

**ADMINISTRATION AGREEMENT
(1220 Natividad Road, Salinas)**

This Administration Agreement (this "Agreement") is entered into as of this ____ day of May 2018 (the "Effective Date"), by and between the City of Salinas, a California charter city and municipal corporation (the "City") and County of Monterey (the "County") for the property located at 1220 Natividad Road (the "Property"), Salinas, California 93906, presently owned by the County with reference to the following facts:

RECITALS

- A. WHEREAS, in 2017, the City and County began discussions on planning for the future construction and operation of a Permanent Homeless Shelter ("Shelter") and permanent supportive housing ("Permanent Housing") on the Property; and
- B. WHEREAS, on September 26, 2017 the Salinas City Council ("Council") and County Board of Supervisors ("BOS") executed a Memorandum of Understanding ("MOU") authorizing the opening of the Salinas Winter Warming Shelter (Warming Shelter) and agreed to work collaboratively toward the future construction and operation of a Shelter on the Property; and
- C. WHEREAS, as part of the MOU executed on September 26, 2017 by the Council and BOS, the City and County agreed to work together to identify a developer and operator for the Shelter on the Property and to proceed with the environmental review; and
- D. WHEREAS, on March 20, 2018 the Council and BOS agreed to proceed with drafting Request for Proposals ("RFP") to identify a developer and operator for the future construction and operation of a Shelter and Permanent Housing on the Property).

NOW, THEREFORE, the purpose of this Agreement is to identify roles and responsibilities for the overall selection of, and negotiating of agreements with, a future developer and operator of a Shelter and Permanent Housing on the Property

**ARTICLE 1.
ROLES AND RESPONSIBILITIES**

The City and County agree to the following terms and conditions in order to facilitate an RFP process for the selection of, and negotiation of agreements with, a future developer and operator for the Shelter and Permanent Housing on the Property.

Section 1.1 Roles and Responsibilities.

Roles and responsibilities shall include the following:

- (a) On behalf of the County, the City shall act as the lead project manager and facilitator during the RFP process for the selection of a future developer and operator;
- (b) City and County shall each devote personnel and other resources as may be reasonably required;

- (c) County shall maintain ownership of the Property;
- (d) Any future conveyance of the Property must be authorized by the County;
- (e) City will draft an RFP for a developer and operator;
- (f) City will manage the RFP process;
- (g) City will publish and distribute the RFP for a developer and operator;
- (h) City will receive RFP bids and determine adequacy and completeness of RFP process;
- (i) City will document and maintain records associated with the RFP process;
- (j) City will work collaboratively with County to respond to any RFP questions, comments or appeals;
- (k) City and County will work collaboratively to rate and rank RFP's submitted;
- (l) The City and County shall undertake to ensure that all RFP's shall be reviewed in a fair and open process. The selection process will be outlined in detail in the RFP and will include input by County;
- (m) City and County will make a final recommendation for the selection of a developer and operator to be forwarded to BOS for approval;
- (n) Property and environmental records, reports and studies shall be shared between the County and City as they become available;
- (o) Project goals and community engagement will be determined by the City;
- (p) After the approval of the selected developer and operator by the BOS, the City shall take the lead, but continue to work with County, as owner of the property, in negotiating and drafting an Exclusive Negotiations Agreement ("ENA") with regard to a ground lease of the Property to the selected developer, the development of the Shelter and Permanent Housing and the on-going occupancy and rent restrictions for the Shelter and permanent Housing (the "Ground Lease") and in negotiating and drafting the Ground Lease;
- (q) Each of the ENA and Ground Lease must be approved by the BOS prior to entry into those agreements with the selected developer and operator; and
- (r) City will assist County and the selected developer/operator with the facilitation of the future development.

Section 1.2 Right of Entry.

The City and its consultants shall have full rights to enter upon the Property during normal business hours to conduct inspections and investigations in accordance with this Agreement. In connection with such entry and investigation, the City shall:

- (a) repair and restore any damage it may cause;
- (b) indemnify, defend and hold the County and the BOS, officers, employees and agents harmless from any and all claims, liabilities, damages, losses, expenses, costs and fees (including attorneys' fees and costs), with the exception of any

injury or death to City staff or its consultants which may proximately arise out of the County's or its consultants' entry upon the Property or the investigation(s) and test(s) which the City may conduct; arising out of the negligent or intentional acts of the County or dangerous conditions on the Property for which the County should know or have known to exist, provided, however, that this indemnity shall not apply to matters arising from the results of the City's investigations, tests and inspections (e.g., this indemnity shall not apply to any diminution in value or remediation costs incurred by the City if the County's investigations were to discover an environmental condition that required remediation).

ARTICLE 2. GENERAL CONDITIONS

Section 2.1 General Compliance.

The City and County agree to comply with all applicable federal, State and local laws and regulations governing public agencies, including any necessary environmental reviews and/or CEQA analysis. Documentation of such compliance shall be made available for review by the City and County upon request.

Section 2.2 Administrative Amendments.

This Agreement may be amended by a written administrative amendment executed by the City Manager on behalf of the City and, County Administrative Officer or Assistant County Administrative Officer on behalf of the County, subject to any required State or federal approval, provided that such administrative amendments do not substantively change the overall purpose of this Agreement.

Section 2.3 Term.

The term of this Agreement (the "Term") shall start as of the Effective Date and shall terminate when the Ground Lease is entered into between the County and the selected developer or the date two years after the Effective Date unless extended by a written amendment approved by the Council and BOS.

Section 2.4 Termination.

This Agreement may be terminated by either the City and County upon a written notice given thirty (30) days in advance.

Section 2.5 Warming Shelter.

During the Term of this Agreement, City and County will also work together within the terms of the existing Warming Shelter MOU, to continue operating a Warming Shelter on the Property until the Shelter is developed and under operation.

ARTICLE 3. ADMINISTRATIVE REQUIREMENTS

Section 3.1 Documentation and Record-Keeping.

- (a) Records to be Maintained. The City and County shall maintain all records and such records shall include but not be limited to:
 - (i) Records providing a full description of each activity undertaken;
 - (ii) Records required to document the solicitation and selection of a developer and operator.
- (b) Retention. The City and County shall retain all records pertinent to services performed and expenditures incurred under this Agreement for a period of one (1) year after the termination of all activities under this Agreement.
- (c) Property Records. The County shall supply the City with any Property related documents for City review.

ARTICLE 4. PERSONNEL AND PARTICIPANT CONDITIONS

Section 4.1 Conduct.

- (a) Assignability. Neither party shall not assign or transfer any interest in this Agreement without the prior written consent of the other party, at its sole discretion.
- (b) Hatch Act. The City and County agree that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of 5 U.S.C. 15.
- (c) Conflict of Interest. The City and County each agree to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and each covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The City and County each further agrees that in the performance of this Agreement that no person having such a financial interest shall be employed or retained by the City and County. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City and County, or of any designated public agencies or entities.

ARTICLE 5. ENVIRONMENTAL CONDITIONS

Section 5.1 Environmental Responsibilities Generally.

The County with the City's oversight, will carry out the Phase I and Phase II (if needed) environmental assessments of the Property in compliance with all federal and State laws and regulations, including any necessary environmental reviews and/or CEQA analysis not otherwise specifically set forth below.

Section 5.2 Applicable Laws and Regulations.

The County and City agree to comply with the following laws and regulations insofar as they apply to the performance of this Agreement:

- (a) Clean Air Act, 42 U.S.C. 7401 through 7414
- (b) Federal Water Pollution Control Act, as amended (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and seq.).
- (c) Flood Disaster Protection Act of 1973 (P.L. 93-234) in regard to the sale, lease or other transfer of land acquired, cleared or improved under the terms of this Agreement, as it may apply to the provisions of this Agreement.
- (d) Environmental Protection Agency Lead-Based Paint Regulations.
- (e) Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR 800, et seq.. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a federal, State, or local historic property list.

ARTICLE 6. OTHER PROVISIONS

Section 6.1 Entire Agreement.

This Agreement contains all the terms and conditions agreed upon by the parties.

No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

Section 6.2 Notices.

Formal notices, demands and communications (other than day to day routine communications) between the City and the County shall be sufficiently given if, and shall not be deemed given unless: (i) dispatched by certified mail, postage prepaid, return receipt requested, (ii) sent by express delivery or overnight courier service with a delivery receipt, (iii) personally delivered with a delivery receipt, or (iv) sent by electronic mail with a copy delivered by one of the previous three methods, to the office of the parties shown as follows, or such other address as the parties may designate in writing from time to time:

CITY:
City of Salinas
Attn: Megan Hunter
65 W. Alisal Street, 2nd Floor
Salinas, CA 93901
Email: meganh@ci.salinas.ca.us

With a copy to: City Attorney
City of Salinas
200 Lincoln Avenue
Salinas, CA 93901
Email: chrisc@ci.salinas.ca.us

COUNTY:
Manuel T. González
Assistant County Administrative Officer
County of Monterey
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

Such written notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered or the date on which delivery was refused.

Section 6.3 Conformance with Federal and State Regulations.

Should federal or State regulations touching upon this Agreement be adopted, amended or revised during the term hereof, this Agreement is subject to modification to assure conformance with such federal or State requirements.

Section 6.4 Severability.

If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect.

Section 6.5 Headings and Captions.

Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or any provision thereof.

Section 6.6 No Third Party Beneficiaries.

There are no intended third-party beneficiaries to this Agreement.

Section 6.7 Amendments.

This Agreement may not be modified, supplemented, or amended unless in writing by the parties. Any modification, supplementation, amendment, or waiver must be signed by both parties.

Section 6.8 Costs and Expenses.

Each party shall be responsible for its own costs and expenses in connection with any activities and negotiations undertaken in connection with this Agreement, and the performance of each party's obligations under this Agreement. The City and County will keep track of any costs and may consider these costs a "contribution" to the construction and operation of the Property.

Section 6.9 No Commissions.

Each party represents to the other that it has not retained, and shall not retain, the

services of any broker, agent or finder with respect to the Property or in connection with any matters relating to this Agreement, and agrees to hold the other party harmless from and against any claim for commission, fee, or other remuneration by any broker, agent, or finder under any claimed retainer for services with respect thereto.

Section 6.10 Governing Law: Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to choice of law principles, and venue for any action under this Agreement shall be in the Superior Court of the County of Monterey, subject to any motion for transfer of venue.

Section 6.11 Counterparts.

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

Section 6.12 Non-Recourse Agreement.

No member, official, employee, agent, or consultant of any party to this Agreement shall be personally liable to any other party, or any successor in interest or person claiming by, through or under any party, in the event of any default or breach, or for or on account of any amount which may be or become due, or in any claim, cause or obligation whatsoever under the terms of this Agreement.

Section 6.13 Actions by the City and County.

Whenever this Agreement calls for or permits the approval, consent, authorization or waiver of the City or County, the approval, consent, authorization, or waiver of the City Manager of the City, or the Assistant County Administrative Officer of the County, shall constitute the approval, consent, authorization or waiver of the City/County without further action of the City Council or Board of Supervisors, including amendments to the Agreement, subject to any required State or federal approval, provided that such administrative amendments do not substantively change the overall purpose of this Agreement.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the Effective Date.

CITY:

CITY OF SALINAS, a municipal corporation

By: _____
Ray E. Corpuz, Jr, City Manager

APPROVED AS TO FORM:

By: _____
Christopher A. Callihan, Esq. City Attorney

COUNTY:

By: _____
Manuel T. González, Assistant County Administrative Officer

APPROVED AS TO FORM:

By: _____
Anne K. Brereton, Deputy County Counsel

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