AGENDA

A. CALL TO ORDER:
PLEDGE OF ALLEGIANCE:
ROLL CALL:

B. STUDY SESSION/COMMUNITY DISCUSSION REGARDING VAGRANT ISSUES IN PARKS AND UNIMPROVED AREAS OF THE CITY AND VAGRANTS PARKING AND CAMPING ON PUBLIC AND PRIVATE LAND.
NOTICE OF CLOSED SESSION MEETING

NOTICE IS HEREBY GIVEN THAT THE CITY COUNCIL OF GRASS VALLEY WILL HOLD A CLOSED SESSION MEETING ON TUESDAY, AUGUST 8, 2017, IMMEDIATELY FOLLOWING THE STUDY SESSION/COMMUNITY DISCUSSION OR BY 6:30 PM WHICHEVER COMES FIRST, IN THE MAYOR’S CONFERENCE ROOM OF GRASS VALLEY CITY HALL, 125 EAST MAIN STREET, GRASS VALLEY, CA 94945

Public Comments for Closed Session Items Only
Call to Order:
Roll Call:
Adjourn:

1. Conference with Legal Counsel; Anticipated Litigation
   (Gov. Code § 54956.9(d)(2) & (d)(3))
   A point has been reached where, in the opinion of the City Council on the advice of its legal counsel, based on the below-described existing facts and circumstances, there is a significant exposure to litigation against the City.

   Facts and circumstances that might result in litigation but which the City/Agency believes are not yet known to potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.
   (Gov. Code § 54956.9(e)(1))

2. Conference with Legal Counsel; Initiation of Litigation
   (Gov. Code § 54956.9(d)(4))
   Number of Potential Cases: 1
3. **Conference with Legal Counsel; Anticipated Litigation**  
(Gov. Code § 54956.9(d)(2) & (d)(3))

A point has been reached where, in the opinion of the City Council on the advice of its legal counsel, based on the below-described existing facts and circumstances, there is a significant exposure to litigation against the City.

Facts and circumstances that might result in litigation but which the City/Agency believes are not yet known to potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.  
(Gov. Code § 54956.9(e)(1))

4. **Public Employment (Gov. Code § 54957)**

Title: City Manager
CITY OF GRASS VALLEY
CITY COUNCIL MEETING

Howard Levine, Mayor                               Lisa Swarthout, Vice Mayor
Jan Arbuckle                Ben Aguilar             Jason Fouyer

REGULAR MEETING OF THE GRASS VALLEY CITY COUNCIL,
CAPITAL IMPROVEMENTS AUTHORITY AND REDEVELOPMENT “SUCCESSOR AGENCY”
7:00 P.M., TUESDAY, AUGUST 8, 2017

COUNCIL CHAMBERS
GRASS VALLEY CITY HALL (LOWER LEVEL)
125 EAST MAIN STREET, GRASS VALLEY, CALIFORNIA
Telephone: (530) 274-4310 – Fax: (530) 274-4399
E-Mail: info@cityofgrassvalley.com   Web Site: www.cityofgrassvalley.com

City Council welcomes you to its meetings, which are scheduled at 7 p.m. on the 2nd and 4th Tuesdays of
each month. Your interest is encouraged and appreciated. This meeting is being broadcast “live” on
Comcast Channel 17 and this meeting is being recorded by NCTV and is scheduled for rebroadcast on
NCTV Channel 17. Please consult NCTV program listings as to the schedule at
www.nevadacountytv.org. In addition to being broadcast live on TV it is also is also being broadcast
“live” on the internet at www.cityofgrassvalley.com (click on the button “Meetings on Video - City
Council” on the lower portion of the home page and follow the instructions. This meeting is also recorded
on audio tape. Council Chambers are wheelchair accessible and listening devices are available. Other
special accommodations may be requested to the City Clerk 72 hours in advance of the meeting. Action
may be taken on any agenda item. Please turn off all cell phones or similar devices. Agenda materials are
available at City Hall, the Grass Valley Public Library or on the City’s web site by clicking on each
item’s icon. Staff reports and background information related to regular agenda items are available at
City of Grass Valley City Hall, 125 East Main Street, Grass Valley, CA 95945. Materials related to an
item on this agenda submitted to the Council after distribution of the agenda packet are available for
public inspection in the City Clerk’s Office, 125 East Main Street, Grass Valley, CA 95945, during
normal business hours. Such documents are also available on the City of Grass Valley website at
www.cityofgrassvalley.com subject to the City staff’s ability to post the documents before the meeting.

AGENDA

A. CALL TO ORDER:
PLEDGE OF ALLEGIANCE:
ROLL CALL:

B. REPORT OUT OF CLOSED SESSION

C. AGENDA APPROVAL
The City Council reserves the right to hear items in a different order in order to accomplish
business in the most efficient manner.
D. INTRODUCTIONS AND PRESENTATIONS

E. PUBLIC COMMENT – There is a time limitation of three minutes per person. For any items that are not on the agenda and within the jurisdiction or interest of the City, please come to the podium at this time. If you wish to speak regarding a scheduled agenda item, please come to the podium when the item number and subject matter are announced. When recognized, please begin by providing your name and address for the record (optional). Anyone wishing to submit written information at the meeting needs to furnish ten (10) copies to the City Clerk in advance to allow for distribution to City Council, staff and the media.

F. CONSENT ITEMS – All matters listed under the Consent Calendar are to be considered routine by the City Council and will be enacted by one motion in the form listed. There will be no separate discussion of these items unless, before the City Council votes on the motion to adopt, members of the Council, staff or the public request specific items to be removed from the Consent Calendar for separate discussion and action (roll call vote).

1. Approval of Action Minutes of the City Council Meeting of July 25, 2017
   RECOMMENDATION: Approve minutes as submitted.

2. Continuance of Local Emergency Proclamation
   RECOMMENDATION: Continuance of proclamation declaring a Local State of Emergency due to extreme weather.

3. North Church Street Retaining Wall Project - Award Contract
   RECOMMENDATION: That Council; 1) award a contract for the North Church St. Retaining Wall Project to Hansen Bros. Enterprises; 2) authorize the Mayor to execute the construction contract, subject to legal review; and 3) authorize the Public Works Director/City Engineer to approve construction change orders for up to 10% of the contract amount.

4. Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project – Contract Amendment for material testing and inspection services
   RECOMMENDATION: That Council: 1) approve an Amendment No.1 to Professional Services Agreement No. C-16-27 with Holdrege & Kull by an additional $36,900, for a total of $51,900 to provide additional material testing and inspection services, 2) authorize the Mayor to execute the Amendment No. 1, subject to legal review; and 3) authorize the Public Works Director/City Engineer to approve amendments for up to 10% of the contract amount.

5. Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project – Contract Amendment for Storm Water Pollution Prevention Plan (SWPPP) services
   RECOMMENDATION: That Council: 1) approve an Amendment No.1 to Professional Services Agreement No. C-16-24 with Holdrege & Kull by an additional $6,800, for a total of $21,800 to provide additional Storm Water Pollution Prevention Plan (SWPPP) services, 2) authorize the Mayor to execute the Amendment No. 1, subject to legal review; and 3) authorize the Public Works Director/City Engineer to approve amendments for up to 10% of the contract amount.
G. ITEMS REMOVED FROM CONSENT CALENDAR FOR DISCUSSION OR SEPARATE ACTION AND / OR ANY ADDED AGENDA ITEMS

H. PUBLIC HEARING

I. ADMINISTRATIVE

6. Adoption of Ordinances to effect Municipal Code changes to Title 8 (Chapters 8.16 and 8.36) and Title 10 (Chapters 10.60 and 10.80)

RECOMMENDATION: That Council: 1) review the proposed ordinance to repeal Municipal Code Chapter – 8.16 Fire Control Regulations and 8.36 Weed and rubbish abatement, replace with new Municipal Code Chapter 8.16 Fire Control Regulations. Waive full reading and adopt Urgency Ordinance No. 786; 2) waive full reading and introduce Ordinance No. 787; 3) waive full reading and introduce Ordinance No. 788; 4) Direct staff to further research and issue a request for proposal (RFP) related to parking “meters” in downtown as a mechanism to fund resources adequate to ensure sustainability for enforcement of the above ordinances among others.

7. Adoption of a Resolution of Intention to Approve an Amendment to the Contract between the Board of Administration of the California Employees’ Retirement System (CalPERS) and the City Council of the City of Grass Valley and Introduce and Waive the full reading, by substitution of title only, an Ordinance of the City Council of the City of Grass Valley to Amend the Contract between the City of Grass Valley and the Board of Administration of CalPERS

RECOMMENDATION: Adoption of a Resolution of Intention giving notice of the City’s intention to amend the contract between the City Council of the City of Grass Valley and the Board of Administration of CalPERS as allowed in Section 20516 of the Public Employees’ Retirement Law (Employees Sharing Additional Cost) of 3.0% for classic local police members in the Grass Valley Police Officers Association, as outlined in a Side Letter to the Memorandum of Understanding (MOU) between the City and the Grass Valley Police Officers Association (Unit #6) for the 3-year period of July 1, 2015 through June 30, 2018.

Additionally, introduce and waive the full reading, by substitution of title only, an ordinance authorizing an amendment to the contract between the City Council of the City of Grass Valley and the Board of Administration of CalPERS.

8. Vehicle Lease Program

RECOMMENDATION: By Motion, authorize the execution of a Master Equity Lease Agreement and related Maintenance Agreement with Enterprise Fleet Management, Inc. upon final review by the City Attorney.
9. **Yuba River Commercial Center Parcel Map 14PLN-04; Agreement of Easements, Conditions, and Restrictions; Irrevocable Offer of Dedication; and Improvement Agreement**

**RECOMMENDATION:** That Council: 1) Approve the parcel map and accept items 1 through 2 in the Owner’s Statement on the parcel map for public purposes; 2) Approve the associated Agreement of Easements, Conditions, and Restrictions; 3) Accept the Irrevocable Offer of Dedication, subject to legal review; and, 4) Authorize the Mayor to execute the Improvement Agreement, subject to legal review.

**J. BRIEF REPORTS BY COUNCIL MEMBERS**

**K. ADJOURN**
Minutes of the
Grass Valley City Council
Meeting of July 25, 2017

CITY OF GRASS VALLEY
SPECIAL CLOSED SESSION
CITY COUNCIL MEETING

Howard Levine, Mayor                        Lisa Swarthout, Vice Mayor
Jan Arbuckle                                Ben Aguilar
Jason Fouyer

NOTICE OF CLOSED SESSION MEETING
NOTICE IS HEREBY GIVEN THAT THE CITY COUNCIL OF GRASS VALLEY WILL
HOLD A CLOSED SESSION MEETING ON TUESDAY, JULY 25, 2017 AT 6:00 PM IN THE
MAYOR’S CONFERENCE ROOM OF GRASS VALLEY CITY HALL, 125 EAST MAIN
STREET, GRASS VALLEY, CA 94945

Public Comments for Closed Session Items Only
Call to Order: 6:00 pm
Roll Call: Council Members Aguilar, Arbuckle, Swarthout and Mayor Levine were present.
Council Member Fouyer was absent.
Adjourn: 7:03 pm

1.

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<th>Conference with Labor Negotiator</th>
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<td>(Gov. Code § 54957.6)</td>
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Name of City / Agency Negotiator
to Attend Closed Session: Tim Kiser, Interim City Manager and Patrick Clark, Negotiator and
Andy Heath, Finance Director
Grass Valley Career Firefighters, IAFF Local 3800 - Unit 8
2. **Conference with Legal Counsel; Anticipated Litigation**  
   *(Gov. Code § 54956.9(d)(2) & (d)(3))*

   A point has been reached where, in the opinion of the City Council on the advice of its legal counsel, based on the below-described existing facts and circumstances, there is a significant exposure to litigation against the City.

   Facts and circumstances that might result in litigation but which the City/Agency believes are not yet known to potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.  
   *(Gov. Code § 54956.9(e)(1))*

3. **Conference with Legal Counsel; Initiation of Litigation**  
   *(Gov. Code § 54956.9(d)(4))*

   Number of Potential Cases: __1________________

4. **Public Employment** *(Gov. Code § 54957)*

   Title: City Manager
A. CALL TO ORDER: 7:06 pm
PLEDGE OF ALLEGIANCE:
ROLL CALL: Council Members Aguilar, Arbuckle, Swarthout and Mayor Levine were present and Council Member Fouyer was absent.

B. REPORT OUT OF CLOSED SESSION
No reportable action was taken

C. AGENDA APPROVAL
No changes were made.

D. INTRODUCTIONS AND PRESENTATIONS

E. PUBLIC COMMENT
Police Chief Alex Gammelgard came forward and spoke about the Memorial Park Clean Up project.
Shannon 10510 came forward and spoke about National Night Out that will be held on August 1, 2017 from 5:00 pm to 7:30 pm at Pioneer Park in Nevada City.
Jeff Erb, 13991 Strawberry Circle, Penn Valley came forward and spoke about the retaining wall that is failing due to a clogged drain at 235 North Church St where he owns a 4 plex.
Nicholas George, Whiting Street near South Auburn St spoke about Transients, panhandlers and that the city needs to focus help for those who are from here. Suggested amending the use permit for the homeless shelter so that it is only for residents or family members of residents who live in Grass Valley.
Dan Miller, Grass Valley resident and Nevada County Resident, thanked the Council and Staff for the tour along Wolf Creek. He said the property owner hired a security firm to come in and clean up the area so that the mess from the homeless and their encampment is gone.
Lee Zaglast, spoke about supporting SB 562 and asked that Council consider writing letter of support for the bill which is a single pay healthcare.
Paul Crawford spoke about holding a 10 year candlelight vigil and remembrance for his daughter on
September 22, 2017 at 515 Cedar Ridge and the entrance will be off or Noel Lane. Patty Galley, 122 Race Street, Grass Valley announced that Nevada County Pets of the Homeless has changed its name to Nevada County Pets in Need.
The Mayor closed the Public Comment.

F. CONSENT ITEMS – (roll call vote)
Council Member Arbuckle moved to approve the Consent Agenda as submitted and Council Member Aguilar seconded and the motion carried by a 4-0-1 roll call vote.

1. Approval of Action Minutes of the City Council Meeting of July 11, 2017
   RECOMMENDATION: Approve minutes as submitted.

2. Continuance of Local Emergency Proclamation
   RECOMMENDATION: Continuance of proclamation declaring a Local State of Emergency due to extreme weather.

   RECOMMENDATION: Approve the attached resolution authorizing the execution of the Joint Powers Agreement as revised and adopted by the Public Agency Risk Sharing Authority of California Board of Directors on May 25, 2017.

4. 2017 Annual Street Rehabilitation Project – Award Contract
   RECOMMENDATION: That Council; 1) award a contract for the 2017 Annual Street Rehabilitation Project to VSS International, Inc.; 2) authorize the Mayor to execute the construction contract, subject to legal review and; 3) authorize the Public Works Director/City Engineer to approve construction change orders for up to 10% of the contract amount.

5. Reimbursement Agreement with Nevada County Transportation Commission (NCTC)
   RECOMMENDATION: That Council approve Reimbursement Agreements with Nevada County Transportation Commission (NCTC) for reimbursement of RTMF funds for the construction of Dorsey Drive Interchange and East Main / Bennett Intersection Project; and 2) authorize the Mayor to execute agreements, subject to legal review.

G. ITEMS REMOVED FROM CONSENT CALENDAR FOR DISCUSSION OR SEPARATE ACTION AND / OR ANY ADDED AGENDA ITEMS

H. PUBLIC HEARING

I. ADMINISTRATIVE

6. Grass Valley-Nevada City Cultural District Update
   RECOMMENDATION: Council receive an informational update
Mayor Levine spoke and gave an update regarding this designation and what it means to the communities.
7. Housing information follow up from the July 11, 2017 City Council meeting
   RECOMMENDATION: Informational only, no action required
Community Development Director Tom Last presented this item to the Council. He wanted to dispel the
misinformation that the city is against affordable housing and to show how the city has been working on
for affordable housing. The Mayor opened public comment for this item's report.
Ken Vick, Cedar Ridge, he commented about construction and permit fees and that they seem
prohibitively expensive.
Griffin Jordan, Realtor, he spoke about the possibility of allowing Granny Units and the need for working
class housing.
The Mayor closed the public comment.

Council Member Arbuckle announced that a special pre meeting will be held at 5:00 pm before the next
meeting which is scheduled for August 8, 2017 and that this will be a community discussion and will
address camping and fire issues with transients.

J. Brief Reports By Council Members

   Council Member Swarthout attended the World Fest and Thursday Night Market. She announced
that there are only two Thursday Night Markets left and that at the last one the Police and Fire
Department Band will be playing. Council Member Arbuckle attended Starry Nights, World Fest, toured a
homeless encampment on Wolf Creek and saw a lot of fire danger. She thanked Supervisor Miller for
getting the owner to clean up the area. She also attended the NCTC meeting in Truckee. Council Member
Aguilar attended Starry Nights and the Thursday Night Market. He met with Chief Gammelgard and
Interim City Manager Tim Kiser and they walked through Memorial Park and he is asking for people to
come out for the Memorial Park Clean-Up on August 8 in the morning. Mayor Levine spoke regarding
the loss of Midge Scotten. He attended World Fest, the children's festival, Starry Nights and Ad Hoc
meetings.

K. ADJOURN

The meeting was adjourned at 8:02 pm by Mayor Levine.
**City of Grass Valley**
**City Council**
**Agenda Action Sheet**

**Council Meeting Date:** August 8, 2017  
**Date Prepared:** August 3, 2017

**Prepared by:** Mark Buttron, Fire Chief

**Title:** Continuance of Local Emergency Proclamation

**Recommended Motion:** Continuance of proclamation declaring a Local State of Emergency due to extreme weather.

**Agenda:** Consent

**Background Information:**
On January 11, 2017 the City Manager, acting as the Director of Emergency Services for the City of Grass Valley, declared a local State of Emergency as a result of damages caused by extreme weather. In accordance with the Emergency Services Act Section 8630 (b) the governing body must ratify the declared emergency within 7 days for it to remain in effect. Resolution 2017-02, Proclamation of Local Emergency, was ratified on January 17th at a special meeting of the Grass Valley City Council. The City Council shall review, every 21 days until the local emergency is terminated, the need for continuing the local emergency.

**Reviewed by:**

City Manager

**Action:**
- [ ] Approved
- [ ] Denied
- [ ] Approved with Modifications
- [ ] Other

Agenda Item # 2
City of Grass Valley
City Council
Agenda Action Sheet

Council Meeting Date: August 8, 2017  Date Prepared: August 2, 2017

Prepared by: Timothy M. Kiser, PE, Public Works Director/City Engineer

Title: North Church St Retaining Wall Project – Award Contract

Recommended Motion: That Council; 1) award a contract for the North Church St Retaining Wall Project to Hansen Bros. Enterprises; 2) authorize the Mayor to execute the construction contract, subject to legal review; and 3) authorize the Public Works Director/City Engineer to approve construction change orders for up to 10% of the contract amount.

Agenda: Consent

Background Information: On March 14, 2017, Council authorized the advertising for bids for the North Church St Retaining Wall Project. This project involves traffic control, concrete curb and gutter construction, retaining wall reinforcement, asphalt concrete structural section replacement, and drainage improvements.

Bids were opened on May 2, 2017 and 1 bid was received. Staff reviewed the low bid of $307,521.00 submitted by Hansen Bros. Enterprises and determined the bid to be complete and responsible.

Staff recommends that Council award the construction contract to Hansen Bros. Enterprises in the amount of $307,521.00; authorize the Mayor to execute the construction contract, subject to legal review; and authorize the Public Works Director/City Engineer to approve construction change orders up to 10% of the contract amount.

Council Goals/Objectives: The North Church St Retaining Wall Project executes portions of work tasks towards achieving/maintaining Strategic Plan – City Infrastructure Investment.

Funds Available: Yes  Account #: 180-6359

Reviewed by:  

City Manager  

Agenda Item # 3
**Council Meeting Date:** August 8, 2017  
**Date Prepared:** August 2, 2017

**Prepared by:** Timothy M. Kiser, PE, Public Works Director/City Engineer

**Title:** Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project – Contract Amendment for material testing and inspection services

**Recommended Motion:** That Council: 1) approve an Amendment No.1 to Professional Services Agreement No. C-16-27 with Holdrege & Kull by an additional $36,900, for a total of $51,900 to provide additional material testing and inspection services, 2) authorize the Mayor to execute the Amendment No. 1, subject to legal review; and 3) authorize the Public Works Director/City Engineer to approve amendments for up to 10% of the contract amount.

**Agenda:** Consent

**Background Information:** On February 14, 2017, Council authorized the City Manager to enter into emergency contracts for work associated with the the Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project. Due to the initial unknown scope/size of the project, staff is desiring to amend the PSA to provide additional material testing and inspection services needed to complete the final stages of earthwork repairs for the Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project. City and Consultant desire to amend the Agreement to increase the “not-to-exceed” amount of $15,000 by an additional $36,900, for a total of $51,900 to cover the costs of providing services on the Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project. Staff recommends that Council approve the attached Amendment No. 1 with Holdrege & Kull, subject to legal review.

**Funds Available:** Yes  
**Account #:** 180-6326

**Reviewed by:**  
- [ ] City Manager  
- [ ] Finance

Agenda Item # 4-1
CITY OF GRASS VALLEY
AMENDMENT No. 1 TO PROFESSIONAL SERVICES AGREEMENT NO. C 16 - 27

This Amendment No. 1 to Agreement ("First Amendment") is made on this 9th day of August, 2017 at Grass Valley, California, by and between the City of Grass Valley, a municipal corporation ("City"), and Holdrege & Kull – Consulting Engineers & Geologists, a California Corporation ("Consultant").

This Amendment to Agreement amends the original Professional Services Agreement (PSA) between the City and Consultant dated January 11, 2017.

A. City and Consultant desire to amend the PSA to provide material testing services required during the final stages of earthwork repairs for the Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project.

B. City and Consultant desire to amend the PSA to increase the "not-to-exceed" amount of $15,000 by an additional $36,900, for a total of $51,900 to cover the costs of providing services on the Little Wolf Creek Culvert.

In consideration of the foregoing Agreements set forth above, the City and Consultant agree to amend the Agreement as follows:

1. Amend "Exhibit A," Scope of Services, to add the additional services per the attached letter "Revised Request for Amendment – Material Testing Services" dated July 20, 2017.

2. Repealing and Replacing Section 3.5 of the PSA with the following paragraph:

3.5 "Maximum Amount": The highest total compensation and costs payable to Consultant by City under this Agreement. The Maximum Amount under this Agreement is Fifty-One Thousand Nine Hundred Dollars ($51,900.00) unless specifically approved in advance and in writing by City.

3. EFFECT OF THIS FIRST AMENDMENT. Except as expressly modified by this First Amendment, the PSA shall continue in full force and effect according to its terms, and the Parties hereby ratify and affirm the respective rights and obligations under the PSA, including but not limited to the indemnification obligations and insurance requirements of the PSA. In the event of any conflict between this First Amendment and the PSA, the provisions of this First Amendment shall govern.

4. SEVERABILITY. If any provision of this First Amendment is determined to be illegal or unenforceable, this determination shall not affect any other provision of the First Amendment or PSA, and all other provisions shall remain in full force and effect.
CITY OF GRASS VALLEY

AMENDMENT No. 1 TO AGREEMENT FOR SERVICES

5. CONSTRUCTION OF FIRST AMENDMENT. Each party has had an opportunity to consult with an attorney in reviewing this First Amendment. Therefore, the usual construction as to the drafting party shall not apply to this First Amendment.

IN WITNESS WHEREOF, the parties have executed this First Amendment the 9th day of August, 2017.

“City”
City of Grass Valley

By: ________________________________
Timothy M. Kiser
Public Works Director/City Engineer

Date: ______________
Attest:

By: ________________________________
Kristi K. Bashor, City Clerk

Date: ______________

Approved as to form:

By: ________________________________
Michael G. Colantuono, City Attorney

“Consultant”
Holdrege & Kull – Consulting Engineers & Geologists

By: ________________________________
Officer Signature #1 (Signature Notarized)

Date: ______________
By: ________________________________
Officer Signature #2 (Signature Notarized)

Date: ______________

ATTACHMENTS: Scope of Services

“If Consultant is a corporation, PSA must be signed by the following two corporate officers, one from each category: (1) Chairman of the Board, President or any Vice President, and (2), Corporate Secretary, any Assistant Corporate Secretary, Chief Financial Officer or any Treasurer or Assistant Treasurer, unless an authenticated copy of a resolution of the corporation which delegates to a single officer the authority to bind the corporation is attached to this PSA.

If Consultant is another type of business entity, such as a partnership or limited liability company, PSA must be signed by officer(s) possessing legal authority to bind the entity. An authenticated copy of a resolution, partnership agreement, operating agreement or other legal evidence of signature authority must be attached to this PSA.”
Project No. 4792-01  
July 20, 2017  

City of Grass Valley  
125 East Main Street  
Grass Valley, CA 95945  

Attention: Timothy Kiser, Public Works Director  

Reference: Little Wolf Creek Culvert  
600 Freeman Lane  
Grass Valley, California  

Subject: Revised Request for Amendment – Materials Testing Services  

Dear Mr. Kiser:  

Holdrege & Kull (H&K) prepared this letter to outline the materials testing services that we anticipate will be required during the final stages of earthwork repairs for the Little Wolf Creek Culvert.  

Our materials testing services are provided on a time-and-expense basis pursuant to our February 2017 Professional Services Agreement in an amount not to exceed $15,000. Our fees through May 2017 are $13,889.  

Including the nine working days for June and July to date, we estimate that a total of 30 additional working days of grading will be required. We estimate that each working day will include 8 hours for our field soil/materials tester at the prevailing rate of $111 per hour. For the purposes of this estimate, we assume that no overtime or weekend work will be required. We have budgeted $4,200 for laboratory testing, geotechnical consultation, and final documentation. In addition, we anticipate that daily UAV flights will be required for each of the 30 working days at $200 per day. Accordingly, we request a budget amendment in the amount of $36,900 to account for 30 additional working days of testing, observation, documentation and geotechnical engineering oversight. We will be able to revise our assumptions at your direction.  

If you agree with the services and fees described above, please contact us regarding the development of a budget amendment. Please contact us if you have any questions about our proposed scope of additional services or the project in general.  

Sincerely,  

HOLDREGE & KULL  

Jason W. Muir, PE, GE  
Associate Engineer  

copies: PDF to Mr. Kiser, timk@cityofgrassvalley.com
City of Grass Valley
City Council
Agenda Action Sheet

Council Meeting Date: August 8, 2017    Date Prepared: August 2, 2017

Prepared by: Timothy M. Kiser, PE, Public Works Director/City Engineer

Title: Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project – Contract Amendment for Storm Water Pollution Prevention Plan (SWPPP) services

Recommended Motion: That Council: 1) approve an Amendment No.1 to Professional Services Agreement No. C-16-24 with Holdrege & Kull by an additional $6,800, for a total of $21,800 to provide additional Storm Water Pollution Prevention Plan (SWPPP) services, 2) authorize the Mayor to execute the Amendment No. 1, subject to legal review; and 3) authorize the Public Works Director/City Engineer to approve amendments for up to 10% of the contract amount.

Agenda: Consent

Background Information: On February 14, 2017, Council authorized the City Manager to enter into emergency contracts for work associated with the the Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project. Due to the initial unknown scope/size of the project, staff is desiring to amend the PSA to provide additional Storm Water Pollution Prevention Plan (SWPPP) services needed to complete the final stages of earthwork repairs for the Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project.

City and Consultant desire to amend the Agreement to increase the “not-to-exceed” amount of $15,000 by an additional $6,800, for a total of $21,800 to cover the costs of providing services on the Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project. Staff recommends that Council approve the attached Amendment No. 1 with Holdrege & Kull, subject to legal review.

Funds Available: Yes

Reviewed by: 

City Manager

Account #: 180-6326

Finance

Agenda Item # 5-1
CITY OF GRASS VALLEY
AMENDMENT No. 1 TO PROFESSIONAL SERVICES AGREEMENT NO. C 16–24

This Amendment No. 1 to Agreement ("First Amendment") is made on this 9th day of August, 2017 at Grass Valley, California, by and between the City of Grass Valley, a municipal corporation ("City"), and Holdrege & Kull – Consulting Engineers & Geologists, a California Corporation ("Consultant").

This Amendment to Agreement amends the original the Professional Services Agreement (PSA) between the City and Consultant dated February 6, 2017.

A. City and Consultant desire to amend the PSA to provide additional Storm Water Pollution Prevention Plan (SWPPP) services required during the final stages of earthwork repairs for the Little Wolf Creek Emergency Sinkhole Stabilization and Repair Project.

B. City and Consultant desire to amend the PSA to increase the "not-to-exceed" amount of $15,000 by an additional $6,800, for a total of $21,800 to cover the costs of providing services on the Little Wolf Creek Culvert.

In consideration of the foregoing Agreements set forth above, the City and Consultant agree to amend the Agreement as follows:

1. Amend "Exhibit A," Scope of Services, to add the additional services per the attached letter "Request for Amendment – SWPPP Services" dated July 19, 2017.

2. Repealing and Replacing Section 3.5 of the PSA with the following paragraph:

3.5 "Maximum Amount": The highest total compensation and costs payable to Consultant by City under this Agreement. The Maximum Amount under this Agreement is Twenty-One Thousand Eight Hundred Dollars ($21,800.00) unless specifically approved in advance and in writing by City.

3. EFFECT OF THIS FIRST AMENDMENT. Except as expressly modified by this First Amendment, the PSA shall continue in full force and effect according to its terms, and the Parties hereby ratify and affirm the respective rights and obligations under the PSA, including but not limited to the indemnification obligations and insurance requirements of the PSA. In the event of any conflict between this First Amendment and the PSA, the provisions of this First Amendment shall govern.

4. SEVERABILITY. If any provision of this First Amendment is determined to be illegal or unenforceable, this determination shall not affect any other provision of the First Amendment or PSA, and all other provisions shall remain in full force and effect.
CITY OF GRASS VALLEY

AMENDMENT No. 1 TO AGREEMENT FOR SERVICES

5. CONSTRUCTION OF FIRST AMENDMENT. Each party has had an opportunity to consult with an attorney in reviewing this First Amendment. Therefore, the usual construction as to the drafting party shall not apply to this First Amendment.

IN WITNESS WHEREOF, the parties have executed this First Amendment the 9th day of August, 2017.

"City"
City of Grass Valley

By: ________________________________
Timothy M. Kiser
Public Works Director/City Engineer

Date: ______________

Attest:

By: ________________________________
Kristi K. Bashor, City Clerk

Date: ______________

Approved as to form:

By: ________________________________
Michael G. Colantuono, City Attorney

"Consultant"
Holdrege & Kull – Consulting Engineers & Geologists

By: ________________________________
Officer Signature #1 (Signature Notarized)

Date: ______________

By: ________________________________
Officer Signature #2 (Signature Notarized)

Date: ______________

ATTACHMENTS:

"If Consultant is a corporation, PSA must be signed by the following two corporate officers, one from each category: (1) Chairman of the Board, President or any Vice President, and (2), Corporate Secretary, any Assistant Corporate Secretary, Chief Financial Officer or any Treasurer or Assistant Treasurer, unless an authenticated copy of a resolution of the corporation which delegates to a single officer the authority to bind the corporation is attached to this PSA.

If Consultant is another type of business entity, such as a partnership or limited liability company, PSA must be signed by officer(s) possessing legal authority to bind the entity. An authenticated copy of a resolution, partnership agreement, operating agreement or other legal evidence of signature authority must be attached to this PSA."
Project No. 4792-02  
July 19, 2017  

City of Grass Valley  
125 East Main Street  
Grass Valley, CA 95945  

Attention:  Timothy Kiser, Public Works Director  

Reference:  Little Wolf Creek Culvert  
600 Freeman Lane  
Grass Valley, California  

Subject:  Request for Budget Amendment – SWPPP Services  

Dear Mr. Kiser:  

Holdrege & Kull (H&K) prepared this letter to outline the Storm Water Pollution Prevention Plan (SWPPP) services that we anticipate will be required during the final stages of the earthwork repairs for the Little Wolf Creek Culvert.  

As you know, our SWPPP services are provided on a time-and-expense basis pursuant to a Professional Services Agreement executed on February 28, 2017, in an amount not to exceed $15,000. Our fees through June 2017 are $14,768. We anticipate that weekly SWPPP inspection will be appropriate from July through October 2017, or until vegetation is re-established on the site. As outlined in our Proposal to Provide SWPPP Services (January 19, 2017), our fee for weekly inspection (Task 2C) is $400 per week. Accordingly, we request a budget amendment of $6,800 for 17 additional weeks of inspection. Because the project is not registered with the Regional Water Quality Control Board, we have not budgeted for annual reporting or notice of termination.  

If you agree with the services and fees described above, please contact us regarding the development of a budget amendment. Please contact us if you have any questions about our proposed scope of additional services or the project in general.  

Sincerely,  

HOLDREGE & KULL  

[Signature]  
Jason W. Muir, PE, GE  
Associate Engineer  

copies:  PDF to Mr. Kiser, timk@cityofgrassvalley.com  

F:\11 Projects\4792 Wolf Creek Culvert\4792-02 SWPPP\PN17011 Proposal to Provide SWPPP Services\Request for Budget Amendment\4792-02 Little Wolf Creek Culvert SWPPP Services, Request for Budget Amendment.docx  

(530) 478-1305  •  FAX (530) 478-1019  •  Email: handk@HandK.net  •  792 Searls Avenue  •  Nevada City, CA 95959  •  A California Corporation  

5-4
City of Grass Valley
City Council
Agenda Action Sheet

Council Meeting Date: August 8, 2017  Date Prepared: August 3, 2017

Prepared by: Alex Gammelgard Police Chief, Mark Buttron- Fire Chief

Title: Adoption of ordinances to effect Municipal Code changes to Title 8 (Chapters 8.16 and 8.36) and Title 10 (Chapters 10.60 and 10.80)

Recommended Motion: That Council: 1) review the proposed ordinance to repeal Municipal Code Chapter – 8.16 Fire Control Regulations and 8.36 Weed and rubbish abatement, replace with new Municipal Code Chapter 8.16 Fire Control Regulations. Waive full reading and adopt Urgency Ordinance No. 786; 2) waive full reading and introduce Ordinance No. 787; 3) waive full reading and introduce Ordinance No. 788; 4) Direct staff to further research and issue a request for proposal (RFP) related to parking “meters” in downtown as a mechanism to fund resources adequate to ensure sustainability for enforcement of the above ordinances among others.

Agenda: Administrative

Background Information: Recent fires have highlighted the vulnerability of the community to a fire starting in an unimproved area by a human source. The vulnerability of local business, personal property and lives cannot be understated. Fire is indiscriminate wanting only fuel for its continued growth, weather to assist its movement and topography to influence its progression. Fire does not care if you are living in the unimproved spaces or if you are at home, your risk if in the fire area is equal. The Fire Department seeks to clarify the responsibilities of the property owners when addressing open fire on unimproved parcels and private property, vegetation management and yard debris, and to provide definition to the requirements. An update to Code section 8.16 clarifies previous code sections, definitions, procedures, and prohibitions from several sections into Chapter 8.16 Fire Control Regulations. The update presents the Fire Department an opportunity to mitigate open burning on unimproved parcels or private parcels that do not meet the code requirements as stated in 8.16. This amendment to the municipal code is to be adopted as an urgency ordinance.

Camping, particularly on undeveloped wooded lands, of which the incorporated area of the City has a vast amount, poses a significant risk to the above-mentioned fire hazards. It is common that individuals who camp on property without permission of the owner also build makeshift fire pits and barbecues. A significant number of wildland fire starts are linked to unsafe human-caused camp fires or careless activities associated with camping. In addition to the significant fire risks associated with camping, there are also very serious concerns related to human waste disposal and environmental concerns. It is common the individuals choose to camp near waterways, further jeopardizing environmental health and the health of the community who rely on water resources downstream. The City has the only emergency shelter facility in western Nevada County and has strong partnerships with a number of other service providers. Regulating camping is out of paramount concern for the risk it poses to the entire community, the environment, and also those who are camping. Staff recommends that amendments to Title 10 of the Grass Valley Municipal code as provided in ordinance #788 be adopted as a standard ordinance.

The urgency ordinance may be introduced and adopted at a single meeting, and becomes effective immediately if adopted by a 4/5 vote. The standard ordinance is identical to the urgency ordinance, but does not contain the specific findings of urgency. To make these amendments permanent without needing to
defend urgency findings indefinitely, staff recommends that Council simultaneously consider a standard ordinance, adopted after first and second readings, which will take effect 30 days after adoption. Upon becoming effective, the ordinance will repeal the urgency ordinance. This is the City Attorney’s standard procedure with respect to urgency ordinances that address long-term issues.

**Funds Available:** N/A  
**Account #:** N/A

**Reviewed by:** [Name] City Manager
URGENCY ORDINANCE NO. 786

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF GRASS VALLEY TEMPORARILY
AMENDING CHAPTER 8.16 OF THE GRASS
VALLEY MUNICIPAL CODE REGARDING FIRE
CONTROL REGULATIONS

Be it ordained by the council of the City of Grass Valley:

SECTION 1. CODE AMENDMENT. Chapter 8.16 – Fire Control Regulations, is
hereby amended as set forth in Exhibit A attached to this Ordinance and
incorporated by such reference.

SECTION 2. Urgency Findings. The Council finds that unless it adopts this
ordinance to take urgent action, the Grass Valley Fire Department will lack the
enforcement provisions it requires to protect against severe fire hazards caused
by open burning and the widespread accumulation of combustible and
flammable materials in the City limits. This urgency ordinance is necessary to
immediately preserve the public peace, health, and safety.

SECTION 3. CEQA Findings. As a purely administrative and regulatory action,
this Ordinance will not affect the physical environment. This Ordinance is not a
project within the meaning of California Environmental Quality Act (CEQA)
Guidelines, California Code of Regulations, title 14, section 15378 because it has
no potential to result in physical change in the environment, directly or
indirectly. Additionally and independently, it is exempt from CEQA review
under CEQA Guidelines, California Code of Regulations, title 14, section
15061(b)(3) because it can be seen with certainty that there is no possibility that
the Ordinance may have a significant effect on the environment.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or
portion of this Ordinance or its application to any person or circumstance is for
any reason held to be invalid or unconstitutional by the decision of any court of
competent jurisdiction, such decision shall not affect the validity of the
remaining portions of this Ordinance or its application to other persons and
circumstances. The City Council of the City of Grass Valley hereby declares that
it would have adopted this Ordinance and each section, subsection, sentence,
clause, phrase or portion thereof irrespective of the fact that any one or more
sections, subsections, sentences, clauses, phrases, or portions be declared invalid.
or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 5. Effect of Amendments. It is the intent of the City Council of the City of Grass Valley that the Grass Valley Municipal Code sections affected by this Ordinance shall not be considered repealed and reenacted in their amended form; that the portions which are not altered are to be considered as having been the law from the time when they were enacted; that the new provisions are to be considered as having been enacted at the time of the amendment; and that the omitted portions are to be considered as having been repealed at the time of the amendment.

SECTION 6. Effective Date. This Urgency Ordinance is adopted by 4/5 vote of the City Council and shall be in full force and effect immediately after its adoption pursuant to Article VII, § 2 (c) of the Grass Valley City Charter.

SECTION 7. Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published once in The Union, a newspaper of general circulation printed, published, and circulated within the City.
INTRODUCED and first read at a regular meeting of the city council on the _____ day of ________________, 2017.

FINAL PASSAGE AND ADOPTION by the city council was at a meeting thereof held on the _____ day of ________________, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINING:

__________________________________________
Howard Levine, Mayor

APPROVED AS TO FORM: ATTEST

_________________________ _____________________________
Michael G. Colantuono, City Attorney Kristi K. Bashor, City Clerk
EXHIBIT A

Chapter 8.16. - FIRE CONTROL REGULATIONS

Article I. – California Fire Code Adoption

8.16.100 - Adoption of the California Fire Code.

In order to prescribe regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, that certain code and standards known as California Fire Code (California Code of Regulations, Title 24, Part 9 and Appendix Chapters B, BB, C, CC, D, F, H, I, K, and N based on the 2015 International Fire Code as published by the International Code Council (ICC) and as adopted and amended by the California Building Standards Commission, being particularly the 2016 Edition thereof, and the whole thereof, except as specifically repealed or amended by an ordinance of the city, is adopted and made a part of this code by reference as though set forth in this chapter at length.

8.16.110 - Establishment and duties of bureau of fire prevention.

The California Fire Code shall be enforced by the bureau of fire prevention of the fire department of the city of Grass Valley which is hereby established and which shall be operated under the supervision of the chief of the fire department or an authorized representative.

8.16.120 - Definitions.

1. Whenever the word "jurisdiction" is used in the California Fire Code it means the city of Grass Valley, California.

2. Whenever the words "chief of the bureau of fire prevention" is used they shall be held to mean fire marshal or deputy fire marshal.

8.16.130 - Appeals.

When the chief of the fire department or an authorized representative disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief to the city council of the city
or a board of appeals appointed thereby within thirty days from the date of the decision appealed.

Article II. - Miscellaneous Fire Control Regulations.

8.16.200 - Vegetation Management and Yard Debris Removal.

It shall be the duty of the chief of the fire department or an authorized representative and/or the director of the community development department or an authorized representative to enforce the requirements of the “Vegetation Management and Yard Debris Removal” section(s).


1. Improved Property: Any property with a building or structure.

2. Unimproved Property: Any property without a building or structure.

3. Building or structure: Any structure used for support or shelter of any use or occupancy.

4. APN: Accessor’s Parcel Number as assigned by the County of Nevada.

5. Surface Fuels: Loose surface litter on the soil surface, normally consisting of fallen leaves or needles, twigs, bark, cones, and small branches that have not yet decayed enough to lose their identity; also grasses, low and medium shrubs, tree seedlings, heavier branches and downed logs.

6. Aerial Fuels: All live and dead vegetation above surface fuels, including tree branches, twigs and cones, snags, moss, and high brush. Examples include trees and large bushes.

7. Ladder Fuels: Fuels that can carry a fire vertically between or within a fuel type.

8. Flammable vegetation: Includes, but not limited to, dead pine needles or leaves, dry grasses of over four (4) inches in height, tree limbs, bushes, trees less than six (6) inches diameter at breast height (DBH), manzanita, dense berry thickets or other dry invasive or noxious plants, that constitute a fire hazard and endanger people or property.
9. Combustible Material: Heavy fuels, slash, refuse piles, dead trees or tree limbs (either standing or downed), that constitute a fire hazard and endanger people and/or property.

10. Refuse Piles: Accumulations of flammable vegetation, rubbish and/or scrap materials, including, but not limited to, waste paper, wood, hay, straw, weeds, litter or other flammable waste.

11. Heavy Fuels: Materials of large diameter such as snag logs and large tree limbs that ignite and are consumed more slowly than flash fuels such as tree needles, leaves and grasses.

12. Approved warming device: a portable or fixed, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. It may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top. All devices shall be equipped with spark-arresting screens.

8.16.220 - Abatement procedures.

In order to reduce fire hazards and nuisances associated with weeds, other flammable vegetation, refuse piles, and/or combustible materials upon or in front of private improved or unimproved property, the city council may conduct proceedings pursuant to Chapter 9.28 of this Code. Such proceedings may include requiring abatement of fire hazards throughout the city, entering upon private property and performing abatement where the private property owner does not abate. The cost of such abatement will be assessed upon the nuisance property under Chapter 1.14 of this Code, and such costs will constitute a lien upon the land until paid and will be collected upon the next tax roll upon which real property taxes are collected.

8.16.230 - Duty to Abate Flammable Vegetation and Combustible Material.

It shall be the duty of every owner, occupant, or person in control of any private land, whether improved or unimproved, within the City of Grass Valley, to abate therefrom on such property, at his or her own expense, all weeds, flammable vegetation and other combustible materials that constitute a fire hazard. The obligation to abate all weeds, flammable vegetation and other combustible materials shall comply with the following, shall be completed by June 1 of each year, and shall be maintained through fire season as declared by the California Department of Forestry and Fire Protection (CAL FIRE):
1. Improved or unimproved property less than or equal to 1.00 acre: The entire property shall be mowed/cleared so that weeds are no higher than four (4) inches above mineral soil, the roof of every building and/or structure shall be free of leaves, pine needles, “Flammable Vegetation” as defined in Sec. 8.16.210 and/or “Combustible Materials” as defined in Sec. 8.16.210. No portion of any tree shall be within 10 feet of the outlet of a chimney, stovepipe and/or electrical power service drop. Any plant, tree, or shrub adjacent to or overhanging a building and/or structure shall be free of dead or dying wood. Trees shall be free of branches six (6) feet up from the ground, if height of the tree does not allow the six (6) feet of clearance, the chief of the fire department or an authorized representative will determine appropriate clearance.

2. Improved and/or unimproved property greater than 1.00 acre: As measured from the property line, a 30-foot perimeter surrounding the property shall be mowed or cleared, so that weeds are no higher than four (4) inches above mineral soil, the roof of every building and/or structure shall be free of leaves, pine needles, “Flammable Vegetation” as defined in Sec. 8.16.210 and of “Combustible Materials” as defined in Sec. 8.16.210. No portion of any tree shall be within 10 feet of the outlet of a chimney, stovepipe, and/or electrical power service drop. Any plant, tree, or shrub adjacent to or overhanging a building and/or structure shall be free of dead or dying wood. Trees shall be free of branches six (6) feet up from the ground, if height of the tree does not allow the six (6) feet of clearance, the chief of the fire department or an authorized representative will determine appropriate clearance.
8.16.240 - Emergency vehicle access.

1. No property owner may allow any portion of any vegetation on his or her property to interfere with street and emergency vehicle access, regardless of whether the access is along a public street or along a private residential access road. Vegetation must be trimmed back a minimum distance of three feet from the edge of street pavement. Vegetation must also be trimmed to a minimum height of thirteen feet six inches above street pavement. The chief of the fire department or an authorized representative may provide written notice to the property owner requiring vegetation to be trimmed for a specified additional distance when the fire chief determines the vegetation would otherwise interfere with street or emergency vehicle access. If the property owner fails to maintain these clearance requirements, the city may abate this nuisance without further notice and at the property owner's expense. This subsection shall not apply to cultivated ground-cover such as green grass, ivy, succulents, or similar plants used as ground-covers, provided they do not constitute a fire hazard.

2. Without notice, the chief of the fire department may also summarily abate weeds or hazardous growth on private property that in any way hinders emergency access, and may charge the property owner for the costs of the abatement.

8.16.250 - City abatement of hazardous vegetation or yard debris condition(s) – Lien.

Hazardous vegetation or yard debris shall be abated under Chapters 1.10 and 1.11 of this Code, and costs of abatement may be recovered under Chapter 1.14 of this Code.

Article III. - Prohibitions.

8.16.300 – Open Burning.

It shall be unlawful for any person to ignite, permit, or maintain an open fire within the city limits of the City of Grass Valley.
This prohibition is not intended to prohibit fires in approved warming devices or devices used for cooking such as barbeques that are located on property that the individual using such device has legal authority to occupy.

8.16.310 – Authorized Burning.

1. Training Burns. Fire department training burns may be permitted with the prior written approval of the chief of the fire department and Northern Sierra Air Quality Management District.

2. Special Permits. The chief of the fire department may issue special permits to authorize burning for the health and safety of the public.

3. Special Permit. The chief of the fire department or an authorized representative may issue special permits to authorize burning for ceremonial purposes.

4. Burning may be permitted in improved designated areas, including, but not limited to, City-provided fire pits or barbeques in parks and other public areas.

8.16.320 – Fire Protection Requirements.

In order to provide and maintain fire protection during the use of approved warming devices or during authorized special permit burning, the following shall be required:

1. During use/operation an area within 10 feet of the device shall be free and clear of flammable vegetation, combustible materials and/or refuse piles, as defined in 8.16.210.

2. Responsible person, 18 years of age or older, in attendance with shovel until fire is dead out.

3. Water hose connected to an operational water supply shall present at use/operation site.

4. Operation site shall be within two hundred fifty (250) feet of an operational fire hydrant.

5. Operation site shall be within 150 feet of a California Fire Code compliant fire access road.
8.16.330 – Exception. – Special permit ceremonial operations.

Special permit ceremonial operations only: If an operational water supply is not present the chief of the fire department or an authorized representative will determine an appropriate alternative method of fire protection.

Article IV. - Fireworks.

8.16.400 – Fireworks Prohibited.

Every person, firm, or corporation is prohibited from using, selling, discharging, or possessing any fireworks as defined in Section 12511 of the Health and Safety Code of the State of California within the city limits Grass Valley.

8.16.410 – Exceptions.

This article shall not apply to:

1. Pyrotechnic operators licensed by the State of California engaged in the preparations for, or performance of, a public fireworks display, providing that the operator possess any applicable city permits regulating the use, discharge or possession of fireworks, or

2. The use of exempt fireworks, as defined by Section 12508 of the Health and Safety Code of the State of California, when authorized by a permit(s) issued by the chief of the fire department or an authorized representative, or

3. Party poppers and snap caps as defined in accordance with Section 980 of Title 19, California Code of Regulations, Division 1, Chapter 6.

Article IV. – Violations – Penalty.

8.16.500 – Penalty.

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor punishable under Chapter 1.12 of this Code. Each separate day or any portion thereof during which any violation occurs or continues is a separate offense. The application of the aforementioned penalty shall not be held to prevent the enforced removal of the prohibited conditions.
ORDINANCE NO. ___787________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY AMENDING CHAPTER 8.16 OF THE GRASS VALLEY MUNICIPAL CODE REGARDING FIRE CONTROL REGULATIONS

Be it ordained by the council of the City of Grass Valley:

SECTION 1. CODE AMENDMENT. Chapter 8.16 – Fire Control Regulations, is hereby amended as set forth in Exhibit A attached to this Ordinance and incorporated by such reference.

SECTION 2. CEQA Findings. As a purely administrative and regulatory action, this Ordinance will not affect the physical environment. This Ordinance is not a project within the meaning of California Environmental Quality Act (CEQA) Guidelines, California Code of Regulations, title 14, section 15378 because it has no potential to result in physical change in the environment, directly or indirectly. Additionally and independently, it is exempt from CEQA review under CEQA Guidelines, California Code of Regulations, title 14, section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The City Council of the City of Grass Valley hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 4. Effect of Amendments. It is the intent of the City Council of the City of Grass Valley that the Grass Valley Municipal Code sections affected by this Ordinance shall not be considered repealed and reenacted in their amended form; that the portions which are not altered are to be considered as having been
the law from the time when they were enacted; that the new provisions are to be considered as having been enacted at the time of the amendment; and that the omitted portions are to be considered as having been repealed at the time of the amendment.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its adoption pursuant to Article VII, § 2 of the Grass Valley City Charter.

SECTION 6. Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published once in The Union, a newspaper of general circulation printed, published, and circulated within the City.

INTRODUCED and first read at a regular meeting of the city council on the _____ day of ________________, 2017.

FINAL PASSAGE AND ADOPTION by the city council was at a meeting thereof held on the _____ day of ________________, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINING:

____________________________________
Howard Levine, Mayor

APPROVED AS TO FORM: ATTEST

____________________________________
Michael G. Colantuono, City Attorney

____________________________________
Kristi K. Bashor, City Clerk
EXHIBIT A

Chapter 8.16. - FIRE CONTROL REGULATIONS

Article I. – California Fire Code Adoption

8.16.100 - Adoption of the California Fire Code.

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8.16.110 - Establishment and duties of bureau of fire prevention.

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or a board of appeals appointed thereby within thirty days from the date of the decision appealed.

Article II. - Miscellaneous Fire Control Regulations.

8.16.200 - Vegetation Management and Yard Debris Removal.

It shall be the duty of the chief of the fire department or an authorized representative and/or the director of the community development department or an authorized representative to enforce the requirements of the "Vegetation Management and Yard Debris Removal" section(s).


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2. Unimproved Property: Any property without a building or structure.

3. Building or structure: Any structure used for support or shelter of any use or occupancy.

4. APN: Accessor’s Parcel Number as assigned by the County of Nevada.

5. Surface Fuels: Loose surface litter on the soil surface, normally consisting of fallen leaves or needles, twigs, bark, cones, and small branches that have not yet decayed enough to lose their identity; also grasses, low and medium shrubs, tree seedlings, heavier branches and downed logs.

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9. Combustible Material: Heavy fuels, slash, refuse piles, dead trees or tree limbs (either standing or downed), that constitute a fire hazard and endanger people and/or property.

10. Refuse Piles: Accumulations of flammable vegetation, rubbish and/or scrap materials, including, but not limited to, waste paper, wood, hay, straw, weeds, litter or other flammable waste.

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12. Approved warming device: a portable or fixed, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. It may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top. All devices shall be equipped with spark-arresting screens.

8.16.220 - Abatement procedures.

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8.16.230 - Duty to Abate Flammable Vegetation and Combustible Material.

It shall be the duty of every owner, occupant, or person in control of any private land, whether improved or unimproved, within the City of Grass Valley, to abate therefrom on such property, at his or her own expense, all weeds, flammable vegetation and other combustible materials that constitute a fire hazard. The obligation to abate all weeds, flammable vegetation and other combustible materials shall comply with the following, shall be completed by June 1 of each year, and shall be maintained through fire season as declared by the California Department of Forestry and Fire Protection (CAL FIRE):
1. Improved or unimproved property less than or equal to 1.00 acre: The entire property shall be mowed/cleared so that weeds are no higher than four (4) inches above mineral soil, the roof of every building and/or structure shall be free of leaves, pine needles, “Flammable Vegetation” as defined in Sec. 8.16.210 and/or “Combustible Materials” as defined in Sec. 8.16.210. No portion of any tree shall be within 10 feet of the outlet of a chimney, stovepipe and/or electrical power service drop. Any plant, tree, or shrub adjacent to or overhanging a building and/or structure shall be free of dead or dying wood. Trees shall be free of branches six (6) feet up from the ground, if height of the tree does not allow the six (6) feet of clearance, the chief of the fire department or an authorized representative will determine appropriate clearance.

2. Improved and/or unimproved property greater than 1.00 acre: As measured from the property line, a 30-foot perimeter surrounding the property shall be mowed or cleared, so that weeds are no higher than four (4) inches above mineral soil, the roof of every building and/or structure shall be free of leaves, pine needles, “Flammable Vegetation” as defined in Sec. 8.16.210 and of “Combustible Materials” as defined in Sec. 8.16.210. No portion of any tree shall be within 10 feet of the outlet of a chimney, stovepipe, and/or electrical power service drop. Any plant, tree, or shrub adjacent to or overhanging a building and/or structure shall be free of dead or dying wood. Trees shall be free of branches six (6) feet up from the ground, if height of the tree does not allow the six (6) feet of clearance, the chief of the fire department or an authorized representative will determine appropriate clearance.
8.16.240 - Emergency vehicle access.

1. No property owner may allow any portion of any vegetation on his or her property to interfere with street and emergency vehicle access, regardless of whether the access is along a public street or along a private residential access road. Vegetation must be trimmed back a minimum distance of three feet from the edge of street pavement. Vegetation must also be trimmed to a minimum height of thirteen feet six inches above street pavement. The chief of the fire department or an authorized representative may provide written notice to the property owner requiring vegetation to be trimmed for a specified additional distance when the fire chief determines the vegetation would otherwise interfere with street or emergency vehicle access. If the property owner fails to maintain these clearance requirements, the city may abate this nuisance without further notice and at the property owner’s expense. This subsection shall not apply to cultivated ground-cover such as green grass, ivy, succulents, or similar plants used as ground-covers, provided they do not constitute a fire hazard.

2. Without notice, the chief of the fire department may also summarily abate weeds or hazardous growth on private property that in any way hinders emergency access, and may charge the property owner for the costs of the abatement.

8.16.250 - City abatement of hazardous vegetation or yard debris condition(s) – Lien.

Hazardous vegetation or yard debris shall be abated under Chapters 1.10 and 1.11 of this Code, and costs of abatement may be recovered under Chapter 1.14 of this Code.

Article III. - Prohibitions.

8.16.300 – Open Burning.

It shall be unlawful for any person to ignite, permit, or maintain an open fire within the city limits of the City of Grass Valley.
This prohibition is not intended to prohibit fires in approved warming devices or devices used for cooking such as barbeques that are located on property that the individual using such device has legal authority to occupy.

8.16.310 – Authorized Burning.

1. Training Burns. Fire department training burns may be permitted with the prior written approval of the chief of the fire department and Northern Sierra Air Quality Management District.

2. Special Permits. The chief of the fire department may issue special permits to authorize burning for the health and safety of the public.

3. Special Permit. The chief of the fire department or an authorized representative may issue special permits to authorize burning for ceremonial purposes.

4. Burning may be permitted in improved designated areas, including, but not limited to, City-provided fire pits or barbeques in parks and other public areas.

8.16.320 – Fire Protection Requirements.

In order to provide and maintain fire protection during the use of approved warming devices or during authorized special permit burning, the following shall be required:

1. During use/operation an area within 10 feet of the device shall be free and clear of flammable vegetation, combustible materials and/or refuse piles, as defined in 8.16.210.

2. Responsible person, 18 years of age or older, in attendance with shovel until fire is dead out.

3. Water hose connected to an operational water supply shall present at use/operation site.

4. Operation site shall be within two hundred fifty (250) feet of an operational fire hydrant.

5. Operation site shall be within 150 feet of a California Fire Code compliant fire access road.
8.16.330 – Exception. – Special permit ceremonial operations.

Special permit ceremonial operations only: If an operational water supply is not present the chief of the fire department or an authorized representative will determine an appropriate alternative method of fire protection.

Article IV. - Fireworks.

8.16.400 – Fireworks Prohibited.

Every person, firm, or corporation is prohibited from using, selling, discharging, or possessing any fireworks as defined in Section 12511 of the Health and Safety Code of the State of California within the city limits Grass Valley.

8.16.410 – Exceptions.

This article shall not apply to:

1. Pyrotechnic operators licensed by the State of California engaged in the preparations for, or performance of, a public fireworks display, providing that the operator possess any applicable city permits regulating the use, discharge or possession of fireworks, or

2. The use of exempt fireworks, as defined by Section 12508 of the Health and Safety Code of the State of California, when authorized by a permit(s) issued by the chief of the fire department or an authorized representative, or

3. Party poppers and snap caps as defined in accordance with Section 980 of Title 19, California Code of Regulations, Division 1, Chapter 6.

Article V. – Violations – Penalty.

8.16.500 – Penalty.

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor punishable under Chapter 1.12 of this Code. Each separate day or any portion thereof during which any violation occurs or continues is a separate offense. The application of the aforementioned penalty shall not be held to prevent the enforced removal of the prohibited conditions.
ORDINANCE NO. 788

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY AMENDING SECTIONS 10.60.010, 10.60.020, 10.60.030, AND 10.80.010, AND ADDING SECTIONS 10.60.040 AND 10.60.050 OF THE GRASS VALLEY MUNICIPAL CODE REGARDING CAMPING AND USE OF AUTOMOBILES, CAMPERS, AND TRAILERS FOR HUMAN HABITATION ON PUBLIC AND PRIVATE PROPERTY

WHEREAS, the California Supreme Court in Tobe v. City of Santa Ana (1995) 9 Cal.4th 1069 upheld as constitutional an ordinance prohibiting camping, occupying camp facilities, and using camp paraphernalia in public parking lots and public areas including public parks; and

WHEREAS, it is the intent of the City Council by this Ordinance to maintain streets, parks and other public and private areas within the City in a clean, sanitary and accessible condition and to adequately protect the health, safety and public welfare of the community; and

WHEREAS, it is the intent of the City Council by this Ordinance to regulate conduct and not the status of persons.

Be it ordained by the council of the City of Grass Valley as follows:

SECTION 1. CODE AMENDMENT. Section 10.60.010, Section 10.60.020, and Section 10.60.030, of Chapter 10.60 and Section 10.80.010 of Chapter 10.80 of Title 10 of the Grass Valley Municipal Code are hereby amended to read as follows:

10.60.010 – Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

"Camp" means to place, pitch or occupy a camp facility; and/or to use camp paraphernalia.

"Camper" means a structure designed to be mounted upon a motor vehicle and to provide facilities for human habitation or camping purposes.
“Camp facility” means a tent, hut, and/or temporary shelter.

“Camp paraphernalia” means bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks, and/or similar equipment.

"Director of public works" means the department head of the public works department appointed by the city.

"House car" means a motor vehicle originally designed or permanently or temporarily altered and equipped for human habitation or to which a camper has been permanently or temporarily attached.

"Human habitation" means the intentional establishment of a temporary or permanent place of human occupancy for purposes of overnight lodging or camping.

"Mobile home" means a structure as defined in Section 18008 of the Health and Safety Code of the State.

"Persons" mean persons, organizations, associations, partnerships, firms and corporations.

"Public Property" means any public property, either improved or unimproved, including, but not limited to, any park, street, sidewalk, avenue, alley, or other public way or right-of-way, and public parking lots

"Private property" means all private property including, but not limited to, streets, sidewalks, alleys, parking lots, and improved or unimproved land.

"Recreational vehicle" means a motor home, trailer, camper or similar structure as defined in Section 18010 of the Health and Safety Code of the state.

"Store" means to put aside or accumulate for use when needed; to put for safekeeping; to place or leave in a location.

"Street" means any public highway, road, street, avenue, way, alley, easement or right-of-way.

"Trailer" or "trailer coach" means a structure designed to be drawn by a motor vehicle for human habitation or human occupancy and for carrying persons or property on its own structure.
10.60.020 – Unlawful camping.

No person shall camp, use, occupy, or permit the use or occupancy of any automobile, truck, camper, house car, mobile home, recreational vehicle, trailer, trailer coach or similar conveyance for human habitation in the following areas within the City:

A. Any public property; or
B. Any private property.

1. It is not intended by this section to prohibit overnight camping on private residential property by friends or family of the property owner, so long as the owner consents and the overnight camping is limited to not more than three consecutive nights.

2. Nothing in this chapter is intended to prohibit or make unlawful, activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes; and provided further, nothing is intended to prohibit or make unlawful, activities of a property owner or other lawful user if such activities are expressly authorized by the Planning and Development Code or other laws, ordinances and regulations.

3. The city manager or his or her designee may issue a temporary permit to allow camping on public or private property in connection with a special event pursuant to Chapter 5.32 of this code.

10.60.030 – Storage of personal property on public and private property.

It shall be unlawful for any person to store personal property, including camp paraphernalia, in the following areas, except as otherwise provided by resolution of the City Council:

A. Any public property; or
B. Any private property without the consent of the owner.

10.80.010 – Violations—Penalties.

Other than as specified in section 10.60.050, whenever in this title any act is prohibited, or is made or declared to be unlawful, or an offense, or the doing of any act or the failure to do any act is declared to be unlawful, the violation thereof shall be an infraction as defined in Sections 19.6 – 19.8 of the California Penal Code. The
punishment for a violation shall be a fine not to exceed the amounts specified by Government Code Section 36900 as then in effect. Every day any violation of any provision of this title continues constitutes a separate offense.

SECTION 2. CODE ADDITION. Sections 10.60.040 and 10.60.050 of Chapter 10.60 of Title 10 of the Grass Valley Municipal Code are hereby added to read as follows:

10.60.040 - Exception.

A. The director of public works, by written permit, may allow the temporary use or occupancy of a camper, house car, mobile home, recreational vehicle or trailer coach on or in any public property when he or she finds that such use is necessary for the operation and protection of City property. The director of public works shall transmit a copy of all such permits to the police department for its information.

B. The permission granted by the director of public works may be revoked upon five days' written notice to the permittee.

10.60.050 – Violations—Penalties.

Any person who violates any provision of this chapter is guilty of a misdemeanor punishable as provided in chapter 1.12 of this Code. In addition to the remedies set forth in Penal Code Section 370, the city attorney may institute civil actions to abate a public nuisance under this chapter.

SECTION 3. CEQA Findings. This Ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential to result in physical change in the environment, directly or indirectly. In the event this Ordinance is found to be a project under CEQA, it is exempt under CEQA Guideline 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The City Council of the City of Grass Valley hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared
invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 5. Effect of Amendments. It is the intent of the City Council of the City of Grass Valley that the Grass Valley Municipal Code sections affected by this Ordinance shall not be considered repealed and reenacted in their amended form; that the portions which are not altered are to be considered as having been the law from the time when they were enacted; that the new provisions are to be considered as having been enacted at the time of the amendment; and that the omitted portions are to be considered as having been repealed at the time of the amendment.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect 30 days after its adoption pursuant to Article VII, § 2 of the Grass Valley City Charter.

SECTION 7. Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published once in The Union, a newspaper of general circulation printed, published, and circulated within the City.

INTRODUCED and first read at a regular meeting of the City Council on the _____ day of ________________, 2017.

FINAL PASSAGE AND ADOPTION by the City Council was at a meeting thereof held on the _____ day of ________________, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINING:

__________________________________________
Howard Levine, Mayor

APPROVED AS TO FORM: ATTEST:

__________________________________________
Michael G. Colantuono, City Attorney

__________________________________________
Kristi K. Bashor, City Clerk
City of Grass Valley  
City Council  
Agenda Action Sheet

Council Meeting Date: August 8, 2017  
Date Prepared: July 28, 2017

Prepared by: Andy Heath, Finance Director

Title: Adoption of a Resolution of Intention to Approve an Amendment to the Contract between the Board of Administration of the California Employees’ Retirement System (CalPERS) and the City Council of the City of Grass Valley and Introduce and Waive the full reading, by substitution of title only, an Ordinance of the City Council of the City of Grass Valley to Amend the Contract between the City of Grass Valley and the Board of Administration of CalPERS

Agenda: Administrative

Recommended Motions: Adoption of a Resolution of Intention giving notice of the City’s intention to amend the contract between the City Council of the City of Grass Valley and the Board of Administration of CalPERS as allowed in Section 20516 of the Public Employees’ Retirement Law (Employees Sharing Additional Cost) of 3.0% for classic local police members in the Grass Valley Police Officers Association, as outlined in a Side Letter to the Memorandum of Understanding (MOU) between the City and the Grass Valley Police Officers Association (Unit #6) for the 3-year period of July 1, 2015 through June 30, 2018.

Additionally, introduce and waive the full reading, by substitution of title only, an ordinance authorizing an amendment to the contract between the City Council of the City of Grass Valley and the Board of Administration of CalPERS.

Background Information: On September 8, 2015, the City Council approved the Grass Valley Police Officers Association (Unit #6) (hereafter, “GVPOA”) MOU for the 3-year period of July 1, 2015 through June 30, 2018.

Pursuant to Section D (Classic Member Retirement Contribution) of Article 8 (Retirement Benefits) of the MOU approved by the City Council on September 8, 2015, as revised in a subsequent Side Letter Agreement:

The employee shall pay 100% of the member contribution, 9% of salary. Effective the first full pay period following July 1, 2017 employee shall pay an additional 3% “cost share” amount toward pension contribution pursuant to Government Code Section 20516(f). Total Classic Employee pension contribution shall be 12% of salary.

Consequently, staff requests the Council’s adoption of a Resolution of Intention giving notice of the City’s intention to amend the contract between the City Council of the City of Grass Valley and the Board of Administration of CalPERS as allowed in Section 20516 of the Public

Agenda Item # 7-1
Employees’ Retirement Law (Employees Sharing Additional Cost) of 3.0% for classic local police members in the Grass Valley Police Officers Association. Staff is also requesting that Council introduce and waive the full reading, by substitution of title only, an ordinance of the City Council of the City of Grass Valley to amend the contract between the City of Grass Valley and the Board of Administration of CalPERS in the manner described above.

Per the CalPERS contract amendment process, pending the results of Classic local police members election (the City must obtain a majority “yes” vote in order to receive approval from CalPERS), City staff will return for final adoption of the ordinance no earlier than September 12, 2017 (Govt. Code Sec. 20471 requires a minimum of 20 days between the adoption of the Resolution of Intention and the adoption of the final Ordinance.)

**Fiscal Impact:** This amendment results in estimated savings to the General Fund of $31,100 in fiscal year 2017-18. The savings will partially fund salary increases of 3.0% (effective July 1, 2017) negotiated as part of the above-mentioned MOU. The total contributions (employer + employee) due to CalPERS do not change as a result of this amendment, nor does this amendment reflect a change in employee retirement benefits which would result in additional future cost.

**Reviewed by:**

City Manager

**Attachments:**

Resolution 2017-52: Resolution of Intention of the City Council of the City of Grass Valley Stating Intent to Approve an Amendment to Contract Between the Board of Administration of CalPERS and the City Council of the City of Grass Valley.

Ordinance No. 785 An Ordinance of the City Council of the City of Grass Valley Authorizing an Amendment to the Contract Between the City Council of the City of Grass Valley and the Board of Administration of CalPERS

Exhibit Amendment to Contract to Provide Govt. Code Sec. 20516 (Employees Sharing Additional Cost) of 3.0% for Classic Local Police Members in the Grass Valley Police Officers Association.
RESOLUTION 2017-52

RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM AND THE CITY COUNCIL OF THE CITY OF GRASS VALLEY

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20516 (Employees Sharing Additional Cost) of 3.0% for classic local police members in the Grass Valley Police Officers Association.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

The City Clerk shall certify to the passage and adopt of this Resolution and enter it in the book of original Resolutions.

PASSED AND ADOPTED by the following vote on ________, 2017

AYES: __________________________

NOES: __________________________

ABSENT: _________________________

ABSTAIN: _________________________

________________________________
Howard Levine, Mayor

7-3
ATTEST:

Kristi K. Bashor, City Clerk

APPROVED AS TO FORM:

Michael G. Colantuono, City Attorney
ORDINANCE NO. 785


NOW, THEREFORE, be it ordained by the Council of the City of Grass Valley:

Section 1: Contract Amendment

That an amendment to the contract between the City Council of the City of Grass Valley and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made a part hereof as though herein set out in full.

Section 2: Execution Authority

The Mayor of the City Council of the City of Grass Valley is hereby authorized, empowered and directed to execute said amendment for and on behalf of the Agency.

Section 3: Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The City Council of the City of Grass Valley hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

Section 4: Effective Date

This Chapter shall be effective thirty (30) days after adoption as provided by Article VII, § 2 of the City Charter.
Section 5: Publication

The City Clerk shall certify to the passage and adoption of this Chapter and shall cause it to be published as required by Article VII, § 1 of the City Charter.

INTRODUCED and first read at a regular meeting of the City Council on the ______ day of __________, 2017.

FINAL PASSAGE AND ADOPTION by the City Council of the City of Grass Valley was at a meeting thereof held on the ______ day of __________, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

____________________________________
Howard Levine, Mayor

APPROVED AS TO FORM:

____________________________________
Michael G. Colantuono, City Attorney

ATTEST:

____________________________________
Kristi K. Bashor, City Clerk
California Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Grass Valley


A. Paragraphs 1 through 19 are hereby stricken from said contract as executed effective August 14, 2016, and hereby replaced by the following paragraphs numbered 1 through 19 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members; age 62 for new local miscellaneous members, age 50 for classic local police members entering membership in the police classification on or prior to July 24, 2011, age 55 for classic local police members entering membership for the first time in the police classification after July 24, 2011, age 55 for classic local fire members and age 57 for new local safety members.
2. Public Agency shall participate in the Public Employees' Retirement System from and after May 1, 1965 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:

(a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.

(b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.

(c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.

4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

a. Local Fire Fighters (herein referred to as local safety members);

b. Local Police Officers (herein referred to as local safety members);

c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

**NO ADDITIONAL EXCLUSIONS**

6. Prior to January 1, 1975, those members who were hired by Public Agency on a temporary and/or seasonal basis not to exceed 6 months were excluded from PERS membership by contract. Government Code Section 20336 superseded this contract provision by providing that any such temporary and/or seasonal employees are excluded from PERS membership subsequent to January 1, 1975. Legislation repealed and replaced said Section with Government Code Section 20305 effective July 1, 1994.

7. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment before and not on or after June 29, 2008 shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified and Full).

8. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local miscellaneous member in employment on or after June 29, 2008 shall be determined in accordance with Section 21354.4 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2.5% at age 55 Modified and Full).

9. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Supplemental to Federal Social Security).

10. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local fire member shall be determined in accordance with Section 21363.1 of said Retirement Law subject to the reduction provided therein for Federal Social Security (3% at age 55 Modified).

11. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local police member entering membership in the police classification on or prior to July 24, 2011 shall be determined in accordance with Section 21362.2 of said Retirement Law subject to the reduction provided therein for Federal Social Security (3% at age 50 Modified).
12. The percentage of final compensation to be provided for each year of
credited current service as a classic local police member entering
membership for the first time with this agency in the police classification
after July 24, 2011 shall be determined in accordance with Section
21363.1 of said Retirement Law subject to the reduction provided therein
for Federal Social Security (3% at age 55 Modified).

13. The percentage of final compensation to be provided for each year of
credited prior and current service as a new local safety member shall be
determined in accordance with Section 7522.25(d) of said Retirement Law
(2.7% at age 57 Supplemental to Federal Social Security).

14. Public Agency elected and elects to be subject to the following optional
provisions:

a. Section 20425 ("Local Police Officer" shall include employees of a
   police department who were employed to perform identification or
   communication duties on August 4, 1972 and who elected to be
   local safety members).

b. Section 20042 (One-Year Final Compensation) for classic
   members only.

c. Section 21024 (Military Service Credit as Public Service).

d. Section 20903 (Two Years Additional Service Credit).

e. Section 20475 (Different Level of Benefits): Section 21363.1 (3% @
   55 Modified formula) is applicable to classic local police
   members entering membership for the first time with this agency in
   the police classification after 7/24/2011.

f. Section 20516 (Employees Sharing Additional Cost):

   From and after April 24, 2016 and until August 14, 2016 1.5% for
   classic local fire members in the Grass Valley Career Firefighters
   IAFF Local 3800.

   From and after August 14, 2016, 3% for classic local fire members
   in the Grass Valley Career Firefighters IAFF Local 3800.

   From and after the effective date of this amendment to contract, 3%
   for classic local police members in the Grass Valley Police Officers’
   Association.
The portion of the employer's contribution that the member agrees to contribute from his or her compensation, over and above the member's normal contribution ("Cost Sharing Percentage"), shall not exceed the Employer Normal Cost Rate, as that rate is defined in the CalPERS Actuarial Valuation for the relevant fiscal year. If the Cost Sharing Percentage will exceed the relevant Employer Normal Cost Rate, the Cost Sharing Percentage shall automatically be reduced to an amount equal to, and not to exceed, the Employer Normal Cost Rate for the relevant fiscal year.

15. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on May 1, 1975. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.

16. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.

17. Public Agency shall also contribute to said Retirement System as follows:

a. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

b. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

18. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
19. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

This amendment shall be effective on the _____ day of ____________________.

BOARD OF ADMINISTRATION  CITY COUNCIL
PUBLIC EMPLOYEES' RETIREMENT SYSTEM CITY OF GRASS VALLEY

BY ____________________________ BY ____________________________
RENEE OSTRANDER, CHIEF PRESIDING OFFICER
EMPLOYER ACCOUNT MANAGEMENT DIVISION PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Witness Date

Attest:

______________________________
Clerk

AmENDMENT CaIPERS ID #0047740021
PERS-CON-702A

7-12
City of Grass Valley
City Council
Agenda Action Sheet

Council Meeting Date: August 8, 2017          Date Prepared: July 20, 2017

Prepared by: Andy Heath, Finance Director

Title: Vehicle Lease Program

Recommended Motion: By Motion, authorize the execution of a Master Equity Lease Agreement and related Maintenance Agreement with Enterprise Fleet Management, Inc. upon final review by the City Attorney.

Agenda: Administrative

Background Information: The City currently owns and maintains more than 60 vehicles used by City departments to provide services to the community daily. The average age of these vehicles is approximately nine (9) years and many of the vehicles frequently used are approaching or well beyond their useful lives. As a result, there are many vehicles that need to be replaced to assure the City’s fleet remains safe and efficient, while mitigating repair and maintenance costs which have averaged approximately $114,000 annually over the last seven years.

Staff has analyzed and identified 11 vehicles (new and replacement) needed for the current fiscal year, many of which have been authorized for purchase as part of the FY 2017-18 Adopted Budget:

<table>
<thead>
<tr>
<th>Department</th>
<th>Vehicles</th>
<th>Budgetary Funding Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire</td>
<td>(2) Utility Vehicles; (1) Squad Vehicle</td>
<td>- Measure N</td>
</tr>
<tr>
<td>Police</td>
<td>(2) Unmarked Vehicles; (1) Patrol Vehicle</td>
<td>- Measure N</td>
</tr>
<tr>
<td>Public Works</td>
<td>(1) Street Sweeper</td>
<td>- General / Others – TBD</td>
</tr>
<tr>
<td></td>
<td>(1) Bucket Truck</td>
<td>- General / Others – TBD</td>
</tr>
<tr>
<td></td>
<td>(3) Utility Trucks</td>
<td>- TBD</td>
</tr>
</tbody>
</table>

Discussion: As a means to assure the City maintains a safe, reliable service fleet while at the same time remains fiscally prudent as new and replacement vehicles are purchased, staff has been working with Enterprise Fleet Management, Inc. (EFM) to determine the viability of the City entering into a vehicle leasing program. EFM provides fleet services to approximately 111 governmental organizations in California and has provided a qualified public bid through The Interlocal Purchasing System (TIPS) purchasing cooperative, which the City may join pursuant to Grass Valley Municipal Code Section 3.08.170.
At this time, staff is recommending the City conduct a “pilot process” to determine how a leasing program may better serve the City with long-term vehicle needs. The pilot process will involve the recommended procurement of seven replacement vehicles using the EFM Leasing Program, the effectiveness and efficiency of which will be measured and reported back to the City Council at the end of the initial year of the program. Advantages of using a vehicle leasing program include the following:

- Maximizes cash flow opportunities by creating an ongoing level annual payment for fleet vehicles versus having to fund the entire cost of a vehicle up front – freeing up funding for heavier equipment not typically leased;
- Increases employee safety by enabling the City to replace outdated vehicles sooner rather than later, consistent with vehicle replacement best practices; and
- Reduces vehicle-related costs with the ability to phase-in a more modern, fuel-efficient fleet more expeditiously while reducing maintenance costs.

Lease cycles for most vehicles are typically 60 months. Utilizing this bid to establish a vehicle lease program with EFM will provide a consistent preventive maintenance cycle and substantially reduce repair expenses and potential downtime. The proposed lease for these vehicles will be an “Open Ended (Equity)” Lease which at the end of the lease cycle, the City will have the option to continue using the vehicle in the citywide fleet (a $375 service charge will be due at the end of the lease for each vehicle) or can exchange the equity in the vehicle for a new replacement vehicle in a renewed lease (likely at a lower cost due to equity transfer). EFM will also provide a “Full Maintenance Program” for all leased vehicles with the exception of the one patrol vehicle for the Police Department for a low fixed monthly fee. The Full Maintenance Program will include all necessary vehicle maintenance and 24-hour roadside assistance (does not cover tires and brakes), which can be outsourced using local vendors.

Fleet Planning Analysis
Given the City currently has a need to purchase / replace eleven (11) vehicles, staff is recommending the EFM Lease Program be initially used for seven (7) replacement vehicles as follows:

Fire Department - 1 Utility Vehicle (Ford F-350)
Police Department - 2 Unmarked Vehicles / 1 Patrol Vehicle (all Chevrolet Tahoe’s)
Public Works - 3 Utility Vehicles (all Ford F-350’s)

Based on preliminary quotes received, the total annual cost to lease the seven vehicles noted above (including maintenance and lease finance charges) is expected to be approximately $67,000. Base costs for the vehicles considered are in line with what the City would typically pay in an outright purchase. Base vehicle costs plus an approximate 5.05% lease financing charge are amortized over the term of the lease; with sales tax, a 0.10% management fee and applicable maintenance plan costs being added to determine the monthly costs for each vehicle. Vehicle leasing costs will be budgeted annually on an ongoing basis from the appropriate
funding source (i.e. Measure N, Sewer / Water Enterprise, General Fund), eliminating the need to budget significant amounts of one-time funding for as-needed vehicle replacement needs.

This process enables the City to maintain the safest, most efficient fleet at an ongoing, level cost over time.

**Fiscal Impact:** Funding for the Fire and Police Departments’ vehicle replacements has been appropriated in the Measure N Fund (Fund 105) in the FY 2017-18 Adopted Budget. Funding for the Public Works vehicle replacements is available in the Vehicle Replacement Fund (Fund 310) and is recommended to be appropriated accordingly. It is anticipated that annual costs of approximately $39,000 and $28,000 will be incurred in the Measure N Fund and Vehicle Replacement Fund, respectively.

Once vehicle leasing costs are finalized, staff will prepare a recommended budget revision to be considered with the Mid-Year Budget Review to appropriate the applicable share of Public Works vehicle costs from both the Water and Sewer Enterprise Funds.

**Reviewed by:**

___ Interim City Manager

**Attachments:**

1. Master Equity Lease Agreement – Enterprise Fleet Management Trust
MASTER EQUITY LEASE AGREEMENT

This Master Equity Lease Agreement is entered into this thirteenth day of June, 2017, by and between Enterprise FM Trust, a Delaware statutory trust ("Lessor"), and the lessee whose name and address is set forth on the signature page below ("Lessee").

1. LEASE OF VEHICLES: Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the vehicles (individually, a "Vehicle" and collectively, the "Vehicles") described in the schedules from time to time delivered by Lessor to Lessee as set forth below ("Schedule(s)") for the rentals and on the terms set forth in this Agreement and in the applicable Schedule. References to this "Agreement" shall include this Master Equity Lease Agreement and the various Schedules and addenda to this Master Equity Lease Agreement. Lessor will, or on or about the date of delivery of each Vehicle to Lessee, send Lessee a Schedule covering the Vehicle, which will include, among other things, a description of the Vehicle, the lease term and the monthly rental and other payments due with respect to the Vehicle. The terms contained in each such Schedule will be binding on Lessee unless Lessee objects in writing to such Schedule within ten (10) days after the date of delivery of the Vehicle covered by such Schedule. Lessor is the sole legal owner of each Vehicle. This Agreement is a lease only and Lessee will have no right, title or interest in or to the Vehicles except for the use of the Vehicles as described in this Agreement. This Agreement shall be treated as a true lease for federal and applicable state income tax purposes with Lessor having all benefits of ownership of the Vehicles. It is understood and agreed that Enterprise Fleet Management, Inc. or an affiliate thereof (together with any subservicer, agent, successor or assign as servicer on behalf of Lessor, "Servicer") may administer this Agreement on behalf of Lessor and may perform the service functions herein provided to be performed by Lessor.

2. TERM: The term of this Agreement ("Term") for each Vehicle begins on the date such Vehicle is delivered to Lessee (the "Delivery Date") and, unless terminated earlier in accordance with the terms of this Agreement, continues for the "Lease Term" as described in the applicable Schedule.

3. RENT AND OTHER CHARGES:
   (a) Lessee agrees to pay Lessor monthly rental and other payments according to the Schedules and this Agreement. The monthly payments will be in the amount listed as the "Total Monthly Rental Including Additional Services" on the applicable Schedule (with any portion of such amount identified as a charge for maintenance services under Section 4 of the applicable Schedule being payable to Lessor as agent for Enterprise Fleet Management, Inc.) and will be due and payable in advance on the first day of each month. If a Vehicle is delivered to Lessee on any day other than the first day of a month, monthly rental payments will begin on the first day of the next month. In addition to the monthly rental payments, Lessee agrees to pay Lessor a pro-rated rental charge for the number of days that the Delivery Date precedes the first monthly rental payment date. A portion of each monthly rental payment, being the amount designated as "Depreciation Reserve" on the applicable Schedule, will be considered as a reserve for depreciation and will be credited against the Delivered Price of the Vehicle for purposes of computing the Book Value of the Vehicle under Section 3(c). Lessee agrees to pay Lessor the "Total Initial Charges" set forth in each Schedule on the date of the first monthly rental payment under such Schedule. Lessee agrees to pay Lessor the "Service Charge Due at Lease Termination" set forth in each Schedule at the end of the applicable Term (whether by reason of expiration, early termination or otherwise).
   (b) In the event the Term for any Vehicle ends prior to the last day of the scheduled Term, whether as a result of a default by Lessee, a Casualty Occurrence or any other reason, the rentals and management fees paid by Lessee will be recalculated in accordance with the rule of 78's and the adjusted amount will be payable by Lessee to Lessor on the termination date.
   (c) Lessee agrees to pay Lessor within thirty (30) days after the end of the Term for each Vehicle, additional rental equal to the excess, if any, of the Book Value of such Vehicle over the greater of (i) the wholesale value of such Vehicle as determined by Lessor in good faith or (ii) except as provided below, twenty percent (20%) of the Delivered Price of such Vehicle as set forth in the applicable Schedule. If the Book Value of such Vehicle is less than the greater of (i) the wholesale value of such Vehicle as determined by Lessor in good faith or (ii) except as provided below, twenty percent (20%) of the Delivered Price of such Vehicle as set forth in the applicable Schedule, Lessor agrees to pay such deficiency to Lessee as a terminal rental adjustment within thirty (30) days after the end of the applicable Term. Notwithstanding the foregoing, if (i) the Term for a Vehicle is greater than forty-eight (48) months (including any extension of the Term for such Vehicle), (ii) the mileage on a Vehicle at the end of the Term is greater than 15,000 miles per year on average (prorated on a daily basis) (i.e., if the mileage on a Vehicle with a Term of thirty-six (36) months is greater than 45,000 miles) or (iii) in the sole judgment of Lessor, a Vehicle has been subject to damage or any abnormal or excessive wear and tear, the calculations described in the two immediately preceding sentences shall be made without giving effect to clause (ii) in each such sentence. The "Book Value" of a Vehicle means the sum of (i) the "Delivered Price" of the Vehicle as set forth in the applicable Schedule minus (ii) the total Depreciation Reserve paid by Lessee to Lessor with respect to such Vehicle, as defined in the Schedule; all accrued and unpaid interest and other amounts owed by Lessee to Lessor and/or respect to such Vehicle.
   (d) Any security deposit of Lessee will be returned to Lessee at the end of the applicable Term, except that the deposit will first be applied to any losses and/or damages suffered by Lessor as a result of Lessee's breach of or default under this Agreement and/or to any other amounts then owed by Lessee to Lessor.
   (e) Any rental payment or other amount owed by Lessee to Lessor which is not paid within twenty (20) days after its due date will accrue interest, payable on demand of Lessor, from the due date until paid in full at a rate per annum equal to the lesser of (i) Eighteen Percent (18%) per annum or (ii) the highest rate permitted by applicable law (the "Default Rate").
   (f) If Lessee fails to pay any amount due under this Agreement or to comply with any of the covenants contained in this Agreement, Lessor, Servicer or any other agent of Lessor may, at its option, pay such amounts or perform such covenants and all sums paid or incurred by Lessor in connection therewith will be repayable by Lessee to Lessor upon demand together with interest thereon at the Default Rate.
   (g) Lessee's obligations to make all payments of rent and other amounts under this Agreement are absolute and unconditional and such payments shall be made in immediately available funds without setoff, counterclaim or deduction of any kind. Lessee acknowledges and agrees that neither any Casualty Occurrence to any Vehicle nor any defect, unfitness or lack of governmental approval in, of, or with respect to, any Vehicle regardless of the cause or consequence nor any breach by Enterprise Fleet Management, Inc. of any maintenance agreement between Enterprise Fleet Management, Inc. and Lessee covering any Vehicle regardless of the cause or consequence will relieve Lessee from the performance of any of its obligations under this Agreement, including, without limitation, the payment of rent and other amounts under this Agreement.

4. USE AND SURRENDER OF VEHICLES: Lessee agrees to allow only duly authorized, licensed and insured drivers to use and operate the Vehicles. Lessee agrees to comply with, and cause its drivers to comply with, all laws, statutes, rules, regulations and ordinances and the provisions of all insurance policies affecting or covering the Vehicles or their use or operation. Lessee agrees to keep the Vehicles free of all liens, charges and encumbrances.

Initials: EFM Cust Page 1 8-4
5. COSTS, EXPENSES, FEES AND CHARGES: Lessee agrees to pay all costs, expenses, fees, charges, fines, tickets, penalties and taxes (other than federal and state income taxes on the income of Lessor) incurred in connection with the titling, registration, delivery, purchase, sale, rental, use or operation of the Vehicles during the Term. If Lessor, Servicer or any other agent of Lessor incurs any such costs or expenses, Lessee agrees to promptly reimburse Lessor for the same.

6. LICENSE AND CHARGES: Each Vehicle will be titled and licensed in the name designated by Lessor at Lessee’s expense. Certain other charges relating to the acquisition of each Vehicle and paid or satisfied by Lessor have been capitalized in determining the monthly rental, treated as an initial charge or otherwise charged to Lessee. Such charges have been determined without reduction for trade-in, exchange allowance or other credit attributable to any Lessor-owned vehicle.

7. REGISTRATION PLATES, ETC.: Lessee agrees, at its expense, to obtain in the name designated by Lessor all registration plates and other plates, permits, inspections and/or licenses required in connection with the Vehicles, except for the initial registration plates which Lessor will obtain at Lessee’s expense. The parties agree to cooperate and to furnish any and all information or documentation, which may be reasonably necessary for compliance with the provisions of this Section or any federal, state or local law, rule, regulation or ordinance. Lessee agrees that it will not permit any Vehicle to be located in a state other than the state in which such Vehicle is then titled for any continuous period of time that would require such Vehicle to become subject to the titling and/or registration laws of such other state.

8. MAINTENANCE OF AND IMPROVEMENTS TO VEHICLES:
   (a) Lessee agrees, at its expense, to (i) maintain the Vehicles in good condition, repair, maintenance and running order and in accordance with all manufacturer’s instructions and warranty requirements and all legal requirements and (ii) furnish all labor, materials, parts and other essentials required for the proper operation and maintenance of the Vehicles. Any alterations, additions, replacement parts or improvements to a Vehicle will become and remain the property of Lessor and will be returned with such Vehicle upon such Vehicle’s return pursuant to Section 4. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, Lessee shall have the right to remove any additional equipment installed by Lessee on a Vehicle prior to returning such Vehicle to Lessor under Section 4. The value of such alterations, additions, replacement parts and improvements will in no instance be regarded as rent. Without the prior written consent of Lessor, Lessee will not make any alterations, additions, replacement parts or improvements to any Vehicle which detract from its economic value or functional utility. Lessor will not be required to make any repairs or replacements of any nature or description with respect to any Vehicle, to maintain or repair any Vehicle or to make any expenditure whatsoever in connection with any Vehicle or this Agreement.
   (b) Lessor and Lessee acknowledge and agree that if Section 4 of a Schedule includes a charge for maintenance, (i) the Vehicle(s) covered by such Schedule are subject to a separate maintenance agreement between Enterprise Fleet Management, Inc. and Lessee and (ii) Lessor shall have no liability or responsibility for any failure of Enterprise Fleet Management, Inc. to perform any of its obligations thereunder or to pay or reimburse Lessee for its payment of any costs and expenses incurred in connection with the maintenance or repair of any such Vehicle(s).

9. SELECTION OF VEHICLES AND DISCLAIMER OF WARRANTIES:
   (a) LESSEE ACCEPTANCE OF DELIVERY AND USE OF EACH VEHICLE WILL CONCLUSIVELY ESTABLISH THAT SUCH VEHICLE IS OF A SIZE, DESIGN, CAPACITY, TYPE AND MANUFACTURE SELECTED BY LESSEE AND THAT SUCH VEHICLE IS IN GOOD CONDITION AND REPAIR AND IS SATISFACTORY IN ALL RESPECTS AND IS SUITABLE FOR LESSEE’S PURPOSE. LESSEE ACKNOWLEDGES THAT LESSOR IS NOT A MANUFACTURER OF ANY VEHICLE OR AN AGENT OF A MANUFACTURER OF ANY VEHICLE.
   (b) LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY VEHICLE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. IT BEING AGREED THAT ALL SUCH RISKS ARE TO BE BORNE BY LESSEE. THE VEHICLES ARE LEASED “AS IS,” “WITH ALL FAULTS.” All warranties made by any supplier, vendor and/or manufacturer of a Vehicle are hereby assigned by Lessor to Lessee for the applicable Term and Lessee’s only remedy, if any, is against the supplier, vendor or manufacturer of the Vehicle.
   (c) None of Lessor, Servicer or any other agent of Lessor will be liable to Lessee for any liability, claim, loss, damage (direct, incidental or consequential) or expense of any kind or nature, caused directly or indirectly, by any Vehicle or any inadequacy of any Vehicle for any purpose or any defect (latent or patent) in any Vehicle or the use or maintenance of any Vehicle or any repair, servicing or adjustment of or to any Vehicle, or any delay in providing or failure to provide any Vehicle, or any interruption or loss of service or use of any Vehicle, or any loss of business or any damage whatsoever and however caused. In addition, none of Lessor, Servicer or any other agent of Lessor will have any liability to Lessee under this Agreement or under any order authorization form executed by Lessee if Lessor is unable to locate or purchase a Vehicle ordered by Lessee or for any delay in delivery of any Vehicle ordered by Lessee.

10. RISK OF LOSS: Lessee assumes and agrees to bear the entire risk of loss of, theft of, damage to or destruction of any Vehicle from any cause whatsoever (“Casualty Occurrence”). In the event of a Casualty Occurrence to a Vehicle, Lessee shall give Lessor prompt notice of the Casualty Occurrence and thereafter will place the applicable Vehicle in good repair, condition and working order; provided, however, that if the applicable Vehicle is determined by Lessor to be lost, stolen, destroyed or damaged beyond repair (a “Totaled Vehicle”), Lessee agrees to pay Lessor no later than the date thirty (30) days after the date of the Casualty Occurrence the amounts owed under Sections 3(b) and 3(c) with respect to such Totaled Vehicle. Upon such payment, this Agreement will terminate with respect to such Totaled Vehicle.

11. INSURANCE:
   (a) Lessee agrees to purchase and maintain in force during the Term, insurance policies in at least the amounts listed below covering each Vehicle, to be written by an insurance company or companies satisfactory to Lessor, insuring Lessee, Lessor and any other person or entity designated by Lessor against any damage, claim, suit, action or liability:
      (i) Commercial Automobile Liability Insurance (including Uninsured/Underinsured Motorist Coverage and No-Fault Protection where required by law) for the limits listed below (Note - $2,000,000 Combined Single Limit Bodily Injury and Property Damage with No Deductible is required for each Vehicle capable of transporting more than 8 passengers):

<table>
<thead>
<tr>
<th>State of Vehicle Registration</th>
<th>Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont</td>
<td>$1,000,000 Combined Single Limit Bodily Injury and Property Damage - No Deductible</td>
</tr>
<tr>
<td>Florida</td>
<td>$500,000 Combined Single Limit Bodily Injury and Property Damage or $100,000 Bodily Injury Per Person, $300,000 Per Occurrence and $50,000 Property Damage (100/300/50) - No Deductible</td>
</tr>
<tr>
<td>All Other States</td>
<td>$300,000 Combined Single Limit Bodily Injury and Property Damage or $100,000 Bodily Injury Per Person, $300,000 Per Occurrence and $50,000 Property Damage (100/300/50) - No Deductible</td>
</tr>
</tbody>
</table>

      (ii) Physical Damage Insurance (Collision & Comprehensive): Actual cash value of the applicable Vehicle. Maximum deductible of $500 per
If the requirements of any governmental or regulatory agency exceed the minimums stated in this Agreement, Lessee must obtain and maintain the higher insurance requirements. Lessee agrees that each required policy of insurance will be appropriate endorsement or otherwise name Lessor and any other person or entity designated by Lessor as additional insureds and loss payees, as their respective interests may appear. Further, each such insurance policy must provide the following: (i) that the same may not be cancelled, changed or modified until after the insurer has given to Lessor, Servicer and any other person or entity designated by Lessor at least thirty (30) days prior written notice of such proposed cancellation, change or modification, (ii) that no act or default of Lessee or any other person or entity shall affect the rights of Lessor or any other person or entity to recover under such policy or policies of insurance in the event of any loss or damage to any Vehicle and (iii) that the coverage is "primary coverage" for the protection of Lessor, Lessee, Servicer, any other agent of Lessor and their respective successors and assigns notwithstanding any other coverage carried by Lessor, Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns protecting against similar risks. Original certificates evidencing such coverage and naming Lessor, Servicer, any other agent of Lessor and any other person or entity designated by Lessor as additional insureds and loss payees shall be furnished to Lessee from the Delivery Date, and annually thereafter and/or as reasonably requested by Lessor from time to time. In the event of default, Lessee hereby appoints Lessor, Servicer and any other agent of Lessor as Lessee's attorney-in-fact to receive payment of, to endorse all checks and other documents and to take any other actions necessary to pursue insurance claims and recover payments if Lessee fails to do so. Any expense of Lessor, Servicer or any other agent of Lessor in adjusting or collecting insurance shall be borne by Lessee.

Lessee, its drivers, servants and agents agree to cooperate fully with Lessor, Servicer, any other agent of Lessor and any insurance carriers in the investigation, defense and prosecution of all claims or suits arising from the use or operation of any Vehicle. If any claim is made or action commenced for death, personal injury or property damage resulting from the ownership, maintenance, use or operation of any Vehicle, Lessee will promptly notify Lessor of such action or claim and forward to Lessor a copy of every demand, notice, summons or other process received in connection with such claim or action.

(b) Notwithstanding the provisions of Section 11(a) above: (i) if Section 4 of a Schedule includes a charge for physical damage waiver, Lessee agrees that (A) Lessee will not be required to or maintain the minimum physical damage insurance (collision and comprehensive) required under Section 11(a) for the Vehicle(s) covered by such Schedule and (B) Lessor will assume the risk of physical damage (collision and comprehensive) to the Vehicle(s) covered by such Schedule; provided, however, that such physical damage waiver shall not apply to, and Lessee shall be and remain liable and responsible for, damage to a covered Vehicle caused by wear and tear or mechanical breakdown or failure, damage to or loss of any parts, accessories or components added to or installed in the Vehicle by Lessee or any other person without the prior written consent of Lessor and/or damage to or loss of any property and/or personal effects contained in a covered Vehicle. In the event of a Casualty Occurrence involving the Vehicle, Lessee may repair, if the option, repair other than than repair, the damaged Vehicle with an equivalent vehicle, which replacement vehicle then will constitute the "Vehicle" for purposes of this Agreement; and (ii) if Section 4 of a Schedule includes a charge for commercial automobile liability enrollment, Lessee agrees that it will, at its expense, obtain for and on behalf of Lessee, by adding Lessee as an additional insured under a commercial automobile liability insurance policy issued by an insurance company selected by Lessor, commercial automobile liability insurance satisfying the minimum commercial automobile liability insurance required under Section 11(a) for the Vehicle(s) covered by such Schedule. Lessor may at any time during the applicable Term terminate said obligation to provide physical damage waiver and/or commercial automobile liability enrollment and cancel such physical damage waiver and/or commercial automobile liability enrollment upon giving Lessee at least ten (10) days prior written notice. Upon such cancellation, insurance in the minimum amounts as set forth in 11(a) shall be obtained and maintained by Lessee at Lessee's expense. An adjustment will be made in monthly rental charges payable by Lessee to reflect any such change and Lessee agrees to furnish Lessor with satisfactory proof of insurance coverage within ten (10) days after mailing of the notice. In addition, Lessor may change the rates charged by Lessor under this Section 11(b) for physical damage waiver and/or commercial automobile liability enrollment upon giving Lessee at least thirty (30) days prior written notice.

12. INDEMNITY: To the extent permitted by state law, Lessee agrees to defend and indemnify Lessor, Servicer, any other agent of Lessor and their respective successors and assigns from and against any and all losses, damages, liabilities, suits, claims, demands, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) which Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns may incur by reason of Lessee's breach or violation of, or failure to observe or perform, any term, provision, covenant or condition of this Agreement, or as a result of any loss, damage, theft or destruction of any Vehicle or related to or arising out of or in connection with the use, operation or condition of any Vehicle. The provisions of this Section 12 shall survive any expiration or termination of this Agreement. Nothing herein shall be deemed to affect the rights, privileges, and immunities of Lessee and the foregoing indemnity provision is not intended to be a waiver of any sovereign immunity afforded to Lessee pursuant to the law.

13. INSPECTION OF VEHICLES; ODOMETER DISCLOSURE; FINANCIAL STATEMENTS: Lessee agrees to accomplish, at its expense, all inspections of the Vehicles required by any governmental authority during the Term. Lessor, Servicer, any other agent of Lessor and any of their respective successors or assigns will have the right to inspect any Vehicle at any reasonable time(s) during the Term and for this purpose to enter into or upon any building or place of business where such Vehicle is located. Unless otherwise prohibited by law, such inspection shall not interfere with the use of the Vehicle or any other part thereof. Lessee agrees to furnish Lessor, Servicer, any other agent of Lessor and any of their respective successors or assigns with all such information as Lessor, Servicer, any other agent of Lessor and any of their respective successors or assigns may request in connection with any such inspection. Lessee agrees to deliver to and sign and deliver to Lessor, Servicer, any other agent of Lessor and any of their respective successors or assigns any such information in connection with any such inspection. If Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns require access to the financial statements of Lessee, Lessee agrees to provide such statements to Lessor, Servicer, any other agent of Lessor and any of their respective successors or assigns as Lessor, Servicer, any other agent of Lessor and any of their respective successors or assigns may require from time to time in connection with any such inspection.

14. DEFAULT; REMEDIES: The following shall constitute events of default ("Events of Default") by Lessee under this Agreement: (a) if Lessee fails to pay when due any rent or other amount due under this Agreement and any such failure shall remain unremedied for ten (10) days; (b) if Lessee fails to perform, keep or observe any term, provision or covenant contained in Section 11 of this Agreement; (c) if Lessee fails to perform, keep or observe any other term, provision or covenant contained in this Agreement and any such failure shall remain unremedied for thirty (30) days after written notice thereof is given by Lessor, Servicer or any other agent of Lessor to Lessee; (d) if any seizure or confiscation of any Vehicle or any other act (other than a Casualty Occurrence) otherwise rendering any Vehicle unsuitable for use (as determined by Lessor); (e) if any present or future guaranty in favor of Lessor of all or any portion of the obligations of Lessee under this Agreement shall at any time for any reason cease to be in full force and effect or shall be declared to be null and void by a court of competent jurisdiction, or if the validity or enforceability of any such guaranty shall be contested or denied by any guarantor, or if any guarantor shall deny that it, he or she has any further liability or obligation under any such guaranty or if any guarantor shall fail to comply with or observe any of the terms, provisions or conditions contained in any such guaranty; (f) the occurrence of a material adverse change in the financial condition or business of Lessee or any guarantor; or (g) if Lessee or any guarantor is in default under or fails to comply with any other present or future agreement which is in favor of Lessor, The Crawford Group, Inc. or any direct or indirect subsidiary of The Crawford Group, Inc. For purposes of this Section 14, the term "guarantor" shall mean any present or future guarantor of all or any portion of the obligations of Lessee under this Agreement.

Upon the occurrence of any Event of Default, Lessor, without notice to Lessee, will have the right to exercise concurrently or separately (and without election of remedies being deemed made), the following remedies: (a) Lessor may demand and receive immediate possession of any or all of the Vehicles from Lessee, without releasing Lessee from its obligations under this Agreement. Any Vehicles so recovered by Lessor shall be entitled to any proceeds thereof, (b) Lessor may immediately recover possession of any Vehicles and, in its discretion, may sell, assign, lease, operate, abandon, dispose of, repair, rent or otherwise deal with any of the Vehicles as it shall deem proper, (c) if any vehicle, etc., has been purchased by or on account of Lessee or any of its subsidiaries under a lease, loan, or purchase agreement, Lessor may, at its option, become the owner of such vehicle, etc., and Lessor will have the right to enter upon any premises where the Vehicles may be located and to remove and repossess the Vehicles; (b) Lessor may enforce performance by Lessee of its obligations under this Agreement; (c) Lessor may recover damages and expenses sustained by Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns of Lessee's default including, to the extent permitted by applicable law, all costs and expenses, including court costs and reasonable attorneys' fees and expenses, incurred by Lessor, Servicer, any other agent of Lessor or any of their respective
successors or assigns in attempting or effecting enforcement of Lessor's rights under this Agreement (whether or not litigation is commenced) and/or in connection with bankruptcy or insolvency proceedings; (d) upon written notice to Lessee, Lessor may terminate Lessee's rights under this Agreement; (e) with respect to each Vehicle, Lessor may recover from Lessee all amounts owed by Lessee under Sections 3(b) and 3(c) of this Agreement and, if Lessor does not recover possession of a Vehicle, (i) the estimated wholesale value of such Vehicle for purposes of Section 3(c) shall be deemed to be $0.00 and (ii) the calculations described in the first two sentences of Section 3(c) shall be made without giving effect to clause (ii) in each such sentence); and/or (f) Lessor may exercise any other right or remedy which may be available to Lessor under the Uniform Commercial Code, any other applicable law or in equity. A termination of this Agreement shall occur only upon written notice by Lessor to Lessee. Any termination shall not affect Lessee's obligation to pay all amounts due for periods prior to the effective date of such termination or Lessee's obligation to pay any indemnities under this Agreement. All remedies of Lessor under this Agreement are cumulative.

15. ASSIGNMENTS: Lessor may from time to time assign, pledge or transfer this Agreement and/or any or all of its rights and obligations under this Agreement to any person or entity. Lessee agrees, upon notice of any such assignment, pledge or transfer of any amounts due or to become due to Lessor under this Agreement, to pay all such amounts to such assignee, pledgee or transferee. Any such assignee, pledgee or transferee of any rights or obligations of Lessor under this Agreement shall have all of the rights and obligations that have been assigned to it. Lessor's rights and interest in and to the Vehicles are and will continue at all times to be subject and subordinate in all respects to any assignment, pledge or transfer now or hereafter executed by Lessor with or in favor of any such assignee, pledgee or transferee, provided that Lessee shall have the right of quiet enjoyment of the Vehicles so long as no Event of Default under this Agreement has occurred and is continuing. Lessee acknowledges and agrees that the rights of any assignee, pledgee or transferee are and will be subject to any amounts payable by the Lessee under any provisions of this Agreement shall be absolute and unconditional and shall not be subject to any abatement whatsoever, or to any defense, setoff, counterclaim or recoupment whatsoever, whether by reason of any damage to or loss or destruction of any Vehicle or by reason of any defect in or failure of title of the Lessor or interruption from whatsoever cause in the use, operation or possession of any Vehicle, or by reason of any indebtedness or liability howsoever and whenever arising of the Lessor or any of its affiliates to the Lessee or to any other person or entity, or for any other reason.

Without the prior written consent of Lessor, Lessee may not assign, sublease, transfer or pledge this Agreement, any Vehicle, or any interest in this Agreement or in and to any Vehicle, or permit its rights under this Agreement or any Vehicle to be subject to any lien, charge or encumbrance. Lessee's interest in this Agreement is not assignable and cannot be assigned or transferred by operation of law. Lessee will not transfer or relinquish possession of any Vehicle (except for the sole purpose of repair or service of such Vehicle) without the prior written consent of Lessor.

16. MISCELLANEOUS: This Agreement contains the entire understanding of the parties. This Agreement may only be amended or modified by an instrument in writing executed by both parties. Lessor shall not be by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies under this Agreement and no waiver whatever shall be valid unless in writing and signed by Lessor and then only to the extent therein set forth. A waiver by Lessor of any right or remedy under this Agreement on any one occasion shall not be construed as a bar to any right or remedy, which Lessor would otherwise have on any future occasion. If any term or provision of this Agreement or any application of any such term or provision is invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision will not be affected thereby. Giving of all notices under this Agreement will be sufficient if mailed by certified mail to a party at its address set forth below or at such other address as such party may provide in writing from time to time. Any such notice mailed to such address will be effective one (1) day after deposit in the United States mail, duly addressed, with certified mail, postage prepaid. Lessee will promptly notify Lessor of any change in Lessee's address. This Agreement may be executed in multiple counterparts (including facsimile and pdf counterparts), but the counterpart marked "ORIGINAL" by Lessor will be the original lease for purposes of applicable law. All of the representations, warranties, covenants, agreements and obligations of each Lessee under this Agreement (if more than one) are joint and several.

17. SUCCESSORS AND ASSIGNS; GOVERNING LAW: Subject to the provisions of Section 15, this Agreement will be binding upon Lessee and its heirs, executors, personal representatives, successors and assigns, and will inure to the benefit of Lessor, Servicer, any other agent of Lessor and their respective successors and assigns. This Agreement will be governed by and construed in accordance with the substantive laws of the State of Missouri (determined without reference to conflict of law principles).

18. NON-PETITION: Each party hereto hereby covenants and agrees that, prior to the date which is one year and one day after payment in full of all indebtedness of Lessor, it shall not institute against, or join any other person in instituting against, Lessor any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceeding under the laws of the United States or any state of the United States. The provisions of this Section 18 shall survive termination of this Master Equity Lease Agreement.

19. NON-APPROPRIATION: Lessee's funding of this Agreement shall be on a Fiscal Year basis and is subject to annual appropriations. Lessor acknowledges that Lessee is a municipal corporation, is precluded by the County or State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this Agreement shall constitute an obligation of future legislative bodies of the County or State to appropriate funds for purposes of this Agreement. Accordingly, the parties agree that the lease terms within this Agreement or any Schedules relating hereto are contingent upon appropriation of funds. The parties further agree that should the County or State fail to appropriate such funds, the Lessor shall be paid all rentals due and owing hereunder up until the actual day of termination. In addition, Lessor reserves the right to be paid for any reasonable damages. These reasonable damages will be limited to the losses incurred by the Lessor for having to sell the vehicles on the open used car market prior to the end of the scheduled term (as determined in Section 3 and Section 14 of this Agreement).

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Master Equity Lease Agreement as of the day and year first above written.
LESSEE: City of Grass Valley, California

By: ________________________________
Title: ________________________________
Address: 125 East Main St.
Grass Valley, CA 95945

Date Signed: ________________

LESOR: Enterprise FM Trust
By: Enterprise Fleet Management, Inc., its attorney in fact

By: Regina Charette
Title: Finance Manager
Address: 150 N Sunrise Ave
Dept 2D
Roseville, CA 95661

Date Signed ________________
MAINTENANCE AGREEMENT

This Maintenance Agreement (this "Agreement") is made and entered into thirteenth day of June, 2017, by Enterprise Fleet Management, Inc., a Missouri corporation ("EFM"), and City of Grass Valley, California ("Lessee").

WITNESSETH

1. LEASE. Reference is hereby made to that certain Master Equity Lease Agreement dated as of the thirteenth day of June, 2017, by and between Enterprise FM Trust, a Delaware statutory trust, as lessor ("Lessor"), and Lessee, as lessee (as the same may from time to time be amended, modified, extended, renewed, supplemented or restated, the "Lease"). All capitalized terms used and not otherwise defined in this Agreement shall have the respective meanings ascribed to them in the Lease.

2. COVERED VEHICLES. This Agreement shall only apply to those vehicles leased by Lessor to Lessee pursuant to the Lease to the extent Section 4 of the Schedule for such vehicle includes a charge for maintenance (the "Covered Vehicle(s)").

3. TERM AND TERMINATION. The term of this Agreement ("Term") for each Covered Vehicle shall begin on the Delivery Date of such Covered Vehicle and shall continue until the last day of the "Term" (as defined in the Lease) for such Covered Vehicle unless earlier terminated as set forth below. Each of EFM and Lessee shall each have the right to terminate this Agreement effective as of the last day of any calendar month with respect to any or all of the Covered Vehicles upon not less than sixty (60) days prior written notice to the other party. The termination of this Agreement with respect to any or all of the Covered Vehicles shall not affect any rights or obligations under this Agreement which shall have previously accrued or shall thereafter arise with respect to any occurrence prior to termination, and such rights and obligations shall continue to be governed by the terms of this Agreement.

4. VEHICLE REPAIRS AND SERVICE. EFM agrees that, during the Term for the applicable Covered Vehicle and subject to the terms and conditions of this Agreement, it will pay for, or reimburse Lessee for its payment of, all costs and expenses incurred in connection with the maintenance or repair of a Covered Vehicle. This Agreement does not cover, and Lessee will remain responsible for and pay for, (a) fuel, (b) oil and other fluids between changes, (c) tire repair and replacement, (d) washing, (e) repair of damage due to lack of maintenance by Lessee between scheduled services (including, without limitation, failure to maintain fluid levels), (f) maintenance or repair of any alterations to a Covered Vehicle or of any after-market components (this Agreement covers maintenance and repair only of the Covered Vehicles themselves and any factory-installed components and does not cover maintenance or repair of chassis alterations, add-on bodies (including, without limitation, step vans) or other equipment (including, without limitation, lift gates and PTO controls) which is installed or modified by a dealer, body shop, upfitter or anyone else other than the manufacturer of the Covered Vehicle, (g) any service and/or damage resulting from, related to or arising out of an accident, a collision, theft, fire, freezing, vandalism, riot, explosion, other Acts of God, an object striking the Covered Vehicle, improper use of the Covered Vehicle (including, without limitation, driving over curbs, overloading, racing or other competition) or Lessee's failure to maintain the Covered Vehicle as required by the Lease, (h) roadside assistance or towing for vehicle maintenance purposes, (i) mobile services, (j) the cost of loaner or rental vehicles or (k) if the Covered Vehicle is a truck, (l) manual transmission clutch adjustment or replacement, (ii) brake adjustment or replacement or (iii) front axle alignment. Whenever it is necessary to have a Covered Vehicle serviced, Lessee agrees to have the necessary work performed by an authorized dealer of such Covered Vehicle or by a service facility acceptable to EFM. In every case, if the cost of such service will exceed $50.00, Lessee must notify EFM and obtain EFM's authorization for such service and EFM's instructions as to where such service shall be made and the extent of service to be obtained. Lessee agrees to furnish an invoice for all service to a Covered Vehicle, accompanied by a copy of the shop or service order (odometer mileage must be shown on each shop or service order). EFM will not be obligated to pay for any unauthorized charges or those exceeding $50.00 for one service on any Covered Vehicle unless Lessee has complied with the above terms and conditions. EFM will not have any responsibility to pay for any services in excess of the services recommended by the manufacturer, unless otherwise agreed to by EFM. Notwithstanding any other provision of this Agreement to the contrary, (a) all service performed within one hundred twenty (120) days prior to the last day of the scheduled "Term" (as defined in the Lease) for the applicable Covered Vehicle must be authorized by and have the prior consent and approval of EFM and any service not so authorized will be the responsibility of and be paid for by Lessee and (b) EFM is not required to provide or pay for any service to any Covered Vehicle after 100,000 miles.

5. ENTERPRISE CARDS: EFM may, at its option, provide Lessee with an authorization card (the "EFM Card") for use in authorizing the payment of charges incurred in connection with the maintenance of the Covered Vehicles. Lessee agrees to be liable to EFM for, and upon receipt of a monthly or other statement from EFM, Lessee agrees to promptly pay to EFM, all charges made by or for the account of Lessee with the EFM Card (other than any charges which are the responsibility of EFM under the terms of this Agreement). EFM reserves the right to change the terms and conditions for the use of the EFM Card at any time. The EFM Card remains the property of EFM and EFM may revoke Lessee's right to possess or use the EFM Card at any time. Upon the termination of this Agreement or upon the demand of EFM, Lessee must return the EFM Card to EFM. The EFM Card is non-transferable.

6. PAYMENT TERMS. The amount of the monthly maintenance fee will be listed on the applicable Schedule and will be due and payable in advance on the first day of each month. If the first day of the Term for a Covered Vehicle is other than the first day of a calendar month, Lessee will pay EFM, on the first day of the Term for such Covered Vehicle, a pro-rated maintenance fee for the number of days that the Delivery Date precedes the first monthly maintenance fee payment date. Any monthly maintenance fee or other amount owed by Lessee to EFM under this Agreement which is not paid within twenty (20) days after its due date will accrue interest, payable upon demand of EFM, from the date due until paid in full at a rate per annum equal to the lesser of (i) Eighteen Percent (18%) per annum or (ii) the highest rate allowed by applicable law. The monthly maintenance fee set forth on each applicable Schedule allows the number of miles per month as set forth in such Schedule. Lessee agrees to pay EFM at the end of the applicable Term (whether by reason of termination of this Agreement or otherwise) an overmileage maintenance fee for any miles in excess of this average amount per month at the rate set forth in the applicable Schedule. EFM may, at its option, permit Lessor, as an agent for EFM, to bill and collect amounts due to EFM under this Agreement from Lessee on behalf of EFM.

7. NO WARRANTIES. Lessee acknowledges that EFM does not perform maintenance or repair services on the Covered Vehicles but rather EFM arranges for maintenance and/or repair services on the Covered Vehicles to be performed by third parties. EFM MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCTS, REPAIRS OR SERVICES PROVIDED FOR UNDER THIS AGREEMENT BY THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COMPLIANCE WITH SPECIFICATIONS, OPERATION, CONDITION, SUITABILITY, PERFORMANCE OR QUALITY, ANY DEFECT IN THE PERFORMANCE OF ANY PRODUCT, REPAIR OR SERVICE WILL NOT RELIEVE LESSEE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING THE PAYMENT TO EFM OF THE MONTHLY MAINTENANCE FEES AND OTHER CHARGES DUE UNDER THIS AGREEMENT.
8. LESSOR NOT A PARTY. Lessor is not a party to, and shall have no rights, obligations or duties under or in respect of, this Agreement.

9. NOTICES. Any notice or other communication under this Agreement shall be in writing and delivered in person or sent by facsimile, recognized overnight courier or registered or certified mail, return receipt requested and postage prepaid, to the applicable party at its address or facsimile number set forth on the signature page of this Agreement, or at such other address or facsimile number as any party hereto may designate as its address or facsimile number for communications under this Agreement by notice so given. Such notices shall be deemed effective on the day on which delivered or sent if delivered in person or sent by facsimile, on the first (1st) business day after the day on which sent, if sent by recognized overnight courier or on the third (3rd) business day after the day on which mailed, if sent by registered or certified mail.

10. MISCELLANEOUS. This Agreement embodies the entire Agreement between the parties relating to the subject matter hereof. This Agreement may be amended only by an agreement in writing signed by EFM and Lessee. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provisions in any other jurisdiction. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that Lessee may not assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of EFM. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Missouri (without reference to conflict of law principles).

IN WITNESS WHEREOF, EFM and Lessee have executed this Maintenance Agreement as of the day and year first above written.

LESSEE: City of Grass Valley, California

EFM: Enterprise Fleet Management, Inc.

By: ____________________________ By: Regina Charette
Title: __________________________ Title: Finance Manager
Address: 125 East Main St. Address: 150 N Sunrise Ave
Grass Valley, CA 95945 Dept 2D
Roseville, CA 95661

Attention: __________________________ Attention: __________________________
Facsimile No.: __________________________ Facsimile No.: __________________________
Date Signed: __________________________ Date Signed: __________________________
City of Grass Valley
City Council
Agenda Action Sheet

Council Meeting Date: August 8, 2017
Date Prepared: August 3, 2017

Prepared by: Timothy M. Kiser, PE, Public Works Director/City Engineer

Title: Yuba River Commercial Center Parcel Map 14PLN-04; Agreement of Easements, Conditions, and Restrictions; Irrevocable Offer of Dedication; and Improvement Agreement

Recommended Motion: That Council: 1) Approve the parcel map and accept items 1 through 2 in the Owner’s Statement on the parcel map for public purposes; 2) Approve the associated Agreement of Easements, Conditions, and Restrictions; 3) Accept the Irrevocable Offer of Dedication, subject to legal review; and, 4) Authorize the Mayor to execute the Improvement Agreement, subject to legal review.

Agenda: Administrative

Background Information: On July 15, 2014, the Planning Commission conditionally approved Tentative Map Application (14PLN-04) for CCM Corporation to divide an existing 6.1 acre developed lot into 6 (six) parcels ranging in size from approximately 18,000 sq. ft. to 1.6 acres; located at 2391 Nevada City Highway. On May 16, 2017, the Planning Commission approved a use permit application to redevelop a portion of the site and develop a Tractor Supply Company (TSC) store. This proposed development is planned to take place on parcels 3 and 4, which will be combined.

Separate Grading Plans have been submitted for the public improvements (GP 17-01) and the on-site improvements (GP 17-05). Both sets of plans and a cost estimate for the public improvements are under review and near completion. Per Section 66462 of the Subdivision Map Act, the parcel map may be recorded with an agreement to complete the improvements within one year of the date of the agreement with financial security.

The parcel map, attached, has been reviewed and is technically correct. The associated Agreement of Easements, Conditions, and Restrictions has been reviewed and approved. The Irrevocable Offer of Dedication (IOD), attached, has been reviewed and is technically correct. All conditions of approval required prior to the recordation of the parcel map will be completed or are addressed in the attached Improvement Agreement. It is requested that Council approve the parcel map and accept items 1 through 2 in the Owner’s Statement on the parcel map for public purpose, approve the Agreement of Easements, Conditions, and Restrictions, accept the IOD, subject to legal review, and that the Mayor be authorized to execute the Improvement Agreement, subject to legal review.

Council Goals/Objectives: The recording of a parcel map executes portions of work tasks towards achieving/maintaining Strategic Plan – Economic Development and City Infrastructure Investment.

Funds Available: Yes
Account #: N/A

Reviewed by:
City Manager
Finance

Agenda Item #9-1

Attachments: Parcel Map, CC&R’s, IOD, Improvement Agreement
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AGREEMENT OF EASEMENTS, COVENANTS AND RESTRICTIONS

THIS AGREEMENT OF EASEMENTS, COVENANTS AND RESTRICTIONS ("Agreement") is made and entered into as of this 22nd day of August, 2017 (the "Effective Date") by C.C.M. CORPORATION, a California corporation ("CCM"), and GRASS VALLEY SC, LLC, a California limited liability company ("Sobel"). CCM and Sobel are individually referred to herein as an "Owner" and collectively, with their respective successors and assigns, as "Owners".

RECATALS

A. CCM is the owner of approximately 6.14 acres of commercial real property located in the City of Grass Valley ("City"), County of Nevada, State of California, commonly known as 2391 Nevada City Highway, Grass Valley, CA 95945, APN 35-221-80 (the "Property"). The legal description for the Property is set forth in Exhibit "A", which is attached to this Agreement and incorporated herein by reference.

B. CCM intends to subdivide the Property into five parcels by recording a parcel map in compliance with the California Subdivision Map Act (individually, "Parcel", and collectively, "Parcels") as depicted on the Site Plan of Property attached hereto as Exhibit "B-1" and incorporated herein by reference (the "Site Plan").

C. CCM desires to establish certain easements, covenants, conditions and restrictions on the Property so that the Parcels shall be maintained, kept, sold and used in compliance therewith and for the benefit of the Owners of the Parcels, and the present and future owners and occupants thereof, on the terms and conditions hereinafter set forth.

D. CCM has entered into a purchase and sale agreement to sell to Sobel one of the parcels consisting of approximately 2.97 acres, identified and depicted as Lot 3 on the Site Plan (the "TSC Parcel"). For purposes of this Agreement, Lots 1 and 2 are referred to herein as the "Front Parcels", and Lots 1, 2, 4 and 5 are referred to herein as the "Remaining Parcels".

E. Sobel intends to develop the TSC Parcel into a retail store for Tractor Supply Company, a Delaware corporation ("TSC"). As part of such development, the Owners desire to establish certain building and use restrictions on the Remaining Parcels.
NOW THEREFORE, in consideration of the above premises and of the covenants herein contained, CCM does hereby declare and Sobel does hereby agree that the Property and all present and future owners and occupants of the Property shall be and hereby are subject to the terms, covenants, easements, restrictions and conditions hereinafter set forth in this Agreement, which shall run with the land and bind all subsequent owners, as follows.

EASEMENTS AND RESTRICTIONS

1. Creation of Easements.

All easements referred to in this Agreement shall become effective upon the execution and recoradion of this Agreement. The term "Permittees" shall mean and refer to any tenants, subtenants, licensees, occupants, employees, contractors, invitees, customers and visitors of any part of the Parcels.

2. Vehicular and Pedestrian Easements.

(a) TSC Cross Access Easement. The Owners hereby expressly grant non-exclusive, reciprocal, appurtenant cross access easements for ingress, egress and access for vehicular and pedestrian purposes in, on, over and across any pedestrian sidewalks, vehicular drives and circulation aisles on the TSC Parcel and the Front Parcels, in favor of, and for the benefit of, the Owners of such Parcels and for use by the Owners and the Permittees of the Owners (the "TSC Cross Access Easement"), as shown on the Site Plan.

The TSC Cross Access Easement shall include access across Lot 1 for the benefit of the TSC Parcel for vehicular and pedestrian travel between the TSC Parcel and Nevada City Highway (the "Lot 1 Drive"), as generally depicted on the Site Plan. The location of the Lot 1 Drive and the Lot 1 Drive curb cut on Nevada City Highway may vary from the depiction on the Site Plan so long as the functionality of the Lot 1 Drive is not adversely affected, however, the connection point location between the Lot 1 Drive and the TSC Parcel shall not vary from the depiction on the Site Plan (as more particularly depicted on Exhibit "B-2") without the express written consent of the Owner of the TSC Parcel and TSC (for so long as TSC holds a leasehold interest in the TSC Parcel).

The TSC Cross Access Easement on the TSC Parcel shall include only the pedestrian sidewalks, vehicular drives and circulation aisles on the TSC Parcel as they exist from time to time, but shall specifically exclude any part of the Fenced Outdoor Display Area, the Permanent Sidewalk Display Area, and the Permanent Trailer and Equipment Display Area as shown on the TSC Site Plan attached hereto as Exhibit "E" and as such merchandise display areas may exist on the TSC Parcel from time to time. The TSC Cross Access Easement on the TSC Parcel specifically excludes the use of construction vehicles or semi-trailer trucks and specifically excludes any parking rights whatsoever on the TSC Parcel. No reciprocal parking easement is established herein between the TSC Parcel and any other Parcel.

(b) Remaining Parcels Cross Access and Parking Easement. The Owners hereby expressly grant non-exclusive, reciprocal, appurtenant cross access easements for ingress, egress and access for vehicular and pedestrian purposes in, on, over and across any pedestrian sidewalks, vehicular drives and circulation aisles to be installed between and among the Remaining Parcels in favor of, and for the benefit of, the Owners of such Parcels and for use by the Owners and the Permittees of the Owners (the "Remaining Parcels Cross Access Easement"). Each Owner of each of the Remaining Parcels, as grantor, grants to each other
Owner of the Remaining Parcels, as grantee, a nonexclusive reciprocal easement over, across, in and through those portions of the Remaining Parcels that are from time to time designated as parking areas for parking of motor vehicles. The TSC Cross Access Easement and Remaining Parcels Cross Access Easement are collectively referred to herein as the "Cross Access Easements".

(c) The cross access rights on each Parcel shall become operable upon the completion of construction of the initial development of each of the Parcels upon the date such vehicular drives and circulation aisles are first placed into service. The Cross Access Easements rights on each Parcel shall include the vehicular drives and circulation aisles as they exist from time to time, but shall exclude any service drives or drives intended only to service the businesses on each Parcel. Notwithstanding the foregoing, each of the Cross Access Easements shall be effective only so long as the Parcels on which such Cross Access Easements are located are used for commercial purposes.


(a) The improvements in the Cross Access Easements on each Parcel shall be constructed, installed and maintained in a safe, usable, neat and uniform manner. The Owner of each Parcel, at its sole cost and expense, shall be responsible for performing the installation, construction, maintenance, upkeep and repair to the improvements in the Cross Access Easements located on its respective Parcel. All maintenance and repairs shall be performed so as not to interfere with or obstruct the business of other Owners and their Permittees or access to and from Parcels burdened by the Cross Access Easements.

(b) Any damage resulting solely from the negligence or willful misconduct of the Owner of a Parcel, or the Permittees of such Owner, to the improvements on another Parcel shall be expeditiously repaired by such Owner at the sole cost and expense of such Owner.

(c) In the event any Owner fails to maintain or repair the improvements in the Cross Access Easements located on such Owner's Parcel ("Non-Performing Owner") as required herein, and such condition unreasonably affects the rights of another Owner under the Cross Access Easements, such Owner may perform such maintenance and repair after delivering written notice to the Non-Performing Owner and allowing the Non-Performing Owner a period of thirty (30) days within which to cure the condition (or if the cure cannot reasonably be completed within thirty (30) days, a reasonable period of time provided the cure has been commenced within said thirty (30)-day period and diligently prosecuted to completion). Notwithstanding the foregoing, in the event that the condition creates an imminent danger of damage to persons or properties, or jeopardizes access to any business or other activities being performed on all or any portion of the Parcels, no notice shall be required prior to the performing Owner commencing a cure. The Non-Performing Owner shall reimburse the performing Owner for the actual and reasonable costs of such maintenance or repair within thirty (30) days after receipt of an invoice and proof of payment from the performing Owner for such maintenance or repair costs.

4. Private Drainage Facilities.

Each Owner shall maintain private drainage facilities on such Owner's Parcel in locations approved for such purpose by the City. Each Owner shall maintain such drainage facilities in good working condition, as determined by the City, and be responsible for any damages to persons or property caused by the private drainage facilities and for any costs incurred by the City for emergency maintenance, repairs and any other efforts to keep the private drainage
facilities in good working condition and/or to ensure the health, safety and welfare of the general public. Storm water shall not drain from one Parcel to any other Parcels, except as expressly provided in the following section of this Agreement and except any drainage between or among the Remaining Parcels approved by the City. Nothing herein shall waive an Owner's right to all remedies against any party that damages such Owner's private drainage facilities.

5. **Easement for Drainage of TSC Parcel to Common Storm Water System.**

CCM hereby expressly grants to the Owner of the TSC Parcel, and the Permittees thereof, for the benefit of and appurtenant to the TSC Parcel, a perpetual and continuous easement for the drainage of storm water from the retention ponds and bioswale systems located on the TSC Parcel into a common storm water system on the Remaining Parcels. This easement is not inconsistent with the drainage plan for the entire Property as depicted in the Parcel Map recorded on __________, 2017 as Document No. __________ in the Official Records of Nevada County, California and attached hereto as Exhibit “F”, which Parcel Map includes a grant of a drainage easement for public purposes on the TSC Parcel.

6. **View Corridor Easement.**

CCM hereby declares, establishes, creates, grants and reserves a view easement on the Front Parcels for the benefit of the TSC Parcel (the “View Corridor Easement”). The View Corridor Easement shall provide a field of view width from Nevada City Highway to the TSC Parcel of a minimum of two hundred feet (200'), as generally depicted on Exhibit “C-1” and Exhibit “C-2”.

The View Corridor Easement shall include the following restrictions:

(1) a view easement shall be preserved in the air space above the View Corridor Easement on the Front Parcels;

(2) no buildings or structures shall be constructed within the View Corridor Easement on the Front Parcels;

(3) any buildings or structures on any portion of the Front Parcels shall be limited to twenty-four feet (24') in height, as measured from the mean finished elevation of such buildings, not including any mechanical equipment, parapets, chimneys or other architectural features; and

(4) all rooftop mechanical equipment on the Front Parcels shall be properly screened per City requirements.

7. **Utilities Easement.**

(a) **TSC Parcel.** CCM hereby expressly grants to the Owner of the TSC Parcel, and all of such Owner’s Permittees, for the benefit of and appurtenant to the TSC Parcel, a perpetual and continuous easement to the power lines depicted on the Site Plan. CCM shall construct, install, underground and stub the aforementioned power lines to the property line of the TSC Parcel, at a location jointly approved by the City, CCM, Sobel and Pacific Gas & Electric, within ninety (90) days of the closing of Sobel’s purchase of the TSC Parcel. CCM shall further construct, install, underground and stub telecommunications to the property line of the TSC Parcel, at a location jointly approved by the City, CCM, Sobel and the affected utility companies,
within ninety (90) days of the closing of Sobel's purchase of the TSC Parcel. CCM hereby expressly grants to the Owner of the TSC Parcel, and all of such Owner's Permittees, for the benefit of and appurtenant to the TSC Parcel, a perpetual and continuous easement to such utilities as provided herein.

(b) Remaining Parcels. Each Owner of the Remaining Parcels hereby expressly grant to each other Owner of the Remaining Parcels, and all of such Owner's Permittees, for the benefit of said Remaining Parcels, a perpetual, continuous, and reciprocal easement for the installation, maintenance, removal, and replacement of water mains, telephone lines, gas mains, sewers, electrical systems or conduits, water drainage systems or structures, and other public utilities and services (collectively referred to as "Utility Systems"). Except when not feasible in the commercially reasonable opinion of CCM or the then current Owners of the affected Remaining Parcel(s), all new Utility Systems shall be located underground in the Remaining Parcels. The location of any new Utility Systems in the Remaining Parcels that must be located above ground must be placed so as to not interfere with the use of the burdened Parcel.

Each Owner of the Remaining Parcels may relocate Utility Systems located within the Remaining Parcels Cross Access Easement on its Parcel, provided the following conditions and requirements are satisfied: (1) the Owner pays all costs and expenses associated with the relocation; (2) the relocation is performed only after at least thirty (30) days' written notice to the Owners of other Parcels on which the Remaining Parcels Cross Access Easement exists; (3) the relocation does not reduce or unreasonably impair the usefulness or function of the Utility Systems located on any Parcels in the Property; (4) the relocation does not interrupt the utility services to other Parcels or the businesses of the Owners or their Permittees on such Parcels in the Property; and (5) the relocation does not interfere with the business operations of Owners or their Permittees on any other Parcels in the Property.

(c) All utility easements granted in this section shall be subject to approval by the City.

3. Signage.

(a) TSC Sign Easement. CCM hereby expressly grants to Sobel a perpetual and continuous easement on Lot 2 for the construction and operation of a monument sign for the exclusive benefit of the TSC Parcel (the "TSC Sign Easement"). Sobel may install and maintain, at its sole cost and expense, a monument sign on Lot 2, in the location depicted on the Site Plan (the "TSC Sign"). The TSC Sign shall comply with City requirements and feature the name and/or logo of TSC (or any other business operating on the TSC Parcel). The TSC Sign Easement shall include the perpetual and continuous right, for the benefit of and appurtenant to the TSC Parcel, for access and use on, across and beneath Lot 2 (or other location approved by the City) for the installation, maintenance, repair and replacement of the monument sign and electrical lines powering the TSC Sign.

(b) Shopping Center Sign Easement. CCM may build a shopping center sign on Lot 2, in the location shown on the Site Plan or other location approved by the City, provided such other location does not reduce the visibility of the TSC Sign by motorists and pedestrians traveling in any direction on Nevada City Highway (the "Shopping Center Sign"). The Shopping Center Sign shall comply with City requirements and have the general appearance of the example shown in the drawing attached hereto as Exhibit "D" and incorporated herein by reference. CCM shall install the Shopping Center Sign and bill all participating Owners (meaning those Owners who choose to place their sign panels on the Shopping Center Sign) the costs for such installation as provided below. CCM shall keep the Shopping Center Sign in good repair and operating condition
and in compliance with all applicable laws, regulations, codes and governmental orders, and periodically bill all participating Owners the costs for such work as provided below. Other Owners may place sign panels on the Shopping Center Sign as agreed by such Owners and CCM.

All such participating Owners shall pay a pro rata share of the costs of installation and the monthly costs for lighting the Shopping Center Sign and replacing lighting elements and bulbs (if lighting is permitted by the City), all maintenance and repairs and painting of the Shopping Center Sign, insuring the Shopping Center Sign, and replacement of any portion of the Shopping Center Sign (other than repair and replacement of tenant panels), together with a management fee of ten percent (10%) of such costs, said pro rata share being a fraction, the numerator of which is the square footage of the sign panel(s) placed on the Shopping Center Sign by the participating Owner or occupant of each Parcel, and the denominator is the square footage of all sign panels on the Shopping Center Sign.

Each participating Owner shall maintain, repair and replace as necessary those sign panels that pertain to businesses or occupant of its respective Parcel(s), and each participating Owner or its designee shall have the right to enter upon Lot 2 (or other location of the sign approved by the City) for such limited purpose. At such time that CCM no longer own any portion of the Property, all Owners with sign panels that pertain to businesses or occupant of their respective Parcels shall be jointly responsible for the maintenance duties of CCM concerning the Shopping Center Sign, as described above, in accordance with their pro rata share, as provided above. Nothing herein shall preclude all the participating Owners from agreeing to designate an Owner or Owners or other designee to assume CCM's duties concerning the Shopping Center Sign, as described above.

9. No Barriers Upon Easement Areas.

No barriers may be constructed or located in the Cross Access Easements or in, on or about any of the other easements described herein that shall impair, burden or interfere with the easement rights granted herein. No barricade or other divider may be constructed which shall block reasonable access to, or prohibit or discourage use of, the easement rights granted in this Agreement. Any blockage required to prevent public dedication of any part of the Cross Access Easements area or any other easements described herein shall be performed at times when business operations are not being conducted on the Parcels.

10. Maintenance of Parcels by Owners.

(a) Each Owner shall, at all times, keep its Parcel and improvements in a safe, clean, neat and sanitary condition in compliance with all applicable laws, regulations, codes and governmental orders. Without limitation, each Owner shall:

   (i) Maintain the surfaces of all paved portions of its Parcel, including sidewalks and curbs, so that the surfaces are level, smooth and evenly covered with the type of surfacing material originally installed or a substitute material that is equal in quality, appearance and durability.

   (ii) Remove all papers, debris, filth and refuse from its Parcel, and wash or thoroughly sweep paved areas, as required to maintain its Parcel in a first-class and clean condition.
(iii) Place, repair, replace and repaint as necessary entrances, exits, directional signs, striping, markers and lights in or on its Parcel.

(iv) Maintain and clean all landscaped areas on its Parcel, including: the regular pruning, weeding, fertilizing and watering of trees and shrubbery; repair and replacement of the irrigation system; and maintenance and replacement of seasonal bedding plants, if any.

(v) Pay all electrical, water and other utility charges or fees for services furnished to its Parcel.

(vi) Maintain, clean and repair all common utility lines, storm drains, sewers and other Utility Systems located in, on or under its Parcel.

(vii) Perform any other specific duties described in this Agreement that require each Owner to manage, operate and maintain its Parcel and any easements therein for the benefit of any other Owner.

(b) During any construction activities, it shall be the responsibility of each Owner to ensure that, while improvements are under construction, its Parcel is kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, vehicles and the like are kept in a neat and orderly manner, and are not allowed on any other Parcel, except as may be expressly consented to by the Owner of such other Parcel.

(c) At all times during any initial construction of any part of the Remaining Parcels, and during any subsequent maintenance, repair or replacement, all construction shall be conducted expeditiously and in such a manner as to not adversely affect the operations or visibility of the business on the TSC Parcel. All construction materials, equipment and parking shall be kept neat so as to not detract from business operations on the TSC Parcel. Until such time as buildings and other improvements are constructed on any part of the Remaining Parcels, appropriate ground cover and erosion control shall be installed, including keeping the grass properly cut, free from weeds and trash, and otherwise neat and attractive in appearance and in a condition that will not detract from business operations on the TSC Parcel. In no event shall the construction vehicles (including delivery trucks) of the Remaining Parcel Owners and their contractors, subcontractors, suppliers, workers and inspectors use, travel across, park upon or stage activities from the TSC Parcel or otherwise interfere with the normal business operations of the TSC Parcel or other Parcels. All construction materials and vehicles, including workers’ vehicles, must be kept on the Parcel where the construction is occurring; no materials or vehicles may be on any other Parcels without the written consent of the Owner(s) of any such affected Parcel(s).

(d) Owners may retain independent property or construction managers or consultants to perform any duty or obligation of the Owners under this Agreement. Unless otherwise agreed by the other Owners, or as otherwise provided herein, the costs of such managers and consultants shall be the responsibility of the Owner who hired such managers and consultants.

(e) In carrying out the responsibilities under this Agreement for the maintenance, management and operation of the Parcels, the Owners shall keep their respective Parcels free and clear of any liens arising out of any work performed, materials furnished, or other obligations incurred.
(f) The City may, if it chooses, ensure that Owners maintain their respective Parcels as required by Section 10(a)(vi) above and as necessary to protect the public health, safety, and general welfare. If the City concludes the Owners, collectively or individually, have failed to do so, it may give the Owners a written request to correct the maintenance deficiency. The responsible Owner(s) shall correct such deficiency within thirty (30) days of receipt of the notice from the City unless the nature of the deficiency to be corrected is such that thirty (30) days is not sufficient for its correction, in which case the responsible Owner(s) shall commence the correction within that thirty (30)-day period and diligently pursue the correction to completion. Should the responsible Owner(s) fail to correct such deficiency, the City may (but need not) enter onto the Parcel(s) where the deficiency is located to correct the noticed deficiency.

The responsible Owner(s), or its/their successors or assigns, shall reimburse the City for its actual, reasonable costs to correct such deficiency within thirty (30) days after receipt of the City’s invoice for such costs. If such Owner(s) fail to pay promptly after having been notified by the City of such expenditures, then such Owner(s) agree that the City’s work to correct the deficiency may be treated as a nuisance abatement under Grass Valley Municipal Code chapter 9.28 and the costs and expenses associated with the abatement of a nuisance condition may be enforced and recovered under Grass Valley Municipal Code sections 1.10 through 1.15, inclusive.

11. **Mutual Indemnification and Insurance.**

(a) Each Owner of all or any portion of the Parcels shall indemnify, defend, save and hold harmless all other Owners, and such Owner’s officers, directors, shareholders, members, partners, trustees, beneficiaries, agents, servants, employees, representatives and assigns from and against any and all claims, costs, damages, judgments, expenses, fines, liabilities and losses (including reasonable attorneys’ fees, paralegal fees, expert witness fees, consultant fees, and other costs of defense) arising from or as a result of (i) any injury, including death, loss or damage of any kind whatsoever to any person or entity or to the property of any person or entity as shall occur arising out of or in connection with the use of the easements granted herein or the rights and obligations included herein and improvements located on each Parcel caused by the negligence or misconduct of the indemnifying party or its agents, employees or contractors or the indemnifying party’s failure to perform its obligations under this Agreement. The indemnities provided herein are ones of first defense and payment, not of reimbursement or surety, and shall in no way be limited by or to the amount of insurance carried, or required to be carried, hereunder.

(b) Each Owner of any part of the Parcels shall at all times cause to be maintained a policy of public liability insurance issued on an occurrence form, including contractual liability, personal and bodily injury, and property damage insurance in an amount not less than a combined single limit of Two Million Dollars ($2,000,000) per occurrence and an aggregate limit of not less than Four Million Dollars ($4,000,000). Each such policy shall name as additional insureds all other Owners of any part of the Parcels and Tractor Supply Company, a Delaware corporation, (including its subsidiaries, affiliates, successors and assigns) so long as TSC holds a fee or leasehold interest in the TSC Parcel. Upon reasonable request, each such Owner shall provide a certificate of insurance evidencing such coverage. Such insurance shall be endorsed to provide that the insurance be primary to and not contributory to any similar insurance carried, or required to be carried, hereunder, and shall contain a severability of interest clause. All such insurers shall have an A.M. Best rating of at least A-VII.

(c) Each Owner of any of the Remaining Parcels shall procure and maintain fire and extended coverage insurance with an endorsement for vandalism on all buildings and other improvements located on the improved areas and any common areas of that Owner’s Parcel.
The amount of coverage shall be equal to at least one hundred (100%) percent of the full replacement cost of all included buildings and other improvements. In the event an Owner of any of the Remaining Parcels is required by this Agreement to rebuild, repair, or restore a damaged or destroyed building or other improvement on an improved area or common area of that Owner's Parcel, the insurance proceeds paid for an insured loss shall be used for the purpose of the rebuilding, repair or restoration.

12. **Property Taxes and Assessments.**

(a) Each Owner shall pay, prior to delinquency, all real property taxes, assessments and other charges that may be levied, assessed or charged against the Parcel owned by that Owner.

(b) Each Owner shall have the right, at that Owner's sole cost and expense, to protest or contest in good faith the amount of any tax or assessment levied on that Owner's Parcel and to defer payment of the tax or assessment until final determination of the contest. On final determination of the contest, the contesting Owner shall immediately pay the amount of the judgment rendered and all costs, charges, interest, and penalties related to the contest. The contesting Owner shall also defend, indemnify, and hold each of the other Owners harmless from any damage, cost, or expense (including reasonable attorneys' fees) arising out of the contest.

13. **Damage and Destruction.**

(a) Any rebuilding, repair or replacement of a building or other improvement on any Parcel shall be commenced as soon as possible after occurrence of any event causing the damage or destruction and completed as expeditiously as possible thereafter. Any restoration, repair or rebuilding shall comply with all applicable requirements of this Agreement.

(b) If any Owner is not required to or elects not to rebuild, repair or restore any portion of any damaged or destroyed building or other improvement located on that Owner's Parcel, the Owner shall raze and demolish the damaged or destroyed building or other improvement and clear all debris from the affected area of that Owner's Parcel. The affected area shall then either be landscaped with ground cover or otherwise maintained in accordance with Section 10 herein.

14. **Condemnation of any Portion of Remaining Parcels.**

(e) This section applies when a taking by eminent domain (or purchase in lieu of a taking by eminent domain) occurs with respect to either of the following: (1) parking areas located on any common areas of any Remaining Parcels, if the parking areas remaining on any such Parcel after the taking violate either the then-applicable zoning law as to size, location, layout, or otherwise; or (2) any portion of any common areas in any of the Remaining Parcels, if the taking results in a closure of ingress and egress from adjacent public streets. Following such a taking, the Owners of the Remaining Parcels shall in good faith endeavor to agree, as the case may be, on a plan (1) to bring the remaining parking areas into compliance with the then-applicable zoning law (either through obtaining a variance or exception to the zoning law or by providing additional substitute parking areas); or (2) to provide new ingress and egress routes to and from the Remaining Parcels and the adjacent public streets in a way that complies with the then-applicable zoning law and that does not substantially decrease public ingress and egress to and from any building located on the improved area of any such Parcel. The portion of any award for a taking by eminent domain received by an Owner attributable to a taking of any common areas on the
Remaining Parcels shall be used for any corrective work to said common areas described above and agreed on by the Owners of the Remaining Parcels, regardless of whether the corrective work will or will not be performed on any Owner's Parcel. Any excess cost of corrective work shall be shared by the Owners of the Remaining Parcels in proportion to the common area square footage on their respective Parcel. A decision regarding a specific plan for the corrective work must be approved by all Owners of the Remaining Parcels within one hundred and twenty (120) days after definitive written notice of the intended taking is given by the condemning authority.

(b) This section applies to any award of damages or compensation made for a taking by eminent domain of any Remaining Parcels or portion thereof, whether the award is obtained by agreement prior to, or during the time of, any court action, or by judgment, verdict or order resulting from or entered after any such court action resulting from the taking by eminent domain. Any such award shall be distributed among the Owners of the Remaining Parcels in accordance with each such Owner's respective Parcel area or common area square footage, as the case may be, and the terms and conditions of any judgment, verdict or order. For purposes of this Agreement, in the event any of the Remaining Parcels (or portion of a Parcel) is sold in lieu of a taking by eminent domain, the sale shall be considered a taking by eminent domain and the sales price, less selling expenses, shall be considered the award of damages or compensation made for a taking by eminent domain.

This Section 14 applies only to the Remaining Parcels and not to the TSC Parcel.

15. Remedies.

(a) In the event any Owner fails to perform its obligations under this Agreement or otherwise breaches the terms of this Agreement, a non-defaulting Owner may notify the defaulting Owner and shall specify the breach. If such failure or breach is not cured within thirty (30) days after receipt of such notice (or if the cure cannot reasonably be completed within thirty (30) days, a reasonable period of time provided the cure has been commenced within said thirty (30) day period and diligently prosecuted to completion), then such non-defaulting Owner shall have the right to cure the failure or breach, and recover all actual and reasonable costs and expenses related thereto from the defaulting Owner. Notwithstanding the foregoing, in the event that the failure or breach creates an imminent danger of damage to persons or properties, or jeopardizes access to any business or other activities being performed on all or any portion of the Parcels, no notice shall be required prior to the non-defaulting Owner commencing a cure. Any monetary amounts due and payable to the non-defaulting Owner pursuant to this Agreement shall be paid within thirty (30) days from the date the defaulting Owner is notified of the amounts due.

(b) It is expressly agreed that any breach of this Agreement shall not entitle any Owner to cancel, rescind, or otherwise terminate this Agreement or any of its provisions. However, this limitation shall not in any way affect any other rights or remedies that an Owner may have for a breach of this Agreement.

(c) Any Owner shall be excused from a delay in any performance required of the Owner under this Agreement caused by any of the following: the act of any public enemy; war; war defense condition; act of God; the elements; strike; walkout; or other causes beyond the Owner's reasonable control. However, each Owner shall use reasonable diligence to avoid any such delay and to resume its performance required under this Agreement as promptly as possible after the delay.
16. **Rights of Enforcement by Tractor Supply Company.**

The Owners hereby grant to TSC, for so long as it holds a leasehold or fee interest in the TSC Parcel, all the rights granted to the Owner of the TSC Parcel under this Agreement. TSC may enforce all rights and perform all obligations as the Owner of the TSC Parcel arising from this Agreement, including, but not limited to, those necessary to maintain the existence of, and rights to use, the TSC Parcel as intended under the TSC lease with the Owner of the TSC Parcel. The Owners shall not cancel or modify this Agreement without TSC's prior written approval so long as TSC holds a leasehold or fee interest in the TSC Parcel.

17. **Use Restrictions.**

(a) **Exclusive Uses.** All Owners covenant that they shall not sell, lease, rent, occupy or allow to be occupied, or otherwise transfer or convey all or any portion of the Remaining Parcels for the purpose of selling or offering for sale those items which support a farm/ranch/rural/do-it-yourself lifestyle including: (a) tractor and equipment repair and maintenance supplies; (b) farm fencing; (c) livestock feeding systems; (d) feed, hay and health/maintenance products for pets or livestock; (e) western wear, outdoor work wear (similar to and specifically including Carhartt products) and boots, but specifically excluding shoe stores, including, but not limited to Payless Shoes; (f) horse and rider tack and equipment; (g) bird feed and housing and related products; (h) lawn and garden equipment (including but not limited to, push/riding mowers, mow-n-vacs, garden carts, snow blowers, chippers and shredders, wheel barrows, and log splitters); (i) hardware; (j) power tools; (k) welders and welding supplies; (l) open and closed trailers, excluding stores that sell boats and boat trailers, and RV/camping trailers; (m) 3-point equipment; and/or, (n) truck accessories and trailer accessories (including truck tool boxes, and trailer hitches and connections) (the “Restricted Products”). All Owners covenant and agree that the following do-it-yourself lifestyle businesses are expressly excluded from the Restricted Products: (a) knitting, yarn, and sewing stores; (b) beer, wine, and spirit distilleries and/or products pertaining to the making of beer, wine or spirits; (c) antique or furniture restoration stores; (d) artisan’s businesses, such as arts and crafts stores; (e) do-it-yourself auto repair stores; (f) do-it-yourself bathroom centers, including, but not limited to Ferguson Plumbing; (g) do-it-yourself pest control businesses; and (g) nurseries. All Owners further covenant and agree that motorcycle stores, **including, but not limited to, Harley Davidson, shall be permitted.** Nothing contained in this Agreement shall prevent any tenant, subtenant, licensee or other occupant of all or any portion of the Property from selling Restricted Products as an incidental part of its other and principal business so long as the total number of square feet devoted by such tenant, subtenant, licensee or occupant to the display for sale of Restricted Products does not exceed five percent (5%) of the total number of square feet of space used for merchandise display by such tenant, subtenant, licensee or occupant (including one-half (1/2) of the aisle space adjacent to any display area). Further, this covenant shall not apply to any business operated by TSC, or any affiliate of TSC.

(b) **Prohibited Uses.** All Owners covenant that they shall not sell, lease, rent, occupy or allow to be occupied, or otherwise transfer or convey all or any portion of the Property for the following purposes or uses and the following uses shall be prohibited without the written consent of the Owner of the TSC Parcel (which consent may be withheld in such Owner’s sole discretion) for as long as TSC operates a business on the TSC Parcel: the sale or use of marijuana, whether sold by prescription for medical use or otherwise, the sale or use of any other recreational drug or of drug paraphernalia; provided nothing herein shall be deemed to exclude the sale of prescription drugs (other than marijuana) by a licensed pharmacy or the legal sale of alcohol.
18. **Notices.**

Whenever notices shall or may be given to CCM, Sobel, or City, each such notice shall be in writing and be hand-delivered or sent by overnight courier delivery or by certified mail, adequate and proper postage prepaid and affixed, or by electronic means (provided the notice is also sent by regular or certified mail within 24 hours after being transmitted electronically), addressed to such Owner at its address set forth below (unless changed in the manner hereinafter set forth):

If to CCM as Owner of Any of Remaining Parcels:

C.C.M. Corporation  
1651 Response Rd., Ste. 200  
Sacramento, CA 95815

If to Sobel as Owner of TSC Parcel:

Grass Valley SC, LLC  
c/o The Sobel Company, Inc.  
136 So. El Camino Drive #214  
Beverly Hills, CA 90212  
Attn: Brad Sobel

If to City:

City of Grass Valley  
125 E. Main Street  
Grass Valley, CA 95945  
Telephone: (530) 274-4310  
Facsimile: (530) 274-4399

Notices sent to any other Owners may be effected by using the address for any such Owner maintained by the County of Nevada Assessor’s Office. The foregoing addresses may be changed by notice given in the above-listed manner. Any notice required under this Agreement shall be deemed to have been given upon the earlier of delivery or three (3) days after being placed for delivery as herein provided.

19. **Binding Effect.**

The terms and provisions of this Agreement shall be perpetual in duration and binding upon and inure to the benefit of the Owners and their respective successors and assigns. The benefits and burdens set out herein constitute covenants running with the land, and shall be appurtenant thereto, with the effect that any person or entity that acquires an interest in the Parcels shall be entitled to the benefits and be bound by the burdens hereof. Upon conveyance by any Owner of title to its respective Parcel, the transferor shall be relieved of any further liability for performance of its obligations hereunder, except for those obligations accruing prior to such conveyance.

20. **Amendment.**

(a) This Agreement and the easements granted herein shall not be changed, altered or amended except by an instrument in writing executed by the then current Owners of the Parcels,
subject to TSC’s prior written approval so long as TSC holds a leasehold or fee interest in the TSC Parcel. Upon development of the Remaining Parcels, or any part thereof, the Owners agree, upon request by any Owner, to enter into an amendment to this Agreement to specify the rights and obligations among the Owners as they apply to the Remaining Parcels or any part thereof.

21. **CC&R’s for Remaining Parcels.**

If conditions, covenants and restrictions, or any restrictions governing the use and operation of the Remaining Parcels ("CC&R’s") are executed by CCM or any other Owners, the rights and easements granted to the TSC Parcel by this Agreement shall not be affected by such CC&R’s, unless the Owner of the TSC Parcel and TSC (for so long as it holds a leasehold or fee interest in the TSC Parcel) expressly consent to such CC&R’s. No terms in such CC&R’s shall affect the use and operation of the TSC Parcel or the easements or any other rights or benefits granted in this Agreement to the TSC Parcel, or to TSC or the Owner of the TSC Parcel or its Permittees.

22. **Governing Law.**

The terms and conditions of this Agreement shall be governed and construed under the laws of the State of California.

23. **Severability.**

The terms and conditions of this Agreement are severable. If any such terms or conditions should be determined to be unenforceable, the remaining provisions shall remain enforceable.

24. **Attorneys’ Fees.**

In the event that any party is required to commence any action or proceeding against any other party in order to enforce the provisions hereof, the prevailing party’s remedy shall be limited to injunctive relief and damages for the alleged breach of any of the provisions, and no party shall have the right to terminate this Agreement. The prevailing party or parties in such action shall be entitled to recover, in addition to any amounts or relief otherwise awarded, all reasonable costs incurred in connection therewith, including attorneys’ fees.

25. **Merger.**

In the event any Owner shall now or hereafter own, acquire or otherwise take title to the Property or any portion thereof, this Agreement shall survive and shall not be terminated or defeated by any doctrine of merger.
26. **No Public Dedication.**

Nothing contained in this Agreement shall be deemed to be a gift or dedication of any property affected hereby, or any portion thereof, to or for the general public or for any public use or purpose whatsoever, it being the intention of the Owners that this Agreement shall be strictly limited to and for the purposes herein expressed, solely for the benefit of the Owners.

27. **No Partnership or Joint Venture.**

This Agreement shall not be construed or deemed to create a relationship of partnership or joint venture among the Owners or between any of them.

28. **Miscellaneous.**

This Agreement contains the entire agreement of the parties with regard to the subject matter hereof, and supersedes all prior written and oral statements, representations, or agreements. The parties understand that this is a binding legal contract, and acknowledge having adequate time and opportunity to seek the assistance of legal counsel before signing below. No provision of this Agreement shall be interpreted against the drafter of the provision in question; instead, the fairest meaning shall be used. No waiver by any party of any default under this Agreement shall be effective or binding upon such party unless made in writing. No waiver of any default shall be deemed a waiver of any other or subsequent default hereunder. No waiver or any breach of covenant or provision in this Agreement shall be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act. The parties will cooperate by signing additional documents and taking other steps reasonably necessary to effect the intent of the parties hereunder. Time is of the essence in this Agreement. The parties may execute this Agreement in counterparts, which shall in the aggregate, be considered the entire contract. Signatures sent by electronic means shall be valid as original wet ink signatures in accordance with California Civil Code Section 1633.7.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the day first above written.

**Sobel:**

GRASS VALLEY SC, a California limited liability company

By: The Sobel Company, Inc., a California Corporation, its managing member

By: BRADLEY A. SOBEL, President

**CCM:**

C.C.M. CORPORATION, a California corporation

By: WILLIAM C. MEEK, President

178839 1
Exhibit “A”   Legal Description of Property
Exhibit “B-1”   Site Plan
Exhibit “B-2”   Connection Point Location
Exhibit “C-1”   View Corridor (One Building)
Exhibit “C-2”   View Corridor (Two Buildings)
Exhibit “D”    Sign Drawing
Exhibit “E”    TSC Site Plan
Exhibit “F”    Parcel Map
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 Los Angeles

On 3/2/17 before me, Angelina Monique Saenz (Notary), personally appeared Torrey Smith, 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

This area for official notary seal

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 Sacramento

On 8/3/17 before me, Jill C. Reynolds (Notary Public), personally appeared William Smith, 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

This area for official notary seal
CONSENT BY THE CITY OF GRASS VALLEY

The City of Grass Valley hereby consents to the AGREEMENT OF EASEMENTS, COVENANTS AND RESTRICTIONS to which this instrument is attached, by and among the parties thereto, and further confirms that the terms and provisions of the AGREEMENT OF EASEMENTS, COVENANTS AND RESTRICTIONS satisfies any requirements by the City of Grass Valley for reciprocal cross access among the Parcels.

By: ____________________________

Its: ____________________________

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, 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)

9-20

COMMENCING AT THE MOST WESTERLY CORNER OF THE HEREIN DESCRIBED AREA, BEING SITUATE ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF THE NEVADA CITY HIGHWAY (CO. RD. NO. 420 AK1) FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 13 BEARS THE FOLLOWING TWO (2) COURSES: SOUTH 22 DEGREES, 44 MINUTES, 00 SECONDS WEST 16.42 FEET; AND SOUTH 80 DEGREES, 28 MINUTES, 00 SECONDS WEST 431.20 FEET; THENCE FROM SAID POINT OF COMMENCEMENT ALONG SAID RIGHT OF WAY LINE THE FOLLOWING TWO (2) SUCCESSIVE COURSES: NORTH 22 DEGREES, 44 MINUTES, 00 SECONDS EAST 370.06 FEET TO THE BEGINNING OF A RADIAL CURVE TO THE RIGHT, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 170.00 FEET THENCE ALONG SAID CURVE THROUGH AN ARC OF 09 DEGREES, 34 MINUTES, 36 SECONDS FOR A DISTANCE OF 28.41 FEET TO THE END THEREOF AND BEING THE MOST NORTHERLY CORNER OF THE HEREIN DESCRIBED AREA; THENCE ALONG THE NORTHERLY LINES THE FOLLOWING FIVE (5) SUCCESSIVE COURSES: SOUTH 59 DEGREES, 00 MINUTES, 00 SECONDS EAST 198.84 FEET; SOUTH 72 DEGREES, 51 MINUTES, 00 SECONDS EAST 51.30 FEET; SOUTH 46 DEGREES, 22 MINUTES, 00 SECONDS EAST 153.55 FEET; SOUTH 77 DEGREES, 46 MINUTES, 00 SECONDS EAST 140.04 FEET; AND SOUTH 44 DEGREES, 26 MINUTES, 00 SECONDS EAST 158.92 FEET TO THE NORTHEAST CORNER AND BEING SITUATE ON THE NORTHWESTERLY LINE OF THE LANDS OF GATES AS DESCRIBED IN DOCUMENT NO. 84-04065, NEVADA COUNTY RECORDS, THENCE ALONG THE LINES COMMON TO PENDOLA AND GATES THE FOLLOWING SIX (6) SUCCESSIVE COURSES: SOUTH 44 DEGREES, 19 MINUTES, 17 SECONDS WEST 69.62 FEET; NORTH 74 DEGREES, 15 MINUTES, 00 SECONDS WEST 38.89 FEET; SOUTH 27 DEGREES, 38 MINUTES, 00 SECONDS WEST 73.08 FEET WEST 255.42 FEET; SOUTH 01 DEGREES, 23 MINUTES, 00 SECONDS EAST 157.52 FEET; AND SOUTH 02 DEGREES, 18 MINUTES, 00 SECONDS WEST 51.45 FEET TO THE SOUTHEAST CORNER; THENCE ALONG THE SOUTHERLY LINES THE FOLLOWING TWO (2) SUCCESSIVE COURSES: SOUTH 81 DEGREES, 42 MINUTES, 00 SECONDS WEST 179.28 FEET; AND NORTH 79 DEGREES, 17 MINUTES, 00 SECONDS WEST 131.91 FEET TO THE SOUTHWEST CORNER; THENCE ALONG THE WESTERLY LINES THE FOLLOWING FOUR (4) SUCCESSIVE COURSES NORTH 0 DEGREES, 44 MINUTES, 00 SECONDS WEST 192.25 FEET; NORTH 89 DEGREES, 22 MINUTES, 00 SECONDS EAST 57.62 FEET; NORTH 22 DEGREES, 37 MINUTES, 00 SECONDS EAST 79.47 FEET; AND NORTH 70 DEGREES, 55 MINUTES, 00 SECONDS WEST 148.92 FEET TO THE POINT OF COMMENCEMENT.
THE ABOVE DESCRIBED AREA BEING FURTHER DELINEATED ON THAT CERTAIN RECORD OF SURVEY, LOT LINE ADJUSTMENT, LA 96-32 AS FILED IN BOOK 11 OF SURVEYS, AT PAGE 390, NEVADA COUNTY RECORDS.

EXCEPTING THEREFROM ALL OF THE MINERAL, METAL MATTER AND ROCK BELOW 150 FEET OF THE SURFACE WITH THE RIGHT TO EXTRACT AND MINE SAID MINERAL, METAL MATTER AND ROCK FROM ANY DEPTH UP TO 150 FEET OF THE SURFACE OF SAID PREMISES WITHOUT DISTURBING THE SURFACE THEREOF, AS RESERVED IN THE DEED DATED JANUARY 24, 1947, RECORDED FEBRUARY 11, 1947, IN BOOK 114 OF OFFICIAL RECORDS, AT PAGE 203, EXECUTED BY HELEN C. HARVEY TO ANDREW B. CAMPBELL AND HAZEL R. CAMPBELL, HIS WIFE.

ALSO EXCEPTING THEREFROM THE MINERAL BELOW 150 FEET OF THE SURFACE THEREOF, TOGETHER WITH THE RIGHT TO WORK AND MINE THE SAME FROM BELOW SAID DEPTH, WITHOUT DISTURBING THE SURFACE, AS RESERVED IN THE DEED DATED JANUARY 14, 1946, RECORDED JANUARY 15, 1946, IN BOOK 102 OF OFFICIAL RECORDS, AT PAGE 226, EXECUTED BY HELEN C. HARVEY, A MARRIED WOMAN, TO ALFRED C. NEWSON, ET UX.

APN: 35-221-80-000
EXHIBIT B-2
CONNECTION POINT LOCATION

LOT 1

2740
DENOTES ACCESS EASEMENT

LOT 2

CONNECTION POINT LOCATION

LOT 3

SCALE: 1" = 30'-0"

ARCHITECTURE PLUS INC.
4535-B NORTH STAR WAY
MODESTO, CA 95354
ph. 209.577.4661
fx. 209.577.0213
www.apirc.com
api COPYRIGHT 2017

9-241
Exhibit “E”

TSC Site Plan
IRREVOCABLE OFFER OF DEDICATION

for

Public Roadway and Public Utilities purposes and appurtenances thereto, being a portion of
APN 35-610-01 & 35-221-74
City of Grass Valley, California

The undersigned Grantors hereby certify that they are the authorized owner(s) of that 0.36 acre
parcel of land identified on that certain record of survey for Pendola Enterprises, Inc., recorded
in Book 11 of Surveys, Page 390, Official Records of Nevada County and further described in
hereby make an irrevocable offer of dedication in fee to the City of Grass Valley and its
successor, for public use, including all roadway, drainage and utilities purposes and any
appurtenances thereto such as maintenance, or repair, the real property situated in the
incorporated City of Grass Valley, State of California, as described in Exhibit "A" and depicted
on Exhibit "C" attached hereto and made a part hereof.

Said Grantors hereby also grant a public utilities easement (P.U.E.) for all utilities, or
appurtenances thereto, such as maintenance or repair as described in Exhibit "B" and depicted
on Exhibit "C" attached here to and made a part hereof.

William J. Pendola Jr., President
Pendola Enterprises, Inc., a California Corporation

William J. Pendola Jr., Managing Partner, Trustee of the Diane Pendola Trust
William J. Pendola Jr. Trust Partnership Etal

Marilyn Pendola Bacon, Managing Partner, Trustee of the Diane Pendola Trust
William J. Pendola Jr. Trust Partnership Etal

Dated this 8th day of , 2017.
ACKNOWLEDGMENT

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

State of California
County of [Insert County]

On [Insert Date] before me, [Insert Name and Title of the Officer],

personally appeared [Insert Name], who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in 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}

[Stamp]
ACKNOWLEDGMENT

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

State of California
County of Sacramento

On August 3, 2017 before me, JILL CHRISTINE REYNOLDS, Notary Public, (insert name and title of the officer)

personally appeared Marilyn Pendola Bacon, 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 [Signature] (Seal)

JILL CHRISTINE REYNOLDS
Notary Public - California
Sacramento County
Commission #2182874
My Comm. Expires Mar 10, 2021

9-35
EXHIBIT "A"

LEGAL DESCRIPTION

All that real property situated in the incorporated City of Grass Valley, County of Nevada, State of California, being a portion of the S.W. ¼ Section 13, Township 16 North, Range 8 East, Mount Diablo Base and Meridian and being more particularly described as follows:

Beginning at the northwest corner of that 0.36 acre parcel, being a point on the easterly right of way line of Nevada City Highway as shown on that Record of Survey for Pendola Enterprises, Inc. per Book 11 of Surveys, Page 390, Official Records of Nevada County; from which the southwest corner of Section 13 bears S 87°12'22" W, 440.19 feet, more or less; thence from said Point of Beginning South 70°55'00" East, 148.92 feet to the northeast corner of said parcel; thence South 22°37'00" West, 29.32 feet along the easterly line of said parcel; thence leaving said easterly parcel line from a tangent bearing of North 64°43'17" West along the arc of a curve to the left having a radius of 45.00 feet, a delta angle of 06°11'43" and an arc length of 4.87 feet; thence North 70°55'00" West, 130.69 feet; thence along the arc of a curve to the left having a radius of 17.37 feet, a delta angle of 52°54'53" and an arc length of 16.05 feet to the easterly line of said Nevada City Highway right of way; thence along the easterly right of way line of Nevada City Highway North 22°44'00" East, 35.97 feet to the Point of Beginning.

Containing 4,347 square feet, more or less.

The Basis of Bearing is identical to that Record of Survey, recorded in Book 11 of Surveys, Page 390 for Pendola Enterprises Inc., Official Records of Nevada County.
EXHIBIT "B"

LEGAL DESCRIPTION

A 10 feet wide easement across a portion of those parcels described in document no.s 1983-017135 and 1997-015669; Official Records of Nevada County, situated in the incorporated City of Grass Valley, County of Nevada, State of California, being a portion of the S.W. 1/4 Section 13, Township 16 North, Range 8 East, Mount Diablo Base and Meridian and being more particularly described as follows:

Beginning at the northwest corner of that 0.36 acre parcel, being a point on the easterly right of way line of Nevada City Highway as shown on that Record of Survey for Pendola Enterprises, Inc. per Book 11 of Surveys, Page 390, Official Records of Nevada County; from which the southwest corner of Section 13 bears S 87°12'22" W, 440.19 feet, more or less; thence along the easterly right of way line of Nevada City Highway South 22°44'00" West, 35.97 feet to the Point of Beginning; thence leaving said easterly right of way line of Nevada City Highway from a tangent bearing of North 56°10'07" East along the arc of a curve to the right having a radius of 17.37 feet, a delta angle of 52°54'53" and an arc length of 16.05 feet; thence South 70°55'00" East, 130.69 feet; thence along the arc of a curve to the right having a radius of 45.00 feet, a delta angle of 06°11'43" and an arc length of 4.87 feet to the easterly line of said parcel; thence South 22°37'00" West, 10.01 feet along the easterly line of said parcel; thence from a tangent bearing of North 63°57'36" West along the arc of a curve to the left having a radius 35.00 feet, a delta angle of 06°57'24" and an arc length of 4.25 feet; thence North 70°55'00" West, 130.69 feet; thence along the arc of a curve to the left having a radius of 7.37 feet, a delta angle of 33°56'52" and an arc length of 4.37 feet; thence North 67°16'00" West, 10.00 feet to said easterly right of way line of Nevada City Highway; thence along said easterly right of way line North 22°44'00" East, 3.73 feet to the Point of Beginning.

The Basis of Bearing is identical to that Record of Survey, recorded in Book 11 of Surveys, Page 390 for Pendola Enterprises Inc., Official Records of Nevada County.
EXHIBIT "C"

BEING A PORTION OF THE S.W. 1/4 OF SECTION 13, TOWNSHIP 16 NORTH, RANGE 8 EAST, M.D.B. AND M. IN THE COUNTY OF NEVADA AND THE INCORPORATED CITY OF GRASS VALLEY

JULY, 2017
SCALE: 1"=40'

BASIS OF BEARINGS:
The basis of bearings is identical to that record of survey recorded in Book 11 at page 390, O.R.N.C.

NOTE: ALL BOUNDARY INFORMATION SHOWN PER RECORD OF SURVEY FOR PENDOLA ENTERPRISES INC. RECORDED IN BOOK 11 OF SURVEYS, PAGE 390, O.R.N.C.

DATED SIGNED: 8-01-17

MARTIN D. WOOD
STATE OF CALIFORNIA
LICENSED LAND SURVEYOR
LS. 8321

PLANNING ENGINEERING & SURVEYING
IMPROVEMENT AGREEMENT

This Improvement Agreement is made and entered into this 8th day of August, 2017, by and between the CITY of Grass Valley, a municipal corporation, hereinafter referred to as "CITY," and Grass Valley SC, LLC, a limited liability corporation, hereinafter referred to as "SUBDIVIDER."

RECITALS

A. SUBDIVIDER has presented to the CITY a parcel map of a proposed subdivision of land located within the corporate limits of the CITY that has been prepared in accordance with the Subdivision Map Act of the State of California, the subdivision ordinances of the CITY, and the tentative map of the Subdivision, 14PLN-04, previously approved by the Grass Valley Planning Commission.

B. The proposed subdivision of land is commonly known and described as Yuba River Commercial Center, and is hereinafter referred to as the "Subdivision" or the "Project."

C. SUBDIVIDER has requested approval of the parcel map prior to the construction and completion of the public improvements, including, but not limited to streets, public ways, sidewalks, curbs, gutters, storm drainage facilities, public utility facilities, implementation of design standards which are part of the provisions for lot grading and drainage in or appurtenant to the Subdivision, and other public improvements that are required by the Subdivision Map Act, the subdivision ordinances of the CITY, the tentative map (and approvals given in connection therewith), and final grading plan, if any, approved by the CITY. The foregoing improvements are hereinafter referred to as "the Required Improvements."

D. Pursuant to Government Code section 66462 and the applicable provisions of the Subdivision Map Act, SUBDIVIDER and CITY enter into this Agreement for the timely construction and completion of the public improvements and the furnishing of the security therefore, acceptable to the City Engineer and City Attorney, for the Project.
E. SUBDIVIDER's execution of this Agreement and the provision of the security are a condition precedent to CITY's approval of the final map for the Project. (Gov. Code, § 66462(a) & (c).)

NOW, THEREFORE, the parties agree as follows:

1. Performance of Work. SUBDIVIDER agrees to furnish, construct and install at SUBDIVIDER's own expense the Required Improvements as shown on the plans and specifications of the Subdivision, a copy of which is on file in the office of the City Engineer and is identified as Grading Permit 17-01, and is incorporated herein by reference, along with any changes or modifications as may be required by the City Engineer or the City Engineer's designee (hereinafter "City Engineer") due to errors, omissions, or changes in conditions. The plans and specifications of the Required Improvements may be modified by the SUBDIVIDER as the development progresses, subject to the prior written approval of the City Engineer. The total estimated cost of the Required Improvements, as determined by the project engineer, is Two Hundred Seventy-Eight Thousand Four Hundred and Forty dollars ($278,440.00).

SUBDIVIDER is prohibited from commencing work on any improvement unless and until all plans and specifications for such improvement have been submitted to and approved by the City Engineer, or his or her designee. Approval by the City Engineer shall not relieve SUBDIVIDER from ensuring that all Public Improvements conform to all other requirements and standards set forth in this Agreement.

2. Work. Satisfaction of City Engineer. All of the work on the Required Improvements is to be done at the places, of the materials, and in the manner and at the grades, all as shown upon the approved plans and specifications and the City's Improvement Standards and Specifications, to the satisfaction of the City Engineer.

3. Injury to Public Improvements, Public Property or Public Utilities Facilities. SUBDIVIDER shall replace or repair, or have replaced or repaired, all public improvements, public utility facilities, and surveying or subdivision monuments which are destroyed or damaged in the performance of any work under this Agreement. SUBDIVIDER shall bear the entire cost of replacement or repairs of any and all public or private utility property damaged or destroyed in the performance of any work done under this Agreement, whether such property is owned by the United States or any agency thereof, or the State of California, or any agency or political subdivision thereof, or by the CITY or any public or private utility corporation or by any combination of such owners. Any repair or replacement shall be to the satisfaction of the City Engineer.

4. Inspection. SUBDIVIDER shall, at all times, maintain proper facilities and safe access for inspection of the public improvements by CITY and to the shops wherein any work is in preparation. Upon completion of the work, the SUBDIVIDER may request a final inspection by the City Engineer or the City Engineer's representative. If the City Engineer or the designated representative determine that the work has been completed in accordance with this Agreement, then the City Engineer shall certify the completion of the public improvements to the City Council. No improvements shall be finally accepted unless all aspects of the work have been inspected and determined to have been completed in accordance with the Improvement
Plans and City standards. SUBDIVIDER shall bear all costs of plan check, inspection and certification.

5. SUBDIVIDER's Obligation to Warn Public During Construction. Until final acceptance of the Required Improvements, SUBDIVIDER shall give good and adequate warning to the public of each and every dangerous condition existing in said improvements, and will take reasonable actions to protect the public from such dangerous condition.

6. Superintendence by SUBDIVIDER. SUBDIVIDER shall require each contractor and subcontractor to have a competent foreman on the job at all times when that contractor or subcontractor, or any employee or agent thereof, is performing work on the Required Improvements. In addition, SUBDIVIDER shall maintain an office with a telephone and SUBDIVIDER or a person authorized to make decisions and to act for SUBDIVIDER in SUBDIVIDER's absence shall be available on the job site within three (3) hours of being called at such office by the CITY during the hours of 9:00 A.M. through 5:00 P.M., Monday through Friday, or any other day or time when work is being performed on the Required Improvements.

7. Work; Time for Commencement and Performance. Work on the Required Improvements has commenced by the SUBDIVIDER and Work on the Required Improvements shall be completed on or before the 15th day of October, 2018; provided, however, that the Required Improvements shall not be deemed to be completed until accepted in writing by the CITY.

8. Time of Essence; Extension.

   a. Time is of the essence of this Agreement. The dates for commencement and completion of the Required Improvements may not be extended, except as provided in this paragraph. The City Engineer may extend the dates for a maximum of one hundred and eighty (180) days due to delays in the work actually caused by inclement weather, riots, strikes, lockouts, fires, earthquakes, floods and conditions resulting therefrom, or for other reason beyond the control of the SUBDIVIDER. Extension of the dates for any other cause or beyond one hundred and eighty (180) days shall be made only by the City Council. Extensions shall be granted only upon a showing of good cause by the SUBDIVIDER. The City Council or City Engineer, as appropriate, shall be the sole and final judge as to whether good cause has been shown to entitle the SUBDIVIDER to an extension.

   b. Requests for extension of the commencement and/or completion date shall be in writing and delivered to the CITY in the manner hereinafter specified for service of notices. An extension of time, if any, shall be granted only in writing, and an oral extension shall not be valid or binding on the CITY.

   c. In the event the CITY extends the time of commencement and/or completion of the Required Improvements, such extension may be granted without notice by the CITY to the SUBDIVIDER's surety, and shall in no way release any guarantee or security given by the SUBDIVIDER pursuant to this Agreement, or relieve or release those providing an improvement security pursuant to this Agreement.
surety or sureties, if any, in executing the securities shall be deemed to have expressly agreed to any such extension of time.

d. In granting any extension of time, the CITY may require new or amended improvement security in amounts increased to reflect increases in the costs of constructing the Required Improvements or impose other conditions to protect its interests and ensure the timely completion of the Required Improvements.

9. Utilities

a. Utility Undergrounding and Relocation Costs. SUBDIVIDER shall assume all costs for utility and cable television undergrounding and/or relocation which is not the responsibility of the cable television, gas, electric, telephone, or other utility company under the terms of the franchises with the CITY or otherwise imposed upon the utility companies by law.

b. SUBDIVIDER shall provide utility services, including water, power, gas, and telephone service to serve each parcel, lot, or unit of land within the Project in accordance with all applicable federal, state, and local laws, rules, and regulations, including, but not limited to, the regulations, schedules and fees of the utilities or agencies providing such services.

10. Improvement Security. Concurrently with the execution of this Agreement, the SUBDIVIDER shall furnish the CITY with:

a. Faithful Performance Security. SUBDIVIDER shall provide faithful performance security to secure faithful performance of this Agreement (the “faithful performance” security). This security shall be in the amount of fifty percent (50%) of the total estimated cost of the Required Improvements, One Hundred Thirty-Nine Thousand Two Hundred and Twenty dollars ($139,220.00).

b. Payment Security. SUBDIVIDER shall also provide payment security to secure payment to the contractor, subcontractors and to persons renting equipment or furnishing labor or materials to them for the work (the “payment security”). This security shall be in the amount of fifty percent (50%) of the total estimated cost of the Required Improvements, One Hundred Thirty-Nine Thousand Two Hundred and Twenty dollars ($139,220.00) and shall secure the obligations set forth in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

c. Guarantee and Warranty Security. SUBDIVIDER shall also file with this Agreement a “guarantee and warranty security” in the amount of ten percent (10%) of the total estimated cost of the Required Improvements, Twenty-Seven Thousand Eight Hundred Forty-Four dollars ($27,844.00), to guarantee and warrant the Required Improvements for a period of one year following their completion and acceptance against any defective work or labor done, or defective materials furnished.

d. Monument Security. SUBDIVIDER shall also file with this Agreement a “monument security” in the amount of one hundred percent (100%) of the
total estimated cost of the installation of survey monuments in the Subdivision, as determined by the City Engineer, which total cost is in the amount of Two Thousand, Five Hundred dollars ($2,500.00), to guarantee and secure the placement of such monuments.

e. All required securities shall be in a form approved by the City Attorney. In summary, the total amount of security shall equal the cost of the Required Improvements plus ten percent (10%), Three Hundred Six Thousand Two Hundred Eighty-Four dollars ($306,284), and the monument security, Two Thousand, Five Hundred dollars ($2,500.00),

f. Any bonds submitted as security pursuant to this section shall be executed by a surety company authorized to transact a surety business in the State of California with a rating by A.M. Best of no less than A:VII. These bonds shall be furnished on the forms enclosed following this Agreement and shall be satisfactory to the CITY. The bonds shall be obtained from a responsible corporate surety (or sureties) acceptable to the CITY, which is licensed by the State of California to act as surety upon bonds and undertakings and which maintains in this State at least one office for the conduct of its business. The surety (or sureties) shall furnish reports as to its financial condition from time to time as requested by the CITY. The premiums for said bonds shall be paid by SUBDIVIDER.

g. Any bonds submitted as security pursuant to this section shall be furnished by companies who are authorized and licensed by the Insurance Commissioner as “admitted surety insurers.” Bonds must be approved by CITY. Before approving the proposed surety and in order to assess the sufficiency of the Surety, the Surety shall provide the CITY with an original of a certificate from the clerk of Nevada County that the certificate of authority of the insurer has not been surrendered, revoked, canceled, annulled, or suspended or, in the event that it has, that renewed authority has been granted.

h. No change, alteration, or addition to the terms of this Agreement or the plans and specifications incorporated herein shall in any manner affect the obligation of the sureties, except as otherwise provided by the Subdivision Map Act.

i. The securities shall be irrevocable, shall not be limited as to time (except as to the one-year guarantee and warranty period) and shall provide that they may be released, in whole or part, only upon the written approval of the City Engineer and as provided in paragraph 11. All securities provided pursuant to this Agreement shall expressly obligate the surety for any extension of time authorized by the CITY for SUBDIVIDER’s completion of the Required Improvements, whether or not the surety is given notice of such an extension by the CITY.

j. The Attorney-in-Fact (resident agent) who executes the securities on behalf of the surety company must attach a copy of his/her Power of Attorney as evidence of his authority. A notary shall acknowledge the power as of the date of the execution of the surety bond that it covers.

a. Guarantee and Warranty Security. Any unused portion of the guarantee and warranty security may be released one year after acceptance of the Required Improvements by the City Council. The amount to be released shall first be reduced by the amount deemed necessary by the CITY to correct any defects in the Required Improvements that are known or believed by the CITY to exist at the end of the guarantee and warranty period.

b. Payment Security. The payment security may be released thirty-five (35) days after passage of the time within which claims of lien are required to be recorded pursuant to Article 3 of Chapter 2 of Title 15 of Part 4 of Division 3 of the Civil Code (commencing with Section 3114), but in no event shall such security be released prior to one hundred and twenty (120) days after acceptance of the Required Improvements by the City Council. The amount to be released shall first be reduced by the total of all claims on which an action has been filed and notice thereof given in writing to the CITY. CITY expressly may require the surety not to release the amount of security deemed necessary by CITY to assure payment of reasonable expenses and fees, including reasonable attorney’s fees.

c. Faithful Performance Security. The faithful performance security may be released upon acceptance of the Required Improvements by the City Council.

d. Monument Security. The monument security may be released upon acceptance of the required monument installation by the City Engineer.

12. Inspection and Other Fees. The SUBDIVIDER shall pay to the CITY all fees imposed in connection with the construction and inspection of the Required Improvements. These fees must be paid in full prior to the CITY’s acceptance of the Required Improvements. The fees referred to above are not necessarily the only CITY fees, charges or other costs that have been, or will be, imposed on the Subdivision and its development, and this Agreement shall in no way exonerate or relieve the SUBDIVIDER from paying such other applicable fees, charges, and/or costs.

13. Defense, Indemnification and Hold Harmless. The SUBDIVIDER shall defend, indemnify, and hold harmless the CITY, its officers, employees, agents, and elective and appointive boards from any and all claims, losses, damages, including property damage, personal injury, including death, costs, including attorney fees, and liability of any kind or nature directly or indirectly arising out of or in any way connected with performance under this Agreement and/or the construction of the Required Improvements by the SUBDIVIDER, contractor or any subcontractor, or of any person directly or indirectly employed by, or acting as agent for the SUBDIVIDER, contractor or any subcontractor, save and except those matters arising from the sole, active negligence of the CITY.

This defense, indemnification and hold harmless provision shall extend to claims, losses, damage, injury, costs, including attorney fees, and liability for injuries occurring after completion of the construction of the Required Improvements as well as during construction, and shall apply regardless of whether or not the CITY has prepared,
supplied or approved the plans and/or specifications for the Required Improvements or has inspected or accepted the same. Acceptance of insurance required under this Agreement shall not relieve SUBDIVIDER from liability under this defense, indemnification and hold harmless provision. SUBDIVIDER's obligation to indemnify shall survive the expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by CITY.

The parties intend that this provision shall be broadly construed to effectuate its purpose.


a. Prior to the acceptance of any dedications or improvements by CITY, SUBDIVIDER shall certify and warrant that: neither the property to be dedicated nor SUBDIVIDER are in violation of any environmental law and neither the property to be dedicated nor the SUBDIVIDER are subject to any existing, pending, or threatened investigation by any federal, state or local governmental authority under or in connection with any environmental law. Neither SUBDIVIDER nor any third party will use, generate, manufacture, produce, or release, on, under, or about the property to be dedicated, any hazardous substance, except in compliance with all applicable environmental laws. SUBDIVIDER has not caused or permitted the release of, and has no knowledge of the release or presence of, any hazardous substance on the property to be dedicated or the migration of any hazardous substance from or to any other property adjacent to, or in the vicinity of, the property to be dedicated. SUBDIVIDER's prior and present use of the property to be dedicated has not resulted in the release of any hazardous substance on the property to be dedicated. SUBDIVIDER shall give prompt written notice to CITY at the address set forth herein of:

(i) Any proceeding or investigation by any Federal, State or local governmental authority with respect to the presence of any hazardous substance on the property to be dedicated or the migration thereof from or to any other property adjacent to, or in the vicinity of, the property to be dedicated;

(ii) Any claims made or threatened by any third party against CITY or the property to be dedicated relating to any loss or injury resulting from any hazardous substance; and

(iii) SUBDIVIDER's discovery of any occurrence or condition on any property adjoining or in the vicinity of the property to be dedicated that could cause the property to be dedicated or any part thereof to be subject to any restrictions on its ownership, occupancy, use for the purpose for which it is intended, transferability, or suit under any environmental law.

b. As used in this Agreement, the term "hazardous substance" includes any hazardous or toxic substance or material or waste, including but not limited to all types of gasoline, oil, and other petroleum hydrocarbons, asbestos, radon, polychlorinated biphenols (PCBs), or any other chemical, material, controlled substance, object, condition, waste, living organism or any combination thereof which is or may be hazardous to human health or safety or to the environment due to its
radioactivity, ignitability, corrosivity, reactivity, explosivity, toxicity, carcinogenicity, mutagenicity, phytotoxicity, infectiousness or other harmful properties of effects, which is now, or in the future becomes, listed, defined or regulated in any manner by any Federal, State, or local City based directly or indirectly upon such properties.

15. **SUBDIVIDER's Insurance.**

a. **SUBDIVIDER Shall Maintain Insurance.** SUBDIVIDER shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this Agreement, the policies of insurance specified in this Section. Such insurance must have the approval of the CITY as to limit, form, and amount, and shall be placed with insurers with an A.M. Best rating of no less than A:VII.

b. **SUBDIVIDER to Provide Evidence of Insurance.** Prior to the execution of this Agreement and prior to the commencement of any work, the SUBDIVIDER shall furnish to the CITY, and the CITY must approve, original certificates of insurance and endorsements effecting coverage for all policies required by the Agreement. SUBDIVIDER shall not allow any contractor or subcontractor to commence work until similar insurance first shall have been so obtained by such contractor or subcontractor and approved by the CITY. Certificates shall be signed by a person authorized by the insurer, or insurers, to bind coverage on their behalf. Certificate of insurance and endorsements shall be on standard Acord, Department of Insurance, and Insurance Services Office approved forms or on forms approved by the CITY. As an alternative to providing the CITY with approved forms of certificates of insurance and endorsements, the SUBDIVIDER may provide complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required by this Section. At any time, at the written request of the CITY, SUBDIVIDER agrees to furnish one or more copies of each required policy including declarations pages, conditions, provisions, endorsements, and exclusions. Such copies shall be certified by an authorized representative of each insurer.

c. **No Suspension of Insurance.** Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, terminated by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the CITY.

d. **Deductibles.** Upon request by the CITY, SUBDIVIDER shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

e. **Coverages Shall Not Limit Obligations.** The requirement as to types, limits, and the CITY's approval of insurance coverage to be maintained by SUBDIVIDER are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by SUBDIVIDER under the Agreement.

f. **Required Limits.** SUBDIVIDER and its contractors and subcontractors shall, at their expense, maintain in effect at all times during the term of this Agreement, not less than the following coverage and limits of insurance, which shall
be maintained with insurers and under forms of policy satisfactory to the CITY. The maintenance of SUBdivider and its contractors and subcontractors of the following coverage and limit of insurance is a material element of the Agreement. The failure of SUBdivider or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal may be treated by the CITY as a material breach of this Agreement.

(1) **Workers’ Compensation Insurance.** SUBdivider shall maintain, during the term of this Agreement, Workers’ Compensation insurance for all of SUBdivider’s employees as required by Labor Code section 3700 of the State of California and Employer’s Liability Act, including Longshoremen’s and Harbor Workers’ Act (“Acts”), if applicable. Employer’s Liability limits shall not be less than one million dollars ($1,000,000) per occurrence. The SUBdivider shall execute a certificate in compliance with Labor Code section 1861, on the form provided in the Contract Documents. The insurer shall agree to waive all rights of subrogation against the CITY, its officers, officials, and employees for losses arising from work falling within the terms of this Agreement. SUBdivider shall indemnify and hold harmless the CITY for any damage resulting to it, including attorney fees, from failure of either SUBdivider or any contractor or subcontractor to take out and maintain such insurance.

(2) **Commercial General Liability Insurance.** SUBdivider shall maintain during the term of this Agreement such commercial general liability insurance as shall insure the CITY, its elective and appointive boards and commissions, officers, agents and employees, SUBdivider and any contractor or subcontractor performing work covered by this Agreement. The insurance shall include, but not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from actions, failures to act, or operations of SUBdivider, any contractor’s or subcontractor’s operations hereunder, whether such operations are by SUBdivider or any contractor or subcontractor or by anyone directly or indirectly employed by either SUBdivider or any contractor or subcontractor. The amount of insurance coverage shall not be less than one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) per policy aggregate. As an alternative to the policy aggregate the SUBdivider may have an aggregate limit of one million dollars ($1,000,000) per project apply. Coverage shall be at least as broad as Insurance Services Office “occurrence form CG 00 01 (ed. 10/01)” covering commercial general liability or its equivalent.

(3) **Endorsements.** SUBdivider shall see that the commercial general liability insurance shall include, or be endorsed to include, the following:

(a) Provision or endorsement naming the CITY of Grass Valley, its officers, employees, agents, boards, commissions, and volunteers as Additional Insureds with respect to liability arising out of the performance of any work under this Agreement.

(b) Provision or endorsement stating that insurance is Primary insurance with respects the CITY, its officers, employees, agents, boards, commissions, and volunteers, to the extent the CITY is an additional insured. Any
insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, boards, commissions, and volunteers shall be excess of the SUBDIVIDER’s insurance and shall not contribute with it.

(c) Provision or endorsement stating that the SUBDIVIDER’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability (cross-liability).

(d) Provision or endorsement stating that any failure to comply with reporting or other provisions of the policy including breaches of representations shall not affect coverage provided to the CITY, its officers, employees, agents, boards, commissions, and volunteers.

16. Maintenance of Public Improvements and Landscaping. CITY shall not be responsible or liable for the maintenance or care of the Public Improvements until CITY approves and accepts them. CITY shall exercise no control over the Public Improvements until accepted. Any use by any person of the Public Improvements, or any portion thereof, shall be at the sole and exclusive risk of the SUBDIVIDER at all times prior to CITY’s acceptance of the Public Improvements. SUBDIVIDER shall maintain all the Public Improvements in a state of good repair until they are completed by SUBDIVIDER and approved and accepted by CITY, and until the security for the performance of this Agreement is released. Maintenance shall include, but shall not be limited to, repair of pavement, curbs, gutters, sidewalks, signals, parkways, water mains, and sewers; maintaining all landscaping in a vigorous and thriving condition reasonably acceptable to CITY; removal of debris from sewers and storm drains; and sweeping, repairing, and maintaining in good and safe condition all streets and street improvements. It shall be SUBDIVIDER’s responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by CITY. If SUBDIVIDER fails to properly prosecute its maintenance obligation under this section, CITY may do all work necessary for such maintenance and the cost thereof shall be the responsibility of SUBDIVIDER and its surety under this Agreement. CITY shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the Public Improvements or their condition prior to acceptance.

17. Title to Required Improvements. The CITY shall not accept any real property to be dedicated or the Required Improvements unless they are constructed in conformity with the approved plans and specifications, approved modifications, if any, the approved final or parcel map, and City Improvement Standards and Specifications, to the satisfaction of the City Engineer. Until such time as the Required Improvements are accepted by the CITY, SUBDIVIDER shall retain title and shall be responsible for, and bear the risk of loss to, any of the improvements constructed or installed.

Title to and ownership of any real property to be dedicated and the Required Improvements constructed under this Agreement by SUBDIVIDER shall vest absolutely in the CITY upon completion and acceptance in writing of such Required
Improvements by CITY. The CITY shall not accept the Required Improvements unless title to the Required Improvements is entirely free from lien. Prior to acceptance, SUBDIVIDER shall supply the CITY with appropriate lien releases, at no cost to and in a form acceptable to the CITY.

18. Repair or Reconstruction of Defective Work. If, within a period of one year after final acceptance by the City Council of the Required Improvements, any improvement or part of any improvement furnished and/or installed or constructed, or caused to be installed or constructed by SUBDIVIDER, or any of the work done under this Agreement materially fails to fulfill any of the requirements of this Agreement or the specifications referred to herein, SUBDIVIDER shall without delay and without any cost to CITY, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the improvements. If the SUBDIVIDER fails to act promptly or in accordance with this requirement, or if the exigencies of the situation require repairs or replacements to be made before the SUBDIVIDER can be notified, then the CITY may, at its option, make the necessary repairs or replacements or perform the necessary work, and SUBDIVIDER shall pay to CITY the actual cost of such repairs plus fifteen percent (15%) within thirty (30) days of the date of billing for such work by CITY.

19. SUBDIVIDER Not Agent of CITY. Neither SUBDIVIDER nor any of SUBDIVIDER's agents, contractors, or subcontractors are or shall be considered to be agents of the CITY in connection with the performance of SUBDIVIDER's obligations under this Agreement.

20. Notice of Breach and Default. The following shall constitute a default under this Agreement: If SUBDIVIDER refuses or fails to prosecute the work on the Required Improvements, or any part thereof, with such diligence as will ensure its completion within the time specified, or any extension thereof, or fails to complete the Required Improvements within such time; if SUBDIVIDER should be adjudged a bankrupt, or SUBDIVIDER should make a general assignment for the benefit of SUBDIVIDER's creditors, or if a receiver should be appointed in the event of SUBDIVIDER's insolvency; or if SUBDIVIDER or any of SUBDIVIDER's contractors, subcontractors, agents or employees should violate any of the provisions of this Agreement. In the event of SUBDIVIDER's default, SUBDIVIDER shall be deemed to be in breach of this Agreement and the CITY may serve written notice upon SUBDIVIDER and SUBDIVIDER's surety, if any, of the breach of this Agreement. SUBDIVIDER shall have fifteen (15) days from receipt of written notice by CITY to cure any default.

a. CITY reserves to itself all remedies available to it at law or in equity for breach of SUBDIVIDER's obligations under this Agreement. CITY shall have the right, subject to this section, to draw upon or utilize the appropriate security to mitigate CITY damages in event of default by SUBDIVIDER. The right of CITY to draw upon or utilize the security is additional to and not in lieu of any other remedy available to CITY. It is specifically recognized that the estimated costs and security amounts may not reflect the actual cost of construction or installation of the improvements and, therefore, CITY damages for SUBDIVIDER's default shall be measured by the cost of completing the required improvements. The sums provided by the improvement security may be used by CITY for the completion of the public improvements in accordance with the
improvement plans and specifications contained herein. The improvement security includes the Payment Security, Faithful Performance Security, Guarantee and Warranty Security, Monument Security and any other improvement security required by Section 10 of this Agreement.

b. In the event of SUBdivider’s default under this Agreement, SUBdivider authorizes CITY to perform such obligation twenty (20) days after mailing written notice of default to SUBdivider and to SUBdivider’s Surety, and agrees to pay the entire cost of such performance by CITY.

c. CITY may take over the work and prosecute the same to completion, by contract or by any other method CITY may deem advisable, for the account and at the expense of SUBdivider, and SUBdivider’s Surety shall be liable to CITY for any excess cost or damages occasioned CITY thereby; and, in such event, CITY, without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to SUBdivider as may be on the site of the work and necessary for performance of the work.

d. SUBdivider shall not be entitled to any monetary damages from the CITY as a result of any dispute arising out of or related to this Agreement, and SUBdivider hereby expressly waives any right to such monetary damages. SUBdivider’s exclusive remedies from the CITY in any dispute arising out of or related to this Agreement shall be specific performance, declaratory relief, or injunctive relief.

21. Failure of SUBdivider to comply with the terms of this Agreement shall constitute consent to the filing by CITY of a notice of violation against all the lots in the Subdivision or to rescind the approval or otherwise revert the Subdivision to acreage. The remedy provided by this Subsection b is in addition to and not in lieu of other remedies available to CITY. SUBdivider agrees that the choice of remedy or remedies for SUBdivider’s breach shall be within the discretion of CITY.

a. In the event that SUBdivider fails to perform any obligation hereunder, SUBdivider agrees to pay all costs and expenses incurred by CITY in securing performance of such obligations, including costs of suit and reasonable attorneys’ fees.

b. The failure of CITY to take an enforcement action with respect to a default, or to declare a breach, shall not be construed as a waiver of that default or breach or subsequent default or breach of SUBdivider.

SUBdivider recognizes that by approval of the final map for Subdivision, CITY has conferred substantial rights upon SUBdivider, including the right to sell, lease, or finance lots within the Subdivision, and has taken the final act necessary to subdivide the property within the Subdivision. As a result, CITY will be damaged to the extent of the cost of installation of the improvements by SUBdivider’s failure to perform its obligations under this Agreement, including, but not limited to, SUBdivider’s obligation to complete construction of the improvements by the time
established in this Agreement. CITY shall be entitled to all remedies available to it pursuant to this Agreement and the Subdivision Laws in the event of a default by SUBDIVIDER. It is specifically recognized that the determination of whether a reversion to acreage or rescission of the Subdivision constitutes an adequate remedy for default by the SUBDIVIDER shall be within the sole discretion of CITY.

22. Acceptance of Improvements; As-Built or Record Drawings. Upon the total or partial acceptance of the Public Improvements by CITY, SUBDIVIDER shall file with the Recorder’s Office of the County of Nevada a notice of completion for the accepted Public Improvements in accordance with California Civil Code section 3093, at which time the accepted Public Improvements shall become the sole and exclusive property of CITY without payment therefore. Notwithstanding the foregoing, CITY may not accept any Public Improvements unless and until SUBDIVIDER provides one (1) set of “as-built” or record drawings or plans to the City Engineer for all such Public Improvements. The drawings shall be certified and shall reflect the condition of the Public Improvements as constructed, with all changes incorporated therein.

23. Building Permit Sign-Off or Issuance of Certificate of Occupancy. The CITY will not final or sign off as complete any building permit or issue any certificate of occupancy for any building constructed within the Subdivision until and after such time as the CITY accepts the Required Improvements.

24. Notices. All notices required under this Agreement shall be in writing, and delivered in person or sent by registered or certified mail, postage prepaid.

Notices required to be given to CITY shall be addressed as follows:

Timothy M. Kiser, PE, Public Works Director/City Engineer
CITY OF GRASS VALLEY
125 East Main Street
Grass Valley, CA 95945

with a courtesy copy to:

Michael G. Colantuono, City Attorney
Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945

Notices required to be given to SUBDIVIDER shall be addressed as follows:

Grass Valley SC, LLC
c/o The Sobel Company, Inc.
136 S. El Camino Drive, Suite 214
Beverly Hills, CA 90212

Any party may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.
25. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

26. Attorney Fees. In the event any legal action is brought to enforce or interpret this Agreement, the prevailing party shall be entitled to an award of reasonable attorney fees, in addition to any other relief to which it may be entitled.

27. Personal Nature of SUBDIVIDER's Obligations/Assignment. All of SUBDIVIDER's obligations under this Agreement are and shall remain the personal obligations of SUBDIVIDER notwithstanding a transfer of all or any part of the property within the Subdivision subject to this Agreement, and SUBDIVIDER shall not assign any of its obligations under this Agreement without the prior written consent of the CITY.

28. Acquisition and Dedication of Easements or Rights-of-Way. If any of the Required Improvements are to be constructed or installed on land not within the Subdivision or an already existing public right-of-way, no construction or installation shall be commenced before:

   a. The irrevocable offer of dedication or conveyance to CITY of appropriate rights-of-way, easements or other interests in real property, and appropriate authorization from the property owner to allow construction or installation of the Required Improvements, or

   b. The issuance of an order of possession by a court of competent jurisdiction pursuant to the State Eminent Domain Law. SUBDIVIDER shall comply in all respects with any such order of possession.

Nothing in this paragraph shall be construed as authorizing or granting an extension of time to SUBDIVIDER for completion of the Required Improvements.

29. Compliance with Laws. SUBDIVIDER, its agents, employees, contractors, and subcontractors shall comply with all federal, state and local laws in the performance of the work required by this Agreement including, but not limited to, obtaining all applicable permits and licenses.

30. No Vesting of Rights. Entering into this Agreement shall not be construed to vest SUBDIVIDER's rights with respect to any change in any zoning or building law or ordinance.

31. Approvals by CITY. Any approval or consent that is to be given by the CITY under this Agreement shall be in writing, and any approval or consent that is not in writing shall not be binding on the CITY.

32. Construction and Interpretation. It is agreed and acknowledged by SUBDIVIDER that the provisions of this Agreement have been arrived at through negotiation, and that SUBDIVIDER has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel.
Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

33. **Successors and Assigns -- Covenant Running With the Land.** This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the respective parties. A memorandum of this Agreement in the form attached hereto shall be recorded in the Office of the Recorder of Nevada County concurrently with the final map or parcel map of the Subdivision. This Agreement shall constitute a covenant running with the land and an equitable servitude upon the real property within the Subdivision.

34. **Severability.** The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect unless amended or modified by mutual written consent of the parties.

35. **Actions.** Any action by any party to this Agreement, or any action concerning a security furnished pursuant thereto, shall be brought in the appropriate court of competent jurisdiction within the County of Nevada, State of California, notwithstanding any other provision of law which may provide that such action may be brought in some other location. The law governing this Agreement is the law of the State of California.

36. **Integration.** This Agreement is an integrated agreement. It supersedes all prior negotiations, representations, or agreements, either written or oral.

37. **Modification.** This Agreement may be amended only by a written instrument signed by the parties. SUBDIVIDER shall bear all costs of amendments to this Agreement that are requested by the SUBDIVIDER.
IN WITNESS WHEREOF, the parties have executed this Agreement as follows:

CITY OF GRASS VALLEY

By: ________________
    Howard Levine, Mayor

ATTEST:

Kristi K. Bashor, CITY Clerk

APPROVED AS TO FORM:

_____________________
Michael G. Colantuono, CITY Attorney

SUBDIVIDER

By: ____________________
    ________________, [Title]
ACKNOWLEDGMENT

State of California )
 ) ss.
County of Nevada )

On ________________ before me, __________________________, personally appeared __________________________, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

______________________________________________
NOTARY PUBLIC

9-55
FAITHFUL PERFORMANCE BOND

WHEREAS, the CITY Council of the CITY of Grass Valley, State of California, and Town Development of Sacramento, Inc. (hereinafter designated as "principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement identified as Ridge Meadows Project, is hereby referred to and made a part hereof; and

WHEREAS, said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

NOW, THEREFORE, we, the principal and ____________________, as surety, are held and firmly bound unto the CITY of Grass Valley hereinafter called ("CITY"), in the penal sum of One Hundred Thirty-Nine Thousand Two Hundred and Twenty dollars ($139,220.00) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless CITY, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by CITY in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.
IN WITNESS WHEREOF, this faithful performance bond has been duly executed by the principal and surety above named, on ______________________, 2017.

Name of Surety

Principal

By: ____________________________

Title: ____________________________

________________________________________

Mailing Address of Surety

and

By: ____________________________

Title: ____________________________

Telephone No. of Surety

By: ____________________________

Attorney in Fact

NOTE: If principal is a partnership, all partners should execute the bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in California.

NOTICE: The signature of the Surety on this bond must be acknowledged before a notary public, and this bond must be accompanied by evidence that the appointment as attorney in fact has been recorded in Nevada County.

MANDATORY: The Surety shall be authorized and licensed by the California Insurance Commissioner as an "admitted surety insurer."

APPROVAL: Bonds must be approved by CITY.

REQUEST TO INSURER TO SUBMIT DOCUMENTS: Execution of this document shall constitute the CITY's formal request to the insurer to provide the CITY with an original of a certificate from the clerk of Nevada County that the certificate of authority of the insurer has not been surrendered, revoked, canceled, annulled, or suspended or, in the event that it has, that renewed authority has been granted.

POWER OF ATTORNEY REQUIRED. The Attorney-in-Fact (resident agent) who executes this bond on behalf of the surety company must attach a copy of his Power of Attorney as evidence of his authority. A notary shall acknowledge the power as of the date of the execution of the surety bond that it covers.
PAYMENT BOND

WHEREAS, the City Council of the City of Grass Valley, State of California, and Town Development of Sacramento, Inc. (hereinafter designated as "principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement identified as Ridge Meadows Project, is hereby referred to and made a part hereof; and

WHEREAS, Under the terms of said agreement, principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Grass Valley to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

NOW, THEREFORE, said principal and the undersigned as corporate surety, are held firmly bound unto the City of Grass Valley and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the aforesaid agreement and referred to in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code in the sum of One Hundred Thirty-Nine Thousand Two Hundred and Twenty dollars ($139,220.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney fees, incurred by CITY in successfully enforcing the obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.
IN WITNESS WHEREOF, this payment bond has been duly executed by the principal and surety above named, on ________________, 2017.

Name of Surety
Principal

By: ____________________________
Title: ____________________________

__________________________________
Mailing Address of Surety

and

By: ____________________________
Title: ____________________________

Telephone No. of Surety

By: ____________________________
Attorney in Fact

NOTE: If principal is a partnership, all partners should execute the bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in California.

NOTICE: The signature of the Surety on this bond must be acknowledged before a notary public, and this bond must be accompanied by evidence that the appointment as attorney in fact has been recorded in Nevada County.

MANDATORY: The Surety shall be authorized and licensed by the California Insurance Commissioner as an "admitted surety insurer."

APPROVAL: Bonds must be approved by CITY.

REQUEST TO INSURER TO SUBMIT DOCUMENTS: Execution of this document shall constitute the CITY's formal request to the insurer to provide the CITY with an original of a certificate from the clerk of Nevada County that the certificate of authority of the insurer has not been surrendered, revoked, canceled, annulled, or suspended or, in the event that it has, that renewed authority has been granted.

POWER OF ATTORNEY REQUIRED. The Attorney-in-Fact (resident agent) who executes this bond on behalf of the surety company must attach a copy of his Power of Attorney as evidence of his authority. A notary shall acknowledge the power as of the date of the execution of the surety bond that it covers.
BOND FOR SECURITY OF INSTALLATION OF MONUMENTS

WHEREAS, the City Council of the City of Grass Valley, State of California, and Town Development of Sacramento, Inc. (hereinafter designated as “principal”) have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement identified as Ridge Meadows Project, is hereby referred to and made a part hereof; and

WHEREAS, said principal is required under the terms of said agreement to furnish a bond for the installation of monuments pursuant to said agreement.

NOW, THEREFORE, we, the principal and __________________, as surety, are held and firmly bound unto the City of Grass Valley hereinafter called (“CITY”), in the sum of two Thousand, Five Hundred dollars ($2,500.00), for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the installation of monuments pursuant to the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless CITY, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney’s fees, incurred by CITY in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.
IN WITNESS WHEREOF, this monument bond has been duly executed by the principal and surety above named, on ________________, 2017.

Name of Surety                                      Principal
                                                     By: _______________________
                                                     Title: _____________________

__________________________________________________

Mailing Address of Surety                            and
                                                     By: _______________________
Telephone No. of Surety                               Title: _____________________
                                                     _______________________
                                                     Attorney in Fact

NOTE: If principal is a partnership, all partners should execute the bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in California.

NOTICE: The signature of the Surety on this bond must be acknowledged before a notary public, and this bond must be accompanied by evidence that the appointment as attorney in fact has been recorded in Nevada County.

MANDATORY: The Surety shall be authorized and licensed by the California Insurance Commissioner as an "admitted surety insurer."

APPROVAL: Bonds must be approved by CITY.

REQUEST TO INSURER TO SUBMIT DOCUMENTS: Execution of this document shall constitute the CITY's formal request to the insurer to provide the CITY with an original of a certificate from the clerk of Nevada County that the certificate of authority of the insurer has not been surrendered, revoked, canceled, annulled, or suspended or, in the event that it has, that renewed authority has been granted.

POWER OF ATTORNEY REQUIRED. The Attorney-in-Fact (resident agent) who executes this bond on behalf of the surety company must attach a copy of his Power of Attorney as evidence of his authority. A notary shall acknowledge the power as of the date of the execution of the surety bond that it covers.
SUBDIVISION MAINTENANCE BOND
GUARANTEE AND WARRANTY SECURITY

WHEREAS, the CITY Council of the CITY of Grass Valley, State of California, and Town Development of Sacramento, Inc. ("principal") have entered into an agreement by which principal agrees to install and complete certain designated public improvements and to guarantee and warrant the work for a period of one year following its completion and acceptance, which said agreement identified as Ridge Meadows Project is hereby referred to and made a part hereof; and

WHEREAS, said principal is required under the terms of said agreement to furnish a bond to guarantee and warrant the work for a period of one year following its completion and acceptance against any defective work or labor done, or defective materials furnished, to comply with the terms of said agreement.

NOW, THEREFORE, we, the principal and _______________________________, admitted and duly authorized to transact business under the laws of the State of California as surety, are held and firmly bound unto the CITY of Grass Valley as obligee ("CITY"), in the penal sum of Twenty-Seven Thousand Eight Hundred Forty-Four dollars ($27,844.00) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, provisions in the said agreement and any alteration thereof made as therein provided, on his or its part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless CITY, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by CITY in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations of this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications. The surety waives all rights of subrogation against the CITY or any person employed by the CITY.
IN WITNESS WHEREOF, this subdivision maintenance bond guarantee and warranty security has been duly executed by the principal and surety above named, on __________________, 2017.

Name of Surety

Principal

By: __________________________

Title: __________________________

Mailing Address of Surety

and

By: __________________________

Title: __________________________

Telephone No. of Surety

By: __________________________

Attorney in Fact

NOTE: If principal is a partnership, all partners should execute the bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department’s most current list (Circular 570 as amended) and be authorized to transact business in California.

NOTICE: The signature of the Surety on this bond must be acknowledged before a notary public, and this bond must be accompanied by evidence that the appointment as attorney in fact has been recorded in Nevada County.

MANDATORY: The Surety shall be authorized and licensed by the California Insurance Commissioner as an “admitted surety insurer.”

APPROVAL: Bonds must be approved by CITY.

REQUEST TO INSURER TO SUBMIT DOCUMENTS: Execution of this document shall constitute the CITY’s formal request to the insurer to provide the CITY with an original of a certificate from the clerk of Nevada County that the certificate of authority of the insurer has not been surrendered, revoked, canceled, annulled, or suspended or, in the event that it has, that renewed authority has been granted.

POWER OF ATTORNEY REQUIRED. The Attorney-in-Fact (resident agent) who executes this bond on behalf of the surety company must attach a copy of his Power of Attorney as evidence of his authority. A notary shall acknowledge the power as of the date of the execution of the surety bond that it covers.