3.2 Background Checks and Training. DocuSign will ensure that reasonable and appropriate background investigations are conducted on all Personnel in accordance with applicable laws and regulations. Personnel must pass DocuSign’s background check requirements prior to being assigned to positions in which they will, or DocuSign reasonably expects them to, have access to Customer Data. DocuSign will conduct annual mandatory security awareness training to inform its Personnel on procedures and policies relevant to the Information Security Program and of the consequences of violating such procedures and policies. DocuSign will conduct an offboarding or exit process with respect to any Personnel upon termination of employment, which will include the removal of the terminated Personnel’s access to Customer Data and DocuSign’s sensitive systems and assets.

3.3 Subcontractors. DocuSign will evaluate all Subcontractors to ensure that Subcontractors maintain adequate physical, technical, organizational, and administrative controls, based on the risk tier appropriate to their subcontracted services, that support DocuSign’s compliance with the requirements of the Agreement and this Security Attachment. DocuSign will remain responsible for the acts and omissions of its Subcontractors as they relate to the services performed under the Agreement as if it had performed the acts or omissions itself and any subcontracting will not reduce DocuSign’s obligations to Customer under the Agreement.

3.4 Risk and Security Assurance Framework Contact. Customer’s account management team at DocuSign will be Customer’s first point of contact for information and support related to the Information Security Program. The DocuSign account management team will work directly with Customer to escalate Customer’s questions, issues, and requests to DocuSign’s internal teams as necessary.

### 4. PHYSICAL SECURITY MEASURES

4.1 General. DocuSign will maintain appropriate physical security measures designed to protect the tangible items, such as physical computer systems, networks, servers, and devices, that Process Customer Data. DocuSign will ensure that commercial grade security software and hardware are utilized to protect DocuSign Services and the Production Environment.

4.2 Facility Access. DocuSign will ensure that: (a) access to DocuSign’s corporate facilities is tightly controlled through, at a minimum, physical access card identification; (b) all visitors to its corporate facilities sign in, agree to confidentiality obligations, and be escorted by Personnel while on premises at all times; and (c) visitor logs are reviewed by DocuSign’s security team on a regular basis. DocuSign will revoke Personnel’s physical access to DocuSign’s corporate facilities upon termination of employment.

4.3 Data Centers. DocuSign will use commercial-grade data center service providers in providing the DocuSign Services and will ensure that all data centers conform to ISO 27001 or equivalent certification. At minimum, all data centers must meet the following requirements:

- (a) Multi-factor physical security measures, including auditable entry/exit mechanisms that record the identity of any individual who enters and leaves the facility must be maintained.
- (b) Access must be limited to authorized personnel. Third-party vendors and guests must be escorted at all times by authorized personnel while in the data center.
- (c) Environmental security controls must be in place, including: (i) uninterruptible power supplies and secondary power supplies on all key systems; (ii) temperature and humidity controls for the heating, ventilation, and air conditioning equipment; (iii) heat and smoke detection devices and fire suppression systems; and (iv) periodic inspections by a fire marshal or similar safety official.

## 5. LOGICAL SECURITY

5.1 Access Controls. DocuSign will maintain a formal access control policy and employ a centralized access management system to control Personnel access to the Production Environment.

- (a) DocuSign will ensure that all access to the Production Environment is subject to successful two-factor authentication globally from both corporate and remote locations and is restricted to authorized Personnel who demonstrate a legitimate business need for such access. DocuSign will maintain an associated access control process for reviewing and implementing Personnel access requests. DocuSign will regularly review the access rights of authorized Personnel and, upon change in scope of employment necessitating removal or employment termination, remove or modify such access rights as appropriate.
- (b) DocuSign will monitor and assess the efficacy of access restrictions applicable to the control of DocuSign's system administrators in the Production Environment, which will entail generating system individual administrator activity information and retaining such information for a period of at least twelve (12) months.
- (c) DocuSign will not use Customer Data from the Production Environment in non-production environments without Customer's express permission.

5.2 Auditing and Logging. With respect to system auditing and logging in the Production Environment:

- (a) DocuSign will use and maintain an auditing and logging mechanism that, at a minimum, captures and records successful and failed user logons and logoffs (with a date and time stamp, user ID, application name, and pass/fail indicator). User access activities will be logged and audited periodically by DocuSign to identify unauthorized access and to determine possible flaws in DocuSign's access control system.
- (b) All application components that have logging capabilities (such as operating systems, databases, web servers, and applications) will be configured to produce a security audit log.
- (c) Audit logs will be configured for sufficient log storage capacity.

(d) Each log will be configured so that it cannot be disabled without proper authorization and will send alerts for the success or failure of each auditable event.

(e) Access to security log files will be limited to authorized Personnel.

5.3 Network Security. DocuSign will maintain a defense-in-depth approach to hardening the Production Environment against exposure and attack. DocuSign will maintain an isolated Production Environment that includes commercial grade network management controls such as load balancers, firewalls, intrusion detection systems distributed across production networks, and malware protections. DocuSign will complement its Production Environment architecture with prevention and detection technologies that monitor all activity generated and send risk-based alerts to the relevant security groups.

5.4 Malicious Code Protection. DocuSign will ensure that: (a) its information systems and file transfer operations have effective and operational anti-virus software; (b) all anti-virus software is configured for deployment and automatic update; and (c) applicable anti-virus software is integrated with processes and will automatically generate alerts to DocuSign's Cyber Incident Response Team if potentially harmful code is detected for their investigation and analysis.

5.5 Code Reviews. DocuSign will maintain a formal software development lifecycle that includes secure coding practices against OWASP and related standards and will perform both manual and automated code reviews. DocuSign's engineering, product development, and product operations management teams will review changes included in production releases to verify that developers have performed automated and manual code reviews designed to minimize associated risks. In the event that a significant issue is identified in a code review, such issue will be brought to DocuSign senior management's attention and will be closely monitored until resolution prior to release into the Production Environment.

5.6 Vulnerability Scans and Penetration Tests. DocuSign will perform both internal and external vulnerability scanning and application scanning. External scans and penetration tests against DocuSign Services and the Production Environment will be conducted by external qualified, credentialed, and industry recognized organizations on a frequency based on risk but, at a minimum, on an annual basis. DocuSign will remedy vulnerabilities identified during scans and penetration tests in a commercially reasonable manner and timeframe based upon classified and prioritized severity level. DocuSign will make available all third-party attestations resulting from vulnerability scans and penetration tests per independent external audit reports. For clarification, under no circumstance will Customer be permitted to conduct any vulnerability scans or penetration testing against the Production Environment.

## 6. STORAGE, ENCRYPTION, AND DISPOSAL

6.1 Storage & Separation. Customer Data will be stored within the physical and logical infrastructure for the DocuSign Services at DocuSign's colocation or data center facilities. Exceptions with respect to storage may only be made with Customer's written authorization for specific purposes, such as, for example, extraction of Customer Data for storage on encrypted portable media. DocuSign will logically separate Customer Data located in the Production Environment from other DocuSign customer data.

6.2 Encryption Technologies. DocuSign will encrypt Customer Data in accordance with the Documentation, using industry accepted standards, strong encryption techniques, and current security protocols. Electronic transmission or exchange of Customer Data with DocuSign Services will be conducted via secure means.

6.3 Disposal. DocuSign will implement industry recognized processes and procedures for equipment management and secure media disposal under the guidelines identified in the National Institute of Standards' Guidelines for Media Sanitization, SP800-88.

## 7. BUSINESS CONTINUITY AND DISASTER RECOVERY

7.1 Continuity Plan. DocuSign will maintain written business continuity and disaster recovery plans that address the availability of DocuSign Services ("Continuity Plans"). The Continuity Plans will include elements such as: (a) crisis management, plan and team activation, event and communication process documentation; (b) business recovery, alternative site locations, and call tree testing; and (c) infrastructure, technology, system(s) details, recovery activities, and identification of the Personnel and teams required for such recovery. DocuSign will, at a minimum, conduct a test of the Continuity Plan on an annual basis. DocuSign's Continuity Plans shall provide for remediation of any deficiencies discovered during any such Continuity Plan testing within timeframes reasonably commensurate with the level of risk posed by the deficiency. The internal and independent audit reports described in Section 9.1 (Independent Assurances) will evidence or report on the execution of DocuSign's Continuity Plan's tests and any resulting remedial actions.

7.2 DocuSign Service Continuity. DocuSign's production architecture for DocuSign Services is designed to perform secure replication in near real-time to multiple active systems in geographically distributed and physically secure data centers. DocuSign will ensure that: (a) infrastructure systems for DocuSign Services have been designed to eliminate single points of failure and to minimize the impact of anticipated environmental risks; (b) each data center supporting DocuSign Services includes full redundancy and fault tolerance infrastructure for electrical, cooling, and network systems; and (c) Production Environment servers are enterprise scale servers with redundant power to ensure maximum uptime and service availability.

7.3 Disaster Recovery. In the event of a failure of critical services or material business disruption, DocuSign will promptly invoke its Continuity Plans and will restore critical service capability and the production capability of critical information technology infrastructure of the DocuSign Services (including, but not limited to, data centers, hardware, software and power systems, and critical voice, data, and e-commerce communications links), and, except as otherwise provided in the applicable Continuity Plan, DocuSign will use commercially reasonable efforts to promptly notify Customer's Account Administrators of the issue. It is DocuSign's responsibility to cause any of its Subcontractors or outsourcers performing activities that could impact critical processes of DocuSign Services to have plans in place that meet the same standards as required of DocuSign hereunder. Notwithstanding anything to the contrary in the Agreement (including this Security Attachment) and without limiting any of DocuSign's responsibilities thereunder, DocuSign will not be required to provide business continuity or disaster recovery plans for its colocation or data center facilities to Customer. However, publicly available information and references to the capabilities of any such colocation or data center facility will be provided by DocuSign upon request.

## 8. DATA INCIDENT RESPONSE AND NOTIFICATION

8.1 General. DocuSign will maintain a tested incident response program, which will be managed and run by DocuSign's dedicated Global Incident Response Team. DocuSign's Global Incident Response Team will operate to a mature framework that includes incident management and breach notification policies and associated processes. DocuSign's incident response program will include, at a minimum, initial detection; initial tactical response; initial briefing; incident briefing; refined response; communication and message; formal containment; formal incident report; and postmortem/trend analysis.

8.2 Data Incident Notification. DocuSign will comply with all applicable security breach notification laws and regulations in its provision of the DocuSign Services and, in any event, will notify Customer without undue delay upon becoming aware of any breach of DocuSign's security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Data on systems managed by DocuSign (a "Data Incident"). Without limiting the generality of the foregoing, the Parties acknowledge and agree that Data Incidents do not include unsuccessful attempts, everyday security alerts, or other events that do not materially compromise the security or availability of Customer Data, including unsuccessful login attempts, pings, port scans, denial of service attacks, and other network attacks on firewalls or networked systems. DocuSign's notification of a Data Incident under this section is not an acknowledgement by DocuSign of any fault or liability with respect to the Data Incident.

8.3 Data Incident Response. DocuSign shall take reasonable measures to mitigate the cause of any Data Incident and shall take reasonable corrective measures to prevent the same Data Incident from occurring in the future. As information is collected or otherwise becomes available to DocuSign and unless prohibited by law, DocuSign shall provide information regarding the nature and consequences of the Data Incident that are reasonably requested to allow Customer to notify affected individuals, government agencies and/or credit bureaus. Due to the encryption configuration and security controls associated with DocuSign Services, DocuSign may not have access to or know the nature of the information contained within Customer Data and, as such, the Parties acknowledge that it may not be possible for DocuSign to provide Customer with a description of the type of information or the identity of individuals who may be affected by a Data Incident. Customer is solely responsible for determining whether to notify impacted individuals and for providing such notice, and for determining if regulatory bodies or enforcement commissions applicable to Customer or Customer's use of DocuSign Services need to be notified of a Data Incident.

## 9. INDEPENDENT ASSURANCES AND AUDITS

9.1 Independent Assurances. DocuSign uses independent external auditors to verify the adequacy of its Information Security Program. DocuSign will provide or make available to Customer third-party Any audit report includes confidential information and should only be used for the purpose for which it was prepared, i.e. the audit of DocuSign Services. Particularly, because the DocuSign Services are a shared, multi-tenant environment, confidential information such as audit reports should be treated with utmost care and not used for any other purpose other than those described herein attestations, certifications, and reports relevant to the establishment, implementation, and control of the Information Security Program, including, where applicable, ISO 27001 certifications, PCI DSS certifications, and Service Organization Controls (SOC) reports.

9.2 Additional Requirements. To the extent Customer requires additional audit information or assistance from DocuSign beyond those set forth in Section 9.1 (Independent Assurances) as required under applicable laws and regulations, Customer may submit its request for such additional information and assistance, which shall include information regarding the applicable laws or regulations forming the basis of the request, to its account management representative. DocuSign will work with Customer to reach mutually agreed upon terms regarding the scope, timing, duration, and other details regarding such additionally requested information and assistance.

9.3 Audit for Data Incident. Following a Data Incident, DocuSign will within a reasonable timeframe, engage a third-party independent auditor, selected by DocuSign and at DocuSign's expense, to conduct an on-site audit of DocuSign's Information Security Program. Upon request, DocuSign will provide or make available a report of such audit to Customer.

#### 9.4 Conditions of Audit.

(a) Any audits conducted pursuant to this Security Attachment must: (i) be conducted during reasonable times and be of reasonable duration; (ii) not unreasonably interfere with DocuSign's day-to-day operations; and (iii) be conducted under mutually agreed upon terms and in accordance with DocuSign's security policies and procedures. DocuSign reserves the right to limit an audit of configuration settings, sensors, monitors, network devices and equipment, files, or other items if DocuSign, in its reasonable discretion, determines that such an audit may compromise the security of DocuSign Services or the data of other DocuSign customers. Customer's audit rights do not include penetration testing or active vulnerability assessments of the Production Environment or DocuSign Systems within their scope.

(b) In the event Customer conducts an audit through a third-party independent contractor, such independent contractor must enter into a non-disclosure agreement containing confidentiality provisions substantially similar to those set forth in the Agreement to protect DocuSign's confidential information.

(c) Customer must promptly provide DocuSign with any audit, security assessment, compliance assessment reports, and associated findings prepared by it or its third-party contractors for comment and input prior to formalization and/or sharing such information with a third party.

9.5 Remediation and Response Timeline. If any audit performed pursuant to this Security Attachment reveals or identifies any non-compliance by DocuSign of its obligations under the Agreement and this Security Attachment, then (a) DocuSign will work to correct such issues; and (b) for no more than sixty (60) days after the date upon which such audit was conducted, Customer may request feedback and information regarding corrective and remedial actions taken in relation to such audit.

This Data Protection Attachment for DocuSign Services ("DPA") is incorporated into and made part of the Agreement. Unless otherwise defined in this DPA, capitalized terms will have the meaning given to them in the Agreement. In the event of any conflict between these documents, the following order of precedence applies (in descending order): (a) Binding Corporate Rules, (b) the alternative data transfer mechanism provided for under Section 6.2 of this DPA; (c) the body of the DPA; (d) any documents attached to the DPA; and (e) the Agreement.

## 1. DEFINITIONS

"Applicable Data Protection Laws" means all data privacy or data protection laws or regulations that apply to the Processing of Personal Data under the Agreement.

"Binding Corporate Rules" means DocuSign's Binding Corporate Rules for Processors.

"Controller" and "Processor" (or equivalent terms) have the meanings set forth under Applicable Data Protection Laws.

"Data Incident" has the meaning as defined in the Security Attachment for DocuSign Services.

"Data Subjects" has the same meaning as the term "data subject" or equivalent term under Applicable Data Protection Laws.

"DocuSign Service Subprocessor" means a third party, other than the DocuSign contracting entity, which may Process Personal Data on behalf of the DocuSign contracting entity as part of the provision of the DocuSign Services.

"Personal Data" means such "personal data", "personally identifiable information (PII)" or equivalent term under Applicable Data Protection Laws.

"Process/Processing" has the meaning set forth under Applicable Data Protection Laws and includes any operation or set of operations that is performed on Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

"Regulators" has the same meaning as the term "supervisory authority", "data protection authority" or equivalent term under Applicable Data Protection Laws.

## 2. GENERAL

2.1 This DPA applies to DocuSign's Processing of Personal Data on Customer's or Customer Affiliate's behalf (as applicable) for the provision of the DocuSign Services as specified in the Agreement. Unless

otherwise expressly stated in the Agreement, this DPA is in effect and remains in force for the Term of the Agreement.

### 3. PROCESSING RESPONSIBILITY AND CUSTOMER'S INSTRUCTIONS

3.1 Customer is a Controller and DocuSign is a Processor for the Processing of Personal Data with respect to the DocuSign Services provided under the Agreement. Each Party is responsible for compliance with its own respective obligations under Applicable Data Protection Laws. For the avoidance of doubt, DocuSign is not responsible for complying with data protection laws applicable to Customer or Customer's industry such as those not generally applicable to online service providers. Customer acknowledges and agrees that it has met all legal requirements necessary for DocuSign and/or the DocuSign Service Subprocessors to process Personal Data as authorized in the Agreement.

3.2 DocuSign will Process Personal Data only as necessary to provide the DocuSign Services in accordance with the terms of the Agreement or as instructed by Customer in writing, including in electronic form. Subject to Customer's instructions being in accordance with Applicable Data Protection Laws, DocuSign will comply with such instructions to the extent and within such timeframes reasonably necessary for DocuSign to (a) comply with its Processor obligations under Applicable Data Protection Laws; or (b) assist Customer to comply with Customer's obligations under Applicable Data Protection Laws relevant to Customer's use of the DocuSign Services. DocuSign will follow such Customer's instructions at no additional cost to Customer if DocuSign does not expect to incur additional charges or fees not reasonably covered by the fees for the DocuSign Services payable under the Agreement, including, without limitation, additional license or third-party contractor fees. If additional charges or fees are expected, DocuSign will promptly inform Customer upon receiving Customer's instructions and the Parties will negotiate in good faith with respect to any such charges or fees. To the extent required by the Applicable Data Protection Laws, DocuSign will promptly inform Customer if, in DocuSign's opinion, Customer's instruction infringes Applicable Data Protection Laws. Customer acknowledges and agrees that DocuSign is not responsible for performing legal research and/or for providing legal advice to Customer.

3.3 Unless otherwise specified in the Agreement, Customer agrees it will not provide DocuSign with any sensitive or special categories of Personal Data that imposes specific data security or data protection obligations on DocuSign in addition to or different from those specified in this DPA (including any appendix to the DPA) or Agreement.

3.5 With respect to DocuSign's Processing of Personal Data of California Consumers under the California Consumer Privacy Act of 2018 ("CCPA"), the Parties agree that DocuSign acts as a CCPA service provider for Personal Data. Customer acknowledges that it is not selling Personal Data to DocuSign and DocuSign agrees that it will only use Personal Data for the purposes specified in this DPA and the Agreement. Additionally, each Party agrees it will take commercially reasonable steps to avoid any action under the Agreement that would cause the other Party to be deemed to have sold Personal Data under the CCPA.

### 4. PRIVACY INQUIRIES AND REQUESTS FROM DATA SUBJECTS



4.1 If Customer receives a request or inquiry from a Data Subject related to Personal Data Processed by DocuSign, Customer can either (a) access its DocuSign Services containing Personal Data to address the request or inquiry, or (b) to the extent such access is not available to Customer, contact DocuSign customer support for additional assistance to enable Customer to address the request or inquiry.

4.2 If DocuSign directly receives any requests or inquiries from a Data Subject, DocuSign will promptly pass on such request to Customer if the Data Subject has identified Customer as Controller of the Personal Data forming the base of the request or inquiry. DocuSign may advise the Data Subject to identify and contact the relevant Controller(s) which have uploaded or submitted the Data Subject's Personal Data for Processing by the DocuSign Services. Notwithstanding the foregoing, Customer understands and agrees that as a Controller, Customer is solely responsible for responding to such Data Subject's requests or inquiries and that DocuSign has no responsibility to respond to a Data Subject for or on the Customer's behalf. Regarding any anonymized data or other data not considered Personal Data under Applicable Data Protection Laws, the Parties agree and acknowledge that DocuSign has no obligation as a Processor or under this DPA to re-identify or link information or take any other action which may result in such data being deemed Personal Data.

## 5. DOCUSIGN AFFILIATES AND THIRD-PARTY SUBPROCESSORS

5.1 Subject to the terms of this DPA and the Agreement, Customer acknowledges and agrees that DocuSign may engage DocuSign Service Subprocessors to Process Personal Data for or on behalf of DocuSign to provide the DocuSign Services. DocuSign will be liable for the performance of all its obligations under the Agreement whether or not it has delegated or subcontracted any of them to a DocuSign Service Subprocessor.

5.2 DocuSign Service Subprocessors are authorized by DocuSign to process Personal Data only in accordance with the terms of this DPA and the Agreement and are subject to the Binding Corporate Rules or bound by written terms at least as protective of Customer's Personal Data as set forth in this DPA. A list of DocuSign's DocuSign Service Subprocessors (including the name and location of such DocuSign Service Subprocessors and the activities it will perform) is available on DocuSign's website at <https://www.docusign.com/trust/privacy/subprocessors-list> (the "Subprocessor List"), and notice regarding new DocuSign Service Subprocessors is made available through a subscription mechanism as described on the DocuSign website. Customer agrees to subscribe to the Subprocessor List in order for DocuSign to notify Customer of new DocuSign Service Subprocessor(s) for the applicable DocuSign Services.

5.3 Customer may object to DocuSign's use of a new DocuSign Service Subprocessor to Process Customer's Personal Data by giving written notice to DocuSign within thirty (30) days of being informed by DocuSign of such a new DocuSign Service Subprocessor. If Customer objects to the use of a new DocuSign Service Subprocessor in compliance with the foregoing, DocuSign has the right to cure the objection within thirty (30) days of DocuSign's receipt of Customer's objection through either of the following options (to be selected at DocuSign's sole discretion): (a) DocuSign providing a commercially reasonable alternative to avoid the Processing of Personal Data by the objected DocuSign Service Subprocessor; or (b) DocuSign terminating the affected DocuSign Services involving use of the new DocuSign Service Subprocessor to Process Customer's Personal Data and providing a prorated refund to Customer for any prepaid fees received by DocuSign under the Agreement corresponding to the unused portion of the Term of such terminated DocuSign Services following the effective date of termination, which is Customer's sole and exclusive remedy for the terminated DocuSign Services.

5.4 If and to the extent the Processing of Personal Data by DocuSign involves a cross-border transfer of Personal Data to any DocuSign Service Subprocessor(s) in a country not recognized as providing an adequate level of protection for Personal Data, the Parties agree that prior to any such transfers taking

place, DocuSign will implement with such DocuSign Service Subprocessor(s) appropriate cross-border transfer safeguards in accordance with the Applicable Data Protection Laws.

## 6. CROSS-BORDER DATA TRANSFERS

6.1 DocuSign may Process Personal Data globally as necessary to perform the DocuSign Services. To the extent such global access involves a transfer of Personal Data subject to cross-border transfer obligations under Applicable Data Protection Laws within the DocuSign group, the Binding Corporate Rules apply to the Processing of Personal Data by DocuSign and/or its Affiliates as part of the provision of DocuSign Services under the Agreement. The Binding Corporate Rules are incorporated by reference into this DPA, and DocuSign agrees to use commercially reasonable efforts to maintain the regulatory authorization of the Binding Corporate Rules or other appropriate cross-border transfer safeguards for the duration of the Agreement. If Customer has subscribed to be informed of changes to the Binding Corporate Rules through the subscription mechanism described on the DocuSign Alerts page of the DocuSign website, DocuSign will inform Customer of any subsequent material changes to its Binding Corporate Rules through the applicable subscription alerts.

6.2 In the event that the Binding Corporate Rules (including the protections provided therein) together with necessary supplemental measures are deemed inadequate by Regulators for cross-border transfers of Personal Data under Applicable Data Protection Laws, the Parties shall enter into the standard contractual clauses as approved by the European Commission.

## 7. INFORMATION AND ASSISTANCE

7.1 Upon prior written request, DocuSign will provide to Customer reasonable assistance and information regarding the DocuSign Services provided under the Agreement to assist Customer in (a) Customer conducting a privacy impact assessment of the DocuSign Services, and (b) an investigation by any Regulator(s) to the extent that such investigation relates to Customer's use of the DocuSign Services and Personal Data Processed by DocuSign in accordance with the Agreement.

## 8. SECURITY SAFEGUARDS

8.1 DocuSign will safeguard Personal Data with appropriate technical, physical, and organizational measures designed to prevent Data Incidents. Additional details regarding the specific security measures that apply to the DocuSign Services are as described in the Binding Corporate Rules and the Agreement. All DocuSign employees, as well as any DocuSign Service Subprocessors that Process Personal Data, are subject to appropriate written confidentiality obligations, including training on information protection, and compliance with DocuSign policies concerning protection of Confidential Information.

8.2 Customer shall be responsible for properly implementing access and use controls and configuring certain features and functionalities of the DocuSign Services that Customer may elect to use and agrees that it will do so in accordance with this DPA and the Agreement in such manner that Customer deems adequate, including, without limitation, maintaining appropriate security, protection, deletion, and backup of its own Personal Data.

## 9. AUDIT RIGHTS

9.1 The Binding Corporate Rules and Agreement set forth Customer's audit rights as permitted under this DPA. Upon completion of any audit, Customer will provide DocuSign with a copy of the audit report or other summary ("Audit Report"), which is subject to the confidentiality terms of the Agreement. Customer may use the Audit Report only for the purposes of meeting its regulatory audit requirements and/or confirming compliance with the requirements of this DPA.

9.2 Unless otherwise set forth in the Agreement, each Party will bear its own costs in relation to audits, unless DocuSign promptly informs Customer upon reviewing Customer's audit request that it expects to incur additional charges or fees in the performance of such audit that are not covered by the fees payable under the Agreement, including without limitation additional license or third-party contractor fees. The Parties will negotiate in good faith with respect to any such charges or fees.

9.3 Without prejudice to the rights set forth in Section 9.1 above, if the requested audit scope is addressed in a SOC, ISO, NIST, PCI DSS, HIPAA or similar audit report issued by a qualified third-party auditor within the prior twelve months and DocuSign provides such report to Customer confirming there are no known material changes in the controls audited, Customer agrees to accept the findings presented in the third-party audit report in lieu of requesting an audit of the same or materially similar controls covered by the report.

## 10. INCIDENT NOTIFICATION AND MANAGEMENT

10.1 DocuSign has implemented controls and policies designed to detect and promptly respond to Data Incidents. DocuSign shall, without undue delay, report to Customer any Data Incident upon becoming aware that a Data Incident has occurred, to the extent not otherwise prohibited under applicable law. DocuSign's obligation to report a Data Incident under this DPA is not and will not be construed as an acknowledgement by DocuSign of any fault or liability of DocuSign with respect to such Data Incident. Customer is solely responsible for determining whether to notify impacted Data Subjects and for providing such notice, and for determining whether Regulators need to be notified of a Data Incident as may be required for Customer's own business and activities. DocuSign shall promptly provide Customer information reasonably requested to support customer's responsibility to notify pursuant to the foregoing, to the extent Customer is not able to obtain such information directly through the features and functionality provided by the DocuSign Services. Notwithstanding the foregoing, Customer agrees to coordinate with DocuSign on the content of Customer's intended public statements or required notices for affected Data Subjects and/or notices to relevant Regulators regarding the Data Incident.

10.2 DocuSign will promptly define escalation paths to investigate such incidents in order to confirm if a Data Incident has occurred, and to take reasonable measures designed to identify the root cause(s) of the Data Incident, mitigate adverse effects and prevent a recurrence.

10.3 The details of the Data Incident response and notification procedure set forth in the Security Attachment for DocuSign Services shall apply accordingly.

## 11. DOCUSIGN PRIVACY CONTACT

11.1 DocuSign has appointed a Chief Privacy Officer and, in some countries, a local Data Protection Officer. Further details on how to contact the Chief Privacy Officer and, where applicable, the local Data Protection Officer are available in the DocuSign Privacy Policy on DocuSign's website at <https://www.docusign.com/company/privacy-policy>.

## 12. RETURN OR DISPOSAL

12.1 Prior to termination or expiration of the Agreement for any reason, Customer may delete its Personal Data Processed by the DocuSign Services in accordance with the terms of the Agreement. At Customer's prior written request and upon termination of the DocuSign Services, DocuSign will promptly return (including by providing available data retrieval functionality) or delete copies of Personal Data on DocuSign systems and DocuSign Services environments, except as otherwise stated in the Agreement or unless applicable laws require storage of the Personal Data for longer.

12.2 For Personal Data stored in Customer's service environment, or for the DocuSign Services for which no bulk data retrieval functionality is provided by DocuSign as part of the DocuSign Services, Customer is advised to take appropriate action to back up or otherwise store separately any Personal Data while the DocuSign Services environment is still active prior to termination.

## EUROPEAN DPA APPENDIX

This European DPA Appendix ("EU Appendix") is incorporated into and made part of the DPA. Unless otherwise defined in this EU Appendix, capitalized terms will have the meaning given to them in the main body of the DPA.

### 1. DESCRIPTION OF PROCESSING

1.1 Duration. The duration of the Processing of Personal Data will be the same as the Term of the Agreement, except as otherwise agreed to in writing by the Parties or required by Applicable Data Protection Laws.

1.2 Processing Activities. DocuSign may Process Personal Data as necessary to perform the DocuSign Services, including where applicable for hosting and storage; backup and disaster recovery; service change management; issue resolution; applying new product or system versions, patches, updates and upgrades; monitoring and testing system use and performance; IT security purposes including incident management; maintenance and performance of technical support systems and IT infrastructure; and migration, implementation, configuration and performance testing. Additionally, DocuSign may collect, retain, use, disclose and otherwise Process Personal Data for the following additional business purposes: (a) to comply with Customer's written instructions, as Customer may provide to DocuSign from time to time pursuant to the Agreement and the DPA; (b) to disclose Personal Data to its employees, contractor personnel, advisers or DocuSign Service Subprocessors who have a need to know the Personal Data in order to provide the DocuSign Services and are under confidentiality obligations at least as restrictive as those described under the Agreement; (c) to comply with Applicable Data Protection Laws or any request from a Regulatory or other governmental or regulatory body (including subpoenas or court orders) so long as DocuSign provides to Customer a copy of the request and DocuSign's description of its intended disclosure within a reasonable period of time as allowed by applicable law prior to release; and (d) to exercise or defend legal claims.

1.3 Categories of Personal Data. In order to perform the DocuSign Services, depending on the DocuSign Services Customer has ordered, DocuSign may Process some or all of the following categories of Personal Data: contact information such as name, address, telephone or mobile number, email address, and passwords; goods and services provided; unique IDs collected from mobile devices; and IP addresses.

1.4 Categories of Data Subjects. Categories of Data Subjects whose Personal Data may be Processed in order to perform the DocuSign Services may include, among others, Customer's Account Administrator, Authorized Users, representatives and end users, including without limitation Customer's employees, contractors, partners, suppliers, customers and clients.



# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
04/29/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Aon Risk Insurance Services West, Inc. San Francisco CA Office 425 Market Street Suite 2800 San Francisco CA 94105 USA	<b>CONTACT NAME:</b>	
	<b>PHONE (A/C. No. Ext):</b> (866) 283-7122	<b>FAX (A/C. No.):</b> (800) 363-0105
<b>INSURED</b> DocuSign, Inc. 221 Main Street, Suite 1000 San Francisco CA 941051925 USA	<b>E-MAIL ADDRESS:</b>	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
	<b>NAIC #</b>	
	<b>INSURER A:</b> StarNet Insurance Company	40045
	<b>INSURER B:</b> Berkley National Insurance Company	38911
	<b>INSURER C:</b> National Fire & Marine Ins Co	20079
<b>INSURER D:</b> Endurance American Specialty Ins Co.	41718	
<b>INSURER E:</b>		
<b>INSURER F:</b>		

Holder Identifier :

**COVERAGES****CERTIFICATE NUMBER:** 570092897878**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			TCP700795716	04/27/2022	04/27/2023	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$3,000,000 PRODUCTS - COMP/OP AGG \$3,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			TCP700795716	04/27/2022	04/27/2023	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION			TCP700795716	04/27/2022	04/27/2023	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N N	N / A	TWC700795518	04/27/2022	04/27/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000
D	<b>E&amp;O-PL-Primary</b>			NRO30006187401 Claims-Made SIR applies per policy terms & conditions	04/27/2022	04/27/2023	Policy Aggregate \$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Evidence of Insurance. Professional Liability policy includes Network Security, Privacy Protection and Cyber Liability policy.

**CERTIFICATE HOLDER****CANCELLATION**

DocuSign, Inc. 221 Main Street, Suite 1000 San Francisco CA 94105-1925 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  <i>Aon Risk Insurance Services West, Inc.</i>

Certificate No : 570092897878



# ADDITIONAL REMARKS SCHEDULE

Page \_ of \_

AGENCY Aon Risk Insurance Services West, Inc.		NAMED INSURED DocuSign, Inc.
POLICY NUMBER See Certificate Number: 570092897878		
CARRIER See Certificate Number: 570092897878	NAIC CODE	EFFECTIVE DATE:

## ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**

**FORM NUMBER:** ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

Additional Coverage

Coverage: E&O XS 5Mxs5M  
 Policy No.: EOC727719401  
 Policy Term: 04/27/21-04/27/22  
 Underwriting Company: Steadfast Insurance Company  
 Limits: \$5,000,000



# Administrative Report

H.4., File # 22-3834

Meeting Date: 5/10/2022

**To: MAYOR AND CITY COUNCIL**

**From: GREG KAPOVICH, WATERFRONT AND ECONOMIC DEVELOPMENT DIRECTOR**

## **TITLE**

ADOPT BY TITLE ONLY RESOLUTION NO. CC-2205-027, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, LEASING CERTAIN PROPERTY TO CALIFORNIA LOCAL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

APPROVE THE LEASE WITH CALIFORNIA LOCAL, LLC FOR A RESTAURANT USE FOR THE PREMISES AT 245 NORTH HARBOR DRIVE FOR A MONTHLY MINIMUM RENT OF \$11,032 AND A TERM OF MAY 10, 2022 THROUGH MARCH 9, 2028

## **EXECUTIVE SUMMARY**

In May, 2014 the City of Redondo Beach ("the City") completed its purchase of the Redondo Beach Marina leasehold, which includes restaurant and retail buildings, a small marina, a large surface parking lot and a public boat hoist. The building at 245 North Harbor Drive ("Premises"), which consists of approximately 6,266 square feet of indoor building and outdoor patio space, was occupied by Ruby's Diner from 1991 through October, 2020.

The proposed lease with California Local, LLC ("Tenant") is for a restaurant specializing in Coastal California cuisine for a 70-month (5 year) term. The City has the sole right to terminate the lease with twelve months prior written notice following the first year of the agreement. The lease rent will be \$1,000 per month for the initial ten (10) months of term, or when the Tenant opens for business, whichever is earlier, to allow the Tenant time to complete improvements to the building. Following the 10-month "remodel" period, the monthly minimum rent will increase to \$11,032, or 8% of gross sales, whichever is greater. The lease also includes annual rent increases of 3%.

## **BACKGROUND**

In May 2014, the City purchased the Redondo Beach Marina leasehold and began the process of entering into direct leases with various tenants. The leasehold is comprised of stand-alone restaurant pads, a marina, a large surface parking lot, and a public boat hoist to access King Harbor. The building located at 245 North Harbor Drive has been vacant since October, 2020 when Ruby's Diner closed due to a combination of declining restaurant sales and increasing operational costs.

The City's leasing agent BC Urban started marketing the Ruby's site in early 2021. The leasing team reached out to over 50 restaurant groups and individual operators, both local and national, that represented various types of cuisine including another Ruby's operator. After substantive discussions with a dozen restaurant companies, BC Urban entered into negotiations with a short list of



prospective owners/operators. The California Local group was selected due to its long-standing and successful business history in Redondo Beach, its strong ties to the community, and willingness to make a substantial investment in the restaurant for only a 70-month lease term with early termination language.

California Local, LLC, which is a group of local members of the business community and senior members of Quality Seafood, is seeking a lease for the space at 245 North Harbor Drive to open a restaurant that will be unique to the area. It is anticipated that Jeff Jones of Quality Seafood will be the Operating Partner/Manager for the group. The Quality Seafood members bring almost 70 years of local restaurant experience to the proposed lease concept. California Local intends to provide a laid-back casual Coastal California dining experience. While the menu is currently being developed, the focus is on wood-grilled meats, wood-fired pizza, fresh salads, sandwiches, and appetizers all served in an environment that is friendly to families, locals, and visitors who are looking for a connection to the waterfront. The name of the restaurant has not yet been finalized.

The proposed lease carries a 70-month term. The City will have the sole right to terminate the lease with twelve months prior written notice, after the initial 12 months of term. During the initial occupancy period, the Tenant will pay a reduced rent of \$1,000 (the first ten (10) months or until the restaurant is open for business, whichever is earlier) and will pay their share of common area maintenance fees. The monthly minimum rent will then increase to \$11,032, or 8% of gross sales, whichever is greater and will be increased by 3% each anniversary of the May 10 Commencement Date.

The total building square footage of approximately 6,266 square feet is comprised of approximately 4,766 interior square feet and 1,500 square feet of current outdoor patio space. The Tenant desires to expand the exterior space for dining use so guests can enjoy the scenery and sunsets. There will be a \$1 per square foot charge for the expanded area when built. The Tenant will be required to obtain approval from the City for any expansion plans in addition to obtaining any associated licenses, and permits from any required or necessary agencies including the City of Redondo Beach.

In addition to the minimum and percentage rent, the Tenant will pay for its share of expenses of operating, maintaining and repairing the common area of the Redondo Beach Marina. The Lease will have a corporate guaranty and a required security deposit of \$11,032 that will be kept on file.

Since the interior and exterior of the former Ruby's Diner site requires substantial rehabilitation, California Local intends to invest upwards of \$500,000 into the property. The Tenant is aware of the potential impact the BeachLife Festival could have on its business, but is confident they can work collaboratively with the festival producer to minimize disruption.

#### **COORDINATION**

The Waterfront and Economic Development Department collaborated with the City Attorney's Office, which has approved the document as to form.

#### **FISCAL IMPACT**

Lease revenue from the property will accrue to the City's Harbor Uplands Fund. The Tenant's rent will be \$1,000 during the initial remodel period, which is the earlier of ten (10) months after May 10, 2022 or when the restaurant opens. Once the restaurant is operational, the monthly minimum rent

will increase to \$11,032, or 8% of gross sales, whichever is greater, resulting in a minimum annual total of \$132,384. Annual increases of 3% over the five-year term will result in revenue to the Uplands Fund of approximately \$703,000.

**APPROVED BY:**

*Mike Witzansky, City Manager*

**ATTACHMENTS**

- Resolution No. CC-2205-027
- Lease between the City of Redondo Beach and California Local, LLC

**RESOLUTION NO. CC-2205-027**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, LEASING CERTAIN PROPERTY TO REDONDO LOCAL LLC**

WHEREAS, Section 2-21.01, Chapter 21, Title 2, of the Redondo Beach Municipal Code provides that any lease of public land owned or controlled by the City of Redondo Beach, or by any department or subdivision of the City, shall be administratively approved by resolution; and

WHEREAS, the City Council shall approve the subject lease only upon the making of certain findings.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. That the City Council of the City of Redondo Beach approves the lease with California Local LLC ("Lease") for the property commonly located at 245 North Harbor Drive, Redondo Beach, CA 90277, consisting of approximately 6,266 rentable square feet, as further detailed in the Lease attached hereto as Exhibit "A" and incorporated herein as set forth in full.

SECTION 2. That the City Council of the City of Redondo Beach hereby finds:

1. The Lease will result in a net economic or other public benefit to the City of Redondo Beach or the general public; and
2. The granting of the Lease is consistent with and will further the fiscal, budgetary and applicable economic development, social, recreational, public safety or other applicable adopted policies of the City; and
3. The Lease, and all land uses and development authorized by the Lease, are consistent with all applicable provisions of the general plan, the Coastal Land Use Plan where applicable, and the applicable zoning ordinances of the City; and
4. The Lease and all land uses and development authorized by the Lease, are consistent with and will carry out the goals, standards and policies of any specific plan applicable to the Lease property; and
5. The Lease and its purposes are consistent with all other applicable provisions of law; and
6. The Lease and all land uses and development authorized by the Lease are consistent with terms of and will further the purposes of the grant from the State and all applicable laws and agreements governing use of the land; and
7. The Lease shall not exceed sixty-six (66) years.

PASSED, APPROVED AND ADOPTED this 10<sup>th</sup> day of May, 2022.

\_\_\_\_\_  
William C. Brand, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Michael W. Webb, City Attorney

\_\_\_\_\_  
Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            )       ss  
CITY OF REDONDO BEACH             )

I, Eleanor Manzano, City Clerk of the City of Redondo Beach, California, do hereby certify that Resolution No. CC-2205-027 was passed and adopted by the City Council of the City of Redondo Beach, California, at a regular meeting of said City Council held on this 10<sup>th</sup> day of May, 2022, and there after signed and approved by the Mayor and attested by the City Clerk, and that said resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Eleanor Manzano, CMC  
City Clerk

# EXHIBIT A

**LEASE**  
**BETWEEN**  
**CITY OF REDONDO BEACH,**  
**A CHARTERED MUNICIPAL CORPORATION**  
**LANDLORD**  
**AND**  
**CALIFORNIA LOCAL LLC**  
**A LIMITED LIABILITY COMPANY**  
**TENANT**  
**DATED AS OF**  
**MAY 10, 2022**  
**REDONDO BEACH, CALIFORNIA 90277**

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#### List of Exhibits

Exhibit "A" - Premises Floor Plan  
 Exhibit "B" - Lease Confirmation  
 Exhibit "C" - Rules and Regulations  
 Exhibit "D" - Parking Fee Schedule  
 Exhibit "E" – Guaranty  
 Exhibit "F" - Initial Leasehold Improvements  
 Exhibit "G" - Memorandum of Lease

## **OFFICE LEASE**

### **1. Parties**

This Lease Agreement ("Lease") is made and entered into by and between the **City of Redondo Beach**, a Chartered Municipal Corporation ("Landlord" or "City"), and **California Local LLC, a California Limited Liability Company** ("Tenant") as of May 10, 2022.

**2. Summary of Basic Terms:** As used in this Lease, the following terms shall have the meanings set forth below, subject to the qualifications, adjustments and exceptions set forth elsewhere in this Lease. In the event of a conflict between the terms of this Summary and the Lease, the terms of the Lease shall prevail.

(a) **Premises:** The space is located at 245 North Harbor Drive, Redondo Beach, CA 90277, consisting of approximately 6,266 gross square feet of which 4,766 interior square feet and 1,500 square feet of exterior space as shown on the floor plan attached hereto as Exhibit "A".

(b) **Permitted Use:** Restaurant and other food services, alcohol services and supporting offices and consumer space and for no other use.

(c) **Lease Term:** 70 months from Commencement Date, subject to Landlord's early termination right described below. If at any time during the lease term, the Landlord decides that it is able to lease the Premises for a longer term, Tenant shall have the first right of refusal to negotiate a longer-term lease at market rates and terms.

(d) **Commencement Date:** May 10, 2022.

(e) **Expiration Date:** March 9, 2028; subject to Landlord's Right to Terminate upon twelve months written notice.

(f) **Right to Terminate:** Notwithstanding any other provision of this Lease, Landlord shall have the sole right to terminate upon twelve months prior written notice of the early termination date to Tenant.

(g) **Monthly Rent or Percentage Rent:**

Interior space: \$9,532.00; \$2.00 per square foot.

Exterior space: \$1,500.00; \$1.00 per square foot.

Total Base Rent: \$11,032.00; Base Rent shall increase by three percent (3%) on the anniversary of the Commencement date and annually thereafter.

If Tenant obtains the necessary approvals to expand the exterior space for customer service or dining use, the expanded exterior space shall be charged at \$1.00 per square feet.

Percentage Rent: 8% of gross sales or the Base Rent, whichever is higher in any given month.

Landlord agrees to reduce the rent during the remodel process, but not the CAMS to \$1,000.00 per month for the initial ten (10) months of the Lease Term or when the Tenant opens for business, whichever date is sooner.

- (h) **Rentable Area of Premises:** Approximately 6,266 gross square feet, consisting of 4,766 interior square feet and 1,500 exterior square feet. rentable square feet.
- (i) **Parking:** Parking shall be at such rates and terms set by Landlord from time to time in accordance with Article 28 and Exhibit "D". Tenant shall be entitled to 10 employee passes which are currently \$10 per parking pass per month for Mon-Fri access during regular business hours; \$35 per parking pass per months for Mon-Sun 24/7 access.
- (j) **Operating Expense Base Year:** N/A. See Section 8 of the Lease for Operating Expense definitions.
- (k) **Tenant's Share of Operating Expenses:** percent (%) per Article 8 of this Lease.
- (l) **Tenant Improvements:** None. AS-IS.
- (m) **Security Deposit:** \$12,532.00 (Twelve Thousand Five Hundred Thirty-Two Dollars)
- (n) **Tenant's Guarantor:** Corporate.
- (o) **Landlord's Address for Notices:** 107 W. Torrance Blvd., Suite #200, Redondo Beach, CA 90277
- (p) **Tenant's Addresses for Notices:** 245 N. Harbor Drive, Redondo Beach, CA 90277, Attn: Jeff Jones
- (q) **Tenant's Affiliates:** All affiliates, directors, officers, shareholders, partners, agents, employees, invitees, customers, successors and assigns of Tenant.
- (r) **Landlord's Affiliates:** All officers, employees, elected and appointed officials, volunteers, invitees, successors, and assigns of the City.
- (s) **Liabilities:** All losses, damages, expenses, claims, demands, causes of action, lawsuits (whether at law, equity, or both), proceedings, injuries, liabilities, judgments, and costs (including, but not limited to, attorneys' fees and costs, and expert witness fees), and penalties, and liens of every nature (whether or not suit is commenced or judgment entered).
- (t) **Landlord's Broker:** BC Urban.

(u) **Tenant's Broker:** N/A

**3. Demise and Term.** Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord, subject to all of the terms, covenants and conditions in this Lease. The Premises are leased for the Lease Term, which, subject to Article 4 below, shall commence on the Commencement Date and shall expire on the Expiration Date, unless sooner terminated pursuant to Landlord's Right to Terminate or otherwise under the provisions of this Lease.

**4. Possession.**

4.1 **Delivery of Possession.** The Premises shall be delivered to Tenant in its current "AS-IS" condition with exception to items in Exhibit "F", if applicable. If Landlord cannot deliver possession of the Premises to Tenant by the Commencement Date this Lease will not be void or voidable, nor will Landlord be liable to Tenant for any loss or damage resulting from such delay. Notwithstanding anything to the contrary contained herein, Landlord will not be obligated to deliver possession of the Premises to Tenant until Landlord has received from Tenant all of the following: (i) a copy of this Lease fully executed by Tenant and the guaranty of Tenant's obligations under this Lease, if any, executed by the Guarantor(s); (ii) the Security Deposit, if any, and the first installment of Monthly Basic Rent; and (iii) copies of policies of insurance or certificates thereof as required under Article 15 of this Lease.

4.2 **Delays Caused by Tenant.** Notwithstanding anything to the contrary in Article 4.1, if Landlord's failure to deliver possession of the Premises results from Tenant and/or Tenant's Affiliates' acts or omissions (including delays caused by Tenant's failure to supply the items referred to in Article 4.1), then the Commencement Date shall be the date stated in Article 2(f) of this Lease notwithstanding the Tenant and/or Tenant's Affiliates' delay. In no event shall the Lease Term be extended by any such delay. Tenant shall owe the amount of the Monthly Rent and Additional Rent from the Commencement Date.

**5. Condition of Premises.**

5.1 **Condition of Premises.** Tenant hereby agrees and warrants that it has investigated and inspected the condition of the Premises, Building, and their suitability for Tenant's purposes, and Tenant does hereby waive and disclaim any objection to, cause of action based upon, or claim that its obligations hereunder should be reduced or limited because of the condition of the Premises, the Building, or the suitability of same for Tenant's purposes. Tenant acknowledges that neither Landlord nor Landlord's Affiliates has made any representations or warranty with respect to the Premises, the Building, their condition, or with respect to the suitability for Tenant's business. Tenant hereby agrees that the Premises shall be taken "AS-IS", "with all faults" and Landlord shall have no obligation to alter, remodel, improve, repair, decorate or paint the Premises or any part thereof, unless provided in Article 11 below. Tenant, at its sole expense, shall keep the Premises and every part thereof in good condition and repair and shall, upon the expiration or sooner termination of the Lease Term, surrender the Premises to Landlord in good condition.

## 6. **Rent.**

6.1 **Monthly Rent.** Tenant shall pay to Landlord as rent for the Premises the Monthly Rent as set forth in Article 2(i). The Monthly Rent shall be payable in advance on or before the first day of the first full calendar month of the Lease Term and on or before the first day of each successive calendar month thereafter during the Lease Term, except that the Monthly Rent for the first full calendar month of the Lease term and any prorated term shall be paid upon the execution of this Lease. The Monthly Rent for any period during the Lease Term which is for less than one (1) month shall be prorated based on a thirty (30)-day month. The Monthly Rent and all other rent hereunder shall be paid without prior notice or demand, without deduction or offset in lawful money of the United States of America which shall be legal tender at the time of payment, at the office of the Building or to another person or at another place as Landlord may from time to time designate in writing.

6.2 **Additional Rent.** The term “**Additional Rent**” means all other amounts payable by Tenant under this Lease (whether or not designated as Additional Rent), including without limitation Operating Expenses, taxes, insurance and repairs. The term “**Rent**” shall mean Monthly Rent and Additional Rent. Landlord shall be entitled to exercise the same rights and remedies upon default in the Additional Rent payments as Landlord is entitled to exercise with respect to defaults in Monthly Rent payments.

7. **Security Deposit.** If required, upon the execution of this Lease, Tenant shall deposit the Security Deposit with Landlord as set forth in Article 2(o) above. The Security Deposit shall be held by Landlord as security for the performance of all of Tenant's obligations during the Lease Term. Upon any default by Tenant under this Lease, Landlord may, but shall not be obligated to, use, apply or retain all or any part of the Security Deposit for the payment of any Rent in default, or any other Liabilities which Landlord may incur as a result of or in connection with Tenant's default. If any portion of the Security Deposit is so used or applied, Tenant shall, within five (5) days after written demand therefore, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its previous amount. Landlord shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to receive interest on the Security Deposit. If Tenant complies with all of the provisions of this Lease and is not then in default hereunder, the unused portion of the Security Deposit shall be returned to Tenant within thirty (30) days after the expiration or sooner termination of the Lease Term and surrender of the Premises to Landlord in the condition required hereunder.

## 8. **Operating Expenses.**

8.1 **Definitions.** As used in this Lease, the following terms have the meanings set forth below:

(a) **Operating Expenses:** All costs and expenses of operating, maintaining and repairing the common areas, Building and the Land, including, but not limited to: water and sewer charges; insurance premiums for all insurance policies deemed necessary by Landlord; deductible amounts under insurance policies; janitorial services; wages of Landlord's employees engaged in the operation, maintenance or repair of the Building or the Land, including all customary employee

benefits, Worker's Compensation and payroll taxes; reasonable management fees or, if no managing agent is retained for the Building, a reasonable sum in lieu thereof which is not in excess of the prevailing rate for management services charged by professional management companies for the operation of similar buildings; legal, accounting and other consulting fees; the cost of air conditioning, heating, ventilation, plumbing, electricity, water, sewer and other services and utilities serving common areas; elevator maintenance; capital improvements and replacements to all or any portion of the Building and the Land made after completion of the Building, appropriately amortized over the useful life of such improvements; all costs and expenses incurred by Landlord and interest on any funds borrowed to pay the cost of any capital improvements as a result of or in order to comply with any Laws, including, but not limited to, Laws pertaining to energy, natural resources conservation, safety, environmental protection; supplies, materials, equipment and tools; and maintenance and repair of all common areas. Operating Expenses do not include the depreciation on the existing Building and improvements, loan payments, executive salaries, real property and other taxes (see article 26) or real estate broker's commission.

## **9. Use of Premises.**

9.1 Permitted Use. Tenant shall use the Premises only for the Permitted Use set forth in Article 2(d) (the "Permitted Use") and for no other use or purpose, unless first approved in writing by Landlord, which approval Landlord may withhold in its sole discretion.

9.2 Restrictions on Use. Tenant agrees that it shall not cause or permit any of the following in or about the Premises

(a) Increase the existing rate of, cause the cancellation of or otherwise adversely affect any casualty or other insurance for the Building or any part thereof or any of its contents;

(b) Impair the proper and economic maintenance, operation and repair of the Building or any portion thereof;

(c) Obstruct or interfere with the rights of other tenants or occupants of the Building or injure or annoy them;

(d) Cause any nuisance in or about the Premises or the Building;

(e) Commit or allow any waste to be committed to the Premises or the Building.

Tenant shall not use or allow any part of the Premises to be used for the storage, manufacturing or sale of food or beverages, or for the manufacture or auction or merchandise of goods or property of any kind, or as a school or classroom, or for any unlawful or objectionable purpose.

9.3 Prohibited Uses. Notwithstanding Articles 2(d) and 9, in no event shall the Premises be used for any exclusive use granted by Landlord to other tenants of the Premises prior to the date of this Lease, or any prohibited use in effect for the Premises prior to or subsequent to the date of this Lease.



## **10. Compliance with Laws.**

10.1 Compliance with Laws. Tenant shall not use the Premises or permit anything to be done in or about the Premises, the Building or the Land which will in any way conflict with any law, statute, ordinance, code, rule, regulation, requirement, license, permit, certificate, judgment, decree, order or direction of any governmental or quasi-governmental authority, agency, department, board, panel or court now in force or which may hereafter be enacted or promulgated (singularly and collectively "**Laws**"). Tenant shall also comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency. Tenant shall, at its sole expense and cost, promptly comply with all Laws and with the requirements of any board of fire insurance underwriters or other similar bodies now or hereafter constituted, relating to or affecting the condition, use or occupancy of the Premises.

10.2 Tenant shall not be required to make structural changes to the Premises unless they arise or are required because of or in connection with Tenant's specific use of the Premises, or the type of business conducted by Tenant in the Premises, or Tenant's Alterations or Tenant's acts or omissions. Tenant shall obtain and maintain in effect during the Lease Term all licenses and permits required for the proper and lawful conduct of Tenant's business in the Premises, and shall at all times comply with such licenses and permits. The judgment of any court of competent jurisdiction or the admission of Tenant in any action or proceeding (whether Landlord is a party or not) that Tenant has violated any Laws shall be conclusive of that fact as between Landlord and Tenant.

10.3 Nondiscrimination. Tenant hereby certifies and agrees that, in all matters affecting this Lease, it will comply with all applicable federal, State, and local laws and regulations prohibiting discrimination of any kind, including but not limited to, the Federal Civil Rights Act of 1964, Unruh Civil Rights Act, Cartwright Act, State Fair Employment Practices Act, and Americans with Disabilities Act.

10.4 Employment Records. All employment records shall be open for inspection and reinspection by Landlord at any reasonable time during the term of this Lease for the purpose of verifying the practice of nondiscrimination by Tenant in the areas heretofore described.

### **10.5 Hazardous Materials.**

(a) Tenant shall not cause or permit any Hazardous Material(s) (as defined in this Article) to be brought, kept or used in or about the Building by Tenant, Tenant's Affiliates, contractors provided Tenant may use and store normal quantities of products used for office purposes (such as toner, cleaning solvents or the like) as long as the same are used in compliance with applicable Laws. Tenant indemnifies Landlord and Landlord's Affiliates from and against any breach by Tenant of the obligations stated in the preceding sentence, and agrees to defend and hold Landlord and Landlord's Affiliates harmless from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of the Building, damages for the loss or restriction or use of rentable or usable space or of any amenity of the Building, damages arising from any adverse impact or marketing of space in the Building, and sums paid in settlement of claims, attorneys' fees, consultant fees, and expert

fees) which arise or accrue during, or are attributable to, the term of this Lease as a result of such breach. This indemnification of Landlord and Landlord's Affiliates by Tenant includes without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material(s) present in the soil or ground water on or under the Building. Without limiting the foregoing, if the presence of any Hazardous Material(s) on the Building caused or permitted by Tenant and/or Tenant's Affiliates results in any contamination of the Building, Tenant shall promptly take all actions at its sole expense as are necessary to return the Building to the condition existing prior to the introduction of any such Hazardous Material(s) and the contractors to be used by Tenant must be approved by the Landlord, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Building and so long as such actions do not materially interfere with the use and enjoyment of the Building by the other tenants thereof; provided however, Landlord shall also have the right, by notice to Tenant, to directly undertake such mitigation efforts with regard to Hazardous Material(s) in or about the Building due to Tenant's breach of its obligations pursuant to this Section, and to charge Tenant, as Additional Rent, for the costs thereof.

(b) Landlord covenants and agrees that in the event any unlawful levels of Hazardous Material(s) exist or are introduced in, on or about the Building, due to other than the actions or inaction of Tenant or Tenant's Affiliates, assignees, sublessees, licensees, or contractors, and any such Hazardous Material(s) are reasonably potentially injurious to Tenant's health, safety or welfare, or if any such unlawful levels of Hazardous Material(s) substantially interfere with Tenant's use of the Premises, Landlord shall, if required by applicable Laws, diligently commence to remove, restore, remediate or otherwise abate such Hazardous Material(s) in compliance with all Laws pertaining to Hazardous Material(s).

(c) It shall not be unreasonable for Landlord to withhold its consent to any proposed transfer under Article 17 if (i) the proposed transferee's anticipated use of the Premises involves the generation, storage, use, treatment, or disposal of Hazardous Material(s); (ii) the proposed transferee has been required by any prior landlord, lender, or governmental authority to take remedial action in connection with Hazardous Material(s) contaminating a property if the contamination resulted from such transferee's actions or use of the Property in question; or (iii) the proposed transferee is subject to an enforcement order issued by any governmental authority in connection with the use, disposal, or storage of a Hazardous Material(s).

(d) As used herein, the term "**Hazardous Material(s)**" mean any hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "**Hazardous Material(s)**" include, without limitation, any material or substance which is (i) defined as "**Hazardous Waste**," "**Extremely Hazardous Waste**," or "**Restricted Hazardous Waste**" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "**Hazardous Substance**" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "**Hazardous Material**," "**Hazardous Substance**," or "**Hazardous Waste**" under Section 25501 of the

California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as "**Hazardous Substance**" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) asbestos, (vii) regulated by Section 26100 et seq. of the California Health and Safety Code, Division 20, Chapter 18 (Toxic Mold Protection Act of 2001), (viii) listed under Article 9 or defined as Hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ix) designated as a "**Hazardous Substance**" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1317), or (x) defined as a "Hazardous Waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903), (xi) defined as a "**Hazardous Substance**" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601).

(e) As used herein, the term "**Laws**" mean any applicable federal, state or local laws, ordinances, or regulation relating to any Hazardous Material affecting the Building, including, without limitation, the laws, ordinances, and regulations referred to in Article 10.4 (d) above.

## **11. Alterations and Additions.**

### **11.1 Landlord's Consent.**

(a) Tenant shall not make or permit to be made any alterations, additions or improvements (singularly and collectively "**Alterations**") to the Building or the Premises or any part thereof without the prior written consent of Landlord in each instance.

(b) Landlord will not unreasonably withhold its consent to any Alterations provided and upon the condition that all of the following conditions shall be satisfied: (i) the Alterations do not affect the outside appearance of the Building; (ii) the Alterations are nonstructural and do not impair the strength of the Building or any part thereof; (iii) the Alterations are to the interior of the Premises and do not affect any part of the Building outside of the Premises; (iv) the Alterations do not affect the proper functioning of the heating, ventilating and air conditioning ("**HVAC**"), mechanical, electrical, sanitary or other utilities, systems and services of the Building, or increase the usage thereof by Tenant; (v) Landlord shall have approved the final plans and specifications for the Alterations and all contractors who will perform them; (vi) Tenant pays to Landlord (A) a fee in connection with the Alterations equal to five percent (5%) of the estimated cost of the work and the fee is sufficient to compensate Landlord for all overhead, general conditions, fees and other costs and expenses arising from Landlord's involvement with such work, and (B) the reasonable costs and expenses actually incurred by Landlord in reviewing Tenant's plans and specifications and inspecting the Alterations to determine whether they are being performed in accordance with the approved plans and specifications and in compliance with Laws, including, without limitation, the fees of any architect or engineer employed by Landlord for such purpose; (vii) before proceeding with any Alteration which will cost more than \$10,000 (exclusive of the costs of items constituting Tenant's Property, as defined in Article 11.2), Tenant obtains and delivers to Landlord, at Landlord's option, either: (C) a performance bond and a labor and materials payment bond for the benefit of Landlord, issued by a corporate surety licensed to do business in California, each in

an amount equal to one hundred twenty five percent (125%) of the estimated cost of the Alterations and in form satisfactory to Landlord, or (D) such other security as shall be reasonably satisfactory to Landlord. Unless all of the foregoing conditions are satisfied, Landlord shall have the right to withhold its consent to the Alterations in Landlord's sole and absolute discretion.

(c) Not less than twenty (20) days nor more than thirty (30) days prior to commencement of any Alterations, Tenant shall notify Landlord of the work commencement date so that Landlord may post notices of non responsibility about the Premises. All Alterations must comply with all Laws, the other terms of this Lease, and the final plans and specifications approved by Landlord, and Tenant shall fully and promptly comply with and observe the rules and regulations of Landlord then in force with respect to the making of Alterations. Landlord's review and approval of Tenant's plans and specifications are solely for Landlord's benefit. Landlord shall have no duty toward Tenant, nor shall Landlord be deemed to have made any representation or warranty to Tenant, with respect to the safety, adequacy, correctness, efficiency or compliance with Laws of the design of the Alterations, the plans and specifications therefore, or any other matter regarding the Alterations.

11.2 Ownership and Surrender of Alterations. Upon their installation, all Alterations, including, but not limited to, wall covering, paneling and built-in cabinetry, but excluding movable furniture, trade fixtures and office equipment ("**Tenant's Property**"), shall become a part of the realty and belong to Landlord and shall be surrendered with the Premises. However, upon the expiration or sooner termination of the Lease Term, Tenant shall, upon written demand by Landlord, at Tenant's expense, immediately remove any Alterations made by Tenant which are designated by Landlord to be removed and repair any damage to the Premises caused by such removal.

11.3 Liens. Tenant shall pay when due all claims for labor, materials and services furnished by or at the request of Tenant or Tenant's Affiliates. Tenant shall keep the Premises, the Building and the Land free from all liens, security interests and encumbrances (including, without limitation, all mechanic's liens and stop notices) created as a result of or arising in connection with the Alterations or any other labor, services or materials provided for or at the request of Tenant or Tenant's Affiliates, or any other act or omission of Tenant or Tenant's Affiliates, or persons claiming through or under them. (Such liens, security interests and encumbrances singularly and collectively are herein called "**Liens.**") Tenant shall not use materials in connection with the Alterations that are subject to any Liens. Tenant shall indemnify Landlord and Landlord's Affiliates for, and hold Landlord and Landlord's Affiliates harmless from and against: (a) all Liens; (b) the removal of all Liens and any actions or proceedings related thereto; and (c) all Liabilities incurred by Landlord or Landlord's Affiliates in connection with the foregoing. If Tenant fails to keep the Premises, the Building and the Land free from Liens, then, in addition to any other rights and remedies available to Landlord, Landlord may immediately take any action necessary to discharge such Liens, including, but not limited to, payment to the claimant on whose behalf the Lien was filed, without any duty to investigate the validity thereof, and all sums, costs and expenses, including reasonable attorneys' fees and costs, incurred by Landlord in connection with such lien shall be deemed Additional Rent under this Lease and shall immediately be due and payable by Tenant. Tenant shall indemnify Landlord and Landlord's Affiliates for, and hold Landlord and Landlord's Affiliates harmless from and against, all Liabilities so incurred by

Landlord, without regard to any defense or offset that Tenant may have had against the claimant. Neither Landlord's curative action nor the reimbursement of Landlord by Tenant shall cure Tenant's default in failing to keep the Premises, the Building and the Land free from Liens.

11.4 Additional Requirements. Alterations shall comply with all Laws. Tenant, at its sole expense, shall obtain and provide to Landlord all necessary permits and certificates for the commencement and performance of Alterations and for final approval thereof upon completion, and shall cause the Alterations to be performed in compliance therewith and with all applicable insurance requirements, and in a good, first-class and workmanlike manner. Landlord shall have all rights to review and approve or disapprove all required submittals in accordance with the Laws, and nothing set forth in this Lease shall be construed as the Landlord's approval of any or all of the applications or plans for the Alterations. Tenant, at its sole expense, shall diligently cause the cancellation or discharge of all notices of violation arising from or otherwise connected with Alterations, or any other work, labor, services or materials done for or supplied to Tenant or Tenant's Affiliates, or by any person claiming through or under Tenant or Tenant's Affiliates. Alterations shall be performed so as not to interfere with any other tenant in the Building, cause labor disharmony therein, or delay or impose any additional expense on Landlord in the construction, maintenance, repair or operation of the Building. Throughout the performance of the Alterations, Tenant, at its expense, shall carry, or cause to be carried the Workers' Compensation insurance described in Article 15. Tenant shall furnish Landlord with satisfactory evidence that such insurance is in effect at or before the commencement of the Alterations and, upon request, at reasonable intervals thereafter until completion of the Alterations.

11.5 Prevailing Wages. The Tenant shall carry out the construction of all Alterations in conformity with all applicable laws. Although the parties believe that California law does not require the payment of prevailing wages or the hiring of apprentices as a result of this Lease because the parties intend that the Premises is being leased to Tenant at its fair market rental value, and no other subsidies or financial assistance is being provided to Tenant by Landlord hereunder, Tenant shall be solely responsible for determining and effectuating compliance with such laws, and Landlord makes no representation as to the applicability or non-applicability of any of such laws to the construction of the Alterations. Tenant hereby expressly acknowledges and agrees that the Landlord has not previously affirmatively represented to the Tenant or its contractor(s) for the construction of the Alterations, in writing or otherwise, in a call for bids or otherwise, whether the Alterations are a "public work," as defined in Section 1720 of the Labor Code. If work required to be performed by the Tenant is finally determined by a court of competent jurisdiction to be subject to prevailing wage laws, then the Landlord acknowledges that the work is a "public work," and the following requirements apply:

a. Landlord shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed for the Alterations.

b. Tenant shall obtain those rates from the Director of the Department of Industrial Relations at <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm> or from the Landlord.

c. Tenant shall provide a copy of prevailing wage rates to any staff or subcontractor hired, and shall pay the adopted prevailing wage rates as a minimum.

d. Tenant shall comply with the provisions of Labor Code Sections 1771, 1773.2, 1773.8, 1774, 1775, 1776, 1777.5, 1777.6, 1777.7, 1810, 1813 and 1815 and California Administrative Code Title 8, Section 200 et seq.

e. Pursuant to the provisions of Section 1775 of the Labor Code, Tenant shall forfeit to the Landlord, as a penalty, the sum of \$200.00 for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the stipulated prevailing rates for any work done under this Agreement, by him or by any subcontractor under him, in violation of the provisions of the Agreement.

To the maximum extent permitted by law, Tenant shall defend (at Tenant's expense with counsel reasonably acceptable to the Landlord), indemnify and hold harmless the Landlord and its officers, employees, elected or appointed officials, volunteers, contractors and agents from and against any and all loss, demand, liability, damage, claim, cost, expense and/or "increased costs" (including reasonable attorneys' fees, court and litigation costs, and fees of expert witnesses) which, in connection with the construction of the Alterations, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (1) the noncompliance by Tenant or any of his subcontractors of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay state prevailing wages); (2) the implementation of Section 1781 of the Labor Code, as the same may be amended from time to time, or any other similar law; and/or (3) failure by Tenant or any of his subcontractors to provide any required disclosure or identification as required by Labor Code Section 1781, as the same may be amended from time to time, or any other similar law. It is agreed by the parties that, in connection with the construction of the Alterations, including, without limitation, any and all public works (as defined by applicable law), Tenant shall bear all risks of his and his subcontractors' payment or non-payment of prevailing wages under California law and the implementation of Labor Code Section 1781, as the same may be amended from time to time, and any other similar law. "Increased costs," as used in this Section, shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be amended from time to time. The foregoing indemnity shall survive termination of this Lease.

## **12. Repairs.**

12.1 Condition of Premises. As provided in Article 5, the Premises shall be delivered to Tenant in an "AS IS" and "ALL FAULTS" condition and Landlord shall have no obligation whatsoever to alter, remodel, improve, repair, decorate, or paint the Premises or any part thereof either prior to or during the Lease Term except to the extent expressly provided in Section 12.3 below. By accepting possession of the Premises, Tenant shall be deemed to have acknowledged that the Premises are suitable for its purposes and in good condition and repair. Subject to Section 12.2, Tenant, at its expense, shall keep the Premises and every part thereof in good condition and repair and shall, upon the expiration or sooner termination of the Lease Term, surrender the Premises to Landlord and in good condition and repair. Tenant acknowledges and agrees that it has inspected, or prior to the Commencement Date will inspect, the Premises and that Tenant is not relying on any representations or warranties made by Landlord or Landlord's Affiliates regarding the Premises, the Building, or the Land except as may be expressly set forth herein.

12.2 Landlord's Obligation to Repair. Subject to Article 16, Landlord shall repair and maintain the common areas and the structural portions of the Building, including, but not limited to, the structural portions of the roof, the foundations, exterior load-bearing walls, and the basic HVAC, mechanical, electrical and plumbing systems installed by Landlord in the Building. However, if the repair or maintenance is caused in whole or in part by the act, neglect, fault or omission of Tenant or Tenant's Affiliates, or by Tenant's Alterations, Tenant immediately shall pay for such repair or maintenance as Additional Rent within fifteen (15) days of Tenant's receipt of invoice. Tenant shall indemnify Landlord for and hold Landlord and Landlord's Affiliates harmless from and against all other Liabilities incurred by Landlord and Landlord's Affiliates in connection therewith. Landlord shall have a reasonable time after written notice from Tenant to perform necessary repairs or maintenance. Tenant waives all rights granted under Law to make repairs at Landlord's expense.

### 13. Services and Utilities.

13.1 Landlord's Services. Subject to the rules and regulations of the Building, Landlord shall furnish the required water, plumbing, electrical and HVAC required in Landlord's judgment for the comfortable use and occupancy of the Premises, and janitorial services, as hereinafter provided. Landlord shall also maintain the common stairs, entries and rest rooms in the Building lighted. If Landlord shall determine, in the exercise of Landlord's sole but good faith discretion, that the Tenant's use of the utilities is in excess of that normally used by a tenant occupying similar space, then Tenant shall pay Landlord upon demand, as Additional Rent hereunder, the cost of such excess utility usage in addition to any other Rent or charge due from Tenant under this Lease.

#### 13.2 Utility Charges.

(a) Tenant shall be solely responsible for obtaining and shall promptly pay directly to the utility supplier all fees, deposits and charges including use and/or connection fees, hookup fees, standby fees and/or penalties for discontinued or interrupted service, and the like, for electricity, gas and water used in or upon or furnished to the Premises, irrespective of whether any of the foregoing are initially paid or advanced by Landlord, or otherwise. If electricity, gas or water service is billed to Landlord and is not specifically metered to the Premises, the amount thereof shall be equitably prorated by Landlord and Tenant shall pay to Landlord within ten (10) days after Landlord's demand, as Additional Rent hereunder, an amount equal to that proportion of the total charges therefore which the number of square feet of gross floor area in the Premises bears to the total number of square feet of gross floor area covered by such combined charges. Additionally, if the Premises are not separately metered, Landlord shall have the right to install separate meters. Since the Premises are not separately metered, Tenant shall pay the above described utilities as part of the base year component of the modified gross rent.

(b) In no event shall Landlord be liable for damages or otherwise for any interruption, reduction, disruption, curtailment or failure in the supply, quality or character of electricity, centrally conditioned cold air or any other utility or other service, or if either the quantity, quality or character thereof supplied to or by Landlord is changed or is no longer available or suitable for Tenant's requirements, nor shall any such interruption, reduction, disruption, curtailment, failure

or change in quantity, quality or character constitute or be deemed to constitute constructive eviction of Tenant, or excuse or relieve Tenant from its obligations pursuant to this Lease.

13.3 Janitorial Services. The janitorial services to be provided by Landlord to Tenant shall be provided five (5) days a week, Monday through Friday (except for nationally and locally recognized holidays). Janitorial services shall be those customarily furnished for similar buildings in the general vicinity of the Building.

13.4 Hours of Operation. HVAC for the Premises shall be provided five (5) days a week, Monday through Friday, from 7:00 a.m. to 6:00 p.m. and Saturdays from 9:00 a.m. to 1:00 p.m. (excluding nationally and locally recognized holidays). Tenant shall not be entitled to any abatement of Rent or have any right to terminate this Lease in the event Landlord is unable to provide the services set forth herein.

13.5 Extra Hours. If during any hours or any days other than those specified in Article 13.4, Tenant desires to have any services or utilities supplied to the Premises which are not separately metered, and provided Landlord receives reasonable advance notice thereof, and if Landlord is able to provide the same, Tenant shall pay Landlord such charge as Landlord shall establish from time to time for providing such services and utilities, at a cost currently estimated at \$35.00 per hour, which are not separately metered to the Premises. Any such charges which Tenant is obligated to pay shall be deemed to be Additional Rent hereunder.

14. Entry by Landlord. Landlord shall have the right to enter the Premises during regular business hours in order to: inspect the Premises; post notices of non-responsibility; show the Premises to prospective purchasers, lenders or tenants; perform its obligations and exercise its rights hereunder; and make repairs, improvements, alterations or additions to the Premises or the Building or any portion thereof as Landlord deems necessary or desirable and to do all things necessary in connection therewith, including, but not limited to, erecting scaffolding and other necessary structures. Landlord shall retain (or be given by Tenant) keys to unlock all of the doors to or within the Premises, excluding doors to Tenant's vaults and files. Landlord shall have the right to use any and all means necessary to obtain entry to the Premises in an emergency. Landlord's entry to the Premises shall not, under any circumstances, be deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion thereof.

## 15. Tenant's Insurance.

15.1 Property Insurance. At all times during the Lease Term, Tenant, at its expense, shall maintain in effect policies of casualty insurance covering: (a) all alterations made by Tenant and all leasehold improvements; and (b) all of Tenant's Property and other Personal Property from time to time in, on or about the Premises, in an amount not less than their full replacement cost (without deduction for depreciation) from time to time during the term of this Lease. Such policies shall provide for protection against any perils normally included within the classification of "All Risks", and shall cover demolition and changes in Laws. Such insurance shall contain an endorsement naming the Landlord and Landlord's Mortgagee as loss payee and an endorsement waiving the insurer's right to subrogate against the Landlord or Landlord's Mortgagee.



15.2 Commercial General Liability Insurance. At all times during the Lease Term, Tenant, at its sole expense, shall maintain Commercial General Liability Insurance with respect to the ownership, maintenance, use, operation and condition of the Premises and the business conducted therein. Such insurance shall at all times have limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate. At Landlord's request, these limits shall be increased from time to time during the Lease Term to such higher limits as Landlord or its insurance consultant believe are necessary to protect Landlord. Such insurance shall be primary and not contribute with any self-insurance or insurance maintained by the Landlord or Landlord's Mortgagee, and shall contain an endorsement naming Landlord and Landlord's Mortgagee, their elected and appointed officials and employees as additional insureds.

15.3 Workers' Compensation Insurance. At all times during the Lease Term, Tenant shall maintain Workers' Compensation insurance as required by California law and Employer's Liability insurance with limits not less than \$1 million (\$1,000,000) each accident. Such insurance shall contain an endorsement waiving the insurer's right to subrogate against the Landlord, the Landlord's Mortgagee or their elected or appointed officials and employees.

15.4 Policy Requirements. All insurance required to be carried by Tenant hereunder shall be issued by insurers with a current A.M. Best's rating of no less than A-VII and qualified to do business in the State of California, approved by Landlord and, if required, by Landlord's Mortgagee. Copies of all certificates and required endorsements shall be delivered to Landlord at least ten (10) days prior to Tenant's occupancy of the Premises. Each policy shall provide that it may not be canceled except after thirty (30) days' prior written notice to Landlord and Landlord's Mortgagee. Tenant shall furnish Landlord with renewal certificates or binders of each policy evidencing compliance with those requirements at least thirty (30) days prior to expiration. Tenant shall have the right to provide insurance coverage pursuant to blanket policies obtained by Tenant if the blanket policies expressly afford coverage as required by this Lease.

15.5 Tenant's Failure to Deliver Policies. Upon Landlord's request, Tenant shall deliver certified copies of all required insurance policies to the Landlord. If Tenant fails to deliver required certificates of insurance, required endorsements or requested copies of the insurance policies within the time required pursuant to Article 15.4, Landlord may, but shall not be obligated to, obtain the required insurance, and the cost thereof, shall be payable by Tenant to Landlord on demand. Nothing in this Article shall be deemed to be a waiver of any rights or remedies available to Landlord under this Lease or at law or in equity if Tenant fails to obtain and deliver the required insurance policies and evidence of payment.

## **16. Damage or Destruction; Eminent Domain.**

16.1 Landlord's Restoration. If the Building or the Premises are partially damaged or totally destroyed by fire or other casualty, Tenant shall assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant's insurance carried under Article 15 of this Lease. Upon Landlord's receipt of notice of the damage or destruction and substantially all of the insurance proceeds receivable, Landlord shall repair the damage and restore or rebuild the Building or the Premises (except for Tenant's Property and leasehold

improvements which are above the standard of the Building). However, Landlord shall not be required to spend amounts in excess of the insurance proceeds actually received for such repair, restoration or rebuilding. Subject to Article 22, Landlord shall attempt to make any required repairs or restoration promptly and so as not to interfere unreasonably with Tenant's use and occupancy of the Premises, but Landlord shall not be obligated to perform such work on an overtime or premium-pay basis.

16.2 Rent Abatement. Subject to Article 16.3, if, in Landlord's reasonable judgment, all or part of the Premises are rendered completely or partially untenantable on account of fire or other casualty, the Monthly Rent shall be abated (to the extent of Landlord's rental loss insurance carried hereunder) in the proportion that the rentable area of the untenantable portion of the Premises bears to the total Area of the Premises. Such abatement shall commence on the date of the damage or destruction and shall continue until the Premises have been substantially repaired and Tenant has reasonable access to the Premises. However, if Tenant reoccupies the damaged portion of the Premises prior to the date that the Premises are substantially repaired, the Monthly Rent allocable to the reoccupied portion shall be payable by Tenant from the date of such occupancy in the proportion that the rentable area of the reoccupied portion of the Premises bears to the total Area of the Premises.

16.3 Exception to Abatement. Notwithstanding Article 16.2, if the damage is due to the fault or neglect of, including, without limitation, Tenant, Tenant's Affiliates, contractors, and guests, or Landlord is unable to collect all of the insurance proceeds (including, without limitation, rent insurance proceeds) for damage or destruction of the Premises or the Building, there shall be no abatement of Monthly Rent to Landlord (or any Landlord's Mortgagee). Provided Tenant is able to reoccupy the damaged portion of the Premises under applicable Laws and reoccupies the damaged portion of the Premises prior to the date that the Premises are substantially repaired, the Monthly Rent allocable to the reoccupied portion shall be payable by Tenant from the date of such occupancy. Landlord's collection of Monthly Rent shall not preclude Landlord from seeking damages from Tenant or exercising any other rights and remedies it under this Lease or at law or in equity.

16.4 Election to Terminate. Landlord or Tenant may terminate this Lease upon written notice to the other party if: (a) the Building or the Premises are substantially or totally destroyed or, in Landlord's sole judgment, rendered untenantable by fire or other casualty or any other cause; or (b) the Building is damaged or rendered untenantable (whether or not the Premises are damaged or destroyed or rendered untenantable) so that its repair or restoration requires the expenditure (as estimated by a contractor or architect designated by Landlord) of more than twenty percent (20%) of the full insurable value of the Building immediately prior to the casualty; or (c) less than two (2) years remains in the Lease Term at the time of the damage or destruction or events which render the Building or the Premises untenantable and the time necessary to repair or restore the Building or the Premises would exceed ninety (90) days (as estimated by a contractor or architect designated by Landlord); or (d) Landlord would be required under Article 16.2 to abate or reduce the Monthly Rent for a period in excess of four (4) months if repairs or restoration were undertaken. If Landlord or Tenant elects to terminate this Lease, its notice of termination shall be given within sixty (60) days after the date of the damage, destruction or events causing untenantability. Such notice shall include a termination date giving Tenant ninety (90) days to vacate the Premises.

16.5 Eminent Domain. Landlord may terminate this Lease upon written notice to Tenant if twenty-five percent (25%) or more of either the Premises, the Building or the Land is condemned, taken or appropriated by any public or quasi-public authority (collectively "Taking or Appropriation") under the power of eminent domain, police power or otherwise (or in the event of a sale in lieu thereof). Whether or not this Lease is so terminated, Landlord shall be entitled to any and all income, Rent, award, or interest thereon which may be paid or made in connection with the Taking or Appropriation, and Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease. If Landlord elects to terminate this Lease, its notice of termination shall be given within sixty (60) days after the Taking or Appropriation. If such notice is not given or if Landlord notifies Tenant of Landlord's election not to terminate, this Lease shall continue in full force and effect, except that the Monthly Rent shall be reduced in the proportion that the Premises which is taken bears to the total Area of the Premises. Nothing contained in this Article shall prevent Tenant from bringing a separate action or proceeding for compensation for any of Tenant's Property taken and Tenant's moving expenses. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of the California Code of Civil Procedure.

16.6 Business Interruption. Landlord shall not incur any Liabilities of any type to Tenant, Tenant's Affiliates, contractors, or guests arising from or in connection with any damage or destruction of the Premises, the Building or the Land, or any Taking or Appropriation thereof, or any repairs or restoration in connection therewith, nor shall Tenant have any right to terminate this Lease as a result thereof. However, in such event, Monthly Rent shall be abated if and to the extent that abatement is allowed pursuant to this Article.

16.7 Waiver. To the extent permitted under law, Tenant waives the application of any Laws now or hereafter in effect which are contrary to the provisions of this Article in connection with any damage, destruction, Taking or Appropriation (or grant deed or other instrument in lieu) of all or any portion of the Premises, the Building, or the Land.

## **17. Assignment and Subletting.**

17.1 Landlord's Consent Required. Tenant shall not voluntarily, involuntarily or by operation of any Laws sell, convey, mortgage, assign, sublet or otherwise transfer or encumber (collectively "Transfer") all or any part of Tenant's interest in this Lease or the Premises without Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld, conditioned or delayed except as otherwise provided in this Article, and any attempt to do so without this consent shall be null and void. If Tenant desires to Transfer its interest in this Lease to all or any part of the Premises, Tenant shall notify Landlord in writing. This notice shall state and/or be accompanied by: (a) the proposed effective date of the Transfer, which shall not be less than 45 days after the date of delivery of the notice, (b) a description of the portion of the Premises to be transferred; (c) a statement setting forth the name and business of the proposed Transferee; (d) a copy of the proposed Transfer agreement (and any collateral agreements) setting forth all of the terms and the financial details of the Transfer (including, without limitation, the term, the Rent and any security deposit, "key money", calculation of "Transfer Premium" as defined in Article 17.5, and amounts payable for Tenant's Property and the common use of any personnel or equipment); (e) current financial statements of the proposed Transferee certified by

an independent certified public accountant and other information requested by Landlord relating to the proposed Transferee; and (f) any other information concerning the proposed Transfer which Landlord may reasonably request. Transfer made without Landlord's prior written consent shall, at Landlord's option, be null, void, and of no effect, and constitute a default by Tenant under this Lease.

17.2 Consent by Landlord. Tenant agrees that the withholding of Landlord's consent shall be deemed reasonable if any of the following conditions are not satisfied:

(a) The proposed Transferee shall use the Premises only for the Permitted Use, and the business of the proposed Transferee is consistent with the other uses and the standards of the Building, in Landlord's reasonable judgment.

(b) On the date consent is requested, the proposed Transferee is reputable and has a net worth not less than the net worth of Tenant on the execution of this Lease, has a credit rating reasonably acceptable to Landlord, and otherwise has sufficient financial capabilities to perform all of its obligations under this Lease or the proposed sublease, in Landlord's reasonable judgment.

(c) Neither the proposed Transferee nor any person or entity that directly or indirectly controls, is controlled by, or is under common control with the proposed Transferee is an occupant of any part of the Building or has negotiated for space in the Building within a six (6) month period prior to the delivery of Tenant's written notice.

(d) The proposed Transfer would not cause Landlord to be in violation of another lease or agreement to which Landlord is a party, or would not give an occupant of the Building a right to cancel its lease.

(e) The terms of the proposed Transfer will not allow the Transferee to exercise a right of renewal, right of expansion, right of first offer, or other similar right held by Tenant, or occupy space leased by Tenant pursuant to any such right.

(f) Tenant is not in default and has not committed acts or omissions which with the running of time or the giving of notice or both would constitute a default under this Lease.

(g) Tenant has complied with the terms of this Article.

The conditions described above are not exclusive and shall not limit or prevent Landlord from considering additional factors in determining if it should reasonably withhold its consent.

17.3 Corporate and Partnership Transactions. If Tenant is a corporation, dissolution of the corporation or a transfer (by one or more transactions) of a majority of the voting stock of Tenant shall be deemed to be Transfer of this Lease subject to the provisions of this Article. However, these provisions shall not apply to transactions with a corporation into or with which Tenant is merged or consolidated or to which substantially all of Tenant's stock or assets are transferred or which controls, is controlled by, or is under common control with, Tenant, if a principal purpose of the merger or transfer is not the assignment of this Lease and Tenant's

successor has a net worth not less than the net worth of Tenant on the execution of this Lease. Tenant shall cause reasonably satisfactory proof of such net worth to be delivered at least thirty (30) days prior to the effective date of the transaction. If Tenant is a partnership, a dissolution of the partnership (including a "technical" dissolution) or a transfer of the partnership interests to one or more partners which reduces the net worth of the partners shall be deemed an assignment of this Lease subject to the provisions of this Article, regardless of whether the transfer is made by one or more transactions.

17.4 No Release of Tenant. Notwithstanding the granting of Landlord's consent, no Transfer of this Lease or the Premises shall release or alter Tenant's primary liability to pay Rent and perform all of its other obligations hereunder. The acceptance of Rent by Landlord from any person other than Tenant shall not be a waiver by Landlord of any provision hereof. Consent to one Transfer shall not be deemed to be consent to any subsequent Transfer. If any Transferee of Tenant defaults in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without proceeding against or exhausting its remedies against the Transferee. After any Transfer, Landlord may consent to subsequent Transfers, or amendments to this Lease, without notifying Tenant or any other person, without obtaining consent thereto, and without relieving Tenant of liability under this Lease.

17.5 Transfer Premium. If Landlord consents to any Transfer, Tenant shall pay the following to Landlord as Additional Rent:

(a) Tenant shall pay to Landlord 50% of any "Transfer Premium" as defined in this Article. Transfer Premium shall mean all Rent or other consideration payable by such Transferee in excess of the Monthly Rent and Additional Rent payable by Tenant under this Lease and/or collateral agreements on a per rentable square foot basis if less than all of the Premises is transferred. Transfer Premium shall also include, but not be limited to, key money, and bonus money paid by Transferee to Tenant in connection with such Transfer, and any payment in excess of fair market value for services rendered by Tenant to Transferee, or for assets, fixtures, inventory, equipment, or furniture transferred by Tenant to Transferee in connection with such Transfer. The Monthly Rent used to calculate the Transfer Premium for a sublease shall be the Rent hereunder allocable to the subleased space for any period and shall be equal to the (Total Rent accruing during such period, multiplied by rentable area of the subleased space) / Total Area of the Premises.

(b) This Transfer Premium shall be paid by Tenant to Landlord as and when received by Tenant or, at Landlord's option, on written notice to the Transferee, Landlord may collect all or any portion of this Transfer Premium directly from the Transferee. Landlord's acceptance or collection of this Additional Rent will not be deemed to be consent to any Transfer or a cure of any default under this Article or the rest of the Lease.

17.6 Additional Terms. Within ten (10) days of written demand, Tenant shall pay the reasonable attorney's fees and other costs and expenses of Landlord in connection with any request for Landlord's consent to any Transfer.

(a) A sublease will be null and void unless it complies with the rest of this Lease and provides that: (i) it is subject and subordinate to this Lease and that if there is any conflict or

inconsistency between the sublease and this Lease, this Lease will prevail; (ii) Landlord may enforce all the provisions of the sublease, including the collection of Rent; (iii) it may not be modified without Landlord's prior written consent and that any modification without this consent shall be null and void; (iv) if this Lease is terminated or Landlord re-enters or repossesses the Premises, Landlord may, at its option, take over all of Tenant's right, title and interest as sublessor and, at Landlord's option, the subtenant shall attorn to Landlord, but Landlord shall not be (x) liable for any previous act or omission of Tenant under the sublease, (y) subject to any existing defense or offset against Tenant, or (z) bound by any previous modification of the sublease made without Landlord's prior written consent or by any prepayment of more than one month's Rent; and (v) it is ineffective until Landlord gives its written consent thereto.

(b) An assignment will be null and void unless it complies with the terms of this Lease and provides that: (i) the assignee assumes all of Tenant's obligations under this Lease and agrees to be bound by all of the terms of this Lease; and (ii) it is ineffective until Landlord gives its written consent thereto.

(c) The sublease or assignment otherwise must exactly match the proposed sublease or assignment initially submitted by Tenant. A sublease or assignment will not be effective until a fully executed counterpart is delivered to Landlord and Landlord delivers its written consent thereto.

(d) This Article is binding on and shall apply to any purchaser, mortgagee, pledgee, assignee, subtenant or other transferee or encumbrancer, at every level.

(e) Notwithstanding anything to the contrary in this Lease, if Tenant or any proposed Transferee of Tenant claims that Landlord has unreasonably withheld or delayed its consent under this Article or otherwise has breached or acted unreasonably under this Article, their sole remedy shall be a declaratory judgment and an injunction for the relief sought without any monetary damages, and Tenant waives all other remedies on its own behalf and, to the extent permitted under all Laws, on behalf of Tenant's proposed Transferee.

**18. Quiet Enjoyment.** So long as Tenant pays all Rent and performs all of its other obligations as required hereunder, Tenant shall during the Lease Term, peaceably and quietly have, hold and enjoy the Premises subject to the terms, covenants, conditions, provisions and agreements hereof, and the terms of any Superior Leases and Mortgages (as defined in Article 19.1), and all other agreements or matters of record or to which this Lease is subordinate without interference by any persons lawfully claiming by or through Landlord. The foregoing covenants are in lieu of any other covenant express or implied.

**19. Mortgagee Protection.**

19.1 Subordination. Unless provided otherwise herein, this Lease is subject and subordinate to all present and future ground leases, lease-leaseback financing, underlying leases, mortgages, deeds of trust, or other encumbrances, renewals, modifications, consolidations, replacements, extensions thereof, or advances made thereunder, affecting all or any portion of the

Premises, the Building, or the Land ("Superior Leases and Mortgages") . However, in confirmation of such subordination, Tenant shall execute, acknowledge and deliver any instrument that Landlord or the lessor, mortgagee or beneficiary under any of the Superior Leases and Mortgages may request, within ten (10) days after request. (Each of these lessors, mortgagees or beneficiaries is called a "**Landlord's Mortgagee.**") However, if Landlord, Landlord's Mortgagee or any other successor to Landlord elects in writing, this Lease shall be deemed superior to the Superior Leases and Mortgages specified, regardless of the date of recording, and Tenant will execute an agreement confirming this election on request. If Landlord's Mortgagee or its successor or any successor to Landlord succeeds to Landlord's interests under this Lease, whether voluntarily or involuntarily, Tenant shall attorn to such person and recognize such person as Landlord under this Lease. To the extent permitted under law, Tenant waives the provisions of any current or future statute, rule, or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligations of the Tenant hereunder in the event of any foreclosure proceeding or sale.

19.2 Mortgagee's Liability. The obligations and liabilities of each of Landlord or Landlord's Mortgagees, or their successors, under this Lease shall exist only if and for so long as each of these respective parties owns fee title to the Land and the Building or is the lessee under a ground lease therefore. No Monthly Rent or Additional Rent shall be paid more than thirty (30) days prior to the due date thereof and payments made in violation of this provision shall (except to the extent that such payments are actually received by a Landlord's Mortgagee) be a nullity as against Landlord's Mortgagees or their successors and Tenant shall be liable for the amount of such payments to Landlord's Mortgagees or their successors.

19.3 Mortgagee's Right to Cure. No act or omission by Landlord which would entitle Tenant under the terms of this Lease or any Laws to be relieved of Tenant's obligations hereunder, or to terminate this Lease, shall result in a release or termination of such obligations or this Lease unless: (a) Tenant first shall have given written notice of Landlord's act or omission to Landlord and all Landlord's Mortgagees whose names and addresses shall have been furnished to Tenant; and (b) Landlord's Mortgagees, after receipt of such notice, fail to correct or cure the act or omission within a reasonable time thereafter (but in no event less than sixty (60) days). However, nothing contained in this Section shall impose any obligation on Landlord's Mortgagees to correct or cure any act or omission.

20. Estoppel Certificates. Tenant shall from time to time, within ten (10) days after request by Landlord, execute and deliver to Landlord or any other person designated by Landlord an Estoppel certificate, in form satisfactory to Landlord, which certifies: (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, describes them); (b) the expiration date of the Lease Term and that there are no agreements with Landlord to extend or renew the Lease Term or to permit any holding over (or if there are any such agreements, describes them and specifies the periods of extension or renewal); (c) the date through which the Monthly Rent and Additional Rent have been paid; (d) that Landlord is not in default in the performance of any of its obligations under this Lease (or, if there are any such defaults, describes them); (e) that Tenant is not entitled to any credits, offsets, defenses or deductions against payment of the Rent hereunder (or, if they exist, describes them); and (f) such other information concerning this Lease or Tenant as Landlord or any other person designated by Landlord reasonably shall request. An

Estoppel certificate issued by Tenant pursuant to this Article shall be a representation and warranty by Tenant which may be relied on by Landlord and by others with whom Landlord may be dealing, regardless of independent investigation. If Tenant fails to execute and deliver an Estoppel certificate as required hereunder, Landlord's representations concerning the factual matters covered by such Estoppel certificate, as described above, shall be conclusively presumed to be correct and binding on Tenant.

**21. Default.** The occurrence of any one or more of the following events shall be a default and breach under this Lease by Tenant:

- (a) The vacation or abandonment of all or any portion of the Premises by Tenant for ten (10) consecutive days.
- (b) The failure to accept tender of possession of the Premises or any significant portion thereof.
- (c) The failure by Tenant to make any payment of Rent or any other payment required to be made by Tenant hereunder for a period of Ten (10) days after such payment is due.
- (d) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, other than those described in subparagraphs (b), (d), (e), (f), (g), (h) and (i) of this Article, where such failure shall continue for a period of fifteen (15) days after written notice thereof by Landlord to Tenant. However, if the nature of these defaults is such that more than fifteen (15) days are reasonably required to cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within the fifteen (15) day period and thereafter diligently completes the cure within sixty (60) days.
- (e) The making by Tenant or any guarantor of this Lease of any general assignment or general arrangement for the benefit of creditors; or the filing by or against Tenant or any guarantor of this Lease of a petition or order for relief under any Laws relating to bankruptcy or insolvency (unless, in the case of a petition filed against Tenant or any guarantor of this Lease, the petition is dismissed within sixty (60) days); or the appointment of a trustee, custodian or receiver to take possession of substantially all of Tenant's assets or the assets of any guarantor of this Lease or of Tenant's interest in this Lease where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or judicial seizure of substantially all of Tenant's assets or of Tenant's interest in this Lease, unless discharged within thirty (30) days.
- (f) The service by Landlord of a three day notice under California Code of Civil Procedure Section 1161 on three or more occasions if the previous service of the three-day notices did not result in the termination of this Lease.
- (g) A sale, conveyance, mortgage, pledge, assignment, sublease or other transfer or encumbrance, or any attempt to do so, in violation of Article 17.
- (h) Tenant's failure to deliver the Estoppel certificate within the time required under Article 20, or any written instrument required under Article 19 within the time required.
- (i) A default under or the repudiation of any guaranty of Tenant's obligations under this Lease.



- (j) Tenant's failure to maintain the insurance policies required hereunder.
- (k) The death of Tenant or, if Tenant is comprised of more than one (1) individual, the death of any of the individuals comprising Tenant.
- (l) Tenant's failure to observe or perform according to the provisions of Articles 9, 10.4, and 11 within five (5) business days after notice from Landlord.

Except for the defaults specified in subparagraphs (c) and (d), all other defaults are not curable by Tenant.

## **22. Remedies for Default.**

22.1 General. In the event of any default or breach by Tenant, Landlord may at any time thereafter, with or without notice or demand:

(a) Terminate Tenant's right to possession of the Premises by any lawful means, including but not limited to terminating this Lease, barring the Tenant from reentering the Premises, and removing all persons and property therefrom, which property may be stored by Landlord at a warehouse or elsewhere at risk, expense, and for the account of Tenant. If Landlord elects to terminate this Lease, Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all Liabilities incurred by Landlord or Landlord's Affiliates by reason of Tenant's default, including but not limited to: (i) the worth at the time of the award of the unpaid Monthly Rent and Additional Rent which had been earned or was payable at the time of termination; (ii) the worth at the time of the award of the amount by which the unpaid Monthly Rent and Additional Rent which would have been earned or payable after termination until the time of the award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; (iii) the worth at the time of the award of the amount by which the unpaid Monthly Rent and Additional Rent which would have been paid for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; and (iv) any other amount necessary to compensate Landlord for all Liabilities proximately caused by Tenant's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses incurred by Landlord in maintaining or preserving the Premises, the Building and the Land after such default, the cost of recovering possession of the Premises, advertising expenses incurred, expenses of reletting, including necessary renovation or alteration of the Premises or any portion thereof, whether for the same or different use, and any special concessions made to obtain the new tenant, Landlord's attorneys' fees and costs incurred in connection therewith, and any real estate commissions paid or payable. As used in subparts (i) and (ii) above, the "worth at the time of the award" is computed by allowing interest on unpaid amounts at the rate of eighteen percent (18%) per annum, or such lesser amount as may then be the maximum lawful rate. As used in subparagraph (iii) above, the "worth at the time of the award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%). If Tenant abandons the Premises, Landlord shall have the option of (x) taking possession of the Premises and recovering from Tenant

the amount specified in this subparagraph, or (y) proceeding under the provisions of subparagraph (b) below.

(b) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease and at law or in equity, including the right to recover the Rent and other sums and charges as they become due hereunder.

(c) Nothing in this Article 22 shall be deemed to affect Landlord's right to indemnification for liability or liabilities arising prior to the termination of this Lease for personal injuries or property damage under the indemnification clause or clauses contained in this Lease.

(d) All rights, powers and remedies of Landlord hereunder and under any other agreement now or hereafter in force between Landlord and Tenant shall be in addition to all rights, powers and remedies given to Landlord by law, and the exercise of one or more rights or remedies shall not impair Landlord's right to exercise any other right or remedy.

22.2 Redemption. Tenant waives any and all rights of redemption granted by or under any Laws if Tenant is evicted or dispossessed for any cause, or if Landlord obtains possession of the Premises by reason of the violation by Tenant of any of the terms, covenants or conditions of this Lease, or otherwise.

22.3 Performance by Landlord. If Tenant defaults under this Lease, Landlord, without waiving or curing the default, may, but shall not be obligated to, perform Tenant's obligations for the account and at the expense of Tenant. Notwithstanding Article 21(c), in the case of an emergency, Landlord need not give any notice prior to performing Tenant's obligations.

22.4 Post-Judgment Interest. The amount of any judgment obtained by Landlord against Tenant in any legal proceeding arising out of Tenant's default under this Lease shall bear interest until paid at the maximum rate allowed by law, or, if no maximum rate prevails, at the rate of twelve percent (12%) per annum. Notwithstanding anything to the contrary contained in any Laws, with respect to any damages that are certain or ascertainable by calculation, interest shall accrue from the day that the right to the damages vests in Landlord, and in the case of any unliquidated claim, interest shall accrue from the day the claim arose.

22.5 Tenant's Waiver. To the extent permitted under law, in the event of any default, breach or violation of Tenant's rights under this Lease by Landlord, Tenant's remedies shall be an action for actual damages. Tenant hereby waives the benefit of any law granting it the right to perform Landlord's obligation.

**23. Holding Over**. Tenant shall not hold over in the Premises after the expiration or sooner termination of the Lease Term without the express prior written consent of Landlord. Tenant shall indemnify Landlord and Landlord's Affiliates for, and hold Landlord and Landlord's Affiliates harmless from and against, any and all Liabilities arising out of or in connection with any delay by Tenant in surrendering and vacating the Premises, including, without limitation, any claims made by any succeeding tenant based on any delay and any Liabilities arising out of or in

connection with these claims. If possession of the Premises is not surrendered to Landlord on the expiration or sooner termination of the Lease Term, in addition to any other rights and remedies of Landlord hereunder or at law or in equity, Tenant shall pay to Landlord for each month or portion thereof during which Tenant holds over in the Premises a sum equal to one hundred fifty percent (150%) of the then-current Monthly Rent in addition to all other Rent payable under this Lease. If any tenancy is created by Tenant's holding over in the Premises, the tenancy shall be on all of the terms and conditions of this Lease, except that Rent shall be increased as set forth herein and the tenancy shall be a month-to-month tenancy. Nothing in this Article 23 shall be deemed to permit Tenant to retain possession of the Premises after the expiration or sooner termination of the Lease Term.

## **24. Indemnification and Exculpation.**

24.1 Indemnification. In addition to any other indemnities required of Tenant hereunder, Tenant shall indemnify Landlord and Landlord's Affiliates for, and hold Landlord and Landlord's Affiliates harmless from, any and all Liabilities arising from or in connection with Tenant's (including Tenant's Affiliate or any person claiming under or through them), performance and obligations hereunder, or its failure to comply with any current or prospective law, except for such loss or damage caused by the sole negligence or willful misconduct of Landlord, including but not limited to, (a) the use and occupancy of the Premises by Tenant or Tenant's Affiliates; (b) the conduct of Tenant's business; (c) any breach or default by Tenant under this Lease; (d) claims by any assignee, subtenant, broker or other person if Landlord declines to consent to any assignment, sublease or other transfer or encumbrance or terminates this Lease pursuant to Article 17; and (e) any other acts or omissions of Tenant or Tenant's Affiliates or persons claiming through or under them. This indemnification obligation shall survive this Agreement and shall not be limited by any term of any insurance policy required under this Agreement.

24.2 Damage to Persons or Property. Tenant assumes the risk of all Liabilities it may incur, including, but not limited to, damage or injury to persons, property and the conduct of Tenant's business (and any loss of revenue therefrom), the loss of use or occupancy of the Premises, and the items enumerated below in this Section, and waives all claims against Landlord and Landlord's Affiliates in connection therewith. Landlord and Landlord's Affiliates shall not be liable for any Liabilities incurred by Tenant or Tenant's Affiliates (including, but not limited to, the Liabilities described above in this Section) arising from or in connection with: (a) acts or omissions of any tenant of the Building or any other persons (including, but not limited to, any parking garage operators or their employees); (b) explosion, fire, steam, electricity, water, gas or rain, pollution or contamination; (c) the breakage, leakage, obstruction or other defects of plumbing, HVAC, electrical, sanitary, safety, elevator or other utilities and systems of the Building or the failure to furnish any of the foregoing; (d) any work, maintenance, repair, rebuilding or improvement performed by or at the request of Landlord or Landlord's Affiliates for the Premises, the Building or the Land; (e) any entry by Landlord or Landlord's Affiliates on the Premises; (f) any defects in the Premises, the Building, the Land or any portions thereof; (g) any interference with light or other incorporeal hereditaments; and (h) any other acts, omissions or causes. Nothing in this Section exempts Landlord for liability caused solely by its gross negligence or willful misconduct, but Landlord shall not be liable under any circumstances for consequential or punitive damages (including, but not limited to, damage or injury to persons, property and the conduct of

Tenant's business [and any loss of revenue therefrom]). Tenant immediately shall notify Landlord of any defects in the Premises or the Building or any portion thereof and of any damage or injury thereto or to persons or property in or about the Premises or the Building.

24.3 Satisfaction of Remedies. Landlord and Landlord's Affiliates shall not be personally liable for the performance of Landlord's obligations under this Lease. If Tenant or Tenant's Affiliates acquire any rights or remedies against Landlord or Landlord's Affiliates (including, but not limited to, the right to satisfy a judgment), these rights and remedies shall be satisfied solely from Landlord's estate and interest in the Land and the Building (or the proceeds therefrom) and not from any other property or assets of Landlord or Landlord's Affiliates. This Section shall be enforceable by Landlord and Landlord's Affiliates.

25. Rules and Regulations. Tenant shall faithfully observe and comply with the rules and regulations that Landlord shall from time to time promulgate. Landlord reserves the right from time to time in its sole discretion to make all reasonable additions and modifications to the rules and regulations. Any additions and modifications to the rules and regulations shall be binding on Tenant when delivered to Tenant. Landlord shall not incur any Liabilities to Tenant or Tenant's Affiliates arising from or in connection with the nonperformance of any rules and regulations by any other tenants or occupants of the Building. Landlord's current rules and regulations are attached hereto as Exhibit "C."

26. Taxes.

26.1 Tenant shall be solely responsible for payment of any and all "Real Property Taxes" levied or assessed against the Premises or Tenant's interest under this Lease, including without limitation Tenant's Share of any taxes levied against the common areas, Land or Building. "Real Property Taxes" include, but are not limited to: any fees, including license fee, license tax, business license fee, commercial rental tax, levy, charge, assessment, penalty or tax imposed by any taxing authority against the Premises, Land or the Building; any property taxes and assessments levied on Tenant's possessory interest in the Premises, Land or Building; any tax on Landlord's right to receive, or the receipt of, rent or income from the Premises, Land or Building; any tax or charge for fire protection, streets, sidewalks, road maintenance, refuse or other services provided to the Premises, Land or the Building; any tax imposed on this transaction or based on a reassessment of the Premises, Land or the Building due to a change in ownership or transfer of all or part of Landlord's interest in this Lease, the Premises, Land or the Building; and any charge or fee replacing any tax previously included within this definition. Real Property Taxes do not include Landlord's federal or state net income, franchise, inheritance, gift or estate taxes.

26.2 **In accordance with California Revenue and Taxation Code Section 107.6(a), Landlord hereby informs Tenant that by entering into this Lease a possessory interest in Tenant subject to property taxes may be created, and if so, Tenant or other party in whom the possessory interest is vested may be subject to the payment of property taxes levied on such interest.** Tenant shall be solely responsible for payment of any possessory interest tax levied or assessed against the Premises, improvements on the Premises, this Lease, or Tenant's Share of the Land or Building. If at any time Tenant is not separately assessed for its possessory interest and/or improvements on the Premises, Tenant shall, as Additional Rent, pay to Landlord that

portion of any assessment levied against or upon the Premises, the improvements on the Premises, the Building or Landlord's interest therein that represents the value of the Tenant's leasehold interest and the value of the improvements of the Premises that would have been assessed and levied upon the Premises had it been assessed as such possessory interest in the Premises.

26.3 The amount of any tax or excise payable by or assessed against Tenant or the Premises including without limitation, Real Property Taxes, shall be paid by Tenant before it becomes delinquent. Tenant shall pay, or cause to be paid, before delinquency, any and all other taxes levied or assessed against Tenant's Property, Tenant's possessory interest in the Premises, Land and Building, and any leasehold improvements in the Premises which were made for Tenant or at its request. If any or all of Tenant's Property or any of these leasehold improvements are assessed and taxed with the Building, Tenant shall pay to Landlord its share of such taxes within ten (10) days after delivery to Tenant by Landlord of a statement in writing setting forth the amount of such taxes.

27. **Brokers.** Landlord and Tenant represent and warrant to each other that they have had no dealings with any broker, finder, or similar person who is or might be entitled to a commission or other fee in connection with introducing Tenant to the Building or in connection with this Lease, except for Landlord's Broker and Tenant's Broker as may be named in Article 2. Landlord shall pay the commission due to Landlord's Broker and Tenant's Broker pursuant to a separate agreement between Landlord and such Brokers. Landlord and Tenant shall indemnify each other for, and hold the other harmless from and against, any and all claims that the indemnified party may have as a result of a breach of the foregoing representation.

28. **Parking.** Tenant acknowledges that no parking is provided to Tenant pursuant to this Lease. Tenant may, on a space available basis, purchase parking spaces from the City per the terms of this lease agreement. Parking rates shall be determined by Landlord at its sole discretion. Landlord at all times shall have the right to designate the particular parking area and spaces, if any, to be used by any or all of such Tenant's employees, suppliers, customers, visitors, or the like, and any such designation may be changed from time to time. Attached hereto as Exhibit "D" is a copy of the City's Parking Fee Schedule, which schedule shall be subject to change from time to time by City and/or its parking facility operator.

29. **Authority to Enter into Lease.** If Tenant is a corporation, each individual executing this Lease on behalf of the corporation represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of the corporation, in accordance with a duly adopted resolution of the board of directors of said corporation or in accordance with the by-laws of said corporation, and that this Lease is binding on the corporation in accordance with its terms. If Tenant is a partnership, each individual executing this Lease on behalf of the partnership represents and warrants that he is duly authorized to execute and deliver this lease on behalf of the partnership, in accordance with the partnership agreement and any statements of partnership or certificates of limited partnership of the partnership, and that this Lease is binding on the partnership in accordance with its terms. Tenant shall, within thirty (30) days of the execution of this Lease, deliver to Landlord: (a) if Tenant is a corporation, a certified copy of a resolution of the board of directors of the corporation; or (b) if Tenant is a partnership, a copy of the Statement of Partnership

or Certificate of Limited Partnership of Tenant; and (c) other evidence reasonably satisfactory to Landlord authorizing or ratifying the execution of this Lease.

**30. Relocation.** Notwithstanding any contrary provision of this Lease, if due to excessive noise, Landlord requires the Tenant to relocate within the property or for other reasons related to Landlord's occupancy plans for the Building, then at any time during the Lease Term Landlord shall have the right, upon providing Tenant prior written notice (the "Relocation Notice"), to provide and furnish Tenant with space elsewhere in the Building or another building in the Pier Plaza project comparable to the Premises and to move and place Tenant in such new space, at Landlord's sole cost and expense. Such space shall be approximately the same size as the existing Premises and shall be improved by Landlord prior to Tenant's relocation with leasehold improvements comparable to those in the existing Premises. However, if the new space does not meet with Tenant's approval, Tenant may cancel this Lease upon written notice to Landlord, which notice must be received by Landlord within ten (10) days after delivery to Tenant of the Relocation Notice, and this Lease shall terminate sixty (60) days thereafter (as if such date were the date originally provided herein for the expiration of the Lease Term) and neither party shall have any further rights or obligations hereunder. Tenant's failure to timely deliver notice to Landlord of Tenant's election to cancel this Lease shall be deemed an acceptance by Tenant of the new space set forth in the Relocation Notice, and Tenant shall vacate the Premises in accordance with said notice and/or the terms of any subsequent notice from Landlord to Tenant. Landlord shall reimburse Tenant, within thirty (30) days after Landlord's receipt of invoices and paid receipts, for the reasonable moving, telephone installation and stationery reprinting costs actually paid for by Tenant in connection with such relocation. If Landlord moves Tenant to such new space, then this Lease and each and all of the terms, covenants and conditions hereof shall remain in full force and effect and be deemed applicable to such new space except that revised Exhibit "A" showing the location of the new space shall become a part of this Lease and Landlord and Tenant shall promptly thereafter execute an amendment to this Lease containing such revised Exhibit "A" and with the Basic Terms of this Lease, as contained in Article 2, amended, if necessary, to include and state all correct data as to the new space. Notwithstanding the foregoing provisions of this Article to the contrary, if the new space contains more floor area than the original Premises, Tenant shall not be obligated to pay any more Monthly Rent or Operating Expenses than otherwise applicable to the original Premises. Landlord and Tenant agree to cooperate fully in order to minimize the inconvenience of Tenant resulting from such relocation.

Tenant understands and agrees that Tenant is not eligible to be a "displaced person" under the California Relocation Act, which provides that a "displaced person" shall not include any person whose right of possession at the time of moving arose after the date of the public entity's acquisition of the real property. Tenant understands that Tenant is a "post-acquisition tenant" pursuant to the Relocation Assistance and Real Property Acquisition Guidelines of the California Department of Housing and Community Development, 25 Cal. Code Regs. §6000, et seq. Tenant understands that pursuant to Section 6034(b) of the California Code of Regulations, Tenant shall not be entitled to any relocation benefits or assistance if Tenant is temporarily or permanently displaced from the Premises, other than the payment which is required in the following paragraph, whether the displacement is a result of the expiration of the Term, Landlord's termination of the Lease pursuant to this Section, Landlord's pursuit of an unlawful detainer proceeding against Tenant, or for any other reason. Tenant hereby knowingly and voluntarily waives any rights

Tenant may have to claim or receive any relocation assistance or benefits under state or federal law, and agrees not to file any claim or take any other action to receive such assistance or benefits.

It is strictly understood, and Tenant hereby agrees, that the Landlord reserves the unilateral right at any time, in Landlord's sole and absolute discretion, to relocate Tenant or terminate this Lease immediately if it is the opinion of the City that the parking structure is unsafe for the Tenant or the public; or upon Ninety calendar days written notice if the City intends to replace or improve the parking structure to an extent that relocation of Tenant is necessary.

### **31. General Provisions**

31.1 Joint Obligation. If Tenant consists of more than one person or entity, the obligations of such persons or entities as Tenant shall be joint and several.

31.2 Marginal Headings. The titles to the Articles and Sections of this Lease are not a part of this Lease and shall have no effect on the construction or interpretation.

31.3 Time. Time is of the essence for the performance of each and every provision of this Lease.

31.4 Successors and Assigns. Subject to the restrictions contained in Article 17 above, this Lease binds the heirs, executors, administrators, successors and assigns of the parties hereto.

31.5 Recordation. The parties agree to record this Lease or a short form memorandum hereof pursuant to California Government Code Section 37393.

31.6 Late Charges. Tenant acknowledges that late payment of Rent will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. These costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord by the terms of any Superior Leases and Mortgages. Accordingly, if any installment of Monthly Rent or payment of Additional Rent due from Tenant is not received by Landlord or Landlord's designee within ten (10) days after the amount is due, Tenant shall pay to Landlord a late charge equal to six percent (6%) of the overdue amount. Acceptance of late charges by Landlord shall not constitute a waiver of Tenant's default with respect to the overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder or at law or in equity.

31.7 Prior Agreements; Amendment, Waiver. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. All waivers hereunder must be in writing and specify the breach, act, omission, term, covenant or condition waived, and acceptance of Rent or other acts or omissions by Landlord shall not be deemed to be a waiver. The waiver by Landlord of any breach, act, omission, term, covenant or condition of this Lease shall not be

deemed to be a waiver of any other or subsequent breach, act, omission, term, covenant or condition.

31.8 Inability to Perform. Landlord shall not be in default hereunder nor shall Landlord be liable to Tenant or Tenant's Affiliates for any Liabilities if Landlord is unable to fulfill any of its obligations, or is delayed in doing so, if the inability or delay is caused by reason of accidents, breakage, strike, labor troubles, acts of God, or any other cause, whether similar or dissimilar, which is beyond the reasonable control of Landlord.

31.9 Legal Proceedings. In any action or proceeding involving or relating in any way to this Lease, the court or other person or entity having jurisdiction in such action or proceeding shall award to the party in whose favor judgment is entered the reasonable attorneys' fees and costs incurred. The party in whose favor judgment is entered may, at its election submit proof of fees and costs as an element of damages before entry of judgment or after entry of judgment in a post-judgment cost bill. Tenant also shall indemnify Landlord for, and hold Landlord harmless from and against, all Liabilities incurred by Landlord if Landlord becomes or is made a party to any proceeding or action: (a) instituted by Tenant (except to the extent resulting from Landlord's breach or material default hereunder), or by any third party against Tenant, or by or against any person holding any interest under or using the Premises by license of or agreement with Tenant; (b) otherwise arising out of or resulting from any act or omission of Tenant or such other person; or (c) necessary to protect Landlord's interest under this Lease in a bankruptcy proceeding, or other proceeding under Title 11 of the United States Code, as amended. In any circumstance where Tenant is obligated to indemnify or hold harmless Landlord or Landlord's Affiliates under this Lease, Tenant also shall defend Landlord and Landlord's Affiliates with counsel acceptable to Landlord or, at Landlord's election, Landlord or Landlord's Affiliates may employ their own counsel and Tenant shall pay when due all attorneys' fees and costs therefore.

31.10 Conveyance of Premises. As used herein the term "**Landlord**" means only the current owner or owners of the fee title to the Building or the lessee under a ground lease of the Land. Upon each conveyance (whether voluntary or involuntary) of the Building, the conveying party shall be relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease or arising out of any act, occurrence or omission occurring after the date of such conveyance. Landlord may sell, assign, convey, encumber or otherwise transfer all or any portion of its interests in this Lease, the Premises, the Building or the Land.

31.11 Name. Tenant shall not use the name of the Building or of the development in which the Building is situated, if any, for any purpose other than as an address of the business to be conducted by Tenant in the Premises.

31.12 Severability. Any provision of this Lease which shall be held invalid, void or illegal shall in no way affect, impair or invalidate any of the other provisions hereof and such other provisions shall remain in full force and effect.

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



31.14 Choice of Law. This Lease shall be governed by the laws of the State of California applicable to transactions to be performed wholly therein.

31.15 Signs. Tenant shall not place any sign on the Premises or the Building or which is visible from anywhere outside of the Premises, without Landlord's prior written consent. Landlord shall, at Landlord's cost, install one exterior sign identifying Tenant's business in the Premises above the door of the Premises (which sign shall be subject to the Rules and Regulations for the Building and Landlord's sign criteria). In addition, Tenant shall have the right to use up to two (2) lines in the Building directory to identify Tenant's business. Upon the expiration or earlier termination of this Lease, Tenant shall, at Tenant's sole cost and expense, remove all of Tenant's signage and repair any damage to the Building caused by such removal.

31.16 Landlord's Consent. Whenever Landlord's consent or approval is required hereunder, Landlord shall not unreasonably delay the granting or withholding of its consent or approval. Except where it is expressly provided that Landlord will not unreasonably withhold its consent or approval, Landlord may withhold its consent or approval arbitrarily and in its sole and absolute discretion.

31.17 Presumptions. This Lease shall be construed without regard to any presumption or other rule requiring construction against the party drafting the document. It shall be construed neither for nor against Landlord or Tenant, but shall be given reasonable interpretation in accordance with the plain meaning of its terms and the intent of the parties.

31.18 Exhibits. All exhibits and any riders annexed to this Lease including, without limitation, Exhibits "A", "B", "C", "D", "E", "F", and "G," as applicable, are incorporated herein by this reference.

31.19 Submission of Lease. The submission of this Lease to Tenant or its broker, agent or attorney for review or signature does not constitute an offer to Tenant to lease the Premises or grant an option to lease the Premises. This document shall not be binding unless and until it is executed and delivered by both Landlord and Tenant.

31.20 Meaning of Terms. Whenever required by the context of this Lease, the singular shall include the plural and the plural shall include the singular, and the masculine, feminine and neuter genders shall each include the others, and the word "person" shall include corporations, partnerships or other entities.

31.21 Notices. All notices, demands or communications required or permitted under this Lease (the "**Notices**") shall be in writing and shall be personally delivered, sent by overnight courier, or sent by certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered to the address set forth in Article 2. Notices to Landlord shall be delivered to the address set forth in Article 2, or such other address as Landlord may specify in writing to Tenant. Notices shall be effective upon receipt.

31.22 Lease Guaranty. This Lease is subject to and conditioned upon Tenant's delivery to Landlord, concurrently with Tenant's execution and delivery of this Lease, of a Lease Guaranty in the form of and upon the terms contained in Exhibit "E" attached hereto and incorporated herein by this reference, which shall be fully executed by the Guarantor(s) specified in Article 2 and Exhibit "E".

**33. Acknowledgement, Release and Waiver**

**TENANT HEREBY ACKNOWLEDGES** that the subject Premises located at 245 North Harbor Drive, Redondo Beach, California 90277 is subject to pending lawsuits ("Pending Lawsuits") filed against the City that may invalidate or modify this Lease without advance notice. If the lease is invalidated or modified as the result of the Pending Lawsuits, Tenant shall not be entitled to seek damages, equitable relief, or any other type of relief from the City. Notwithstanding the above, Tenant agrees to enter into this Lease.

**TENANT HEREBY RELEASES, WAIVES, DISCHARGES AND CONVENANTS NOT TO SUE** the City of Redondo Beach, its officials, employees and agents with regard to any and all liability or potential liability to Tenant, its owners, directors, officers, employees, agents, assigns, heirs, and next of kin for any loss or damage, and any claims or demands of any kind resulting from the Pending Lawsuits or any impact or potential impact the lawsuits may have on Tenant or this Lease.

**TENANT FURTHER EXPRESSLY AGREES THAT THE FOREGOING ACKNOWLEDGEMENT, RELEASE and WAIVER** is intended to be as broad and inclusive as is permitted by the law of the State of California and that if any portion thereof is held invalid, it is agreed that the remaining terms shall, notwithstanding, continue in full legal force and effect.

*[SIGNATURES TO FOLLOW ON THE NEXT PAGE]*

**IN WITNESS WHEREOF**, the parties hereto have executed this Lease in Redondo Beach, California, as of this 10th day of May, 2022.

**LANDLORD**

**TENANT**

CITY OF REDONDO BEACH

CALIFORNIA LOCAL LLC  
A CALIFORNIA LIMITED LIABILITY  
COMPANY

\_\_\_\_\_  
William C. Brand  
Mayor

By: \_\_\_\_\_  
Name:  
Title:

ATTEST:

APPROVED:

\_\_\_\_\_  
Eleanor Manzano  
City Clerk

\_\_\_\_\_  
Diane Strickfaden, Risk Manager

APPROVED AS TO FORM:

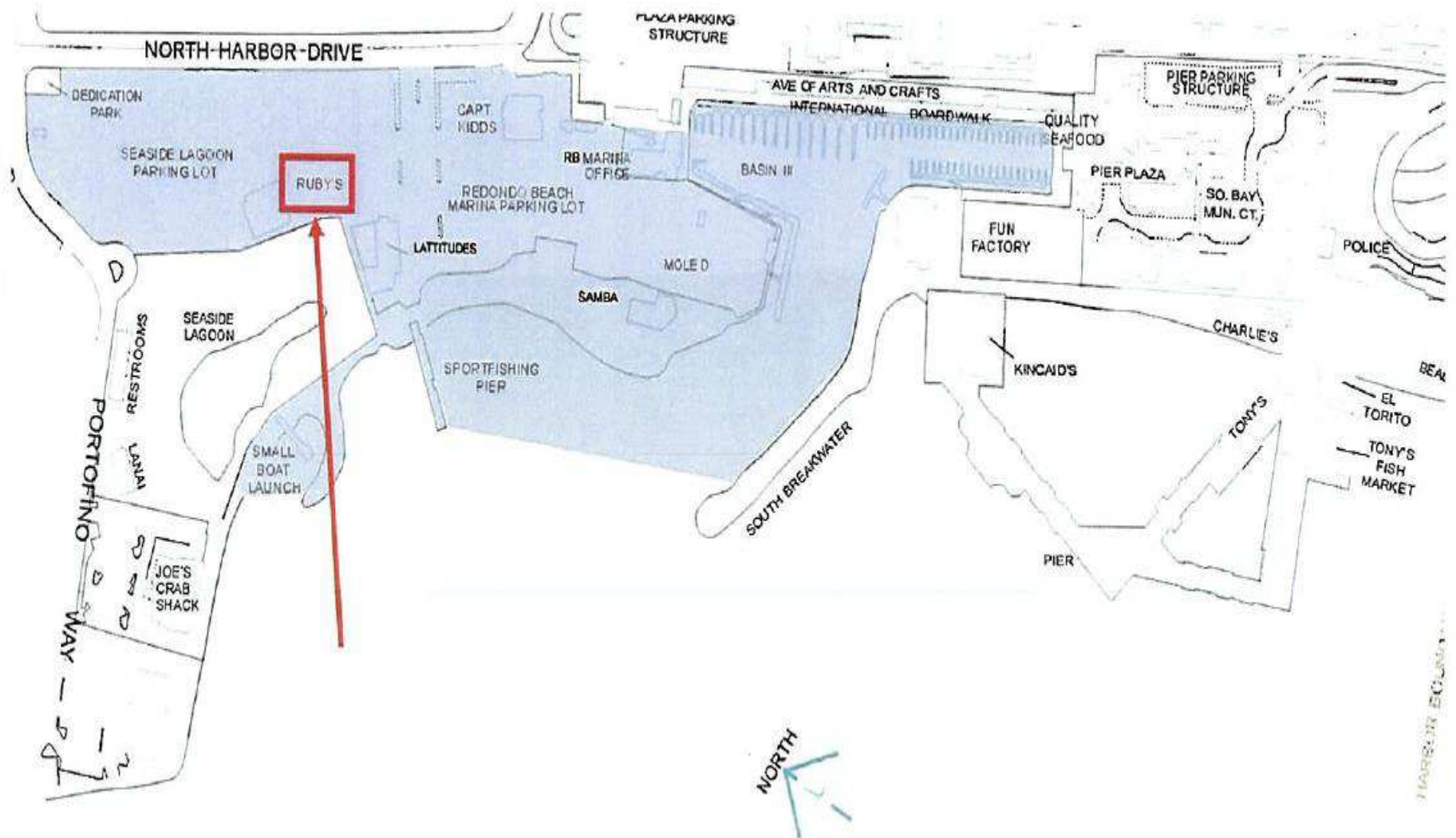
\_\_\_\_\_  
Michael W. Webb  
City Attorney

## **EXHIBIT "A"**

### **LEGAL DESCRIPTION/PREMISES FLOOR PLAN**

The space located at 245 North Harbor Drive, Redondo Beach, CA 90277, consisting of approximately 6,266 gross square feet of which 4,766 interior square feet and 1,500 square feet of exterior space as shown on the floor plan attached herein.

FORMERfor



FORMER RUBY'S RESTAURANT LOCATION, 245 NORTH HARBOR DRIVE, REDONDO BEACH, CA 90277

**EXHIBIT "B"**

**LEASE CONFIRMATION**

TO: **Tenant**

DATED: May 10, 2022

Re: Office Lease (the "Lease") dated May 10, 2022 by and between **CITY OF REDONDO BEACH, a Chartered Municipal Corporation** as Landlord, and **CALIFORNIA LOCAL LLC** as Tenant, for those premises generally referred to as 245 North Harbor Drive, Redondo Beach, CA 90277 (the "**Premises**").

Please acknowledge that the Commencement Date of the Lease is May 10, 2022 and that the Expiration Date of the Lease is March 9, 2028, subject to Landlord's early termination right after May 10, 2024.

Very truly yours,

---

Agent for "Landlord"

Tenant hereby confirms the information set forth above, and further acknowledges that Landlord has fulfilled its obligations under the above-referenced Lease.

---

By:  
Name:  
Title:

## **EXHIBIT "C"**

### **RULES AND REGULATIONS**

1. The sidewalks, halls, passages, exits, entrances, elevators, escalators and stairways of the Building shall not be obstructed by any of the tenants or used by them for any purpose other than for ingress to and egress from their respective premises. The halls, passages, exits, entrances, elevators, escalators and stairways are not for the general public and Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation and interests of the Building and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. No tenant and no agent, employee, contractor, invitee or licensee of any tenant shall go upon the roof of the Building. Landlord shall have the right at any time, without the same constituting an actual or constructive eviction and without incurring any liability to any tenant therefore, to change the arrangement or location of entrances or passageways, doors or doorways, corridors, elevators, stairs, toilets and other common areas of the Building.
2. No sign, placard, picture, name, advertisement or notice visible from the exterior of any tenant's premises shall be inscribed, painted, affixed or otherwise displayed by any tenant on any part of the Building without the prior written consent of Landlord except that Tenant shall have the right, at its sole cost, to place its name on the door of the Premises. Landlord will adopt and furnish to tenants general guidelines relating to signs inside the Building. Tenants shall conform to such guidelines. All approved signs or lettering on doors shall be printed, painted, affixed or inscribed at the expense of any such tenant by a person approved by Landlord. Material visible from outside the Building will not be permitted.
3. The premises shall not be used for lodging. No cooking shall be done or permitted on the premises except that private use by any tenant of Underwriters' Laboratory approved equipment for brewing coffee, tea, hot chocolate and similar beverages, for preparation of meals by employees of any such tenant in a manner customary for an employee lounge or lunchroom, and for catering to serve food in connection with meetings or receptions will be permitted, provided that such use is in accordance with all applicable federal, state and municipal laws, codes, ordinances, rules and regulations.
4. No tenant shall employ any person or persons other than the janitor of Landlord for the purpose of cleaning its premises unless otherwise agreed to by Landlord in writing. Except with the written consent of Landlord, no person or persons other than those approved by Landlord shall be permitted to enter the Building for the purpose of cleaning the same. No tenant shall cause any unnecessary labor by reason of such tenant's carelessness or indifference in the preservation of good order and cleanliness. Landlord shall not be responsible to any tenant for any loss of property on the premises, however occurring, or for any damage done to the effects of any tenant by the janitor or any other employee or any other person. Tenant shall pay to Landlord the cost of removal of any of tenant's refuse and rubbish, to the extent that the same exceeds the refuse and rubbish usually attendant upon the use of tenant's premises as offices. Janitor service will not be furnished

on nights when rooms are occupied after 9:00 P.M. unless, by agreement in writing, service is extended to a later hour for specifically designated rooms.

5. Landlord will furnish each tenant without charge with two (2) keys to each door lock provided in the premises by Landlord. Landlord may make a reasonable charge for any additional keys. No tenant shall have any such keys copied or any keys made. No tenant shall alter any lock or install a new or additional lock or any bolt on any door of its premises. Each tenant, upon the termination of its lease, shall deliver to Landlord all keys to doors in the Building.

6. Landlord shall designate appropriate entrances and a freight elevator for deliveries or other movement to or from the premises of equipment, materials, supplies, furniture or other property, and tenants shall not use any other entrances or elevators for such purposes. The freight elevator shall be available for use by all tenants in the Building subject to such reasonable scheduling as Landlord in its discretion shall deem appropriate. All persons employed and means or methods used to move equipment, materials, supplies, furniture or other property in or out of the Building must be approved by Landlord prior to any such movement. Landlord shall have the right to prescribe the maximum weight, size and position of all equipment, materials, furniture or other property brought into the Building. Heavy objects shall, if considered necessary by Landlord, stand on a platform of such thickness as is necessary properly to distribute the weight. Landlord will not be responsible for loss of or damage to any such property from any cause, and all damage done to the Building by moving or maintaining such property shall be repaired at the expense of tenants.

7. No tenant shall use or keep in the premises or the Building any kerosene, gasoline or inflammable or combustible fluid or material other than limited quantities thereof reasonably necessary for the operation or maintenance of office equipment. No tenant shall use any method of heating or air conditioning other than that supplied by Landlord. No tenant shall use or keep or permit to be used or kept any foul or noxious gas or substance in the premises, or permit or suffer the premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors or vibrations, or interfere in any way with other tenants or those having business in the Building, nor shall any animals or birds be brought or kept in the premises or the Building. All materials stored in the Premises by Tenant shall be stored in compliance with all applicable laws and shall not exceed the maximum floor load for the Premises as reasonably determined by Landlord.

8. Landlord shall have the right, exercisable without notice and without liability to any tenant, to change the name or street address of the Building.

9. Except as expressly set forth in the Lease, Landlord establishes the hours of 8 A.M. to 6 P.M. Monday through Friday, and Saturday 9:00 A.M. to 1:00 P.M., except legal holidays, as reasonable and usual business hours. If during any other hours or any other days, tenant desires to have any services or utilities supplied to tenant, and if Landlord is able to provide the same, tenant shall pay Landlord such charge as Landlord shall establish from time to time for providing such services or utilities during such hours. Any such charges which such tenant is obligated to pay shall be deemed to be Additional Rent under such tenant's lease.



**10.** The Building's air conditioning system achieves maximum cooling when the drapes and windows are closed. Landlord shall not be responsible for the room temperature if tenant does not keep all drapes and windows in the premises closed whenever the system is in operation. Tenant agrees to cooperate fully at all times with Landlord and to abide by all regulations and requirements which Landlord may prescribe for the proper functioning and protection of said air conditioning system. Tenant agrees not to connect any apparatus device, conduit or pipe to the Building chilled and hot water conditioning supply lines. Tenant further agrees that neither tenant nor its servants, employees, agents, visitors, licensees or contractors shall at any time enter mechanical installations or facilities of the Building or adjust, tamper with, touch or otherwise in any manner affect said installations or facilities.

**11.** Electric current is furnished as required by the Building standard office lighting and fractional horsepower office business machines in the amount of approximately four (4) watts per square foot. The tenant agrees, should its electrical installation or electrical consumption be in excess of the aforesaid quantity or extend beyond normal business hours, to reimburse Landlord monthly for the measured consumption under the terms, classifications and rates charged to similar consumers by said public utilities serving in the neighborhood in which the Building is located. If a separate meter is not installed at tenant's cost, such excess cost will be established by an estimate agreed upon by Landlord and tenant, and if the parties fail to agree, as established by an independent licensed engineer. Tenant agrees not to use any apparatus or device in, or upon, or about the premises which will in any way increase the amount of such services usually furnished or supplied to said premises, and tenant further agrees not to connect any apparatus or device or wires, conduits or pipes, or other means by which such services are supplied, for the purpose of using additional or unusual amounts of such services without written consent of Landlord. Should tenant use the same to excess, the refusal on the part of tenant to pay, upon demand of Landlord, the amount established by Landlord for such excess charge shall constitute a breach of the obligation to pay Rent current under tenant's lease and shall entitle Landlord to the rights therein granted for such breach. At all times tenant's use of electric current shall never exceed the capacity of the feeders to the Building or the risers or wiring installation.

**12.** Water will be available in public areas for drinking and lavatory purposes only, but if tenant requests, uses or consumes water for any purpose in addition to ordinary drinking and lavatory purposes, of which fact tenant constitutes Landlord to be the sole judge, Landlord may install a water meter and thereby measure tenant's water consumption for all purposes. Tenant shall pay Landlord for the cost of the meter and the cost of the installation thereof and throughout the duration of tenant's occupancy, tenant shall keep said meter installation equipment in good working order and repair at tenant's own cost and expense, in default of which Landlord may cause such meter and equipment to be replaced or repaired and collect the cost thereof from tenant. Tenant agrees to pay for water consumed, as shown on said meter, as and when bills are rendered, and on default in making such payment, Landlord may pay such charges and collect the same from tenant. Any such costs or expenses incurred, or payments made by Landlord for any of the reasons or purposes hereinabove stated shall be deemed to be Additional Rent, payable by tenant, and collectible by Landlord as such.

**13.** Landlord reserves the right to stop service of the elevator, plumbing, ventilating, air conditioning and electric systems, when necessary, by reason of accident or emergency or for

repairs, alterations or improvements, in the judgment of Landlord desirable or necessary to be made, until said repairs, alterations or improvements shall have been completed, and shall further have no responsibility or liability for failure to support elevator facilities, plumbing, ventilating, air conditioning or electric service, when prevented from doing so by strike or accident or by any cause beyond Landlord's reasonable control or by laws, rules, orders, ordinances, directions, regulations or requirements of any federal, state, county or municipal authority or failure of gas, oil or other suitable fuel supplied or inability by exercise of reasonable diligence to obtain gas, oil or other suitable fuel. It is expressly understood and agreed that any covenants on Landlord's part to furnish any service pursuant to any of the terms, covenants, conditions, provisions or agreements of tenant's lease or to perform any act or thing for the benefit of tenant, shall not be deemed breached if Landlord is unable to furnish or perform the same by virtue of a strike or labor trouble or any other cause whatsoever beyond Landlord's control.

**14.** Landlord reserves the right to exclude from the Building between the hours of 6 P.M. and 8 A.M. Monday through Friday and at all hours on Saturdays, Sundays and legal holidays all persons who do not present identification acceptable to Landlord. Each tenant shall provide Landlord with a list of all persons authorized by such tenant to enter its premises and shall be liable to Landlord for all acts of such persons. Landlord shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. In the case of invasion, mob, riot, public excitement or other circumstances rendering such action advisable in Landlord's opinion, Landlord reserves the right to prevent access to the Building during the continuance of the same by such action as Landlord may deem appropriate, including closing doors.

**15.** The directory of the Building will be provided for the display of the name and location of tenants and the principal officers and employees of tenants (not to exceed two (2) names per one thousand (1,000) rentable feet in the Premises) at the expense of such tenant. Periodic revisions and updating shall be provided by Landlord without charge.

**16.** No curtains, draperies, blinds, shutters, shades, screens or other coverings, hangings or decorations shall be attached to, hung or placed in, or used in connection with any window of the Building without the prior written consent of Landlord. In any event, with the prior written consent of Landlord, such items shall be installed on the office side of Landlord's standard window covering and shall in no way be visible from the exterior of the Building. Tenants shall keep window coverings closed when the effect of sunlight (or the lack thereof) would impose unnecessary loads on the Building's heating or air conditioning system.

**17.** No tenant shall obtain for use in the premises ice, drinking water, food, beverage, towel or other similar services, except at such reasonable hours and under such reasonable regulations as may be established by Landlord.

**18.** Each tenant shall ensure that the doors of its premises are closed and locked and that all water faucets, water apparatus and utilities are shut off before such tenant or such tenant's employees leave the premises so as to prevent waste or damage, and for any default or carelessness in this regard, such tenant shall compensate for all injuries sustained by other tenants or occupants

of the Building or Landlord. On multiple-tenancy floors, all tenants shall keep the doors to the Building corridors closed at all times except for ingress and egress.

**19.** The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, no foreign substance of any kind whatsoever shall be thrown therein, and the expense of any breakage, stoppage or damage resulting from the violation of this rule shall be paid by the tenant who, or whose agent, employee, contractor, invitee or licensee, caused it.

**20.** Except with the prior written consent of Landlord, no tenant shall sell at retail newspapers, magazines, periodicals, theater or travel tickets or any other goods or merchandise to the general public in or on the premises, nor shall any tenant carry on or permit or allow any employee or other person to carry on the business of stenography, typewriting, printing or photocopying or any similar business in or from the premises for the service or accommodation of occupants of any other portion of the Building, nor shall the premises of any tenant be used for manufacturing of any kind, or any business activity other than that specifically provided for in the tenant's lease.

**21.** No tenant shall install any radio or television antenna, loudspeaker, or other device on the roof or exterior walls of the Building. No television or radio or recorder shall be played in such a manner as to cause a nuisance to any other tenant.

**22.** There shall not be used in any space, or in the public halls of the Building, either by any tenant or others, any hand trucks except those equipped with rubber tires and side guards or such other material handling equipment as Landlord approves. No other vehicles of any kind shall be brought by any tenant into the Building or kept in or about its premises.

**23.** Each tenant shall store all its trash and garbage within its premises. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of office building trash and garbage in the vicinity of the Building, without being in violation of any law or ordinance governing such disposal. All garbage and refuse disposal shall be made only through entryways and elevators provided for such purposes and at such times as Landlord shall designate.

**24.** Canvassing, soliciting, distribution of handbills or any other written material and peddling in the Building are prohibited, and each tenant shall cooperate to prevent the same.

**25.** The requirements of tenants will be attended to only upon application in writing at the office of the Building. Employees of Landlord shall not perform any work or do anything outside of their regular duties unless under special instructions from Landlord.

**26.** Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenant or tenants, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of any other tenant or tenants, nor prevent Landlord from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Building.

**27.** These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the agreements, covenants, conditions and provisions of any lease of premises in the Building.

**28.** Landlord reserves the right to make such other rules and regulations as in its judgment may from time to time be needed for the safety, care and cleanliness of the Building and for the preservation of good order therein.

**29.** All construction projects and tenant improvement work must conform to the General Construction and Building Rules.

**30.** Tenant agrees that all employees will park on the lower levels of the parking structure and that the surface level parking spaces are to be reserved for customers and service providers.

## **EXHIBIT “D”**

### **PARKING FEE SCHEDULE**

Public parking rates are set by Landlord and are subject to change from time to time.  
The current parking rates are as follows:

#### **Summer (May 1<sup>st</sup> to September 30<sup>th</sup>)**

\$0.50 for first hour weekdays 8am – 6pm; otherwise \$2.00 each hour

#### **Winter (October 1<sup>st</sup> to April 30<sup>th</sup>)**

\$0.50 for first hour weekdays 8am – 6pm; otherwise \$1.50 each hour

#### **PIER/BOARDWALK MERCHANT MONTHLY AND YEARLY PASSES**

Passes to be purchased by business owners/managers to satisfy employment verification; parking spaces occupied on a first-come, first-served basis; passes do not guarantee a parking space.

#### **Annual Passes (January 1 – December 31):**

a. Full-Access Annual Pass - 7 days/week in either parking structure: \$280.00

(Purchases after January 31 will be prorated at the rate of \$35/month times the number of months remaining in the year.)

b. Limited Access Annual Pass - 7 days/week in the Plaza Parking Structure, also allowed in Pier Parking Structure on non-holiday weekdays : \$120.00

(Purchases after January 31 will be prorated at the rate of \$10/month times the number of months remaining in the year.)

#### **Summer Season Passes (May 1 – September 30):**

a. Full-Access Summer Pass - 7 days/week in either parking structure: \$120.00

(Purchases after May 31 will be prorated at the rate of \$35/month times the number of months remaining in the summer.)

b. Limited Access Summer Pass - 7 days/week in the Plaza Parking Structure, also allowed in Pier Parking Structure on non-holiday weekdays : \$50.00

(Purchases after May 31 will be prorated at the rate of \$10/month times the number of months remaining in the summer.)

## **EXHIBIT "E"**

### **LEASE GUARANTY**

THIS LEASE GUARANTY ("Guaranty") is made by \_\_\_\_\_ (referred to as "Guarantor"), in favor of the CITY OF REDONDO BEACH, a Chartered Municipal Corporation ("Landlord"), in connection with that certain lease dated as of May 10, 2022 (the "Lease") pursuant to which Landlord is to lease to CALIFORNIA LOCAL LLC ("Tenant") those premises generally referred to as 245 North Harbor Drive, Redondo Beach, CA 90277 (the "Premises").

A. Landlord requires this Guaranty as a condition to its execution of the Lease and the performance of the obligations to be performed under the Lease by Landlord.

B. Guarantor has agreed to provide this Guaranty to induce Landlord to enter into the Lease with Tenant and perform its obligations under the Lease.

In consideration of Landlord's agreement to execute the Lease and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor does hereby agree with Landlord as follows:

1. The Lease is hereby incorporated into and made a part of this Guaranty by this reference.
2. Guarantor hereby unconditionally guarantees, as a primary obligor and not as a surety, without deduction by reason of setoff, defense or counterclaim, the full and punctual payment of all sums of rent and other amounts payable under the Lease and the full and punctual performance of all terms, covenants and conditions in the Lease to be kept, performed and/or observed by Tenant. Guarantor's obligations under this Guaranty are continuing and unconditional.
3. Guarantor hereby agrees that, without the consent of or notice to Guarantor and without affecting any of the obligations of Guarantor hereunder: (a) the Lease may be extended and any other term, covenant or condition of the Lease may be amended, compromised, released or otherwise altered by Landlord and Tenant, and Guarantor does guarantee and promise to perform all the obligations of Tenant under the Lease as so extended, amended, compromised, released or altered; (b) any guarantor of or party to the Lease may be released, substituted or added; (c) any right or remedy under the Lease may be exercised, not exercised, impaired, modified, limited, destroyed, or suspended; (d) Landlord or any other person may deal in any manner with Tenant, any guarantor, any party to the Lease or any other person; (e) Landlord may permit Tenant to holdover the Premises beyond the Lease Term; and (f) all or any part of the Premises or of Tenant's rights or liabilities under the Lease may be sublet, assigned or assumed. Without in any way limiting the foregoing, Guarantor agrees not to unreasonably withhold its consent to any sublease, assignment of the Lease or other modification of the Lease which is agreed to by Landlord and Tenant.

4. Guarantor hereby waives and agrees not to assert or take advantage of: (a) any right to require Landlord to proceed against Tenant, or any other guarantor or person or to pursue any other security or remedy before proceeding against Guarantor; (b) any defense based on the genuineness, validity, regularity or enforceability of the Lease; (c) any right or defense that may arise by reason of the incapacity, lack of authority, death or disability of Tenant or any other person; and (d) any right or defense arising by reason of the absence, impairment, modification, limitation, destruction or cessation (in bankruptcy, by an election of remedies, or otherwise) of the liability of Tenant, of the subrogation rights of Guarantor or of the right of Guarantor to proceed against Tenant for reimbursement. Without limiting the generality of the foregoing, Guarantor hereby waives any and all benefits of the provisions of Sections 2809, 2810 and 2845 of the California Civil Code and any similar or analogous statutes of California or any other jurisdiction.

5. Guarantor hereby waives and agrees not to assert or take advantage of (a) any right or defense based on the absence of any or all presentments, demands (including demands for performance), notices (including notices of any adverse change in the financial status of Tenant, notices of any other facts which increase the risk to Guarantor, notices of non-performance and notices of acceptance of this Guaranty) and protests of each and every kind; (b) the defense of any statute of limitations in any action under or related to this Guaranty or the Lease; (c) any right or defense based on a lack of diligence or failure or delay by Landlord in enforcing its rights under this Guaranty or the Lease.

6. Guarantor hereby waives and agrees not to assert or take advantage of any right to (a) exoneration if Landlord's actions shall impair any security or collateral of Guarantor; (b) any security or collateral held by Landlord; (c) require Landlord to proceed against or exhaust any security or collateral before proceeding against Guarantor; (d) require Landlord to pursue any right or remedy for the benefit of Guarantor. Without limiting the generality of the foregoing, Guarantor hereby waives any and all benefits of the provisions of Sections 2819, 2849 and 2850 of the California Civil Code and any similar or analogous statutes of California or any other jurisdiction.

7. Guarantor shall not, without the prior written consent of Landlord, commence, or join with any other person in commencing, any bankruptcy, reorganization or insolvency proceeding against Tenant. Guarantor's obligations under this Guaranty shall in no way be affected by any bankruptcy, reorganization or insolvency of Tenant or any successor or assignee of Tenant or by any disaffirmance or abandonment of the Lease or any payment under this Guaranty by a trustee of Tenant in any bankruptcy proceeding including, without limitation, any impairment, limitation, or modification of the liability of Tenant or the estate of Tenant in bankruptcy, or of any remedy for the enforcement of Tenant's liability under the Lease resulting from the operation of any present or future provision of any federal or state bankruptcy or insolvency law or other statute or from the decision of any court. Guarantor shall file in any bankruptcy or other proceeding in which the filing of claims is required or permitted by law all claims which Guarantor may have against Tenant relating to any indebtedness of Tenant to Guarantor and will assign to Landlord all rights of Guarantor thereunder. Landlord shall have the sole right to accept or reject any plan proposed in such proceeding and to take any other action which a party filing a claim is entitled to do. In all such cases, whether in administration, bankruptcy or

otherwise, the person or persons authorized to pay such claim shall pay to Landlord the amount payable on such claim and, to the full extent necessary for that purpose, Guarantor hereby assigns to Landlord all of Guarantor's rights to any such payments or distributions to which Guarantor would otherwise be entitled; provided, however, that Guarantor's obligations hereunder shall not be satisfied except to the extent that Landlord receives cash by reason of any such payment or distribution. If Landlord receives anything hereunder other than cash, the same shall be held as collateral for amounts due under this Guaranty.

8. Until all the Tenant's obligations under the Lease are fully performed, Guarantor: (a) shall have no right of subrogation or reimbursement against the Tenant by reason of any payments or acts of performance by Guarantor under this Guaranty; (b) subordinates any liability or indebtedness of the Tenant now or hereafter held by Guarantor to the obligations of the Tenant under, arising out of or related to the Lease or Tenant's use of the Premises; and (c) acknowledges that the actions of Landlord may affect or eliminate any rights of subrogation or reimbursement of Guarantor as against Tenant without any liability or recourse against Landlord. Without limiting the generality of the foregoing, Guarantor hereby waives any and all benefits of the provisions of Section 2848 of the California Civil Code and any similar or analogous statutes of California or any other jurisdiction.

9. Prior to the execution of this Guaranty and at any time during the Term of the Lease upon ten (10) days prior written notice from Landlord, Guarantor agrees to provide Landlord with a current financial statement for Guarantor and financial statements for Guarantor for the two (2) years prior to the current financial statement year to the extent not previously delivered to Landlord. Guarantor's financial statements are to be prepared in accordance with generally accepted accounting principles and, if such is the normal practice of Guarantor, audited by an independent certified public accountant. Guarantor represents and warrants that all such financial statements shall be true and correct statements of Guarantor's financial condition.

10. The liability of Guarantor and all rights, powers and remedies of Landlord hereunder and under any other agreement now or at any time hereafter in force between Landlord and Guarantor relating to the Lease shall be cumulative and not alternative and such rights, powers and remedies shall be in addition to all rights, powers and remedies given to Landlord by law.

11. This Guaranty applies to, inures to the benefit of and binds all parties hereto, their heirs, devisees, legatees, executors, administrators, representatives, successors and assigns. This Guaranty may be assigned by Landlord voluntarily or by operation of law.

12. This Guaranty shall constitute the entire agreement between Guarantor and the Landlord with respect to the subject matter hereof. No provision of this Guaranty or right of Landlord hereunder may be waived nor may any guarantor be released from any obligation hereunder except by a writing duly executed by an authorized officer, director or trustee of Landlord. The waiver or failure to enforce any provision of this Guaranty shall not operate as a waiver of any other breach of such provision or any other provisions hereof. No course of dealing between Landlord and Tenant shall alter or affect the enforceability of this Guaranty or Guarantor's obligations hereunder.



13. Guarantor hereby agrees to indemnify, protect, defend and hold Landlord and Landlord's Affiliates harmless from and against, all losses, costs and expenses including, without limitation, all interest, default interest, post-petition bankruptcy interest and other post-petition obligations, late charges, court costs and attorneys' fees, which may be suffered or incurred by Landlord in enforcing or compromising any rights under this Guaranty or in enforcing or compromising the performance of Tenant's obligations under the Lease.

14. The term "Landlord" whenever hereinabove used refers to and means the Landlord in the foregoing Lease specifically named and also any assignee of said Landlord, whether by outright assignment or by assignment for security, and also any successor to the interest of said Landlord or of any assignee of such Lease or any part thereof, whether by assignment or otherwise. The term "Tenant" whenever hereinabove used refers to and means the Tenant in the foregoing Lease specifically named and also any Transferee of said Lease and also any successor to the interests of said Tenant, assignee or sublessee of such Lease or any part thereof, whether by assignment, sublease or otherwise including, without limitation, any trustee in bankruptcy and any bankruptcy estate of Tenant, Tenant's assignee or sublessee.

15. If any or all Guarantors shall become bankrupt or insolvent, or any application shall be made to have any or all Guarantors declared bankrupt or insolvent, or any or all Guarantors shall make an assignment for the benefit of creditors, or any or all Guarantors shall enter into a proceeding for the dissolution of marriage, or in the event of death of any or all Guarantors, notice of such occurrence or event shall be promptly furnished to Landlord by such Guarantor or such Guarantor's fiduciary. This Guarantee shall extend to and be binding upon each Guarantor's successors and assigns, including, but not limited to, trustees in bankruptcy and Guarantor's estate.

16. Any notice, request, demand, instruction or other communication to be given to any party hereunder shall be in writing and sent by registered or certified mail, return receipt requested in accordance with the notice provisions of the Lease. The Tenant shall be deemed Guarantor's agent for service of process and notice to Guarantor delivered to the Tenant at the address set forth in the Lease shall constitute proper notice to Guarantor for all purposes. Notices to Landlord shall be delivered to Landlord's address set forth in the Lease. Landlord, at its election, may provide an additional notice to Guarantor at the address provided under Guarantor's signature below.

17. If either party hereto participates in an action against the other party arising out of or in connection with this Guaranty, the prevailing party shall be entitled to have and recover from the other party reasonable attorneys' fees, collection costs and other costs incurred in and in preparation for the action. Guarantor hereby waives any right to trial by jury and further waives and agrees not to assert or take advantage of any defense based on any claim that any arbitration decision binding upon Landlord and Tenant is not binding upon Guarantor.

18. Guarantor agrees that all questions with respect to this Guaranty shall be governed by, and decided in accordance with, the laws of the State of California.

19. Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions shall nevertheless be effective.

20. Time is strictly of the essence under this Guaranty and any amendment, modification or revision hereof.

21. If more than one person signs this Guaranty, each such person shall be deemed a guarantor and the obligation of all such guarantors shall be joint and several. When the context and construction so requires, all words used in the singular herein shall be deemed to have been used in the plural. The word "person" as used herein shall include an individual, company, firm, association, partnership, corporation, trust or other legal entity of any kind whatsoever.

22. If Guarantor is a corporation, each individual executing this Guaranty on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Guaranty on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the bylaws of said corporation, and that this Guaranty is binding upon said corporation in accordance with its terms. If Guarantor is a corporation, Landlord, at its option, may require Guarantor to concurrently, with the execution of this Guaranty, deliver to Landlord a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Guaranty.

THE UNDERSIGNED HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS CONTAINED IN THIS GUARANTY INCLUDING, WITHOUT LIMITATION, ALL WAIVERS CONTAINED IN THIS GUARANTY.

Executed on this \_\_\_\_ day of \_\_\_\_\_, 2022.

[If Guarantor is a married individual, Guarantor's spouse must sign this Guaranty]

\_\_\_\_\_  
Spouse (if applicable)

Address of Guarantor: \_\_\_\_\_

\*A. If the person(s) signing this Lease on behalf of Tenant [is/are] [an] officers] of a corporation that is incorporated in California, then one of the following conditions must be satisfied: (i) This

Lease must be signed by two officers, one being the Chairman of the Board, the Owner or a Vice Owner, and the other one being the Secretary, an Assistant Secretary, the Chief Financial Officer or an Assistant Treasurer; or (ii) if clause (i) above is not satisfied, or if this Lease is signed by one person acting in two capacities, then Tenant shall have delivered to Landlord a certified copy of a corporate resolution in form acceptable to Landlord authorizing the signatory(ies) to execute this Lease.

B. If the person(s) signing this Lease on behalf of Tenant [is/are] [an] officers] of a corporation that is incorporated in a state other than California, then Tenant shall have delivered to Landlord a certified copy of a corporate resolution in form acceptable to Landlord authorizing the signatory(ies) to execute this Lease.

**EXHIBIT “F”**

**INITIAL LEASEHOLD IMPROVEMENTS**

None. Tenant takes the Premises AS-IS.

## EXHIBIT “G”

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

CITY OF REDONDO BEACH  
415 Diamond Street  
Redondo Beach, CA 90277  
Attention: City Clerk

No Recording Fee  
Exempt pursuant to Government Code § 6103

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### **MEMORANDUM OF LEASE**

This Memorandum of Lease (“Memorandum”) is made and entered into as of May 10, 2022, by and between the CITY OF REDONDO BEACH, a Chartered Municipal Corporation, hereinafter referred to as “Landlord” and CALIFORNIA LOCAL LLC hereinafter referred to as “Tenant.”

A. Landlord and Tenant have entered in a Lease (hereinafter, “Lease”) with a commencement date of May 10, 2022, for certain premises which are located on real property which is commonly described in **Exhibit A** of the Lease and incorporated herein by reference (the “Premises”). Copies of the Lease and Addendum are available for public inspection at Landlord’s office at 415 Diamond Street, Redondo Beach, CA 90277.

B. The Lease provides that a short form Memorandum shall be executed and recorded in the official Records of Los Angeles County, California.

NOW, THEREFORE, the parties hereto certify as follows:

1. Purpose of Memorandum of Lease. This Memorandum is prepared for recordation purposes only and it in no way modifies the terms, conditions, provisions and covenants of the Lease. In the event of any inconsistency between the terms, conditions, provisions and covenants of this Memorandum and the Lease, the terms, conditions, provisions, and covenants of the Lease shall prevail.
2. Term. This Lease has a term of 70 months, subject to Landlord’s termination rights.
3. Counterparts. This Memorandum may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the Landlord and Tenant hereto have executed this Memorandum of Lease in Redondo Beach, California, as of this 10th day of May, 2022.

**LANDLORD**

CITY OF REDONDO BEACH

\_\_\_\_\_  
William C. Brand  
Mayor

**TENANT**

CALIFORNIA LOCAL LLC  
A Limited Liability Company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Eleanor Manzano  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael W. Webb  
City Attorney



# Administrative Report

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H.5., File # 22-4058

Meeting Date: 5/10/2022

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**To:** MAYOR AND CITY COUNCIL

**From:** BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

## **TITLE**

APPROVE SECOND AMENDMENT TO THE AGREEMENT WITH INTERWEST CONSULTING GROUP, INC. FOR AS-NEEDED BUILDING PLAN CHECK AND INSPECTION SERVICES AND TEMPORARY BUILDING OFFICIAL SERVICES FOR AN INCREASE OF \$30,000 AND A NEW TOTAL NOT TO EXCEED AMOUNT OF \$140,000 FOR THE TERM FEBRUARY 1, 2022 THROUGH FEBRUARY 8, 2024

## **EXECUTIVE SUMMARY**

On February 9, 2021, the City Council approved agreements with six (6) firms to provide building plan check and inspection services on an as-needed basis. The contracts provide the capability for the Community Development Department to offer an expedited plan check option upon applicant request and to fill gaps in staffing on an as-needed basis.

The contract with Interwest Consulting Group, Inc. was amended in February 2022 to cover additional plan check services and to provide Interim Building Official responsibilities through early May while the City conducted the process to fill the vacant Chief Building Official position. The selection process for the position is now complete, but additional interim services are needed through mid-June to allow time for candidate backgrounding and current job noticing.

The Interim Chief Building Official services are anticipated to cost no more than \$30,000. Funding for the services is available in the FY 2021-22 Budget.

## **BACKGROUND**

On August 18, 2020, the City Council directed staff to proceed with selecting outside consulting firms to provide plan check services, as well as other Building Division services, on an as-needed basis. After the RFP process, the Community Development Department selected six firms, based on their qualifications and experience. The City Council approved the agreements on February 9, 2021. Of the six firms, Interwest currently has the best combination of consultant availability and capability to provide the temporary staff support needed for the Interim Building Official position.

The original contract with Interwest, approved in February 2021, was for expedited plan check services for an amount not to exceed \$15,000. The first amendment to the contract with Interwest, approved in February 2022, added another \$80,000 for Interim Building Official work and an additional \$15,000 for plan check services, bringing the total not to exceed amount to \$110,000. The

proposed second amendment to the contract with Interwest would extend the Interim Building Official work through mid-June 2022, for an additional amount of \$30,000, bringing the total not to exceed amount to \$140,000.

**COORDINATION**

The contract amendment has been coordinated between the Community Development Department and City Manager's Office, and has been prepared by the City Attorney's Office.

**FISCAL IMPACT**

The contracted plan check service costs are fully funded by an additional fee paid by the project applicant equal to 50% of the original plan check fee amount added to the permit costs. The consultant cost for expediated plan check services is fully funded through an additional plan check fee paid by the applicant and is cost neutral for the City. The initial consultant cost for the Interim Building Official services approved in the first amendment was covered by cost savings from vacancies in the Community Development Department and other available budgeted funds. The additional funds required for the continued Interim Building Official services are available in the Fiscal Year 2021-22 Budget.

**APPROVED BY:**

*Mike Witzansky, City Manager*

**ATTACHMENTS**

- Second Amendment Interwest (both original and signed by vendor)
- First Amendment Interwest approved February 1, 2022
- Original Contract Interwest approved February 9, 2021
- Interwest Proposal for Building Official Services
- Interwest Proposal for Additional Building Official Services

**SECOND AMENDMENT TO THE AGREEMENT  
FOR CONSULTING SERVICES BETWEEN THE CITY OF REDONDO BEACH  
AND INTERWEST CONSULTING GROUP INC.**

This Second Amendment to the Agreement for Consulting Services ("Second Amendment") is made between the City of Redondo Beach, a chartered municipal corporation ("City") and Interwest Consulting Group Inc., a Colorado corporation ("Consultant" or "Contractor").

WHEREAS, on February 9, 2021, the parties entered into the Agreement for Consulting Services between the City and Consultant (the "Agreement"); and

WHEREAS, on February 1, 2022, the parties entered into a First Amendment to the Agreement to add Building Official services, building inspection services and plan review services and commensurate compensation: and

WHEREAS, the parties desire to modify the compensation amount of the Agreement.

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein, and intending to be legally bound, the parties hereby agree to make the following amendments to the Agreement:

1. Compensation. Exhibit "C" of the Agreement is hereby amended to include an additional amount of \$30,000 for a total not to exceed amount of \$140,000.
2. No Other Amendments. The Agreement and this Second Amendment constitute the entire agreement between the parties and supersede any previous oral or written agreement with respect to the subject matter hereof. In the event of any inconsistency between the terms of the Agreement, the First Amendment and this Second Amendment, the terms of this Second Amendment shall govern.

IN WITNESS WHEREOF, the parties have executed this Second Amendment in Redondo Beach, California, as of this 10<sup>th</sup> day of May, 2022.

CITY OF REDONDO BEACH,  
a chartered municipal corporation

INTERWEST CONSULTING GROUP, INC.  
a California corporation

\_\_\_\_\_  
William C. Brand, Mayor

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Eleanor Manzano, City Clerk

\_\_\_\_\_  
Michael W. Webb, City Attorney



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CITY OF REDONDO BEACH,  
a chartered municipal corporation


INTERWEST CONSULTING GROUP, INC.  
a California corporation

\_\_\_\_\_  
William C. Brand, Mayor

By:

Name:

Title:

  
Paul Meschino  
Vice President operations

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Eleanor Manzano, City Clerk

\_\_\_\_\_  
Michael W. Webb, City Attorney

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This Second Amendment to the Agreement for Consulting Services ("Second Amendment") is made between the City of Redondo Beach, a chartered municipal corporation ("City") and Interwest Consulting Group Inc., a Colorado corporation ("Consultant" or "Contractor").

WHEREAS, on February 9, 2021, the parties entered into the Agreement for Consulting Services between the City and Consultant (the "Agreement"); and

WHEREAS, on February 1, 2022, the parties entered into a First Amendment to the Agreement to add Building Official services, building inspection services and plan review services and commensurate compensation: and

WHEREAS, the parties desire to modify the compensation amount of the Agreement.

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein, and intending to be legally bound, the parties hereby agree to make the following amendments to the Agreement:

1. Compensation. Exhibit "C" of the Agreement is hereby amended to include an additional amount of \$30,000 for a total not to exceed amount of \$140,000.
2. No Other Amendments. The Agreement and this Second Amendment constitute the entire agreement between the parties and supersede any previous oral or written agreement with respect to the subject matter hereof. In the event of any inconsistency between the terms of the Agreement, the First Amendment and this Second Amendment, the terms of this Second Amendment shall govern.

IN WITNESS WHEREOF, the parties have executed this Second Amendment in Redondo Beach, California, as of this 10<sup>th</sup> day of May, 2022.

CITY OF REDONDO BEACH,  
a chartered municipal corporation

INTERWEST CONSULTING GROUP, INC.  
a California corporation

\_\_\_\_\_  
William C. Brand, Mayor

By: 

Name: Paul Meschino

Title: Vice President Operations

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Eleanor Manzano, City Clerk

\_\_\_\_\_  
Michael W. Webb, City Attorney

**FIRST AMENDMENT TO THE AGREEMENT  
FOR CONSULTING SERVICES BETWEEN THE CITY OF REDONDO BEACH  
AND INTERWEST CONSULTING GROUP INC.**

This First Amendment to the Agreement for Consulting Services ("First Amendment") is made between the City of Redondo Beach, a chartered municipal corporation ("City") and Interwest Consulting Group Inc., a Colorado corporation ("Consultant" or "Contractor").

WHEREAS, on February 9, 2021, the parties entered into the Agreement for Consulting Services between the City and Consultant (the "Agreement"); and

WHEREAS, the parties desire to modify the terms of the Agreement.

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein, and intending to be legally bound, the parties hereby agree to make the following amendments to the Agreement:

1. Scope of Services. Exhibit "A" of the Agreement is hereby amended to add the following services: Full Time Building Official Services, Building Inspection Services and plan review services.
2. Compensation. Exhibit "C" of the Agreement is hereby amended to include the additional amount of \$95,000 for the new services described above for a total not to exceed amount of \$110,000, compensated at the rates below:

CLASSIFICATION	TIME REQUIREMENT	HOURLY BILLING RATE	ESTIMATED COST
Kevin O'Flaherty, F/T CBO & Inspections	13 Weeks x 40 Hrs Per Wk	\$150	\$78,000

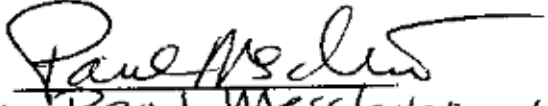
3. No Other Amendments. The Agreement and this First Amendment constitute the entire agreement between the parties and supersede any previous oral or written agreement with respect to the subject matter hereof. In the event of any inconsistency between the terms of the Agreement and this First Amendment, the terms of this First amendment shall govern.

IN WITNESS WHEREOF, the parties have executed this First Amendment in Redondo Beach, California, as of this 1<sup>st</sup> day of February, 2022.

CITY OF REDONDO BEACH,  
a chartered municipal corporation

  
William C. Brand, Mayor

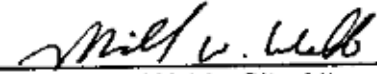
INTERWEST CONSULTING GROUP, INC.  
a California corporation

By:   
Name: Paul Meschino  
Title: Vice President Operations

ATTEST:

  
Eleanor Manzano, City Clerk

APPROVED AS TO FORM:

  
Michael W. Webb, City Attorney



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/17/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER  
RBN Insurance Services  
303 E Wacker Dr Ste 650  
Chicago IL 60601

CONTACT NAME: Symone White  
PHONE (A/C, No, Ext): 312-856-9400 FAX (A/C, No): 312-856-9425  
E-MAIL: swhite@rbninsurance.com  
ADDRESS: swhite@rbninsurance.com

INSURED  
Interwest Consulting Group  
P.O. Box 18330  
Boulder CO 80308

SAFE-LIC-01

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Hartford Fire Insurance Co.	19682
INSURER B: Hartford Casualty Insurance Co.	29424
INSURER C: Great American E&S Ins. Co.	37532
INSURER D: Twin City Fire Insurance Co.	29459
INSURER E: Bridgeway Insurance Company	12489
INSURER F: Navigators Specialty Ins. Co.	36056

## COVERAGES

CERTIFICATE NUMBER: 1588677109

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADOL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER	Y	83UENZV3951	10/3/2021	10/3/2022	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COM/PO/AGG \$2,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	83UENPY9100	10/3/2021	10/3/2022	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
F	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTIONS \$	Y	CH21EXC685600IC	10/3/2021	10/3/2022	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
D	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	83WECE0823	5/12/2021	5/12/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	<input checked="" type="checkbox"/> Professional Liability <input checked="" type="checkbox"/> Excess Liab (2nd) Layer		1ER 2861558 8E-A7-XL-0002079-00	10/3/2021 10/3/2021	10/3/2022 10/3/2022	Each Claim/Aggregate 10,000,000 Each Occ/Aggregate 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The City of Redondo Beach its officers, elected and appointed officials, employees and volunteers are additional insured as respects the General Liability and Auto Liability as required by written contract. Umbrella Liability follows form over General Liability, Auto Liability, and Employers Liability as per written contract. 30 days notice of cancellation applies.

## CERTIFICATE HOLDER

City of Redondo Beach  
415 Diamond Street  
P.O. Box 270  
Redondo Beach CA 90277

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

### **BUSINESS AUTO COVERAGE FORM**

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

#### **1. BROAD FORM INSURED**

##### **A. Subsidiaries and Newly Acquired or Formed Organizations**

The Named Insured shown in the Declarations is amended to include:

- (1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
  - (a) That is a partnership or joint venture,
  - (b) That is an "insured" under any other policy,
  - (c) That has exhausted its Limit of Insurance under any other policy, or
  - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

##### **B. Employees as Insureds**

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

- d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

##### **C. Lessors as Insureds**

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
  - (1) The agreement requires you to provide direct primary insurance for the lessor and
  - (2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

##### **D. Additional Insured if Required by Contract**

(1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

- (1) During the policy period, and
- (2) Subsequent to the execution of such written contract, and
- (3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

**(2) How Limits Apply**

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

**(3) Additional Insureds Other Insurance**

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

**(4) Duties in The Event Of Accident, Claim, Suit or Loss**

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

**E. Primary and Non-Contributory if Required by Contract**

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

**(3) Primary Insurance When Required By Contract**

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

**(4) Primary And Non-Contributory To Other Insurance When Required By Contract**

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (3) and (4) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

**2. AUTOS RENTED BY EMPLOYEES**

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

### **3. AMENDED FELLOW EMPLOYEE EXCLUSION**

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

### **4. HIRED AUTO PHYSICAL DAMAGE COVERAGE**

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

- (1) \$100,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

### **5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE**

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day and a maximum limit of \$1,000.

### **6. LOAN/LEASE GAP COVERAGE**

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

### **7. AIRBAG COVERAGE**

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

### **8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE**

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto";
- (2) Removable from a housing unit which is permanently installed in or upon the covered "auto";
- (3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or



- (4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III – Version CA 00 01 03 10 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 and Version CA 00 01 10 01 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C are each amended to add the following:

\$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- (2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
- (3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or \$250, whichever deductible is less.

#### **9. EXTRA EXPENSE - BROADENED COVERAGE**

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

#### **10. GLASS REPAIR - WAIVER OF DEDUCTIBLE**

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

#### **11. TWO OR MORE DEDUCTIBLES**

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

- (1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;
- (2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

#### **12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS**

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

#### **13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

#### **14. HIRED AUTO - COVERAGE TERRITORY**

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

- e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

#### **15. WAIVER OF SUBROGATION**

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

#### **16. RESULTANT MENTAL ANGUISH COVERAGE**

The definition of "bodily injury" in SECTION V-DEFINITIONS is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

#### **17. EXTENDED CANCELLATION CONDITION**

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

#### **18. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE**

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

- a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of \$2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,
- b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

- c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is \$10,000.

For the purposes of the coverage provision,

- a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.
- b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

#### **19. VEHICLE WRAP COVERAGE**

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.



# COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V - Definitions.

## SECTION I - COVERAGES

### COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
  - (2) The "bodily injury" or "property damage" occurs during the policy period; and
  - (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
    - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
    - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
    - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
  - d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".
  - e. **Incidental Medical Malpractice And Good Samaritan Coverage**  
 "Bodily injury" arising out of the rendering of or failure to render the following health care services by any "employee" or "volunteer worker" shall be deemed to be caused by an "occurrence" for:

- (1) Professional health care services such as:
  - (a) Medical, surgical, dental, laboratory, x-ray or nursing services or treatment, advice or instruction, or the related furnishing of food or beverages;
  - (b) Any health or therapeutic service, treatment, advice or instruction; or
  - (c) The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances; or
- (2) First aid services, which include:
  - (a) Cardiopulmonary resuscitation, whether performed manually or with a defibrillator; or
  - (b) Services performed as a Good Samaritan.

For the purpose of determining the limits of insurance, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

However, this Incidentai Medical Malpractice And Good Samaritan Coverage provision applies only if you are not engaged in the business or occupation of providing any of the services described in this provision.

## 2. Exclusions

This insurance does not apply to:

### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

- (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:

- (a) Employment by the insured; or
- (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

#### **f. Pollution**

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or
- (ii) Any person or organization for whom you may be legally responsible;

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the

operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

**(2) Any loss, cost or expense arising out of any:**

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or**
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".**

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

**g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;**
- (2) A watercraft you do not own that is:**
  - (a) Less than 51 feet long; and**
  - (b) Not being used to carry persons for a charge;**
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;**

**(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;**

**(5) "Bodily injury" or "property damage" arising out of:**

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or**
- (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or**

**(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.**

**h. Mobile Equipment**

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or**
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.**

**i. War**

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;**
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or**
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.**

**j. Damage To Property**

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement,**



enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" arising from the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at the job site.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**k. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**l. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**n. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

**p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**q. Employment-Related Practices**

"Bodily injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**r. Asbestos**

- (1) "Bodily injury" or "property damage" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
  - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
  - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
  - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating,

detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**s. Recording And Distribution Of Material Or Information In Violation Of Law**

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

**Damage To Premises Rented To You - Exception For Damage By Fire, Lightning Or Explosion**

Exclusions c. through h. and j. through n. do not apply to damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

**COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**

**1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or



settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A** and **B**.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

## **2. Exclusions**

This insurance does not apply to:

### **a. Knowing Violation Of Rights Of Another**

"Personal and advertising injury" arising out of an offense committed by, at the direction or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

### **b. Material Published With Knowledge Of Falsity**

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

### **c. Material Published Prior To Policy Period**

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material whose first publication took place before the beginning of the policy period.

### **d. Criminal Acts**

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

### **e. Contractual Liability**

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

### **f. Breach Of Contract**

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement".

### **g. Quality Or Performance Of Goods - Failure To Conform To Statements**

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

### **h. Wrong Description Of Prices**

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services.

### **i. Infringement Of Intellectual Property Rights**

(1) "Personal and advertising injury" arising out of any actual or alleged infringement or violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, trade dress, service mark or other designation of origin or authenticity; or

(2) Any injury or damage alleged in any claim or "suit" that also alleges an infringement or violation of any intellectual property right, whether such allegation of infringement or violation is made by you or by any other party involved in the claim or "suit", regardless of whether this insurance would otherwise apply.

However, this exclusion does not apply if the only allegation in the claim or "suit" involving any intellectual property right is limited to:

(1) Infringement, in your "advertisement", of:

(a) Copyright;

(b) Slogan; or

(c) Title of any literary or artistic work; or

(2) Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement".

### **j. Insureds In Media And Internet Type Businesses**

"Personal and advertising injury" committed by an insured whose business is:

(1) Advertising, broadcasting, publishing or telecasting;

(2) Designing or determining content of web sites for others; or

(3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** of the definition of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

### **k. Electronic Chatrooms Or Bulletin Boards**

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the

insured hosts, owns, or over which the insured exercises control.

**l. Unauthorized Use Of Another's Name Or Product**

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

**m. Pollution**

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

**n. Pollution-Related**

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**o. War**

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**p. Internet Advertisements And Content Of Others**

"Personal and advertising injury" arising out of:

- (1) An "advertisement" for others on your web site;
- (2) Placing a link to a web site of others on your web site;
- (3) Content, including information, sounds, text, graphics, or images from a web site of others displayed within a frame or border on your web site; or

(4) Computer code, software or programming used to enable:

- (a) Your web site; or
- (b) The presentation or functionality of an "advertisement" or other content on your web site.

**q. Right Of Privacy Created By Statute**

"Personal and advertising injury" arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act.

**r. Violation Of Anti-Trust law**

"Personal and advertising injury" arising out of a violation of any anti-trust law.

**s. Securities**

"Personal and advertising injury" arising out of the fluctuation in price or value of any stocks, bonds or other securities.

**t. Recording And Distribution Of Material Or Information In Violation Of Law**

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

**u. Employment-Related Practices**

"Personal and advertising injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**v. Asbestos**

- (1) "Personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
  - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
  - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
  - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**w. Access Or Disclosure Of Confidential Or Personal Information**

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

**COVERAGE C MEDICAL PAYMENTS**

**1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations;
- provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within three years of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

**2. Exclusions**

We will not pay expenses for "bodily injury":

**a. Any Insured**

To any insured, except "volunteer workers".

**b. Hired Person**

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

**c. Injury On Normally Occupied Premises**

To a person injured on that part of premises you own or rent that the person normally occupies.

**d. Workers Compensation And Similar Laws**

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

**e. Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

**f. Products-Completed Operations Hazard**

Included within the "products-completed operations hazard".

**g. Coverage A Exclusions**

Excluded under Coverage A.

**SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, such costs do not include attorneys' fees, attorneys' expenses, witness or expert fees, or any other expenses of a party taxed to the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

f. The indemnitee:

(1) Agrees in writing to:

(a) Cooperate with us in the investigation, settlement or defense of the "suit";

(b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(c) Notify any other insurer whose coverage is available to the indemnitee; and

(d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

(a) Obtain records and other information related to the "suit"; and

(b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or

b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II - WHO IS AN INSURED

### 1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

### 2. Each of the following is also an insured:

#### a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

#### (1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or that

"volunteer worker" as a consequence of Paragraph (1)(a) above;

#### (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (1)(b) above; or

#### (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services:

#### (a) Subparagraphs (1)(a), (1)(b) and (1)(c) above do not apply to any "employee" or "volunteer worker" providing first aid services; and

#### (b) Subparagraph (1)(d) above does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

### (2) "Property damage" to property:

#### (a) Owned, occupied or used by,

#### (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

#### b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

#### c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

#### d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

#### e. Unnamed Subsidiary

Any subsidiary, and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of the Coverage Part.

The insurance afforded herein for any subsidiary not named in this Coverage Part as a named insured does not apply to injury or damage with respect to which such insured is also a named insured under another policy or would be a named insured under such policy but for its termination or the exhaustion of its limits of insurance.

### **3. Newly Acquired Or Formed Organization**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

### **4. Nonowned Watercraft**

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

### **5. Additional Insureds When Required By Written Contract, Written Agreement Or Permit**

The following person(s) or organization(s) are an additional insured when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement.

A person or organization is an additional insured under this provision only for that period of time required by the contract or agreement.

However, no such person or organization is an insured under this provision if such person or organization is included as an insured by an endorsement issued by us and made a part of this Coverage Part.

#### **a. Vendors**

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or



(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Sub-paragraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

**b. Lessors Of Equipment**

(1) Any person(s) or organization(s) from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

(2) With respect to the insurance afforded to these additional insureds this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

**c. Lessors Of Land Or Premises**

Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

With respect to the insurance afforded these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to lease that land; or
2. Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**d. Architects, Engineers Or Surveyors**

Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or

omissions of those acting on your behalf:

(1) In connection with your premises; or

(2) In the performance of your ongoing operations performed by you or on your behalf.

With respect to the insurance afforded these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

**e. Permits Issued By State Or Political Subdivisions**

Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

With respect to the insurance afforded these additional insureds, this insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

**f. Any Other Party**

Any other person or organization who is not an additional insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations;

- (2) In connection with your premises owned by or rented to you; or
- (3) In connection with "your work" and included within the "products-completed operations hazard", but only if
  - (a) The written contract or agreement requires you to provide such coverage to such additional insured; and
  - (b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

The limits of insurance that apply to additional insureds is described in Section III - Limits Of Insurance.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in Section IV - Commercial General Liability Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### SECTION III - LIMITS OF INSURANCE

#### 1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

#### 2. General Aggregate Limit

The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

#### 3. Products-Completed Operations Aggregate Limit

The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

#### 4. Personal And Advertising Injury Limit

Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

#### 5. Each Occurrence Limit

Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".

#### 6. Damage To Premises Rented To You Limit

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.



In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

#### **7. Medical Expense Limit**

Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

#### **8. How Limits Apply To Additional Insureds**

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- a. The limits of insurance specified in the written contract or written agreement; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**

#### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

#### **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**

##### **a. Notice Of Occurrence Or Offense**

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

##### **b. Notice Of Claim**

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

##### **c. Assistance And Cooperation Of The Insured**

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

##### **d. Obligations At The Insureds Own Cost**

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

##### **e. Additional Insureds Other Insurance**

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

##### **f. Knowledge Of An Occurrence, Offense, Claim Or Suit**

Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or the additional insured is a partnership;

- (3) Any manager, if you or the additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or the additional insured is a corporation;
- (5) Any trustee, if you or the additional insured is a trust; or
- (6) Any elected or appointed official, if you or the additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

### **3. Legal Action Against Us**

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### **4. Other Insurance**

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

#### **a. Primary Insurance**

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### **b. Excess Insurance**

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

##### **(1) Your Work**

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

##### **(2) Premises Rented To You**

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

### **(3) Tenant Liability**

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

### **(4) Aircraft, Auto Or Watercraft**

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

### **(5) Property Damage To Borrowed Equipment Or Use Of Elevators**

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion j. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

### **(6) When You Are Added As An Additional Insured To Other Insurance**

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

### **(7) When You Add Others As An Additional Insured To This Insurance**

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

#### **(a) Primary Insurance When Required By Contract**

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### **(b) Primary And Non-Contributory To Other Insurance When Required By Contract**

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**5. Premium Audit**

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium

computation, and send us copies at such times as we may request.

**6. Representations**

**a. When You Accept This Policy**

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

**b. Unintentional Failure To Disclose Hazards**

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

**7. Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

**8. Transfer Of Rights Of Recovery Against Others To Us**

**a. Transfer Of Rights Of Recovery**

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

**b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)**

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

**9. When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the

nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

## SECTION V - DEFINITIONS

1. **"Advertisement"** means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper; or
- b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

- a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or
  - b. An interactive conversation between or among persons through a computer network.
2. **"Advertising idea"** means any idea for an "advertisement".
3. **"Asbestos hazard"** means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.
4. **"Auto"** means:
- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
  - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

5. **"Bodily injury"** means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. **"Coverage territory"** means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or

- c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in a. above;
- (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory or in a settlement we agree to.

7. **"Employee"** includes a "leased worker". "Employee" does not include a "temporary worker".

8. **"Employment-Related Practices"** means:

- a. Refusal to employ that person;
- b. Termination of that person's employment; or
- c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person.

9. **"Executive officer"** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. **"Hostile fire"** means one which becomes uncontrollable or breaks out from where it was intended to be.

11. **"Impaired property"** means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement.

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work", or your fulfilling the terms of the contract or agreement.

12. **"Insured contract"** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage to

Premises Rented To You Limit described in Section III - Limits of Insurance;

- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

**13. "Leased worker"** means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

**14. "Loading or unloading"** means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

**15. "Mobile equipment"** means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
  - (1) Power cranes, shovels, loaders, diggers or drills; or
  - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
  - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
  - (a) Snow removal;
  - (b) Road maintenance, but not construction or resurfacing; or
  - (c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

**16. "Occurrence"** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

**17. "Personal and advertising injury"** means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or organization occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral, written or electronic publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written or electronic publication, in any manner, of material that violates a person's right of privacy;
- f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement"; or
- g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement".

**18. "Pollutants"** mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**19. "Products-completed operations hazard":**

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
  - (1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

- (a) When all of the work called for in your contract has been completed.
- (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

**20. "Property damage"** means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

As used in this definition, computerized or electronically stored data, programs or software are not tangible property. Electronic data means information, facts or programs:

- a. Stored as or on;
- b. Created or used on; or
- c. Transmitted to or from;

computer software, including systems and applications software, hard or floppy disks, CD-



ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**21. "Suit"** means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

**22. "Temporary worker"** means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

**23. "Volunteer worker"** means a person who

- a. Is not your "employee";
- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

**24. "Your product":**

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
  - (a) You;
  - (b) Others trading under your name; or
  - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

**25. "Your work":**

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
- (2) The providing of or failure to provide warnings or instructions.

**AGREEMENT FOR CONSULTING SERVICES  
BETWEEN THE CITY OF REDONDO BEACH  
AND INTERWEST CONSULTING GROUP INC.**

THIS AGREEMENT FOR CONSULTING SERVICES (this "Agreement") is made between the City of Redondo Beach, a Chartered Municipal Corporation ("City") and Interwest Consulting Group Inc., a Colorado corporation ("Consultant" or "Contractor").

The parties hereby agree as follows:

1. Description of Project or Scope of Services. The project description or scope of services to be provided by Consultant, and any corresponding responsibilities of City, or services required to be performed by City are set forth in Exhibit "A."
2. Term and Time of Completion. Consultant shall commence and complete the project or services described in Exhibit "A" in accordance with the schedule set forth in Exhibit "B".
3. Compensation. City agrees to pay Consultant for work performed in accordance with Exhibit "C".

\* \* \* \* \*

**GENERAL PROVISIONS**

1. Independent Contractor. Consultant acknowledges, represents and warrants that Consultant is not a regular or temporary employee, officer, agent, joint venturer or partner of the City, but rather an independent contractor. This Agreement shall not be construed as a contract of employment. Consultant shall have no rights to any benefits which accrue to City employees unless otherwise expressly provided in this Agreement. Due to the independent contractor relationship created by this Agreement, the City shall not withhold state or federal income taxes, the reporting of which shall be Consultant's sole responsibility.
2. Brokers. Consultant acknowledges, represents and warrants that Consultant has not hired, retained or agreed to pay any entity or person any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
3. City Property. All plans, drawings, reports, calculations, data, specifications, videos, graphics or other materials prepared for or obtained pursuant to this Agreement shall upon request be delivered to the City within a reasonable time, and the rights thereto shall be deemed assigned to the City. If applicable, Consultant shall prepare check prints upon request. Said plans, drawings, reports, calculations, data, specifications, videos, graphics or other materials, shall be specific for the project herein and shall not be used by the City for any other project without Consultant's consent. Notwithstanding the foregoing, Consultant shall not be obligated to assign any proprietary software or data developed by or at the direction of Consultant for



Consultant's own use; provided, however, that Consultant shall, pursuant to Paragraph 14 below, indemnify, defend and hold the City harmless from and against any discovery or Public Records Act request seeking the disclosure of any such proprietary software or data.

4. Inspection. If the services set forth in Exhibit "A" shall be performed on City or other public property, the City shall have the right to inspect such work without notice. If such services shall not be performed on City or other public property, the City shall have the right to inspect such work upon reasonable notice. Inspections by the City shall not relieve or minimize the responsibility of Consultant to conduct any inspections Consultant has agreed to perform pursuant to the terms of this Agreement. Consultant shall be solely liable for said inspections performed by Consultant. Consultant shall certify in writing to the City as to the completeness and accuracy of each inspection required to be conducted by Consultant hereunder.
5. Services. The project or services set forth in Exhibit "A" shall be performed to the full satisfaction and approval of the City. In the event that the project or services set forth in Exhibit "A" are itemized by price in Exhibit "C", the City in its sole discretion may, upon notice to Consultant, delete certain items or services set forth in Exhibit "A", in which case there shall be a corresponding reduction in the amount of compensation paid to Consultant. City shall furnish Consultant to the extent available, with any City standards, details, specifications and regulations applicable to the Project and necessary for the performance of Consultant's services hereunder. Notwithstanding the foregoing, any and all additional data necessary for design shall be the responsibility of Consultant.
6. Records. Consultant, including any of its subcontractors shall maintain full and complete documents and records, including accounting records, employee time sheets, work papers, and correspondence pertaining to the project or services set forth in Exhibit "A". Consultant, including any of its subcontractors shall make such documents and records available for City review or audit upon request and reasonable notice, and shall keep such documents and records, for at least four (4) years after Consultant's completion of performance of this Agreement. Copies of all pertinent reports and correspondence shall be furnished to the City for its files.
7. Changes and Extra Work. All changes and/or extra work under this Agreement shall be provided for by a subsequent written amendment executed by City and Consultant.
8. Additional Assistance. If this Agreement requires Consultant to prepare plans and specifications, Consultant shall provide assistance as necessary to resolve any questions regarding such plans and specifications that may arise during the period of advertising for bids, and Consultant shall issue any necessary addenda to the plans and specifications as requested. In the event Consultant is of the opinion that City's requests for addenda and assistance is outside the scope of normal services, the parties shall proceed in accordance with the changes and extra work provisions of this Agreement.

9. Professional Ability. Consultant acknowledges, represents and warrants that Consultant is skilled and able to competently provide the services hereunder, and possesses all professional licenses, certifications, and approvals necessary to engage in its occupation. City has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant shall perform in accordance with generally accepted professional practices and standards of Consultant's profession.
10. Business License. Consultant shall obtain a Redondo Beach Business License before performing any services required under this Agreement. The failure to so obtain such license shall be a material breach of this Agreement and grounds for immediate termination by City; provided, however, that City may waive the business license requirement in writing under unusual circumstances without necessitating any modification of this Agreement to reflect such waiver.
11. Termination Without Default. Notwithstanding any provision herein to the contrary, the City may, in its sole and absolute discretion and without cause, terminate this Agreement at any time prior to completion by Consultant of the project or services hereunder, immediately upon written notice to Consultant. In the event of any such termination, Consultant shall be compensated for: (1) all authorized work satisfactorily performed prior to the effective date of termination; and (2) necessary materials or services of others ordered by Consultant for this Agreement, prior to Consultant's receipt of notice of termination, irrespective of whether such materials or services of others have actually been delivered, and further provided that Consultant is not able to cancel such orders. Compensation for Consultant in such event shall be determined by the City in accordance with the percentage of the project or services completed by Consultant; and all of Consultant's finished or unfinished work product through the time of the City's last payment shall be transferred and assigned to the City. In conjunction with any termination of this Agreement, the City may, at its own expense, make copies or extract information from any notes, sketches, computations, drawings, and specifications or other data, whether complete or not.
12. Termination in the Event of Default. Should Consultant fail to perform any of its obligations hereunder, within the time and in the manner provided or otherwise violate any of the terms of this Agreement, the City may immediately terminate this Agreement by giving written notice of such termination, stating the reasons for such termination. Consultant shall be compensated as provided immediately above, provided, however, there shall be deducted from such amount the amount of damages if any, sustained by the City by virtue of Consultant's breach of this Agreement.
13. Conflict of Interest. Consultant acknowledges, represents and warrants that Consultant shall avoid all conflicts of interest (as defined under any federal, state or local statute, rule or regulation, or at common law) with respect to this Agreement. Consultant further acknowledges, represents and warrants that Consultant has no business relationship or arrangement of any kind with any City official or employee with respect to this Agreement. Consultant acknowledges that in the event that Consultant shall be found by any judicial or administrative body to have any conflict

of interest (as defined above) with respect to this Agreement, all consideration received under this Agreement shall be forfeited and returned to City forthwith. This provision shall survive the termination of this Agreement for one (1) year.

14. Indemnity. To the maximum extent permitted by law, Consultant hereby agrees, at its sole cost and expense, to defend protect, indemnify, and hold harmless the City, its elected and appointed officials, officers, employees, volunteers, attorneys, and agents (collectively "Indemnitees") from and against any and all claims, including, without limitation, claims for bodily injury, death or damage to property, demands, charges, obligations, damages, causes of action, proceedings, suits, losses, stop payment notices, judgments, fines, liens, penalties, liabilities, costs and expenses of every kind and nature whatsoever, in any manner arising out of, incident to, related to, in connection with or arising from any act, failure to act, error or omission of Consultant's performance or work hereunder (including any of its officers, agents, employees, Subcontractors) or its failure to comply with any of its obligations contained in the Agreement, or its failure to comply with any current or prospective law, except for such loss or damage which was caused by the sole negligence or willful misconduct of the City. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant or Indemnitees. This indemnification obligation shall survive this Agreement and shall not be limited by any term of any insurance policy required under this Agreement.
  - a. Nonwaiver of Rights. Indemnitees do not and shall not waive any rights that they may possess against Consultant because the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement.
  - b. Waiver of Right of Subrogation. Consultant, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees.
15. Insurance. Consultant shall comply with the requirements set forth in Exhibit "D." Insurance requirements that are waived by the City's Risk Manager do not require amendments or revisions to this Agreement.
16. Non-Liability of Officials and Employees of the City. No official or employee of the City shall be personally liable for any default or liability under this Agreement.
17. Compliance with Laws. Consultant shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, with respect to this Agreement, including without limitation all environmental laws, employment laws, and non-discrimination laws.
18. Limitations upon Subcontracting and Assignment. Consultant acknowledges that the services which Consultant shall provide under this Agreement are unique, personal services which, except as otherwise provided herein, Consultant shall not assign or sublet to any other party without the prior written approval of City, which approval may be withheld in the City's sole and absolute discretion. In the event that the City, in

writing, approves any assignment or subletting of this Agreement or the retention of subcontractors by Consultant, Consultant shall provide to the City upon request copies of each and every subcontract prior to the execution thereof by Consultant and subcontractor. Any attempt by Consultant to assign any or all of its rights under this Agreement without first obtaining the City's prior written consent shall constitute a material default under this Agreement.

The sale, assignment, transfer or other disposition, on a cumulative basis, of twenty-five percent (25%) or more of the ownership interest in Consultant or twenty-five percent (25%) or more the voting control of Consultant (whether Consultant is a corporation, limited liability company, partnership, joint venture or otherwise) shall constitute an assignment for purposes of this Agreement. Further, the involvement of Consultant or its assets in any transaction or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Agreement or Consultant's assets occurs, which reduces Consultant's assets or net worth by twenty-five percent (25%) or more shall also constitute an assignment for purposes of this Agreement.

19. Subcontractors. Consultant shall provide properly skilled professional and technical personnel to perform any approved subcontracting duties. Consultant shall not engage the services of any person or persons now employed by the City without the prior written approval of City, which approval may be withheld in the City's sole and absolute discretion.
20. Integration. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes any previous oral or written agreement; provided, however, that correspondence or documents exchanged between Consultant and City may be used to assist in the interpretation of the exhibits to this Agreement.
21. Amendment. This Agreement may be amended or modified only by a subsequent written amendment executed by both parties.
22. Conflicting Provisions. In the event of a conflict between the terms and conditions of this Agreement and those of any exhibit or attachment hereto, this Agreement proper shall prevail. In the event of a conflict between the terms and conditions of any two or more exhibits or attachments hereto, those prepared by the City shall prevail over those prepared by Consultant.
23. Non-Exclusivity. Notwithstanding any provision herein to the contrary, the services provided by Consultant hereunder shall be non-exclusive, and City reserves the right to employ other contractors in connection with the project.
24. Exhibits. All exhibits hereto are made a part hereof and incorporated herein by reference; provided, however, that any language in Exhibit "A" which does not pertain to the project description, proposal, or scope of services (as applicable) to be provided by Consultant, or any corresponding responsibilities of City, shall be deemed extraneous to, and not a part of, this Agreement.



25. Time of Essence. Time is of the essence of this Agreement.
26. Confidentiality. To the extent permissible under law, Consultant shall keep confidential its obligations hereunder and the information acquired during the performance of the project or services hereunder.
27. Third Parties. Nothing herein shall be interpreted as creating any rights or benefits in any third parties. For purposes hereof, transferees or assignees as permitted under this Agreement shall not be considered "third parties."
28. Governing Law and Venue. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Venue for any litigation or other action arising hereunder shall reside exclusively in the Superior Court of the County of Los Angeles, Southwest Judicial District.
29. Attorneys' Fees. In the event either party to this Agreement brings any action to enforce or interpret this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees (including expert witness fees) and costs. This provision shall survive the termination of this Agreement.
30. Claims. Any claim by Consultant against City hereunder shall be subject to Government Code §§ 800 *et seq.* The claims presentation provisions of said Act are hereby modified such that the presentation of all claims hereunder to the City shall be waived if not made within six (6) months after accrual of the cause of action.
31. Interpretation. Consultant acknowledges that it has had ample opportunity to seek legal advice with respect to the negotiation of this Agreement. This Agreement shall be interpreted as if drafted by both parties.
32. Warranty. In the event that any product shall be provided to the City as part of this Agreement, Consultant warrants as follows: Consultant possesses good title to the product and the right to transfer the product to City; the product shall be delivered to the City free from any security interest or other lien; the product meets all specifications contained herein; the product shall be free from material defects in materials and workmanship under normal use for a period of one (1) year from the date of delivery; and the product shall be fit for its intended purpose(s). Notwithstanding the foregoing, consumable and maintenance items (such as light bulbs and batteries) shall be warranted for a period of thirty (30) days from the date of delivery. All repairs during the warranty period shall be promptly performed by Consultant, at Consultant's expense, including shipping. Consultant shall not be liable under this warranty for an amount greater than the amount set forth in Exhibit "C" hereto.
33. Severance. Any provision of this Agreement that is found invalid or unenforceable shall be deemed severed, and all remaining provisions of this Agreement shall remain enforceable to the fullest extent permitted by law.
34. Authority. City warrants and represents that upon City Council approval, the Mayor of the City of Redondo Beach is duly authorized to enter into and execute this


Agreement on behalf of City. The party signing on behalf of Consultant warrants and represents that he or she is duly authorized to enter into and execute this Agreement on behalf of Consultant, and shall be personally liable to City if he or she is not duly authorized to enter into and execute this Agreement on behalf of Consultant.

35. Waiver. The waiver by the City of any breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

*SIGNATURES FOLLOW ON NEXT PAGE*

IN WITNESS WHEREOF, the parties have executed this Agreement in Redondo Beach, California, as of this 9<sup>th</sup> day of February, 2021.

CITY OF REDONDO BEACH,  
a chartered municipal corporation

DocuSigned by:  
  
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\_\_\_\_\_  
William C. Brand, Mayor

INTERWEST CONSULTING GROUP INC.,  
a Colorado corporation

DocuSigned by:  
  
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By: \_\_\_\_\_  
Name: Terry Rodriguez  
Title: President

ATTEST:

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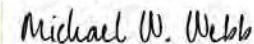
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Eleanor Manzano, City Clerk

APPROVED:

DocuSigned by:  
  
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Diane Strickfaden, Risk Manager

APPROVED AS TO FORM:

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Michael W. Webb, City Attorney

## EXHIBIT "A"

### SCOPE OF WORK

#### I. CONSULTANT'S DUTIES

Consultant shall provide the following plan check and building inspection services for building improvements on an as-needed basis.

A. Plan Review: Upon City's request, attend meetings via electronic video conferencing, at City Hall, or at a job site to resolve plan check matters or questions. Review submitted plans or subsequent corrections by telephone, video conferencing, or email with the project's applicant, engineer/architect, and City staff. The mode of communication will be at City's discretion. Ensure the review is performed by a California registered/licensed professional who is within his/her respective field of competency. Ensure all plan check services are performed by a California licensed professional authorized to prepare and sign such plans.

1. Provide thorough and efficient plan review services for commercial, industrial, and complex residential projects as set forth below.
  - a. Review and recheck architectural, structural, grading, mechanical, plumbing, electrical, fire and life safety, accessibility, Calgreen, energy plans, calculations, reports, and specifications for compliance as described herein.
  - b. Recheck plans after the applicant has made corrections.
  - c. Review and recheck field changes and deferred submittals.
  - d. Review and recheck of any additional work on the project.
2. Ensure plan review complies with all laws, regulations, codes, ordinances, policies, and rules. Provide specific, detailed, complete plan review letter comments, and reference plan sheet numbers and code sections where applicable. Provide two copies (one hard copy and one electronic) of the plan check correction list to the City for each project reviewed.
3. Consider geo-technical reports, testing lab reports and any other in the plan review process.
4. Perform accelerated plan review.
5. Attend pre-submittal and design discussion meetings with the permit applicant as requested by the City.
6. Return telephone calls on the same day. Ensure a live person answers the City's telephone calls. Provide cell phone number to the City to ensure City shall be able to contact Consultant from 7:30 A.M. and 5:30 P.M.,



Monday through Friday (except holidays).

7. Provide plans pick up and drop off at the City at no charge to the City. Upon receipt of notification from the City, pick up the plans within 24 hours.
8. Review structural plans and ensure the review is performed by at least a registered Structural Engineer.
9. Ensure accessible plans are reviewed by at least a Certified Access Specialist (CASP).
10. Recommend which records the City must provide to the Consultant as described in Section II of this Exhibit "A". The research of and the familiarity with the records shall be Consultant's responsibility.
11. Comply with the schedule set forth below. The turnaround time shall be measured from the date Consultant receives the plan to the date the City receives the plan with Consultant's complete comments.

<b>Structural and Architectural (Includes Disabled Access, Calgreen, and Energy)</b>	
Regular plan check	15 working days
Accelerated plan check over \$1,000,00 in valuation	10 working days
Accelerated plan check under \$1,000,000 in valuation	5 working days
<b>Grading</b>	
Regular plan check	10 working days
Accelerated plan check	5 working days
<b>Plumbing, Mechanical, and Electrical</b>	
Regular plan check	8 working days
Accelerated plan check	4 working days

- B. Inspections: Upon City's request, provide International Code Council ("ICC") or Other Certified and experienced inspectors to conduct inspections of all phases of construction to ensure compliance with approved plans, laws, regulations, codes, ordinances, policies, and rules, including but not limited to, those relating to structural integrity, fire and life safety, electrical, plumbing, heating and air conditioning, energy conservation, handicap access, grading and site work. Contract inspection services includes enforcement of conditions and plan's requirements as approved by the City for which the permit was issued. At the request of the City, perform building inspections after hours. Ensure building inspectors perform after-hours stand-by emergency response in the event of any emergency, including but not limited to fires and accidents.

II. **CITY'S DUTIES**

City shall provide the consultant with access to copies of all adopted Building Code Amendments, available data, information, reports, records and maps available in the City's files related work described herein.

## **EXHIBIT "B"**

### **SCHEDULE FOR COMPLETION**

**TERM.** The term of this Agreement shall commence February 9, 2021 and expire February 8, 2024 ("Term"), unless otherwise terminated as herein provided.

## EXHIBIT "C"

### COMPENSATION

Provided Consultant is not in default under this Agreement, Consultant shall be compensated as provided below.

- I. **AMOUNT.** Consultant shall be paid in accordance with the following hourly rate schedule.

HOURLY RATE		COMMENTS
Building Plan Review / Plans Examiner	\$95	Building Plan review may involve a licensed engineer. See our fee schedule below.
MEP Plan Review / Plans Examiner	\$95	MEP Plan review may involve a licensed engineer. See our fee schedule below.
Grading	\$120	Grading may involve a licensed engineer. See our fee schedule below.
Soils Reports Review	Please refer to rates from Kling Consulting Group (subconsultant for geotechnical and soil report reviews) on the following page.	
OTHERS:		
Principal in Charge	\$160	
Project Manager	\$150	
Plan Review Project Manager	\$140	
Certified Building Official	\$150	
Senior Structural Engineer	\$140	
Licensed Plan Review Engineer	\$125	
Senior Plan Review Architect	\$125	
ICC Certified Plans Examiner	\$95	
Senior Plans Examiner	\$105	
CASp	\$105	
Permit Technician	\$62	
Inspector I-III	\$75-95	

ONSITE STAFFING CAPABILITY & RATE/HR		COMMENTS
Building Inspectors	\$75-95	Inspector I-III
Plan Reviewer	\$110	
MEP Plan Reviewer	\$140	
Permit Technician	\$62	
Certified Building Official	\$150	
<b>OTHERS:</b>		
Licensed Plan Review Engineer	\$140	



ICC Certified Plans Examiner	\$110	
Senior Plans Examiner	\$120	
CASp	\$110	
Code Enforcement Officer	\$95	
Grading Inspector	\$95	\$140 for licensed grading engineer
ICC Fire Plans Examiner	\$100	
ICC Fire Inspector	\$100	

**Mileage:** Vehicle mileage while performing city services will be charged utilizing the current IRS Vehicle mileage rate.

**Expedited Plan Reviews:** Expedited plan reviews can be provided upon request. Fees for expedited plan review services will be an additional **40%** of the above noted hourly rates. No overtime fees will be added for plan review services.

**Inspection Services:** Inspection services will be a minimum of 4 hours per day. Overtime fees will be assessed at **40%** of the above hourly rates for inspection exceeding 8 hours or for afterhours emergency inspection.

\* Pre-submittal and design discussion meetings with the permit applicant as requested by the City shall be compensated at the rate of one (1) hour of straight-time compensation and does not include travel time.

II. **NOT TO EXCEED AMOUNT.** In no event shall the total amount paid to Consultant exceed \$15,000 during the term of this Agreement.

III. **METHOD OF PAYMENT.** Consultant shall provide monthly invoices to City for approval and payment for those services performed in the month prior to invoice submission. Invoices must include the following information.

- A. Description of the work performed.
- B. Applicable hourly rate.
- C. Additional rate and City's prior written approval if applicable.
- D. Number of hours worked.

Invoice must be itemized, adequately detailed, based on accurate records, in a form reasonably satisfactory to City. If no work is performed in a given month, no invoice is required. Consultant may be required to provide back-up material upon request.

IV. **SCHEDULE FOR PAYMENT.** City agrees to pay Consultant within thirty days of City's receipt of Consultant's monthly invoice; provided that services are completed to the City's reasonable satisfaction and there is no dispute over the amount.

V. **NOTICE.** Written notices to City and Consultant shall be given by registered or certified mail, postage prepaid and addressed to or personally served on the following parties.

Consultant: Interwest Consulting Group Inc.  
1 Jenner, Suite 160  
Irvine, CA 92618  
Attention: Jay Elbetta

City: City of Redondo Beach  
Community Development Department, Building Division  
415 Diamond Street  
Redondo Beach, CA 90277  
Attention: Chief Building Officer

All notices, including notices of address changes, provided under this Agreement are deemed received on the third day after mailing if sent by registered or certified mail. Changes in the respective address set forth above may be made from time to time by any party upon written notice to the other party.

## EXHIBIT "D"

### INSURANCE REQUIREMENTS FOR CONSULTANTS

Without limiting Consultant's indemnification obligations under this Agreement, Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

#### Minimum Scope of Insurance

Coverage shall be at least as broad as:

Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).

Workers' Compensation insurance as required by the State of California.

Employer's Liability Insurance.

#### Minimum Limits of Insurance

Consultant shall maintain limits no less than:

General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. The general aggregate limit shall apply separately to this project.

Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

#### Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers or (2) the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

### Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

#### Additional Insured Endorsement:

**General Liability:** The City, its officers, elected and appointed officials, employees, and volunteers shall be covered as insureds with respect to liability arising out of work performed by or on behalf of the Consultant. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance, or as a separate owner's policy.

**Automobile Liability:** The City, its officers, elected and appointed officials, employees, and volunteers shall be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Consultant.

For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, elected and appointed officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Each insurance policy shall be endorsed to state that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured.

Each insurance policy shall be in effect prior to awarding the contract and each insurance policy or a successor policy shall be in effect for the duration of the project. The maintenance of proper insurance coverage is a material element of the contract and failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract on the Consultant's part.

#### Acceptability of Insurers

Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A:VII and which are authorized to transact insurance business in the State of California by the Department of Insurance.



### Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on the City authorized forms provided with the contract specifications. Standard ISO forms which shall be subject to City approval and amended to conform to the City's requirements may be acceptable in lieu of City authorized forms. All certificates and endorsements shall be received and approved by the City before the contract is awarded. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

### Subcontractors

Consultant shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

### Risk Management

Consultant acknowledges that insurance underwriting standards and practices are subject to change, and the City reserves the right to make changes to these provisions in the reasonable discretion of its Risk Manager.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/27/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> RBN Insurance Services 303 E Wacker Dr Ste 650 Chicago IL 60601	<b>CONTACT</b> NAME: Rich Delich PHONE (A/C, No, Ext): 312-856-9400 E-MAIL: rdelich@rbninsurance.com FAX (A/C, No): 312-856-9425														
<b>INSURED</b> Interwest Consulting Group P.O. Box 18330 Boulder CO 80308	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Hartford Fire Insurance Co.</td> <td>19682</td> </tr> <tr> <td>INSURER B: Hartford Casualty Insurance Co</td> <td>29424</td> </tr> <tr> <td>INSURER C: Navigators Insurance Company</td> <td>42307</td> </tr> <tr> <td>INSURER D: Great American E&amp;S Ins. Co.</td> <td>37532</td> </tr> <tr> <td>INSURER E: Twin City Fire Insurance Co.</td> <td>29459</td> </tr> <tr> <td>INSURER F: Princeton Excess &amp; Surplus Lines Insurance Co.</td> <td>10786</td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Hartford Fire Insurance Co.	19682	INSURER B: Hartford Casualty Insurance Co	29424	INSURER C: Navigators Insurance Company	42307	INSURER D: Great American E&S Ins. Co.	37532	INSURER E: Twin City Fire Insurance Co.	29459	INSURER F: Princeton Excess & Surplus Lines Insurance Co.	10786
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**COVERAGES**
**CERTIFICATE NUMBER:** 1019443220

**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	83UENZV3951	10/3/2020	10/3/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	83UENPY9100	10/3/2020	10/3/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0	Y	CH20EXC885600IC	10/3/2020	10/3/2021	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
E	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	83WECE0623	5/12/2020	5/12/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D F	Professional Liability Excess Liab (2nd) Layer		TER 286-10-59 8E-A3-XL-0000121-00	10/3/2020 10/3/2020	10/3/2021 10/3/2021	Each Claim/Aggregate 10,000,000 Each Occ/Aggregate 5,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The City of Redondo Beach its officers, elected and appointed officials, employees and volunteers are additional insured as respects the General Liability, Auto Liability and Umbrella/Excess follows form as required by written contract. (30) day notice of cancellation given to the certificate holder.

**CERTIFICATE HOLDER**

City of Redondo Beach 415 Diamond Street P.O. Box 270 Redondo Beach CA 90277	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

#### 1. BROAD FORM INSURED

##### A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

- (1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
  - (a) That is a partnership or joint venture,
  - (b) That is an "insured" under any other policy,
  - (c) That has exhausted its Limit of Insurance under any other policy, or
  - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

##### B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

- d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

##### C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
  - (1) The agreement requires you to provide direct primary insurance for the lessor and
  - (2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

##### D. Additional Insured if Required by Contract

(1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

- (1) During the policy period, and
- (2) Subsequent to the execution of such written contract, and
- (3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

**(2) How Limits Apply**

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

**(3) Additional Insureds Other Insurance**

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

**(4) Duties in The Event Of Accident, Claim, Suit or Loss**

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

**E. Primary and Non-Contributory if Required by Contract**

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

**(3) Primary Insurance When Required By Contract**

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

**(4) Primary And Non-Contributory To Other Insurance When Required By Contract**

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (3) and (4) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

**2. AUTOS RENTED BY EMPLOYEES**

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:



If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

### **3. AMENDED FELLOW EMPLOYEE EXCLUSION**

**EXCLUSION 5. - FELLOW EMPLOYEE -** of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

### **4. HIRED AUTO PHYSICAL DAMAGE COVERAGE**

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

- (1) \$100,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property.

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

### **5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE**

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day and a maximum limit of \$1,000.

### **6. LOAN/LEASE GAP COVERAGE**

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

### **7. AIRBAG COVERAGE**

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

### **8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE**

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto";
- (2) Removable from a housing unit which is permanently installed in or upon the covered "auto";
- (3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or

- (4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III - Version CA 00 01 03 10 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 and Version CA 00 01 10 01 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C are each amended to add the following:

\$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- (2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
- (3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or \$250, whichever deductible is less.

#### **9. EXTRA EXPENSE - BROADENED COVERAGE**

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

#### **10. GLASS REPAIR - WAIVER OF DEDUCTIBLE**

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

#### **11. TWO OR MORE DEDUCTIBLES**

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

- (1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;
- (2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

#### **12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS**

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

#### **13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

#### **14. HIRED AUTO - COVERAGE TERRITORY**

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

#### **15. WAIVER OF SUBROGATION**

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

#### **16. RESULTANT MENTAL ANGUISH COVERAGE**

The definition of "bodily injury" in SECTION V-DEFINITIONS is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

#### **17. EXTENDED CANCELLATION CONDITION**

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

#### **18. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE**

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

- a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of \$2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less.
- b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss."

- c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is \$10,000.

For the purposes of the coverage provision,

- a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.
- b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

#### **19. VEHICLE WRAP COVERAGE**

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.





# COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V - Definitions.

## SECTION I - COVERAGES

### COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

#### e. Incidental Medical Malpractice And Good Samaritan Coverage

"Bodily injury" arising out of the rendering of or failure to render the following health care services by any "employee" or "volunteer worker" shall be deemed to be caused by an "occurrence" for:



(1) Professional health care services such as:

- (a) Medical, surgical, dental, laboratory, x-ray or nursing services or treatment, advice or instruction, or the related furnishing of food or beverages;
- (b) Any health or therapeutic service, treatment, advice or instruction; or
- (c) The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances; or

(2) First aid services, which include:

- (a) Cardiopulmonary resuscitation, whether performed manually or with a defibrillator; or
- (b) Services performed as a Good Samaritan.

For the purpose of determining the limits of insurance, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

However, this Incidental Medical Malpractice And Good Samaritan Coverage provision applies only if you are not engaged in the business or occupation of providing any of the services described in this provision.

## 2. Exclusions

This insurance does not apply to:

### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

- (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:

- (a) Employment by the insured; or
- (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

#### **f. Pollution**

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
  - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
    - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
    - (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
    - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
  - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
  - (i) Any insured; or
  - (ii) Any person or organization for whom you may be legally responsible;

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the

operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any;

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

#### **g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 51 feet long; and
  - (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or

(b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or

(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

#### **h. Mobile Equipment**

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

#### **i. War**

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

#### **j. Damage To Property**

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement,



enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" arising from the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at the job site.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

#### **k. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

#### **i. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

#### **m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

#### **n. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

#### **o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

#### **p. Access or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**q. Employment-Related Practices**

"Bodily injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**r. Asbestos**

- (1) "Bodily injury" or "property damage" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
  - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
  - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
  - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating,

detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**s. Recording And Distribution Of Material Or Information In Violation Of Law**

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

**Damage To Premises Rented To You - Exception For Damage By Fire, Lightning Or Explosion**

Exclusions c. through h. and j. through n. do not apply to damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

**COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**

**1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:
  - (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
  - (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or

settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A** and **B**.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

## **2. Exclusions**

This insurance does not apply to:

### **a. Knowing Violation Of Rights Of Another**

"Personal and advertising injury" arising out of an offense committed by, at the direction or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

### **b. Material Published With Knowledge Of Falsity**

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

### **c. Material Published Prior To Policy Period**

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material whose first publication took place before the beginning of the policy period.

### **d. Criminal Acts**

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

### **e. Contractual Liability**

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

### **f. Breach Of Contract**

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement".

### **g. Quality Or Performance Of Goods - Failure To Conform To Statements**

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

## **h. Wrong Description Of Prices**

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services.

## **i. Infringement Of Intellectual Property Rights**

- (1) "Personal and advertising injury" arising out of any actual or alleged infringement or violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, trade dress, service mark or other designation of origin or authenticity; or
- (2) Any injury or damage alleged in any claim or "suit" that also alleges an infringement or violation of any intellectual property right, whether such allegation of infringement or violation is made by you or by any other party involved in the claim or "suit", regardless of whether this insurance would otherwise apply.

However, this exclusion does not apply if the only allegation in the claim or "suit" involving any intellectual property right is limited to:

- (1) Infringement, in your "advertisement", of:
  - (a) Copyright;
  - (b) Slogan; or
  - (c) Title of any literary or artistic work; or
- (2) Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement".

## **j. Insureds In Media And Internet Type Businesses**

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** of the definition of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

## **k. Electronic Chatrooms Or Bulletin Boards**

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the



insured hosts, owns, or over which the insured exercises control.

**i. Unauthorized Use Of Another's Name Or Product**

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

**m. Pollution**

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

**n. Pollution-Related**

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**o. War**

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**p. Internet Advertisements And Content Of Others**

"Personal and advertising injury" arising out of:

- (1) An "advertisement" for others on your web site;
- (2) Placing a link to a web site of others on your web site;
- (3) Content, including information, sounds, text, graphics, or images from a web site of others displayed within a frame or border on your web site; or

- (4) Computer code, software or programming used to enable:

(a) Your web site; or

(b) The presentation or functionality of an "advertisement" or other content on your web site.

**q. Right Of Privacy Created By Statute**

"Personal and advertising injury" arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act.

**r. Violation Of Anti-Trust law**

"Personal and advertising injury" arising out of a violation of any anti-trust law.

**s. Securities**

"Personal and advertising injury" arising out of the fluctuation in price or value of any stocks, bonds or other securities.

**t. Recording And Distribution Of Material Or Information In Violation Of Law**

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

**u. Employment-Related Practices**

"Personal and advertising injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**v. Asbestos**

- (1) "Personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
  - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
  - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
  - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**w. Access Or Disclosure Of Confidential Or Personal Information**

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

**COVERAGE C MEDICAL PAYMENTS**

**1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
  - (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations;provided that:
  - (1) The accident takes place in the "coverage territory" and during the policy period;
  - (2) The expenses are incurred and reported to us within three years of the date of the accident; and
  - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
  - (1) First aid administered at the time of an accident;
  - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
  - (3) Necessary ambulance, hospital, professional nursing and funeral services.

**2. Exclusions**

We will not pay expenses for "bodily injury":

**a. Any Insured**

To any insured, except "volunteer workers".

**b. Hired Person**

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

**c. Injury On Normally Occupied Premises**

To a person injured on that part of premises you own or rent that the person normally occupies.

**d. Workers Compensation And Similar Laws**

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

**e. Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.



**f. Products-Completed Operations Hazard**

Included within the "products-completed operations hazard".

**g. Coverage A Exclusions**

Excluded under Coverage A.

**SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, such costs do not include attorneys' fees, attorneys' expenses, witness or expert fees, or any other expenses of a party taxed to the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay, if we make an offer to pay the applicable limit of insurance; we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

f. The indemnitee:

(1) Agrees in writing to:

(a) Cooperate with us in the investigation, settlement or defense of the "suit";

(b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(c) Notify any other insurer whose coverage is available to the indemnitee; and

(d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

(a) Obtain records and other information related to the "suit"; and

(b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or

b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II - WHO IS AN INSURED

### 1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

### 2. Each of the following is also an insured:

#### a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

- (1) "Bodily injury" or "personal and advertising injury":
  - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
  - (b) To the spouse, child, parent, brother or sister of that co-"employee" or that

"volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (1)(b) above; or

- (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services:

- (a) Subparagraphs (1)(a), (1)(b) and (1)(c) above do not apply to any "employee" or "volunteer worker" providing first aid services; and

- (b) Subparagraph (1)(d) above does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

### (2) "Property damage" to property:

- (a) Owned, occupied or used by;
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

#### b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager,

#### c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

#### d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

#### e. Unnamed Subsidiary

Any subsidiary, and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of the Coverage Part.

The insurance afforded herein for any subsidiary not named in this Coverage Part as a named insured does not apply to injury or damage with respect to which such insured is also a named insured under another policy or would be a named insured under such policy but for its termination or the exhaustion of its limits of insurance.

### 3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

### 4. Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

### 5. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The following person(s) or organization(s) are an additional insured when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement.

A person or organization is an additional insured under this provision only for that period of time required by the contract or agreement.

However, no such person or organization is an insured under this provision if such person or organization is included as an insured by an endorsement issued by us and made a part of this Coverage Part.

#### a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or



(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

#### **b. Lessors Of Equipment**

(1) Any person(s) or organization(s) from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

(2) With respect to the insurance afforded to these additional insureds this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

#### **c. Lessors Of Land Or Premises**

Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

With respect to the insurance afforded these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to lease that land; or
2. Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

#### **d. Architects, Engineers Or Surveyors**

Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or

omissions of those acting on your behalf:

(1) In connection with your premises; or

(2) In the performance of your ongoing operations performed by you or on your behalf.

With respect to the insurance afforded these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

#### **e. Permits Issued By State Or Political Subdivisions**

Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

With respect to the insurance afforded these additional insureds, this insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

#### **f. Any Other Party**

Any other person or organization who is not an additional insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations;

- (2) In connection with your premises owned by or rented to you; or
- (3) In connection with "your work" and included within the "products-completed operations hazard", but only if
  - (a) The written contract or agreement requires you to provide such coverage to such additional insured; and
  - (b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

The limits of insurance that apply to additional insureds is described in Section III - Limits Of Insurance.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in Section IV - Commercial General Liability Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### SECTION III - LIMITS OF INSURANCE

#### 1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

#### 2. General Aggregate Limit

The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

#### 3. Products-Completed Operations Aggregate Limit

The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

#### 4. Personal And Advertising Injury Limit

Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

#### 5. Each Occurrence Limit

Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".

#### 6. Damage To Premises Rented To You Limit

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

#### **7. Medical Expense Limit**

Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

#### **8. How Limits Apply To Additional Insureds**

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- a. The limits of insurance specified in the written contract or written agreement; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**

#### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

#### **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**

##### **a. Notice Of Occurrence Or Offense**

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

##### **b. Notice Of Claim**

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

##### **c. Assistance And Cooperation Of The Insured**

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

##### **d. Obligations At The Insureds Own Cost**

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

##### **e. Additional Insureds Other Insurance**

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

##### **f. Knowledge Of An Occurrence, Offense, Claim Or Suit**

Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or the additional insured is a partnership;



- (3) Any manager, if you or the additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or the additional insured is a corporation;
- (5) Any trustee, if you or the additional insured is a trust; or
- (6) Any elected or appointed official, if you or the additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

### 3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

#### a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

##### (1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

##### (2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

### (3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

### (4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

### (5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion j. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

### (6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

### (7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

#### (a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### (b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**5. Premium Audit**

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium

computation, and send us copies at such times as we may request.

**6. Representations**

**a. When You Accept This Policy**

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

**b. Unintentional Failure To Disclose Hazards**

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

**7. Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

**8. Transfer Of Rights Of Recovery Against Others To Us**

**a. Transfer Of Rights Of Recovery**

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

**b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)**

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

**9. When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the



nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

## SECTION V - DEFINITIONS

1. **"Advertisement"** means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper; or
- b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

- a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or
  - b. An interactive conversation between or among persons through a computer network.
2. **"Advertising idea"** means any idea for an "advertisement".
3. **"Asbestos hazard"** means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.
4. **"Auto"** means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

5. **"Bodily injury"** means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. **"Coverage territory"** means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or

c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in a. above;
- (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory or in a settlement we agree to.

7. **"Employee"** includes a "leased worker". "Employee" does not include a "temporary worker".

8. **"Employment-Related Practices"** means:

- a. Refusal to employ that person;
- b. Termination of that person's employment; or
- c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person.

9. **"Executive officer"** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. **"Hostile fire"** means one which becomes uncontrollable or breaks out from where it was intended to be.

11. **"Impaired property"** means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work", or your fulfilling the terms of the contract or agreement.

12. **"Insured contract"** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage to

Premises Rented To You Limit described in Section III - Limits of Insurance;

- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

**13. "Leased worker"** means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

**14. "Loading or unloading"** means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

**15. "Mobile equipment"** means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
  - (1) Power cranes, shovels, loaders, diggers or drills; or
  - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
  - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
  - (a) Snow removal;
  - (b) Road maintenance, but not construction or resurfacing; or
  - (c) Street cleaning;

- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

**16. "Occurrence"** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

**17. "Personal and advertising injury"** means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or organization occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral, written or electronic publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written or electronic publication, in any manner, of material that violates a person's right of privacy;
- f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement"; or
- g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement".

**18. "Pollutants"** mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**19. "Products-completed operations hazard":**

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
  - (1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

- (a) When all of the work called for in your contract has been completed.
- (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

**20. "Property damage" means:**

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

As used in this definition, computerized or electronically stored data, programs or software are not tangible property. Electronic data means information, facts or programs:

- a. Stored as or on;
  - b. Created or used on; or
  - c. Transmitted to or from;
- computer software, including systems and applications software, hard or floppy disks, CD-

January 26, 2022

Brandy Forbes  
Community Development Director  
Department of Community Development  
City of Redondo Beach  
415 Diamond Street  
Redondo Beach, CA 90277



**Re: Letter Proposal for Building Official, Building Inspection, and Plan Review Services**

Dear Ms. Forbes,

We are pleased to present this letter of proposal to the City of Redondo Beach for estimated costs of Interwest services for Building Official, Building Inspection and Plan Review Services. We understand the work will be governed by the terms and conditions of the AGREEMENT FOR CONSULTING SERVICES BETWEEN THE CITY OF REDONDO BEACH AND INTERWEST CONSULTING GROUP INC., dated February 9, 2021, which will be amended as needed upon your approval of this proposal. This work will be provided on an as-needed basis, however, should you desire additional support, we would be happy to assist you with that as well. Below, please find a summary of discussions with our team.

To provide Building Official Services, we would like to propose **Kevin O'Flaherty, CBO, ICC**, and for oversight, **William 'Bill' Hayes, CBO, ICC**. Bill will be available as needed at no additional cost to the City. The resumes of both Kevin and Bill are attached. For the role of Building Inspector, a candidate will be provided upon the City's request.

We have included a schedule of costs for Building Official Services, calculated from service dates starting January 31, 2022 and forecasted through April 30, 2022. Building Inspection and Plan Review Services can be made available at the hourly rate as-needed per the Agreement. We propose a NTE amount of \$95,000, however, billing will be based on actual hours worked.

CLASSIFICATION	TIME REQUIREMENT	HOURLY BILLING RATE	ESTIMATED COST
Kevin O'Flaherty, F/T CBO & Inspections	13 Weeks x 40 Hrs Per Wk	\$150	\$78,000

We appreciate the opportunity to continue serving the City of Redondo Beach. Should you have any questions, please do not hesitate to contact me or Elizabeth O'Neil at [honeil@interwestgrp.com](mailto:honeil@interwestgrp.com) / 310.500.5830.

Sincerely,

A handwritten signature in blue ink that reads 'Paul Meschino'.

Paul Meschino

**Vice President of Operations**  
**[pmeschino@interwestgrp.com](mailto:pmeschino@interwestgrp.com)**



## Kevin M. O'Flaherty, CBO, ICC

### BUILDING INSPECTOR // BUILDING OFFICIAL

After earning a Master of Business Administration degree from California State University Monterey Bay, Kevin joined Interwest Consulting Group in 2019 as a multi-functional plans examiner and inspector. He is ICC-certified in 31 disciplines, including Certified Building Official, Building and Electrical Plans Examination, Commercial Building, Plumbing, Combination, Electrical, and Mechanical Inspection, Building Codes and Standards and Electrical and Building Code Specialist to name a few.

Prior to joining Interwest, Kevin served as a Manufacturer's Representative for Richards Manufacturing Company from 2016 through 2017, selling high voltage cable accessories to local contractors, consulting engineering firms/EPC's and channel customers for C&I Industrial Market. From 2011 through 2016, Kevin served as an Area Sales Manager for the Energy Division of TE Connectivity in Lake Forest, selling high voltage cable accessories to local utilities, contractors and electrical engineering firms.

Kevin earned a Bachelor of Science degree in Industrial Technology from the Orfalea College of Business at California Polytechnic State University in San Luis Obispo and holds a certification as a Lean Six Sigma Green Belt.

### PROFESSIONAL HISTORY

#### Building Inspector / Interwest Consulting Group / 2019 - Present

Kevin provides Plan Review and Building Inspection Services to our clients throughout Southern California including Riverside County, Pomona, Corona, Perris, Eastvale, Wildomar and La Habra. Kevin reviews plans to ensure they meet applicable building codes, local ordinances, zoning regulations and contract specifications.

#### Owner | Manufacturer's Representative / O'Flaherty Energy Solutions, LLC / 2016 - 2017

As the Manufacturer's Representative for Richards Mfg. Co. covering their California territory, Kevin sold high voltage cable accessories to local contractors, consulting engineering firms, EPC's and channel customers for the C&I Industrial Market. He provided various training, presentations and demonstrations for clients and internal staff.

#### Area Sales Manager / TE Connectivity / 2011 - 2016

Kevin managed territory sales in California, Arizona and Nevada for the TE Energy Division, selling high voltage cable accessories to local utilities, contractors and electrical engineering firms. There he learned how to interact with multiple clients and to be a responsible representative for his company by providing hands-on training, presentations and demonstrations.

#### Test Engineer - Intern / Westpak / 2010

As an intern for Westpak, Kevin operated, maintained, and brought into service complex package validation machinery. He also provided customer test reports.



A SAFEbuilt<sup>®</sup> COMPANY

**Years of Experience: 8**

**Years w/ Interwest: 1**

#### Education

- MBA, Administration, College of Business, CA State University, Monterey Bay, 2018
- BS, Industrial Technology, Orfalea College of Business, CA Polytechnic State University, San Luis Obispo, 2010
- Lean Six Sigma Green Belt Certification, San Diego State University

#### Registrations/Certifications

International Code Council, 9084980

- ICC Certified Building Official
- ICC Commercial Building, Mechanical & Electrical Inspector
- ICC Building & Electrical Plans Examiner
- ICC Residential Electrical, Building, Mechanical, Plumbing, Combination Inspector
- ICC Electrical & Building Inspector
- ICC CA Commercial Mechanical, Building, Plumbing, Combination & Electrical Inspector
- ICC CA Building Plans Examiner
- ICC CA Residential Building, Electrical, Plumbing, Mechanical, Combination Inspector
- ICC Electrical and Building Code Specialist
- ICC Legal Module
- ICC Building Codes and Standards Module
- ICC Management Module

## William 'Bill' Hayes, CBO, ICC

### STATE OPERATIONS MANAGER, BUILDING DEPARTMENT SERVICES

Bill brings 20+ years of building official, plan review and building inspection experience along with 17 years of municipal experience. His progressive and extensive knowledge of the building industry and municipal organization translates to efficient and effective services for our clients. Bill works with clients, Building Officials and Community Development Directors to assure client needs are met and all services provided on behalf of Interwest are delivered professionally, timely and in a customer service manner.

Bill also meets with architects, engineers, designers, and homeowners as necessary to coordinate the successful delivery of plan review and inspection services. Bill is an excellent supervisor and communicates effectively, both verbally and in writing. These qualities deliver strong results focused on the success of our municipal clients.

### PROFESSIONAL HISTORY

#### State Operations Manager, Building Department Services / Interwest Consulting Group / 2021 - Present

Bill serves clients in the capacity of State Operations Manager and Building Official, coordinating plan review, inspection and department oversight for multiple jurisdictions throughout Southern California.

#### West Code Building and Code Group Leader / HR Green / 2019-2021

Coordinated project scheduling, tasks, and budgets to ensure completion within the appropriate time frame. Prepared the scope of services, detailed project, and contracts. Worked with leaders to determine the composition of the project team and assign any duties, schedules, and budget to members. Assisted and delivered proposals to client and managed contracts to determine if amendments are needed, communicated changes to clients and coordinated timely invoices and fees. Identified project opportunities and make decisions under the Practice Leader supervision. Attended leadership meetings, reported on group performance, strategic planning, and marketing efforts. Provided input into the creation of marketing plans and maintained regular and accurate record of marketing activities with clients. Assisted Human Resources with onboarding new employees, coordinate with IT to ensure office space and equipment are set up properly. Engaged in development-focused discussions with staff to assist in identifying and pursuing activities/projects that aligns with their development objectives.

#### Building and Operations Manager / City of Industry / 2016-2018

Supervised the daily operations of the Building & Development Services Departments by overseeing the daily operations of the counter customer service, issuing permits, performing plan checks, performing field inspections, gathering data, and executing proposal reports and city projects for the City Manager and City Council. Created training materials and implemented updated procedures for building inspection and



**Years of Experience: 20+**

#### Registrations/Certifications

International Code Council,  
8230972

- Certified Building Official
- ICC Residential Plumbing Inspector
- ICC Residential Mechanical Inspector
- ICC Residential Building Inspector
- ICC Commercial Building Inspector
- ICC/AACE Property Maintenance and Housing Inspector
- ICC Building Inspector

counter staff. Evaluated staff responsibilities and productivity to ensure that departments are performing efficiently.

Maintained 24-hours of communications with Los Angeles County Public Works relating to installations and maintenance of sewer laterals, sidewalks, driveway approaches, and public right-of-way. Assigned and monitored work for contractors and consultants, ensuring that the services provided are within the parameters of the City Council's approved contract. Reviewed all engineer specifications to ensure that they are appropriate for all formal bids under \$10,000 and writing specifications and obtaining informal bids for all work under \$10,000. Match bids to consultant invoices to ensure that amounts are correct for the work performed.

Oversaw an operational budget of over \$50 million, the ADA improvements to public owned properties, and the maintenance of over \$2 million worth of city vehicles and equipment, as well as city properties by repairing and improving 31 homes and 244 parcels; making sure that they comply with local, state, and federal laws, while maintaining 8,000 acres outside the city limits.

#### **JAS Pacific / Contract Building Official-City of Pico Rivera / 2015-2016 & 2018-2019**

Supervised the daily operations of the building, code enforcement, and housing departments for the City of Pico Rivera. Tracked customer service, issued permits, performed plan checks and field inspections, gathered data, and fully executed required reports. Created training materials, and trained code enforcement, building inspectors, and counter staffs on updated procedures for building inspections and policies.

#### **Building Official/Acting Public Works Manager / 2013-2015**

Established an innovated Rental Housing Program by using a state-of-the-art GIS based inspection technology to efficiently inspect and publicly record blighted and deteriorated properties and was awarded the Helen Putnum Award for Excellence in the Internal Administration category. Created and implemented an Electronic Document Management System (EDMS) internal plan check process of 97% for efficient productivity of staffs and businesses, allowing the city to retain over \$600,000 of funds in a 2-year period. Organized and managed the Industrial Waste program and successfully raised the compliance from 80% to nearly 100% from businesses within the city. Established a strong relationship with all departments in the city, therefore becoming a resource and asset to all.

#### **Building Commissioner / City of Palos Heights, Illinois / 2008-2013**

Responsible for the City of Palos Heights building departments overall operation and its annual budget of \$750,000, as well as coordinated all approved outside vendors and services, and streamlined general office management duties to ensure efficiency of the department's day-to-day operation. Provided oversight for all disciplines of residential and commercial plan reviews, zoning, enforcement, property maintenance enforcement, and all construction inspections from footing to certificate of occupancy. Inspected various construction projects, ranging from single family homes, commercial buildings, Public Works projects, and new constructions/remodeling for a private college, as well as an eight story, 500,000 plus square feet hospital surgical wing.

#### **Senior/Lead Building Inspector / City of Countryside, Illinois / 2007-2008 End Year**

Supervised all sign and property maintenance inspections, enforcement programs, as well as inspections for buildings, electrical, and mechanical on residential and commercial projects, as well as zoning plan reviews and enforcement. Coordinated as the department liaison for the local adjunction court by advising the Building Commissioner regarding building codes and city ordinance updates to stay in compliance with all Federal, State, and local laws. Lead the project in developing an electronic plan review/permit submittal program and an extensive electronic filing system for all permit and property files.

May 4, 2022

Brandy Forbes  
Community Development Director  
Department of Community Development  
City of Redondo Beach  
415 Diamond Street  
Redondo Beach, CA 90277



**Re: Letter Proposal for Extension of Building Official Services**

Dear Ms. Forbes,

We are pleased to present this letter proposal to the City of Redondo Beach for estimated costs of extending Interwest Building Official Services. We understand the work will be governed by the terms and conditions of the AGREEMENT FOR CONSULTING SERVICES BETWEEN THE CITY OF REDONDO BEACH AND INTERWEST CONSULTING GROUP INC., dated February 9, 2021, which will be amended as needed upon your approval of this proposal. This work will be provided on an as-needed basis, however, should you desire additional support, we would be happy to assist you with that as well. Below, please find a summary of our discussions.

To provide Building Official Services, we propose continued support by **Kevin O'Flaherty, CBO, ICC**, and for oversight, **William 'Bill' Hayes, CBO, ICC**. Bill will be available as needed at no additional cost to the City.

We have included an estimated schedule of costs for Building Official Services, calculated from service date starting approximately May 10, 2022 and forecasted through June 15 and June 30, 2022.

CLASSIFICATION	TIME REQUIREMENT	HOURLY BILLING RATE	ESTIMATED COST
Kevin O'Flaherty, F/T CBO & Inspections	5 Weeks x 40 Hrs Per Wk	\$150	\$30,000
Kevin O'Flaherty, F/T CBO & Inspections	7 Weeks x 40 Hrs Per Wk	\$150	\$42,000

We appreciate the opportunity to continue serving the City of Redondo Beach. Should you have any questions, please do not hesitate to contact me or Elizabeth O'Neil at [oneil@interwestgrp.com](mailto:oneil@interwestgrp.com) / 310.500.5830.

Sincerely,

Paul Meschino

**Vice President of Operations**  
**pmeschino@interwestgrp.com**





# Administrative Report

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H.6., File # 22-4143

Meeting Date: 5/10/2022

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**To:** MAYOR AND CITY COUNCIL  
**From:** MICHAEL W. WEBB, CITY ATTORNEY

## **TITLE**

APPROVE THE SECOND AMENDMENT TO THE LEGAL SERVICES AGREEMENT WITH MCCUNE & HARBER LLP

## **EXECUTIVE SUMMARY**

The City maintains a list of approved law firms and attorneys from which to select outside counsel when special expertise is required in legal matters. This Second Amendment would increase the hourly rates compensated to attorneys and paralegals.

## **BACKGROUND**

McCune & Harber LLP employs a team of public entity experts who primarily handles the City's litigation matters. McCune & Harber LLP have worked for the City for over 20 years and provide outstanding value for the City. Since the approval of the First Amendment in May of 2014, the rates have not been increased. The 2014 rates (\$225 for Partners, \$180 for Associates and \$110 for Paralegals and Law Clerks) consequently have fallen far behind the "market" rate for comparable law firms, as well as rates that the firm charges other public agencies.

In this regard, McCune & Harber LLP charge their other municipality clients as much as \$270.00 per hour for Partners. McCune & Harber LLP therefore request authority to increase their rates so that they are consistent with the lowest rates for their municipal clients.

This Second Amendment would adjust the hourly rate to \$245 an hour for Partners, a rate of \$225 an hour for Associates and a rate of \$110 an hour for Paralegals and Law Clerks.

## **COORDINATION**

This Second Amendment has been approved by McCune & Harber LLP and has been approved as to form by the City Attorney's Office.

## **FISCAL IMPACT**

Funds are set aside in the City Attorney's Budget for the use of outside counsel. The approval of this Second Amendment will not increase the use of outside counsel.

## **ATTACHMENTS**

- Agreement for Legal Services, December 15, 2009
- First Amendment to Agreement for Legal Services, May 20, 2014
- Second Amendment to Legal Services Agreement

## **AGREEMENT FOR LEGAL SERVICES**

### **McCUNE & HARBER**

THIS AGREEMENT is made this 15<sup>th</sup> day of December, 2009 by the CITY OF REDONDO BEACH, a municipal corporation, ("CITY"), and McCUNE & HARBER ("ATTORNEY").

### **RECITALS**

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Redondo Beach City Council authorization on December 15, 2009.
2. The CITY is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
3. The CITY and ATTORNEY desire to enter into an Agreement for services upon the terms and conditions herein.

### **AGREEMENT**

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement.** This Agreement shall cover services rendered from December 15, 2009 and until terminated.
2. **Services to be Provided.** The services to be performed by ATTORNEY shall consist of the following: Legal Services as assigned by the City Attorney's Office.
3. **Compensation.** ATTORNEY shall be compensated as follows:
  - 3.1 **Amount.** (Not to exceed \$175.00 per hour). Compensation under this Agreement shall be paid only for assigned work and after approval of hourly billing statement by the City Attorney.
  - 3.2 **Payment.** For work under this Agreement, payment shall be made per monthly invoice.
  - 3.3 **Records of Expenses.** ATTORNEY shall keep accurate records of time and expenses. These records will be made available to CITY.

**C-09-123**

- 3.4 Hours. No specific number of hours of work is guaranteed. It is expected that Attorney's services will be on an as needed basis depending upon the work load.
- 3.5 Termination. CITY and ATTORNEY shall have the right to terminate this Agreement, without cause, by giving fifteen (15) days written notice.
4. **Insurance Requirements.**
- 4.1 Workers' Compensation Insurance. ATTORNEY shall maintain Workers' Compensation Insurance where applicable.
- 4.2 Insurance Amounts. ATTORNEY is not authorized to drive an automobile for the CITY or on CITY business.
- 4.3 Malpractice Insurance. ATTORNEY shall maintain malpractice insurance in an amount satisfactory to the City's Risk Manager.
5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable for any default or liability under this Agreement.
6. **Non-Discrimination.** ATTORNEY covenants there shall be no discrimination based upon race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that ATTORNEY shall work as an independent contractor and not as employee of CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
8. **Compliance with Law.** ATTORNEY shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
9. **Ownership of Work Product.** All documents or other information developed or received by ATTORNEY in the course and scope of work for the City shall be the property of CITY. ATTORNEY shall provide CITY with copies of these items upon demand or upon termination of this Agreement.
10. **Conflict of Interest and Reporting.** ATTORNEY shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement. ATTORNEY agrees to complete and file a California State Form 730 disclosure statement if required by the City Attorney.

11. **Notices.** All notices shall be personally delivered or mailed to the below listed addresses. These addresses shall be used for delivery of service of process.
- a. Address of ATTORNEY is as follows:
- McCUNE & HARBER  
400 South Hope Street, Suite 720  
Los Angeles, CA 90071
- b. Address of CITY is as follows:
- City Attorney's Office  
415 Diamond Street  
Redondo Beach, California 90277
12. **Licenses, Permits, and Fees.** ATTORNEY shall obtain and maintain a current **California State Bar License**, and all permits, fees, or licenses as may be required by this Agreement.
13. **Familiarity with Work.** By executing this Agreement, ATTORNEY warrants that: (1) he has investigated the work to be performed, (2) he has investigated the site of the work and is aware of all conditions there; and (3) he understands the difficulties and restrictions of the work under this Agreement. Should ATTORNEY discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at ATTORNEY'S risk, until instructions are received from CITY.
14. **Time of Essence.** Time is of the essence in the performance of this Agreement.
15. **Limitations Upon Subcontracting and Assignment.** Neither this Agreement or any portion shall be assigned by ATTORNEY without prior consent of the CITY ATTORNEY.
16. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement.
17. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified on provisions waived only by subsequent mutual written agreement executed by CITY and ATTORNEY.

18. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Los Angeles County Superior Court.
19. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties.
20. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

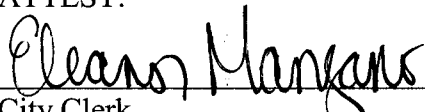
IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

Date: December 15, 2009

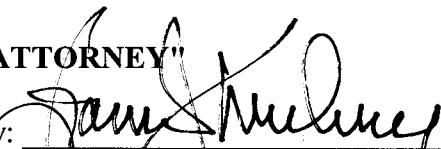
CITY OF REDONDO BEACH

By:   
Michael A. Gin, Mayor

ATTEST:

  
City Clerk

"ATTORNEY"

By:   
Dana John McCune  
McCUNE & HARBER

Date: Nov. 13, 2009

APPROVED AS TO FORM:

  
Michael W. Webb, City Attorney

Date: December 15, 2009

18. **California Law.** This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Los Angeles County Superior Court.
19. **Interpretation.** This Agreement shall be interpreted as though prepared by both parties.
20. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

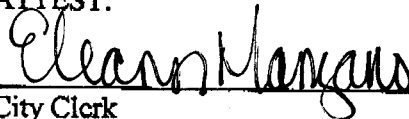
IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

Date: December 15, 2009

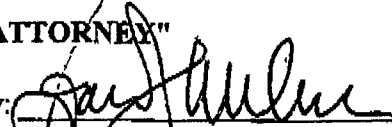
CITY OF REDONDO BEACH

By:   
Michael A. Gin, Mayor

ATTEST:

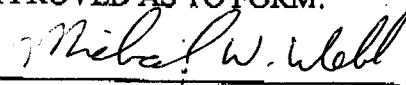
  
City Clerk

"ATTORNEY"

By:   
Dana John McCune  
McCUNE & HARBER

Date: 11/17/09

APPROVED AS TO FORM:

  
Michael W. Webb, City Attorney

Date: 12/15/09

C-09-123

**FIRST AMENDMENT TO AGREEMENT FOR LEGAL SERVICES  
BETWEEN THE  
CITY OF REDONDO BEACH  
AND  
McCUNE AND HARBER LLP**

THIS FIRST AMENDMENT TO THE LEGAL SERVICES AGREEMENT ("Amendment") is made between the City of Redondo Beach, a chartered municipal corporation ("CITY") and McCune and Harber LLP, a California Limited Liability Partnership ("ATTORNEY").

WHEREAS, on December 15, 2009 the parties hereto originally entered into that certain Agreement for Legal Services between the City and Attorney ("Agreement"); and

WHEREAS, CITY and ATTORNEY desire to amend the Agreement pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereby agree to make the following amendments to the Agreement:

1. Compensation: Compensation to be increased from \$175.00 to \$225.00 per hour for partner attorneys. Add compensation for associate attorneys at rate of \$180 per hour and \$85 per hour for paralegals and law clerks.
2. Modification: Except as expressly set forth herein, the Agreement shall continue in full force and effect. The Agreement together with the First Amendment constitutes the entire agreement between the parties and supersedes any previous oral or written agreement. In the event of any inconsistency between this First Amendment and the Agreement the terms of this First Amendment shall prevail. This First Amendment may be modified or amended only by a subsequent writing executed by all of the parties and approved by the City Council.

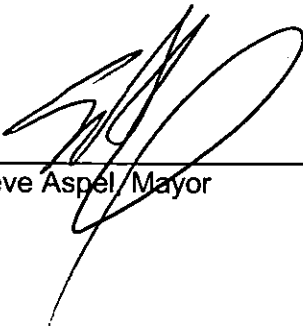
**[SIGNATURES ON FOLLOWING PAGE]**



IN WITNESS WHEREOF, the parties have entered into this First Amendment as of this 20th day of May, 2014.

CITY OF REDONDO BEACH  
A chartered municipality

McCUNE & HARBER LLP  
a California Limited Liability Partnership

  
\_\_\_\_\_  
Steve Aspel, Mayor

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

APPROVED AS TO FORM:



\_\_\_\_\_  
Michael Webb, City Attorney

ATTEST:

\_\_\_\_\_  
Eleanor Manzano, City Clerk

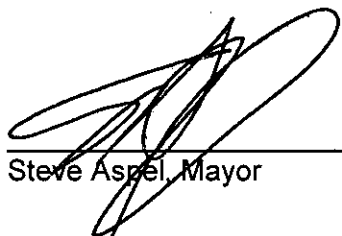
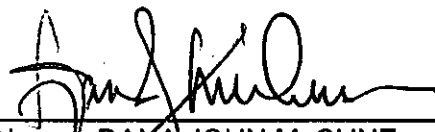
APPROVED:

\_\_\_\_\_  
Jill Buchholz, Risk Manager

IN WITNESS WHEREOF, the parties have entered into this First Amendment as of this 20th day of May, 2014.

CITY OF REDONDO BEACH  
A chartered municipality

McCUNE & HARBER LLP  
a California Limited Liability Partnership

  
\_\_\_\_\_  
Steve Aspel, Mayor  
\_\_\_\_\_  
Name: DANA JOHN McCUNE  
Title: ~~PARTNER~~

APPROVED AS TO FORM:

ATTEST:

  
\_\_\_\_\_  
Michael Webb, City Attorney  
\_\_\_\_\_  
Eleanor Manzano, City Clerk

APPROVED:

  
\_\_\_\_\_  
Jill Buchholz, Risk Manager

**SECOND AMENDMENT TO AGREEMENT FOR LEGAL SERVICES  
BETWEEN THE  
CITY OF REDONDO BEACH  
AND  
McCUNE AND HARBER LLP**

THIS SECOND AMENDMENT TO AGREEMENT FOR LEGAL SERVICES ("Second Amendment") is made between the City of Redondo Beach, a chartered municipal corporation ("City") and McCune and Harber LLP, a California Limited Liability Partnership ("Attorney").

WHEREAS, on December 15, 2009 the parties hereto originally entered into that certain Agreement for Legal Services between the City and Attorney ("Agreement"); and

WHEREAS, on May 20, 2014, the parties hereto entered into a First Amendment ("First Amendment"); and

WHEREAS, CITY and ATTORNEY desire to amend the Agreement pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereby agree to make the following amendments to the Agreement:

1. Compensation: Compensation to be increased from \$225.00 to \$245.00 per hour for Partners, from \$180 to \$225.00 per hour for Associates and from \$85 to \$110 per hour for paralegals and law clerks.
2. Modification: Except as expressly set forth herein, the Agreement shall continue in full force and effect. The Agreement together with the First Amendment and Second Amendment constitute the entire agreement between the parties and supersedes any previous oral or written agreement. In the event of any inconsistency between this Second Amendment, First Amendment and the Agreement the terms of this Second Amendment shall prevail. This Second Amendment may be modified or amended only by a subsequent writing executed by all of the parties and approved by the City Council.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties have entered into this Second Amendment as of this 10<sup>th</sup> day of May, 2022.

CITY OF REDONDO BEACH  
A chartered municipality

McCUNE & HARBER LLP  
a California Limited Liability Partnership



\_\_\_\_\_  
William C. Brand, Mayor

\_\_\_\_\_  
Name: Dana McCune  
Title: Sr. Partner

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Michael W. Webb, City Attorney

\_\_\_\_\_  
Eleanor Manzano, City Clerk

APPROVED:

\_\_\_\_\_  
Diane Strickfaden, Risk Manager



# Administrative Report

H.7., File # 22-4146

Meeting Date: 5/10/2022

**To:** MAYOR AND CITY COUNCIL  
**From:** MICHAEL W. WEBB, CITY ATTORNEY

## **TITLE**

APPROVE A MARKETING AGREEMENT WITH OHMCONNECT REGARDING OUR PARTNERSHIP TO BUILD A "VIRTUAL POWER PLANT".

## **EXECUTIVE SUMMARY**

None.

## **BACKGROUND**

On March 10, 2022, Lorraine Paskett, the AES Vice President of External Affairs in California, made a presentation before the Los Angeles Regional Water Quality Control Board. During that presentation, Ms. Paskett stated that "AES is committed to retiring RBGS in 22 months at the end of 2023". While this is indeed good news that AES is voluntarily committing to retiring the Power Plant there is a caveat. It is possible that State agencies could extend the life of the plant over AES' wishes.

It is possible to meet any perceived need by the State for energy, after AES retires its plant, by partnering with OhmConnect to build a virtual power plant. On April 12, 2022, the City Council gave direction to work with OhmConnect towards creating an entirely voluntary program for our residents and residents of nearby cities that help meet that need at peak time periods. Approving this Marketing Agreement is the first step. Once approved and signed, OhmConnect will immediately activate a designated Website and roll out a marketing plan in cooperation with the City over the next few weeks and months.

## **COORDINATION**

The City Attorney coordinated with the City Manager on this item.

## **FISCAL IMPACT**

A marginal decrease in the amount of User Utility Tax that the City collects as residents use less energy.

## **ATTACHMENTS**

- Marketing Agreement with OhmConnect





## Marketing Agreement

This Marketing Agreement (“**Agreement**”) is effective as of the date of last signature below (“**Effective Date**”) between OhmConnect, Inc., with its principal place of business at [371 3rd Street, 2nd Floor, Oakland, California 94607] (“**OhmConnect**”), and the City of Redondo Beach with its principal place of business at 415 Diamond Street, Redondo Beach, California (“**Partner**” or “**City**”), OhmConnect and Partner wish to enter into a strategic marketing collaboration as described in the attached Schedule A. The parties agree as follows:

### SECTION 1 Definitions

“**Affiliate**” means any legal entity that owns, is owned by, or is commonly owned with a party. “**Own**” means having more than 50% ownership or the right to direct the management of the entity.

“**Confidential Information**” means any information that may be disclosed or made available by one party (“**Disclosing Party**”) to the other party (the “**Receiving Party**”) regarding business affairs, products and services, third-party confidential information and other sensitive or proprietary information designated or other identified as “confidential.”

“**Intellectual Property Rights**” means any patent, copyright, trade secret, trademark or other proprietary right.

“**Personal Information**” means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

### SECTION 2 Collaboration

**2.1 Marketing Activities.** OhmConnect and Partner will perform the marketing activities set forth in **Schedule A (“Marketing Activities”)**. Each party will share information and cooperate with the other to meet the marketing obligations in this Agreement. The parties will each appoint a contact person to be its primary contact for the cooperation contemplated by this Agreement. Neither party will (nor will it authorize or assist any third party to) engage in misleading or deceptive advertising or trade practices, represent to customers or others that either party in any way guarantees the other’s performance, or make any representations, warranties, or covenants on the other’s behalf.

### SECTION 3 License Grants

**3.1 Materials License.** Each party hereby grants to the other a nonexclusive, non-sublicensable, non-transferrable, royalty-free, fully paid-up license under all its Intellectual Property Rights to use and reproduce any materials shared by the other as part of the Marketing Activities.

**3.2 Trademark License.** Each party grants to the other a nonexclusive, non-sublicensable, non-transferable license to use the other party’s trademarks in connection with the Marketing Activities. Each party’s use of the other party’s trademarks shall conform with trademark usage guidelines provided by the party that is owner of the trademark. Notwithstanding the above, OhmConnect shall obtain approval from the City Council prior to utilizing the City seal for any purpose, as required by law.

**3.3 Ownership.** Each party will retain all rights in and to its own intellectual property. Except as otherwise set forth herein, this Agreement does not grant either party (by implication, estoppel or otherwise) any right, title, interest, or license, in the other party's Intellectual Property Rights. Each party reserves all rights not expressly granted in this Agreement. The parties do not intend to jointly develop or create any Intellectual Property Rights in connection with this Agreement.

**3.4 Privacy Policy.** Each party will comply with all applicable privacy laws. OhmConnect shall maintain a privacy policy on how Personal Information is collected, used, stored, secured and disclosed as a result of the Marketing Activities, including the controls that individuals have over the use and sharing of their Personal Information and how they may access their Personal Information. The City shall adhere to its existing privacy policies and shall comply with the California Public Records Act, Government Code Section 6250 et seq. ("CPRA").

## **SECTION 4 Term**

**4.1 Term.** The term of this Agreement begins on the Effective Date and shall continue for a period of [one (1) year] ("**Term**"). [The Agreement will automatically renew for additional one (1) year terms on each applicable anniversary of the Effective Date unless either party provides written notice of its intent not to renew at least thirty (30) days prior to the next renewal date.]

**4.2 Termination.** Either party may terminate this Agreement for the other party's:

- (1) Material breach of this Agreement that is not cured within 30 days after the nonbreaching party provides written notice of the breach;
- (2) Insolvency, or the commencement by or against a party of a case or proceeding under any bankruptcy, reorganization, insolvency or moratorium law, or any other applicable law for the relief of debtors; or
- (3) Liquidation or dissolution, or the sale, lease or other disposition of all or a substantial part of a party's business or assets.

**4.3 Effect of Termination.** Following termination, each party will promptly either return all originals, copies and reproductions of the other party's materials and Confidential Information or certify the destruction of the same upon a party's request.

**4.4 Survival.** All provisions of this Agreement that may reasonably be interpreted or construed as surviving the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

## **SECTION 5 Confidentiality**

**5.1 Feedback.** Either party may provide suggestions, comments or other feedback to the other party with respect to products and services. Feedback is voluntary and, even if designated as confidential, the party receiving feedback may use it for any purpose without obligation of any kind. The party receiving feedback will not disclose the source of feedback without the consent of the party providing it. Unless the parties specifically agree in writing, feedback will not create any confidentiality obligation.

**5.2 Public Records Act.** Notwithstanding any provision of this Agreement, the City will comply with the CPRA.



## **SECTION 6 Representations and Warranties; Disclaimers**

**6.1 Mutual.** Each party represents and warrants to the other that: (i) at all times during the Term it has and will have all requisite corporate power and authority to execute this Agreement, to perform its obligations, and to consummate the transactions contemplated hereby; (ii) neither is presently under, nor will either enter into, any agreement, commitment, understanding or other obligation, whether written or oral, that is inconsistent or in conflict with this Agreement; (iii) it will each comply with all applicable laws; (iv) it has all rights necessary to grant the other party the rights and licenses in this Agreement.

**6.2** EXCEPT FOR THE WARRANTIES IN SECTION 6.1, NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH REGARD TO ANY OF ITS SERVICES, PRODUCTS OR OTHER INFORMATION FURNISHED UNDER THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE).

## **SECTION 7 Limitation of Liability**

EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 8, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR: (A) ANY LOSS OF PROFIT, LOSS OF DATA, OR ANY OTHER INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES OF ANY KIND WHATSOEVER, WHETHER OR NOT IT WAS AWARE OF THE POSSIBILITY OF SUCH DAMAGES, SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN OR IF THE EXCLUSIVE REMEDIES STATED HEREIN FAIL OF THEIR ESSENTIAL PURPOSE.

## **SECTION 8 Indemnification**

**8.1 Claims.** Each party (the "**Indemnifying Party**") will, at its sole expense and the request of the other party, defend any third-party claim (a "**Claim**") brought against such other party or such other party's Affiliates, directors, officers, employees, agents, licensees or independent contractors (each, an "**Indemnified Party**") to the extent that the Claim, if true, would constitute a breach of a warranty, representation or covenant made by the Indemnifying Party under this Agreement (collectively, the "**Indemnified Claims**").

**8.2 Claims Procedure.** The Indemnified Party must promptly notify the Indemnifying Party in writing of any Indemnified Claim and provide information regarding the nature of the action and relief sought; reasonably cooperate with the Indemnifying Party at the Indemnifying Party's expense for the defense of the Indemnified Claim. The Indemnifying Party will take control and conduct the defense of such Indemnified Claims, all related proceedings or negotiations, and the settlement of any such Indemnified Claim. The Indemnifying Party will employ counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party may employ separate counsel at its own cost. The Indemnifying Party must not settle any Indemnified Claim on the Indemnified Party's behalf without first obtaining written consent, which will not be unreasonably withheld. The Indemnifying Party will pay all third-party liabilities, losses, damages, costs, and expenses actually awarded by a court or agreed to in settlement resulting from the Indemnified Claim. No settlement of an Indemnified Claim that involves a remedy other than payment of money by the Indemnifying Party shall be agreed to and entered without the consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed.

**8.3 Entire Liability.** This Section 8 sets forth the entire liability of each party with respect to Indemnified Claims governed by this Section 8.

## SECTION 9 Notices

Notices may be provided either by electronic or physical mail or delivery. The person(s) identified on the first page of this Agreement will receive notices on behalf of their respective party. Each party may change the persons to whom notices will be sent by giving notice to the other. Notices will be effective for all purposes on actual receipt when physically delivered or on acknowledgment of receipt if sent by electronic mail. Notices will be sent to:

If to OhmConnect:

OhmConnect, Inc.

Attn: General Counsel

371 3rd Street, 2nd Floor

Oakland, CA 94607

If to Partner:

Michael Webb  
City Attorney  
City of Redondo Beach  
415 Diamond Street  
Redondo Beach, CA 90277  
michael.webb@redondo.org

Jon Welner  
Mintz  
44 Montgomery Street, 36th Floor  
San Francisco, CA 94104  
jwelner@mintz.com

## SECTION 10 Publicity

Neither party will issue any press releases or make any other public announcements that relate to the parties' relationship, the Marketing Activities, or this Agreement, without prior written approval from the other party, which may be provided by e-mail. Notwithstanding the above, the City cannot restrict or constrain the statements of elected officials speaking on behalf of themselves or their constituents.

## SECTION 11 General Terms

**11.1 Jurisdiction and Governing Applicable law.** The applicable laws of the State of California govern this Agreement. If federal jurisdiction exists, the parties consent to exclusive jurisdiction and venue in the federal courts in San Francisco County, California. If not, the parties consent to exclusive jurisdiction and venue in the Superior Court of California in the County of San Francisco.

**11.2 Assignment.** Neither party may assign this Agreement, in whole or in part, without other party's prior written consent. Any attempted assignment in violation of this section will be void. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective permitted successors and assigns.

**11.3 Force Majeure Event.** Neither party is liable for failure to perform any obligation under this Agreement to the extent such failure is caused by a force majeure event including natural disasters,

war, civil disturbance, government action, strikes, and other causes beyond the party's reasonable control. The party affected by the force majeure event will provide prompt notice to the other party and will use its best efforts to resume performance. Obligations not performed due to a force majeure event will be performed as soon as reasonably possible when the force majeure event ends. If the force majeure event continues for a period of more than 30 days, the other party may terminate this Agreement on written notice.

**11.4 Independent Contractors.** The parties are independent contractors. This Agreement does not create an employer-employee relationship, partnership, joint venture or agency relationship and does not create a franchise. Neither party nor any of its representatives may make any representation, warranty or promise on the other party's behalf.

**11.5 Miscellaneous.** This Agreement is nonexclusive. It will not be interpreted to limit either party's right to enter into agreements with other third parties for the same or similar activities, subject to each party's compliance with its confidentiality obligations herein. Except as expressly set forth in this Agreement, each party will pay for its own costs and expenses associated with this Agreement unless otherwise agreed in writing. If any court of competent jurisdiction determines that any provision of this Agreement is illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect. A party's delay or failure to exercise any right or remedy will not result in a waiver of that or any other right or remedy. No waiver will be binding unless in writing and signed by the waiving party.

**11.6 Entire Agreement.** This Agreement (including any Schedules) is the entire agreement between the parties regarding its subject matter. It replaces all prior agreements, communications and representations between the parties regarding its subject matter. This Agreement can be changed only by an amendment signed by both parties; provided that the Schedules may be modified and updated upon mutual agreement of the parties via email. If this Agreement and any Schedule conflict, the Agreement will control.

**11.7 Execution; Counterparts.** This Agreement is not binding until duly executed by both parties. The parties may execute this Agreement in counterparts. Each counterpart will be deemed an original and all counterparts will constitute one agreement binding both parties. Facsimile signatures will also be considered binding.

The parties have agreed to this Marketing Agreement as of the Effective Date.

**OHMCONNECT, INC.**

**CITY OF REDONDO BEACH**

Name \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Name William C. Brand

Title \_\_\_\_\_

Title Mayor

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

415 Diamond Street  
Redondo Beach, CA 90277

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

**Schedule A**  
**Description of Marketing Activities**

**Partner:** City of Redondo Beach

**Purpose:** Support efforts to drive OhmConnect demand response program enrollments to lower dependency on peaker power plant generation.

**Obligations**

**Redondo Beach Outreach to residents:**

Redondo Beach's primary obligation is to perform outreach activities, with a good-faith effort to target 1,000 sign-ups. This includes but is not limited to:

- Coordination with OhmConnect on outreach material development
- Coordination and rallying of outreach through city channels, elected officials and other municipal leaders, adjacent cities, community benefit organizations, and institutions with the following activities:
  - Email: Best practice campaigns have a minimum of two sequenced, 2-drip emailed
  - Social Media: Best practice has a minimum of 2-3 times on top 1-2 channels
  - Flyers: Distribute flyers through digital and physical channels
  - Postcards / mailers: Identify opportunities for mailer inclusion in existing outgoing mail
  - Press: Coordinate with OhmConnect on a press release and identify other media opportunities as appropriate
  - Additional Channels: As identified

**OhmConnect support:**

OhmConnect is committed making this a successful and valuable campaign through, but not limited to, the following activities:

- Marketing Support: Providing copy, graphics, schedules and all other marketing support
- Data Sharing: Share energy reduction and enrollment and relevant data resulting from the marketing effort
- Subsidized smart devices: Provide heavily subsidized smart devices for new customer onboarding.
- Customer Activation: Ship devices, manage customer support, and engage customers in demand response events
- Other marketing/programmatic activities as agreed upon



# Administrative Report

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J.1., File # 22-4114

Meeting Date: 5/10/2022

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## **TITLE**

*For eComments and Emails Received from the Public*



# Administrative Report

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N.1., File # 22-4145

Meeting Date: 5/10/2022

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**To: MAYOR AND CITY COUNCIL**  
**From: TED SEMAAN, PUBLIC WORKS DIRECTOR**

## **TITLE**

DISCUSSION AND POSSIBLE ACTION REGARDING UPDATES TO THE WEST BASIN MUNICIPAL WATER DISTRICT'S RECYCLED WATER EXPANSION ASSESSMENT STUDY IN REDONDO BEACH AND CURRENT RECYCLED WATER POLICIES

## **EXECUTIVE SUMMARY**

The City Council has a 2022 strategic plan goal titled "Recycled Water: Develop a plan to connect recycled water (purple pipe) to Manhattan Beach Blvd., Anderson Park, and North Redondo Beach bike path". In 2017, West Basin Municipal Water District (West Basin) prepared a study on the feasibility of recycled water supply expansion within the City. The 2017 West Basin study concluded that it was feasible to expand the recycled water supply to all additional identified sites within the City, however, the cost to implement the additional water supply was significant. Updates to the 2017 study will be provided for discussion by West Basin staff, including current expansion cost estimates, at the City Council meeting. In addition, West Basin will share information on the organization's current guidelines and policies regarding recycled water.

## **BACKGROUND**

The City currently receives limited recycled water, estimated to be 65 Acre-Feet per Year (AFY), serving several street medians, Aviation Park, Dominguez Park, Vincent Park, Redondo Beach Union High School, and the Redondo Technology Center. Climate change predictions forecast droughts and an increase in extreme temperatures over a longer period of time. As such, the City Council is requesting staff look at expanding the City's recycled water system to support addition locations. This item provides the City Council an opportunity to receive an updated report from West Basin on the feasibility of expanding the City's recycled water program.

In 2017, West Basin prepared a study on the physical and fiscal feasibility of recycled water supply expansion within the City that analyzed and evaluated the expansion to serve additional sites within Redondo Beach. This report was presented to the City Council on November 21, 2017. Attached is the exhibit from the 2017 study for potential alignment recycled water line expansion in Redondo Beach. The study assessed the opportunities within the City to bring recycled water to key sites identified such as schools, parks, and municipal facilities. The study breaks the potential sites into three major clusters, Northern, Mid-City, and Southern to best utilize the existing recycled water distribution systems. In 2017, potential recycled water customers, or sites, with non-potable water demands were identified and estimated based on irrigated acreage.

The Northern cluster had a total annual demand of 61 AFY among eight sites. An acre-foot of water

is the amount of water that would cover one acre to a depth of one foot, approximately 326,000 gallons. The Mid-City cluster had a total annual demand of 0.72 AFY among three sites, and the southern cluster had a total annual demand of 18.76 AFY among four sites.

Estimated costs were developed in 2017 to bring the recycled water to the identified sites. In 2017, the Northern cluster project cost was estimated at \$ 5.7 million to serve 61.1 AFY of demand with an estimated annualized cost of \$6,577/AF. The Mid-City cluster's 2017 cost was estimated at \$676,000 to serve 0.7 AFY of demand with an annualized cost of \$66,667/AF. The Southern cluster 2017 cost was estimated at \$2.4 million to serve 18.8 AFY with an annualized cost of \$8,950/AF. West Basin will be able to share an updated annualized cost estimate at the meeting. For reference, staff reviewed current costs for use of potable water and recycled water irrigations systems. Under current pricing, a unit of potable water is 24% greater than a unit of recycled water.

The 2017 West Basin study concluded that it was feasible to expand the recycled water supply to all additional identified sites within the City, however, the costs to implement the additional water supply, as noted above, were significant. The 2022 study updates were not available during the preparation of this agenda item. West Basin staff plan to attend the May 10 City Council meeting and present the updated report findings and the 2022 revised cost estimates for discussion. In addition, West Basin will share the current guidelines and policies regarding recycled water.

#### **COORDINATION**

The Public Works Department coordinated the preparation of this item with West Basin staff.

#### **FISCAL IMPACT**

Funding for the preparation of this admin report is available in the Public Works Department annual operating budget.

#### **APPROVED BY:**

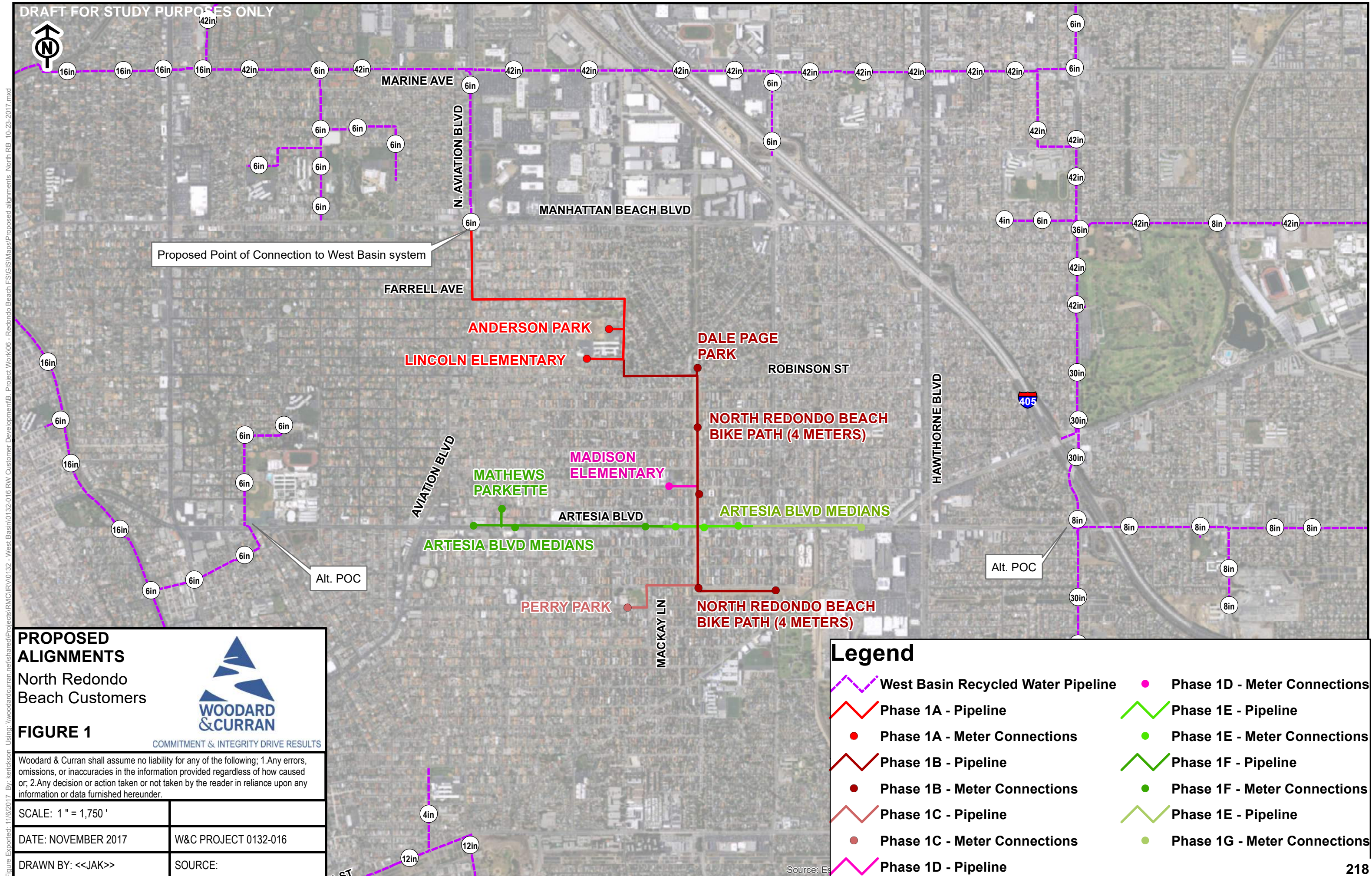
*Mike Witzansky, City Manager*

#### **ATTACHMENT**

West Basin 2017 Recycled Water Potential Expansion Exhibits



Figure Exported: 11/6/2017 By: kerkelson Using: \\woodardcurran.net\shared\Projects\RM\CI\RV\0132 - West Basin\0132-016 RW Customer Development\B. Project Work\06 - Redondo Beach FSGIS\Maps\Proposed alignments North RB 10-23-2017.mxd



PROPOSED ALIGNMENTS

North Redondo Beach Customers

FIGURE 1

Woodard & Curran

COMMITMENT & INTEGRITY DRIVE RESULTS

Woodard & Curran shall assume no liability for any of the following; 1.Any errors, omissions, or inaccuracies in the information provided regardless of how caused or; 2.Any decision or action taken or not taken by the reader in reliance upon any information or data furnished hereunder.

SCALE: 1" = 1,750'

DATE: NOVEMBER 2017

DRAWN BY: <<JAK>>

W&C PROJECT 0132-016

SOURCE:

Legend

West Basin Recycled Water Pipeline

Phase 1A - Pipeline

Phase 1A - Meter Connections

Phase 1B - Pipeline

Phase 1B - Meter Connections

Phase 1C - Pipeline

Phase 1C - Meter Connections

Phase 1D - Pipeline

Phase 1D - Meter Connections

Phase 1E - Pipeline

Phase 1E - Meter Connections

Phase 1F - Pipeline

Phase 1F - Meter Connections

Phase 1G - Pipeline

Phase 1G - Meter Connections

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Figure Exported: 11/6/2017 By: kerkelson Using: \\CAIRV\DC-PRV\Shared\Projects\BMC\IRV\0132 - West Basin\0132-016 RW Customer Development\B. Project Work\06 - Redondo Beach FS\GIS\Maps\Proposed alignments Mid-South RB 10-23-2017.mxd



Legend

- Project 2 - Pipeline
- Project 2 - Meter Connections
- Project 3A - Pipeline
- Project 3A - Meter Connections
- Project 3B - Pipeline
- Project 3B - Meter Connections
- Project 3C - Pipeline
- Project 3C - Meter Connections
- West Basin Recycled Water Pipeline

Proposed Point of Connection to West Basin system

Alt. POC

Median meters not verified

PROPOSED ALIGNMENTS

Middle & Southern Redondo Beach Customers

FIGURE 2

Woodard & Curran shall assume no liability for any of the following; 1.Any errors, omissions, or inaccuracies in the information provided regardless of how caused or; 2.Any decision or action taken or not taken by the reader in reliance upon any information or data furnished hereunder.

SCALE: 1" = 1,500'

DATE: NOVEMBER 2017

DRAWN BY: <<JAK>>

COMMITMENT & INTEGRITY DRIVE RESULTS

W&C PROJECT 0132-016

SOURCE:





# Administrative Report

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N.2., File # 22-3837

Meeting Date: 5/10/2022

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**To:** MAYOR AND CITY COUNCIL  
**From:** BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

## **TITLE**

DISCUSSION AND POSSIBLE ACTION REGARDING DRAFT ORDINANCES AMENDING TITLE 6 BUSINESSES, PROFESSIONS, AND TRADES, TITLE 10, CHAPTER 2, ZONING AND LAND USE AND TITLE 10, CHAPTER 5 COASTAL LAND USE PERTAINING TO CANNABIS REGULATIONS AND RECOMMENDING THAT THE CITY COUNCIL ADOPT CATEGORICAL EXEMPTIONS FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FOR THE AMENDMENTS

CONSIDERATION OF THE RECOMMENDATIONS MADE BY THE PLANNING COMMISSION REGARDING THE DRAFT CANNABIS ORDINANCES AND ADDITIONAL INPUT PROVIDED BY THE PUBLIC

## **EXECUTIVE SUMMARY**

When the Medical Marijuana Regulation and Safety Act (MMRSA), regulating the use of marijuana for medical purposes, took effect January 1, 2016 the City of Redondo Beach adopted Ordinance 3152 to implement local MMRSA regulations. On November 8, 2016, Proposition 64, known as the Adult Use of Marijuana Act (AUMA), was approved by state voters. The AUMA regulates, among other items, the use of marijuana for personal and commercial purposes, including the recreational use of marijuana by adults over 21 years of age.

Proposition 64 stipulated that if a city did not enact local commercial licensing restrictions or a ban by January 1, 2018, a valid state license would be the only thing needed to open and operate a commercial marijuana business in any commercial zone in the city. Therefore, out of caution and until local regulations and interests could be analyzed and identified for implementation, the City of Redondo Beach adopted ordinances to regulate the personal use and cultivation of cannabis and restrict commercial cannabis activities in the City.

In order to analyze and identify the cannabis regulations appropriate for Redondo Beach, a steering committee was appointed by the previous City Manager comprised of representatives from the law enforcement community, RBUSD, BCHD, and other outside interest groups familiar with common best practices for commercial use regulations of cannabis including storefront siting, taxation, delivery, and development agreement options.

The Steering Committee met multiple times over several years, and on October 5, 2021 presented their work and recommendations to the City Council. After considering the presentation, the City Council asked staff to prepare an ordinance based on the recommendations of the CSC, directed that the Galleria site be included as a permitted location, and that the taxation level or developer agreement fee rate be set at 5%. Additionally, Council asked staff to return with maps that identified

the storefront siting parameters recommended by the CSC, and additional options that would include buffers for alcohol sales sites and “safe routes to schools” pathways.

Staff returned with the maps for Council discussion at the January 18, 2022 meeting. At the meeting, City Council reviewed the potential buffer maps, and decided to move forward with the CSC recommended map and have the Planning Commission review the residential buffering options. Additionally, Council directed that the Planning Commission review the draft ordinances and that staff conduct a community outreach process to gather further input.

The draft ordinances were prepared by the Community Development Department and the City Attorney’s Office and presented to the Planning Commission on March 3, 2022, at a public hearing. After much deliberation, the Planning Commission recommended the City Council approve the draft ordinances, with 23 specific recommendations, which are included in the attached resolution (see Section 6).

Separately, a community survey was issued to the public regarding potential cannabis regulations. The survey was opened on Thursday, April 21, 2022 and made available for two weeks through May 5, 2022. The results of the survey will be provided for discussion at the meeting, via Blue Folder.

One of the Planning Commission recommendations is to engage an industry-expert consultant to review the ordinance in its entirety and assist in the development of the business permit solicitation and selection process. To help consider this recommendation, staff contacted HdL, a firm that has expertise in preparing and reviewing cannabis regulations and related procedures for numerous cities, to determine the cost and scope of possible support services. HdL personnel agreed to prepare a proposal for the City for services related to the following: 1) reviewing and providing input on the City’s draft ordinance, 2) preparing a separate tax ballot measure for the City, 3) establishing a solicitation and selection process for cannabis business permits, and 4) other related services. The proposal will be provided for discussion at the meeting, via Blue Folder.

This item provides the City Council an opportunity to review the draft ordinances, consider the recommendations made by the Planning Commission, receive input from the community through a review of the community survey results and additional comments provided by the public at the meeting, evaluate the merits of hiring a consultant to help finalize the City’s ordinance and assist with follow-up cannabis tax and permit activities, and provide direction to staff on next steps.

## **BACKGROUND**

California’s history of cannabis law spans nearly 25 years of propositions and regulatory actions (see attached). More recently, the Medical Marijuana Regulation and Safety Act (MMRSA) that took effect January 1, 2016 regulated the use of marijuana for medical purposes. The City of Redondo Beach adopted Ordinance 3152 which promulgated local regulations in accordance with MMRSA, effective May 5, 2016.

On November 8, 2016, Proposition 64 was adopted by CA voters, titled the Adult Use of Marijuana Act (AUMA). The AUMA regulates the use of marijuana for personal and commercial purposes, including the recreational use of marijuana by adults over 21 years of age, thus expanding the permissions provided by MMRSA. The AUMA permits cities to “reasonably regulate” without completely prohibiting cultivation of marijuana inside a private residence or inside an accessory structure to a private residence, within the limits allowed by the State for personal cultivation.

In Redondo Beach, 65% of the voters were in favor of Proposition 64. Although Proposition 64 represented the interest of whether to allow the Adult Use of Marijuana Act, it did not specify how an individual municipality would regulate the commercial aspects of marijuana sales. The State's commercial provisions of AUMA were to take effect on January 1, 2018, requiring a city to disallow commercial marijuana activities in order to ensure that local regulations are promulgated and local control maintained. If a local governing body did not enact such a commercial ban by January 1, 2018, a valid State license would be the only requirement to open and operate a commercial marijuana business in any commercial zone in that city. Therefore, out of caution, and until local regulations and interests could be analyzed, the City of Redondo Beach adopted ordinances to regulate the personal use and cultivation of cannabis, as well as restrict commercial cannabis activities in the City of Redondo Beach. This was an interim measure to prohibit cannabis businesses until the City could better evaluate what types of businesses and regulations to put in place.

One of the prior objectives included in the City Council's adopted Strategic Plan included the previous City Manager's appointment of a Cannabis Steering Committee (CSC) comprised of law enforcement, RBUSD, BCHD, and outside interest groups to review best practices for commercial use regulations of cannabis, including storefront siting, taxation, delivery, and development agreement options, and to prepare a report for Planning Commission and City Council consideration. Members of the Redondo Beach Police Department, Fire Department, Community Development Department, and the City Treasurer's Office met jointly in support of the work of the CSC.

The CSC met a total of 12 times from November 2018 through October 2021, with their final recommendations presented to City Council on October 5, 2021. After discussion of the CSC's work and recommendations, City Council directed staff to draft an ordinance based on the recommendations of the CSC for regulating cannabis licenses in Redondo Beach. Additionally, the Council directed that the Galleria site be included as a permitted location and the taxation or ultimate development agreement fee rate be set at 5%. The Council also directed staff to prepare maps with the siting parameters recommended by the CSC, and that the maps include buffers for alcohol sales sites and safe routes to schools.

The Council asked that the ordinance, maps, and commercial licensee selection process, once drafted, be reviewed by the Planning Commission for recommendations to the City Council and that a community outreach process also be conducted.

The draft ordinances were prepared by the Community Development Department and City Attorney's Office, and were reviewed by the Planning Commission for recommendation to City Council. The key provisions incorporated in the draft ordinances, including the recommendations from the CSC that City Council agreed to, are as follows:

- **Personal Cultivation.** Continue to allow for outdoor personal cultivation as currently regulated for a maximum of 6 plants allowed indoors and in yard area if secured and not visible from surrounding sites.
- **Allow Licensed Activity.** Permit licensed cannabis businesses with recommended restrictions (see remaining items in the list below).
- **License Types.** Allow only storefront retailer licenses (Type 10) and non-storefront retailer delivery licenses (Type 9) or a combination of the two on one site. Prohibit delivery services

that originate from other cities if a non-storefront delivery license is issued in Redondo Beach.

- **Zoning Provisions.** Limit cannabis license sites to commercial and industrial zones. Prohibit licenses in coastal commercial, residential, and public/institutional zones. (CSC had initially recommended prohibiting in regional commercial zone where Galleria is located, but City Council directed staff to add that as an acceptable zone). Require discretionary Conditional Use Permit (CUP) approval.
- **Buffers.** Maintain a 600-foot radius from elementary schools, day cares, and youth centers (per State's mandate). Increase the buffer zone to a 1500-foot radius from high schools and middle schools. School buffers to include private schools. City Council requested that Planning Commission consider implications of buffer around residential (see Planning Commission recommendations noted below).
- **Number and Location of Licenses.** Allow up to two (2) sites within the City, with a maximum of one site per district. Establish a 1000-foot buffer between cannabis licensed sites.
- **Hours of Operation.** The State allows retail activities between the hours of 6 a.m. and 10 p.m. Local jurisdictions can be more restrictive. Limit hours to the following:
  - Storefront Retail Sales - 9 a.m. to 10 p.m.
  - Non-storefront Delivery - 6 a.m. to 10 p.m.
- **Security.** In addition to State security requirements, include the following security measures:
  - All security personnel to be vetted through the Redondo Beach Police Department (RBPD) or a certified 3rd party.
  - Regarding surveillance, the licensee must provide real time direct access to all surveillance.
  - Alarm systems to be set to send real time immediate messages to RBPD.
  - Regarding safety, requirements to better define "secure storage of cannabis and cannabis products" as well as onsite revenue.
  - The licensee to provide measures to ensure a minor doesn't enter, requiring ID checks and providing appropriate signage.
  - For delivery, licensee to provide a signature for receipt and that those records be maintained on file for auditing purposes.
- **Enforcement.** The CSC recommends the City implement the Cannabis Compliance and Enforcement Program. The Los Angeles County Department of Public Health has created a relatively new program entitled the Cannabis Compliance and Enforcement Program, where the County contracts with cities that allow for cannabis activities. The program aims to further protect public health but has the additional benefit of being an effective enforcement tool against illegal operators who are unable to apply for the permit and subsequently violate Public Health Department Codes.
- **Tax or Fees.** Establish a Developer Agreement with developer fees and consider sunsetting it with an eventual tax measure.
- **Tax or Fee Rate.** Set fee at 5%. (CSC had initially recommended reviewing neighboring jurisdictions, which the City Council did and selected 5%).
- **Tax or Fee Revenue Location.** General Fund.
- **Property Requirement.** Do not require applicant to secure property prior to the application process.
- **Selection Process.** City Council to determine the licensee solicitation and selection process at a future date separate from the Ordinance. This may come back to Planning Commission for input if City Council continues with that direction.

- **Transfer of Ownership.** Limit transferability of a developer agreement and/or license for a set period of time.
- **Adoption of Regulations.** Adopt ordinances to effectuate decisions.

On March 3, 2022, the Planning Commission considered the draft ordinances at a public hearing. After much deliberation, the Planning Commission recommended the draft ordinances, with 23 specific recommendations included in their resolution (attached - see Section 6) for City Council to consider when reviewing the ordinances. Those recommendations are as follows:

1. Correct numbering and reference in 10-2 and 10-5.1626(c)(2) references the “prohibitions of subsection (a)”. That should reference subsection (c)(1) immediately above it. ***[This has been addressed in the draft ordinances attached]***
2. Add definitions for the following terms:
  - a. Hearing Officer ***[This definition was added in the draft ordinances attached]***
  - b. Tax Administrator ***[This was corrected to say “Finance Director”]***
  - c. Finance Director ***[This seemed straightforward without needing to be defined, since this is a designated position within the City of Redondo Beach]***
  - d. Permit Administrator ***[This definition was added in the draft ordinances attached]***
  - e. Premises ***[This definition was added in the draft ordinances attached]***
3. Correct discrepancy between calendar days referenced in 6-2.16(b)(3) and (b)(4) so that materials would not have to be submitted in advance of the appeal itself.  
***[This has been addressed in the draft ordinances attached]***
4. In 6-2.05(c)(14) add clarification that employees would be permitted to consume food on site not in the customer area.  
***[This has been addressed in the draft ordinances attached]***
5. By limiting to two licenses, it is a duopoly. Under Subsection 6-2.06 remove the reference to the “...minimum period of three (3) years from the start of operation.” And remove the language, “Permittee may only transfer ownership after the initial period of time and with prior discretionary approval of the City Council. Before approving any such request, City may require the purchaser, assignee, or transferee to provide the same information and materials that are required of an initial applicant, including the payment of associated fees.”
6. Require a Conditional Use Permit condition that authorizes that CUP only while there is an operator that has a commercial cannabis retailer permit per Title 6.
7. Consider engaging a thoroughly vetted and referenced consultant with experience evaluating the cannabis industry to evaluate the ordinance in its entirety.  
***[City staff have reached out to HdL, who will provide a quote for services at the meeting, as explained above]***
8. Institute a mechanism to vet all owners. Specifically, if a certain percentage is proposed to be assigned to new owners or partners, permittee is to notify the City and must obtain prior City Council approval. A restriction should be added to prohibit a permittee to be a C Corporation.

9. Prohibit the two permits from having the same or common ownership.
10. Require that the developer agreement set a timeframe from when a permit is issued to when it is required to be in operation.
11. Revise 6-2.02 to read, "No person may operate a commercial cannabis business or engage in commercial cannabis activity within the City of Redondo Beach including cultivation, processing, manufacturing, testing, sale, delivery, distribution, or transportation of cannabis or a cannabis product unless the person (1) has a valid commercial cannabis retailer permit from the City of Redondo Beach; (2) has any and all valid state or local permits; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activity, including holding the necessary state licenses to engage in commercial cannabis activity." Where the language is specifying that only a cannabis retailer permit allowed.  
***[This has been addressed in the draft ordinances attached]***
12. Require in the developer agreement that the permittee have a community relations contact available to businesses and residents within 600' of the site and quarterly meetings required between community relations contact and City Manager for first year and at request of City Manager thereafter.
13. Revise Section 6-2.05(c)(5) to address and not inadvertently prohibit delivery. The language currently states, "All commercial cannabis business shall be operated within the specific part of the premises specified in the Development Agreement and/or conditional use permit. No commercial cannabis activities shall take place in an area exceeding the square footage authorized in the controlling Development Agreement, conditional use permit, or the licensee's license; whichever is most restrictive."
14. Developer agreement should restrict permitted local cannabis retail businesses from advertising on billboards in the City of Redondo Beach.
15. If there is no requirement under the law for personal information to be collected for cannabis retail storefront licensees, prohibit the business from requiring that the personal information be collected in order to be a customer.
16. Concern with real time surveillance being an invasion of privacy. Return the video surveillance requirements to be limited to the State requirements, police not surveilling the cannabis site, or if police have surveillance access, not recording it. If police have recordings of surveillance at the discretion of the permittee, should delete surveillance recordings within 90 days unless part of an active investigation.
17. Regarding buffering residential zones:
  - a. Prohibit entrances and exits and driveways associated with cannabis retailers on streets where adjacent to residential zone where residential shares that road within the same block.

18. Add restriction that no more than cannabis retail site per street.
19. Consider requiring a bond for liability.
20. Consider requiring in the development agreement an audit of operations in addition to the financial auditing requirement to be paid for by the permittee.
21. Recommend that Council add supplemental appearance requirements per 6-2.05(c)(9) in the development agreement.
22. Remove the CR zone that includes the Galleria site as an allowed zone for cannabis retailer permits.
23. Considering that Beach Cities Transit Route 102 is a main bus line for Redondo Beach High School students to take to school, with two bus stops on Artesia Boulevard between Ridge Lane and Hawthorne Boulevard, recommend removing the commercial sites along Artesia Boulevard between Ridge Lane and Hawthorne Boulevard from consideration for cannabis retailer permits.

Some of the minor recommendations regarding editing/numbering cleanup have been addressed in the draft ordinances attached to this Administrative Report and are noted above in brackets under the description of those particular minor recommendations. However, there are several substantive recommendations that the City Council may want to discuss and consider incorporating into the ordinance.

In addition to the Planning Commission recommendations, in response to City Council direction at the January 18<sup>th</sup> meeting, a community survey was issued regarding potential regulations regarding cannabis. The survey was opened on Thursday, April 21, 2022 and made available to the public for two weeks (through May 5, 2022). The results of the survey will be made available at the meeting, via Blue Folder, for consideration and discussion.

In anticipation of the discussion on Planning Commission recommendation #7, staff initiated discussions with HdL, a firm that has expertise in preparing and reviewing cannabis regulations and related procedures. HdL is developing a proposal for services related to 1) reviewing the City's draft ordinance, 2) preparing a separate tax ballot measure, 3) establishing a business permit solicitation and selection process, and 4) other related services. With most of these services, (the exception being the preparation of a cannabis tax ballot measure), the City is expected to be able to recover costs for the consulting work through future permit fees. The proposal from HdL is in development and will be made available for discussion at the meeting, via Blue Folder.

### **COORDINATION**

This agenda item was prepared by the Community Development Department in coordination with the City Manager's Office and the City Attorney's Office. The draft ordinances were prepared by the City Attorney's Office and the Community Development Department.

### **FISCAL IMPACT**

The fiscal impact to the City for regulating cannabis sales and delivery in Redondo Beach is unknown at this point. There are many variables to consider including 1) the number and types of licenses to



be approved, 2) the volume of business and sales from future local cannabis operations, 3) the specific franchise fee or tax rate charged for cannabis sales in Redondo Beach, 4) the amount of staff time allocated to regulatory and enforcement activities, and 5) the potential for legal challenge to the City's licensing activities.

Notwithstanding the above variables, staff's initial estimate is that each licensed site in Redondo Beach could provide \$500,000 to \$1,000,000 in additional annual General Fund revenue, provided the City moves forward with the adoption of a regulatory ordinance and the proposed tax and/or developer agreement fees.

The preparation of the ordinances, staff report, and community input survey are within the workplan and annual budgets of the Community Development Department, City Manager's Office, and the City Attorney's Office.

**APPROVED BY:**

*Mike Witzansky, City Manager*

**ATTACHMENTS**

- Draft Ordinance Amending Title 6 (businesses, professions, and trades)
- Draft Ordinance Amending Title 10 Chapter 2 (inland zoning)
- Draft Ordinance Amending Title 10 Chapter 5 (coastal zoning)
- Planning Commission Resolution on Cannabis Code Amendments 2022-03-03
- Cannabis Map Final Buffers 2022-01-12
- City Council Administrative Report on Cannabis Steering Committee Update 2021-10-05
- City Council Presentation on Cannabis Steering Committee Update 2022-10-05
- Summary of Cannabis Laws and Updates

**ORDINANCE NO. \*\*\*\*\***

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
REDONDO BEACH, CALIFORNIA, ADDING CHAPTER 6 TO  
TITLE 6 OF THE REDONDO BEACH MUNICIPAL CODE TO  
REGULATE COMMERCIAL CANNABIS BUSINESSES**

WHEREAS, the City of Redondo Beach has historically and continues to currently ban all commercial cannabis activities except for deliveries and personal cultivation in order to protect the public health and safety of City residents; and

WHEREAS, in November of 2016, a majority of the voters of the City of Redondo Beach voted in favor of Proposition 64, known as the "Control, Regulate and Tax Adult Use of Marijuana Act"; and

WHEREAS, arising out of the passage of Proposition 64 and the promulgation of regulations and licensing structures by the state, the City Council had indicated it could revisit its ban as state licensing of such businesses and created a Cannabis Taskforce to review potential regulations; and

WHEREAS as a result of a recent citizen sponsored initiative measure that, if passed, would repeal the City's existing ban on commercial cannabis activities and establish new regulations that, among other things, would restrict the City's ability to regulate such uses and allow certain existing unpermitted and illegal cannabis businesses to continue operating while eliminating the City's ability to deny these uses or impose any operational conditions, the City must move more quickly than initially planned to bring forward a more protective ballot measure; and

WHEREAS, passing a City Council sponsored commercial cannabis ordinance would maintain the City's ability to develop important policy positions, business and land use regulations, and health and safety permits to preserve the quality of life that Redondo's residents, visitors and business community desire and expect; and

WHEREAS a critical companion to this ordinance is a City Council sponsored measure to adopt a Cannabis Business Tax, without the passage of which the City would be financially unable to address the secondary effects of commercial cannabis businesses; and

WHEREAS, this Ordinance is necessary to provide the City of Redondo Beach Police Department clearly established legal authority to protect the public and deter potential criminal cannabis activity.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and the recitals are incorporated herein by reference as if set forth in full.

ORDINANCE NO. \*\*\*\*  
ADDING CHAPTER \* TO TITLE \*  
OF THE REDONDO BEACH MUNICIPAL CODE

PAGE NO. 1

## SECTION 2. FINDINGS

1. In compliance with the California Environmental Quality Act of 1970, as amended (CEQA), and State and local guidelines adopted pursuant thereto, the zoning amendments qualify for CEQA exemption under Section 15060(c)(2) because the activity will not result in direct or reasonable foreseeable physical change in the environment and Section 15060(c)(3) as the activity is not a considered a project under CEQA Section 15378.
2. The amendments to the Zoning Ordinance are consistent with the General Plan.
3. The amendments to the Coastal Land Use Plan Implementing Ordinance are consistent with the City's Local Coastal Plan (LCP).
4. These amendments do not require a vote of the people under Article XXVII of the City Charter.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 3. AMENDMENT TO CODE. Chapter 6 shall be added to Title 6 of the Redondo Beach Municipal Code and shall read as follows:

### **“Chapter 6 COMMERCIAL CANNABIS ACTIVITY**

#### **Section 6-2.00 Commercial Cannabis Retailer Permit Regulations.**

**Section 6-2-01 Definitions.** The technical terms and phrases used in this Chapter are defined in Redondo Beach Municipal Code Section **10-2.1626**.

**Section 6-2.02 Commercial cannabis permit required to engage in commercial cannabis activity.** No person may operate a commercial cannabis business or engage in commercial cannabis activity within the City of Redondo Beach including cultivation, processing, manufacturing, testing, sale, delivery, distribution, or transportation of cannabis or a cannabis product unless the person (1) has a valid commercial cannabis retailer permit from the City of Redondo Beach; (2) has any and all valid state or local permits; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activity, including holding the necessary state licenses to engage in commercial cannabis activity.

#### **Section 6-2.03 Application Procedure.**

(a) The city may, in its sole discretion, approve and direct the issuance of a notice inviting applications, a request for applications, or similar solicitation inviting persons interested in operating commercial cannabis activities in the city to apply for a Development Agreement.

ORDINANCE NO. \*\*\*\*  
ADDING CHAPTER 6 TO TITLE 6  
OF THE REDONDO BEACH MUNICIPAL CODE  
REGULATING COMMERCIAL CANNABIS ACTIVITY  
PAGE NO. 2

(b) Whether to issue a solicitation for applications, the manner of accepting applications, the manner of application review, and whether to approve or deny any such application shall be subject to the sole and absolute discretion of the City Council. The criteria utilized in evaluating or scoring any application for a Development Agreement shall be that specified in this ordinance, elsewhere in the Redondo Beach Municipal Code, or in the solicitation for applications issued by the City Council. Subject to the discretion of the City Council, the solicitation may include provisions pertaining to: the information required to be submitted by applicants, including but not limited to the application information specified in the regulations for a license from the Department. the city's application review, vetting, and approval processes; the review and scoring criteria that will be utilized by the city in distinguishing among applicants; applicant background checks and verification requirements; conditions of approval; security features and requirements; operating guidelines, standards, limitations, and requirements; site improvement obligations; maintenance requirements; book, accounting, and record keeping requirements; and/or a draft Development Agreement.

(c) A Development Agreement approved by the City Council is required before any person operates a retailer site in the city. Said Development Agreement shall set forth the terms and conditions under which the commercial cannabis activities may be undertaken, in addition to the terms and conditions otherwise set forth in this ordinance. Subject to the agreement of any state Permittee and approval of the City Council , such additional terms and conditions of the Development Agreement may include, but are not limited to, public outreach and education requirements, community service requirements, the payment of mutually agreeable fees and charges, development and operating plans (including site plan, floor plan, and elevations), security measures, operating standards and procedures, site location and design standards, and such other terms and conditions as may be agreed upon by a Permittee and the City Council , as well as those that the City Council deems necessary to protect and promote the public health, safety, and welfare of the community.

(d) In addition to a Development Agreement, no person shall operate a retail site until a conditional use permit has been approved by the planning commission or City Council. The application process for the conditional use permit shall be the same as is generally applicable to conditional use permits in the city, provided that a Development Agreement between the Permittee and the city shall be a condition precedent to approving a conditional use permit.

(e) Nothing in this ordinance is intended or shall be construed as requiring the City Council to approve any Development Agreement(s) or to otherwise allow commercial cannabis activities in the city. No application for a Development Agreement will be accepted except during the times specified by the City Council in a solicitation for applications. The City Council's solicitation for, review of, and approval of any application for a Development Agreement is discretionary, and nothing in this ordinance is intended or shall be interpreted as rendering commercial cannabis activities a "by-right" land use in the city.

#### **Section 6-2.04 Fees and Charges.**

(a) Each applicant or Permittee shall timely and fully pay all fees set forth in this ordinance. Failure of an applicant to pay the requisite fees is grounds for denial, and the

failure of a Permittee to pay the requisite fees shall constitute a breach of the Development Agreement, and is grounds for revocation of the conditional use permit. Except as otherwise provided herein, the amount of each fee shall be established by resolution of the City Council.

(1) Application fee to cover the city's costs incurred in the initial acceptance and review of an application for a Development Agreement, due and payable in full at the time an application is submitted.

(2) Processing fee(s) to cover the costs incurred in the review, investigation, scoring, and/or selection of an applicant for the award of a Development Agreement shall be due and payable in full at the time an application is submitted.. The city may charge a separate processing fee for each round of the application review and selection process. Such Agreement shall be granted in accordance with evaluation criteria specified by the City Council in a notice inviting applications, a request for proposal ("RFP"), or similar solicitation

(b) In addition to the fees specified in subsection (a), applicants and Permittees shall timely pay all other applicable fees , including, but not limited to, fees associated with processing applications for conditional use permits, Development Agreements, building permits, and plan checks, as well as the city's cost of preparing a Development Agreement.

(c) In addition to the fees set forth in this ordinance, a Development Agreement entered into pursuant to this ordinance may provide for a Permittee to pay the city a fair share contribution towards the city's costs incurred. Such costs may include, without limitation, enforcing the provisions of this ordinance, inspecting for and remediating any direct or secondary negative impacts of the commercial cannabis activities, and mitigating impacts to the city's existing public facilities caused by the commercial cannabis facility. If applicable, the remediation payments described in this ordinance shall be memorialized in a Development Agreement, and paid by a Permittee to the city in strict accordance with the terms thereof.

#### **Section 6-2.05 Development Agreement and Operating Standards.**

(a) Permittees, and the premises upon which commercial cannabis activities are operated, shall strictly comply with this ordinance, the Development Agreement, the conditional use permit, the Act, and anything else required by the Department or the State licensing authority. To the extent of a conflict among any of the foregoing, the more restrictive provision shall control unless a different intent is clear from context.

(b) A fee of no more than 5% of gross receipts may be required in the Development Agreement. This fee is to sunset upon the establishment of a local commercial cannabis tax.

(c) All premises where commercial cannabis activities are operated shall comply with the following minimum development and operating standards:

(1) Commercial cannabis activities shall occur in a fully enclosed and permanent building, as described in this ordinance.

(2) Persons under the age of twenty-one (21) shall be prohibited from the premises at all times, other than as lawful customers permitted under State law in the case of Medicinal cannabis retailers. If such retail establishment sells Medicinal cannabis, persons under the age of twenty-one (21) and over the age of eighteen (18) shall be permitted to enter the establishment only after verification that they possess a valid Medical Marijuana ID card.

(3) A premises shall notify patrons of the following through the posting of a sign outside the premises posted in a conspicuous location near the entrance of the building.:

(i) That loitering on and around the premises is prohibited by California Penal Code § 647(e).

(ii) That patrons must immediately leave the site upon concluding the reason for their visit, and may not consume cannabis or cannabis products on the premises.

(iii) That patrons may be subject to prosecution under federal law.

(iv) That the use of cannabis or cannabis products may impair a person's ability to drive a motor vehicle or operate machinery.

(4) Permittees shall provide the name and phone number of an on-site staff person who shall be responsible for notification of any operational problems or emergencies associated with the premises or the operation thereof to the Police Department and City Manager.

(5) All commercial cannabis business shall be operated within the specific part of the premises specified in the Development Agreement and/or conditional use permit. No commercial cannabis activities shall take place in an area exceeding the square footage authorized in the controlling Development Agreement, conditional use permit, or the licensee's license; whichever is most restrictive.

(6) All exterior windows, doors, loading and unloading docks or bays, and any points of ingress or egress to the premises where the commercial cannabis business will be operated, shall be secured from unauthorized entry by commercial grade, nonresidential locks, and in a manner specifically approved by the Police Department. The exterior of each of the foregoing areas shall be illuminated during twilight hours.

(7) The ingress and egress points of any storage areas for cannabis or cannabis products shall be locked and secured at all times, and shall be under the control of and accessible only to Permittee's authorized personnel as disclosed to the City.

(8) Each Permittee shall implement a track-and-trace system, compliant with the Act, to record the chain of supply of cannabis or cannabis products from "seed-to-sale."

(9) The exterior appearance of the premises, including but not limited to the design, color, landscaping, screening, architectural treatments, signage, and other such aesthetic features of the premises shall comply with the standards applicable to the underlying

zoning district, as may be modified or supplemented through the Development Agreement and/or conditional use permit. Except as modified herein, or in a Development Agreement or conditional use permit, the premises shall comply with the development standards applicable to the underlying zoning district.

(10) a valid Development Agreement.

(11) All exterior signage on the premises shall comply with city standards, the Development Agreement and/or conditional use permit. Should these provisions conflict, the terms of the Development Agreement shall control.

(12) The exterior of the premises shall comply with the city's generally applicable lighting standards including, without limitation, fixture type, wattage, illumination levels, shielding; and associated approvals and permits.

(13) All waste generated by or resulting from commercial cannabis activities shall be disposed of as required by law. and Pending disposal such waste shall be stored in a locked and secure area that is under the control of and accessible only to Permittee's authorized personnel.

(14) On-site sales of alcohol or tobacco products, and consumption of food, alcohol, tobacco, cannabis, or cannabis products on the premises is strictly prohibited except that employees may eat in an area separate from the sales floor on their breaks.

(15) The premises shall provide an odor absorbing ventilation and exhaust system so that odor generated inside the structure where commercial cannabis activities are taking place cannot be detected outside the structure, anywhere on adjacent property, public rights-of-way, or within any other unit or structure on the premises where commercial cannabis activities are not taking place.

(16) Be provided with adequate electricity, sewerage, disposal, water, fire protection, and storm drainage facilities for the intended purpose.

(17) Whether or not Applicants have obtained a property for the purposes of their commercial cannabis business prior to their selection, shall have no bearing on their selection.

(18) The Permit Administrator shall have the power and authority to promulgate rules, regulations, and requirements consistent with the provisions of this chapter and other law in connection with the issuance of a registration certificate. The Permit Administrator may designate an employee of his or her department to make decisions and investigate and act pursuant to this chapter.

#### **Section 6-2.06 No transfer or change in ownership of location.**

(a) Permittees may not sell, transfer, pledge, assign, grant an option, or otherwise dispose of, in whole or in part, their rights under or interest in a Development Agreement. It is strictly prohibited for any Owner to sell, transfer, pledge, assign, grant an option, or otherwise dispose of, in whole or in part, their ownership interest in the licensed cannabis business for a minimum period of three (3) years from the start of operation. No Permittee may allow for a separate entity to manage or operate their business or act as their agent in their place. Permittee may only transfer ownership after the initial period of time and with prior discretionary approval of the City Council. Before approving any such request, City may require the purchaser, assignee, or transferee to provide the same information and materials that are required of an initial applicant, including the payment of associated fees.

(b) Before exercising any rights under a Development Agreement, Permittees shall demonstrate proof of lawful possession of the premises where commercial cannabis activities are proposed to take place. Such evidence shall consist of properly executed deeds of trust, leases, licenses, or similar documents evidencing the Permittee's right to possession and use of the premises. Subject to the criteria specified by the City Council in its solicitation for applications, a Development Agreement shall be awarded contingent upon an applicant's subsequent identification of a premises that is acceptable to the City; or, subject to an applicant's provision of an option, letter of intent, or similar instrument executed by the current owner of the proposed premises in favor of a Permittee or applicant, authorizing commercial cannabis activities to be operated therein.

(c) Commercial cannabis activities may only take place within the area, building, structure, and portion of the premises that is specifically described in Development Agreement and/or conditional use permit. A Permittee shall not relocate, move, or otherwise alter the location of its operations from the specific area so identified without obtaining prior approval from the City; regardless of any possessory interest or right to possession to such additional areas. No Permittee shall add additional or contiguous units or areas, thereby altering the initially approved premises, without prior approval of the City Council.

(d) Permittee shall not sublet, transfer, or otherwise assign any portion of any approved premises for any purpose, unless the City Council grants prior approval of such amendment.

(e) Permittee shall not make any physical change, alternation, or modification to the approved premises that, in the opinion or discretion of the building official, materially or substantively alters the location or usage of the premises from the plans approved in the Development Agreement and/or conditional use permit, without the advanced approval of the City Council. For purposes of this subsection, the phrase "materially or substantively alters" shall mean any physical change, alternation, or modification to the area of the premises identified in the Development Agreement or conditional use permit for the operation of commercial cannabis activities that either: (1) increases the capacity or scope of commercial cannabis activities by five percent (5%) or more; or (2) requires a building permit.



## **Section 6-2.07 Minimum Security Requirements.**

(a) Permittees shall comply with the security standards and requirements set forth in this ordinance, the Development Agreement, the conditional use permit, and the Act. If any of the foregoing are inconsistent, the most restrictive provision shall control unless a different intent is clear from context.

(b) Security Standards are as follows:

(1) Owner shall establish a security system that prevents individuals from remaining on the premises of the commercial cannabis business if they are not engaging in an activity directly related to the permitted operations of the commercial cannabis business and establishing limited access areas accessible only to authorized commercial cannabis business personnel.

(2) Panic buttons shall be installed in all commercial cannabis businesses.

(3) Sensors shall be installed to detect entry and exit from all secure areas.

(4) Each commercial cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

(5) All Security Personnel shall be vetted through and approved by the Police Department.

(c) All Premises where commercial cannabis activities are operated and their personnel shall comply with the following minimum security standards:

(1) Security Cameras.

a. Security cameras shall be installed and maintained on the premises in a good working condition, and shall be capable of producing digitally recorded documentation in a format approved by the Police Department.

b. All security cameras on the premises shall be in use twenty-four (24) hours per day, seven (7) days per week. Permittees are responsible for ensuring that all surveillance equipment is properly functioning and maintained so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas.

c. All video surveillance equipment shall have sufficient battery backup to support a minimum of four (4) hours of recording in the event of a power outage.

d. The areas of the premises to be covered by the security cameras include, but are not limited to: (1) all storage areas for cannabis or cannabis products; (2) all areas where commercial cannabis activities are operated; (3) each location where weighing, packaging, transport, preparation, or tagging activities occur; (4) the interior and exterior of all points of ingress or egress to storage areas; (5) all doors and windows; (6) loading and unloading bays, the interior and exterior of all points of ingress or egress to the structure on the premises where commercial cannabis activities are operated, and (7) all points of ingress or egress to the premises.

e. Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees or local law enforcement agencies for appropriate purposes.

f. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.

g. At least one camera shall be dedicated to recording the access points to the secured surveillance recording area.

h. Permittees shall keep a current list of all authorized employees and personnel who have access to the surveillance system and/or room on the premises.

i. Permittees shall keep a surveillance equipment maintenance activity log to record all service activity, including the identity of the individual performing the service, the service date and time, and the reason for service. Such records shall be maintained on the premises and shall be made available to the city upon request.

j. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions.

k. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the requirements described in this ordinance, video monitors, digital archiving devices, a color printer, and the capability to produce still color photograph from any camera image, live or recorded. The date and time shall be embedded on all surveillance recordings without significantly obscuring the picture. The time on the surveillance video is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory.

l. Video surveillance systems must be equipped with a failure notification system that provides prompt notification of any prolonged surveillance interruption and/or the complete failure of the surveillance system to the Permittee and Police Department.

m. All surveillance recordings must be kept for a minimum of ninety (90) days and be in a format that can be easily accessed for viewing. Video recordings must be archived in a format that ensures authentication of the recording as a legitimately captured video, and ensures no alteration of the recorded image has taken place.

n. After the ninety-day (90) surveillance video retention period has lapsed, surveillance video recordings must be erased or destroyed prior to being discarded or disposed of for any other purposes. Surveillance video recordings may not be destroyed if the premises knows, or should have known of a pending criminal, civil, or administrative investigation, or any other proceedings for which the recording may contain relevant information.

o. Upon request, Permittees shall make available to the Police Department or local law enforcement agency, for law enforcement purposes, all information related to security alarm systems, recordings, monitoring, and/or system activity.

p. Permittees may utilize off-site monitoring and video recording storage, or an independent third-party service, to satisfy the requirements of this ordinance, provided the standards exercised at the remote location meet or exceed all standards for on-site monitoring set forth herein.

q. The cannabis business shall be responsible for ensuring that the security surveillance camera footage is compatible with the city's software and hardware and remotely accessible by the Chief of Police. Alarm systems shall send real time alerts directly to the Police Department.

(2) Alarm System.

a. The premises shall be equipped with a reliable, commercial alarm system that is operated and monitored by a security company or alarm business twenty-four (24) hours a day, seven (7) days a week, operating in full compliance with this ordinance.

b. Permittees shall maintain on the premises up to date and current records and existing contracts with third party alarm system or security services providers that: (1) describe the location and operation of each security alarm system, (2) a schematic of security zones, (3) the name of the alarm company, and, if different from the name of the alarm company, (4) the name of any vendor monitoring the premises.

c. At a minimum, the alarm system shall monitor all exterior points of access into the structure on the premises where commercial cannabis activities are operated, including but not limited to windows and doors.

(3) Security Guard. At all times a premises is open to the public, at least one security guard who is licensed, possesses a valid department of consumer affairs "security guard card".

(4) Records. All records applicable to the surveillance system, alarm system, and track-and-trace system shall be maintained on the premises, and available for inspection upon request by the Police Department or other local law enforcement personnel for law enforcement purposes or to ensure compliance with this ordinance, the Act, or the Regulations.

**Section 6-2.08 County Health Permit.** The City shall work with The County of Los Angeles to adopt the county's Cannabis Compliance and Enforcement Program and require the city's cannabis Permittees to obtain the county's health permit prior to operation.

**Section 6-2.09 Criminal Penalties.**

(a) Any violation of any provision of this ordinance shall be deemed a misdemeanor and shall be enforced pursuant to Title 1, Chapter 2 of Redondo Beach Municipal Code.

(b) Separate offenses for each day. Any person who violates any provision of this ordinance shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

(c) Use or activity prohibited by State law. Nothing in this ordinance shall be deemed to permit or authorize any use or activity which is otherwise prohibited by State law

**Section 6-2.10 Violations.**

(a) The city may initiate abatement proceedings as authorized by this ordinance or state law to correct or cure any violation of this ordinance. The city shall be entitled

to recover its courts costs and reasonable attorneys' fees in the event of a court order or judgment of abatement is entered in favor of the city.

(b) Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor.

(c) The remedies provided herein are not to be construed as exclusive remedies. The city is authorized to pursue any proceedings or remedies provided by law.

(d) Violations declared a public nuisance. Each and every violation of the provisions of this chapter is hereby deemed unlawful and a public nuisance.

**Section 6-2.11 Audits.** No later than February 15 of every calendar year, each Permittee shall file with the city one copy of an audit of its operations for the previous calendar year, completed and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The audit shall include, but not be limited to, a discussion, analysis, and verification of each of the records required to be maintained pursuant to this ordinance.

#### **Section 6-2.12 Records.**

(a) Permittees shall maintain records at the premises accurately and truthfully documenting the following:

(1) Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the full names, address, and telephone number) of anyone owning, holding an interest in or managing the commercial cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the city manager or his/her designee upon a reasonable request.

(2) All receipts of the premises, including but not limited to all payments, purchases, contributions, reimbursements, and reasonable compensation, whether in cash or in kind, concerning commercial cannabis activities, whether among licensees or otherwise.

(3) Commercial cannabis businesses must record all commercial cannabis activity in the track and trace system as required by state law.

(4) Proof of compliance with the Act and regulations, including but not limited to the license issued by the Department authorizing a Permittee to operate commercial cannabis activities on the premises;

(5) Any other required documentation described in the Development Agreement required to be maintained on the premises.

(6) The foregoing records shall be maintained by Permittees for a period of seven (7) years and shall be made available by the Permittee to the Police Department, other local law enforcement, or the city manager upon request. If such records are not produced as requested, the city may seek a search warrant, subpoena, or court order to compel access thereto. The records shall be stored at the premises in a manner capable of being reproduced promptly and accurately. Any loss, damage or destruction of the records shall be reported to the Police Department within twenty-four hours.

(b) Upon institution of a city-wide cannabis tax, it shall be the duty of every owner and operator of a commercial cannabis business to keep all records as may be necessary to determine the amount of tax due hereunder and shall preserve the same for a period of four years. The Finance Director shall have the right to inspect such records at all reasonable times. The finance director shall determine the mode and method of recordkeeping required to assist the tax collector to perform the duties required of him under this section. At the time of permit renewal, each owner and operator shall submit to the city a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the finance director.

**Section 6-2.12 Compliance with laws.** Nothing in this chapter shall be construed as authorizing any actions that violate state or local law with respect to the operation of a commercial cannabis business. It shall be the responsibility of the owners and operators of the commercial cannabis business to ensure that the commercial cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis permit. Nothing in this chapter shall be construed as authorizing any actions that violate state law regarding the operation of a commercial cannabis business. Except as otherwise provided herein, this ordinance incorporates the requirements of the Act. In the event of any conflict between the provisions of this ordinance and the provisions of the foregoing, the more restrictive provision shall control.

**Section 6-2.13 Interpretation.** The provisions of this ordinance shall be read to be consistent with all the provisions of state and local law, and their implementing regulations, as well as the other provisions of this ordinance.

**Section 6-2.14 Severability.** Should any provision of this ordinance, or its application to any persons or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this ordinance or the application of this ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

**Section 6-2.15 Limitation of Liability**

(a) To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to receiving, reviewing, processing, denying, or approving any application to operate commercial cannabis activities under this ordinance.

(b) As a condition of submitting an application for a Development Agreement, and as a further condition of approval, each applicant or Permittee, as applicable, shall: (1) agree to indemnify the city and its elected and appointed officers, employees, and representatives, from and against any claims, damages, injuries, or liabilities of any kind relating to or arising from an application, the city's denial or approval of an application, or the operation of commercial cannabis activities; (2) waive any and all claims, damages, injuries, or liabilities of any kind against the city and its elected and appointed officers, employees, and representatives; (3) agree to defend, at its sole cost and expense, any action against the city

and/or its elected and appointed officers, employees, and representatives, relating to or arising from an application, denial or approval of an application, or the operation of a commercial cannabis activity; and (4) agree to reimburse the city for any court costs and attorneys' fees (with legal counsel of the city's choice) incurred in any legal challenge relating to an application, the denial or approval of any application, or the operation of a commercial cannabis activity.

#### **Section 6-2.16 Suspension, revocation or modification of permits.**

(a) Commercial cannabis permits may be suspended, revoked or modified for any violation of any state or local law and/or any rule, regulation, and/or standard adopted pursuant to this chapter or in this Code, whether committed by the Permittee or any employee or agent of the Permittee.

(b) A decision of the city to suspend, revoke or modify a commercial cannabis permit is appealable to a hearing officer and any appeal must be filed with the city manager at least ten (10) working days prior to the commencement date of the permit revocation or modification.

(1) The City Clerk shall not accept an appeal, and no hearing shall be held, unless the appellant has paid a filing fee, in an amount set by resolution of the City Council, to defray the cost of such appeal. Any appeal without the timely payment of fees shall be considered to be untimely.

(2) The scope of the appeal hearing pursuant to this section shall be limited to those issues raised by the appellant in the written appeal, as submitted pursuant to subsection (a) of this section.

(3) Upon receipt of a timely filed appeal, the City Clerk shall set the matter for hearing before the City Manager. The hearing shall be held not fewer than ten (10) calendar days and not more than thirty (30) calendar days from the date of the appeal request. The hearing may be continued from time to time upon the mutual consent of the parties.

(4) The appellant shall be provided with notice of the time and place of the appeal hearing, as well as a copy of all relevant materials at least ten (10) calendar days prior to the hearing.

(5) An appeal shall stay all proceedings in furtherance of the appealed action. Following appeal, the decision of the hearing officer may be appealed to the city council. A decision of the city council shall be the final decision of the city.

(c) Any premises, or portion of a premises, for which the cannabis public health permit has been suspended or revoked shall close, cease doing business, and remain closed until the cannabis Health Permit has been reinstated or reissued by the City Health Officer.

(d) Additionally, when there is an imminent threat to public health, safety or welfare, the city manager or his/her designee, may take immediate action to temporarily suspend a commercial cannabis permit issued by the city, pending a hearing before the city manager or his/her designee within ten (10) working days of suspension. The decision of the City Manager may be appealed to the City Council, whose decision shall be final."

SECTION 4. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. This ordinance shall be published by one insertion in the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

PASSED, APPROVED AND ADOPTED this 17<sup>th</sup> day of May, 2022.

\_\_\_\_\_  
William C. Brand, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Michael W. Webb, City Attorney

\_\_\_\_\_  
Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            )       SS  
CITY OF REDONDO BEACH             )

I, Eleanor Manzano, City Clerk of the City of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. \_\_\_\_\_ duly introduced at a regular meeting of the City Council held on the 10th day of May, 2022, and was duly approved and adopted by the City Council at a regular meeting of said City Council held on the 17th day of May, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Eleanor Manzano, CMC  
City Clerk



**ORDINANCE NO. \*\*\*\*\***

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
REDONDO BEACH, CALIFORNIA, AMENDING TITLE 10,  
CHAPTER 2 SECTION 10-2.1626 OF THE REDONDO BEACH  
MUNICIPAL CODE TO ALLOW COMMERCIAL CANNIABIS  
ACTIVITIES INLAND ZONES OF THE CITY**

WHEREAS, on November 8, 2016, Proposition 64, the Control, Regulate, and Tax Adult Use of Cannabis Act ("AUMA") became law; and

WHEREAS, the AUMA regulates, among other items, the use of cannabis for personal and commercial purposes, including the recreational use of cannabis by adults over 21 years of age; and

WHEREAS, the personal use aspects of the AUMA were adopted as state law in California Health and Safety Code Section 11362.1, et. seq., which makes it "lawful under state and local law" for persons 21 years of age or older to "possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever" up to 28.5 grams of cannabis in the form of concentrated cannabis contained in cannabis products; and

WHEREAS, the AUMA made it lawful for those individuals to "possess, plant, cultivate, harvest, dry, or process not more than six living cannabis plants and possess the cannabis produced by the plants; and

WHEREAS, cannabis plants, as they begin to flower and for a period of two (2) months or more, produce a strong odor, which can be detectable far beyond property boundaries if grown outdoors; and

WHEREAS, the AUMA made it lawful for individuals above the age of 21 to smoke or ingest cannabis or cannabis products other than in public places, vehicles, within 1000 feet of schools day care centers or youth centers while children are present, or anywhere that the smoking of tobacco products is already prohibited; and

WHEREAS, the AUMA permits cities to "reasonably regulate" without completely prohibiting cultivation of cannabis inside a private residence or inside an "accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure" and to completely prohibit outdoor cultivation on the grounds of a private residence, up to and until a "determination by the California Attorney General that nonmedical use of cannabis is lawful in the State of California under federal law"; and

WHEREAS, to regulate commercial use of cannabis, the AUMA would add Division 10 (Cannabis) to the Business & Professions Code, which grants state agencies "the exclusive authority to create, issue, renew, discipline, suspend, or revoke" licenses for businesses

ORDINANCE NO. \*\*\*\*  
ADDING CHAPTER \* TO TITLE \*  
OF THE REDONDO BEACH MUNICIPAL CODE

PAGE NO. 1

including the transportation, storage, distribution, sale, cultivation, manufacturing, and testing of cannabis; and

WHEREAS, the AUMA provides for the creation of the Bureau of Cannabis within the Department of Consumer Affairs, which shall promulgate cannabis regulations as will the Department of Food and Agriculture and the Department of public health and the state may begin issuing licenses under Business and Professions Code Division 10 beginning January 1, 2018; and

WHEREAS, under the Federal Controlled Substances Act, the use, possession, and cultivation of cannabis are unlawful and subject to federal prosecution without regard to state permissions such as the AUMA or a claimed medical need pursuant to the MMRSA; and

WHEREAS, the California Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Cannabis Grown for Medical Use recognizes that the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, based on the experiences of other cities, these negative effects on the public, health, safety, and welfare must be studied prior to the establishment and operation of cannabis cultivation, processing, testing, and distribution uses; and

WHEREAS, based on the findings above, the potential personal cannabis cultivation and use and the possible establishment of commercial cannabis cultivation, processing, testing, transportation, sales and other uses in the City without regulation poses a threat to the public health, safety, and welfare in the City due to the negative land use and other impacts as described above; and

WHEREAS, because the state commercial provisions of the AUMA take effect on January 1, 2018, the City must disallow commercial cannabis activities in order to ensure that local regulations are promulgated and local control maintained; and

WHEREAS, if the City Council does not enact such a commercial ban by January 2, 2018, a valid state license would be the only requirement to open and operate any commercial cannabis business in any commercial zone in the City; and

WHEREAS, the AUMA states that a local jurisdiction shall not prevent transportation of cannabis or cannabis products on public roads by a licensee transporting cannabis or cannabis products in compliance with Division 10; and

WHEREAS, the "Medical Cannabis Regulation and Safety Act" ("MMRSA") which took effect January 1, 2016, regulates use of cannabis for medical purposes and the City of Redondo Beach adopted Ordinance No. 3152 which promulgated local regulations in accordance with the MMRSA, effective May 5, 2016; and

WHEREAS, on June 28, 2017 Governor Brown signed Senate Bill 94 ("SB 94" or the "Trailer Bill"), a budget trailer bill which combined medical and recreational cannabis regulations

ORDINANCE NO. \*\*\*\*

AMENDING TITLE 10, CHAPTER 2

SECTION 10-2.1626 OF THE REDONDO BEACH

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on a state level. Another consequence of Senate Bill 94 becoming law is that portions of the MMRSA were relocated and the currently adopted definitions in the Medical Cannabis portion of the Redondo Beach Municipal Code must be amended; and

WHEREAS, the City's Municipal Code does not currently address some of the uses that have become legal pursuant to the passage and adoption of the AUMA and subsequent amendment by SB 94; and

WHEREAS, in response to the enactment of SB 94, the proposed amendment to the Redondo Beach Municipal Code combines medical and recreational cannabis regulations on a local level; and

WHEREAS, on November 8, 2016 the City Council adopted a temporary moratorium on cannabis uses legalized by the passage of Proposition 64, hereinafter referred to as the Adult Use of Cannabis Act (or "AUMA") and directed City staff to begin working on permanent AUMA regulations; and

WHEREAS, on December 19, 2016, that moratorium expired by operation of law; and

WHEREAS, on April 20, 2017 the Planning Commission held a noticed public hearing and took public testimony regarding regulatory options surrounding commercial and personal use of cannabis in the City of Redondo Beach (or "City") pursuant to the passage of the AUMA; and

WHEREAS, on May 18, 2017, the Planning Commission continued the public hearing and after further public input and discussion the Commission directed City staff to return with resolutions recommending the adoption of:

- (1) an ordinance restricting outdoor personal cultivation to secured locations or lockable out buildings only;
- (2) an ordinance disallowing all commercial cannabis activities in the City of Redondo Beach to allow staff to study and create appropriate guidelines for the operation of commercial cannabis facilities in the City;
- (3) an amendment to the City's existing medical cannabis regulations to allow the delivery of medical cannabis to qualified patients in the City; and

WHEREAS, in order to create comprehensive and cohesive local system of commercial cannabis regulations, the City enacted a temporary ban while City staff and the Cannabis Taskforce studied all aspects of permitted commercial cannabis activities; and

WHEREAS, on October 5, 2021 the Cannabis Steering Committee presented their findings to the City Council; and

WHEREAS, on January 18, 2022, the City Council considered the draft cannabis ordinance and proposed storefront citing parameters and buffer maps made suggested changes for staff to review; and

WHEREAS, on March 3, 2022 the Planning Commission considered the draft commercial cannabis regulations and zoning amendments and made recommendations to the Council for consideration; and

WHEREAS, passing a City Council sponsored commercial cannabis ordinance would maintain the City's ability to develop important policy positions, business and land use regulations, and health and safety permits to preserve the quality of life that Redondo's residents, visitors and business community desire and expect; and

WHEREAS a critical companion to this ordinance is a City Council sponsored measure to adopt a Cannabis Business Tax, without the passage of which the City would be financially unable to address the secondary effects of commercial cannabis businesses; and

WHEREAS, this Ordinance is necessary to provide the City of Redondo Beach Police Department clearly established legal authority to protect the public and deter potential criminal cannabis activity.

WHEREAS, staff made some of those changes and is leaving it to the City Council's discretion to make any of the other suggested amendments or their own changes to this and the other two (2) proposed ordinances.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and the recitals are incorporated herein by reference as if set forth in full.

## SECTION 2. FINDINGS

1. In compliance with the California Environmental Quality Act of 1970, as amended (CEQA), and State and local guidelines adopted pursuant thereto, the zoning amendments qualify for CEQA exemption under Section 15060(c)(2) because the activity will not result in direct or reasonable foreseeable physical change in the environment and Section 15060(c)(3) as the activity is not a considered a project under CEQA Section 15378.
2. The amendments to the Zoning Ordinance are consistent with the General Plan.
3. The amendments to the Coastal Land Use Plan Implementing Ordinance are consistent with the City's Local Coastal Plan (LCP).
4. These amendments do not require a vote of the people under Article XXVII of the City Charter.

SECTION 3. AMENDMENT TO CODE. Title 10, Chapter 2, Section 10-2.1626 of the Redondo Beach Municipal Code shall be amended to read as follows:

ORDINANCE NO. \*\*\*\*  
AMENDING TITLE 10, CHAPTER 2  
SECTION 10-2.1626 OF THE REDONDO BEACH  
MUNICIPAL CODE REGULATING COMMERCIAL  
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## **“10-2.1626 Cannabis regulations.**

(a) **Purpose and findings.** The City Council finds that it is in the interest of public health, safety, and welfare of the residents and businesses within the City to responsibly regulate and allow for commercial cannabis activities in the City of Redondo Beach.

(b) **Definitions.**

(1) **“A-license”** means a State license issued under this section for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess physician’s recommendations.

(2) **“A-licensee”** means any person holding a license under this section for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess physician’s recommendations.

(3) **“Act”** shall mean the California Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), as in Business and Professions Code Section 26000 et seq., as amended from time to time

(4) **“Applicant”** shall mean and refer to a person applying for a Development Agreement pursuant to this ordinance.

(5) **“Cannabis”** means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this section, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

(6) **“Cannabis accessories”** means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

(7) **“Cannabis product”** means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

(8) **“Cannabis retailer”** means a commercial cannabis business where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit from the City of Redondo Beach authorizing the operation of a retailer, and a valid state license as required by state law to operate as a retailer.

(9) **“Caregiver” or “Primary caregiver”** has the same meaning as the term is defined in Section 11362.7 of the State Health and Safety Code.

- (10) **“City”** means the City of Redondo Beach.
- (11) **“City Council ”** or **“Council”** means the City Council of the City of Redondo Beach.
- (12) **“City Manager”** means the City Manager of the City of Redondo Beach or his or her designee(s).
- (13) **“Commercial cannabis activity”** includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of cannabis and cannabis products.
- (14) **“Commercial cannabis permit”** means the permit issued by the City under RBMC Section 6-2.00.
- (15) **“Conditional Use Permit”** means the permit issued by the City under RBMC Section 10-5.2506.
- (15) **“Cultivation”** means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (16) **“Cultivation site”** means a location where cannabis is planted, grown, harvested, dried, cured, graded or trimmed, or a location where any combination of those activities occurs.
- (17) **“Customer”** means a natural person twenty-one (21) years of age or over or a natural person eighteen (18) years of age or older who possesses a physician’s recommendation.
- (18) **“Day care center”** means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.
- (19) **“Delivery”** means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer (or a microbusiness engaging in retail sales).
- (20) **“Department”** means the Department of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Cannabis Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Cannabis Regulation.
- (21) **“Development Agreement”** means a contract between the City of Redondo Beach and the selected applicant.
- (22) **“Dispensary” or “storefront retailer”** means a location where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products.
- (23) **“Distribution”** means the procurement, sale, and transport of cannabis and cannabis products between licensees.
- (24) **“Edible cannabis product”** means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Section 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code.
- (25) **“Gross receipts”** means, except as otherwise specifically provided herein, whether designated as a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, and property of any kind or nature) received or payable for sales of goods, wares, or merchandise without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor, or service costs,

interest paid or payable, losses, or any other expense whatsoever. However, the following shall be excluded from gross receipts:

- (a) Cash discounts where allowed and taken on sales;
- (b) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (c) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- (d) Receipts derived from the occasional sale of used, obsolete, or surplus trade fixtures, machinery, or other equipment used by the taxpayer in the regular course of the taxpayer's business;
- (e) Cash value of sales, trades, or transactions between departments or units of the same business;
- (f) Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a given year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered; and
- (g) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar.

(26) **“Hearing officer”** means the City Manager or his/her designee, who shall preside over administrative hearings.

(27) **“Manufacture”** means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(28) **“Manufacturer”** means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container, that holds a State license pursuant to this section.

(29) **“Medicinal cannabis”** means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), California Health and Safety Code Section 11362.5, by a medicinal cannabis patient in California who possesses a physician's recommendation.

(30) **“Medicinal delivery”** means the commercial transfer of medicinal cannabis to a customer that possesses a physician's recommendation. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this section that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.

(31) **“Nursery”** means a license that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

(32) **“Operation”** means any act for which any State or local licensure is required under the provisions of this section or any commercial transfer of cannabis or cannabis products.

(33) **“Owner”** means any of the following:

(a) A person with an aggregated ownership interest of twenty (20%) percent or more in the person or entity applying for a license or a licensee, unless such interest is solely in security, lien, or encumbrance.

(b) The chief executive officer or a member of the board of directors of a nonprofit organization.

(c) An individual who will be participating in the direction, control, or management of the person or entity applying for a license.

**“Owner”** means any of the following:

1. All persons identified as an “owner” on any permit, license, or other authorization issued by a state agency or local government which authorizes the persons to establish and operate the cannabis facility.

2. Any person identified or required to be identified as an “owner” on an application filed with any state agency and any local government, wherein the application requests the privilege to operate the cannabis facility.

3. If no person under subsection 1 or 2, above, exists:

a. A person with an aggregate ownership interest of 20 percent or more in the corporate entity, partnership, or other business entity applying for a permit or a Permittee, unless the interest is solely a security, lien, or encumbrance.

b. The chief executive officer of a nonprofit or other entity.

c. A member of the board of directors of a nonprofit.

d. An individual who will be participating in the direction, control, or management of the person applying for a permit. A member of the board of directors of a nonprofit.

e. An individual who will be participating in the direction, control, or management of the person applying for a permit.

(34) **“Package”** means any container or receptacle used for holding cannabis or cannabis products.

(35) **“Permit Administrator”** means the Community Development Director or designee.

(36) **“Permittee”** means a person who has obtained a commercial cannabis permit from the city to operate a cannabis business.

(37) **“Person”** includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(38) **“Physician’s recommendation”** means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

(39) **“Premises”** means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted

(40) **“Private residence”** means a house, an apartment unit, a mobile home, or other similar dwelling.



(41) **“Purchaser”** means the customer who is engaged in a transaction for purposes of obtaining cannabis or cannabis products.

(42) **“Qualified delivery service”** is one that has been licensed pursuant to the requirements of California Business and Professions Code Section 26050, maintains at all times while operating in the City of Redondo Beach all necessary State licenses, and operates in compliance with State and local law.

(43) **“Sell,” “sale,”** and **“to sell”** includes any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom such cannabis or cannabis product was purchased.

(44) **“State license”** means a State license issued under this section, and includes both an A-license and an M-license, as well as a testing laboratory license.

(45) **“State licensee”** means any person holding a license under this section, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

(46) **“State licensing authority”** means the State agency responsible for the issuance, renewal, or reinstatement of the license, or the State agency authorized to take disciplinary action against the licensee.

(47) **“Testing laboratory”** means a laboratory, facility, or entity in the State that offers or performs tests of cannabis or cannabis products and that is both of the following:

a. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State.

b. Licensed by the Department.

(48) **“Testing service”** means a laboratory, facility, or entity in the State, that offers or performs tests of cannabis or cannabis products, including the equipment provided by such laboratory, facility, or entity, and that is both of the following:

a. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State.

b. Registered with the State Department of Public Health.

(49) **“Youth center”** means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

(c) **Commercial cannabis activities prohibited unless specifically authorized by this chapter.**

(1) It shall be unlawful for any person to operate, cause, allow, assist, participate in, engage in, or in any way conduct any commercial cannabis activity within the city, including but not limited to the cultivation, delivery, distribution, manufacture, testing, transport, retail, microbusiness, purchase, sale, testing, distribution, giving away, or otherwise transferring of cannabis or cannabis products, or any other activities for which a license is available except in compliance with the provisions of Section (c)(2) below.

(2) The prohibitions of subsection (c)(1) shall not apply to the following persons, provided said person operates in strict accordance with State and local regulations:

- a. A clinic, licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code;
  - b. Health care facility, licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code;
  - c. A residential care facility for persons with chronic life-threatening illness, licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code;
  - d. A residential care facility for the elderly, licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code;
  - e. A residential hospice or home health agency, licensed pursuant to Chapter 8 of the Health and Safety Code;
  - f. Personal indoor cultivation in compliance with this ordinance;
  - g. A licensee's transportation of cannabis or cannabis products on public roads pursuant to subsection (b) of Section 26080 or subsection (e) of Section 26090 of the Business and Professions Code, as the same may be amended from time to time, provided the licensee is permitted or approved to operate by the local jurisdiction in which the licensee's facilities are physically located;
  - h. A Permittee authorized to engage in retail activities under this ordinance, provided that said person has entered into a Development Agreement with the city, has been granted a conditional use permit, has been issued the requisite license from the Department, and otherwise complies, at all times, with the provisions of this ordinance.
- (3) Until the City establishes a local commercial cannabis tax, the City hereby expressly prohibits the delivery of cannabis and cannabis products within the City except by cannabis retailers based within the City. If the City is required by State law to permit the delivery of cannabis and cannabis products by cannabis retailers not based within the City, such cannabis retailers not based within the City shall be required to comply with the provisions in this ordinance, including, but not limited to, the City commercial cannabis business permit application and approval processes under the ordinance.
- (4) Delivery of medicinal cannabis and medicinal cannabis products to qualified patients and their primary caregivers by state licensee cannabis businesses, is permitted within the City until a retailer issued a commercial cannabis business permit.
- (5) **Individual cultivation restrictions.**
- a. No person shall plant, cultivate, harvest, dry, or process more than six (6) cannabis plants or permit more than six (6) cannabis plants to be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence at one time.
  - b. Personal cultivation permitted under Health and Safety Code Section 11362.2, as amended from time to time, must occur in a secured indoor location or outdoors within a locked structure upon the growers own property, or a property to which they have explicit authority to access, and in an area that is not visible from a public right-of-way.
- (6) **Commercial cannabis retailer regulations.**
- a. **Cannabis Retailer Permit Required.** A cannabis retailer must obtain and maintain at all times a valid Commercial Cannabis permit as required pursuant to Redondo Beach Municipal Code Title 6, Chapter 6.
  - b. **Conditional Use Permit and Zoning.**
    - (1) A Conditional Use Permit is required to establish a cannabis business or operate as a cannabis retailer. Cannabis retailers shall be required to comply with all zoning, land use, and

development regulations applicable to the zoning district in which they are permitted to establish and operate such business as set forth in the Redondo Beach Municipal Code.

(2) The cannabis retailer is not required to obtain a Conditional Use Permit prior to applying for a Commercial Cannabis Permit.

(3) If a cannabis retailer is authorized by Conditional Use Permit to operate a cannabis business on a particular site and such operation is discontinued for a continuous period of 12 months, the Conditional Use Permit expires for discontinuance of use and thereafter is void.

c. **Number of Retailers.** No more than two (2) sites may be used for storefront commercial cannabis retailers at any time. Those sites maybe concurrently licensed to provide Delivery.

d. **Location Requirements.**

A. Cannabis retailers shall be permitted only in commercial and industrial zones, specifically limited to the C-1, C-2, C-2A, C-2B, C-2PD, C-3, C-3A, C-3B, C-3PD, C-4, C-4A, C-4B, C-4PD, C-5A, CR, I-1, I-1A, I-1B, I-2, I-2A, and IC-1 zones. Cannabis retailers are prohibited in Coastal Commercial zones. Cannabis retailers are prohibited in any public-institutional zones and zones where residential is permitted.

B. No retailer shall be established or located within 1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other cannabis retailer.

C. No retailer shall be established or located within 1,500 feet of any public or private high school or middle school, measured from the nearest property lines of each of the affected parcels.

D. No retailer shall be established or located within 600 feet from public or private elementary schools, day cares, and youth centers, measured from the nearest property lines of each of the affected parcels.

E. Each Council District shall only have one (1) cannabis retail site.

F. No permitted cannabis retailer may operate from a location that has previously been enforced upon for illegal cannabis activities, for a minimum of 5 years from the passing of this ordinance or from the date of the violation, whichever is later.

e. **Operating Requirements.** In addition to those operating requirements specifically set forth in Section 6-2.05, the following operating requirements shall apply to all cannabis retailers operating in the City of Redondo Beach:

A. **Hours of Operation.** Storefront retail sales may be open for access to the public between the hours of 9:00 a.m. and 10:00 p.m., Monday through Sunday. Delivery hours shall be limited to between the hours of 6:00 a.m. and 10:00 p.m., Monday through Sunday.

B. Commercial cannabis activities may only operated within a fully enclosed and permanent building. For purposes of this ordinance, the phrase "fully enclosed and permanent building" shall mean a structure having a roof that is enclosed on all sides and is intended and has a useful life appropriate for long-term use, as contrasted with a "temporary building" that is not designed or intended to be permanently located, placed, or affixed to the premises.

C. No permitted cannabis retailer may operate from a location that has previously been enforced upon for illegal cannabis activities, for a minimum of 5 years from the passing of this ordinance.

D. Notwithstanding the requirements of Section 6-2.07, uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities.

E. For medicinal cannabis, the retailer shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and that the potential customer has a valid physician's recommendation. For adult-use cannabis, the retailer shall verify the age of each customer to ensure the customer is not under the age of twenty-one (21) years.

F. Delivery services are permitted in association with a Cannabis Retailer. Delivery of cannabis shall be permitted in compliance with provision (c)(2)(h) of this Section. A delivery service may operate only as a part of and in conjunction with a retailer permitted pursuant to State law and pursuant to Redondo Beach Municipal Code. Delivery of cannabis from a retailer permitted pursuant to this Section can only be made in a City of County that does not expressly prohibit it by ordinance.

(e) **Public nuisance.** Any use or condition caused, or permitted to exist in violation of any provision of this section within the City limits of the City of Redondo Beach is declared to be a public nuisance and may be abated by the City either pursuant to Title 4, Chapter 10 of Redondo Beach Municipal Code or any available legal remedies, including, but not limited to, civil injunctions.

(f) **Criminal penalties.** Any violation of any provision of this section shall be deemed a misdemeanor and shall be enforced pursuant to Title 1, Chapter 2 of Redondo Beach Municipal Code.

(g) **Separate offense for each day.** Any person who violates any provision of this section shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

(h) **Use or activity prohibited by State law.** Nothing in this section shall be deemed to permit or authorize any use or activity which is otherwise prohibited by State law."

SECTION 4. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. This ordinance shall be published by one insertion in the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
William C. Brand, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Michael W. Webb, City Attorney

\_\_\_\_\_  
Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            )       SS  
CITY OF REDONDO BEACH             )

I, Eleanor Manzano, City Clerk of the City of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. \_\_\_\_\_ duly introduced at a regular meeting of the City Council held on the \_\_\_\_day of \_\_\_\_\_, 2022, and was duly approved and adopted by the City Council at a regular meeting of said City Council held on the \_\_\_\_day of \_\_\_\_\_, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Eleanor Manzano, CMC  
City Clerk

**ORDINANCE NO. \*\*\*\*\***

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
REDONDO BEACH, CALIFORNIA, AMENDING TITLE 10,  
CHAPTER 5 SECTION 10-5.1626 OF THE REDONDO BEACH  
MUNICIPAL CODE TO ALLOW COMMERCIAL CANNIABIS  
ACTIVITIES IN COASTAL ZONES OF THE CITY**

WHEREAS, on November 8, 2016, Proposition 64, the Control, Regulate, and Tax Adult Use of Cannabis Act ("AUMA") became law; and

WHEREAS, the AUMA regulates, among other items, the use of cannabis for personal and commercial purposes, including the recreational use of cannabis by adults over 21 years of age; and

WHEREAS, the personal use aspects of the AUMA were adopted as state law in California Health and Safety Code Section 11362.1, et. seq., which makes it "lawful under state and local law" for persons 21 years of age or older to "possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever" up to 28.5 grams of cannabis in the form of concentrated cannabis contained in cannabis products; and

WHEREAS, the AUMA made it lawful for those individuals to "possess, plant, cultivate, harvest, dry, or process not more than six living cannabis plants and possess the cannabis produced by the plants; and

WHEREAS, cannabis plants, as they begin to flower and for a period of two (2) months or more, produce a strong odor, which can be detectable far beyond property boundaries if grown outdoors; and

WHEREAS, the AUMA made it lawful for individuals above the age of 21 to smoke or ingest cannabis or cannabis products other than in public places, vehicles, within 1000 feet of schools day care centers or youth centers while children are present, or anywhere that the smoking of tobacco products is already prohibited; and

WHEREAS, the AUMA permits cities to "reasonably regulate" without completely prohibiting cultivation of cannabis inside a private residence or inside an "accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure" and to completely prohibit outdoor cultivation on the grounds of a private residence, up to and until a "determination by the California Attorney General that nonmedical use of cannabis is lawful in the State of California under federal law"; and

ORDINANCE NO. \*\*\*\*  
ADDING CHAPTER \* TO TITLE \*  
OF THE REDONDO BEACH MUNICIPAL CODE

PAGE NO. 1

WHEREAS, to regulate commercial use of cannabis, the AUMA would add Division 10 (Cannabis) to the Business & Professions Code, which grants state agencies “the exclusive authority to create, issue, renew, discipline, suspend, or revoke” licenses for businesses including the transportation, storage, distribution, sale, cultivation, manufacturing, and testing of cannabis; and

WHEREAS, the AUMA provides for the creation of the Bureau of Cannabis within the Department of Consumer Affairs, which shall promulgate cannabis regulations as will the Department of Food and Agriculture and the Department of public health and the state may begin issuing licenses under Business and Professions Code Division 10 beginning January 1, 2018; and

WHEREAS, under the Federal Controlled Substances Act, the use, possession, and cultivation of cannabis are unlawful and subject to federal prosecution without regard to state permissions such as the AUMA or a claimed medical need pursuant to the MMRSA; and

WHEREAS, the California Attorney General’s August 2008 Guidelines for the Security and Non-Diversion of Cannabis Grown for Medical Use recognizes that the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, based on the experiences of other cities, these negative effects on the public, health, safety, and welfare must be studied prior to the establishment and operation of cannabis cultivation, processing, testing, and distribution uses; and

WHEREAS, based on the findings above, the potential personal cannabis cultivation and use and the possible establishment of commercial cannabis cultivation, processing, testing, transportation, sales and other uses in the City without regulation poses a threat to the public health, safety, and welfare in the City due to the negative land use and other impacts as described above; and

WHEREAS, because the state commercial provisions of the AUMA take effect on January 1, 2018, the City must disallow commercial cannabis activities in order to ensure that local regulations are promulgated and local control maintained; and

WHEREAS, if the City Council does not enact such a commercial ban by January 2, 2018, a valid state license would be the only requirement to open and operate any commercial cannabis business in any commercial zone in the City; and



WHEREAS, the AUMA states that a local jurisdiction shall not prevent transportation of cannabis of cannabis or cannabis products on public roads by a licensee transporting cannabis or cannabis products in compliance with Division 10; and

WHEREAS, the “Medical Cannabis Regulation and Safety Act” (“MMRSA”) which took effect January 1, 2016, regulates use of cannabis for medical purposes and the City of Redondo Beach adopted Ordinance No. 3152 which promulgated local regulations in accordance with the MMRSA, effective May 5, 2016; and

WHEREAS, on June 28, 2017 Governor Brown signed Senate Bill 94 (“SB 94” or the “Trailer Bill”), a budget trailer bill which combined medical and recreational cannabis regulations on a state level. Another consequence of Senate Bill 94 becoming law is that portions of the MMRSA were relocated and the currently adopted definitions in the Medical Cannabis portion of the Redondo Beach Municipal Code must be amended; and

WHEREAS, the City’s Municipal Code does not currently address some of the uses that have become legal pursuant to the passage and adoption of the AUMA and subsequent amendment by SB 94; and

WHEREAS, in response to the enactment of SB 94, the proposed amendment to the Redondo Beach Municipal Code combines medical and recreational cannabis regulations on a local level; and

WHEREAS, on November 8, 2016 the City Council adopted a temporary moratorium on cannabis uses legalized by the passage of Proposition 64, hereinafter referred to as the Adult Use of Cannabis Act (or “AUMA”) and directed City staff to begin working on permanent AUMA regulations; and

WHEREAS, on December 19, 2016, that moratorium expired by operation of law; and

WHEREAS, on April 20, 2017 the Planning Commission held a noticed public hearing and took public testimony regarding regulatory options surrounding commercial and personal use of cannabis in the City of Redondo Beach (or “City”) pursuant to the passage of the AUMA; and

WHEREAS, on May 18, 2017, the Planning Commission continued the public hearing and after further public input and discussion the Commission directed City staff to return with resolutions recommending the adoption of:

(1) an ordinance restricting outdoor personal cultivation to secured locations or lockable out buildings only;

(2) an ordinance disallowing all commercial cannabis activities in the City of Redondo Beach to allow staff to study and create appropriate guidelines for the operation of commercial cannabis facilities in the City;

(3) an amendment to the City's existing medical cannabis regulations to allow the delivery of medical cannabis to qualified patients in the City; and

WHEREAS, in order to create comprehensive and cohesive local system of commercial cannabis regulations, the City enacted a temporary ban while City staff and the Cannabis Taskforce studied all aspects of permitted commercial cannabis activities; and

WHEREAS, on October 5, 2021 the Cannabis Steering Committee presented their findings to the City Council; and

WHEREAS, on January 18, 2022, the City Council considered the draft cannabis ordinance and proposed storefront citing parameters and buffer maps made suggested changes for staff to review; and

WHEREAS, on March 3, 2022 the Planning Commission considered the draft commercial cannabis regulations and zoning amendments and made recommendations to the Council for consideration; and

WHEREAS, passing a City Council sponsored commercial cannabis ordinance would maintain the City's ability to develop important policy positions, business and land use regulations, and health and safety permits to preserve the quality of life that Redondo's residents, visitors and business community desire and expect; and

WHEREAS a critical companion to this ordinance is a City Council sponsored measure to adopt a Cannabis Business Tax, without the passage of which the City would be financially unable to address the secondary effects of commercial cannabis businesses; and

WHEREAS, this Ordinance is necessary to provide the City of Redondo Beach Police Department clearly established legal authority to protect the public and deter potential criminal cannabis activity.

WHEREAS, staff made some of those changes and is leaving it to the City Council's discretion to make any of the other suggested amendments or their own changes to this and the other two (2) proposed ordinances.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and the recitals are incorporated herein by reference as if set forth in full.

## SECTION 2. FINDINGS

1. In compliance with the California Environmental Quality Act of 1970, as amended (CEQA), and State and local guidelines adopted pursuant thereto, the zoning amendments qualify for CEQA exemption under Section 15060(c)(2) because the activity will not result in direct or reasonable foreseeable physical change in the environment and Section 15060(c)(3) as the activity is not a considered a project under CEQA Section 15378.
2. The amendments to the Zoning Ordinance are consistent with the General Plan.
3. The amendments to the Coastal Land Use Plan Implementing Ordinance are consistent with the City's Local Coastal Plan (LCP).
4. These amendments do not require a vote of the people under Article XXVII of the City Charter.

SECTION 3. AMENDMENT TO CODE. Title 10, Chapter 5, Section 10-5.1626 of the Redondo Beach Municipal Code and shall be amended to read as follows:

### **“10-5.1626 Cannabis regulations.**

(a) **Purpose and findings.** The City Council finds that it is in the interest of public health, safety, and welfare of the residents and businesses within the City to responsibly regulate and allow for commercial cannabis activities in the City of Redondo Beach.

(b) **Definitions.**

(1) **“A-license”** means a State license issued under this section for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess physician's recommendations.

(2) **“A-licensee”** means any person holding a license under this section for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess physician's recommendations.

(3) **“Act”** shall mean the California Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), as in Business and Professions Code Section 26000 et seq., as amended from time to time

(4) **“Applicant”** shall mean and refer to a person applying for a Development Agreement pursuant to this ordinance.

(5) **“Cannabis”** means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant,

ORDINANCE NO. \*\*\*\*

AMENDING TITLE 10, CHAPTER 5

SECTION 10-5.1626 OF THE REDONDO BEACH

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fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this section, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

(6) **“Cannabis accessories”** means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

(7) **“Cannabis product”** means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

(8) **“Cannabis retailer”** means a commercial cannabis business where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit from the City of Redondo Beach authorizing the operation of a retailer, and a valid state license as required by state law to operate as a retailer.

(9) **“Caregiver” or “Primary caregiver”** has the same meaning as the term is defined in Section 11362.7 of the State Health and Safety Code.

(10) **“City”** means the City of Redondo Beach.

(11) **“City Council ” or “Council”** means the City Council of the City of Redondo Beach.

(12) **“City Manager”** means the City Manager of the City of Redondo Beach or his or her designee(s).

(13) **“Commercial cannabis activity”** includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of cannabis and cannabis products.

(14) **“Commercial cannabis permit”** means the permit issued by the City under RBMC Section 6-2.00.

(15) **“Conditional Use Permit”** means the permit issued by the City under RBMC Section 10-5.2506.

(15) **“Cultivation”** means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(16) **“Cultivation site”** means a location where cannabis is planted, grown, harvested, dried, cured, graded or trimmed, or a location where any combination of those activities occurs.

(17) **“Customer”** means a natural person twenty-one (21) years of age or over or a natural person eighteen (18) years of age or older who possesses a physician’s recommendation.

(18) **“Day care center”** means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.

(19) **“Delivery”** means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer (or a microbusiness engaging in retail sales).

(20) **“Department”** means the Department of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Cannabis Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Cannabis Regulation.

(21) **“Development Agreement”** means a contract between the City of Redondo Beach and the selected applicant.

(22) **“Dispensary” or “storefront retailer”** means a location where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products.

(23) **“Distribution”** means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(24) **“Edible cannabis product”** means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Section 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code.

(25) **“Gross receipts”** means, except as otherwise specifically provided herein, whether designated as a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, and property of any kind or nature) received or payable for sales of goods, wares, or merchandise without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor, or service costs, interest paid or payable, losses, or any other expense whatsoever. However, the following shall be excluded from gross receipts:

(a) Cash discounts where allowed and taken on sales;

(b) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

(c) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;

(d) Receipts derived from the occasional sale of used, obsolete, or surplus trade fixtures, machinery, or other equipment used by the taxpayer in the regular course of the taxpayer's business;

(e) Cash value of sales, trades, or transactions between departments or units of the same business;

(f) Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a given year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered; and

(g) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar.

(26) **“Hearing officer”** means the City Manager or his/her designee, who shall preside over administrative hearings.

(27) **“Manufacture”** means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(28) **“Manufacturer”** means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container, that holds a State license pursuant to this section.

(29) **“Medicinal cannabis”** means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), California Health and Safety Code Section 11362.5, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

(30) **“Medicinal delivery”** means the commercial transfer of medicinal cannabis to a customer that possesses a physician’s recommendation. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this section that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.

(31) **“Nursery”** means a license that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

(32) **“Operation”** means any act for which any State or local licensure is required under the provisions of this section or any commercial transfer of cannabis or cannabis products.

(33) **“Owner”** means any of the following:

(a) A person with an aggregated ownership interest of twenty (20%) percent or more in the person or entity applying for a license or a licensee, unless such interest is solely in security, lien, or encumbrance.

(b) The chief executive officer or a member of the board of directors of a nonprofit organization.

(c) An individual who will be participating in the direction, control, or management of the person or entity applying for a license. "Owner" means any of the following:

1. All persons identified as an "owner" on any permit, license, or other authorization issued by a state agency or local government which authorizes the persons to establish and operate the cannabis facility.

2. Any person identified or required to be identified as an "owner" on an application filed with any state agency and any local government, wherein the application requests the privilege to operate the cannabis facility.

3. If no person under subsection 1 or 2, above, exists:

a. A person with an aggregate ownership interest of 20 percent or more in the corporate entity, partnership, or other business entity applying for a permit or a Permittee, unless the interest is solely a security, lien, or encumbrance.

b. The chief executive officer of a nonprofit or other entity.

c. A member of the board of directors of a nonprofit.

d. An individual who will be participating in the direction, control, or management of the person applying for a permit. A member of the board of directors of a nonprofit.

e. An individual who will be participating in the direction, control, or management of the person applying for a permit.

(34) **"Package"** means any container or receptacle used for holding cannabis or cannabis products.

(35) **"Permit Administrator"** means the Community Development Director or designee.

(36) **"Permittee"** means a person who has obtained a commercial cannabis permit from the city to operate a cannabis business.

(37) **"Person"** includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(38) **"Physician's recommendation"** means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

(39) **"Premises"** means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted

(40) **"Private residence"** means a house, an apartment unit, a mobile home, or other similar dwelling.

(41) **"Purchaser"** means the customer who is engaged in a transaction for purposes of obtaining cannabis or cannabis products.

(42) **“Qualified delivery service”** is one that has been licensed pursuant to the requirements of California Business and Professions Code Section 26050, maintains at all times while operating in the City of Redondo Beach all necessary State licenses, and operates in compliance with State and local law.

(43) **“Sell,” “sale,” and “to sell”** includes any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom such cannabis or cannabis product was purchased.

(44) **“State license”** means a State license issued under this section, and includes both an A-license and an M-license, as well as a testing laboratory license.

(45) **“State licensee”** means any person holding a license under this section, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

(46) **“State licensing authority”** means the State agency responsible for the issuance, renewal, or reinstatement of the license, or the State agency authorized to take disciplinary action against the licensee.

(47) **“Testing laboratory”** means a laboratory, facility, or entity in the State that offers or performs tests of cannabis or cannabis products and that is both of the following:

- a. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State.
- b. Licensed by the Department.

(48) **“Testing service”** means a laboratory, facility, or entity in the State, that offers or performs tests of cannabis or cannabis products, including the equipment provided by such laboratory, facility, or entity, and that is both of the following:

- a. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State.
- b. Registered with the State Department of Public Health.

(49) **“Youth center”** means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

(c) **Commercial cannabis activities prohibited unless specifically authorized by this chapter.**

(1) It shall be unlawful for any person to operate, cause, allow, assist, participate in, engage in, or in any way conduct any commercial cannabis activity within the city, including but not limited to the cultivation, delivery, distribution, manufacture, testing, transport, retail, microbusiness, purchase, sale, testing, distribution, giving away, or otherwise transferring of cannabis or cannabis products, or any other activities



for which a license is available except in compliance with the provisions of Section (c)(2) below.

(2) The prohibitions of subsection (c)(1) shall not apply to the following persons, provided said person operates in strict accordance with State and local regulations:

a. A clinic, licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code;

b. Health care facility, licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code;

c. A residential care facility for persons with chronic life-threatening illness, licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code;

d. A residential care facility for the elderly, licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code;

e. A residential hospice or home health agency, licensed pursuant to Chapter 8 of the Health and Safety Code;

f. Personal indoor cultivation in compliance with this ordinance;

g. A licensee's transportation of cannabis or cannabis products on public roads pursuant to subsection (b) of Section 26080 or subsection (e) of Section 26090 of the Business and Professions Code, as the same may be amended from time to time, provided the licensee is permitted or approved to operate by the local jurisdiction in which the licensee's facilities are physically located;

h. A Permittee authorized to engage in retail activities under this ordinance, provided that said person has entered into a Development Agreement with the city, has been granted a conditional use permit, has been issued the requisite license from the Department, and otherwise complies, at all times, with the provisions of this ordinance.

(3) Until the City establishes a local commercial cannabis tax, the City hereby expressly prohibits the delivery of cannabis and cannabis products within the City except by cannabis retailers based within the City. If the City is required by State law to permit the delivery of cannabis and cannabis products by cannabis retailers not based within the City, such cannabis retailers not based within the City shall be required to comply with the provisions in this ordinance, including, but not limited to, the City commercial cannabis business permit application and approval processes under the ordinance.

(4) Delivery of medicinal cannabis and medicinal cannabis products to qualified patients and their primary caregivers by state licensee cannabis businesses, is permitted within the City until a retailer issued a commercial cannabis business permit.

(5) **Individual cultivation restrictions.**

a. No person shall plant, cultivate, harvest, dry, or process more than six (6) cannabis plants or permit more than six (6) cannabis plants to be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence at one time.

b. Personal cultivation permitted under Health and Safety Code Section 11362.2, as amended from time to time, must occur in a secured indoor location or outdoors within a locked structure upon the growers own property, or a property to which they have explicit authority to access, and in an area that is not visible from a public right-of-way.

(6) **Commercial cannabis retailer regulations.**

a. **Cannabis Retailer Permit Required.** A cannabis retailer must obtain and maintain at all times a valid Commercial Cannabis permit as required pursuant to Redondo Beach Municipal Code Title 6, Chapter 6.

b. **Conditional Use Permit and Zoning.**

(1) A Conditional Use Permit is required to establish a cannabis business or operate as a cannabis retailer. Cannabis retailers shall be required to comply with all zoning, land use, and development regulations applicable to the zoning district in which they are permitted to establish and operate such business as set forth in the Redondo Beach Municipal Code.

(2) The cannabis retailer is not required to obtain a Conditional Use Permit prior to applying for a Commercial Cannabis Permit.

(3) If a cannabis retailer is authorized by Conditional Use Permit to operate a cannabis business on a particular site and such operation is discontinued for a continuous period of 12 months, the Conditional Use Permit expires for discontinuance of use and thereafter is void.

c. **Number of Retailers.** No more than two (2) sites may be used for storefront commercial cannabis retailers at any time. Those sites maybe concurrently licensed to provide Delivery.

d. **Location Requirements.**

A. Cannabis retailers shall be permitted only in commercial and industrial zones, specifically limited to the C-1, C-2, C-2A, C-2B, C-2PD, C-3, C-3A, C-3B, C-3PD, C-4, C-4A, C-4B, C-4PD, C-5A, CR, I-1, I-1A, I-1B, I-2, I-2A, and IC-1 zones. Cannabis retailers are prohibited in Coastal Commercial zones.

Cannabis retailers are prohibited in any public-institutional zones and zones where residential is permitted.

B. No retailer shall be established or located within 1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other cannabis retailer.

C. No retailer shall be established or located within 1,500 feet of any public or private high school or middle school, measured from the nearest property lines of each of the affected parcels.

D. No retailer shall be established or located within 600 feet from public or private elementary schools, day cares, and youth centers, measured from the nearest property lines of each of the affected parcels.

E. Each Council District shall only have one (1) cannabis retail site.

F. No permitted cannabis retailer may operate from a location that has previously been enforced upon for illegal cannabis activities, for a minimum of 5 years from the passing of this ordinance or from the date of the violation, whichever is later.

e. **Operating Requirements.** In addition to those operating requirements specifically set forth in Section 6-2.05, the following operating requirements shall apply to all cannabis retailers operating in the City of Redondo Beach:

A. Hours of Operation. Storefront retail sales may be open for access to the public between the hours of 9:00 a.m. and 10:00 p.m., Monday through Sunday. Delivery hours shall be limited to between the hours of 6:00 a.m. and 10:00 p.m., Monday through Sunday.

B. Commercial cannabis activities may only operated within a fully enclosed and permanent building. For purposes of this ordinance, the phrase "fully enclosed and permanent building" shall mean a structure having a roof that is enclosed on all sides and is intended and has a useful life appropriate for long-term use, as contrasted with a "temporary building" that is not designed or intended to be permanently located, placed, or affixed to the premises.

C. No permitted cannabis retailer may operate from a location that has previously been enforced upon for illegal cannabis activities, for a minimum of 5 years from the passing of this ordinance.

D. Notwithstanding the requirements of Section 6-2.07, uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities,

E. For medicinal cannabis, the retailer shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and that the potential customer has a valid physician's recommendation. For adult-use cannabis, the

retailer shall verify the age of each customer to ensure the customer is not under the age of twenty-one (21) years.

F. Delivery services are permitted in association with a Cannabis Retailer. Delivery of cannabis shall be permitted in compliance with provision (c)(2)(h) of this Section. A delivery service may operate only as a part of and in conjunction with a retailer permitted pursuant to State law and pursuant to Redondo Beach Municipal Code. Delivery of cannabis from a retailer permitted pursuant to this Section can only be made in a City of County that does not expressly prohibit it by ordinance.

(e) **Public nuisance.** Any use or condition caused, or permitted to exist in violation of any provision of this section within the City limits of the City of Redondo Beach is declared to be a public nuisance and may be abated by the City either pursuant to Title 4, Chapter 10 of Redondo Beach Municipal Code or any available legal remedies, including, but not limited to, civil injunctions.

(f) **Criminal penalties.** Any violation of any provision of this section shall be deemed a misdemeanor and shall be enforced pursuant to Title 1, Chapter 2 of Redondo Beach Municipal Code.

(g) **Separate offense for each day.** Any person who violates any provision of this section shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

(h) **Use or activity prohibited by State law.** Nothing in this section shall be deemed to permit or authorize any use or activity which is otherwise prohibited by State law.”

SECTION 4. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. This ordinance shall be published by one insertion in the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_, 2022.

\_\_\_\_\_  
William C. Brand, Mayor

APPROVED AT TO FORM:

ATTEST:

\_\_\_\_\_  
Michael W. Webb, City Attorney

\_\_\_\_\_  
Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            )       SS  
CITY OF REDONDO BEACH             )

I, Eleanor Manzano, City Clerk of the City of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. \_\_\_\_\_ duly introduced at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2022, and was duly approved and adopted by the City Council at a regular meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Eleanor Manzano, CMC  
City Clerk

## **RESOLUTION NO. 2022-03-PCR-02**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF REDONDO BEACH, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT ORDINANCES AMENDING TITLE 6 BUSINESSES, PROFESSIONS, AND TRADES, TITLE 10, CHAPTER 2, ZONING AND LAND USE AND TITLE 10, CHAPTER 5 COASTAL LAND USE PLAN IMPLEMENTING ORDINANCE PERTAINING TO CANNABIS REGULATIONS AND RECOMMENDING THAT THE CITY COUNCIL ADOPT CATEGORICAL EXEMPTIONS FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FOR THE AMENDMENTS**

WHEREAS, on November 8<sup>th</sup>, 2016 Proposition 64 known as the Adult Use of Marijuana Act (AUMA) was approved by state voters, and regulates the use of marijuana for personal and commercial purposes, including recreational use of marijuana by adults over 21 years of age;

WHEREAS, AUMA stipulates that if a City did not enact local commercial licensing restrictions by January 1<sup>st</sup>, 2018, a valid state license would be the only requirement to operate a commercial marijuana business in any commercial zone in the City;

WHEREAS, on December 7<sup>th</sup>, 2017, the City Council adopted Ordinance Nos. 3177 and 3178 to regulate the personal use and cultivation of cannabis and restrict commercial cannabis activities until local regulations and interests could be analyzed and identified for implementation;

WHEREAS, in order to analyze and identify cannabis regulations appropriate for Redondo Beach, in 2018 a Steering Committee was appointed by the City Manager comprised of representatives from the law enforcement community, Redondo Beach Unified School District (RUSD), Beach Cities Health District (BCHD), and other outside interest groups familiar with common best practices for commercial cannabis regulations including storefront siting, taxation, delivery, and development agreement options;

WHEREAS, the Steering Committee met multiple times over several years and presented their work and recommendations to the City Council on October 5<sup>th</sup>, 2021, at which time the City Council directed staff to prepare draft code amendments;

WHEREAS, on January 18<sup>th</sup>, 2022 the City Council discussed the draft code amendments for cannabis licensing and proposed storefront siting parameters, at which time they provided additional direction and requested that the draft amendments be presented to the Planning Commission;

WHEREAS, the Planning Commission held a duly noticed public hearing, took public testimony, and considered the draft amendments on the 3<sup>rd</sup> day of March, 2022.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES HEREBY FIND AS FOLLOWS:

#### SECTION 1. FINDINGS

1. In compliance with the California Environmental Quality Act of 1970, as amended (CEQA), and State and local guidelines adopted pursuant thereto, the zoning amendments qualify for CEQA exemption under Section 15060(c)(2) because the activity will not result in direct or reasonable foreseeable physical change in the environment and Section 15060(c)(3) as the activity is not a considered a project under CEQA Section 15378.
2. The amendments to the Zoning Ordinance are consistent with the General Plan.
3. The amendments to the Coastal Land Use Plan Implementing Ordinance are consistent with the City's Local Coastal Plan (LCP).
4. These amendments do not require a vote of the people under Article XXVII of the City Charter.

SECTION 2. The above recitals are true and correct, and the recitals are incorporated herein by reference as if set forth in full.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. AMENDMENT TO CODE. The Planning Commission recommends that Title 6 Businesses, Professions, and Trades of the Redondo Beach Municipal Code be amended as follows:

#### **Add Chapter 6 COMMERCIAL CANNABIS ACTIVITY**

##### **6-2.00 Commercial Cannabis Retailer Permit Regulations.**

**6-2-01 Definitions.** The technical terms and phrases used in this Chapter are defined in Redondo Beach Municipal Code Section **10-2.1626 (see RBMC Chapter 10-2.1626 Marijuana Regulations)**.

**6-2.02 Commercial cannabis permit required to engage in commercial cannabis activity.** No person may operate a commercial cannabis business or engage in commercial cannabis activity within the City of Redondo Beach including cultivation, processing, manufacturing, testing, sale, delivery, distribution, or transportation of cannabis or a cannabis product unless the person (1) has a valid commercial cannabis permit from the City of Redondo Beach; (2) has any and all valid state or local permits;



and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activity, including holding the necessary state licenses to engage in commercial cannabis activity.

#### **6-2.03 Application Procedure.**

(a) The city may, in its sole discretion, approve and direct the issuance of a notice inviting applications, a request for applications, or similar solicitation inviting persons interested in operating commercial cannabis activities in the city to submit an application for a Development Agreement.

(b) Whether to issue a solicitation for applications, the manner of accepting applications, the manner of application review, and whether to approve or deny any such application shall be subject to the sole and absolute discretion of the City Council. The criteria utilized in evaluating or scoring any application for a Development Agreement shall be that specified in this ordinance, elsewhere in the Redondo Beach Municipal Code, or in the solicitation for applications issued by the City Council. Subject to the discretion of the City Council, the solicitation may include provisions pertaining to: the information required to be submitted by applicants, including but not limited to the application information specified in the regulations for a license from the Department. the city's application review, vetting, and approval processes; the review and scoring criteria that will be utilized by the city in distinguishing among applicants; applicant background checks and verification requirements; conditions of approval; security features and requirements; operating guidelines, standards, limitations, and requirements; site improvement obligations; maintenance requirements; book, accounting, and record keeping requirements; and/or a draft Development Agreement.

(c) A Development Agreement approved by the City Council is required before any person operates a retailer site in the city. Said Development Agreement shall set forth the terms and conditions under which the commercial cannabis activities may be undertaken, in addition to the terms and conditions otherwise set forth in this ordinance. Subject to the agreement of any state Permittee and approval of the City Council , such additional terms and conditions of the Development Agreement may include, but are not limited to, public outreach and education requirements, community service requirements, the payment of mutually agreeable fees and charges, development and operating plans (including site plan, floor plan, and elevations), security measures, operating standards and procedures, site location and design standards, and such other terms and conditions as may be agreed upon by a Permittee and the City Council , as well as those that the City Council deems necessary to protect and promote the public health, safety, and welfare of the community.

(d) In addition to a Development Agreement, no person shall operate a retail site until a conditional use permit has been approved by the planning commission or City Council. The application process for the conditional use permit shall be the same as is generally applicable to conditional use permits in the city, provided that a

Development Agreement between the Permittee and the city shall be a condition precedent to approving a conditional use permit.

(e) Nothing in this ordinance is intended or shall be construed as requiring the City Council to approve any Development Agreement(s) or to otherwise allow commercial cannabis activities in the city. No application for a Development Agreement will be accepted except during the times specified by the City Council in a solicitation for applications. The City Council's solicitation for, review of, and approval of any application for a Development Agreement is discretionary, and nothing in this ordinance is intended or shall be interpreted as rendering commercial cannabis activities a "by-right" land use in the city.

#### **6-2.04 Fees and Charges.**

(a) Each applicant or Permittee shall timely and fully pay all fees set forth in this ordinance. Failure of an applicant to pay the requisite fees is grounds for denial, and the failure of a Permittee to pay the requisite fees shall constitute a breach of the Development Agreement, and is grounds for revocation of the conditional use permit. Except as otherwise provided herein, the amount of each fee shall be established by resolution of the City Council.

(1) Application fee to cover the city's costs incurred in the initial acceptance and review of an application for a Development Agreement, due and payable in full at the time an application is submitted.

(2) Processing fee(s) to cover the costs incurred in the review, investigation, scoring, and/or selection of an applicant for the award of a Development Agreement shall be due and payable in full at the time an application is submitted.. The city may charge a separate processing fee for each round of the application review and selection process. Such Agreement shall be granted in accordance with evaluation criteria specified by the City Council in a notice inviting applications, a request for proposal ("RFP"), or similar solicitation

(b) In addition to the fees specified in subsection (a), applicants and Permittees shall timely pay all other applicable fees , including, but not limited to, fees associated with processing applications for conditional use permits, Development Agreements, building permits, and plan checks, as well as the city's cost of preparing a Development Agreement.

(c) In addition to the fees set forth in this ordinance, a Development Agreement entered into pursuant to this ordinance may provide for a Permittee to pay the city a fair share contribution towards the city's costs incurred. Such costs may include, without limitation, enforcing the provisions of this ordinance, inspecting for and remediating any direct or secondary negative impacts of the commercial cannabis activities, and mitigating impacts to the city's existing public facilities caused by the commercial cannabis facility. If applicable, the remediation payments described in this ordinance

shall be memorialized in a Development Agreement, and paid by a Permittee to the city in strict accordance with the terms thereof.

#### **6-2.05 Development Agreement and Operating Standards.**

(a) Permittees, and the premises upon which commercial cannabis activities are operated, shall strictly comply with this ordinance, the Development Agreement, the conditional use permit, the Act, and anything else required by the Department or the State licensing authority. To the extent of a conflict among any of the foregoing, the more restrictive provision shall control unless a different intent is clear from context.

(b) A fee of no more than 5% of gross receipts may be required in the Development Agreement. This fee is to sunset upon the establishment of a local commercial cannabis tax.

(c) All premises where commercial cannabis activities are operated shall comply with the following minimum development and operating standards:

(1) Commercial cannabis activities shall occur in a fully enclosed and permanent building, as described in this ordinance.

(2) Persons under the age of twenty-one (21) shall be prohibited from the premises at all times, other than as lawful customers permitted under State law in the case of Medicinal cannabis retailers. If such retail establishment sells Medicinal cannabis, persons under the age of twenty-one (21) and over the age of eighteen (18) shall be permitted to enter the establishment only after verification that they possess a valid Medical Marijuana ID card.

(3) A premises shall notify patrons of the following through the posting of a sign outside the premises posted in a conspicuous location near the entrance of the building.:

(a) That loitering on and around the premises is prohibited by California Penal Code § 647(e).

(b) That patrons must immediately leave the site upon concluding the reason for their visit, and may not consume cannabis or cannabis products on the premises.

(c) That patrons may be subject to prosecution under federal law.

(d) That the use of cannabis or cannabis products may impair a person's ability to drive a motor vehicle or operate machinery.

(4) Permittees shall provide the name and phone number of an on-site staff person who shall be responsible for notification of any operational problems or emergencies associated with the premises or the operation thereof to the Police Department and City Manager.

(5) All commercial cannabis business shall be operated within the specific part of the premises specified in the Development Agreement and/or conditional use permit. No commercial cannabis activities shall take place in an area exceeding the square footage authorized in the controlling Development Agreement, conditional use permit, or the licensee's license; whichever is most restrictive.

(6) All exterior windows, doors, loading and unloading docks or bays, and any points of ingress or egress to the premises where the commercial cannabis business will be operated, shall be secured from unauthorized entry by commercial grade, nonresidential locks, and in a manner specifically approved by the Police Department. The exterior of each of the foregoing areas shall be illuminated during twilight hours.

(7) The ingress and egress points of any storage areas for cannabis or cannabis products shall be locked and secured at all times, and shall be under the control of and accessible only to Permittee's authorized personnel as disclosed to the City.

(8) Each Permittee shall implement a track-and-trace system, compliant with the Act, to record the chain of supply of cannabis or cannabis products from "seed-to-sale."

(9) The exterior appearance of the premises, including but not limited to the design, color, landscaping, screening, architectural treatments, signage, and other such aesthetic features of the premises shall comply with the standards applicable to the underlying zoning district, as may be modified or supplemented through the Development Agreement and/or conditional use permit. Except as modified herein, or in a Development Agreement or conditional use permit, the premises shall comply with the development standards applicable to the underlying zoning district.

(10) Development Agreement

(10) All exterior signage on the premises shall comply with city standards, the Development Agreement and/or conditional use permit. Should these provisions conflict, the terms of the Development Agreement shall control.

(12) The exterior of the premises shall comply with the city's generally applicable lighting standards including, without limitation, fixture type, wattage, illumination levels, shielding; and associated approvals and permits.

(13) All waste generated by or resulting from commercial cannabis activities shall be disposed of as required by law. and Pending disposal such waste shall be stored in a locked and secure area that is under the control of and accessible only to Permittee's authorized personnel.

(14) On-site sales of alcohol or tobacco products, and consumption of food, alcohol, tobacco, cannabis, or cannabis products on the premises is **strictly prohibited**.

(15) The premises shall provide an odor absorbing ventilation and exhaust system so that odor generated inside the structure where commercial cannabis activities are taking place cannot be detected outside the structure, anywhere on adjacent property, public rights-of-way, or within any other unit or structure on the premises where commercial cannabis activities are not taking place.

(16) Be provided with adequate electricity, sewerage, disposal, water, fire protection, and storm drainage facilities for the intended purpose.

(17) Whether or not Applicants have obtained a property for the purposes of their commercial cannabis business prior to their selection, shall have no bearing on their selection.

(18) The Permit Administrator shall have the power and authority to promulgate rules, regulations, and requirements consistent with the provisions of this chapter and other law in connection with the issuance of a registration certificate. The Permit Administrator may designate an employee of his or her department to make decisions and investigate and take action under this chapter.

#### **6-2.06 No transfer or change in ownership of location.**

(a) Permittees may not sell, transfer, pledge, assign, grant an option, or otherwise dispose of, in whole or in part, their rights under or interest in a Development Agreement. It is strictly prohibited for any Owner to sell, transfer, pledge, assign, grant an option, or otherwise dispose of, in whole or in part, their ownership interest in the licensed cannabis business for a minimum period of three (3) years from the start of operation. No Permittee may allow for a separate entity to manage or operate their business or act as their agent in their place. Permittee may only transfer ownership after the initial period of time and with prior discretionary approval of the City Council. Before approving any such request, City may require the purchaser, assignee, or transferee to provide the same information and materials that are required of an initial applicant, including the payment of associated fees.

(b) Before exercising any rights under a Development Agreement, Permittees shall demonstrate proof of lawful possession of the premises where commercial cannabis activities are proposed to take place. Such evidence shall consist of properly executed deeds of trust, leases, licenses, or similar documents evidencing the Permittee's right to possession and use of the premises. Subject to the criteria specified by the City Council in its solicitation for applications, a Development Agreement shall be awarded contingent upon an applicant's subsequent identification of a premises that is acceptable to the City; or, subject to an applicant's provision of an option, letter of intent, or similar instrument executed by the current owner of the proposed premises in

favor of a Permittee or applicant, authorizing commercial cannabis activities to be operated therein.

(c) Commercial cannabis activities may only take place within the area, building, structure, and portion of the premises that is specifically described in Development Agreement and/or conditional use permit. A Permittee shall not relocate, move, or otherwise alter the location of its operations from the specific area so identified without obtaining prior approval from the City; regardless of any possessory interest or right to possession to such additional areas. No Permittee shall add additional or contiguous units or areas, thereby altering the initially approved premises, without prior approval of the City Council.

(d) Permittee shall not sublet, transfer, or otherwise assign any portion of any approved premises for any purpose, unless the City Council grants prior approval of such amendment.

(e) Permittee shall not make any physical change, alternation, or modification to the approved premises that, in the opinion or discretion of the building official, materially or substantively alters the location or usage of the premises from the plans approved in the Development Agreement and/or conditional use permit, without the advanced approval of the City Council. For purposes of this subsection, the phrase "materially or substantively alters" shall mean any physical change, alternation, or modification to the area of the premises identified in the Development Agreement or conditional use permit for the operation of commercial cannabis activities that either: (1) increases the capacity or scope of commercial cannabis activities by five percent (5%) or more; or (2) requires a building permit.

#### **6-2.07 Minimum Security Requirements.**

(a) Permittees shall comply with the security standards and requirements set forth in this ordinance, the Development Agreement, the conditional use permit, and the Act. If any of the foregoing are inconsistent, the most restrictive provision shall control unless a different intent is clear from context.

(b) Security Standards are as follows:

(1) Owner shall establish a security system that prevents individuals from remaining on the premises of the commercial cannabis business if they are not engaging in an activity directly related to the permitted operations of the commercial cannabis business and establishing limited access areas accessible only to authorized commercial cannabis business personnel.

(2) Panic buttons shall be installed in all commercial cannabis businesses.

(3) Sensors shall be installed to detect entry and exit from all secure areas.

(4) Each commercial cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access

doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

(5) All Security Personnel shall be vetted through and approved by the Police Department.

(c) All Premises where commercial cannabis activities are operated and their personnel shall comply with the following minimum security standards:

(1) Security Cameras.

a. Security cameras shall be installed and maintained on the premises in a good working condition, and shall be capable of producing digitally recorded documentation in a format approved by the Police Department.

b. All security cameras on the premises shall be in use twenty-four (24) hours per day, seven (7) days per week. Permittees are responsible for ensuring that all surveillance equipment is properly functioning and maintained so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas.

c. All video surveillance equipment shall have sufficient battery backup to support a minimum of four (4) hours of recording in the event of a power outage.

d. The areas of the premises to be covered by the security cameras include, but are not limited to: (1) all storage areas for cannabis or cannabis products; (2) all areas where commercial cannabis activities are operated; (3) each location where weighing, packaging, transport, preparation, or tagging activities occur; (4) the interior and exterior of all points of ingress or egress to storage areas; (5) all doors and windows; (6) loading and unloading bays, the interior and exterior of all points of ingress or egress to the structure on the premises where commercial cannabis activities are operated, and (7) all points of ingress or egress to the premises.

e. Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees or local law enforcement agencies for appropriate purposes.

f. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.

g. At least one camera shall be dedicated to recording the access points to the secured surveillance recording area.

h. Permittees shall keep a current list of all authorized employees and personnel who have access to the surveillance system and/or room on the premises.

i. Permittees shall keep a surveillance equipment maintenance activity log to record all service activity, including the identity of the individual performing the service, the service date and time, and the reason for service. Such records shall be maintained on the premises and shall be made available to the city upon request.

j. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions.

k. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the requirements described in this ordinance, video monitors, digital archiving devices, a color printer, and the capability to produce still color photograph from any camera image, live or recorded. The date and time shall be embedded on all surveillance recordings without significantly obscuring the picture. The time on the surveillance video is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory.

l. Video surveillance systems must be equipped with a failure notification system that provides prompt notification of any prolonged surveillance interruption and/or the complete failure of the surveillance system to the Permittee and Police Department.

m. All surveillance recordings must be kept for a minimum of ninety (90) days and be in a format that can be easily accessed for viewing. Video recordings must be archived in a format that ensures authentication of the recording as a legitimately captured video, and ensures no alteration of the recorded image has taken place.

n. After the ninety-day (90) surveillance video retention period has lapsed, surveillance video recordings must be erased or destroyed prior to being discarded or disposed of for any other purposes. Surveillance video recordings may not be destroyed if the premises knows, or should have known of a pending criminal, civil, or administrative investigation, or any other proceedings for which the recording may contain relevant information.

o. Upon request, Permittees shall make available to the Police Department or local law enforcement agency, for law enforcement purposes, all information related to security alarm systems, recordings, monitoring, and/or system activity.

p. Permittees may utilize off-site monitoring and video recording storage, or an independent third-party service, to satisfy the requirements of this ordinance, provided the standards exercised at the remote location meet or exceed all standards for on-site monitoring set forth herein.

q. The cannabis business shall be responsible for ensuring that the security surveillance camera footage is compatible with the city's software and hardware and remotely accessible by the Chief of Police. Alarm systems shall send real time alerts directly to the Police Department.

## (2) Alarm System.

a. The premises shall be equipped with a reliable, commercial alarm system that is operated and monitored by a security company or alarm business twenty-four (24) hours a day, seven (7) days a week, operating in full compliance with this ordinance.

b. Permittees shall maintain on the premises up to date and current records and existing contracts with third party alarm system or security services providers that: (1) describe the location and operation of each security alarm system, (2) a schematic of security zones, (3) the name of the alarm company, and, if different from the name of the alarm company, (4) the name of any vendor monitoring the premises.



c. At a minimum, the alarm system shall monitor all exterior points of access into the structure on the premises where commercial cannabis activities are operated, including but not limited to windows and doors.

(3) Security Guard. At all times a premises is open to the public, at least one security guard who is licensed, possesses a valid department of consumer affairs "security guard card".

(4) Records. All records applicable to the surveillance system, alarm system, and track-and-trace system shall be maintained on the premises, and available for inspection upon request by the Police Department or other local law enforcement personnel for law enforcement purposes or to ensure compliance with this ordinance, the Act, or the Regulations.

**6-2.08 County Health Permit.** The City shall work with The County of Los Angeles to adopt the county's Cannabis Compliance and Enforcement Program and require the city's cannabis Permittees to obtain the county's health permit prior to operation.

**6-2.09 Criminal Penalties.**

(a) Any violation of any provision of this ordinance shall be deemed a misdemeanor and shall be enforced pursuant to Title 1, Chapter 2 of Redondo Beach Municipal Code.

(b) Separate offenses for each day. Any person who violates any provision of this ordinance shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

(c) Use or activity prohibited by State law. Nothing in this ordinance shall be deemed to permit or authorize any use or activity which is otherwise prohibited by State law

**6-2.10 Violations.**

(a) The city may initiate abatement proceedings as authorized by this ordinance or state law to correct or cure any violation of this ordinance. The city shall be entitled to recover its courts costs and reasonable attorneys' fees in the event of a court order or judgment of abatement is entered in favor of the city.

(b) Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor.

(c) The remedies provided herein are not to be construed as exclusive remedies. The city is authorized to pursue any proceedings or remedies provided by law.

(d) Violations declared a public nuisance. Each and every violation of the provisions of this chapter is hereby deemed unlawful and a public nuisance.

**6-2.11 Audits.** No later than February 15 of every calendar year, each Permittee shall file with the city one copy of an audit of its operations for the previous calendar year, completed and certified by an independent certified public accountant in accordance

with generally accepted auditing and accounting principles. The audit shall include, but not be limited to, a discussion, analysis, and verification of each of the records required to be maintained pursuant to this ordinance.

#### **6-2.12 Records.**

(a) Permittees shall maintain records at the premises accurately and truthfully documenting the following:

(1) Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the full names, address, and telephone number) of anyone owning, holding an interest in or managing the commercial cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the city manager or his/her designee upon a reasonable request.

(2) All receipts of the premises, including but not limited to all payments, purchases, contributions, reimbursements, and reasonable compensation, whether in cash or in kind, concerning commercial cannabis activities, whether among licensees or otherwise.

(3) Commercial cannabis businesses must record all commercial cannabis activity in the track and trace system as required by state law.

(4) Proof of compliance with the Act and regulations, including but not limited to the license issued by the Department authorizing a Permittee to operate commercial cannabis activities on the premises;

(5) Any other required documentation described in the Development Agreement required to be maintained on the premises.

(6) The foregoing records shall be maintained by Permittees for a period of seven (7) years and shall be made available by the Permittee to the Police Department, other local law enforcement, or the city manager upon request. If such records are not produced as requested, the city may seek a search warrant, subpoena, or court order to compel access thereto. The records shall be stored at the premises in a manner capable of being reproduced promptly and accurately. Any loss, damage or destruction of the records shall be reported to the Police Department within twenty-four hours.

(b) Upon institution of a city-wide cannabis tax, it shall be the duty of every owner and operator of a commercial cannabis business to keep all records as may be necessary to determine the amount of tax due hereunder and shall preserve the same for a period of four years. The tax administrator shall have the right to inspect such records at all reasonable times. The finance director shall determine the mode and method of recordkeeping required to assist the tax collector to perform the duties required of him under this section. At the time of permit renewal, each owner and operator shall submit to the city a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the finance director.

#### **6-2.12 Compliance with laws.**

Nothing in this chapter shall be construed as authorizing any actions that violate state or local law with respect to the operation of a commercial cannabis business. It shall be the responsibility of the owners and operators of the commercial cannabis business to ensure that the commercial cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis permit. Nothing in this chapter shall be construed as authorizing any actions that violate state law regarding the operation of a commercial cannabis business. Except as otherwise provided herein, this ordinance incorporates the requirements of the Act. In the event of any conflict between the provisions of this ordinance and the provisions of the foregoing, the more restrictive provision shall control.

**6-2.13 Interpretation.** The provisions of this ordinance shall be read to be consistent with all the provisions of state and local law, and their implementing regulations, as well as the other provisions of this ordinance.

**6-2.14 Severability.** Should any provision of this ordinance, or its application to any persons or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this ordinance or the application of this ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

**6-2.15 Limitation of Liability**

(a) To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to receiving, reviewing, processing, denying, or approving any application to operate commercial cannabis activities under this ordinance.

(b) As a condition of submitting an application for a Development Agreement, and as a further condition of approval, each applicant or Permittee, as applicable, shall:

- (1) agree to indemnify the city and its elected and appointed officers, employees, and representatives, from and against any claims, damages, injuries, or liabilities of any kind relating to or arising from an application, the city's denial or approval of an application, or the operation of commercial cannabis activities;
- (2) waive any and all claims, damages, injuries, or liabilities of any kind against the city and its elected and appointed officers, employees, and representatives;
- (3) agree to defend, at its sole cost and expense, any action against the city and/or its elected and appointed officers, employees, and representatives, relating to or arising from an application, denial or approval of an application, or the operation of a commercial cannabis activity; and
- (4) agree to reimburse the city for any court costs and attorneys' fees (with legal counsel of the city's choice) incurred in any legal challenge relating to an application, the denial or approval of any application, or the operation of a commercial cannabis activity.

**6-2.16 Suspension, revocation or modification of permits.**

(a) Commercial cannabis permits may be suspended, revoked or modified for any violation of any state or local law and/or any rule, regulation, and/or standard adopted pursuant to this chapter or in this Code, whether committed by the Permittee or any employee or agent of the Permittee.

(b) A decision of the city to suspend, revoke or modify a commercial cannabis permit is appealable to a hearing officer and any appeal must be filed with the city manager at least ten (10) working days prior to the commencement date of the permit revocation or modification.

(1) The City Clerk shall not accept an appeal, and no hearing shall be held, unless the appellant has paid a filing fee, in an amount set by resolution of the City Council, to defray the cost of such appeal. Any appeal without the timely payment of fees shall be considered to be untimely.

(2) The scope of the appeal hearing pursuant to this section shall be limited to those issues raised by the appellant in the written appeal, as submitted pursuant to subsection (a) of this section.

(3) Upon receipt of a timely filed appeal, the City Clerk shall set the matter for hearing before the City Manager. The hearing shall be held not fewer than ten (10) calendar days and not more than thirty (30) calendar days from the date of the appeal request. The hearing may be continued from time to time upon the mutual consent of the parties.

(4) The appellant shall be provided with notice of the time and place of the appeal hearing, as well as a copy of all relevant materials at least fifteen (15) calendar days prior to the hearing.

(5) An appeal shall stay all proceedings in furtherance of the appealed action. Following appeal, the decision of the hearing officer may be appealed to the city council. A decision of the city council shall be the final decision of the city.

(c) Any premises, or portion of a premises, for which the cannabis public health permit has been suspended or revoked shall close, cease doing business, and remain closed until the cannabis Health Permit has been reinstated or reissued by the City Health Officer.

(d) Additionally, when there is an imminent threat to public health, safety or welfare, the city manager or his/her designee, may take immediate action to temporarily suspend a commercial cannabis permit issued by the city, pending a hearing before the city manager or his/her designee within ten (10) working days of suspension. The decision of the City Manager may be appealed to the City Council, whose decision shall be final.

SECTION 2. AMENDMENT OF CODE. The Planning Commission recommends that Title 10, Chapter 2 Section 10-2.126 be fully amended to read as follows:

**10-2.1626 Marijuana regulations.**

(a) **Purpose and findings.** The City Council finds that it is in the interest of public health, safety, and welfare of the residents and businesses within the City to responsibly regulate and allow for commercial cannabis activities in the City of Redondo Beach.

(b) **Definitions.**

(1) **“A-license”** means a State license issued under this section for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess physician’s recommendations.

(2) **“A-licensee”** means any person holding a license under this section for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess physician’s recommendations.

(3) **“Act”** shall mean the California Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), as in Business and Professions Code Section 26000 et seq., as amended from time to time

(4) **“Applicant”** shall mean and refer to a person applying for a Development Agreement pursuant to this ordinance.

(5) **“Cannabis”** For the purpose of this section “cannabis” and “marijuana” shall have the same meaning.

(6) **“Cannabis accessories”** means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

(7) **“Cannabis product”** means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

(8) **“Cannabis retailer”** means a commercial cannabis business where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit from the City of Redondo Beach authorizing the operation of a retailer, and a valid state license as required by state law to operate as a retailer.

(9) **“Caregiver” or “Primary caregiver”** has the same meaning as the term is defined in Section 11362.7 of the State Health and Safety Code.

(10) **“City”** means the City of Redondo Beach.

(11) **“City Council ” or “Council”** means the City Council of the City of Redondo Beach.

(12) **“City Manager”** means the City Manager of the City of Redondo Beach or his or her designee(s).

(13) **“Commercial cannabis activity”** includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products.

(14) **“Commercial cannabis permit”** means the permit issued by the City under RBMC Section 6-2.00.

(15) **“Conditional Use Permit”** means the permit issued by the City under RBMC Section 10-2.2506.

(15) **“Cultivation”** means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

(16) **“Cultivation site”** means a location where cannabis is planted, grown, harvested, dried, cured, graded or trimmed, or a location where any combination of those activities occurs.

(17) **“Customer”** means a natural person twenty-one (21) years of age or over or a natural person eighteen (18) years of age or older who possesses a physician’s recommendation.

(18) **“Day care center”** means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.

(19) **“Delivery”** means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer (or a microbusiness engaging in retail sales).

(20) **“Department”** means the Department of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Cannabis Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

(21) **“Development Agreement”** means a contract between the City of Redondo Beach and the selected applicant.

(22) **“Dispensary” or “storefront retailer”** means a location where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products.

(23) **“Distribution”** means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(24) **“Edible cannabis product”** means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Section 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code.

(25) **“Gross receipts”** means, except as otherwise specifically provided herein, whether designated as a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, and property of any kind or nature) received or payable for sales of goods, wares, or merchandise without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor, or service costs, interest paid or payable, losses, or any other expense whatsoever. However, the following shall be excluded from gross receipts:

- (a) Cash discounts where allowed and taken on sales;
- (b) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (c) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- (d) Receipts derived from the occasional sale of used, obsolete, or surplus trade fixtures, machinery, or other equipment used by the taxpayer in the regular course of the taxpayer’s business;

(e) Cash value of sales, trades, or transactions between departments or units of the same business;

(f) Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a given year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered; and

(g) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar.

(26) **“Manufacture”** means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

(27) **“Manufacturer”** means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or re-labels its container, that holds a State license pursuant to this section.

(28) **“Marijuana”** or **“cannabis”** means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this section, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

(29) **“Medicinal cannabis”** means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), California Health and Safety Code Section 11362.5, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

(30) **“Medicinal delivery”** means the commercial transfer of medicinal cannabis to a customer that possesses a physician’s recommendation. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this section that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

(31) **“Nursery”** means a license that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

(32) **“Operation”** means any act for which any State or local licensure is required under the provisions of this section or any commercial transfer of cannabis or cannabis products.

(33) **“Owner”** means any of the following:

(a) A person with an aggregated ownership interest of twenty (20%) percent or more in the person or entity applying for a license or a licensee, unless such interest is solely in security, lien, or encumbrance.

(b) The chief executive officer or a member of the board of directors of a nonprofit organization.

(c) An individual who will be participating in the direction, control, or management of the person or entity applying for a license.

"Owner" means any of the following:

1. All persons identified as an "owner" on any permit, license, or other authorization issued by a state agency or local government which authorizes the persons to establish and operate the cannabis facility.

2. Any person identified or required to be identified as an "owner" on an application filed with any state agency and any local government, wherein the application requests the privilege to operate the cannabis facility.

3. If no person under subsection 1 or 2, above, exists:

a. A person with an aggregate ownership interest of 20 percent or more in the corporate entity, partnership, or other business entity applying for a permit or a Permittee, unless the interest is solely a security, lien, or encumbrance.

b. The chief executive officer of a nonprofit or other entity.

c. A member of the board of directors of a nonprofit.

d. An individual who will be participating in the direction, control, or management of the person applying for a permit. A member of the board of directors of a nonprofit.

e. An individual who will be participating in the direction, control, or management of the person applying for a permit.

(34) **“Package”** means any container or receptacle used for holding cannabis or cannabis products.

(35) **“Permittee”** means a person who has obtained a commercial cannabis permit from the city to operate a cannabis business.

**“Person”** includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(36) **“Physician’s recommendation”** means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

(37) **“Private residence”** means a house, an apartment unit, a mobile home, or other similar dwelling.

(38) **“Purchaser”** means the customer who is engaged in a transaction for purposes of obtaining cannabis or cannabis products.

(39) **“Qualified delivery service”** is one that has been licensed pursuant to the requirements of California Business and Professions Code Section 26050, maintains at all times while operating in the City of Redondo Beach all necessary State licenses, and operates in compliance with State and local law.



(40) **“Sell,” “sale,”** and **“to sell”** includes any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

(41) **“State license”** means a State license issued under this section, and includes both an A-license and an M-license, as well as a testing laboratory license.

(42) **“State licensee”** means any person holding a license under this section, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

(43) **“State licensing authority”** means the State agency responsible for the issuance, renewal, or reinstatement of the license, or the State agency authorized to take disciplinary action against the licensee.

(44) **“Testing laboratory”** means a laboratory, facility, or entity in the State that offers or performs tests of cannabis or cannabis products and that is both of the following:

- a. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State.
- b. Licensed by the Department.

(45) **“Testing service”** means a laboratory, facility, or entity in the State, that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility, or entity, and that is both of the following:

- a. Accredited by an accrediting body that is independent from all other persons involved in commercial marijuana activity in the State.
- b. Registered with the State Department of Public Health.

(46) **“Youth center”** means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

(c) **Commercial cannabis activities prohibited unless specifically authorized by this chapter.**

(1) It shall be unlawful for any person to operate, cause, allow, assist, participate in, engage in, or in any way conduct any commercial cannabis activity within the city, including but not limited to the cultivation, delivery, distribution, manufacture, testing, transport, retail, microbusiness, purchase, sale, testing, distribution, giving away, or otherwise transferring of cannabis or cannabis products, or any other activities for which a license is available except in compliance with the provisions of Section (c)(2) below.

(2) The prohibitions of subsection (a) shall not apply to the following persons, provided said person operates in strict accordance with State and local regulations:

- a. A clinic, licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code;
- b. Health care facility, licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code;

- c. A residential care facility for persons with chronic life-threatening illness, licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code;
- d. A residential care facility for the elderly, licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code;
- e. A residential hospice or home health agency, licensed pursuant to Chapter 8 of the Health and Safety Code;
- f. Personal indoor cultivation in compliance with this ordinance;
- g. A licensee's transportation of cannabis or cannabis products on public roads pursuant to subsection (b) of Section 26080 or subsection (e) of Section 26090 of the Business and Professions Code, as the same may be amended from time to time, provided the licensee is permitted or approved to operate by the local jurisdiction in which the licensee's facilities are physically located;
- h. A Permittee authorized to engage in retail activities under this ordinance, provided that said person has entered into a Development Agreement with the city, has been granted a conditional use permit, has been issued the requisite license from the Department, and otherwise complies, at all times, with the provisions of this ordinance.

(3) Until the City establishes a local commercial cannabis tax, the City hereby expressly prohibits the delivery of cannabis and cannabis products within the City except by cannabis retailers based within the City. If the City is required by State law to permit the delivery of cannabis and cannabis products by cannabis retailers not based within the City, such cannabis retailers not based within the City shall be required to comply with the provisions in this ordinance, including, but not limited to, the City commercial cannabis business permit application and approval processes under the ordinance.

(4) Delivery of medicinal cannabis and medicinal cannabis products to qualified patients and their primary caregivers by state licensee cannabis businesses, is permitted within the City until a retailer issued a commercial cannabis business permit.

(5) **Individual cultivation restrictions.**

a. No person shall plant, cultivate, harvest, dry, or process more than six (6) cannabis plants or permit more than six (6) cannabis plants to be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence at one time.

b. Personal cultivation permitted under Health and Safety Code Section 11362.2, as amended from time to time, must occur in a secured indoor location or outdoors within a locked structure upon the growers own property, or a property to which they have explicit authority to access, and in an area that is not visible from a public right-of-way.

(6) **Commercial cannabis retailer regulations.**

a. **Cannabis Retailer Permit Required.** A cannabis retailer must obtain and maintain at all times a valid Commercial Cannabis permit as required pursuant to Redondo Beach Municipal Code Title 6, Chapter 6.

b. **Conditional Use Permit and Zoning.**

- (1) A Conditional Use Permit is required to establish a cannabis business or operate as a cannabis retailer. Cannabis retailers shall be required to comply with all zoning, land use, and development regulations applicable to the zoning district in which they are permitted to establish and operate such business as set forth in the Redondo Beach Municipal Code.
- (2) The cannabis retailer is not required to obtain a Conditional Use Permit prior to applying for a Commercial Cannabis Permit.
- (3) If a cannabis retailer is authorized by Conditional Use Permit to operate a cannabis business on a particular site and such operation is discontinued for a continuous period of 12 months, the Conditional Use Permit expires for discontinuance of use and thereafter is void.

c. **Number of Retailers.** No more than two (2) sites may be used for storefront commercial cannabis retailers at any time. Those sites may be concurrently licensed to provide Delivery.

d. **Location Requirements.**

A. Cannabis retailers shall be permitted only in commercial and industrial zones, specifically limited to the C-1, C-2, C-2A, C-2B, C-2PD, C-3, C-3A, C-3B, C-3PD, C-4, C-4A, C-4B, C-4PD, C-5A, CR, I-1, I-1A, I-1B, I-2, I-2A, and IC-1 zones. Cannabis retailers are prohibited in Coastal Commercial zones. Cannabis retailers are prohibited in any public-institutional zones and zones where residential is permitted.

B. No retailer shall be established or located within 1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other cannabis retailer.

C. No retailer shall be established or located within 1,500 feet of any public or private high school or middle school, measured from the nearest property lines of each of the affected parcels.

D. No retailer shall be established or located within 600 feet from public or private elementary schools, day cares, and youth centers, measured from the nearest property lines of each of the affected parcels.

E. Each Council District shall only have one (1) cannabis retail site.

F. No permitted cannabis retailer may operate from a location that has previously been enforced upon for illegal cannabis activities, for a minimum of 5 years from the passing of this ordinance or from the date of the violation, whichever is later.

e. **Operating Requirements.** In addition to those operating requirements specifically set forth in Section 6-2.05, the following operating requirements shall apply to all cannabis retailers operating in the City of Redondo Beach:

A. **Hours of Operation.** Storefront retail sales may be open for access to the public between the hours of 9:00 a.m. and 10:00 p.m., Monday

through Sunday. Delivery hours shall be limited to between the hours of 6:00 a.m. and 10:00 p.m., Monday through Sunday.

B. Commercial cannabis activities may only operate within a fully enclosed and permanent building. For purposes of this ordinance, the phrase "fully enclosed and permanent building" shall mean a structure having a roof that is enclosed on all sides and is intended and has a useful life appropriate for long-term use, as contrasted with a "temporary building" that is not designed or intended to be permanently located, placed, or affixed to the premises.

C. No permitted cannabis retailer may operate from a location that has previously been enforced upon for illegal cannabis activities, for a minimum of 5 years from the passing of this ordinance.

D. Notwithstanding the requirements of Section 6-2.07, uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities.

E. For medicinal cannabis, the retailer shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and that the potential customer has a valid physician's recommendation. For adult-use cannabis, the retailer shall verify the age of each customer to ensure the customer is not under the age of twenty-one (21) years.

F. Delivery services are permitted in association with a Cannabis Retailer. Delivery of cannabis shall be permitted in compliance with provision (c)(2)(h) of this Section. A delivery service may operate only as a part of and in conjunction with a retailer permitted pursuant to State law and pursuant to Redondo Beach Municipal Code. Delivery of cannabis from a retailer permitted pursuant to this Section can only be made in a City of County that does not expressly prohibit it by ordinance.

(e) **Public nuisance.** Any use or condition caused, or permitted to exist in violation of any provision of this section within the City limits of the City of Redondo Beach is declared to be a public nuisance and may be abated by the City either pursuant to Title 4, Chapter 10 of Redondo Beach Municipal Code or any available legal remedies, including, but not limited to, civil injunctions.

(f) **Criminal penalties.** Any violation of any provision of this section shall be deemed a misdemeanor and shall be enforced pursuant to Title 1, Chapter 2 of Redondo Beach Municipal Code.

(g) **Separate offense for each day.** Any person who violates any provision of this section shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

(h) **Use or activity prohibited by State law.** Nothing in this section shall be deemed to permit or authorize any use or activity which is otherwise prohibited by State law.

SECTION 3. AMENDMENT OF CODE. The Planning Commission recommends that Title 10, Chapter 5 Section 10-5.1626 be fully amended to read as follows:

### **10-5.1626 Marijuana regulations.**

(a) **Purpose and findings.** The City Council finds that it is in the interest of public health, safety, and welfare of the residents and businesses within the City to responsibly regulate and allow for commercial cannabis activities in the City of Redondo Beach.

(b) **Definitions.**

(1) **“A-license”** means a State license issued under this section for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess physician’s recommendations.

(2) **“A-licensee”** means any person holding a license under this section for cannabis or cannabis products that are intended for adults twenty-one (21) years of age and over and who do not possess physician’s recommendations.

(3) **“Act”** shall mean the California Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), as in Business and Professions Code Section 26000 et seq., as amended from time to time

(4) **“Applicant”** shall mean and refer to a person applying for a Development Agreement pursuant to this ordinance.

(5) **“Cannabis”** For the purpose of this section “cannabis” and “marijuana” shall have the same meaning.

(6) **“Cannabis accessories”** means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

(7) **“Cannabis product”** means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

(8) **“Cannabis retailer”** means a commercial cannabis business where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit from the City of Redondo Beach authorizing the operation of a retailer, and a valid state license as required by state law to operate as a retailer.

(9) **“Caregiver” or “Primary caregiver”** has the same meaning as the term is defined in Section 11362.7 of the State Health and Safety Code.

(10) **“City”** means the City of Redondo Beach.

(11) **“City Council ” or “Council”** means the City Council of the City of Redondo Beach.

(12) **“City Manager”** means the City Manager of the City of Redondo Beach or his or her designee(s).

(13) **“Commercial cannabis activity”** includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products.

(14) **“Commercial cannabis permit”** means the permit issued by the City under RBMC Section 6-2.00.

(15) **“Conditional Use Permit”** means the permit issued by the City under RBMC Section 10-5.2506.

(15) **“Cultivation”** means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

(16) **“Cultivation site”** means a location where cannabis is planted, grown, harvested, dried, cured, graded or trimmed, or a location where any combination of those activities occurs.

(17) **“Customer”** means a natural person twenty-one (21) years of age or over or a natural person eighteen (18) years of age or older who possesses a physician’s recommendation.

(18) **“Day care center”** means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.

(19) **“Delivery”** means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer (or a microbusiness engaging in retail sales).

(20) **“Department”** means the Department of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Cannabis Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

(21) **“Development Agreement”** means a contract between the City of Redondo Beach and the selected applicant.

(22) **“Dispensary” or “storefront retailer”** means a location where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products.

(23) **“Distribution”** means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(24) **“Edible cannabis product”** means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Section 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code.

(25) **“Gross receipts”** means, except as otherwise specifically provided herein, whether designated as a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, and property of any kind or nature) received or payable for sales of goods, wares, or merchandise without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor, or service costs, interest paid or payable, losses, or any other expense whatsoever. However, the following shall be excluded from gross receipts:

- (a) Cash discounts where allowed and taken on sales;
- (b) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (c) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;

(d) Receipts derived from the occasional sale of used, obsolete, or surplus trade fixtures, machinery, or other equipment used by the taxpayer in the regular course of the taxpayer's business;

(e) Cash value of sales, trades, or transactions between departments or units of the same business;

(f) Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a given year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered; and

(g) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar.

(26) **“Manufacture”** means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

(27) **“Manufacturer”** means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or re-labels its container, that holds a State license pursuant to this section.

(28) **“Marijuana”** or **“cannabis”** means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this section, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

(29) **“Medicinal cannabis”** means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), California Health and Safety Code Section 11362.5, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

(30) **“Medicinal delivery”** means the commercial transfer of medicinal cannabis to a customer that possesses a physician’s recommendation. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this section that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

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(33) **“Owner”** means any of the following:

(a) A person with an aggregated ownership interest of twenty (20%) percent or more in the person or entity applying for a license or a licensee, unless such interest is solely in security, lien, or encumbrance.

(b) The chief executive officer or a member of the board of directors of a nonprofit organization.

(c) An individual who will be participating in the direction, control, or management of the person or entity applying for a license.

**“Owner”** means any of the following:

1. All persons identified as an "owner" on any permit, license, or other authorization issued by a state agency or local government which authorizes the persons to establish and operate the cannabis facility.

2. Any person identified or required to be identified as an "owner" on an application filed with any state agency and any local government, wherein the application requests the privilege to operate the cannabis facility.

3. If no person under subsection 1 or 2, above, exists:

a. A person with an aggregate ownership interest of 20 percent or more in the corporate entity, partnership, or other business entity applying for a permit or a Permittee, unless the interest is solely a security, lien, or encumbrance.

b. The chief executive officer of a nonprofit or other entity.

c. A member of the board of directors of a nonprofit.

d. An individual who will be participating in the direction, control, or management of the person applying for a permit. A member of the board of directors of a nonprofit.

e. An individual who will be participating in the direction, control, or management of the person applying for a permit.

(34) **“Package”** means any container or receptacle used for holding cannabis or cannabis products.

(35) **“Permittee”** means a person who has obtained a commercial cannabis permit from the city to operate a cannabis business.

**“Person”** includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(36) **“Physician’s recommendation”** means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

(37) **“Private residence”** means a house, an apartment unit, a mobile home, or other similar dwelling.

(38) **“Purchaser”** means the customer who is engaged in a transaction for purposes of obtaining cannabis or cannabis products.

(39) **“Qualified delivery service”** is one that has been licensed pursuant to the requirements of California Business and Professions Code Section 26050,



maintains at all times while operating in the City of Redondo Beach all necessary State licenses, and operates in compliance with State and local law.

(40) **“Sell,” “sale,” and “to sell”** includes any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

(41) **“State license”** means a State license issued under this section, and includes both an A-license and an M-license, as well as a testing laboratory license.

(42) **“State licensee”** means any person holding a license under this section, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

(43) **“State licensing authority”** means the State agency responsible for the issuance, renewal, or reinstatement of the license, or the State agency authorized to take disciplinary action against the licensee.

(44) **“Testing laboratory”** means a laboratory, facility, or entity in the State that offers or performs tests of cannabis or cannabis products and that is both of the following:

a. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State.

b. Licensed by the Department.

(45) **“Testing service”** means a laboratory, facility, or entity in the State, that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility, or entity, and that is both of the following:

a. Accredited by an accrediting body that is independent from all other persons involved in commercial marijuana activity in the State.

b. Registered with the State Department of Public Health.

(46) **“Youth center”** means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

(c) **Commercial cannabis activities prohibited unless specifically authorized by this chapter.**

(1) It shall be unlawful for any person to operate, cause, allow, assist, participate in, engage in, or in any way conduct any commercial cannabis activity within the city, including but not limited to the cultivation, delivery, distribution, manufacture, testing, transport, retail, microbusiness, purchase, sale, testing, distribution, giving away, or otherwise transferring of cannabis or cannabis products, or any other activities for which a license is available except in compliance with the provisions of Section (c)(2) below.

(2) The prohibitions of subsection (a) shall not apply to the following persons, provided said person operates in strict accordance with State and local regulations:

a. A clinic, licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code;

- b. Health care facility, licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code;
- c. A residential care facility for persons with chronic life-threatening illness, licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code;
- d. A residential care facility for the elderly, licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code;
- e. A residential hospice or home health agency, licensed pursuant to Chapter 8 of the Health and Safety Code;
- f. Personal indoor cultivation in compliance with this ordinance;
- g. A licensee's transportation of cannabis or cannabis products on public roads pursuant to subsection (b) of Section 26080 or subsection (e) of Section 26090 of the Business and Professions Code, as the same may be amended from time to time, provided the licensee is permitted or approved to operate by the local jurisdiction in which the licensee's facilities are physically located;
- h. A Permittee authorized to engage in retail activities under this ordinance, provided that said person has entered into a Development Agreement with the city, has been granted a conditional use permit, has been issued the requisite license from the Department, and otherwise complies, at all times, with the provisions of this ordinance.

(3) Until the City establishes a local commercial cannabis tax, the City hereby expressly prohibits the delivery of cannabis and cannabis products within the City except by cannabis retailers based within the City. If the City is required by State law to permit the delivery of cannabis and cannabis products by cannabis retailers not based within the City, such cannabis retailers not based within the City shall be required to comply with the provisions in this ordinance, including, but not limited to, the City commercial cannabis business permit application and approval processes under the ordinance.

(4) Delivery of medicinal cannabis and medicinal cannabis products to qualified patients and their primary caregivers by state licensee cannabis businesses, is permitted within the City until a retailer issued a commercial cannabis business permit.

(5) **Individual cultivation restrictions.**

a. No person shall plant, cultivate, harvest, dry, or process more than six (6) cannabis plants or permit more than six (6) cannabis plants to be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence at one time.

b. Personal cultivation permitted under Health and Safety Code Section 11362.2, as amended from time to time, must occur in a secured indoor location or outdoors within a locked structure upon the growers own property, or a property to which they have explicit authority to access, and in an area that is not visible from a public right-of-way.

(6) **Commercial cannabis retailer regulations.**

a. **Cannabis Retailer Permit Required.** A cannabis retailer must obtain and maintain at all times a valid Commercial Cannabis permit as required pursuant to Redondo Beach Municipal Code Title 6, Chapter 6.

b. **Conditional Use Permit and Zoning.**

- (1) A Conditional Use Permit is required to establish a cannabis business or operate as a cannabis retailer. Cannabis retailers shall be required to comply with all zoning, land use, and development regulations applicable to the zoning district in which they are permitted to establish and operate such business as set forth in the Redondo Beach Municipal Code.
- (2) The cannabis retailer is not required to obtain a Conditional Use Permit prior to applying for a Commercial Cannabis Permit.
- (3) If a cannabis retailer is authorized by Conditional Use Permit to operate a cannabis business on a particular site and such operation is discontinued for a continuous period of 12 months, the Conditional Use Permit expires for discontinuance of use and thereafter is void.

c. **Number of Retailers.** No more than two (2) sites may be used for storefront commercial cannabis retailers at any time. Those sites may be concurrently licensed to provide Delivery.

d. **Location Requirements.**

A. Cannabis retailers shall be permitted only in commercial and industrial zones, specifically limited to the C-1, C-2, C-2A, C-2B, C-2PD, C-3, C-3A, C-3B, C-3PD, C-4, C-4A, C-4B, C-4PD, C-5A, CR, I-1, I-1A, I-1B, I-2, I-2A, and IC-1 zones. Cannabis retailers are prohibited in Coastal Commercial zones. Cannabis retailers are prohibited in any public-institutional zones and zones where residential is permitted.

B. No retailer shall be established or located within 1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other cannabis retailer.

C. No retailer shall be established or located within 1,500 feet of any public or private high school or middle school, measured from the nearest property lines of each of the affected parcels.

D. No retailer shall be established or located within 600 feet from public or private elementary schools, day cares, and youth centers, measured from the nearest property lines of each of the affected parcels.

E. Each Council District shall only have one (1) cannabis retail site.

F. No permitted cannabis retailer may operate from a location that has previously been enforced upon for illegal cannabis activities, for a minimum of 5 years from the passing of this ordinance or from the date of the violation, whichever is later.

e. **Operating Requirements.** In addition to those operating requirements specifically set forth in Section 6-2.05, the following operating requirements shall apply to all cannabis retailers operating in the City of Redondo Beach:

A. **Hours of Operation.** Storefront retail sales may be open for access to the public between the hours of 9:00 a.m. and 10:00 p.m., Monday

through Sunday. Delivery hours shall be limited to between the hours of 6:00 a.m. and 10:00 p.m., Monday through Sunday.

B. Commercial cannabis activities may only operate within a fully enclosed and permanent building. For purposes of this ordinance, the phrase "fully enclosed and permanent building" shall mean a structure having a roof that is enclosed on all sides and is intended and has a useful life appropriate for long-term use, as contrasted with a "temporary building" that is not designed or intended to be permanently located, placed, or affixed to the premises.

C. No permitted cannabis retailer may operate from a location that has previously been enforced upon for illegal cannabis activities, for a minimum of 5 years from the passing of this ordinance.

D. Notwithstanding the requirements of Section 6-2.07, uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities,

E. For medicinal cannabis, the retailer shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and that the potential customer has a valid physician's recommendation. For adult-use cannabis, the retailer shall verify the age of each customer to ensure the customer is not under the age of twenty-one (21) years.

F. Delivery services are permitted in association with a Cannabis Retailer. Delivery of cannabis shall be permitted in compliance with provision (c)(2)(h) of this Section. A delivery service may operate only as a part of and in conjunction with a retailer permitted pursuant to State law and pursuant to Redondo Beach Municipal Code. Delivery of cannabis from a retailer permitted pursuant to this Section can only be made in a City of County that does not expressly prohibit it by ordinance.

(e) **Public nuisance.** Any use or condition caused, or permitted to exist in violation of any provision of this section within the City limits of the City of Redondo Beach is declared to be a public nuisance and may be abated by the City either pursuant to Title 4, Chapter 10 of Redondo Beach Municipal Code or any available legal remedies, including, but not limited to, civil injunctions.

(f) **Criminal penalties.** Any violation of any provision of this section shall be deemed a misdemeanor and shall be enforced pursuant to Title 1, Chapter 2 of Redondo Beach Municipal Code.

(g) **Separate offense for each day.** Any person who violates any provision of this section shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

(h) **Use or activity prohibited by State law.** Nothing in this section shall be deemed to permit or authorize any use or activity which is otherwise prohibited by State law.

SECTION 4. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council shall declare that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. Below are additional recommendations from the Planning Commission for the City Council to consider in finalizing and implementing the cannabis regulations.

1. Correct numbering and reference in 10-2 and 10-5.1626(c)(2) references the “prohibitions of subsection (a)”. That should reference subsection (c)(1) immediately above it.
2. Add definitions for the following terms:
  - a. Hearing Officer
  - b. Tax Administrator
  - c. Finance Director
  - d. Permit Administrator
  - e. Premises
3. Correct discrepancy between calendar days referenced in 6-2.16(b)(3) and (b)(4) so that materials would not have to be submitted in advance of the appeal itself.
4. In 6-2.05(c)(14) add clarification that employees would be permitted to consume food on site not in the customer area.
5. By limiting to two licenses, it is a duopoly. Under Subsection 6-2.06 remove the reference to the “...minimum period of three (3) years from the start of operation.” And remove the language, “Permittee may only transfer ownership after the initial period of time and with prior discretionary approval of the City Council. Before approving any such request, City may require the purchaser, assignee, or transferee to provide the same information and materials that are required of an initial applicant, including the payment of associated fees.”
6. Require a Conditional Use Permit condition that authorizes that CUP only while there is an operator that has a commercial cannabis retailer permit per Title 6.
7. Consider engaging a thoroughly vetted and referenced consultant with experience evaluating the cannabis industry to evaluate the ordinance in its entirety.

8. Institute a mechanism to vet all owners. Specifically, if a certain percentage is proposed to be assigned to new owners or partners, permittee is to notify the City and must obtain prior City Council approval. A restriction should be added to prohibit a permittee to be a C Corporation.
9. Prohibit the two permits from having the same or common ownership.
10. Require that the developer agreement set a timeframe from when a permit is issued to when it is required to be in operation.
11. Revise 6-2.02 to read, "No person may operate a commercial cannabis business or engage in commercial cannabis activity within the City of Redondo Beach including cultivation, processing, manufacturing, testing, sale, delivery, distribution, or transportation of cannabis or a cannabis product unless the person (1) has a valid commercial cannabis retailer permit from the City of Redondo Beach; (2) has any and all valid state or local permits; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activity, including holding the necessary state licenses to engage in commercial cannabis activity." Where the language is specifying that only a cannabis retailer permit allowed.
12. Require in the developer agreement that the permittee have a community relations contact available to businesses and residents within 600' of the site and quarterly meetings required between community relations contact and City Manager for first year and at request of City Manager thereafter.
13. Revise Section 6-2.05(c)(5) to address and not inadvertently prohibit delivery. The language currently states, "All commercial cannabis business shall be operated within the specific part of the premises specified in the Development Agreement and/or conditional use permit. No commercial cannabis activities shall take place in an area exceeding the square footage authorized in the controlling Development Agreement, conditional use permit, or the licensee's license; whichever is most restrictive."
14. Developer agreement should restrict permitted local cannabis retail businesses from advertising on billboards in the City of Redondo Beach.
15. If there is no requirement under the law for personal information to be collected for cannabis retail storefront licensees, prohibit the business from requiring that the personal information be collected in order to be a customer.
16. Concern with real time surveillance being an invasion of privacy. Return the video surveillance requirements to be limited to the State requirements, police not surveilling the cannabis site, or if police have surveillance access, not recording it. If police have recordings of surveillance at the discretion of the permittee, should delete surveillance recordings within 90 days unless part of an active investigation.

17.Regarding buffering residential zones:

- a. Prohibit entrances and exits and driveways associated with cannabis retailers on streets where adjacent to residential zone where residential shares that road within the same block.

18.Add restriction that no more than cannabis retail site per street.

19.Consider requiring a bond for liability.

20.Consider requiring in the development agreement an audit of operations in addition to the financial auditing requirement to be paid for by the permittee.

21.Recommend that Council add supplemental appearance requirements per 6-2.05(c)(9) in the development agreement.

22.Remove the CR zone that includes the Galleria site as an allowed zone for cannabis retailer permits.

23.Considering that Beach Cities Transit Route 102 is a main bus line for Redondo Beach High School students to take to school, with two bus stops on Artesia Boulevard between Ridge Lane and Hawthorne Boulevard, recommend removing the commercial sites along Artesia Boulevard between Ridge Lane and Hawthorne Boulevard from consideration for cannabis retailer permits.

FINALLY RESOLVED, that the Planning Commission forward a copy of this resolution to the City Council so the Council will be informed of the action of the Planning Commission.

PASSED, APPROVED, AND ADOPTED this 3<sup>rd</sup> day of March, 2022.

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Rob Gaddis, Chair  
Planning Commission  
City of Redondo Beach

ATTEST:

STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES   )   SS  
CITY OF REDONDO BEACH    )

I, Brandy Forbes, Community Development Director of the City of Redondo Beach, California, do hereby certify that the foregoing Resolution No. 2022-03-PCR-02 was duly passed, approved and adopted by the Planning Commission of the City of Redondo Beach, California, at an adjourned regular meeting of said Planning Commission held on the 3<sup>rd</sup> day of March, 2022 by the following roll call vote:

AYES:       Chair Gaddis, Commissioners Behrendt, Boswell, Hazeltine, Hinsley,  
              Godek, and Lamb

NOES:       None

ABSENT:     None

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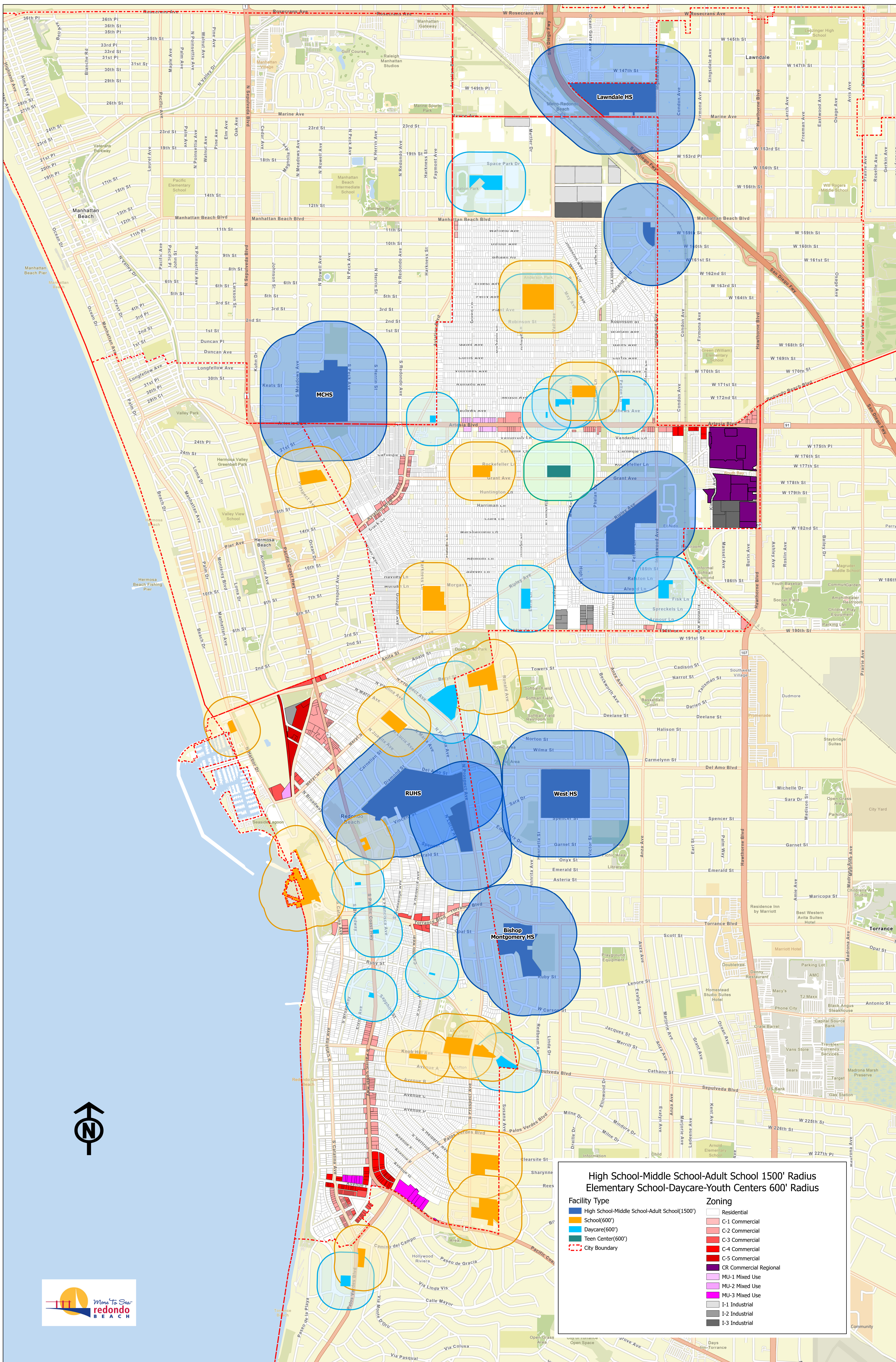
Brandy Forbes, AICP  
Community Development Director

APPROVED AS TO FORM:

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City Attorney's Office









# Administrative Report

N.2., File # 21-2983

Meeting Date: 10/5/2021

**To: MAYOR AND CITY COUNCIL**  
**From: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR**

## **TITLE**

DISCUSSION AND POSSIBLE ACTION REGARDING CANNABIS STEERING COMMITTEE RECOMMENDATIONS

## **EXECUTIVE SUMMARY**

When the Medical Marijuana Regulation and Safety Act (MMRSA) took effect January 1, 2016, regulating the use of marijuana for medical purposes, the City of Redondo Beach adopted Ordinance 3152 to implement local regulations in accordance with MMRSA, effective May 5, 2016.

On November 8, 2016, Proposition 64 was adopted for adult use of marijuana act (AUMA). The AUMA regulates, among other items, the use of marijuana for personal and commercial purposes, including the recreational use of marijuana by adults over 21 years of age, thus expanding the permissions under MMRSA. Although Proposition 64 represented the interest of whether to allow the adult use of marijuana, it did not specify how an individual municipality would regulate.

Proposition 64 stipulated that if a city did not enact local commercial licensing restrictions or a ban by January 1, 2018, a valid state license would be the only requirement to open and operate any commercial marijuana business in any commercial zone in the city. Therefore, out of caution, until local regulations and interests could be analyzed, the City of Redondo Beach adopted ordinances to regulate the personal use and cultivation of cannabis, as well as restrict commercial cannabis activities in the City of Redondo Beach. This was an interim measure to prohibit cannabis businesses until the City could better evaluate what types of businesses and what regulations to put in place.

One of the prior objectives included in the City Council's adopted Strategic Plan included the City Manager's appointment of a steering committee comprised of law enforcement, RBUSD, BCHD, and outside interest groups to review best practices for commercial use regulations of cannabis including storefront siting, taxation, delivery, and development agreement options and to prepare a report for Planning Commission and City Council consideration. At the City Council meeting of August 14, 2018, the City Council received and filed a report related to the composition of the Cannabis Steering Committee (CSC).

This Administrative Report transmits the work of the CSC and their recommendations to City Council on consideration of an ordinance to regulate cannabis in the City of Redondo Beach. As described in this report, staff is seeking City Council direction related to the content of an ordinance to be prepared and considered at subsequent City Council meetings.

**BACKGROUND**

California's history of cannabis law spans nearly 25 years of propositions and regulatory actions (see attached). More recently, the Medical Marijuana Regulation and Safety Act (MMRSA) that took effect January 1, 2016 regulated the use of marijuana for medical purposes. The City of Redondo Beach adopted Ordinance 3152 which promulgated local regulations in accordance with MMRSA, effective May 5, 2016.

On November 8, 2016, Proposition 64 was adopted for the Adult Use of Marijuana Act (AUMA). The AUMA regulates, among other items, the use of marijuana for personal and commercial purposes, including the recreational use of marijuana by adults over 21 years of age, thus expanding the permissions under MMRSA. The AUMA permits cities to "reasonably regulate" without completely prohibiting cultivation of marijuana inside a private residence or inside an accessory structure to a private residence, within the limits allowed by the State for personal cultivation.

In Redondo Beach 65% of the voters were in favor of Proposition 64. Although Proposition 64 represented the interest of whether to allow the Adult Use of Marijuana Act, it did not specify how an individual municipality would regulate. The State's commercial provisions of AUMA were to take effect on January 1, 2018, requiring a city to disallow commercial marijuana activities in order to ensure that local regulations are promulgated and local control maintained. If a local governing body did not enact such a commercial ban by January 1, 2018, a valid State license would be the only requirement to open and operate any commercial marijuana business in any commercial zone in that city. Therefore, out of caution, until local regulations and interests could be analyzed, the City of Redondo Beach adopted ordinances to regulate the personal use and cultivation of cannabis, as well as restrict commercial cannabis activities in the City of Redondo Beach. This was an interim measure to prohibit cannabis businesses until the City could better evaluate what types of businesses and what regulations to put in place.

One of the prior objectives included in the City Council's adopted Strategic Plan included the City Manager's appointment of a steering committee comprised of law enforcement, RBUSD, BCHD, and outside interest groups to review best practices for commercial use regulations of cannabis, including storefront siting, taxation, delivery, and development agreement options and to prepare a report for Planning Commission and City Council consideration. At the City Council meeting of August 14, 2018, the City Council received a filed a report related to the composition of the Cannabis Steering Committee which included the following seven individuals:

Chris Cagle	Former City Councilmember District Two Resident
Jonatan Cvetko	Executive Director Los Angeles Emeralds District One Resident
Kerianne Lawson	Director of Lifespan Services Beach Cities Health District
Nancy Lomibao	Program Director Redondo Beach Cancer Support Community
Sandra Marchese	Redondo Beach Public Safety Commissioner

## District Three Resident

Dr. Samuel Stratton Medical Advisor to the Redondo Beach Fire Dept.

Dr. Nicole Wesley Executive Director of Student Services  
Redondo Beach Unified School District

Subsequent to the above appointments, RBUSD modified their appointment to have Ms. Brianne Nakayama serve on the Cannabis Steering Committee (CSC). Additionally, it should be noted that Mr. Cvetko's employment has changed and he is now the Executive Director of the United Cannabis Business Association. Members of the Redondo Beach Police Department, Fire Department, Community Development Department, and City Treasurer's Office met jointly in support of the work of the CSC.

While the CSC met 6 times between the dates of November 13, 2018 and August 28, 2019, and created a subcommittee that had additional meetings through early 2020, their work was delayed as a result of the City's focus on COVID-19 and the associated severe financial challenges due to COVID-19. More recently, the subcommittee met in January and February 2021 and the CSC was reconvened in March 2021 (virtual meetings) to continue their work, with another 6 meetings in 2021, and recently finalized recommendations to the City Council.

This Administrative Report transmits the work of the CSC and their recommendations to City Council on consideration of an ordinance to regulate cannabis in the City of Redondo Beach.

## **REDONDO BEACH PARTICIPATION, EDUCATION, AND ENFORCEMENT OF CANNABIS POLICY AND REGULATIONS**

### Legislative Action

Since the passing of Proposition 64 the City of Redondo Beach has advocated on several notable bills.

- AB 1356 - Cannabis: local jurisdictions: retail commercial cannabis activity. This bill sought to redefine and erode Proposition 64's local control provisions and require one cannabis retail shop for every 10,000 residents. On May 7, 2019, City Council authorized a letter in opposition to AB 1356.
- AB 228 (2019) and AB 2028 (2020) - Industrial Hemp Products. This series of bills sought to allow consumable hemp products such as topicals, edibles, and smokables, despite the FDA, CDPH, and LACDPH ban against such products. The primary concern was the lack of safety testing the purity of these products compared with cannabis products-a valid concern witnessed shortly after the introduction of AB 228 during the vaping crisis. In 2019, City Councilmembers brought awareness of this issue to the South Bay Cities Council of Governments and to the Independent Cities Association, both organizations deciding to oppose the bills.
- AB 45 (2021) - Industrial Hemp Products. The State Legislature finally adopted amendments to address the safety testing concerns, as well as prohibit the sales of smokable hemp products until a state tax is passed. City staff have had to navigate the grey areas of legality

on these products over the years, and whether to allow for hemp retailers. The issue has proven problematic, as experienced with the recurring pop up cannabis church that at one point claimed to be a Hemp CBD church. The passing of AB 45 is expected to bring regulation clarity in the coming year.

### Education

Elected officials and staff have participated in several education opportunities on cannabis policy.

- June 14, 2018 - LA County Cannabis Policy Seminar. Staff attended the Los Angeles County Cannabis Policy Seminar hosted by Angeles Emeralds. The seminar was a full day event of panel discussions with State, County, and Local regulators.
- January 24, 2019 - South Bay Cities Council of Governments Cannabis Workshop Series. City staff attend a four-part workshop series hosted by the South Bay Cities Council of Governments and facilitated by Angeles Emeralds. A total of 23 cities participated in the workshop series, each session lasting over three hours and covering the following topics:
  - Intro and Orientation: Pros and Cons of Regulations
  - Community Education
  - Cannabis License Types
  - Ordinance and Revenue Development
- February 2, 2019 - Independent Cities Association Winter Seminar. Elected officials attended a cannabis regulatory panel discussion led by Angeles Emeralds during the ICA winter seminar.

### Enforcement

Since the passing of Proposition 64 the City of Redondo Beach has engaged in multiple enforcement actions against illegal cannabis operators with a large degree of success. Below are links to articles on these enforcement actions:

- 8/17/19 - Redondo Beach Cannabis church opens after Seaside shutdown  
<<https://easyreadernews.com/redondo-beach-cannabis-church-opens-after-seaside-shutdown/>>
- 8/23/19 - Redondo Beach takes action on two marijuana dispensaries  
<<https://www.dailybreeze.com/2019/08/23/redondo-beach-takes-action-on-two-marijuana-dispensaries/>>
- 11/23/19 - One pot shop shuts down, Redondo targets another  
<<https://easyreadernews.com/one-pot-shop-shuts-down-redondo-targets-another/>>
- 11/12/20 - Redondo Beach cannabis dispensary cited, following raid by Cannabis Control agents  
<<https://easyreadernews.com/redondo-beach-cannabis-dispensary-cited-following-raid-by-cannabis-control-agents/>>
- 12/5/20 - Redondo Police put the nail in Pacific Cannabis Church  
<<https://easyreadernews.com/redondo-police-put-the-nail-in-pacific-cannabis-church/>>

## **CHALLENGES WITH LOCAL ADOPTION IN OTHER MUNICIPALITIES**

### Legal Challenges

Although local control is provided by Proposition 64 over regulating legal cannabis activities, the state has not issued best practices for implementation. This has left local jurisdictions with a trial and error approach in drafting ordinances, with a significant number of municipalities facing legal challenges by cannabis operators who disagreed with the outcome of the decision process. Most recently in the city of Costa Mesa. Below are links to articles on these legal challenges:

- 9/2/21 - Cannabis hopefuls up in arms as Costa Mesa's application process rolls on without them  
<<https://www.latimes.com/socal/daily-pilot/news/story/2021-09-02/cannabis-hopefuls-up-in-arms->
- 7/25/19 - Passed Over Cannabis Applicants Prepare to Do Legal Battle with City  
<<https://www.pasadenanow.com/main/passed-over-cannabis-applicants-prepare-to-do-legal-battle->
- 5/12/21 - Lawsuits accuse El Monte of 'pay-to-play' for cannabis licenses  
<<https://www.sgvtribune.com/2021/05/12/lawsuits-accuse-el-monte-of-pay-to-play-for-cannabis->
- 6/16/15 - Lawsuit Accuses Santa Ana Mayor of Taking Bribes from Pot Shop  
<<https://laist.com/news/santa-ana-medical-marijuana-lawsuit>>

The City of Los Angeles in particular has had an exceptionally difficult time in implementing its local ordinance. Hundreds of applicants remain waiting after more than three years to have their applications processed by the City's Department of Cannabis Regulation. LA required that an applicant retains a property as part of their application, leaving the applicants paying for rent for several year years without the ability to operate their businesses until their applications have completed processing. This along with other issues has prompted a number of lawsuits against the city:

- 6/2/21 - Cannabis entrepreneur sues LA over social equity licensing program, records  
<<https://spectrumnews1.com/ca/la-west/business/2021/06/02/cannabis-entrepreneur-sues-la-over->
- 11/18/20 - Two more lawsuits filed over L.A.'s social equity cannabis licensing  
<<https://mjbizdaily.com/los-angeles-social-equity-cannabis-licensing-faces-more-lawsuits/>>

Similarly, there have been a number of reported incidents of corruption allegations and charges of officials surrounding cannabis businesses and licensing procedures.

It is important to review these various cases to offer direction and caution for what are best practices that are acceptable related to cannabis licensing and local controls.

## **REDONDO BEACH CANNABIS STEERING COMMITTEE**

### Initiation of Cannabis Steering Committee Discussions

As noted above, in 2018 the City Manager assembled a Cannabis Steering Committee of community stakeholders to discuss the concerns and considerations for allowing cannabis businesses in the City of Redondo Beach. The Cannabis Steering Committee was made up of representatives of the following:

- Angeles Emeralds Non-Profit Association (working towards responsible cannabis regulations)
- Beach Cities Health District (BCHD)

- Redondo Beach Cancer Support Community
- Redondo Beach Public Safety Commission Representative
- Medical Advisor to Redondo Beach Fire Department
- Redondo Beach Unified School District (RBUSD)
- Members of the Redondo Beach Police Department, Fire Department, Community Development Department, and City Treasurer's Office

The CSC met regularly in the first year of forming, reviewing regulations, discussing best practices, and evaluating what options the City should consider for regulating cannabis. However, in March 2020 the City's priorities shifted to addressing the COVID-19 emergency orders and modifying operations for health and safety. As a result, from March 2020 to January 2021 the CSC did not meeting. As emergency practices started to stabilize, the CSC reconvened in January 2021 and have met several times in order to finalize recommendations for City Council to consider related to cannabis licensing and local controls.

#### Cannabis Steering Committee Meetings Summary

The first meeting of the Cannabis Steering Committee took place on November 13, 2018 and included introductions and a discussion of the reasons for forming the Committee.

December 20, 2018 was the second meeting of the Cannabis Steering Committee. A presentation of information was provided by Jonatan Cvetko of Angeles Emeralds explaining the history of cannabis legislation and regulations. This discussion included the State's regulations on buffers from schools, local jurisdictions allowing licenses, taxing possibilities, public safety concerns, and generally what regulations to consider.

January 8, 2019 CSC met to discuss the health effects of cannabis and the impacts of advertising and exposure. This in-depth discussion went over the observations and statistics from Beach Cities Health District and RBUSD.

In February 2019, the CSC went over various legislative changes and litigation efforts. A presentation was provided by Jonatan Cvetko on "15 Questions to Build a Cannabis Ordinance". This guide walks through what decisions a municipality needs to make when considering permitting cannabis businesses. At that meeting, the CSC requested that the City staff analyze the State's buffer requirements and established a subcommittee to have that group evaluate the best practices and make recommendations on the 15 Questions guide.

On February 26, 2019 the CSC established a subcommittee of the steering committee to evaluate the buffer areas and see the viability of locations and evaluate the pros and cons of each category of license. The subcommittee included Jonatan Cvetko, Kerianne Lawson, and Sam Stratton. City representatives to coordinate with the subcommittee includes Joe Hoefgen, Brandy Forbes, and Antonio Gardea.

From March through May 2019 staff analyzed buffer zoning to consider the State's recommended buffers (600' from day cares, public schools, and youth centers). Subcommittee members assembled information regarding the pros and cons of each category of license.

At the May 28, 2019 subcommittee meeting, the group discussed proposed legislation, distancing,

and types of licenses and the pros and cons of each. The subcommittee recommended alternatives to the buffer zones, with express concern about accessibility to high schoolers who may have open campus and to middle schoolers who are susceptible to advertising.

In June 2019, staff prepared multiple buffer options to address various concerns and to see if any of the buffers decreased viability of locations.

On July 18, 2019 the subcommittee met to discuss the additional buffer options and determined buffers to recommend to the City Council. The subcommittee also discussed licenses and determined which to recommend.

On August 28, 2019 the full CSC met to discuss recommendations on initial discussions of the subcommittee. Discussions included buffers and restrictions, including buffers from schools, buffers between businesses, number of sites to allow, and number and types of licenses to permit. The CSC generally agreed on recommendations. BCHD and RBUSD representatives acknowledged that, although their organizations would not support cannabis businesses due to health and youth concerns, they appreciated the CSC's consideration of their concerns when preparing recommendations.

On October 4, 2019 the subcommittee met to discuss best practices, rather than "what not to do", and provided feedback on various examples. They followed up later that month on October 23, 2019 to discuss a potential review process and narrowed down the "likes" of best practice examples. The subcommittee met again on January 6, 2020 to categorize application or request for proposal questions that potential licensees would need to address. Staff then prepared a list of sample selection process questions based on best practices discussion and categories. On January 21, 2020 the subcommittee met again to discuss the CBD and cannabis licensee selection process, reviewing the list of questions for the RFP selection process.

From March through December 2020, due to the pandemic, this project was on hold through most of the year. On January 25 and February 8, 2021, the subcommittee reconvened to discuss CBD and cannabis licensee selection process. The subcommittee revisited prior recommendations to the CSC and narrowed questions for the RFP selection process to what is appropriate and applicable to Redondo Beach. From February through April 2021, the subcommittee presented its recommendations to the full CSC for the CSC to confirm or modify. The CSC met as recently as September 2021 to finalize their recommendations.

#### Cannabis Steering Committee Recommendations for Responsible Cannabis Policy

The Cannabis Steering Committee reviewed a variety of questions geared toward building an ordinance, culminating in recommendations to the City Council. The CSC's recommendations prioritize public health and safety, and consider a wealth of challenges experienced by other jurisdictions. The recommendations are meant to mitigate and limit potential liabilities against the City implementing a local ordinance, as noted by some of the examples noted above.

The CSC finds that the most responsible approach to local regulations is to first address the immediate concerns and needs of the community in a manner that allows the greatest flexibility and local control in regulating, and only expanding after success in the initial implementation. The following recommendations reflect this intent.



**1. Should Redondo Beach allow for outdoor personal cultivation?**

Proposition 64 protects the right of personal cultivation of a maximum of 6 plants indoors. Local jurisdictions may also allow for the personal cultivation of a maximum of 6 plants outdoors. The current ordinance allows it in a yard area if secured and not visible from surrounding sites.

**RECOMMENDATION:**

Keep the status quo, allow for outdoor personal cultivation.

**REASONING:**

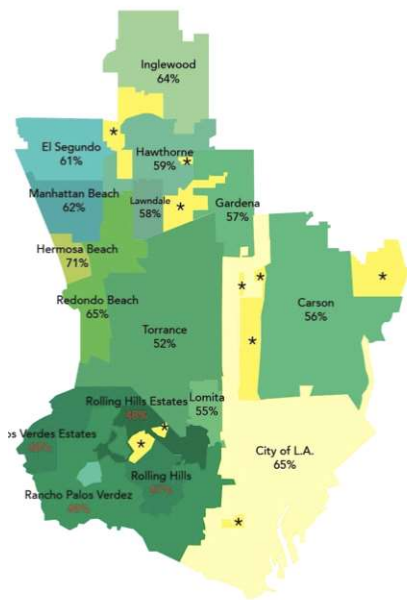
The committee considered two primary points for this question.

- 1) Recognized the City Council's intent to allow legal access for medicinal needs in the existing ordinance. Personal outdoor cultivation significantly reduces the financial impact to grow.
- 2) Proposition 64 allocated 20 percent of the state's cannabis tax revenues towards State and Local Law Enforcement. Local Governments may apply for grant funding from this fund for local enforcement needs only if they have not prohibited personal outdoor cultivation or retail sale of cannabis.

The CSC recommends upholding the intent of the City Council's decision to provide legal access and sees benefit in providing the City the ability to apply for grant funding for law enforcement in light of the ongoing illegal cannabis activities within the City. It is important to note that Redondo Beach will need to allow for both personal outdoor cultivation as well as retail sales to qualify for the grant funding.

**2. Should Redondo Beach allow for licensed commercial cannabis activities?**

Redondo Beach voted 65% in favor of Proposition 64--higher than statewide voting support of Proposition 64, which was at 57.13%. Similarly, the overwhelming majority of the South Bay Cities voted in favor of Proposition 64.



## Prop 64 Voting Results

1. Carson	56%	9. Los Angeles	65%
2. El Segundo	61%	10. Manhattan Beach	62%
3. Gardena	57%	11. Palos Verdes Estates	48%
4. Hawthorne	59%	12. Rancho Palos Verdes	48%
5. Hermosa Beach	71%	13. Redondo Beach	65%
6. Inglewood	64%	14. Rolling Hills	47%
7. Lawndale	58%	15. Rolling Hills Estates	47%
8. Lomita	55%	16. Torrance	52%
		17. Unincorporated LA County*	59.5%



[AngelesEmeralds.org](https://AngelesEmeralds.org)

### RECOMMENDATION:

Yes-allow for licensed commercial cannabis activities.

### REASONING:

The CSC agreed that the City should allow licensed cannabis. Although BCHD and RBUSC are formally opposed to any licenses, they would prefer to have the restrictions and protections in place per these recommendations rather than be subject to a future initiative (see attached letter from BCHD). The Police and Fire representatives had similar sentiments with BCHD and RBUSC, but also found it preferential to take into consideration protections and precautions that may not be available through an initiative process. The public safety representatives are concerned that the community may not have tolerance to have these located in Redondo Beach, so would want to look at enforcement issues ahead of time as the City Council deliberates

### **3. Which license types should be allowed?**

There are a variety of license types provided by the State of California. These reflect the full supply chain of activities from cultivation, manufacturing, testing, and retail.

LICENSE TYPES

Type 1 - Specialty Cottage Outdoor	Type 6 - Manufacturer; Nonvolatile Extraction
Type 1A - Specialty Cottage Indoor	Type 7 - Manufacturer; Volatile Extraction
Type 1B - Specialty Cottage Mixed-Light Tier 1	Type N - Manufacturer; Infusions
Type 1B - Specialty Cottage Mixed-Light Tier 2	Type P - Manufacturer; Packaging
- Specialty Outdoor	Type S - Manufacturer; Shared Space
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- Specialty Mixed-Light Tier 1	Type 9 - Retailer: Non-Storefront Delivery
- Specialty Mixed-Light Tier 2	Type 10 - Retailer: Storefront
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Type 2B - Small Mixed-Light Tier 2	Type 13 - Distributor Transport Only
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Type 3A - Medium Indoor	
Type 3B - Medium Mixed-Light Tier 1	
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Type 4 - Nursery	
Type 5 - Large Cultivation License (Not until 2023)	

Currently, data shows there to be an overabundant supply of non-retail licenses compared with retail in California.

CULTIVATION	MANUFACTURING	DISTRIBUTION	RETAIL
4724	885	1036	810

RECOMMENDATION:

Allow:

- Type 9 Retailer: Non-Storefront Delivery
- Type 10 Retailer: Storefront
- A combination Type 9 & Type 10 on a site

Prohibit:

- Delivery services (Type 9) which originate from other cities if there is a Type 9 license issued in Redondo Beach.

REASONING:

The CSC considered a number of factors in this recommendation such as land use, statewide consumer demand, economic opportunity, and the public health and safety concerns of each of the license types.

The state data shows that there is an oversupply of non-retail license types such as cultivation and manufacturing. Similarly, Redondo Beach has a limited amount of industrial zoning where such activities would be most appropriate.

The CSC found that a storefront with the ability to deliver would be the most responsible approach to allowing retail activities.

The CSC also recognized the potential challenges of allowing and implementing the licensing of the full supply chain of activities all at once within the City, and found that focusing on one license type (Retail) to begin with would be the most responsible approach. Once the City has experience implementing one type of licensed activity it may then be reasonable for the City to consider allowing other activities.

Currently, delivery from legal businesses in outside jurisdictions is allowed for medicinal purposes. The CSC would recommend prohibition of outside delivery services in the jurisdiction if there are delivery (Type 9) licenses issued in the City of Redondo Beach. Outside delivery services provide no economic benefit to the City and become an unfunded enforcement liability.

#### ***4. What are the appropriate zoning areas for the recommended licensed activities?***

##### **RECOMMENDATION:**

Cannabis sites should be limited to commercial and industrial zones. They should not be located in zones permitting residential, public/institutional zones, or commercial regional districts (CC and CR zones) (waterfront and Galleria). The preference was that this use would require discretionary Conditional Use Permit (CUP) approval.

##### **REASONING:**

The CSC believes this zoning reflects the intent of prioritizing public health and safety and the most responsible way to initially allow for commercial cannabis retail activities.

#### ***5. Are the State buffer zones sufficient?***

Under state law, a cannabis business requires a 600-foot radius buffer zone from schools providing instruction in kindergarten or any grades 1 through 12, day care centers, and youth centers that are in existence at the time the license is issued, unless a licensing authority or local jurisdiction specifies a different radius.

##### **RECOMMENDATION:**

Increase the buffer zone to 1500 feet from high schools and middle schools (not limited to just public schools) and maintain 600-foot radius from elementary schools, day cares, and youth centers.

Establish a 1000-foot buffer between cannabis licensed sites.

##### **REASONING:**

The committee considered this to be the most responsible way to address the concerns around youth access and visibility from advertising of the stores for students who can and do walk off campus to stores in the vicinity of the schools.

#### ***6. How many licenses?***

##### **RECOMMENDATION:**

Up to two sites within the City, with a maximum of one site per district.

Establish a 1000-foot buffer between cannabis licensed sites.

**REASONING:**

The CSC considered the challenges of other cities implementing a large number of licenses and decided to recommend up to 2 sites within the City for retail sales to begin with as a pilot program.

The CSC notes that it is a more responsible approach to start slow and reconsider at a later date than it would be to try to decrease and limit the number in the future.

The CSC recommends that a combination of a Type 9 and a Type 10 license could be combined on a site to qualify as one site.

**7. Are the State hours of operation sufficient?**

State Law allows for retail activities between the hours of 6 a.m. and 10 p.m. Local jurisdictions can be more restrictive, but not less restrictive of this.

**RECOMMENDATION:**

Storefront Retail Sales - 9 a.m. to 10 p.m.

Non-storefront Delivery - 6 a.m. to 10 p.m.

**REASONING:**

Limiting storefront hours is in line with other similar retail business hours.

**8. Are State security requirements sufficient?**

State Law has a number of extensive Security Requirements such as:

- Designated limited-access areas
- Security guards required during public access hours
- 24-hour video surveillance
- Alarm systems
- Commercial grade locks
- GPS tracking for all delivery vehicles

**RECOMMENDATION:**

The recommendations from public safety and the CSC for additional security measures are as follows:

- All security personnel to be vetted through the Redondo Beach Police Department (RBPD) or certified 3<sup>rd</sup> party.
- Regarding surveillance, the licensee to provide real time direct access to all surveillance.
- Alarm systems to be set to send real time immediate messages to the RBPD. - Regarding safety, requirements to better define "secure storage of cannabis and

- cannabis products” as well as revenue.
- The licensee to provide measures to ensure a minor doesn’t enter, requiring ID checks and providing appropriate signage.
  - For delivery, licensee to provide a signature for receipt and that those records be maintained on file for auditing purposes.

**REASONING:**

The CSC found that the State’s security requirements were generally acceptable with some opportunity to ensure greater public safety.

**9. How to discourage illicit operators?**

**RECOMMENDATION:**

Implement Los Angeles County Department of Public Health’s Cannabis Compliance and Enforcement Program (link to information attached).

**REASONING:**

Redondo Beach has had a number of illegal cannabis operators. Some have attempted to evade enforcement by acting on loopholes in regulations for hemp products. Such operators have claimed to be churches, or CBD shops, and even CBD churches.

With regard to this, the CSC has been studying the progression of two state-level issues that may have significant benefits to address unlicensed cannabis activities.

- 1) Consumer Hemp Product regulations such as CBD and smokable hemp products.

After 3 years of various bills regarding consumable hemp product regulations, AB 45 has been approved by the legislature and is very likely to be signed by the Governor. This bill regulates the testing and sales of consumable hemp products. Should it be signed by the Governor, it is anticipated to resolve the issues the City has previously experienced.

- 2) Enforcement Tools

The CSC considered recommending additional penalties for those aiding and abetting illegal cannabis activities, similar to how the City of LA has implemented. However, a new bill AB 1138 has just passed the legislature and is expected to be signed by the Governor. Should it be signed, it will provide additional penalties of \$30,000/day against those aiding and abetting illegal cannabis activities, with a focus on property owners and owners of the operations. The CSC believes this will resolve much of the City’s needs.

Additionally, the Los Angeles County Department of Public Health has created a relatively new program entitled the Cannabis Compliance and Enforcement Program, where the County contracts with cities that allow for cannabis activities. The program aims to further protect public health but has the additional benefit of being an effective enforcement tool against illegal operators who are unable to apply for the permit and subsequently violate Public Health Department Codes. The CSC recommends the City implement the Cannabis Compliance and Enforcement Program.

A number of cities have currently implemented the program including:

- Montebello
- El Monte
- Lancaster
- Culver City

### **10. How should equity be addressed?**

#### **RECOMMENDATION:**

The recommendation is for City Council to consider further addressing the issue at a later date.

#### **REASONING:**

Cities such as Los Angeles, Long Beach, and Costa Mesa have all opted to address an equity program in a secondary round of licensing considerations after the initial roll out phase.

### **11. How to tax?**

There are three primary options in considering how a city can collect revenues:

#### **NO ADDITIONAL TAX**

PROS: Increases viability of the licensed business  
Promotes the transition to a legal market

CONS: No additional tax revenue to offset any fiscal impacts of licensed operators, such as enforcement.

#### **DEVELOPER AGREEMENT**

PROS: Immediate ability for city to collect revenue  
Allows for future flexibility to be regionally competitive.  
Does not have to lock in a rate indefinitely.

CONS: Locks in location of operator should they wish to move in the future.

#### **TAX BALLOT MEASURE**

PROS: Allows an operator to move locations more easily and still have a tax apply.

CONS: Rate is typically locked in and not flexible to being adjusted without additional ballot measure. Must wait until the next election cycle to pass and implement.

#### **RECOMMENDATION:**

Establish a Developer Agreement. Consider sunseting it with an eventual tax measure.

#### **REASONING:**

The passing of a tax measure at this time has two distinct disadvantages:

- 1) Locking in a rate ahead of neighboring jurisdictions could disadvantage Redondo

Beach in being regionally competitive. Should Redondo act first, other jurisdictions may subsequently establish a lower tax, being more attractive to customers.

- 2) The City is unable to collect any revenue from licensed cannabis activities until tax ballot measure is passed.

A developer agreement would allow the City to immediately collect revenues upon licensed cannabis activities beginning. It also allows the City the ability to establish a proper tax rate at a later date, if desired, once there is a better understanding of how the region will approach taxation.

The CSC recommends developer agreements rather than a tax measure.

With developer agreements, the City could consider this on a pilot program basis. If there was a need to adjust to determine an appropriate rate, a developer's agreement has more flexibility, whereas a tax measure would require a ballot measure to approve or revise. There could be a condition on how the fee could change in a developer's agreement. The CUP runs with the land and addresses the use, whereas a license and developer agreement would tie in specific requirements for a particular user.

## 12. What is the appropriate tax/fee rate?

<u>City</u>	<u>Medical Retail Tax Rate</u>	<u>Adult Use Retail Tax Rate</u>
<u>Los Angeles</u>	5%	10%
<u>Hawthorne</u>	5%	5%
<u>West Hollywood</u>	0%	7.5%
<u>Long Beach</u>	6%	8%
<u>Pasadena</u>	4%	4%
<u>Culver City</u>	5%	6%
<u>Montebello</u>	2%	2%

### RECOMMENDATION:

Evaluate neighboring jurisdictions to determine appropriate fee/rate.

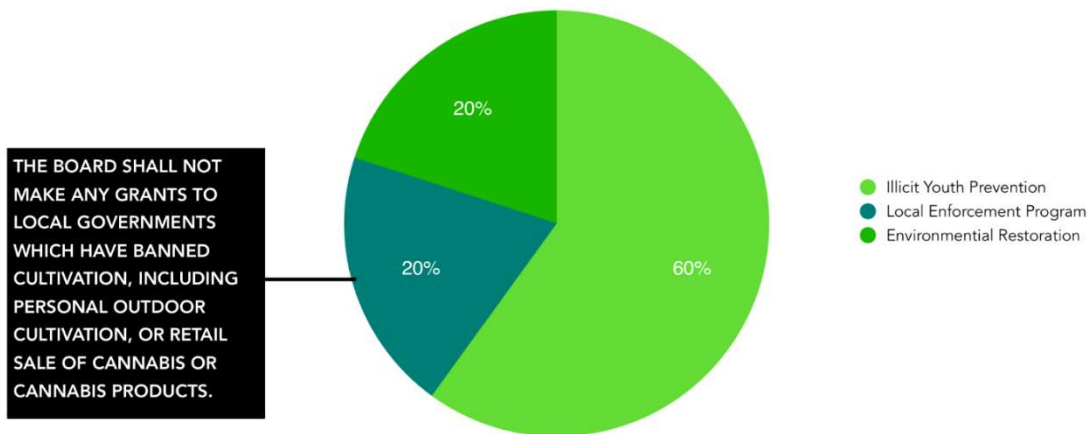
### REASONING:

The CSC recommends that Council evaluate nearby jurisdictions to determine an appropriate fee, collecting enough in fee to manage costs of the impacts (for example, police, code enforcement, unforeseen audit issues). With developer agreements the City has the flexibility to adjust the fee to match the costs once they are realized. City Council may want to consider the fee based on the type of license (i.e., will delivery require more costs than retail storefront).

## 13. Where should taxes/fees go?



## State Cannabis Tax Revenue Appropriation



### RECOMMENDATION:

General Fund

### REASONING:

The State provides significant grant funds, available to municipalities that allow both personal outdoor cultivation and retail sales for programs, for programs addressing youth drug prevention, as well as funding for local law enforcement needs. If the City authorizes retail sales in addition to the already allowed outdoor cultivation, these funds would be accessible to Redondo Beach.

The CSC thought providing the revenues toward the general fund allows flexibility for City Council to appropriate the funds for years to come in a manner that serves the needs of the City.

Law enforcement and prosecution fall under the general fund. There is a lot of State grant funding available for special programs. Therefore, the CSC recommends that the revenues would go to the general fund.

### **14. Should there be a property requirement for applicants?**

### RECOMMENDATION:

Do not require applicant to secure property prior to application.

### REASONING:

A number of jurisdictions have experienced significant challenges in requiring a property as part of an application prior to selection. The City of Los Angeles originally had a property requirement that led to applicants paying for a property for several years while they waited for their application to be processed. As a result of that, there have been legal challenges brought against the city.

The CSC did not think it practical for applicants to have already acquired sites or entitlements, but rather that the applicant should be chosen on their merit first and then have to find a site that

meets code. Although the concept is to choose based on merit first, it is recommended that a selected applicant would have to determine which district and obtain Planning Commission approval within a year.

### **15. How to select applicants?**

#### **RECOMMENDATION:**

Process to be determined by City Council

#### **REASONING:**

The CSC did review the best practice questions for Requests for Proposals (RFPs). The City Council will need to determine the full RFP process, including procedures for removing/revoking a license. A sample process that the CSC has considered as a template will be provided as a Blue Folder item.

### **16. Transfer of ownership?**

#### **RECOMMENDATION:**

Consider limiting transferability of a developer agreement and/or license for a period of time.

#### **REASONING:**

The CSC recommends that City Council consider limiting transferability of the license, both in terms of transferring ownership and transferring management.

If a merit-based system is to be established to select the best fit operator for the community, the operator should be required to maintain the ownership and operations for which they were approved for a period of several years.

This ensures that the selected operator does not immediately sell the license to an entity that may not have been selected. As well, that the owner doesn't authorize a management company or operator on a contract basis that is not aligned with the approval.

### **17. How to adopt regulations?**

There has been consideration of interested parties in putting forth an initiative in South Bay cities to compel licensing in the municipalities. If an initiative is put forward and the voters approve, any rules or regulations included in that initiative (including selection process, location, number and type of licenses, taxation, etc.) would be enforced. In the meantime, the City may consider adopting an ordinance now that would set the regulations, criteria, and implementation process that is appropriate for the City based on best practices.

#### **RECOMMENDATION:**

Adopt ordinance to effectuate decisions.

#### **REASONING:**

Should the City Council choose to allow legal commercial cannabis activities, the CSC strongly

recommends adopting a Council-directed ordinance based on these recommendations.

With the constantly evolving legislation and state regulations around cannabis, it is important to allow the City to be flexible with its own regulations.

A City Council adopted ordinance allows the City to adjust the regulations as needed with an amendment to said ordinance. By comparison, should regulations be passed by a ballot measure, the language in the measure could not be changed without passing a future ballot measure, providing little to no flexibility.

The CSC recommends that the City Council adopt an ordinance to ensure the flexibility of future amendments.

Again, this Administrative Report transmits the work of the CSC and their recommendations to City Council on consideration of an ordinance to regulate cannabis in the City of Redondo Beach.

### **COORDINATION**

This agenda item was coordinated with the Community Development Department, City Manager's Office, and the Cannabis Steering Committee.

### **FISCAL IMPACT**

The fiscal impact to the City of regulating cannabis sales and delivery in Redondo Beach is unknown at this point. There are many variables to consider including (1) the number of types of licenses to be approved, (2) the volume of business and sales from local cannabis operations, (3) the specific tax rate charged for cannabis sales in Redondo Beach, (4) the amount of staff time allocated to regulatory and enforcement activities, and (5) the potential for legal challenge to the City's licensing activities.

Notwithstanding the above variables, staff's initial estimate is that each licensed site in Redondo Beach could provide \$500,000 to \$1,000,000 in additional annual revenue to the City, provided the City moves forward with adoption of a regulatory ordinance and associated tax/developer fee rates.

### **APPROVED BY:**

*Joe Hoefgen, City Manager*

### **ATTACHMENTS**

- Summary of Cannabis Laws and Updates
- BCHD Position on Proposed City of Redondo Beach Cannabis Ordinance
- Link related to Cannabis Compliance and Enforcement Program:

<http://www.publichealth.lacounty.gov/eh/about/cannabis-compliance-enforcement-program.htm>

## **BLUE FOLDER ITEM**

*Blue folder items are additional back up material to administrative reports and/or public comments received after the printing and distribution of the agenda packet for receive and file.*

### **CITY COUNCIL MEETING October 5, 2021**

#### **N.2. DISCUSSION AND POSSIBLE ACTION REGARDING CANNABIS STEERING COMMITTEE RECOMMENDATIONS**

**CONTACT: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR**

- PowerPoint Presentation

# DISCUSSION & POSSIBLE ACTION: CANNABIS STEERING COMMITTEE RECOMMENDATIONS

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REDONDO BEACH CITY COUNCIL MEETING  
OCTOBER 5, 2021

# CANNABIS REGULATORY BACKGROUND

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- California's history of cannabis law spans nearly 25 years
- Medical Marijuana Regulation and Safety Act - Effective January 1, 2016
  - Redondo Beach adopted Ordinance 3152 for local regulations regarding medical marijuana
- Proposition 64 for Adult Use of Marijuana Act - Approved November 8, 2016
  - Redondo Beach adopted Ordinances to regulate the personal use and cultivation of cannabis, as well as restrict commercial cannabis activities in the City of Redondo Beach. This was an interim measure to prohibit cannabis businesses until the City could better evaluate what types of businesses and what regulations to put in place.

# REDONDO BEACH STRATEGIC PLANNING REGARDING CANNABIS

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City Council's adopted Strategic Plan Objective:

- City Manager's appointment of a steering committee comprised of law enforcement, Redondo Beach Unified School District, Beach Cities Health District, and outside interest groups
- Purpose to review best practices for commercial use regulations of cannabis, including
  - Storefront siting
  - Taxation
  - Delivery
  - Development agreement options
- Conclude with a report for Planning Commission and City Council consideration.

# CANNABIS STEERING COMMITTEE (CSC) CREATED

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At the City Council meeting of August 14, 2018, the City Council received a filed a report related to the composition of the Cannabis Steering Committee which included the following seven individuals:

- Chris Cagle - Former City Councilmember, District Two Resident
- Jonatan Cvetko - Executive Director of Los Angeles Emeralds, District One Resident
- Kerianne Lawson - Director of Lifespan Services at Beach Cities Health District
- Nancy Lomibao - Program Director for Redondo Beach Cancer Support Community
- Sandra Marchese - Redondo Beach Public Safety Commissioner, District Three Resident
- Dr. Samuel Stratton - Medical Advisor to the Redondo Beach Fire Department
- Dr. Nicole Wesley - Executive Director of Student Services for Redondo Beach Unified School District  
[subsequently modified to Brianne Nakayama]



# MEETINGS OF CSC

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The Cannabis Steering Committee reviewed a variety of questions geared toward building an ordinance using best practices, culminating in recommendations to City Council.

- CSC met 6 times from November 13, 2018 through August 28, 2019
- Established a subcommittee to more thoroughly investigate best practices
- Subcommittee met several times from August 2019 through early 2020
- Delays as result of City's focus on COVID-19
- Subcommittee reconvened January-February 2021
- CSC met 6 times from March through September 2021, concluding with recommendations

# ISSUES CONSIDERED BY CSC

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- The CSC's recommendations
  - prioritize public health and safety
  - consider a wealth of challenges experienced by other jurisdictions
  - mitigate and limit potential liabilities against the City implementing a local ordinance
- The CSC finds that the most responsible approach to local regulations
  - first address the immediate concerns and needs of the community
  - allow the greatest flexibility and local control in regulating
  - only expanding after success in the initial implementation
- The following recommendations reflect this intent.

# CSC RECOMMENDATIONS

## 1. Should Redondo Beach allow for outdoor personal cultivation?

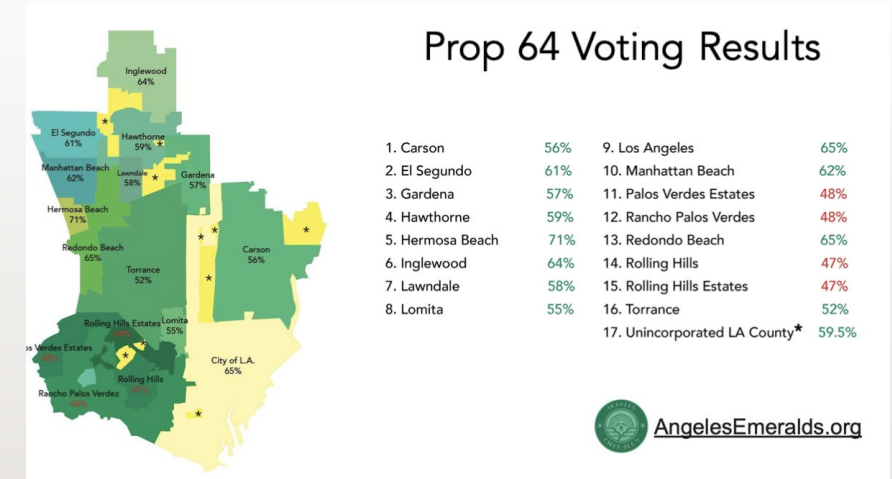
Proposition 64 protects the right of personal cultivation of a maximum of 6 plants indoors. Local jurisdictions may also allow for the personal cultivation of a maximum of 6 plants outdoors. The current ordinance allows it in a yard area if secured and not visible from surrounding sites.

**RECOMMENDATION:** Keep the status quo, allow for outdoor personal cultivation.

## 2. Should Redondo Beach allow for licensed commercial cannabis activities?

Redondo Beach voted 65% in favor of Proposition 64—higher than statewide voting support of Proposition 64, which was at 57.13%. Similarly, the overwhelming majority of the South Bay Cities voted in favor of Proposition 64.

**RECOMMENDATION:** Yes—allow for licensed commercial cannabis activities.



# CSC RECOMMENDATIONS (CONT.)

## 3. Which license types should be allowed?

There are a variety of license types provided by the State of California. These reflect the full supply chain of activities from cultivation, manufacturing, testing, and retail. Currently, data shows there to be an overabundant supply of non-retail licenses compared with retail in California.

### RECOMMENDATION:

#### Allow:

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#### Prohibit:

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#### LICENSE TYPES

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# CSC RECOMMENDATIONS (CONT.)

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## **4. What are the appropriate zoning areas for the recommended licensed activities?**

**RECOMMENDATION:** Cannabis sites should be limited to commercial and industrial zones. They should not be located in zones permitting residential, public/institutional zones, or commercial regional districts (CC and CR zones) (waterfront and Galleria). The preference was that this use would require discretionary Conditional Use Permit (CUP) approval.

## **5. Are the State buffer zones sufficient?**

Under state law, a cannabis business requires a 600-foot radius buffer zone from schools providing instruction in kindergarten or any grades 1 through 12, day care centers, and youth centers that are in existence at the time the license is issued, unless a licensing authority or local jurisdiction specifies a different radius.

**RECOMMENDATION:** Increase the buffer zone to 1500 feet from high schools and middle schools (not limited to just public schools) and maintain 600-foot radius from elementary schools, day cares, and youth centers. Establish a 1000-foot buffer between cannabis licensed sites.



# CSC RECOMMENDATIONS (CONT.)

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## **6. How many licenses?**

*RECOMMENDATION:* Up to two sites within the City, with a maximum of one site per district. Establish a 1000-foot buffer between cannabis licensed sites.

## **7. Are the State hours of operation sufficient?**

State Law allows for retail activities between the hours of 6 a.m. and 10 p.m. Local jurisdictions can be more restrictive, but not less restrictive of this.

*RECOMMENDATION:*

Storefront Retail Sales - 9 a.m. to 10 p.m.

Non-storefront Delivery - 6 a.m. to 10 p.m.

# CSC RECOMMENDATIONS (CONT.)

---

## **8. Are State security requirements sufficient?**

State Law has a number of extensive Security Requirements such as:

- Designated limited-access areas
- 24-hour video surveillance
- Commercial grade locks
- Security guards required during public access hours
- Alarm systems
- GPS tracking for all delivery vehicles

**RECOMMENDATION:** The recommendations for additional security measures are as follows:

- All security personnel to be vetted through the Redondo Beach Police Department (RBPD) or certified 3rd party.
- Regarding surveillance, the licensee to provide real time direct access to all surveillance.
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- The licensee to provide measures to ensure a minor doesn’t enter, requiring ID checks and providing appropriate signage.
- For delivery, licensee to provide a signature for receipt and that those records be maintained on file for auditing purposes.

# CSC RECOMMENDATIONS (CONT.)

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## **9. How to discourage illicit operators?**

*RECOMMENDATION:* Implement Los Angeles County Department of Public Health's Cannabis Compliance and Enforcement Program (link to information attached).

## **10. How should equity be addressed?**

*RECOMMENDATION:* The recommendation is for City Council to consider further addressing the issue at a later date.

## **11. How to tax?**

There are three primary options in considering how a city can collect revenues – no additional tax, developer agreements, or a tax ballot measure.

*RECOMMENDATION:* Establish a Developer Agreement and consider sunseting it with an eventual tax measure.



# CSC RECOMMENDATIONS (CONT.)

## ***12. What is the appropriate tax/fee rate?***

**RECOMMENDATION:** Evaluate neighboring jurisdictions to determine appropriate fee/rate.

## ***13. Where should taxes/fees go?***

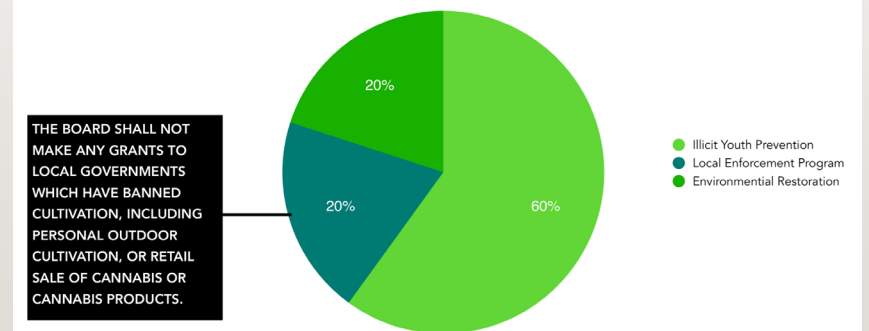
**RECOMMENDATION:** General Fund

## ***14. Should there be a property requirement for applicants?***

**RECOMMENDATION:** Do not require applicant to secure property prior to application.

City	Medical Retail Tax Rate	Adult Use Retail Tax Rate
Los Angeles	5%	10%
Hawthorne	5%	5%
West Hollywood	0%	7.5%
Long Beach	6%	8%
Pasadena	4%	4%
Culver City	5%	6%
Montebello	2%	2%

**State Cannabis Tax Revenue Appropriation**



# CSC RECOMMENDATIONS (CONT.)

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## ***15. How to select applicants?***

**RECOMMENDATION:** Process to be determined by City Council

## ***16. Transfer of ownership?***

**RECOMMENDATION:** Consider limiting transferability of a developer agreement and/or license for a period of time.

## ***17. How to adopt regulations?***

There has been consideration of interested parties in putting forth an initiative in South Bay cities to compel licensing in the municipalities. If an initiative is put forward and the voters approve, any rules or regulations included in that initiative (including selection process, location, number and type of licenses, taxation, etc.) would be enforced. In the meantime, the City may consider adopting an ordinance now that would set the regulations, criteria, and implementation process that is appropriate for the City based on best practices.

**RECOMMENDATION:** Adopt ordinance to effectuate decisions.

# FISCAL IMPACT TO CANNABIS LICENSING

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There are many variables to consider including

- (1) the number of types of licenses to be approved
- (2) the volume of business and sales from local cannabis operations
- (3) the specific tax rate charged for cannabis sales in Redondo Beach
- (4) the amount of staff time allocated to regulatory and enforcement activities, and
- (5) the potential for legal challenge to the City's licensing activities.

Notwithstanding the above variables, staff's initial estimate is that each licensed site in Redondo Beach could provide \$500,000 to \$1,000,000 in additional annual revenue to the City, provided the City moves forward with adoption of a regulatory ordinance and associated tax/developer fee rates.

# CONCLUSION

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- This report transmits the work of the CSC and their recommendations to City Council on consideration of an ordinance to regulate cannabis in the City of Redondo Beach.
- Staff is seeking City Council direction related to the content of an ordinance to be prepared and considered at subsequent City Council meetings.

## **California's History of Cannabis Law**

### **(1996) Prop 215 - Compassionate Use Act**

California residents passed Prop 215 in recognition of the medicinal value marijuana brought to patients with HIV/AIDS, Cancer, and more. Highlights of Prop 215:

- Exempts patients and defined caregivers who possess or cultivate marijuana recommended by a physician from criminal laws which otherwise prohibit possession or cultivation of marijuana.
- Provides physicians who recommend use of marijuana for medical treatment shall not be punished or denied any right or privilege.

### **(2003) SB 420 - Medical Marijuana Program Act**

Governor Gray Davis signed the bill after passing the legislature. The bill clarified the scope and application of Prop 215 and established the California medical marijuana program. Highlights of SB 420:

- Allows counties and cities to establish higher - but not lower - guidelines if they so choose.
- Clarifies Possession limits
- Established the Medical Marijuana Identification Card Program
- Recognizes the right of patients and caregivers to associate collectively or cooperatively to cultivate medical marijuana.

### **(2010) SB 1449 - Marijuana Possession**

Governor Schwarzenegger signed SB 1449 which amended the Health and Safety Code turning possession of less than an ounce of marijuana from a criminal misdemeanor into a civil infraction punishable by a fine of no more than \$100.

### **(2015) Medical Marijuana Regulation and Safety Act - MMRSA**

In October of 2015 the California State government passed and approved a set of laws that regulated medical marijuana use for commercial cannabis activity. The bulk of these laws came in three different bills, SB 643, AB243, and AB 266 known collectively as the Medical Marijuana Regulation and Safety Act, or MMRSA for short.

### **(2016) Medical Cannabis Regulations and Safety Act - MCRSA**

After the passage of MMRSA, many smaller bills were passed to amend or add to the content (such as AB 2516 which authorizes specialty cottage licenses) and MMRSA officially became MCRSA. The City of Redondo Beach adopted Ordinance 3152 which promulgated local regulations in accordance with MMRS, effective May 5, 2016.

### **(2016) Prop 64 - Adult Use of Marijuana - AUMA**

In 2016, California passed Proposition 64, the Adult Use of Marijuana Act. This proposition allowed adults over the age of 21 to legally grow, possess, and use cannabis for non-medical purposes, within legally mandated limits. This proposition establishes dual licensing systems requiring both local and state licensing to operate a cannabis business.

## **SB 94 (2017) - Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)**

This bill repeals MCRSA and includes certain provisions of MCRSA in the licensing provisions of AUMA. Under the bill, these consolidated provisions would be known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). The bill would rename the bureau the Bureau of Cannabis Control, would revise references to “marijuana” or “medical cannabis” in existing law to instead refer to “cannabis” or “medicinal cannabis,” respectively, and would apply a definition of “cannabis” similar to the definition used in MCRSA to MAUCRSA. The bill would generally impose the same requirements on both commercial medicinal and commercial adult-use cannabis activity

### **Since Prop 64**

Since the passing of Prop 64 a number of significant legislative and regulatory changes have occurred which warranted the cautious progress of the Redondo Beach Cannabis Steering Committee’s considerations in recommending responsible policies for the City Council. The City Council has advocated on some of these issues, and City staff participated in workshops to better understand the implications. The following are some highlights since the passing of Prop 64.

### Industry Regulatory Updates

The industry is regulated by three licensing agencies:

- 1) The Bureau of Cannabis Control serves as the lead agency and oversees:
  - a) Retailers
  - b) Laboratories
  - c) Distributors
- 2) The California Department of Public Health, which oversees:
  - a) Manufacturers
- 3) The California Department of Food and Agriculture, which oversees:
  - a) Cultivators

When legal commercial cannabis activities began on January 1, 2018, the industry was governed by emergency regulations until the agencies submitted extensive final regulations which were ultimately adopted in 2019.

After a year of the industry operating under these regulations from three separate agencies, it became apparent that many were inconsistent, duplicative, or onerous and the state decided in 2020 to begin planning for agency consolidation into one department. In the fall of 2020 the Chief of the Bureau of Cannabis Control stepped down, leaving uncertainty of who would be the long-term regulator once the three agencies consolidated.

On July 12, 2021 Governor Newsom signed AB 141, officially consolidating the regulating agencies into the newly established Department of Cannabis Control (DCC) and appointed a new Director in charge of overseeing the industry. The DCC recently submitted a new set of emergency regulations that are expected to govern the industry for up to a year before the DCC submits its proposed final regulations, expected to take effect as late as 2023.

### Social Justice Updates

The primary social justice component of Prop 64 provided for the criminal record expungement of previous cannabis convictions. This allowed a pathway toward significant benefits to hundreds of thousands of Californians who experienced barriers a criminal record can bring. The passing of AB 1793 sought to provide added support of allowing counties to automate expungements, however LA County was slow to adopt it. In February of 2020, LA County announced it had finally implemented the program to automate the expungement of 66,000 previous cannabis convictions.

### Public Safety Updates

Enforcement of illegal operators has proven to be challenging post Prop 64 adoption. Several efforts over the years have made progress in establishing better enforcement tools.

The state and industry identified WeedMaps as a primary problem for continuing to advertise illegal cannabis retailers, ultimately resulting in WeedMaps agreement to stop advertising illegal operators as of 2020.

AB 97 (2019) authorizes licensing authorities to assess administrative fines not to exceed \$5,000 per violation for licensees and \$30,000 per violation for an unlicensed person, per day.

AB 1138 (2021), sponsored by the United Cannabis Industry Association, has passed through the legislature and is expected to be signed by Governor Newsom. This bill allows the Attorney General or county and city prosecutors to prosecute operators of illegal cannabis activities as well as property owners and other aiding and abetting with a civil penalty of \$30,000.00/day.

### Public Health Updates

Toward the second half of 2019, California, along with other states, began experiencing a significant public health threat known as Vaping Associated Pulmonary Injury (VAPI). The disease seemed to be connected to the vaping of smokable products such as tobacco, hemp CBD, and cannabis. For many months the disease seemed to progress without a clearly identified reason, while many others continued to die from the disease. There was much speculation as to the cause, but in January 2020 the Chief of the Bureau of Cannabis Control was able to announce:



*“Not a single case of vaping-related illness has been linked to California’s legal cannabis industry” - LA Times*

This announcement showcased the benefit of a regulated legal cannabis industry that requires safety testing of its products and brought much needed clarity on whether legal cannabis products were the cause of the vaping crisis.

In March 2020, California issued emergency Stay at Home orders in an effort to protect its residents from the rapidly spreading COVID-19. The cannabis industry was recognized as an Essential Business, providing safe access to legal medicinal cannabis. The industry proved to be a significant economic benefit to both state and local governments during the pandemic. The industry’s essential status meant it was one of the earliest adopters of the vaccine treatments for employees.

### Local Control and Delivery Updates

The passing of Prop 64 promised local control over legal cannabis activities.

*(a)(1) This division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate business licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.*

- Business and Professions Code Division 10. Cannabis Chapter 20. Local Control. 26200

The Bureau of Cannabis Control passed a regulation in their final regulations in 2019 allowing legal cannabis delivery in any jurisdiction.

*(d) A delivery employee may deliver to any jurisdiction within the State of California provided that such delivery is conducted in compliance with all delivery provisions of this division.*

- BCC Regulation 5416

A coalition of 25 California city and county jurisdictions interpreted the regulation as contradictory to Prop 64’s local control provisions, and filed a lawsuit. The Coalition included City of Agoura Hills, City of Angels Camp, City of Arcadia, City of Atwater, City of Beverly Hills, City of Ceres, City of Clovis, City of Covina, City of Dixon, City of Downey, City of McFarland, City of Newman, City of Oakdale, City of Palmdale, City of Patterson, City of Riverbank, City of Riverside, City of San Pablo, City of Sonoma, City of Tehachapi, City of Temecula, City of Tracy, City of Turlock, City of Vacaville, and the County of



Santa Cruz. The coalition is supported by the City of Fort Jones, the City of Wasco, and the County of Mariposa.

In November of 2020 the lawsuit had concluded, finding that the BCC's regulation does not prohibit local jurisdictions from the ability to ban legal cannabis delivery services from delivery transactions within their jurisdiction.



# Administrative Report

N.3., File # 22-4132

Meeting Date: 5/10/2022

**To:** MAYOR AND CITY COUNCIL

**From:** GREG KAPOVICH, WATERFRONT & ECONOMIC DEVELOPMENT  
DIRECTOR

## **TITLE**

DISCUSSION AND POSSIBLE ACTION REGARDING THE FORMATION OF BUSINESS IMPROVEMENT DISTRICTS

## **EXECUTIVE SUMMARY**

As part of the City of Redondo Beach Strategic Plan, City Council directed staff to explore options for the formation of Parking and/or Business Improvement Districts (BIDs). BIDs are formed through a public-private partnership between the City and the businesses in a particular area. They are geographically-defined areas where improvements in the forms of services, activities, and programs (including parking) are funded through special assessments. Pursuant to the State of California, the business owners must voluntarily opt-into the program before local government approval of a proposed BID can occur. Artesia Boulevard has historically been identified as an area that could benefit from the creation of a BID. To help develop a BID unique to the corridor, it is recommended that the City Council direct staff to perform outreach to gauge the interest level of businesses along Artesia, note the specific blocks/segments of the Blvd that receive positive response, and return to City Council at a future date to review the findings.

## **BACKGROUND**

BIDs are geographically-defined areas where improvements in the forms of services, activities, and programs are funded through special assessments. The assessment charges and expenditures are focused on local beneficial uses and are equitably distributed through trusts managed at the municipal level. Through levied assessments, BIDs enable groups of business owners to pool their resources and contribute to the cost of services that they may not be able to afford by themselves.

The benefits of BIDs for the business community include advice, expertise, storefront improvement and beautification grants, shared parking facilities, as well as funding for placemaking elements such as light posts, signs, and benches. During the pandemic, some BIDs have made interest-free loans to their members, especially those not receiving the initial wave of federal assistance. BIDs have also undertaken community initiatives such as youth mentoring programs and establishing age-friendly districts that emphasize accessibility with increased crosswalks, benches, and discounts for senior citizens. This revitalization tool is typically utilized for commercial neighborhoods such as regional business districts, downtowns, and other commercial areas. Municipalities find BIDs attractive because they can help “liven-up” an aging commercial area, ideally leading to increased civic pride, beautification, economic development, and increased tax revenue. BIDs can also support

municipal capital and maintenance costs for amenities like parking structures, landscaping, and other street and right of way amenities. They also carry out economic development services by working to attract, retain, and expand businesses through collective marketing.

In California, there are two separate laws that authorize the formation of a BID and the key difference between the two BID types is centered around who is paying the self-assessment. They are:

- The Business Improvement Area Law of 1989 (Streets & Highways Code 36500), which specifically authorizes self-assessments by businesses through an annual levy (e.g., business license assessment). Utilizing the 1989 law, requires business owners or merchants to pay the assessment.
- Property and Business Improvement District Law of 1994 (Streets & Highways Code 36600), which authorizes the establishment of a BID that assesses the property owners whose parcel is located within the district boundaries. This is the Law that was used to form the BID in Riviera Village.

The City has a history of supporting business improvement districts. Currently, businesses within Riviera Village participate in a BID program. The BID was formed in 2003 and levies approximately 250 participating businesses a base fee of \$100 each year plus \$29 per employee with funds dedicated to beautification and marketing. Specifically, the BID has spent the assessments to maintain and replenish landscaping, and provide holiday banners on street poles, art, and signage in an attempt to create a sense of place. Similarly, 15 hotels within city limits voluntarily formed the Redondo Beach Travel and Tourism group in 2019. This is also a business improvement district where participating hotels voluntarily pay a 1% increase in transient occupancy tax (above and beyond the typical 12% rate). The 1% self-assessment is used by the group for collective marketing initiatives in an effort to draw more visitors to the city.

### ARTESIA BLVD

The Artesia corridor has been identified as an area that could benefit from the creation of a BID. Artesia Boulevard has an active group of businesses (the North Redondo Beach Business Association) that work hard to market and attract activity along the corridor but the Blvd lacks the comprehensive participation and resources that a formal BID would provide. The area has historically served as both a regional serving commercial corridor as well as a place for neighborhood commerce for nearby residents who utilize the smaller-scale, local serving retail, medical and personal service businesses. Once a bustling area of successful businesses, the corridor has suffered from a lack of revitalization, intermittent empty storefronts, and in some areas indifferent and distant property ownership.

In response, the City Council approved the Artesia and Aviation Corridors Area Plan (AACAP) in 2020, which includes strategies that the City can use to activate, energize, and revitalize the corridor. Some of the identified strategies include increasing the mix of allowed uses, reducing the number of parking spaces required, and increasing the amount of square-footage allowed on-site to help spur redevelopment and encourage new businesses to activate empty storefronts/properties. Currently, the Planning Department is working to update the municipal code to reflect those changes in development standards. In addition to changes to the municipal code, the AACAP identifies the formation of a BID as a viable funding source to improve and maintain the streetscape and pedestrian experience along Artesia.

To establish a BID, local business owners must first organize and voluntarily submit a management plan to City staff. The management plan must include an identified geographic boundary, types of businesses or properties to be assessed, an outline of intended benefits and overall purpose of the assessment, a list of businesses or properties within the proposed district (which it should be noted does not have to include the entire length of the Blvd. and could be formed in smaller segments, along specific blocks), and a petition signed by at least 50% of the (total fee paying) property owners supporting creation of the BID. City Council can only formally establish a BID after the owners of the businesses have indicated their support via a petition.

While the businesses ultimately need to organize to make a BID happen, it is the role of the City to determine the feasibility of such an assessment district, which is done by engaging a consultant to perform a BID Feasibility Study. The study explores the various district options and develops the rationale for a benefit assessment based on the projected benefits to the properties in the district. The study answers key questions, including;

- What options are there for calculating the assessment and how much might it be per business (e.g., \$X per square foot of property)? The results can range depending on the number of businesses within the geographic area and types of improvements sought.
- What will the property owners and business owners get in return - how can (and can't) the funds be spent?
- What options are there for determining the size of the district?
- What options are there for how the district is governed to ensure key stakeholders, including property owners and business owners, are appropriately represented in deciding who administers the funds?

The conclusion of the study results in a comprehensive report answering the questions above and more, at which point staff would share the results with the organized group of businesses so they can decide to pursue the BID or not pursue the BID. If the businesses decide to pursue the BID and produce a majority signed petition, then 1) a public hearing is scheduled with the City Council to consider the adoption of a resolution of intent, which is then followed by 2) a Prop 218 majority protest balloting process and 3) a second public hearing to consider the results of the process and, in the absence of a majority protest, adoption of a resolution forming the BID.

With its north central location, Artesia Boulevard serves as the hub of North Redondo, providing a variety of amenities to meet the daily needs for nearby residents. With an estimated 12,089 people living within a quarter-mile walking distance of the Corridor, and 21,982 people within a half-mile bike ride, Artesia Boulevard has the potential to become a thriving, pedestrian-oriented destination where residents and visitors come to fulfill their daily needs, relax in public, encounter familiar faces, and meet new people. The previously approved AACAP identifies the creation of a BID as another mechanism to spur revitalization in the area.

#### NEXT STEPS

With an understanding that a business improvement district is created on a voluntary basis, the formation of a BID first requires general interest from the affected property owners. As such, the first step in moving towards the formation of a BID along Artesia is to direct staff to perform outreach on the topic to gauge the interest level of owners along Artesia.

If an appropriate level of interest is shown, staff would return to council with proposed management

plan concepts, including possible geographic boundaries, the number of participating business properties, the general assessment calculation, and an outline of the intended benefits. If the concept is amenable to the Council, staff would then seek funding for a consulting services agreement to perform the more formal feasibility study needed to create the BID structure and coordinate the majority protest ballot process for the affected property owners. Staff would return to City Council at subsequent Public Hearings to discuss the results of the feasibility study and later to consider formation of the BID depending on the outcome of the majority protest ballot response.

**FISCAL IMPACT**

There is no fiscal impact associated with staff's recommendation to perform initial outreach to gauge the interest level regarding the formation of a BID along Artesia Boulevard. The consulting services agreement needed to perform the subsequent BID feasibility study and conduct the Prop 218 majority protest balloting process in the identified geographic area is estimated to cost between \$40,000 and \$60,000.

**APPROVED BY:**

*Mike Witzansky, City Manager*



# Administrative Report

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P.1., File # 22-4147

Meeting Date: 5/10/2022

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**To:** MAYOR AND CITY COUNCIL

**From:** MICHAEL W. WEBB, CITY ATTORNEY JOY ABAQUIN, QUALITY OF LIFE  
PROSECUTOR

## **TITLE**

DISCUSSION AND POSSIBLE ACTION ON OPTIONS FOR ENHANCED RESPONSE TO HELP ADDRESS HOMELESSNESS INCLUDING IMPROVED COORDINATION WITH THE COUNTY.

## **EXECUTIVE SUMMARY**

The Enhanced Response to Homelessness Program was initiated by the City Attorneys' Office and Police Department in June, 2019 at the request of the Mayor and City Council as an additional response to the impact of homelessness not only on people experiencing homelessness, but also on residents and the community. The Program has gotten many people off the streets and into permanent housing by responding to community concerns and reducing barriers to permanent housing. As one of the City's six-month objectives, the Mayor and City Council wanted to receive a report on options for enhanced response to help address homelessness, including improved coordination with the County. To further improve our response to homelessness, the City Attorney's Office recommends that the City employ a Mental Health Clinician to improve our response to people suffering from a mental health crisis, develop an Education Campaign so that concerned residents can make donations to the Quality of Life Account that will be used to help people on the streets in a constructive way, and employ a part-time residential aid to manage bridge housing which would enable us to seek additional transitional housing in Service Planning Area 8.

## **BACKGROUND**

Since 2019, the Enhanced Response to Homelessness Program developed the first outdoor homeless court in Los Angeles County to bring the justice system and needed services into the community to unhoused individuals; Pallet Shelter transitional living and additional forms of bridge housing; employed a City Homeless Housing Navigator; and obtained funding to build new permanent supportive housing for individuals experiencing homelessness in Redondo Beach.

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The Housing Initiative Court, also known as Homeless Court, has grown and expanded in a number of ways since 2019. Despite COVID-19 impacting court proceedings, it became apparent that bringing the Justice System to the unhoused individuals' community in a non-threatening environment along with necessary services together in one place was the true benefit of the outdoor court.

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More and more booths and tables are being added for service providers at the Housing Initiative Court. The Public Defender Record Clearing Project offers services to expunge, seal and reduce criminal convictions; the Los Angeles City Attorney's HEART program expunges infractions; Exodus provides wrap around services through its Homeless Full Service Partnership; the Department of Mental Health evaluates and refers people to mental health services as well as prescribes and administers medication; Clear Recovery provides mental health and substance abuse counseling; the Department of Public Health Substance Abuse Prevention and Control Center makes referrals to detox and treatment programs; the Behavioral Health Services makes referrals to substance abuse treatment programs; and the South Bay Workforce Investment Board provides assistance with employment and job training. These homeless court services are available to all unhoused individual, including those that do not have criminal cases.





Since 2019, 104 people have been referred from criminal court to the Housing Initiative Court program; 74 people attended and accepted services; 23 people have been placed in some form of interim housing; and 27 people have been permanently housed and graduated from the program. Although this is a population that usually fails to appear to their court hearings, there is an average attendance rate of 81%, with some months at 100% in attendance.



In addition, the South Bay Cities Council of Governments (SBCCOG) awarded Redondo Beach and Hermosa Beach a grant in the amount of \$306,299 to expand the Housing Initiative Court to include Hermosa Beach cases and host the outdoors court for 6 out of 18 sessions as well as to fund five interim beds for bridge housing in Wilmington. Since January of 2021, the interim beds in Wilmington housed 13 people, six of which were permanently housed. Currently, all five units remain at full occupancy.

The Pallet Shelter has permanently housed 25 people, also remaining at full occupancy and a waitlist of at least 6 people at any time. When the Pallet Shelter was first established, permanent housing was easier to obtain through Recovery Rehousing, so many people were quickly housed within the first six months. However, all the units from the Recovery Rehousing are now fully occupied, so permanent housing has become more difficult to obtain throughout Los Angeles County. In addition, not only is there a shortage of Section 8 housing, but Section 8 housing is also difficult to obtain for those with no credit history. The application process for housing vouchers is very involved and takes months.





Starting January of this year, the City also employed Lila Omura as Redondo's Homeless Housing Navigator. From January to April, Lila Omura has placed ten people in permanent supportive housing (PSH); matched three people to a PSH housing units; placed five people in crisis housing; matched two individuals to housing vouchers; placed seven people in emergency shelter; placed three people in the pallet shelter; placed five people in the hospital for higher level of care; reunited two people with their families out of state; housed a veteran through the Long Beach VA services; linked two people to Exodus' Homeless Full Service Partnership (FSP); and conducted follow up retention for five people that have transitioned from the streets into permanent housing.

In 2019, the Los Angeles Homeless Services Authority (LAHSA) point in time count reported 173 persons experiencing homelessness in Redondo Beach. In 2020, as the homeless population increased in surrounding cities and overall in Los Angeles County, Redondo's point in time count was relatively the same at 176 persons. Due to the COVID 19 pandemic, LAHSA did not hold a point in time count in 2021, so the City contracted with City Net to conduct a census. The census, which counted each individual that identified as experiencing homelessness, resulted in 92 persons experiencing homelessness in Redondo Beach. Both a point in time count and a City Net census were conducted this year. The results of both counts are expected to be available later this quarter. They use different methodologies, and their results will be useful in assessing what is working and what areas need to be improved.

The City of Redondo Beach has become a model for other cities to replicate, being the first to execute an outdoor homeless court in the County of Los Angeles and the first to set up a Pallet Shelter in the South Bay. Cities like Torrance and Long Beach are creating their own outdoor homeless court programs and pallet shelters. After seeing Redondo Beach's homeless court firsthand, Assembly Member Al Muratsuchi has drafted a bill, AB 2220 that would provide grant funding to Redondo and incentivize other local jurisdictions to create similar homeless courts across the state. The Los County Board of Supervisors passed a motion unanimously supporting this bill (see attached).

Redondo Beach also partnered with the County to receive \$7.3 million to acquire and rehabilitate a 21-unit former hotel to provide permanent supportive housing to chronically homeless households in Redondo Beach. The project will partner with several service providers to provide supportive services such as intensive case management.

The Enhanced Response to Homelessness Program continues to find ways to address the issues of homelessness in Redondo Beach. Currently, the city contracts with the Department of Mental Health Mental Evaluation Team (MET) that is shared with three other beach cities. The MET Team only responds for crisis intervention and conducts 5150 evaluations as needed and does not conduct outreach or follow up services. This contract is not effective in providing needed mental health support and treatment. The City employed Homeless Housing Navigator has proven to be effective in assisting people experiencing homelessness as well as responding to resident reports as discussed above. The staff recommends the City employ a Mental Health Clinician who can similarly assist those that need mental health treatment and medication, being more available and responsive to the City needs and resident reports.

In addition, staff recommends the development of an Education Campaign so that concerned residents know that they can make donations to the Quality of Life Account, that the Mayor and City Council established at the April 19, 2022 City Council Meeting. These donations will be used to help people they on the streets in a constructive way, and not inadvertently perpetuate destructive behaviors that will lead to continued homelessness. If someone sees a person experiencing homelessness, that person could provide a description to the City and any donation could be put towards helping the person experiencing homelessness. If the person experiencing homelessness refuses the help or cannot be located, the donation will be used for another individual experiencing homelessness.

Lastly, staff recommends hiring a part-time resident aid to oversee the bridge housing tenants as well as to locate additional transitional housing in Service Planning Area 8. Having the part-time resident aid to oversee the bridge housing in the evenings will allow us to consider more single room occupancy apartments in SPA 8 for use as bridge housing.

The City's cooperation with Los Angeles County in this effort has been strong ever since the idea for outdoor Homeless Court was proposed by us. Multiple different County Departments attend and support the efforts of Homeless Courts every month. The Pallet Shelters would not exist and the people that have been helped would still be living on the streets of Redondo without our partnership with the County. Supervisor Janice Hahn has been incredibly supportive throughout this effort. Our new Supervisor Holly Mitchell had several of her staff members visit both Homeless Court and the Pallet Shelter last month. The pictures included in this administrative report were taken during those

visits. Supervisor Mitchell's staff were effusive in their praise and indicated steadfast support for these programs as long as they are needed. We will be working with them on continued funding in the months ahead.

Where the cooperation with the County has been insufficient has been largely in the dispersal of Measure H funds. However, just last week the Board of Supervisors approved the seven recommendations of the County's Blue-Ribbon Commission on Homelessness (BRCH). These recommendations included establishing a local solutions fund and identifying ongoing multiyear funds earmarked for local solutions for jurisdictions that will make a commitment to provide in-kind or matching contributions for the development of service programs, housing or to share data. Having served as Co-Chair of the BRCH, Councilmember Horvath will best be able to explain how this will improve cooperation with the County at the local level.

### **COORDINATION**

The City's response to homelessness is a comprehensive, synchronized effort primarily by the City Attorney's Office, Police Department and Community Services Department, in coordination with the City Manager's office.

### **FISCAL IMPACT**

The Fiscal Year 2021-2022 Budget includes funding for the Enhanced Response Pilot Program, which also includes grants from the SBCCOG and Los Angeles CDBG funds. We will be providing Decision Packages that would fund our recommended actions in the FY 22-23 budget. It should be noted that there is a substantial amount of unaccounted staff time dedicated to the administration of the City's homelessness programs. Staff in nearly every City Department is involved in the City's program efforts.

### **ATTACHMENTS**

- Media Release "Board of Supervisors Support Muratsuchi Homeless Court Legislation" May 3, 2022

# Board of Supervisors Support Muratsuchi Homeless Court Legislation

County of Los Angeles sent this bulletin at 05/03/2022 03:22 PM PDT



COUNTY OF LOS ANGELES SUPERVISOR • FOURTH DISTRICT

**JANICE HAHN**

## MEDIA RELEASE

### FOR IMMEDIATE RELEASE

May 3, 2022

**Contact:** Liz Odendahl, Supervisor's Communications Director  
O: (213) 974-4444, C: (213) 379-6301, [lodendahl@bos.lacounty.gov](mailto:lodendahl@bos.lacounty.gov)

## **Board of Supervisors Support Muratsuchi Homeless Court Legislation**

*Funding could support Homeless Courts in Redondo Beach, Long Beach, and coming soon to Torrance*

Los Angeles, CA – Today, the Los Angeles County Board of Supervisors, led by Supervisor Janice Hahn and Chair Holly Mitchell, threw their support behind AB 2220, legislation that would provide state funding for local Homeless Court programs. Homeless courts, like those that already exist in Redondo Beach and Long Beach and will soon be launched in Torrance, are proving effective in helping the hardest-to-reach individuals get connected with services and housing.

“The Homeless Court model works,” said **Supervisor Janice Hahn**. “I have seen how effective they have been in Redondo Beach and Long Beach, and I am partnering with Torrance to launch a Homeless Court program in that city soon. I believe in these programs, so I have done what I can to support them with my office’s discretionary fund, but reliable state funding will be critical to keeping these programs running and helping more cities start their own.”

The City of Redondo Beach runs a Homeless Court program that diverts unhoused individuals from jail and into housing for certain qualifying misdemeanors. An unhoused individual who qualifies for the Homeless Court will be linked with services and programs to get them housing-ready, leading to them entering housing and having their pending charges dismissed. Since its inception in September 2020, the Redondo Beach Homeless Court has permanently housed 22 individuals. Its success has led the City of Long Beach and Torrance to pursue similar models as well.

“Being unhoused is not a crime,” said **Los Angeles County Board of Supervisors Chair Holly J. Mitchell**, who co-authored the motion. “Homeless Court supports our ability to provide appropriate services for our unhoused residents that are impacted by the justice system. The passage of Assembly Bill 2220 will strengthen Redondo Beach’s current Homeless Court efforts and expand this model into other areas of our County to support unhoused individuals with entering and *staying* in housing.”

Despite their success, Homeless Court programs do not have an ongoing or consistent source of funding. The lack of funding threatens their futures and may deter other cities from implementing their own programs.

That is why today, the Board of Supervisors supported a [motion](#) authored by Supervisor Janice Hahn and co-authored by Supervisor Holly Mitchell to back Assembly Bill 2220 (AB 2220) authored by Assemblymember Al Muratsuchi, which aims to address that problem by introducing state funding for Homeless Courts across California.

“Homeless courts in Los Angeles County have been successful in helping the homeless,” said **Assemblymember Muratsuchi**, the lead author of AB 2220. “Rather than criminalizing poverty and mental illness, homeless courts provide pretrial diversion programs for minor criminal offenses with one-stop, wraparound services like housing assistance, mental health treatment and addiction treatment. The California Supreme Court Chief Justice’s Work Group on Homelessness recommends more homeless court programs. The Governor and Legislature should support this bill to establish a grant pilot program administered by the Judicial Council to provide funding for more homeless courts throughout the state.”

AB 2220 will establish a competitive-grant pilot program administered by the Judicial Council to create a homeless courts plan that includes a community-based framework. This will provide much needed funding to both support the existing Homeless Courts like those in Redondo Beach, Long Beach, and Torrance and to also expand the model to other cities and jurisdictions.

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