

**PROPERTY EXCHANGE AND INDEMNITY AGREEMENT
WITH ONE AND ONLY RIGHT OF FIRST OFFER**

THIS PROPERTY EXCHANGE AND INDEMNITY AGREEMENT WITH ONE AND ONLY RIGHT OF FIRST OFFER (this “**Agreement**”), dated as of _____, 2013 (“**Effective Date**”), is entered into by and between the City of San Leandro, a municipal corporation, and the City acting in its capacity as the Parking Authority of the City of San Leandro, a body corporate and politic, (together, the “**City**”) and the San Leandro Chamber of Commerce, a California nonprofit public benefit corporation (“**Chamber**”). City and Chamber are hereinafter collectively referred to as the “**Parties**.”

RECITALS

A. Chamber is the owner of that certain real property located at 262 Davis Street in the City of San Leandro, known as Alameda County Assessor’s Parcel No. 075-0001-009-02, and more particularly described in Exhibit A attached hereto (the “**Chamber Property**”).

B. City is the owner of the real property located in the City of San Leandro at 120-122 Estudillo Avenue (the “**City Property**”). The City Property is improved with a four-story parking garage consisting of approximately 47,434 square feet (the “**Garage**”) and approximately 2,175 square feet of commercial office space (the “**Office**”). City has, or shall, subdivide the City Property into two parcels as depicted on Parcel Map 10073 attached hereto as Exhibit B. As a result of such subdivision, the Office will constitute a parcel (the “**Office Parcel**” shown as Parcel 2 on the Parcel Map) and the Garage together with the land beneath the Garage and the Office will constitute a second parcel (the “**Garage Parcel**,” shown as Parcel 1 on the Parcel Map).

C. The City Council has determined that the acquisition of the Chamber Property and the exchange of the Office Parcel for the Chamber Property pursuant to this Agreement will facilitate completion of the Town Hall Project, and will be in the best interests of the City and the health, safety and general welfare of the residents and taxpayers of the City.

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

1. Recitals. The Parties acknowledge that the foregoing recitals are true and correct and are incorporated herein by this reference.

2. Chamber Conveyance to City. Chamber shall convey to City, and City shall accept from Chamber, the Chamber Property in accordance with the terms, covenants and conditions set forth herein. The conveyance of the Chamber Property from Chamber to City shall be

accomplished by recordation of a grant deed, substantially in the form attached hereto as Exhibit C (the “**Chamber Property Grant Deed**”).

3. Conveyance of Office Parcel. City shall convey to Chamber, and Chamber shall accept from City, the Office Parcel in accordance with the terms, covenants and conditions set forth herein. The conveyance of the Office Parcel from City to Chamber shall be accomplished by recordation of a grant deed, substantially in the form attached hereto as Exhibit D (the “**Office Parcel Grant Deed**”).

4. Consideration. Chamber and City each agree that the fair market value of the Chamber Property is substantially equivalent to the fair market value of the Office Parcel, and that subject to the obligations of each Party expressly set forth in this Agreement, neither Party shall be obligated to pay further consideration to the other Party in connection with the conveyance of the Office Parcel and Chamber Property.

5. Escrow; Escrow Instructions. No later than five (5) business days following the Effective Date, the Parties shall open an escrow to consummate the exchange of property pursuant to this Agreement at the office of Old Republic Title Company located at 555 12th Street, Suite 2150, Oakland, California, 94607 (“**Title Company**” or “**Escrow Agent**”) or such other title company as may be mutually agreed upon by the Parties. Upon the opening of escrow, the Parties shall deposit with the Escrow Agent an executed copy of this Agreement, which together with such additional instructions as may be executed by the Parties and delivered to the Escrow Agent, shall serve as the joint escrow instructions of Chamber and City for the property conveyances contemplated hereby.

6. Title Documents. No later than seven (7) days following the Effective Date, Chamber shall deliver or cause to be delivered to City an updated title report for the Chamber Property (“**Preliminary Report**”) setting forth all liens, encumbrances, easements, restrictions, conditions, and other matters of record affecting Chamber’s title to the Chamber Property (“**Title Exceptions**”) together with copies of all instruments referred to therein, as requested by City. City shall approve or disapprove each Title Exception within seven (7) days following City’s receipt of the Preliminary Report and documents relating to the Title Exceptions. Upon City’s failure to object within such period, any Title Exceptions that are not disapproved shall be deemed to be Permitted Exceptions (as defined in Section 8).

If City objects to any Title Exception, Chamber shall use its best efforts at Chamber’s sole expense to remove from title or otherwise satisfy each such exception no later than five (5) business days prior to the close of escrow and in a form that is reasonably satisfactory to City. If Chamber fails to remove or satisfy any Title Exception to the satisfaction of City, City shall have the option, in its sole discretion, to terminate this Agreement or to accept title subject to such exception. In the event City elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of City shall be returned to City, and all rights and obligations of the Parties hereunder shall terminate.

7. Title Policy. It shall be a condition to the close of escrow that Title Company shall deliver to City, by not later than five (5) business days prior to the close of escrow, a title commitment for a CLTA Owner's Title Insurance Policy (or in City's election, an ALTA policy) ("**Title Policy**") to be issued by Title Company in an amount to be determined by City for the benefit and protection of City, showing title to the Chamber Property vested in City, subject only to the Permitted Exceptions, including such endorsements as may reasonably be requested by City and committing Title Company to issue the Title Policy to City upon the close of escrow.

8. Conveyance of Title. At the close of escrow, Chamber shall convey by grant deed to City fee simple title to the Chamber Property, free and clear of all recorded and unrecorded liens, encumbrances, restrictions, easements, and leases, except: (i) liens for nondelinquent general and special taxes, assessments and/or bonds; and (ii) such other conditions, liens, encumbrances, restrictions, easements and exceptions approved in writing by City or deemed approved by City as provided in Section 6 (all of the foregoing, are collectively hereinafter referred to as the "**Permitted Exceptions**").

9. Closing Documents.

(a) Chamber.

A. No later than three (3) business days prior to the Closing Date, Chamber shall deposit into escrow all of the following:

(i) The Chamber Property Grant Deed, duly executed and acknowledged;

(ii) If not previously delivered, a duly executed and acknowledged copy of that certain Reciprocal Easement Agreement and Declaration of Covenants pertaining to the Garage Parcel and the Office Parcel and to be executed by City and Chamber (the "**REA**");

(iii) A duly executed and acknowledged Declaration of the Right of First Offer described below in Section 25, substantially in the form attached hereto as Exhibit E (the "**Declaration**"); and

(iv) Such additional duly executed instruments and documents as the Escrow Agent may reasonably require to consummate the transactions contemplated hereby.

B. No less than one (1) business day prior to the close of escrow, Chamber shall deposit into escrow immediately available funds in the amount equal to the cost of any title policy that Chamber elects to purchase.

(b) City.

(A) No later than three (3) business days prior to the Closing Date, City shall deposit into escrow all of the following:

- (i) A duly executed and acknowledged Certificate of Acceptance as required by Government Code Section 27281, substantially in the form attached to Exhibit C;
- (ii) The Office Parcel Grant Deed, duly executed and acknowledged;
- (iii) If not previously delivered, a duly executed and acknowledged copy of the REA;
- (iv) A duly executed and acknowledged copy of the Declaration; and
- (v) Such additional duly executed instruments and documents as the Escrow Agent may reasonably require to consummate the transactions contemplated hereby.

B. No less than one (1) business day prior to the close of escrow, City shall deposit into escrow immediately available funds in the amount equal to escrow fees, conveyance fees, transfer taxes and recording fees, the cost of any title policy that City elects to purchase, and the outstanding balance of any sum payable to Chamber pursuant to Section 13 below.

10. Close of Escrow. Unless this Agreement is terminated pursuant to the terms hereof or extended by mutual written consent of the Parties, escrow shall close no later than the date (“**Closing Date**”) which is _____ () days after the Effective Date. The Escrow Agent shall close escrow by: (A) recording each of the following in the Official Records of Alameda County: (i) the REA (if not previously recorded), (ii) the Chamber Property Grant Deed, (iii) the Office Parcel Grant Deed, and (iv) the Declaration; (B) issuing the Title Policy and delivering same to City; (C) issuing to Chamber any title policy Chamber has elected to acquire; (D) delivering to City conformed copies of each of the following indicating recording information thereon: (a) the REA, (b) Chamber Property Grant Deed, and (c) the Declaration; (E) delivering to Chamber conformed copies of each of the following indicating recording information thereon: (a) the REA, (b) Office Parcel Grant Deed, and (c) the Declaration. Possession of the Chamber Property shall be delivered to City at the close of escrow. Possession of the Office Parcel shall be delivered to Chamber at the close of escrow, provided however, the Chamber shall be permitted to occupy the Office Parcel prior to the close of escrow pursuant to Section 26 below.

11. Closing Costs. City shall pay the cost of City’s title policy, and all closing costs and escrow fees, recording fees, conveyance fees and transfer taxes (if any) applicable to the conveyance of the Chamber Property to City and the conveyance of the Office Parcel to Chamber. Chamber shall pay the cost of any title policy Chamber elects to acquire.

12. Prorations. At the close of escrow, the Escrow Agent shall make the following prorations: (i) property taxes shall be prorated as of the close of escrow based upon the most

recent tax bill available, including any property taxes which may be assessed after the close of escrow but which pertain to the period prior to the transfer of title to the Property to City, regardless of when or to whom notice thereof is delivered; and (ii) any bond or assessment that constitutes a lien on the Property at the close of escrow shall be assumed by City. Rents payable under any land leases and any utility and sewer service charges shall be prorated as of the close of escrow.

13. Relocation. At close of escrow, City will pay to Chamber the sum of Ten Thousand Dollars (\$10,000) to cover Chamber's costs incurred in moving to the Office Parcel. Chamber hereby agrees that the foregoing payment shall satisfy all obligations (if any) that City may have pursuant to the California Uniform Relocation Act, Government Code Section 7260, *et seq.* (the "**Relocation Act**") and hereby knowingly and willingly waives all rights Chamber may have to claim any additional benefits pursuant to the Relocation Act. Chamber further acknowledges and agrees that it has carefully read the contents of the waiver and release set forth in this Section and that, in executing this Agreement, it does so with full knowledge of any right which it may have, that it has received independent legal advice from its attorneys, or in the alternative, knowingly has determined not to seek legal advice with respect to the matter set forth herein. Chamber hereby voluntarily and knowingly waives, releases and discharges forever City from any claims for any such benefits.

14. Release. Chamber is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides:

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

As such relates to Section 13 of this Agreement, Chamber hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code. This Section 14 shall survive the close of escrow and the expiration or earlier termination of this Agreement.

Chamber Initials

15. City's Conditions to Closing. The close of escrow and City's obligation to purchase the Chamber Property are conditioned upon: (i) the performance by Chamber of each obligation to be performed by Chamber under this Agreement within the applicable time period, or the waiver by City of such obligation; (ii) Chamber's representations and warranties contained in this Agreement being true and correct as of the date hereof and the close of escrow; (iii) the commitment by Title Company to issue and deliver the Title Policy, subject only to the Permitted Exceptions; and (iv) City's approval of the condition of the Chamber Property pursuant to Section 16.

Should any condition to closing fail to occur, excepting any such conditions that have been waived by City, City shall have the right, exercisable by giving written notice to Chamber, to cancel the escrow, terminate this Agreement, and recover any and all amounts paid by City to Chamber or deposited with the Escrow Agent by or on behalf of City. The exercise of this right by City shall not constitute a waiver by City of any other rights City may have at law or in equity.

16. Due Diligence; AS-IS Purchase. Each Party represents and warrants that it has had an opportunity prior to the Effective Date to examine, inspect and conduct tests of the property to be conveyed to such Party pursuant to this Agreement. During the period (“**Due Diligence Period**”) commencing upon the Effective Date and ending at 5:00 p.m. on the seventh (7th) day following the Effective Date (“**Due Diligence Period Termination**”), City shall have the right to perform due diligence regarding the investigation, assessment, and monitoring of the environmental condition of the Chamber Property, and unless City elects to terminate this Agreement pursuant to the terms hereof, City will purchase the Chamber Property in its “**AS IS**” condition as such condition exists at the Due Diligence Period Termination, subject only to the representations, warranties and covenants of Chamber described in Section 20 and 21.

During the Due Diligence Period, Chamber shall have the right to perform due diligence regarding the investigation, assessment, and monitoring of the environmental condition of the Office Parcel, and unless Chamber elects to terminate this Agreement pursuant to the terms hereof, Chamber will purchase the Office Parcel in its “**AS IS**” condition as such condition exists at the Due Diligence Period Termination, subject only to the representations, warranties and covenants of City described in Section 22.

Should City fail to approve the condition of the Chamber Property or its feasibility for City’s intended use within two (2) business days following the Due Diligence Period Termination, City shall have the right, exercisable by giving written notice to Chamber, to cancel the escrow, terminate this Agreement, and recover any and all amounts paid by City to Chamber or deposited with the Escrow Agent by or on behalf of City. The exercise of this right by City shall not constitute a waiver by City of any other rights City may have at law or in equity. If City fails to deliver notice of its election to terminate the Agreement by the Due Diligence Termination date, City shall be deemed to have conclusively approved the condition of the Chamber Property and to have agreed to accept the Chamber Property on the Closing Date in its condition as of the Due Diligence Period Termination, subject to Sections 21, 23 and 24 below.

Should Chamber fail to approve the condition of the Office Parcel or its feasibility for Chamber’s intended use within two (2) business days following the Due Diligence Period Termination, Chamber shall have the right, exercisable by giving written notice to City, to cancel the escrow, terminate this Agreement, and recover any and all amounts paid by Chamber to City or deposited with the Escrow Agent by or on behalf of Chamber. The exercise of this right by Chamber shall not constitute a waiver by Chamber of any other rights Chamber may have at law or in equity. If Chamber fails to deliver notice of its election to terminate the Agreement by the Due Diligence Termination date, Chamber shall be deemed to have conclusively approved the condition of the Office Parcel and to have agreed to accept the Office Parcel on the Closing Date in its condition as of the Due Diligence Period Termination, subject to Sections 22, 23 and 24 below.

17. Studies, Reports and Investigations. Each Party agrees to make available to the other Party within two (2) business days following the Effective Date, any and all information, studies, reports, investigations, contracts, leases, rental agreements and other obligations concerning or relating to its respective property that is within such Party's possession or reasonably available to such Party, including without limitation surveys, studies, reports and investigations concerning the property's physical, environmental or geological condition, habitability, or the presence or absence of Hazardous Materials in, on or under the property and its compliance with Environmental Laws (as defined in Section 20).

18. Intentionally omitted.

19. Chamber's Conditions to Closing. The close of escrow and Chamber's obligation to sell the Chamber Property pursuant to this Agreement are conditioned upon: (i) the performance by City of each obligation to be performed by City under this Agreement within the applicable time period, or waiver by Chamber of such obligation; and (ii) City's representations and warranties contained in this Agreement being true and correct as of the date hereof and the close of escrow.

20. Chamber's Representations and Warranties. Chamber hereby represents and warrants that to Chamber's actual knowledge, except as disclosed in writing to City, as of the date hereof and as of the close of escrow:

(a) Except for any Permitted Exceptions and any agreements that have been disclosed to City in writing, there are no leases, licenses, contracts or other agreements relating to the Chamber Property which will be in force after the Closing Date.

(b) There is no pending (nor has Chamber received notice of any threatened) action, litigation, condemnation or other proceeding against the Chamber Property or against Chamber with respect to the Chamber Property.

(c) Chamber has received no notice from any governmental authority having jurisdiction over the Chamber Property to the effect that the Chamber Property is not in compliance with applicable laws and ordinances (including any laws concerning the use, generation, handling, disposal or storage of Hazardous Materials (as defined below)).

(d) Chamber has not received any notice from any insurer of defects or conditions relating to the Chamber Property that must be corrected.

(e) There has been no release of any Hazardous Material (as defined below) at, under or upon the Chamber Property, in an amount which would, as of the date hereof, give rise to an Environmental Compliance Cost (as defined below). The term "**Hazardous Material**" shall mean asbestos, petroleum products, and any other hazardous waste or substance which has, as of the date hereof, been determined to be hazardous or a pollutant by the U.S. Environmental Protection Agency, the U.S. Department of Transportation, or any State or Federal instrumentality authorized to regulate substances in the environment which has jurisdiction over

the Chamber Property (each being referred to herein as an “**Environmental Agency**”) which substance causes the Chamber Property (or any part thereof) to be in material violation of any applicable Environmental Law, and shall include, but not be limited to: (A) a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601(14), Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. §1321; (B) a "hazardous waste" pursuant to Section 1004 or Section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6903, 6921; (C) a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a)(1); (D) a "hazardous air pollutant" under Section 112 of the Clean Air Act, 42 U.S.C. §7412; (E) a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. App. §1802(4); (E) a “hazardous material” pursuant to the California Health & Safety Code; or (F) toxic or hazardous pursuant to regulations promulgated under the aforementioned laws (all of the foregoing laws, rules and regulations as any may be amended from time to time being collectively referred to herein as “**Environmental Laws**”); provided, however, that the term “**Hazardous Material**” shall not include motor oil and gasoline contained in or discharged from vehicles not used primarily for the transport of motor oil or gasoline, or materials which are stored, used, held, or disposed of in compliance with all applicable Environmental Laws. The term “**Environmental Compliance Cost**” means any out-of-pocket cost, fee or expense reasonably incurred directly to satisfy any requirement imposed by an Environmental Agency to bring the Chamber Property into compliance with applicable Environmental Laws directly relating to the existence on the Chamber Property of any Hazardous Material.

Chamber further represents and warrants that this Agreement and all other documents delivered or to be delivered in connection herewith prior to or at the close of escrow shall at the time of their delivery: (a) have been duly authorized, executed, and delivered by Chamber; (b) be the binding obligations of Chamber; (c) collectively be sufficient to transfer all of Chamber's right, title and interest in and to the Chamber Property; and (d) not be in violation of the provisions of any agreement to which Chamber is a party or which affects the Chamber Property. Chamber further represents and warrants that the persons who have executed this Agreement on behalf of Chamber are authorized to do so, that Chamber has the legal right to enter into this Agreement and to perform all of its terms and conditions, and that this Agreement is enforceable against Chamber in accordance with its terms.

Chamber shall notify City of any facts that would cause any of the representations contained in this Agreement to be untrue as of the close of escrow. If City reasonably believes that any such fact materially and adversely affects the Chamber Property, City shall have the option to terminate this Agreement by delivering written notice thereof to Chamber. In the event City elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of City shall be returned to City, and all rights and obligations hereunder shall terminate.

21. Chamber's Covenants. Chamber covenants that from the date of this Agreement and through the close of escrow, Chamber: (i) shall not permit any liens, encumbrances, or easements to be placed on the Chamber Property other than Permitted Exceptions; (ii) shall not without the prior written consent of City, enter into any agreement regarding the sale, rental, management,

repair, improvement, or any other matter affecting the Chamber Property that would be binding on City or the Chamber Property after the close of escrow; (iii) shall not permit any act of waste or act that would tend to diminish the value of the Chamber Property for any reason, except that caused by ordinary wear and tear; and (iv) shall maintain the Chamber Property in its condition as of the date hereof, ordinary wear and tear excepted, and shall manage the Chamber Property substantially in accordance with Chamber's established practices.

22. City Representations, Warranties and Covenants. City represents, warrants and covenants that this Agreement and all other documents delivered in connection herewith, prior to or at the close of escrow shall at the time of their delivery: (i) be duly authorized, executed, and delivered by City; (ii) be the binding obligations of City; and (iii) not be in violation of the provisions of any agreement to which City is a party. City further represents and warrants that the persons who have executed this Agreement on behalf of City are duly authorized to do so, that City has the legal right to enter into this Agreement and to perform all of its terms and conditions, and that Agreement is enforceable against City in accordance with its terms.

City further represents and warrants as follows:

(a) Except for any Permitted Exceptions and any agreements that have been disclosed to Chamber in writing, there are no leases, licenses, contracts or other agreements relating to the Office Parcel which will be in force after the Closing Date.

(b) There is no pending (nor has City received notice of any threatened) action, litigation, condemnation or other proceeding against the Office Parcel or against City with respect to the Office Parcel.

(c) City has received no notice from any governmental authority having jurisdiction over the Office Parcel to the effect that the Office Parcel is not in compliance with applicable laws and ordinances (including any laws concerning the use, generation, handling, disposal or storage of Hazardous Materials (as defined above)).

(d) City has not received any notice from any insurer of defects or conditions relating to the Office Parcel that must be corrected.

23. Damage and Destruction. In the event of any damage or other loss to the Chamber Property, or any portion thereof, caused by fire, flood or other casualty prior to the close of escrow in an amount not exceeding \$50,000, City shall not be entitled to terminate this Agreement, but shall be obligated to close the escrow and purchase the Chamber Property as provided in this Agreement, without abatement in the Purchase Price, provided that Chamber shall: (i) assign and transfer to City all of Chamber's rights under any insurance policy covering the damage or loss, and all claims for monies payable from Chamber's insurer(s) in connection with the damage or loss, and (ii) pay to City at the close of escrow the amount of Chamber's deductible under the insurance policy or policies covering the damage or loss. In the event of damage or destruction of the Chamber Property or any portion thereof prior to the close of escrow in an amount in excess of \$50,000, City may elect either to terminate this Agreement

upon written notice to Chamber, or to consummate the purchase of the Chamber Property, in which case Chamber shall (i) assign and transfer to City all of Chamber's rights under any insurance policy covering the damage or loss, and all claims for monies payable from Chamber's insurer(s) in connection with the damage or loss, and (ii) pay to City at the close of escrow the amount of Chamber's deductible under the insurance policy or policies covering the damage or loss. If City elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of City shall be returned to City, and all rights and obligations of the Parties hereunder shall terminate.

In the event of any damage or other loss to the Office Parcel, or any portion thereof, caused by fire, flood or other casualty prior to the close of escrow in an amount not exceeding \$50,000, Chamber shall not be entitled to terminate this Agreement, but shall be obligated to close the escrow and purchase the Office Parcel as provided in this Agreement, without abatement in the Purchase Price, provided that City shall: (i) assign and transfer to Chamber all of City's rights under any insurance policy covering the damage or loss, and all claims for monies payable from City's insurer(s) in connection with the damage or loss, and (ii) pay to Chamber at the close of escrow the amount of City's deductible under the insurance policy or policies covering the damage or loss. In the event of damage or destruction of the Office Parcel or any portion thereof prior to the close of escrow in an amount in excess of \$50,000, Chamber may elect either to terminate this Agreement upon written notice to City, or to consummate the purchase of the Office Parcel, in which case City shall (i) assign and transfer to Chamber all of City's rights under any insurance policy covering the damage or loss, and all claims for monies payable from City's insurer(s) in connection with the damage or loss, and (ii) pay to Chamber at the close of escrow the amount of City's deductible under the insurance policy or policies covering the damage or loss. If Chamber elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of Chamber shall be returned to Chamber, and all rights and obligations of the Parties hereunder shall terminate.

24. Condemnation. If prior to Close of Escrow, a material portion of the Chamber Property is taken by eminent domain (or an action of eminent domain has been commenced against all or any portion of the Chamber Property) (excluding for purposes of this Section, the exercise of any eminent domain powers by the City), upon Chamber's receipt of notice thereof Chamber shall promptly notify City of such fact, and City shall have the option to terminate this Agreement upon notice to Chamber given not later than ten (10) days after City's receipt of Chamber's notice. If City elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of City shall be returned to City, and all rights and obligations of the Parties hereunder shall terminate.

If City does not exercise such option to terminate this Agreement, Chamber shall assign to City at the close of escrow, and City shall be entitled to negotiate for, receive, and keep, all awards, and rights to receive future awards, for such taking by eminent domain, and the transaction contemplated by this Agreement shall be consummated pursuant to the terms hereof, without any reduction in value of the consideration for the Property.

25. One and Only Right of First Offer. Chamber hereby grants to City a One and Only Right of First Offer to purchase the Office Parcel in the event that at any time after Chamber's acquisition thereof, Chamber determines to sell, lease or otherwise convey the Office Parcel. This grant of a One and Only Right of First Offer to City means that Chamber will not solicit offers for, nor accept an offer for the sale, lease or other conveyance of the Office Parcel without first offering to sell or lease such property to City, once and only once, by written notice ("**Notice of Offer**"). If City and Chamber do not reach agreement on the terms for the sale of the Office Parcel within forty five (45) days following Chamber's delivery of a Notice of Offer to City, then Chamber shall be free to solicit and accept offers from other parties; provided however, Chamber shall not accept an offer, nor agree to sell the Office Parcel on terms equal to or less favorable to Chamber than the terms set forth in City's last offer for such property, without first offering such property to City on the same terms. City's One and Only Right of First Offer shall begin on the Effective Date, and shall continue throughout the period of time that Chamber owns the Office Parcel. The provisions of this Section 25 shall survive the close of escrow, and shall be memorialized in a Declaration of One and Only Right of First Offer substantially in the form attached hereto as Exhibit E, which shall be executed by the Parties and recorded in the Official Records of Alameda County.

26. Occupancy Prior to Close of Escrow; Indemnity. City hereby grants to Chamber a revocable license to occupy the Office Parcel prior to close of escrow subject to the terms and conditions set forth in this Section 26.

Chamber's use and occupancy of the Office Parcel shall be subject to all of the conditions set forth in the following paragraphs (a) through (j):

(a) If escrow for the sale of the Office Parcel to Chamber does not occur by _____, 20__ : (i) Chamber shall vacate the Office Parcel and remove all personal property and equipment from the Office Parcel by not later than _____, 20__ ("**License Termination Date**"); (ii) if Chamber remains in occupancy of the Office Parcel past the License Termination Date, Chamber shall pay to City One Hundred and Fifty Dollars (\$150) for each day following the License Termination Date that Chamber occupies the Office Parcel, and (iii) City shall have the right to eject Chamber from the Office Parcel if Chamber fails to vacate the Office Parcel upon ten (10) days' written notice.

(b) Chamber shall pay all costs and expenses related to Chamber's use of the Office Parcel which accrue during or are attributable to any period during which Chamber remains in occupancy of the Office Parcel. Such costs and expenses shall include, without limitation, all costs and expenses attributable to, paid, or incurred in connection with the operation, repair, and maintenance of the improvements, all water, sewer and utility charges, insurance premiums, and all charges for refuse disposal, janitorial, landscape maintenance and other services provided to the Office Parcel.

(c) Chamber shall pay, prior to delinquency, all real property taxes, possessory interest taxes, license and permit fees, sales, use or occupancy taxes, and general and

special assessments pertaining to the Office Parcel which accrue during or are attributable to any period during which Chamber occupies the Office Parcel.

(d) Chamber shall occupy the Office Parcel in its as-is condition as of the commencement of the license period. Chamber acknowledges that City shall have no responsibility for the repair or maintenance of the Office Parcel, and Chamber releases City from all Claims (defined below) related in whole or in part, directly or indirectly, to the condition of the Office Parcel.

(e) Chamber shall not use or permit Hazardous Materials to be used in, on or under the Office Parcel except for substances used in the ordinary course of Chamber's business and used and disposed of in compliance with all applicable state, federal and local laws, rules and regulations.

(f) Chamber shall comply with all state, federal and local laws, rules and regulations in connection with its use and occupancy of the Office Parcel.

(g) Chamber shall indemnify, defend (with counsel approved by City) and hold harmless, City and its elected and appointed officers, officials, employees, agents, consultants, and contractors from and against all claims, liabilities, losses, damages, fines, penalties, claims, demands, suits, actions, causes of action, judgments, costs and expenses (including without limitation reasonable attorneys' fees and court costs) (collectively "**Claims**") including without limitation, Claims relating to property damage or personal injury, arising from Chamber's use and occupancy of the Office Parcel, including without limitation, any such Claims arising from the gross negligence of Chamber or its officers, agents, contractors, employees or invitees, except to the extent any such Claim arises from City's gross negligence or willful misconduct. The provisions of this paragraph shall survive the close of escrow and the termination of this Agreement.

(h) Throughout the period during which Chamber remains in occupancy of the Office Parcel, Chamber shall maintain, at Chamber's expense: (i) Comprehensive General Liability insurance issued by a carrier authorized to sell insurance in the State of California, written on an occurrence basis, and providing coverage for bodily injury, death and property damage caused by or occurring in connection with Chamber's use and occupancy of the Office Parcel with a policy limit of at least \$3,000,000 per occurrence, \$5,000,000 in the aggregate, with commercially reasonable deductibles, insuring the Chamber (as named insured) and the City (as additional insured) against all claims, demands, actions, suits, or personal injury or property damage occurring upon, in, or about the Office Parcel, or arising from any acts or omissions of Chamber or any of its agents or employees. The commercial General Liability policy shall insure for contractual indemnity and contain a cross-liability endorsement. (ii) Worker's Compensation insurance in compliance with the requirements of law, and (iii) "all risks" property insurance (or its equivalent) covering all improvements located in the Office Parcel in a minimum amount equal to 100% of the reasonable replacement cost thereof. The property insurance policy shall contain a severability of interests clause.

All insurance coverages required to be carried under this section shall be carried with insurance companies that are (i) licensed to do business in California and (ii) rated in the most current Best's Insurance Guide as having a general policy holder rating of A or better and a financial rating of "VII" or better. All insurance policies required to be carried by Chamber shall be effected under standard form policies. Such insurance shall provide that the same may not be canceled without thirty (30) days prior written notice. Chamber shall provide to City certificated evidencing the fact that such insurance has been obtained. Additionally, upon the request of City, Chamber shall increase the limits of insurance carried by it hereunder, and shall carry types of insurance in addition to those required hereunder, to the extent such additional types of coverage first become standard at comparable properties after the date hereof.

Chamber and City hereby waives, and releases the other from any and all claims, liabilities, and rights of action with respect to any property loss caused by the other that is covered by the property insurance maintained by the other. Chamber and City agrees that any property insurance maintained by it shall contain a waiver by the insurer of any and all right of subrogation against the other.

27. Miscellaneous.

27.1 Notices. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt; (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service; or (iv) facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a nonbusiness day.

To Chamber:

San Leandro Chamber of Commerce
120 Estudillo Avenue
San Leandro, CA 94577
Attn: Chief Executive Officer

To City and to Parking Authority for the City of San Leandro:

City of San Leandro
835 East 14th Street
San Leandro, CA 94577
Attn: City Engineer

27.2 No Brokers. Each Party hereby represents and warrants to the other Party that it has retained no broker or other party to whom a commission or finder's fee is due with respect to the transactions contemplated hereby. Each Party shall defend, indemnify and hold the other Party harmless from and against all claims, expenses, costs, or arising in connection with a breach of this warranty and representation. The terms of this Section shall survive the expiration or earlier termination of this Agreement.

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

27.4 Entire Agreement. This Agreement, together with Exhibits A through E, attached hereto and incorporated herein by reference, constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior negotiations and agreements with respect thereto.

27.5 No Merger. The obligations stated herein that are intended to operate after the Closing Date shall not merge with the transfer of title to the Property but shall remain in effect until fulfilled as provided herein.

27.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws.

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

27.8 No Third Party Beneficiaries. Nothing contained in this Agreement is intended by the Parties, nor shall any provision of this Agreement be deemed or construed by the Parties or by any third person, to be for the benefit of any third party, nor shall any third party have any

right to enforce any provision of this Agreement or be entitled to damages for any breach by Chamber or City of any of the provisions of this Agreement.

27.9 Amendments. This Agreement may be modified or amended only by an instrument in writing executed by both Chamber and City.

27.10 Assignment Prohibited. This Agreement and the rights conferred hereunder may not be assigned by operation of law or otherwise absent the express written consent of the Parties.

27.11 Escrow Cancellation Charges. If the escrow fails to close by reason of a default by Chamber or City hereunder, such defaulting party shall pay all escrow or other Title Company charges. If the escrow fails to close for any reason other than default by Chamber or City, then Chamber and City shall each pay one-half of such charges.

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

27.13 Further Assurances. City and Chamber each agree to undertake such other actions as may reasonably be necessary to carry out the intent of this Agreement, including without limitation, the execution of any additional documents which may be required to effectuate the transactions contemplated hereby.

27.14 Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged thereby

27.15 Non-Liability of Officials, Employees and Agents. No member, official, employee or agent of City shall be personally liable in the event of any default or breach hereunder by either Party.

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

CITY OF SAN LEANDRO, a municipal corporation, and the CITY ACTING AS THE PARKING AUTHORITY OF THE CITY OF SAN LEANDRO, a body corporate and politic

By: _____
Chris Zapata

Its: City Manager and Executive Director

Attest: _____

APPROVED AS TO FORM:

City Attorney

SAN LEANDRO CHAMBER OF COMMERCE,
a California nonprofit public benefit corporation

By: _____

Its: President & CEO

By: _____
Its: Chair, Board of Directors

Exhibit A

CHAMBER PROPERTY

Portion of Lots "H", "I", and "J", Block 1, Map of the Town of San Leandro, filed February 27, 1855, Map Book 1, page 19, Alameda County Records, bounded as follows:

Beginning at a point on the northwestern line of Davis Street, distant thereon North 62° 00' east 33 feet from the northeastern line of Hays Street, as said streets are shown on the said map, said point of beginning being distant north 62° 00' east 40.10 feet, more or less, along said line of Davis Street from the northeastern line of Hays Street, as now improved; and running thence along said line of Davis Street north 62° 00' east 52 feet; thence north 28° 00' west 197.92 feet; thence along the southeastern line of the parcel of land described in the deed to City of San Leandro, recorded September 5, 1957 in Book 8460 of Official Records of Alameda County, page 321, said line being the southeastern line of Hays Street, as now improved, south 42° 00' west 31.84 feet and southwesterly, on the arc of a tangent curve to the left, with a radius of 94.50 feet, a distance of 24.98 feet to a line drawn north 28° 00' west from the point of beginning; thence south 28° 00' east 175.71 feet to the point of beginning.

Assessor's Parcel Number: 075-0001-009-02

Exhibit B

OFFICE PARCEL

(Attached PDF of Parcel Map 10073)

Exhibit C

FORM OF GRANT DEED – CHAMBER CONVEYANCE TO CITY

**RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL THIS
DOCUMENT AND TAX DOCUMENTS
TO:**

CITY OF SAN LEANDRO
835 East 14th Street
San Leandro, CA 94577
Attn: City Clerk

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

No documentary transfer tax is due per RT Code 11922-Government
Agency acquiring title

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

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged, the San Leandro Chamber of Commerce, a California nonprofit public benefit corporation (“**Grantor**”) hereby grants to the City of San Leandro, a municipal corporation, (“**Grantee**”) all that real property located in the City of San Leandro, County of Alameda, State of California described in Exhibit C-1 attached hereto and incorporated herein.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of _____, 20__.

GRANTOR:

SAN LEANDRO CHAMBER OF COMMERCE
A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION

By: _____

Its: _____

EXHIBIT C-1 TO GRANT DEED

PROPERTY

Portion of Lots "H", "I", and "J", Block 1, Map of the Town of San Leandro, filed February 27, 1855, Map Book 1, page 19, Alameda County Records, bounded as follows:

Beginning at a point on the northwestern line of Davis Street, distant thereon North 62° 00' east 33 feet from the northeastern line of Hays Street, as said streets are shown on the said map, said point of beginning being distant north 62° 00' east 40.10 feet, more or less, along said line of Davis Street from the northeastern line of Hays Street, as now improved; and running thence along said line of Davis Street north 62° 00' east 52 feet; thence north 28° 00' west 197.92 feet; thence along the southeastern line of the parcel of land described in the deed to City of San Leandro, recorded September 5, 1957 in Book 8460 of Official Records of Alameda County, page 321, said line being the southeastern line of Hays Street, as now improved, south 42° 00' west 31.84 feet and southwesterly, on the arc of a tangent curve to the left, with a radius of 94.50 feet, a distance of 24.98 feet to a line drawn north 28° 00' west from the point of beginning; thence south 28° 00' east 175.71 feet to the point of beginning.

Assessor's Parcel Number: 075-0001-009-02

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant Deed dated _____, 2012, from San Leandro Chamber of Commerce, a California nonprofit public benefit corporation to the City of San Leandro, a municipal corporation (“City”), is hereby accepted on behalf of the City by the undersigned officer or agent on behalf of the City Council of the City of San Leandro pursuant to authority conferred by resolution of the City Council adopted on _____, 20__, and that the City consents to recordation of the Grant Deed by its duly authorized officer.

Dated _____, 20__

CITY OF SAN LEANDRO

By: _____

Title: _____

APPROVED AS TO FORM:

By: _____
City Attorney

SIGNATURES MUST BE NOTARIZED.

Exhibit D

FORM OF GRANT DEED – CONVEYANCE OF OFFICE PARCEL TO CHAMBER

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

SAN LEANDRO CHAMBER OF COMMERCE

Attn: _____

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

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

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged, the City of San Leandro, a municipal corporation, and the City acting as the Parking Authority of the City of San Leandro, a body corporate and politic, (together, the “**Grantor**”) hereby grant to the San Leandro Chamber of Commerce, a California nonprofit public benefit corporation (“**Grantee**”) all that real property located in the City of San Leandro, County of Alameda, State of California described in Exhibit D-1 attached hereto and incorporated herein (the “**Property**”).

The Property is conveyed subject to all terms, conditions, reservations of rights and easements set forth in that certain Reciprocal Easement Agreement and Declaration of Covenants, Conditions and Restrictions (Estudillo Parking Garage) dated as of _____, 2012, executed by and between Grantor and Grantee, and recorded in the Official Records of Alameda County on _____, 2013 as Instrument No. _____.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of _____, 20__.

GRANTOR:

CITY OF SAN LEANDRO, A MUNICIPAL CORPORATION, AND THE CITY ACTING AS
THE PARKING AUTHORITY OF THE CITY OF SAN LEANDRO, A BODY CORPORATE
AND POLITIC

By: _____
Chris Zapata

Its: City Manager and Executive Director of the Parking Authority

Exhibit D-1 to Grant Deed

Parcel 2 of Parcel Map 10073 recorded on _____
(this legal description will be completed when the Map is recorded)

Exhibit E

DECLARATION OF ONE AND ONLY RIGHT OF FIRST OFFER

THIS Declaration of one and only right of first offer (the “Declaration”) is made this ____ day of _____, 20__ by the San Leandro Chamber of Commerce, a California nonprofit public benefit corporation (the “Declarant”).

WITNESSETH

A. By Agreement of Property Exchange and Indemnity with One and Only Right of First Offer (the “Agreement”) dated _____ between the City of San Leandro and the City acting as the Parking Authority of the City of San Leandro (together, the “City”), and the San Leandro Chamber of Commerce, (the “Chamber”), City and Chamber agreed to exchange all that certain land described in the Agreement and Exhibits to the Agreement attached hereto; and

B. Pursuant to the Agreement, at closing, the Chamber was required to deliver to City a One and Only Right of First Offer relating to the Office Parcel, as more particularly described in Section 25 of the Agreement (and as more fully depicted in Exhibit D-1 of the Grant Deed between the City and the Chamber, attached hereto, and made a part hereof).

NOW THEREFORE, the Declarant, intending to be legally bound hereby and incorporating the foregoing recitals by reference, declares that the Office Parcel is and shall be subject to the covenants and rights hereinafter set forth.

1. Grant of One and Only Right of First Offer. The Declarant hereby irrevocably grants to City the following right (hereinafter the “One and Only Right of First Offer”) with respect to the Office Parcel, which One and Only Right of First Offer hereby created shall constitute a covenant running with the land and shall be binding upon the Declarant’s first initiative to sell said Office Parcel.

(a) At any time or times after the date hereof that Declarant desires to sell the Office Parcel, or any portion thereof, to any person or entity (other than as provided below), Declarant shall first offer the Office Parcel, or the relevant portion thereof, as the case may be, once and only once, by written notice to City. Declarant’s notice shall include the proposed sale price and other economic terms of the proposed sale (collectively the “Notice of Sale Terms”). The Parties shall then have forty-five (45) days (time being of the essence) after receiving the Notice of Sale Terms to notify Declarant in writing of City’s election to purchase the Office Parcel, or the relevant portion thereof, as the case may be, in accordance with the conditions of the Notice of Sale Terms, such writing to be accompanied by a bank or certified check in an amount equal to five percent (5%) of the purchase price (the “Deposit”).

If City does so elect to exercise its right to purchase the Office Parcel, or the relevant portion thereof, as the case may be, City shall:

(i) Proceed to and complete closing no later than sixty (60) days after the exercise of its right to purchase (time being of the essence); and (ii) promptly cooperate with Declarant to proceed to negotiate in good faith and execute an Agreement of Sale relating to the sale, although the failure of the Parties to agree on any terms or to actually execute an Agreement of Sale shall make null and void the Declarant's obligation to sell and the City's one and only right to purchase the Office Parcel, or the relevant portion thereof, as the case may be. City's notice of its election to exercise its right to purchase hereunder shall be ineffective unless it meets the requirements set forth above and is accompanied by the Deposit. If City shall fail to close the purchase as required above, Declarant shall return the Deposit to City and Declarant shall thereafter be free to sell the Office Parcel in accordance with Section 1(b) below.

(b) If City shall fail to validly and timely exercise such right to purchase or the parties fail to agree on terms, after notice by Declarant, as provided herein, such right shall be deemed to have lapsed and expired with respect to the Office Parcel or the relevant portion thereof, as the case may be, offered to City, and the Declarant may thereafter freely sell the Office Parcel or the relevant portion thereof, as the case may be (such a sale is hereinafter referred to as a "Permitted Sale"), at any time provided that Declarant shall not be permitted to sell the Office Parcel or the relevant portion thereof, as the case may be, on terms equal to or less favorable to Declarant than the term set forth in City's last offer, without first offering the Office Parcel to City on the same terms, and Section 1. (a) (i) above shall then apply to negotiating this offer. Should this "same terms" offer not be successfully negotiated, the One and Only Right of First Offer irrevocably lapses.

2. City To Cooperate With Declarant In Connection With Sales. City shall cooperate with Declarant in connection with the sale of the Office Parcel or any portion thereof to a third party which has either cleared the City's One and Only Right of First Offer or is an Exempt Sale (as that term is defined in the following Section 3) in order to demonstrate to the purchaser and/or the insurer of its title to the Office Parcel, or any portion thereof, that it is a Permitted Sale or an Exempt Sale, as the case may be. This obligation to cooperate shall include the City's obligation to execute such documents, in recordable form if requested, as are reasonably requested by the Declarant, its purchaser or the insurer of such purchasers' title to document the City's waiver of its One and Only Right of First Offer with respect to the subject sale or the fact that the subject sale is an Exempt Sale.

3. Sales By Declarant Which Are Not Subject to City's One and Only Right of First Offer. The following sales of the Office Parcel or any portion thereof (hereinafter referred to singularly as an "Exempt Sale" and collectively as "Exempt Sales") shall not be subject to City's Right of First Offer and may be freely sold by the Declarant without following the procedure set forth in Section 1 of this Declaration:

(a) A sale or sales to an affiliate or a development partner of Chamber provided that they are an affiliate or partner during the development of the Office Parcel; and

(b) A transfer or transfers made as part of the financing of the acquisition or development of the Office Parcel; and

(c) A transfer or transfers made pursuant to a bona fide deed in lieu of foreclosure made to the secured mortgagee of the Office Parcel or a portion thereof and/or a transfer made pursuant to a sheriff's sale in a mortgage foreclosure or other action.

Additionally, it is expressly understood that the transfer of an interest in the Office Parcel in a manner other than by a sale (for example, pursuant to a lease or the grant of a Mortgage) shall not trigger the City's Right of First Offer. Nor shall the subdivision or subsection to a condominium regime of the Office Parcel or any portion thereof trigger the City's Right of First Offer, although the subsequent sale of any subdivided portion or a condominium unit of the Office Parcel shall trigger the City's Right of First Refusal, unless it is an Exempt Sale.

5. No Liability for Obligations Accruing After Ownership. No owner of the Office Parcel or any portion thereof shall have any personal liability or responsibility for any obligation which accrues under this Declaration after the time that such party no longer is the owner of the relevant property.

6. Notice. Any notice given pursuant to this Declaration shall be valid only if given in writing and shall be deemed sufficiently given if given by registered or certified mail with sufficient postage attached, by overnight delivery service or hand delivery. Notices to City shall be sufficient if addressed to, or delivered to a person in charge at:

City of San Leandro, c/o City Clerk, City Hall, 835 East 14th Street, San Leandro, CA 94577

With a copy to:

City of San Leandro, c/o City Attorney, 835 East 14th Street, San Leandro, CA 94577

Notices to Declarant shall be sufficient if addressed to:

San Leandro Chamber of Commerce, 120 Estudillo Avenue, San Leandro, CA 94577
Attn: Chief Executive Officer

The date of delivery of any notice provided for in this Declaration shall be the date of deposit in the U.S. mails with sufficient postage if given by registered or certified mail and whether or not a return receipt is returned the date of deposit to the overnight delivery service, if so given, or the date of actual delivery to the above address of the party to be notified if hand delivered. The person and place to which notice may be given may be

changed from time to time by City or Declarant respectively upon written notice to the other, effective five (5) days after delivery of such notice.

7. Modifications. City shall make modifications to this Declaration reasonably requested by any lender to Declarant, or any successor or assign of Declarant, to enable the Office Parcel to be financed, such modification or amendment not to be unreasonably denied, delayed or conditioned, provided that City shall not be required to make any modification which materially and adversely affects any right of City under this Declaration.

IN WITNESS WHEREOF, the Declarant has duly executed this Declaration as of the day and year first above written.

By: _____ Date: _____

Its: _____

Declarant, San Leandro Chamber of Commerce

2075115.1