

RESOLUTION NO. 21315 (N.C.S.)

A RESOLUTION APPROVING THE INSTALLATION OF A TRAFFIC SIGNAL AT THE NORTH MAIN STREET AND CHEROKEE DRIVE INTERSECTION; AND APPROVING A FUNDING AGREEMENT WITH SALINAS SHOPPING CENTER ASSOCIATES LIMITED PARTNERSHIP FOR THE INSTALLATION OF SAID TRAFFIC SIGNAL

WHEREAS, the City of Salinas is responsible for public improvements on City streets, including traffic signals; and

WHEREAS, traffic studies indicate that a new traffic signal at the intersection of North Main Street and Cherokee Drive will improve traffic operations and reduce delay at intersections along the North Main Corridor; and

WHEREAS, said traffic signal will include pedestrian facilities that improve pedestrian safety at said intersection; and

WHEREAS, there is no funding allocated for said signal and in order to accelerate its construction, the Harden Ranch Shopping Center and affiliates desires to build said signal in accordance with City requirements at their cost; and

WHEREAS, at their October 2017 meeting, the Traffic and Transportation Commission deliberated on the proposal for said signal and passed a recommendation to the City Council; and

WHEREAS, the City of Salinas has determined that the project is exempt from the California Environmental Quality Act (CEQA) Guidelines (Section 15031.Existing Facilities) because the project proposes improvements to existing streets, sidewalks, gutters and other pedestrian facilities and restoration or replacement of existing drainage features and facilities.

NOW, THEREFORE, BE IT RESOLVED that the Salinas City Council approves the installation of a new signal at the North Main Street and Cherokee Drive intersection based on traffic studies that show operational improvements at intersections on the North Main corridor; and

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager, Public Works Director, the City Attorney and their designees to enter into an agreement with the Salinas Shopping Center Associates Limited Partnership and the Harden Ranch Plaza Associates, LLC pursuant to which they will provide funding to cover the costs for the design and construction of said traffic signal; and

BE IT FURTHER RESOLVED that the City Council authorizes the Finance Director to appropriate the \$500,000 funds for the project pursuant to the funding agreement.

PASSED AND APPROVED this 19th day of December, 2017, by the following vote:

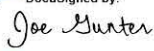
AYES: Councilmembers: Barrera, Craig, Davis, De La Rosa, McShane and Mayor Gunter

NOES: None


ABSENT: Councilmember Villegas

ABSTAIN: None

APPROVED:

DocuSigned by:

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Joe Gunter, Mayor

ATTEST:

DocuSigned by:

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Patricia M. Barajas, City Clerk

MEMORANDUM OF UNDERSTANDING
HARDEN RANCH TRAFFIC SIGNAL
AT NORTH MAIN STREET AND CHEROKEE DRIVE

This Memorandum of Understanding (MOU) is entered into on this 11th day of January, 2018, among the City of Salinas, a California charter city hereinafter referred to as "the City," Salinas Shopping Center Associates Limited Partnership, a California limited partnership hereinafter referred to as SSCA, and Harden Ranch Plaza Associates, LLC, a Delaware Limited Liability Company hereinafter referred to as Harden Associates. The City, SSCA, and the Harden Associates are collectively referred to herein as "the Parties."

RECITALS

A. SSCA and Harden Associates (collectively "the Harden Owners") desire to construct a traffic signal at the intersection of North Main Street (Harden Ranch Shopping Center southerly driveway) and Cherokee Drive in the city of Salinas ("the Intersection"). (The Intersection is more specifically shown on the attached map.)

B. The Harden Owners commissioned a traffic analysis to determine the need and the viability of a traffic signal at the Intersection. (A copy of the traffic analysis is attached.) The conclusions of the traffic analysis show a reduction in overall delay for the intersection and additional reduction of delay on adjacent intersections resulting from a redistribution of trips. The City's engineering staff reviewed the traffic analysis and after considering operational implications (including the potential impacts and improvements from the change in access and signalization at the Intersection) concurred with its conclusions and recommend the installation of a traffic signal at the Intersection.

C. The City's Traffic and Transportation Committee considered the proposed traffic signal during its regular meeting on October 5, 2017, and after consideration of the request recommended that the City Council approve the request for a proposed traffic signal at the Intersection. (A copy of the Traffic and Transportation Commission's October 5, 2017 Report, and associated attachments, is attached hereto for reference.)

D. The Harden Owners have committed to fund the cost of design and construction of the proposed traffic signal and understand and acknowledge the requirement to obtain all permits and approvals required for the construction of the traffic signal.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and for other valuable consideration, the sufficiency of which is hereby acknowledged, the City and the Harden Owners agree as follows:

TERMS

1. Purpose. The purpose of this MOU is to define the obligations between the City and the Harden Owners regarding the cost of design and the construction of the proposed traffic signal at the Intersection.

2. Funding Obligations. The Harden Owners shall be solely responsible for all costs and expenses associated with the design and the construction of the traffic signal at the Intersection which will include, but which will not be limited to, design of the traffic signal; associated pavement work and pavement markings, signs, and other improvements deemed necessary by the City to ensure safe and orderly integration of the traffic signal into the City's traffic signal progression system and roadway system.

3. Selection of Contractor. The Harden Owners will select the contractor(s) to complete the installation of the traffic signal at the Intersection and in doing so shall utilize the City's competitive procurement process. Upon selection of a contractor(s) the Harden Owners will enter into one or more contracts with the contractor(s) which will be subject to the prior review of the City.

4. Review and Approval Process. The contractor(s) selected by the Harden Owners will design and construct the traffic signal and associated intersection improvements in accordance with requirements for a City public works project. The City will review plans, specifications, and required submittals for compliance with City standards. Plans, Specifications and Estimates (PS&E) will be brought to the City Council for approval. The City will provide inspection services to ensure compliance with approved plans, prevailing wages, and other public works requirements. Upon meeting the City's requirements, the completed project will be brought to the City Council for acceptance and for operations and maintenance. The City reserves the right to retime, or modify the intersection after the project depending on traffic conditions.

5. Permits and Other Approvals. The Harden Owners and their contractor(s) will obtain all permits and other approvals required for the installation of the traffic signal and associated intersection improvements and will pay all fees associated with those permits and other approvals.

6. CEQA Review. The City has determined that the traffic signal installation is exempt from the California Environmental Quality Act (CEQA) pursuant to Guidelines Section 15031 (Existing

Facilities) because the project proposes improvements to existing streets, sidewalks, gutters and other pedestrian facilities and restoration or replacement of existing drainage features and facilities.

7. Independent Contractor. It is expressly understood and agreed that the Harden Owners, and all of their employees, volunteers, program participants, and agents, including the contractor(s) selected to complete the project, while engaged in carrying out and completing the project, are independent contractors and not employees of the City. The foregoing notwithstanding, it is anticipated that, from time to time, employees of City departments including, but not limited to, the Public Works Department, may participate in supporting the completion of the project.

8. Defense and Indemnification. The Harden Ranch Owners agree to indemnify, defend and hold the City and its officers and employees harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to any property, or violation of any relevant federal, state or municipal law or ordinance, or other cause to the extent caused by the negligent or intentional acts or omissions of the Harden Ranch Owners, their employees, consultants, contractors, volunteers, or agents related to this MOU and the design and the installation of the traffic signal at the Intersection, except for any such claim arising from the negligence or willful misconduct of the City, its officers or employees. This indemnification and hold harmless clause shall apply whether or not insurance policies shall have been determined to be applicable to any of such damages or claims for damages and shall survive the expiration or the early termination of this MOU.

The Harden Ranch Owners shall reimburse the City for all costs and expenses, including court costs, demonstrated to have been reasonably incurred by the City in enforcing the provisions of this section.

9. Notices. Written notices will be sent by first class mail, postage prepaid, to the Parties, as follows:

If to City:

Public Works Director
City of Salinas
200 Lincoln Avenue
Salinas, California 93901

With a Copy to:

Harden Ranch Traffic Signal MOU
January 11, 2018
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City Attorney
City of Salinas
200 Lincoln Avenue
Salinas, California 93901

If to Harden Owners:

SSCA, LLC
Russell R. Pratt, Manager

JFG Realty Services, Inc.
Attn: J. Fred Goldsmith

10. Attachments Incorporated. All attachments referred to in this MOU and attached to it are hereby incorporated in it by this reference. In the event there is a conflict between any of the terms of this MOU and any of the terms of any exhibit to this MOU, the terms of the MOU shall control the respective duties and liabilities of the parties hereto.

11. Integration and Agreement. This MOU represents the entire understanding of the City and the Harden Owners as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters contained herein. No prior oral or written understanding shall be of any force and effect with respect to those matters covered in it. This MOU may not be modified or altered except by amendment in writing signed by the Parties.

12. Jurisdiction. This MOU shall be administered and interpreted under the laws of the State of California. Jurisdiction of any disputes arising from or under this MOU shall be in the State of California, in the County of Monterey or in the appropriate federal court with jurisdiction over the matter.

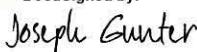
13. Severability. If any part of this MOU is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of the MOU shall continue to be in full force and effect.

14. Attorney Fees. In case suit shall be brought to interpret or to enforce this MOU, or because of the breach of any other covenant or provision herein contained, the prevailing party in such action shall be entitled to recover their reasonable attorney fees in addition to such costs as may be allowed by the Court. City's attorney fees, if awarded, shall be calculated at the market rate.

15. Successors and Assigns. This MOU and all of the provisions herein shall be binding upon and shall inure to the benefit of the heirs, legal representatives, successors, and assigns of the respective parties hereto.

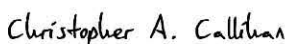
IN WITNESS WHEREOF, the undersigned, as authorized representatives of the City and of the Harden Owners, have entered into this MOU on the date first written above.

CITY OF SALINAS

DocuSigned by:

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Joe Gunter, Mayor

APPROVED AS TO FORM:

DocuSigned by:

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Christopher A. Callihan, City Attorney

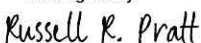
ATTEST:

DocuSigned by:

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Patricia M. Barajas, City Clerk

SALINAS SHOPPING CENTER ASSOCIATES LIMITED PARTNERSHIP
A California Limited Partnership

By: SSCA, LLC, a Delaware Limited Liability Company
Its: General Partner

DocuSigned by:

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Russell R. Pratt, Manager

HARDEN RANCH PLAZA ASSOCIATES, LLC
A Delaware Limited Liability Company

By: JFG Realty Services, Inc.
A California Limited Liability Company

DocuSigned by:

Fred Goldsmith

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J. Fred Goldsmith