

**AGREEMENT BETWEEN THE CITY OF SAN JOSE AND
WILLOW GLEN BUSINESS ASSOCIATION FOR THE
MANAGEMENT AND DELIVERY OF SERVICES IN THE
WILLOW GLEN COMMUNITY BENEFIT DISTRICT**

This Agreement (“Agreement”) is made and entered into upon full execution by the Parties and shall be effective from the date of January 1, 2025 (“Effective Date”), by and among the CITY OF SAN JOSE, a municipal corporation of the State of California (hereinafter “City”), and the WILLOW GLEN BUSINESS ASSOCIATION, a 501(c)(6) non-profit corporation (hereinafter “Business Association”). Each of City and Business Association are sometimes hereinafter referred to as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the City Council adopted Resolution No. RES2024-187 on June 4, 2024 approving the expansion and renewal of the Willow Glen Community Benefit District (“District”) under the provisions of Chapter 14.31 of the San Jose Municipal Code which incorporates and modifies the Property and Business Improvement District Law of 1994 in the California Streets and Highways Code, and provisions of Article XIID of the State Constitution (collectively, “CBID Law”) for a fifteen year period from January 1, 2025 to December 31, 2039; and

WHEREAS, pursuant to CBID Law, a charge is levied on and collected from property owners in the District (“District Assessment”) for the purpose of funding and providing services beyond what the City traditionally provides, through maintenance and cleaning of sidewalk areas, information and safety services, beautification activities and business retention and growth programs (“Assessed Services”), as more particularly described in the Willow Glen Community Benefit Improvement District Management District Plan and Engineer’s Report dated February 2024 and approved by the City Council on June 4, 2024 (collectively, “Plan & Report”) attached hereto as **Exhibit A**; and

WHEREAS, it is the intent of the Parties to realize there is an increased benefit to the Downtown Willow Glen economy and environment by having the District expand and continue to provide Assessed Services, above and beyond those general services provided by the City; and

WHEREAS, the City Council adopted Resolution No. RES2024-95 on April 9, 2024 finding the Business Association remains uniquely situated to manage and provide continued Assessed Services that promote a clean, inviting, and attractive Downtown Willow Glen; and

WHEREAS, the Parties desire to enter into this Agreement to set forth the roles and responsibilities of the Parties with respect to the Assessed Services as further described in this Agreement;

NOW THEREFORE, in consideration of the mutual covenants set forth in this Agreement and for valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

SECTION 1. GRANT OF PERMISSION BY CITY.

- A. The Business Association is hereby granted permission by the City to perform or cause to be performed, those services specified herein, on the streets, sidewalks and any other City property or City public right of way within the established boundaries of the District, subject to all of the restrictions and provisions provided herein.
- B. Nothing herein shall be construed to grant the Business Association a property interest in any City property or City public right of way.

SECTION 2. TERM OF AGREEMENT

The term of this Agreement shall be from the Effective Date and shall continue to December 31, 2039, inclusive, unless earlier terminated in accordance with Section 11 of this Agreement.

SECTION 3. BUSINESS ASSOCIATION MANAGEMENT AND SERVICE RESPONSIBILITIES.

- A. Governance: The Business Association shall administer the District in accordance with the provisions of the CBID Law, applicable provisions of the San José Municipal Code and City policies and regulations, the Plan & Report, and disclosure and notification requirements of the Ralph M. Brown Act and the California Public Records Act.

- B. Public Meetings: The Business Association shall conduct no less than two (2) public meetings each calendar year during the term of this Agreement to update its members on proposed or approved District activities and/or expenditures (collectively, "District Matters").

- C. Expenditure of Funds: The Business Association shall not incur or spend any District Assessments, except as set forth in this Agreement, and any Annual Report and budget approved by the City Council.

- D. Services Provided: Using the District Assesment levied on and collected from property owners in the District, the Business Association shall manage and provide Assesed Services in the District as generally described below and outlined in the approved Plan & Report as set forth in **Exhibit A**. The Assesed Services are categorized as Clean, Safe, and Beautiful services and Economic Vitality services in the Plan & Report:
 - 1. Clean, Safe and Beautiful services are intended to improve commerce and quality of life in the District by making each individually assessed parcel

safer, cleaner, and more attractive. These services will, in turn, encourage investment dollars and generate additional pedestrian traffic for a more aesthetically appealing district through beautification and placemaking improvements.

2. Economic Vitality services will provide market information and establish a variety of key economic metrics, working with property owners, real estate professionals, and City staff to coordinate and leverage business retention and attraction efforts through marketing and social events.
3. The Business Association shall perform, or cause to perform, Assesed Services as described in this Section 3 in accordance with CBID Law, applicable provisions of the San José Municipal Code and City policies and regulations, the Plan & Report, and subject to City review and approval Business Association represents those who perform any services in accordance with this Agreement shall possess all necessary training, licenses and permits needed to perform the services. Business Association represents the services will conform to the standard of practice of a professional that specializes in performing service of a like nature and complexity.

SECTION 4. COLLECTION AND DISBURSEMENT OF DISTRICT ASSESSMENT FUNDS

- A. Collection of Assessments on Tax Rolls: City has authorized the County of Santa Clara (“County”) to continue to collect District Assessments in Fiscal Year 2024-2025, and each year thereafter through Fiscal Year 2038-2039, subject to annual City Council authorization. The County will be paid an administrative fee to cover its costs which will be equivalent to one percent (1%) of the District Assessments collected on the tax roll. The County’s administrative fee will be deducted from the District Assessments the County will forward to City. City will receive those District Assessments collected on the tax rolls, minus the County’s administrative fee, from

the County twice annually, on or about January 31 and June 30. The amount received will be based on the assessment formula detailed in the Plan & Report, as may be amended from time to time by the City Council.

B. Collection of Assessments Not on County Tax Rolls: The City is responsible for collection of assessments from properties not on County tax rolls as follows:

1. By November 10 and March 10 of each year, City will mail invoices to all property owners that, to the City's knowledge, own parcels that are not on the County tax rolls notifying the owners that the assessments are due on December 10 and April 10 of each year.
2. If any property owner does not pay the assessment before the delinquent date, City shall send up to two (2) delinquent notices in an effort to collect those assessments. City may, in its reasonable discretion, pursue any further collection action, including but not limited to filing a lawsuit, provided however, that City will charge the Business Association for actual costs incurred in any additional collection efforts, including but not limited to attorney's fees. If the City elects not to pursue collection in any particular case, the Business Association may request authorization from the City for the Business Association to pursue the collection, which authorization may be withheld at the City's reasonable discretion.

C. City Administrative Fee for Assessment and Collection Services: The City will charge an administrative fee for its efforts in support of placement and collection of the District Assessments and other services as described below:

1. City will provide annual services related to the adjustment of the District Assessments and creation of the ensuing lien list; management of the District database which includes correlation of all needed data into appropriate documents that will be stored in a Council-required central

location; format, proof and submission to County of assessment data; billing of non-tax roll properties as described in Section 4B.1, and a record of properties invoiced and payments collected by April 15 and September 15 each year.

2. City will coordinate with the Business Association to develop and present the annual assessment report for Council on District Assessments including the City's source and use documents.
3. City will respond to requests for information from property owners and title companies regarding District Assessments and services provided in the District and other legally required disclosure information.
4. Within thirty (30) days of publication of the Annual Report, City will reconcile collections and payments to the District for the previous fiscal year. Any necessary and mutually agreed upon adjustments will be processed as soon as is practicable, or if City Council appropriation is required, during the Mid-Year Budget Review and annual March payment.

It is estimated that the City's administrative charge will be \$15,000 annually, which is subject to change. The amount may be reviewed annually as part of the Annual Report submitted by the Business Association to the City for approval by the City Council. The administrative charge will be deducted in two equal installments from the District Assessments that the City will disburse to the Business Association as set forth in Section 4.D below.

- D. Disbursement of Assessments: City will disburse net funds received from District Assessments to provide Services as outlined in the Plan & Report. City will make two annual payments to the Business Association on or before March 15 and August 15 of each year. The timing of the payments follows the receipt, accounting and processing of assessments from the Santa Clara County Tax Collector to the

City on January 31 and June 30 each year and the invoicing, receipt, accounting and processing of assessments from properties not on the County's tax rolls.

The March 15 payments will include approximately one-half of the annual net of the assessment funds to provide enhanced services for the January to June timeframe of each calendar year. The August 15 payments will include roughly one half of the annual net of the assessment funds to provide enhanced services for the July to December timeframe of each calendar year;

SECTION 5. ANNUAL REPORTING BY THE BUSINESS ASSOCIATION.

- A. Annual Assessment District Reports: On or before April 1 of each year, the Business Association shall submit to the City, for review and approval by the City Council, a report in compliance with Section 36650 of the Property and Business Improvement District Law of 1994 ("Annual Report") outlining among other things the proposed budget for the next fiscal year, the proposed assessments for the next fiscal year, the services to be provided, and information describing compliance with the Plan & Report.

On or before July 1 of each year, the Business Association and the City's Director of Public Works (or Director's designee), shall review and agree that the District Assessments approved by the City Council as specified in the Annual Report for that year, including the method and basis for levying the District Assessments and any approved exemptions is accurate and correct. In addition, the Business Association and the City's Director of Public Works (or Director's designee) shall review and annually verify by July 1, property ownership of all parcels within the District boundaries and prepare an accurate list of property owners including building square footage, lot sizes, and building units. On or before July 1 of each year, the Business Association shall submit all appropriate information required under this Section 5 electronically to the City. The format of these reports may be modified as directed by the City.

B. Annual Financial Report: On or before November 1 of each year, the Business Association shall submit to the City, for review and approval by the City Council, an Annual Financial Report (“Annual Financial Report”) that shall include all items described below:

1. Status report summarizing the Assessed Services provided to the District for the previous fiscal year;
2. Certification that all agreements entered into during the previous fiscal year between the Business Association and any other entity for the provision of Assessed Services are provided in substantial compliance with Section 6 below;
3. List of Business Association Board meetings held during the previous fiscal year;
4. Budget report certifying that all District Assessment fundings were expended in accordance with this Agreement and in compliance with all laws and regulations and detailing all expenditures of District Assessments funding for that year; and
5. An independent Certified Public Accountant’s review report on the finances of the District, for the preceding fiscal year, except for Fiscal Year 2037-2038, where the Business Association shall submit a full audit by an independent Certified Public Accountant.

C. All reports submitted in accordance with this Section 5 shall be subject to City review and approval.

SECTION 6. PROCUREMENT OF GOODS AND SERVICES.

A. The Business Association shall follow an open, fair, and competitive procurement process to obtain the most advantageous proposal for the District for the

acquisition of goods and services in connection with the provision of Assessed Services, and shall substantially comply with the San José Municipal Code Section 4.12 and with Section 7 of the City of San Jose Open Government and Ethics Provisions attached hereto as **Exhibit B**, both as may be amended from time to time.

- B. The Business Association shall comply with the City's applicable prevailing and/or living wage requirements and rate determination for Assessed Services provided under this Agreement, which is subject to annual adjustment. As part of this Agreement, Business Association shall execute a written prevailing/living wage compliance certification as set forth in **Exhibit C**. Business Association shall be solely responsible for contacting the City's Office of Equality Assurance to determine the appropriate wages for each category of Assessed Service.

- C. The Business Association shall certify and document in the Annual Report to the City Council that the Business Association has used open, fair and competitive processes, and has complied with the applicable provision of the San José Municipal Code and City policies as described in this Section 6.

SECTION 7. INDEPENDENT CONTRACTOR.

It is understood and agreed that the Business Association, in the performance of the work and services agreed to be performed by the Business Association or any of its subcontractors, shall each act as and be an independent contractor and not an agent or employee of City; and as independent contractors, the Business Association shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and the Business Association, including its employees, agents, subcontractors, and its assignees, hereby expressly waive any claim it may have to any such rights.

SECTION 8. NO ASSIGNABILITY.

- A. The Parties agree that the expertise and experience of the Business Association are material considerations for this Agreement. The Business Association shall

not assign or transfer any interest in this Agreement, nor the performance of any of the Business Association's obligations hereunder, without the prior written consent of the City, and any attempt by the Business Association to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

- B. The Parties further agree that the Business Association's responsibilities under this Agreement are established by the CBID Law, and the Business Association shall at all times continue to meet the requirements of the CBID Law to manage and operate the District. The Business Association shall not assign or transfer any interest in this Agreement, nor the performance of any of the Business Association's obligations hereunder, without the prior written consent of City, and any attempt by the Business Association to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

SECTION 9. INSURANCE REQUIREMENTS.

The Business Association agrees to have and maintain the policies set forth in **Exhibit D**, entitled "Insurance," which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the Director of Finance or the Director's authorized designee ("Risk Manager") of the City of San José as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. Business Association agrees to provide the City with a copy of said policies, certificates and/or endorsements before work commences under this Agreement.

SECTION 10. NONDISCRIMINATION.

The Business Association shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this Agreement.

SECTION 11. TERMINATION.

- A. Termination for Cause. Business Association shall be in default under this Agreement upon the occurrence of any one or more of the following events (“Event of Default”):
1. Business Association assigns this Agreement in violation of Section 8; or
 2. Business Association voluntarily or involuntarily files a petition for bankruptcy; or
 3. Business Association fails to comply with any material term of this Agreement, including without limitation, failure to provide the Assessed Services in accordance with the Plan & Report, this Agreement, or applicable laws.
- B. Unless the City determines the circumstances warrant immediate enforcement of Section 11.A above by immediate termination of this Agreement, the City shall give the Business Association seven (7) days advance written notice of any Event of Default (“Notice Period”), which notice shall state in reasonable detail the nature of the alleged default and the manner in which said default may be satisfactorily cured. During the Notice Period, the Business Association shall have the right to cure any such default; provided, however, if a default is of a nature which cannot reasonably be cured within the Notice Period, the Business Association shall be deemed to have timely cured the default for purposes of this Section 11 if it commences to cure the default within the Notice Period, and prosecutes the same to completion within a reasonable time thereafter.
- C. Termination for Convenience. The Parties may terminate this Agreement at any time and for any reason by giving the other Party one hundred and eighty (180) days prior written notice of termination.

- D. City may at its sole discretion disestablish the District in accordance with applicable laws. This Agreement shall automatically terminate upon such disestablishment.
- E. Upon termination as provided herein and upon written request by the City, all unexpended funds provided to the Business Association by City, all tangible assets purchased with funds provided to the Business Association by City, and all finished or unfinished Work Product shall be immediately returned to City.
- F. The rights and remedies specified in this Section 11 shall be deemed cumulative and in addition to any rights or remedies the Parties may have at law or equity.

SECTION 12. INDEMNIFICATION

- A. Obligation: Business Association shall defend, indemnify, and hold harmless the City and its officers, employees and agents against all claims, losses, damages, injuries, expenses or liabilities that - directly or indirectly, or in whole or in part - arise out of, pertain to, or relate to any of the following:
 - 1. Negligent performance of all or any part of the Assessed Services, or any other services; or
 - 2. Any negligent act or omission, recklessness or willful misconduct of the Business Association, any of its contractors or subcontractors, anyone directly or indirectly employed by either the Business Association or any of its contractors or subcontractors, or anyone that they control; or
 - 3. Any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person(s); or
 - 4. Any breach of this Agreement by the Business Association or any of its contractors or subcontractors.

- B. Limitation on Obligation: The obligation in Section 12.A above shall not apply to the extent that any claim, loss, damage, injury, expense, or liability results from the sole negligence or willful misconduct of the City or its officers, employees or agents.

- C. Duty to Defend: Business Association's obligation in Section 12.A above applies to the maximum extent allowed by law. Upon the City's written request, the Business Association, at its own expense, shall defend any suit or action that is subject to the obligation in Section 12.A above.

- D. Insurance: The City's acceptance of any insurance under Section 9 does not relieve the Business Association from its obligations under this Section 12. The Business Association's obligations under this Section 12 apply whether or not the insurance required by the Agreement covers any damages or claims for damages.

- E. Survival: The obligations under this Section 12 survive the expiration or earlier termination of the Agreement.

SECTION 13. OWNERSHIP OF WORK PRODUCT.

- A. Ownership and Use: The City owns all rights in and to any of the following work product (including electronic equivalents) immediately when and as created by the Business Association or any of its contractors or subcontractors pursuant to this Agreement, including but not limited to: drawings, plans, elevations, sections, details, schedules, diagrams, specifications, studies, reports, surveys, data, information, models, sketches, and other similar documents and materials (collectively "Work Product"). The Business Association shall have a non-exclusive right to use the Work Product during the term of this Agreement, at no cost, for the specific purpose of providing the Assessed and promoting and enhancing Downtown Willow Glen.

- B. Copyright: To the extent permitted by Title 17 of the United States Code, the Work Product is deemed a work for hire and all copyrights in such Work Product are the property of the City. In the event it is ever determined that any Work Product is not a work for hire under United States law, the Business Association hereby assigns to the City all copyrights to such works when and as created.

SECTION 14. DISCLOSURE OF WORK PRODUCT.

- A. Prohibition: Except as authorized by the City Manager or as otherwise required by law, the Business Association shall not disclose any of the following to a third party: (a) Work Product, (b) discussions between the Parties, or (c) information prepared, developed, or received by the Business Association or any of its contractors in the course of performing services pursuant to this Agreement.
- B. Notification: The Business Association will immediately notify the City Manager if it is requested by a third party to disclose any Work Product, discussions, or information that the Business Association is otherwise prohibited from disclosing.
- C. Limit on Prohibition: The prohibition in this Section 14 does not apply to disclosures between the Consultant and its contractors that are needed to perform the Assessed Services.
- D. Survival: This Section 14 survives the expiration or earlier termination of this Agreement.

SECTION 15. ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY.

- A. General: Business Association shall perform its obligations under the Agreement in conformance with City Council Policy 1-19, entitled "Prohibition of City Funding for Purchase of Single serving Bottled Water," and City Council Policy 4-6, entitled "Environmentally Preferable Procurement Policy."

B. Prohibition of City Funding for Purchase of Single Serving Bottled Water: The City's policy is that City funds should not be used for the purchase of single-serving bottled water except for any of the following:

1. Public safety emergencies, investigations and extended deployments or activation of the Office of Emergency Services;
2. Situations where there is a high risk of cross-contamination with non-potable water; or
3. Situations where there are no reasonable alternatives to bottled water, such as large public events and when large quantities of water need to be distributed for health and safety reasons.

An invoice seeking reimbursement from City for the cost of single-serving bottled water under one of the above exceptions must be accompanied by a waiver form provided by the City and signed by the Director.

C. Environmentally Preferable Procurement Policy: Environmental procurement policies and activities related to the completion of Business Association's work will include, whenever practicable, but are not limited to:

1. The use of recycled and/or recyclable products in daily operations (i.e. 30%, 50%, 100% PCW paper, chlorine process free, triclosan free hand cleaner, etc.);
2. The use of Energy-Star Compliant equipment;
3. The use of alternative fuel and hybrid vehicles, and implementation of protocols aimed at increasing the efficiency of vehicle operation;
4. The implementation of internal waste reduction and reuse protocol(s); and

5. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products.

SECTION 16. GOVERNING LAW.

The Parties agree that the law governing this Agreement shall be that of the State of California.

SECTION 17. COMPLIANCE WITH LAWS.

The Business Association shall each comply with all applicable laws, ordinances, codes, and regulations of the federal, state and local governments (“Laws”), all as may be amended from time to time. In the event of a conflict between this Agreement and the Laws or the Plan & Report, the Laws and Plan & Report shall control, except for the agreed upon limitations as otherwise specifically provided for in this Agreement.

SECTION 18. WAIVER.

The Parties agree that waiver by any Party of any breach or violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by any Party of the performance of any work or services by another Party shall not be deemed to be a waiver of any term or condition of this Agreement.

SECTION 19. SURVIVAL OF PROVISIONS.

If a court finds any part of this Agreement unenforceable, all other parts shall remain enforceable.

SECTION 20. HEADINGS.

The section and exhibit headings are for convenience only and are not to be used in its construction. The actual contract language, not the section and exhibit headings, shall be used to determine the precise content of this Agreement.

SECTION 21. BOOKS AND RECORDS.

- A. The Business Association shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to services performed under this Agreement for a minimum period of five (5) years after the termination of this Agreement.

- B. Business Association shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of five (5) years after the service has been performed, or for any longer period required by law.

- C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Business Association's address indicated for receipt of notices in this Agreement.

- D. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Business Association, City may, by written request by any of the above-named officers, require that custody of the records be given to City and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by the Business Association, or their respective representatives or successors-in-interest.

SECTION 22. CONFLICT OF INTEREST.

The Business Association shall avoid all conflict of interest or appearance of conflict of interest in performance of this Agreement. As of the date of entering into this Agreement, Business Association's employees assigned to perform services in this Agreement ("Business Association's Assigned Employees") shall not be required to complete and file a Form 700 with City Clerk. In the event that the City subsequently determines to require Business Association's Assigned Employees to complete and file a Form 700 with City Clerk, City will notify Business Association in writing of such requirement, including without limitation, instructions regarding the categories of economic interests subject to disclosure on the Form 700 ("Form 700 Notice"). Business Association shall cause Business Association's Assigned Employees to complete and file the Form 700 with City Clerk and to submit a copy to City's Assistant Director for the Department of Public Works, in accordance with the instructions specified in the Form 700 Notice, no later than thirty (30) days of the date of the Form 700 Notice.

SECTION 23. GIFTS.

- A. The Business Association is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee, which prohibition is found in Chapter 12.08 of the San José Municipal Code, as may be amended.
- B. The Business Association agrees not to offer any City officer or designated employee any gift prohibited by said Chapter.
- C. The offer or giving of any gift by the Business Association, which is prohibited by San Jose Municipal Code Chapter 12.08, shall constitute a material breach of this Agreement by that party. In addition to any other remedies City may have in law or equity, City may immediately terminate this Agreement for such breach.

SECTION 24. DISQUALIFICATION OF FORMER EMPLOYEES.

The Business Association is familiar with the provisions relating to the disqualification of former officers and employees of City in matters which are connected

with former duties or official responsibilities as set forth in Chapter 12.10 of the San José Municipal Code (“Revolving Door Restrictions”). The Business Association shall not utilize either directly or indirectly any officer, employee, or agent of the Business Association to perform services under this Agreement, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Restrictions.

SECTION 25. PROJECT COORDINATION AND COMMUNICATION.

- A. Except as expressly provided herein, the City Manager, or designated representatives, shall supervise and direct all actions to be performed by City pursuant to this Agreement.

- B. The Executive Director of the Business Association has been designated as the project manager to supervise and direct all actions to be performed pursuant to this Agreement and shall be the principal contact with the City regarding the District.

- C. The Executive Director of the Business Association shall assign a person to be the project manager who shall supervise and direct all actions to be performed by the Downtown Association pursuant to this Agreement.

SECTION 26. NOTICES.

All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be personally served or mailed, postage prepaid, addressed to the respective parties as follows:

To City:	City of San José Department of Public Works 200 E. Santa Clara St., 3rd Floor Tower San José, CA 95113-1905 Attn: Stanley Wong
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To Business Association: Willow Glen Business Association
1261 Lincoln Ave., Suite 217
San José, CA 95125
Attn: Tim Mulcahy

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail. The Parties may change its contact information for receiving written notices and communications regarding the Agreement by providing notice of such change to the other Party pursuant to this Section 26.

SECTION 27. VENUE.

In the event that suit shall be brought by any Party to this Agreement, the Parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, for the Northern District of California, in San José, California.

SECTION 28. PRIOR AGREEMENTS AND AMENDMENTS.

This Agreement, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may be modified only by a written amendment duly executed by the parties to this Agreement.

SECTION 29. EXHIBITS.

This Agreement includes the following exhibits that are attached and incorporated herein by reference:

- Exhibit A** Willow Glen Community Benefit Improvement District Management District Plan and Engineer's Report
- Exhibit B** Section 7 of Consolidated Open Government and Ethics Provisions
- Exhibit C** Prevailing Wage and Living Wage Certification
- Exhibit D** Insurance Requirements

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

“City”

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal corporation

By **{{_signer2}}**

By **{{_signer3}}**

Vance Chang
Deputy City Attorney

Sarah Zarate, Director of Administration,
Policy & Intergovernmental Relations

“Business Association”

WILLOW GLEN BUSINESS
ASSOCIATION, a non-profit 501(c)(6)
corporation

By



TIM MULCAHY
Board President