

## Appendix L Model Financing Agreement

**THIS FINANCING AGREEMENT** (hereinafter referred to as “**Agreement**”) dated as of [insert date] by and between [insert name], a [insert type of organization] corporation (“**Lender**”) and City and County of San Francisco, a municipal corporation and chartered city and county of the State of California (“**City**”), acting by and through **Department of Elections** (“**Department**”).

### 1. Purpose of Agreement and Term

The purpose of this Agreement is to prescribe the financing provisions, covenants and payment schedules to be made by City for specific equipment described in **Exhibit A** hereto (hereinafter, with all replacements parts, substitutions, proceeds, increases, additions, accessions, repairs and accessories, incorporated herein or affixed thereto, referred to as the “**Equipment**”) for the amounts to be paid in the sums (“**Payments**”) and on the dates (“**Payment Dates**” together with Payments, the “**Payment Schedule**”) as set forth in **Exhibit B** hereto. Lender has agreed to provide financing to City for the Equipment in an amount not to exceed [insert amount] (“**Original Amount**”) for a [insert time period] term commencing on [insert date], at a [insert interest rate], computed using a year of 360 days comprised of twelve 30-day months.

*[Option A. City Holds Money—Lender shall deposit the Original Amount with the City. City shall use the funds received from Lender to pay for the Equipment.]*

*[Option B. Escrow Agent Holds Money—Escrow Agent shall establish a special and irrevocable fund as a trust fund known as the Escrow Fund (the “Escrow Fund”) for the benefit of the City. City shall deposit the Original Amount in the Escrow Fund.*

*Monies held in the Escrow Fund shall be disbursed by City in accordance with Section 13 of this Agreement. Amounts held in the Escrow Fund shall be invested by Escrow Agent as instructed in writing by City. All investment earnings and revenues derived from the investment of moneys in the Escrow Fund shall be credited to said fund.]*

Notwithstanding anything to the contrary contained in this Agreement (including, without limitation, any terms and conditions of Lender attached hereto): (a) in no event shall the term of this Agreement be longer than the initial term expressly stated in this Agreement; (b) any automatic renewal or extension (whether or not conditioned upon any notice or absence thereof from either party) or any similar “evergreen” provision shall be deemed null and void *ab initio*; and (c) the term of this Agreement shall not be extended or renewed except by written agreement duly authorized, executed and delivered by City. In the event of any inconsistency within this Agreement relating to the duration of the initial term hereof, the shorter initial term shall govern. If no initial term is stated in this Agreement, then the term shall be one year from the date on which the term commences.

### 2. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Nonappropriation

This Agreement is subject to the budget and fiscal provisions of City’s Charter. Charges will accrue only after prior written authorization certified by City’s Controller and any amount of City’s obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year in the event funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated, and Lender's sole remedy shall be repossession of the Equipment.

This Section shall control against any and all other provisions of this Agreement.

### **3. Nonappropriation**

City agrees that it will take all necessary steps and make timely requests for the appropriation of funds to make all Payments called for under Exhibit B, and use its best efforts and take all steps to cause such appropriations to be made. In the event that no funds have been appropriated for the acquisition of the Equipment, City may terminate this Agreement within 30 days written notice to Lender of City's failure to appropriate sufficient sums to make the required payments for such fiscal year. Such failure to obtain proper appropriation and approval of the full amount of funds necessary to make required payments hereunder during any fiscal year shall terminate all City's right, title and interest in and obligations under this Agreement and to all the Equipment, effective on the last day of the last fiscal year for which appropriation or approval was properly obtained.

### **4. City's Payment Obligation**

In the event any payment of any amount of monies is required by any vendor or manufacturer prior to acceptance of the Equipment by City, Lender is to advance such amounts.

City will make a good faith effort to pay all invoices within thirty (30) days of billing. In no event will City pay any late fees or charges for payments made after said 30-day period.

Lender and City understand and intend that the obligations of City to pay Payments hereunder shall constitute a current expense of City and shall not in any way be construed to be a debt of City in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by City, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies of City.

City shall make Payments, exclusively from legally available funds, to Lender or, in the event of an authorized assignment by Lender to its assignee, according to the terms of this Agreement, upon presentation of invoices furnished by Lender in a form acceptable to the Controller. Payments will be made in United States Dollars by warrant drawn by the Treasurer of City and County of San Francisco. Payments shall be in consideration for City's use of the Equipment during the applicable fiscal year in which such payments are due.

### **5. Guaranteed Maximum Costs**

(a) City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification in accordance with Section 2, hereof.

(b) Except as may be provided by laws governing emergency procedures, officers and employees of City are not authorized to request, and City is not required to reimburse Lender for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law.

(c) Officers and employees of City are not authorized to offer or promise, nor is City required to honor, any offered or promised additional funding in excess of the maximum amount of funding as set forth in Exhibit B, for which the contract is certified without first obtaining in writing prior certification of the additional amount by the Controller.

(d) The Controller cannot authorize payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

## **6. Submitting False Claims; Monetary Penalties**

Any contractor, subcontractor or consultant who commits any of the following acts shall be liable to City for three times the amount of damages which City sustains because of the act of that contractor, subcontractor or consultant. A contractor, subcontractor or consultant who commits any of the following acts shall also be liable to City for the costs, including attorney's fees, of a civil action brought to recover any of those penalties or damages, and may be liable to City for a civil penalty of up to \$10,000 for each false claim: (a) Knowingly presents or causes to be presented to an officer or employee of City a false claim or request for payment or approval. (b) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by City. (c) Conspires to defraud City by getting a false claim allowed or paid by City. (d) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to City. (e) Is a beneficiary of an inadvertent submission of a false claim to City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to City within a reasonable time after discovery of the false claim.

## **7. Destruction of Equipment**

In the event that any Equipment shall be lost, stolen, irreparably damaged or destroyed or otherwise rendered permanently unfit for use from any cause whatsoever prior to the payment in full of all the Payments for the affected Equipment, City shall, subject to Section 2 and upon demand by Lender, within 60 days of such demand, pay to Lender the value of the Equipment, which in no event shall exceed the guaranteed maximum cost set forth in Exhibit B.

## **8. Insurance**

City shall either be self-insured with regard to the Equipment or shall purchase and maintain insurance with regard to the Equipment. Whether City is self-insured or company insured, City shall, for the term of this Agreement, at its own expense, provide comprehensive liability insurance with respect to the Equipment, insuring against such risks, as are customary for lessees of property of a character similar to the Equipment for its full replacement value.

## **9. Liens**

City shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, security interest, pledge, lien, charge, encumbrance or claim on or with respect to the Equipment, title thereto or any interest therein, except the respective rights of Lender and City hereunder.

## **10. Use, Licenses**

City will not use or operate the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement.

## **11. Termination**

Unless City has properly exercised its option to prepay pursuant to Section 22 hereof, City shall, upon the termination hereof pursuant to the terms of this Agreement, deliver the Equipment to Lender unencumbered and in at least as good condition and repair as when delivered to City, ordinary wear and tear resulting from proper use alone excepted, by loading the Equipment, at City's sole expense, on such carrier, or delivering the Equipment to such location, as Lender shall provide or designate at or within a reasonable distance from the general location of the Equipment. If City fails to deliver the Equipment to Lender, as provided herein, on or before the date of termination of this Agreement, City shall pay to Lender upon demand, for the hold-over period, a portion of the total payment for the applicable period as set forth in Exhibit B prorated from the date of termination of this Agreement to the date City either redelivers the Equipment to Lender or Lender repossesses the Equipment. At the expiration of the term of this Agreement, and provided that City has prior thereto paid all its obligations hereunder, City shall have the right to hold the Equipment free and clear of any lien created by this Agreement.

## **12. No Prepayment Penalty**

City may elect to prepay any or all of the remaining unpaid balance pursuant to Section 22 of this Agreement. No penalties will be assessed against City for such prepayments (such as, but not limited to, interest and service charges).

### ***[Option B—Lender Holds Money]***

## **13. Payment to Equipment Vendor**

(a) *Escrow Agent shall, from time to time, disburse money to the Equipment vendor to pay for the cost of the Equipment as hereinafter provided, in each case promptly after receipt of, and in accordance with a written request of City stating the amount to be paid accompanied by bills, invoices, or other documents evidencing said amount. In making such payments, Escrow Agent may rely upon the representations made by City in the written request for such payments.*

(b) *If for any reason City should decide prior to the payment by Escrow Agent of any item of Equipment as set forth in the written request, not to pay such item, City shall give written notice of such decision to Escrow Agent and thereupon Escrow Agent shall not make such payment. Escrow Agent shall have no liability to City or the designated payee as a result of such nonpayment.*

(c) *All moneys in the Escrow Fund shall be disbursed by Escrow Agent in accordance with paragraph (d) below if (1) a written certificate from City has been delivered to Escrow Agent stating that all of the Equipment to be acquired pursuant to this Agreement has been purchased; or, (2) this Agreement has expired pursuant to Section 1 of this Agreement; or, (3) the City exercises its option to prepay Lender for the financing of the Equipment in accordance with Section 22 of this Agreement.*

(d) *All moneys in the Escrow Fund shall be, solely at the direction of City, (1) disbursed by Escrow Agent to City, free and clear from all trusts and liens created by this Agreement; or, (2) applied by City to reduce the outstanding balance of the Original Amount under this Agreement, in which event Lender shall prepare a revised Payment Schedule to reflect the correlating reduction of the Original Amount; or (3) credited by Lender to the next immediate payment of principal and interest as set forth in the Payment Schedule, in which event the amounts due on said Payment Date will be reduced by the credited amount.]*

#### **14. Representations, Warranties and Covenants by Lender**

Lender represents, warrants and covenants to City that as of the date hereof:

(a) Lender is a for-profit corporation organized and existing under the laws of the State of [insert state].

(b) Lender is duly authorized to enter into this Agreement and the transactions contemplated hereby and to perform all its obligations hereunder.

(c) Lender is fully capable of bearing the financial risk of entering into this Agreement.

(d) All requirements have been met and procedures have occurred in order to ensure the enforceability of this Agreement against Lender, and this Agreement constitutes a legal, valid and binding obligation of Lender, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally and by the application of equitable principles if equitable remedies are sought.

#### **15. Representation, Warranties and Covenants by City**

City represents, warrants and covenants to Lender that as of the date hereof:

(a) City is a municipal corporation and a chartered city and county of the State of California (the "State").

(b) The execution, delivery and performance by City of this Agreement have been duly authorized by all necessary action on the part of City.

(c) This Agreement constitutes a legal, valid and binding obligation of City enforceable in accordance with its terms.

(d) City will do or refrain from doing all things necessary or appropriate to insure that the interest portion of the Payments is exempt from federal income taxation, including, but not limited to, executing and filing all information statements prepared by Lender as required by Section 149(e) of the Internal Revenue Code of 1986, as amended, and timely paying, to the extent of available funds, amounts required to be rebated to the United States pursuant to Section 148(f) of the Internal Revenue Code of 1986, as amended. City acknowledges and agrees that the Payments have been calculated by Lender assuming that the interest portion of each Payment is exempt from federal income taxation.

#### **16. Default**

Any one or more of the following are events of default:

(a) City shall fail to pay, in full, any sum payable by City when due hereunder following Lender's written notice of such failure, to City, except as provided in Section 2 hereof.

(b) City shall fail to maintain insurance or self-insurance as required in this Agreement.

(c) Failure or refusal of Lender or City to perform or do any material act herein required.

(d) Any representation or warranty made by Lender or City hereunder or in any other instrument executed in connection with this Agreement proves to be false or misleading when made.

#### **17. Remedies of Lender**

If an event of default shall have occurred, the Lender may to the extent permitted by law:

(a) Recover the balance of amount owed hereunder, subject to Section 2 hereof.

(b) Enter any premises where the Equipment may be housed, subject to City's reasonable security requirements at the site, and take possession and title of it or render it unusable, and retain all prior payment as partial compensation for its use and depreciation. Upon repossession or return of the Equipment, Lender will dispose of the Equipment in a commercially responsible manner. Any proceeds of the disposal shall be applied to amounts owed by City for the Equipment. Any excess proceeds shall be returned to City.

(c) If City has failed to keep the Equipment in good repair or operating condition, except for normal wear and tear given the passage of time and nature of the Equipment to be financed hereby, restore the Equipment to good repair or operating condition at City's expense for actual time and materials expended by Lender at Lender's then current charges, which charges shall be reasonable.

(d) Pursue any other remedy permitted by law or in equity. The prevailing party in a dispute concerning this financing plan will be entitled to reasonable attorney fees and legal expenses in exercising any of its rights and remedies which a court may require to be paid.

## **18. Remedies of City**

In the event of a default by Lender under this Agreement, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Lender any default by Lender. Lender shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrance at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Lender under this Agreement all damages, losses, costs or expenses incurred by City as a result of such default by Lender.

## **19. Disclaimer of Warranties**

Lender makes no agreement, warranty or representation, either express or implied, as to the value, design, condition, merchantability, or fitness for particular purpose or fitness for use of the Equipment, or warranty with respect thereto. City acknowledges that the Lender is not a manufacturer of the Equipment or a dealer therein, and agrees to look directly to the manufacturer or vendor for any warranties or any service for the Equipment. The Lender authorizes City, to the extent permitted by law, to enforce in its own name any warranty, representation or other claim enforceable against the manufacturer or vendor.

## **20. Indemnification**

Lender shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Lender or loss of or damage to property, resulting directly or indirectly from Lender's performance of this Agreement, including, but not limited to, the use of Lender's facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement and except where such loss, damage, injury, liability or claim is the result of active negligence or willful misconduct of City and is not contributed to by any act of, or by any

omission to perform some duty imposed by law or agreement on Lender, its subcontractors or either's agent or employee.

In addition to Lender's obligation to indemnify City, Lender specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Lender by City and continues at all times thereafter.

## **21. Security Interest**

As security for City's covenants and obligations hereunder, City hereby grants to Lender, and its successors, a security interest in the Equipment, all accessions thereto and proceeds therefrom, and, in addition to Lender's rights hereunder, all of the rights and benefits of a secured party under the Uniform Commercial Code as in effect from time to time hereafter in the State in which the Equipment is located or any other State which may have jurisdiction over the Equipment. City agrees to execute, acknowledge and deliver to Lender in recordable form, upon request, financing statements or any other instruments with respect to the Equipment or this Agreement considered necessary or desirable by Lender to perfect and continue the security interest granted herein in accordance with the laws of the applicable jurisdiction.

## **22. Option to Prepay**

On any Payment Date, City shall have the right to prepay Lender any or all of the remaining unpaid balance of the financing of the Equipment by sending Lender written notice thereof. In the notice, City shall specify the Payment Date on which City wishes to prepay. City shall be obligated to pay on the designated payment due date the unpaid payments constituting principal plus accrued interest to the date City has designated as the purchase date.

## **23. Taxes**

In addition to the Payments, City agrees to indemnify and hold Lender harmless from and against and to pay Lender, as additional rent, on demand, an amount equal to all licenses, assessments, sales, use, real or personal property, gross receipts or other taxes, levies, imposts, duties or charges, if any, together with any penalties, fines, or interest thereon imposed against or on Lender, City or the Equipment by any governmental authority upon or with respect to the Equipment or the purchase, ownership, rental, possession, operation, return or sale of, or receipt of payments for, the Equipment except any federal or state income taxes, if any payable by Lender. City may contest any such taxes prior to payment provided such contest does not involve any risk of sale, forfeiture or loss of the Equipment or any interest therein.

## **24. Assignment**

Notwithstanding any other provision in this Agreement, this Agreement may only be assigned by Lender to an entity that meets the requirements of Sections 31 to 36 hereof. Further, in no event shall all or any portion of this Agreement be assigned without the prior written consent of City which consent shall not be unreasonably withheld. In addition, in no event shall Lender affect a public offering or private of certificates of participation, municipal securities or other debt instruments presenting fractionalized interests in this Agreement. For purposes of this Section, a public offering shall occur when the certificates of participation, municipal securities or other debt instruments are either: (a) offered or sold to more than thirty-five investors; or, (b) offered or sold in denominations of less than \$100,000.

**25. Notices to Parties**

Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, or by fax, and shall be addressed as follows:

To City:           **Beth Lipski**  
**San Francisco Department of Elections**  
1 Dr. Carlton B. Goodlett Place, Room 48  
San Francisco, CA 94102  
Fax: (415) 554-47666

with copies to:   Mayor’s Office of Public Finance and Business Affairs  
City Hall, Room 336  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102  
Fax: (415) 554-4864  
Attn: Bond Associate

Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102  
Fax: (415) 554-4755  
Attn: Special Projects & Finance Team

To Lender:    **[insert name of contractor, mailing address, and fax number]**

Any notice of default must be sent by registered mail.

**26. Section Headings**

All section headings contained herein are for convenience and reference only and are not intended to define or limit the scope of any provision of this Agreement.

**27. Waiver**

The waiver by either party of any breach by either party of any term, covenant or conditions hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

**28. Execution in Counterparts**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

**29. Governing Law**

This Agreement shall be governed exclusively by the provisions hereof and by the laws of the State of California.

**30. Entire Agreement; Modifications**

This Agreement, together with the Exhibits hereto, constitutes the entire agreement between the parties and this Agreement shall not be modified, amended, altered or changed except in writing as herein provided.

All agreements between the parties are included herein and no promises or statements have been made by either party unless endorsed hereon in writing. No change or waiver of any provisions hereof shall be valid unless made in writing with the consent of both parties and executed in the same manner as this Agreement.

Any provision of this Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Agreement. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

### **31. Nondiscrimination; Penalties**

(a) **Lender Shall Not Discriminate.** In the performance of this Agreement, Lender agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Lender, in any of Lender's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Lender.

(b) **Subcontracts.** Lender shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Lender's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(c) **Nondiscrimination in Benefits.** Lender does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco or where work is being performed for City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) **Condition to Contract.** As a condition to this Agreement, Lender shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

(e) **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Lender shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Lender understands that

pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Lender and/or deducted from any payments due Lender.

### **32. MacBride Principles—Northern Ireland**

City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

### **33. Tropical Hardwoods and Virgin Redwood Ban**

City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood product.

### **34. Sunshine Ordinance**

In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, responses to RFPs and all other records of communications between City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

### **35. Notification of Limitations on Contributions**

San Francisco Campaign and Governmental Conduct Code (the “Conduct Code”) Section 3.700 *et. seq.*, and San Francisco Ethics Commission Regulations 3.710(a)-1 – 3.730-1, prohibit the public officials who approved this contract from receiving 1) gifts, honoraria, emoluments or pecuniary benefits of a value in excess of \$50; 2) any employment for compensation; or 3) any campaign contributions for any elective office for a period of up to six years from individuals and entities who are “public benefit recipients” of the contract. Public benefit recipients of the contract are: 1) the individual, corporation, firm, partnership, association, or other person or entity that is a party to the contract; 2) an individual or entity that has a direct 10% equity, or direct 10% participation, or direct 10% revenue interest in that party at the time the public benefit is awarded; or 3) an individual who is a trustee, director, partner or officer of the contracting party at the time the public benefit is awarded.

Lender understands that any public official who approved this contract may not accept campaign contributions, gifts, or future employment from Contractor except as provided under the Conduct Code. Lender agrees to notify any other individuals or entities that may be deemed “public benefit recipients” under the Conduct Code because of this contract. Upon request, Lender agrees to furnish, before this contract is entered into, such information as any public official approving this contract may require in order to ensure such official’s compliance with the Conduct Code. Upon request, the City agrees to provide, before this contract is entered into, Lender with a list of public officials who, under the Conduct Code, approved this contract.

Failure of any public official who approved this contract to abide by the Conduct Code shall not constitute a breach by either the City or Lender of this contract. Notwithstanding anything to the contrary in this contract, neither party shall have the right to terminate the contract due to any failure by the other party to provide the information described in this paragraph.

**36. Compliance with Laws**

Lender shall keep itself fully informed of City's Charter, codes, ordinances and regulations of City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

LENDER

Recommended by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title and Department

\_\_\_\_\_  
Title

Approved as to Form:

\_\_\_\_\_  
Company Name

DENNIS J. HERRERA  
City Attorney

\_\_\_\_\_  
Address

By \_\_\_\_\_  
Deputy City Attorney

\_\_\_\_\_  
City State Zip

Approved:

\_\_\_\_\_  
Director of Purchasing