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CITY OF MILPITAS
PLANNING DIVISION

RA5

April 2, 2010

Dear Mayor Livengood and Members of the Milpitas City Council,

We are respectfully requesting assistance from the City of Milpitas with the expenses associated with the beautification of the common areas surrounding the sixteen (16) apartment complexes located between E. Calaveras Boulevard and Adams Avenue. The addresses of each these properties that lies within the project site are listed at the end of this letter. Also, we understand that the properties listed may be moved into the Redevelopment Area.

The eight (8) owners of the sixteen apartment complexes came up with a comprehensive improvement plan for our properties. A projected completion date for implementing these enhancements is scheduled for the end of July 2010. After much discussion, the property owners came to an agreement on the following enhancements that includes:

- Asphalt overlay of apartment complex's common driveways and carports.
- New striping and curbing for parking and fire lanes.
- Improved rear yard landscaping of each property.
- New common fencing along the adjoining properties.
- Additional tenant parking stalls along the complex's common driveways.
- New "gated" enclosures for properties' garbage and recycling bins.

These improvements are in addition to the ones that the eight owners have already done during the past year which are:

- New painting of the apartment complex's various building structures and carports.
- Hiring a contractor to clean and maintain the complex's common and garbage/recycling bins areas.
- New front landscaping along Calaveras Blvd and improvement of existing landscaping along Adams Ave.

The owners have spent approximately $45,000 on these past improvements.

A professional engineer was contracted by the eight owners to draft up plans for the proposed enhancements. City staff was consulted for their input before completion of these plans. These drawings were then used to obtain bids from several contractors to determine the project's total cost.

The total project expenditure for the proposed improvements should be no higher than $500,000. The owners are able to commit to approximately $250,000 towards the project's total cost and are requesting from the City to match these funds not to exceed $250,000.

In return for the City's assistance, the owners will restrict 50% of the total (64) units to moderate or low income families. The total units that will fall under the family income restrictions will be thirty-two (32) units for 55 years. The family's income requirements will be based on the qualifications typically specified for these types of rental housing programs.

Please consider our request for assistance on defraying the cost of these enhancements that we've mentioned above. We feel that the properties' beautification project will meet the intent of moving these sixteen apartment complexes under the new Redevelopment Area. Feel free to contact any of us if there are any questions regarding our request.

Respectively submitted,

Segundo Cacao
1559 Calaveras Blvd.
1605 Calaveras Blvd.
1619 Calaveras Blvd.
1633 Calaveras Blvd.
1649 Calaveras Blvd.
1665 Calaveras Blvd.
1594 Adams Ave.
1640 Adams Ave.

Hing & Siao Fay Chan
1566 Adams Ave.

Brian Tran
1626 Adams Ave.

Arthur Yu
1573 Calaveras Blvd.

Rolando Cayabyab
1585 Calaveras Blvd.
1580 Adams Ave.

Ramon Manuel
1654 Adams Ave.

Joy Mao
1666 Adams Ave.

Vince Songcayawon
1610 Adams Ave.

RESOLUTION NO. ____

A JOINT RESOLUTION OF THE MILPITAS REDVELOPMENT AGENCY AND THE CITY OF MILPITAS ADOPTING FINDINGS PURSUANT TO CALIFORNIA REVELOPMENT LAW SECTION 33487 FOR THE USE OF SET-ASIDE HOUSING FUNDS OUTSIDE OF THE REDEVELOPMENT PROJECT AREA AND APPROVING THE REGULATORY AND MAINTENANCE AGREEMENT WITH ADAMS LIFT ZONE OWNERS

WHEREAS, the City of Milpitas is facing an acute housing crisis which specifically impacts low- and moderate-income renters and homeowners, and their ability to find affordable housing; and

WHEREAS, the Redevelopment Agency of the City of Milpitas ("Agency) and City staff have reviewed several sites inside and outside the Milpitas Redevelopment Project Area ("Project Area") in seeking to increase the production of affordable housing units; and

WHEREAS, the Housing Element of the General Plan for the City has been certified by the Department of Housing an Community Development and identifies a Regional Housing Needs Allocation of 2,487 dwelling units for the City of which 1,551 dwelling units are needed for very low, low and moderate-income households; and

WHEREAS, the Agency has provided funding to financially support 916 affordable housing units; and

WHEREAS, additional affordable housing units are still needed to meet the needs of Milpitas residents and employees; and

WHEREAS, the Agency plans to add additional areas to the Redevelopment Plan Area, effective June 3, 2010, which will reduce the overall percentage of affordable units within the Redevelopment Plan Area and necessitate addition affordable units; and

WHEREAS, the City initiated a neighborhood improvement program for the properties located between Adams Avenue and East Calaveras Boulevard, known as the Local Improvements for a Better Tomorrow Zone ("Adams LIFT Zone"), which is part of the new area to be added to the Redevelopment Plan Area effective June 3, 2010; and

WHEREAS, the owners of the apartment buildings in the Adams LIFT Zone wish to improve the deteriorating condition of the properties by correcting the deficiencies along the rear alley, and by installing new trash enclosures, new landscaping, and common fencing; and

WHEREAS, the Adams LIFT Zone owners have raised monies for half of the cost of the improvements and are seeking funding from the Agency for the rest. In exchange for the Agency's assistance, the Adams LIFT Zone owners will restrict half of the units (32 of 64) in the neighborhood as affordable units for low- and moderate-income households; and

WHEREAS, Health and Safety Code Section 33487 permits the expenditure of Set-Aside funds outside of the Project Area upon adoption of the City and the Agency of a finding that the use of the Set-Aside Funds will be of benefit to the Project Area; and

WHEREAS, Health and Safety Code Section 33334.2(e) permits the expenditure of Set-Aside funds for rehabilitating affordable housing units that are restricted for rental to low- and moderate-income households for fifty-five years, but where the improvements benefit non-affordable units as well as affordable units the Agency can only provide funding in the same percentage as the amount of affordable units to the total units in the development; and

WHEREAS, the proposed improvements and the terms and conditions for the provision of the Agency grant are more particularly described in a Regulatory and Maintenance Agreement (the "Regulatory Agreement"); and

WHEREAS, pursuant to the Regulatory Agreement, the Adams LIFT Zone owners and will restrict the rents for half the neighborhood units at levels affordable to low- and moderate income senior households for a period of fifty-five (55) years; and

WHEREAS, the Adams LIFT Zone owners and City staff have determined that it will not be economically feasible to complete the onsite improvements for the neighborhood, including the affordable units without financial assistance from the Agency, and despite good faith efforts on the part of the Adams LIFT Zone owners, no other reasonable means of private or commercial financing is reasonably available to finance the improvements.

NOW, THEREFORE, the Board of the Redevelopment Agency and the City Council of the City of Milpitas hereby find, determine, and resolve as follows:

1. The Board and the City Council have considered the full record before them, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to them. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The expenditure of Set Aside Funds in accordance with the executed Regulatory and Maintenance Agreement will increase the availability of affordable housing in the City which will be of benefit to the Project Area, will further the goals of the Redevelopment Plan and will be consistent with the implementation plan adopted in connection therewith.

3. The amount of the grant by the Agency to the Adams LIFT Zone owners will not exceed 50% of the total amount of the cost of the improvements.

4. The Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301 because the Project involves the repair of existing structures and streets to provide and improve affordable housing to low- and moderate-income households.

5. The City Manager is authorized to execute the Regulatory and Maintenance Agreement with the Adams LIFT Zone owners.

PASSED AND ADOPTED this _____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

_____
Mary Lavelle, Agency Secretary/City Clerk

_____
Robert Livengood, Chair/Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, Agency Counsel/City Attorney

Recording requested by and
When recorded, mail to:

Milpitas Redevelopment Agency
455 East Calaveras Blvd.
Milpitas, California 95035
Attn: Executive Director

NO FEE DOCUMENT PURSUANT TO
GOVERNMENT CODE SECTION 6103

REGULATORY AND MAINTENANCE AGREEMENT

This Regulatory Agreement (the "Agreement") is made this ____ day of April, 2010, by and between the Milpitas Redevelopment Agency, (the "Agency"), and _____ ("Owner"). Agency and Owner are hereinafter collectively referred to as the "Parties".

RECITALS

A. Owner owns a parcel of real property in Milpitas as more particularly described in the Exhibit A attached to this Agreement (the "**Property**") upon which exist four (4) units of rental multi-family housing (the "**Development**").

B. The Agency shall provide a grant in the amount not to exceed $_____ to the Owner to be used to improve the Development as described in Exhibit B attached to this Agreement. As a condition to its agreement to provide the Grant to Owner, the Agency requires the Property to be subject to the terms, conditions and restrictions set forth herein.

C. The Owner shall ensure that no fewer than two (2) existing rental housing units in the Development shall be rented at prices affordable to a Moderate or Low Income Household, as defined below.

D. The Parties have agreed to enter into and record this Agreement in order to satisfy the conditions described in the foregoing Recitals. The purpose of this Agreement is to regulate and restrict the occupancy and rents of the Development's Restricted Units for the benefit of the Development occupants. The Parties intend the covenants set forth in this Agreement to run with the land and be binding on Owner and its successors and assigns in the Property.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the aforementioned funding, the Parties hereby agree as follows:

1. **DEFINITIONS** The following terms have the meanings and content set forth in this

section wherever used in this Regulatory Agreement or attached exhibits.

1.1 **"AGENCY"** is the City of Milpitas Redevelopment Agency and its authorized representatives, officers, officials, directors, employees, and agents.

1.2 **"ASSISTED UNIT"** means a Unit with restricted occupancy and rents pursuant to this Regulatory Agreement.

1.3 **"AREA MEDIAN INCOME"** or "**AMI"** means the median income for the Santa Clara County, California, adjusted for household size, determined periodically by the California Department of Housing and Community Development ("HCD") as published in Section 6932 of Title 25 of the California Code of Regulations or successor provision published pursuant to California Health and Safety Code Section 50093(c). If HCD ceases to make such determination, Area Median Income shall be the median income applicable to Santa Clara County, with adjustments for household size, as determined from time to time by the United States Department of Housing and Urban Development (HUD) pursuant to the United Stated Housing Act of 1937, as amended, or such other method of median income calculation applicable to the City of Milpitas that HUD may hereafter adopt in connection with said Act.

1.4 **"RESTRICTED UNIT"** means a dwelling unit which is reserved for occupancy at a Qualifying Rent by a Moderate or Low Income household in accordance with and as set forth in Section 2.1 and 2.2.

1.5 **"DEVELOPMENT"** means the four (4) units of multi-family housing including all parking, landscaping, and other improvements appurtenant thereto.

1.6 **"LOW INCOME HOUSEHOLD"** means a household whose annual income is between fifty-one percent (51%) and eighty percent (80%) of AMI.

1.7 **"MODERATE INCOME HOUSEHOLD"** means a household whose annual income is between eighty-one percent (81%) and one hundred, twenty percent (120%) of AMI.

1.8 **"OWNER"** _____ ("Owner") and its authorized representatives, assigns, transferees, or successors-in-interest thereto.

1.9 **"PROPERTY"** means the real property described in Exhibit A attached hereto and incorporated herein.

1.10 **"UNIT"** means a housing unit in the Development.

1.11 **"TERM"** means the term of this Agreement described herein.

2. **TERM OF AGREEMENT**. This Regulatory Agreement shall commence upon execution and shall remain in full force and effect for the lifetime of the Development. For purposes of this Agreement, "lifetime of the Development" shall mean fifty-five (55) years from execution of this Agreement by the Agency of Milpitas.

3. **AGENCY GRANT**. Agency shall provide owner with a grant in the amount not to exceed $_____ and the funds shall be dispersed to Owner pursuant to the Grant Disbursement Agreement.

4. **OCCUPANCY OF DEVELOPMENT.** Owner shall limit for the full term of this Regulatory Agreement the rental of two (2) Units to Low and Moderate-Income Households at rents that do not exceed the maximum rental charges for each Unit as set forth in this Regulatory Agreement.

5. **MAXIMUM RENTAL CHARGES**.

5.1 For a Low-Income Household occupying an Assisted Unit, the total monthly charges for rent and utility allowances shall not exceed one-twelfth of thirty percent (30%) of eighty percent (80%) of Area Median Income, adjusted for household size.

5.2 For a Moderate-Income Household occupying an Assisted Unit, the total monthly charges for rent and utility allowances shall not exceed one-twelfth of thirty percent (80%) of sixty percent (120%) of Area Median Income, adjusted for household size

6. **INCOME CERTIFICATION AND INCREASES IN TENANT INCOMES**.

6.1 The income levels and other qualifications of Low-Income Household and Moderate-Income Household applicants for Assisted Units shall be certified prior to initial occupancy and recertified yearly as provided for in Section 23(b) of this Agreement. In the event that recertification of a Low- or Moderate-Income Household's income indicates that the income exceeds the maximum designated for a Moderate Income Household, Owner may increase the rent on such Assisted Unit as permitted in Section 19(b).

6.2 Notwithstanding the Section 14, no tenant qualifying for a Restricted Unit shall be denied continued occupancy of a unit in the Development because, after admission, such tenant's adjusted income increases to exceed the qualifying limit for such Restricted Unit. A household which at initial occupancy qualifies as Low- or Moderate-Income shall be treated as continuing to be of Low- or Moderate-Income so long as the household's income does not exceed 140% of AMI.

7. **SECTION 8 CERTIFICATE HOLDERS**. The Owner will accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal

certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Owner shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants, nor shall the Owner apply or permit the application of management policies or lease provisions with respect to the Development which have the effect of precluding occupancy of units by such prospective tenants.

8. **CONDOMINIUM CONVERSION**. The Owner shall not convert Development units to condominium or cooperative ownership or sell condominium or cooperative conversion rights to the Property during the term of this Regulatory Agreement.

9. **NONDISCRIMINATION.** The Owner shall not discriminate or segregate in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of Development units on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age, marital status, family status, source of income, physical or mental disability, Acquired Immune deficiency Syndrome (AIDS), or AIDS-related conditions (ARC), or any other arbitrary basis. Owner shall include a statement in all advertisements, notices and signs for the availability of Development units for rent to the effect that Owner is an Equal Housing Opportunity Provider.

10. **MANAGEMENT RESPONSIBILITIES.**

10.1 The Owner is responsible for all management functions with respect to the Development, including without limitation the selection of tenants, initial certification of household size and income, subject to approval by Agency staff, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The Agency shall have no responsibility over management of the Development.

10.2 Throughout the term of this Agreement, Owner shall at its own expense, maintain the Property and the Development in good physical condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations. Without limiting the foregoing, Owner agrees to maintain the Property and the Development (including without limitation, the residential units, common areas, landscaping, driveways, carports and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Development. Owner shall prevent and/or rectify any physical deterioration of the Property and the Development and shall make all repairs, renewals and replacements necessary to keep the Property and improvements located thereon in good condition and repair. Owner shall provide adequate security services for occupants of the Project.

10.3 In the event that Owner breaches any of the covenants contained in Section 19(b), and such default continues for a period of ten (10) days after written notice from Agency (with respect to graffiti, debris, and waste material) or thirty (30) days after written notice from Agency (with respect to landscaping, building improvements and general maintenance), then Agency, in addition to any other remedy it may have under this Agreement or at law or in equity, shall have the right, but not the obligation, to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and the landscaped areas on the Property. All costs expended by Agency in connection with the foregoing, shall constitute an indebtedness secured by the Deed of Trust, and shall be paid by Owner to Agency upon demand. All such sums remaining unpaid thirty (30) days following delivery of Agency's invoice therefore shall bear interest at the rate of 10% per annum.

11. INSPECTION AND RECORDS.

11.1 The Owner shall maintain records, which clearly document the Owner's performance of its obligations to improve the Property as stated in Exhibit B. The Owner shall submit any records to the Agency within ten (10) business days of the Agency's request. The Owner shall permit the Agency to enter and inspect the Development for compliance with obligations under this Agreement upon twenty-four (24) hours advance notice of such visit by the Agency to the Owner or Owner's management agent and to tenants of any Development units.

11.2 Owner or Owner's authorized agent shall obtain from each household prior to initial occupancy of each Restricted Unit, an on every anniversary thereafter, a written certificate stating total gross household income in such format and with such supporting documentation as Agency may reasonably require. Owner shall retain such certificates for not less than three (3) years, and upon Agency's request, shall provide copies of such certificates to Agency and make the originals available for Agency inspection.

11.3 Owner shall submit an annual report ("Annual Report") to the Agency in a form satisfactory to Agency, together with a certification that the Development is in compliance with the requirements of this Agreement. The Annual Report shall, at a minimum, include the following information for each dwelling unit in the Development: (i) unit number; (ii) number of bedrooms; (iii) current rent and other charges; (iv) dates of any vacancies during the previous year; (v) number of people residing in the unit; (vi) total gross household income of residents; and (vii) documentation of source of household income.

Upon Agency's request, Owner shall include with the Annual Report, an income recertification for each household, documentation verifying tenant eligibility, and such additional information as Agency may reasonably request from time to time in order to demonstrate compliance with this Agreement. The Annual Report

shall conform to the format requested by Agency; provided however, during such time that the Project is subject to a regulatory agreement restricting occupancy and/or rents pursuant to requirements imposed in connection with the use of federal low-income housing tax credits or tax-exempt financing, Owner may satisfy the requirements of this Section by providing Agency with a copy of compliance reports required in connection with such financing.

Owner shall permit representatives of Agency to enter and inspect the Property and the Project during reasonable business hours in order to monitor compliance with this Agreement upon 24-hours advance notice of such visit to Owner or to Owner's management agent.

12. FEES, TAXES, AND OTHER LEVIES. Owner shall be responsible for payment of all fees, assessments, taxes, charges and levies imposed by any public authority or utility company with respect to the Property, and shall pay such charges prior to delinquency.

13. PROPERTY DAMAGE OR DESTRUCTION. If any part of the Development is damaged or destroyed, Owner shall repair or restore the same, consistent with the occupancy and rent restriction requirements set forth in this Agreement. Such work shall be commenced within 120 days after the damage or loss occurs and shall be completed within one year thereafter, provided that insurance proceeds are available to be applied to such repairs or restoration within such period and the repair or restoration is financially feasible.

14. DEFAULT AND REMEDIES. In the event of any breach of any agreement or obligation under this Agreement by the Owner, the Agency shall provide written notice to owner of such breach. Owner shall have an opportunity to cure such breach within thirty (30) days from the Owner's receipt of such written notice or such longer period of time as the Agency reasonably determines is necessary to cure the breach if the Owner diligently undertakes to cure such breach. If the Owner fails to perform a timely cure of the specified breach, the Agency may bring an action in equitable relief seeking the specific performance by Owner of the terms and conditions of this Regulatory Agreement, and/or enjoining, abating, or preventing any violation of said terms and conditions, and/or seeking declaratory relief.

15. NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS. No officer, employee or agent of the Agency shall be personally liable to Owner for any obligation created under the terms of this Agreement except in the case of fraud or willful misconduct by such person.

16. INDEMNITY. Owner shall indemnify and hold the Agency, its officers, employees, and agents free and harmless against any losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorneys' fees) which the Agency may incur as a direct or indirect consequence of Owner's failure to perform any obligations as and when required by this Regulatory Agreement. This

indemnity obligation shall not extend to any claim arising solely from the gross negligence or willful acts of the Agency, its agents, and its employees. Owner's duty to indemnify the Agency shall survive the term of this Regulatory Agreement.

17. **GOVERNING LAW.** This Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

18. **AGREEMENT CONTROLS.** In the event that any provisions of this Agreement and any Loan Document conflict, the terms of this Agreement shall control

19. **ATTORNEYS' FEES AND COSTS.** In the event that any legal or administrative action is commenced to interpret or to enforce the terms of this Agreement, the prevailing party in any such action shall be entitled to recover all reasonable attorneys fees and costs incurred in such action

20. **TIME.** Time is of the essence in this Agreement.

21. **CONSENTS AND APPROVALS.** Any consent or approval of the Agency required under this Agreement shall not be unreasonably withheld. Any approval must be in writing and executed by an authorized representative of the Agency.

22. **NOTICES, DEMANDS AND COMMUNICATIONS.** All notices, demands and communications required or permitted to be given under this Agreement shall be in writing and shall be (i) delivered personally, (ii) sent via Federal Express (or another comparable overnight messenger service), (iii) sent via telecopy, or (iv) mailed, certified or registered mail, return receipt requested, to the parties at the following addresses:

Agency: The Milpitas Redevelopment Agency
455 East Calaveras Blvd.
Milpitas, California 95035
Attn: Executive Director

BORROWER:

Personally delivered notices shall be deemed given upon actual personal delivery to the intended recipient. Telecopied notices shall be deemed given upon completion of transmission to the receiving telecopy machine. Notices sent via Federal Express (or another comparable overnight messenger service) shall be deemed given the immediately following business day. Mailed notices shall be deemed given upon the earlier of three (3) business days after deposit into the United States mail, registered or certified, with postage fully prepaid, or the date of actual receipt as evidenced by the return receipt.

23. **BINDING UPON SUCCESSORS.** All provisions of this Agreement shall be binding upon and inure to the benefit of the heirs, administrator, executors, successors-in-interest, transferee, and assigns of Owner, and the Agency, and shall run with the land for the full term of this Agreement, regardless of any assignment, payment, prepayment, expiration, extinguishment of the Loan or Note, any reconveyance of the Deed of Trust, or any conveyance or transfer of the Property or portion thereof.

24. **RELATIONSHIP OF PARTIES.** The relationship of Owner and the Agency for this Development during the term of this Agreement shall not be construed as a joint venture, equity venture, or partnership.

25. **WAIVER.** Any waiver by the Agency of any obligation in this Agreement must be in writing. No waiver will be implied from any delay or failure by the Agency to take action on any breach or default of Owner or to pursue any remedy allowed under this Agreement, the Loan Documents, any other applicable agreements, or applicable law. Any extension of time granted to Owner to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the Agency to any act or omission by Owner shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the Agency′s written consent to future waivers.

26. **INDEMNITY**. Owner shall indemnify, defend (with counsel approved by Agency) and hold Agency, the City, and their respective elected and appointed officers, officials, employees, agents, and representatives (collectively, the "Indemnitees") harmless from and against all liability, loss, cost, expense (including without limitation attorney' fees and costs of litigation), claim demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "Claims") arising directly or indirectly, in whole or in part, as a result of or in connection with Owner's development or management of the Property and the Development. Owner's indemnification obligations under this Section 25 shall not extend to Claims resulting solely from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 25 shall survive the expiration or earlier termination of this Agreement. It is further agreed that Agency does not and shall not waive any rights against Owner that it may have by reason of this indemnity and hold harmless agreement because of the acceptance by Agency, or the deposit with Agency by Owner, of any of the insurance policies described in this Agreement.

27. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this Agreement must be in writing, and shall be made only if executed by both Owner and the Agency.

28. **SEVERABILITY.** Every provision of this Agreement is intended to be severable. If any provision of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining

provisions shall not in any way be affected or impaired.

29. GOVERNING LAW. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement as of the date written on Page 1.

OWNER:

By:_____
Its:_____

AGENCY:
The Agency of Milpitas

_____
Thomas C. Williams
Executive Director

Attest:

_____
Mary Lavelle
Agency Secretary

Approved as to form:

_____
Michael J. Ogaz, Agency Attorney
Agency Counsel

EXHIBIT A

Legal Description of the Property

(To be attached on a later date)

EXHIBIT B

IMPROVEMENT PLAN