

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

City of San Leandro  
835 E. 14th Street  
San Leandro, CA 94577  
Attn: City Clerk

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Exempt From Recording Fee Pursuant to Government Code Sections 6103 and 27383

**COMMERCIAL REVITALIZATION AGREEMENT**

THIS COMMERCIAL REVITALIZATION AGREEMENT (this "Agreement") is entered into as of \_\_\_\_\_, 2021 (the "Agreement Date"), by and between the City of San Leandro, a California charter city organized and existing under the laws of the State of California ("City"), and Wannawin San Leandro, LLC, a California limited liability company ("Landowner").

**RECITALS**

This Agreement is entered into upon the basis of the following facts, understandings and intentions of City and Landowner.

A. Landowner is the owner of that certain real property located at 1495 E. 14<sup>th</sup> Street, San Leandro, California (the "Commercial Property"). The location of the Commercial Property is described in the Legal Description attached hereto as Exhibit "A" and depicted on the "Site Map" attached hereto as Exhibit "B" and incorporated herein. The Commercial Property is currently improved with a building which was formerly used as a bank.

B. Landowner desires to renovate and modernize the Commercial Property for commercial uses which are proposed to include a restaurant, brewery and outdoor dining, and has commenced the rehabilitation of the Commercial Property for such uses. The rehabilitation of the Commercial Property is expected to attract additional restaurants, office uses and retail businesses to locate in the downtown area of City, which will help to strengthen the downtown economy and provide substantial employment, sales and property tax benefits to City.

C. In order to renovate the Commercial Property, it is necessary for an electrical transformer to be installed to supply electricity to the Commercial Property (the "Transformer"). Because the improvements on the Commercial Property cover the entire site, the Transformer must be located in other offsite real property located adjacent to the Commercial Property.

D. City owns real property located to the west of and adjacent to the Commercial Property, which is currently used as a public parking lot (the "City Property"). The location of the City Property is depicted on the Site Map.

E. Landowner has requested that City grant an easement to Pacific Gas and Electric (“PG&E”) over the City Property for the installation of the Transformer and for related utility lines that will service the Commercial Property.

F. The City’s grant of the Easement over the City Property pursuant to this Agreement will advance the City’s goals of establishing a firm foundation for long-term fiscal sustainability, and supporting projects and programs promoting sustainable economic development, including transforming City into a center for innovation. The economic interests of City’s residents and the public health, safety and welfare will be served by providing the requested Easement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, City and Landowner agree as follows:

**1. Grant of Easement.** City agrees to grant an Easement to PG&E for the installation of the Transformer and for related utility lines that will service the Commercial Property, substantially in the form of Exhibit “C” attached hereto and incorporated herein, with such changes as approved by the City Manager and City Attorney. As conditions precedent to City’s grant of the Easement to PG&E, (a) Landowner shall have entered into a Gas and Extension Agreement with PG&E providing for extension of gas and electric service to the Commercial Property, (b) PG&E shall have received all building permits and all other required permits and approvals from the City for the installation of the Transformer, and (c) PG&E shall have provided notice to the City that it is ready to begin the installation of the Transformer.

**2. City Rights to Terminate Easement.** The Parties understand that the City Property may be needed in the future for a downtown redevelopment project or other use as determined by City in its sole discretion, and that the Easement will contain a provision allowing City to terminate the Easement and to require PG&E to remove the Transformer and other facilities on the City Property by notice to PG&E. Notwithstanding City’s rights to terminate the Easement as provided therein, City agrees that (a) City shall not provide notice to PG&E of the termination of the Easement prior to the tenth (10<sup>th</sup>) anniversary of the date of the Easement, and (b) City shall provide notice to Landowner of City’s intent to terminate the Easement at least one hundred eighty (180) days prior to giving notice to PG&E of the termination of the Easement. In the event City terminates the Easement, City shall meet and confer with Landowner and PG&E to discuss alternative locations for the installation of the Transformer and a new easement therefor, and shall use good faith efforts to assist Landowner and PG&E to secure an alternate location for the Transformer. Landowner agrees to pay all costs of relocation of the Transformer directly to PG&E promptly upon receipt of an invoice therefor. Landowner shall further pay to City any out-of-pocket costs incurred by City in connection with the relocation of the Transformer, within thirty (30) days after receipt of a detailed invoice from City for such costs.

**3. City Review and Approval.** Nothing set forth in this Agreement shall be construed as the City’s approval of any development applications for the Commercial Property or other required submittals in accordance with the City Municipal Code. The City shall have all rights to review and approve or disapprove all development applications for the Commercial Property and other required submittals in accordance with the City Municipal Code, and shall

apply the same standards to and shall retain the same discretion over such matters as it has with respect to any other development applications submitted to the City.

**4. Agreement Runs With the Land.** The Parties' rights and responsibilities under this Agreement shall run with the land and shall be binding on and for the benefit of all parties having or acquiring any right, title or interest in the Commercial Property and City Property, shall constitute enforceable equitable servitudes and shall be binding on and inure to the benefit of the successors-in-interest of such parties.

**5. Notices, Demands and Communications Between the Parties.** Formal notices, demands, and communications between City and the Landowner shall be given either by (i) personal service, (ii) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, or (iii) or by mailing in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to:

To City:

City of San Leandro  
835 East 14<sup>th</sup> Street  
San Leandro, California 94577  
Attention: Economic  
Development Manager

With copy to City Attorney

To Landowner:

Wannawin San Leandro, LLC  
767 Bridgeway, #3c  
Sausalito, California 94965  
Attention: Matthew F. Holmes

Notices personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices mailed in the manner provided above shall be deemed effective on the second business day following deposit in the United States mail. Such written notices, demands, and communications shall be sent in the same manner to such other addresses as either party may from time to time designate by mail.

**6. Entire Agreement, Waivers, and Amendments.** This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the party to be charged, and all amendments and modifications hereto must be in writing and signed by the appropriate authorities of City and Landowner.

7. **Counterparts.** This Agreement may be executed in counterparts, each of which, after City and Landowner have signed this Agreement, shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8. **Further Assurances.** City and Landowner each agree, without further consideration, to execute such other and further documents, and to perform such other and further acts, as may be necessary or proper in order to consummate the transaction set forth in and contemplated by this Agreement.

9. **Severability.** In the event any section or portion of this Agreement shall be held, found, or determined to be unenforceable or invalid for any reason whatsoever, the remaining provisions shall remain in effect, and City and Landowner shall take further actions as may be reasonably necessary and available to them to effectuate the intent of City and Landowner as to all provisions set forth in this Agreement.

10. **Institution of Legal Actions.** Legal actions must be instituted and maintained in the Superior Court of the County of Alameda, State of California, or in any other appropriate court in that county.

11. **Attorney's Fees.** If either party to this Agreement is required to initiate or defend litigation against the other party in any way connected with this Agreement, the prevailing party in such litigation in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to its actual and reasonable attorney's fees.

12. **Applicable Law.** The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

13. **Indemnity.** Landowner shall indemnify, protect, defend and hold harmless City and its elected officials, officers, employees, representatives, members, and agents from and against any and all challenges to this Agreement, and any and all losses, liabilities, damages, claims or costs (including attorneys' fees) arising from the development and rehabilitation of the Commercial Property, and the operation of the businesses on the Commercial Property, and Landowner's negligent acts, errors, or omissions with respect to its obligations under this Agreement, excluding any such losses arising from the negligence or willful misconduct of City. This indemnity obligation shall survive the termination of this Agreement.

**IN WITNESS WHEREOF**, Landowner and City have executed this Agreement as of the date and year first above written.

LANDOWNER:

WANNAWIN SAN LEANDRO, LLC,  
a California limited liability company

By:   
\_\_\_\_\_

CITY:

CITY OF SAN LEANDRO, CALIFORNIA,  
a California charter city

By: \_\_\_\_\_  
FRANCES ROBUSTELLI  
CITY MANAGER

APPROVED AS TO FORM:

By: \_\_\_\_\_  
RICHARD D. PIO RODA  
CITY ATTORNEY

ATTEST:

By: \_\_\_\_\_  
LETICIA I. MIGUEL, CITY CLERK

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

That real property located in the City of San Leandro, County of Alameda, State of California, described as follows:

**[To Be Attached]**

**EXHIBIT "B"**

**SITE MAP**

**[To Be Attached]**

**EXHIBIT "C"**  
**FORM OF EASEMENT**  
**[To Be Attached]**



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

State of California )

County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
(here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(seal)