

CUSTODY AGREEMENT

BY AND BETWEEN

THE COUNTY OF SAN MATEO AND

U. S. BANK NATIONAL ASSOCIATION

CUSTODY AGREEMENT

Pursuant to this Custody Agreement, dated October 1, 2015, the Depositor identified below (the "Depositor") hereby establishes Custody Account No. **268276000** (the "Account") with U.S. Bank National Association, a national banking association (the "Agent"), to be maintained and administered for the purposes described in Schedule I attached hereto in accordance with the following terms and conditions:

The funds and/or property described on Schedule I attached hereto and incorporated herein (the "Assets") will be deposited in the Account upon delivery thereof to the Agent at its office in St. Paul, Minnesota, in the manner and at the time(s) specified in the said Schedule I. The Agent is hereby authorized and directed by each of the Depositor, as their custodial agent, to hold, deal with and dispose of the Assets as provided in the Instructions set forth in Schedule II attached hereto and incorporated herein; subject, however, to the terms and conditions set forth below, which in all events, shall govern and control over any contrary or inconsistent provisions contained in Schedules I or II attached hereto.

1. **Agent's Duties.** Agent's duties and responsibilities shall be limited to those expressly set forth in this Custody Agreement, and Agent shall not be subject to, or obliged to recognize, any other agreement between any or all of the Depositors or any other persons even though reference thereto may be made herein; provided, however, this Agreement may be amended at any time or times by an instrument in writing signed by all the parties hereto. Agent shall not be subject to or obligated to recognize any notice, direction or instruction of any or all of the parties hereto or of any other person, except as expressly provided for and authorized in Schedule II and in performing any duties under the Custody Agreement ("Agreement"), Custodial Agent ("Agent") shall not be liable to any Party for consequential damages, (including, without limitation lost profits) losses, or expenses, except for gross negligence or willful misconduct on the part of the Agent.
2. **Court Orders or Process.** If any controversy arises between the Parties to this Agreement, or with any other Party, concerning the subject matter of this Agreement, its terms or conditions, Agent will not be required to determine the controversy or to take any action regarding it. Agent may hold all documents and funds and may wait for settlement of any such controversy by final appropriate legal proceedings or other means as, in Agent's discretion, Agent may require, despite what may be set forth elsewhere in this Agreement. In such event, Agent will not be liable for interest or damage. Agent is authorized, in its sole discretion, to comply with orders issued or process entered by any court with respect to the Account, the Assets or this Custody Agreement, without determination by the Agent of such court's jurisdiction in matter. If any Assets are at any time attached, garnished, or levied upon under any court order, or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting such property or any part thereof, then in any such events Agent is authorized, in its sole discretion, to rely upon and comply

with any such order, writ, judgment or decree which it is advised by legal counsel of its own choosing is binding upon it; and if Agent complies with any such order, writ, judgment or decree, it shall not be liable to the Depositor or to any other person, firm or corporation by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

3. **Agent's Actions and Reliance.** Agent shall not be personally liable for any act taken or omitted by it hereunder if taken or omitted by it in good faith and in the exercise of its own best judgment. Agent shall also be fully protected in relying upon any written notice, instruction, direction, certificate or document which in good faith it believes to be genuine.
4. **Collections.** Unless otherwise specifically indicated in Schedule II, Agent shall proceed as soon as practicable to collect any checks, interest due, matured principal or other collection items with respect to Assets at any time deposited in the Account. All such collections shall be subject to the usual collection procedures regarding items received by Agent for deposit or collection. Agent shall not be responsible for any collections with respect to Account Assets if Agent is not registered as record owner thereof or otherwise is not entitled to request or receive payment thereof as a matter of legal or contractual right. All collection payments shall be deposited to the Account, except as otherwise provided in Schedule II. Agent shall not be required or have a duty to notify anyone of any payment or maturity under the terms of any instrument, security or obligation deposited in the Account, nor to take any legal action to enforce payment of any check, instrument or other security deposited in the Account. The Account is a custody account, and no interest shall be paid by Agent on any money deposited or held therein, except as provided in Section 6 hereof.
5. **Agent Responsibility.** Agent shall not be responsible or liable for the sufficiency or accuracy of the form, execution, validity or genuineness of documents, instruments or securities now or hereafter deposited in the Account, or of any endorsement thereon, or for any lack of endorsement thereon, or for any description therein. Registered ownership of or other legal title to Assets deposited in the Account shall be maintained in the name of Agent, or its nominee, only if expressly provided in Schedule II. Agent may maintain qualifying Assets in a Federal Reserve Bank or in any registered clearing agency (including, without limitation, the Depository Trust Company) as Agent may select, and may register such deposited Assets in the name of Agent or its agent or nominee on the records of such Federal Reserve Bank or such registered clearing agency or a nominee of either. Agent shall not be responsible or liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver any such document, security or endorsement or this Custody Agreement.
6. **Investments.** All monies held in the Account shall be invested by Agent in its name or its nominee's name, in such instruments or securities and at the written direction of such Depositor or other person, as expressly authorized in Schedule II. Such Depositor shall furnish the Agent with written instructions to sell securities (including shares or

units in any money market mutual funds) to make any payments from the Account as provided hereunder. If no such instructions are received, Agent is authorized to sell any such securities held in the Account as necessary for that purpose. Agent shall not be responsible for the selection, quality or maturity of such investments, or for the timely reinvestment of interest or Maturity proceeds thereof except as provided in the immediately following paragraph. In the absence of duly authorized and complete directions regarding investment of cash held in the Account, Agent shall automatically invest and reinvest the same in units of the money market mutual funds identified on Schedule III attached hereto and incorporated herein, which funds may be managed by an affiliate of the Agent.

Monies credited to any account or fund maintained hereunder which are uninvested pending disbursement or receipt of proper investment directions or as directed herein, may be deposited to and held in a non-interest bearing demand deposit account established with the Commercial Banking Department of the Agent or with any bank affiliated with the Agent, without the pledge of securities to or other collateralization of such deposit accounts.

The Depositor acknowledges and agrees that the Agent is authorized to invest from or through its trust department or U.S. Bank National Association or any other bank affiliated with Agent through common control by U.S. Bancorp.

7. **Notices/Directions to Agent.** Notices and directions to Agent from Depositor, or from other persons authorized to give such notices or directions as expressly set forth in Schedule II, shall be in writing and signed by an authorized representative as identified pursuant to Schedule II, and shall not be deemed to be given until actually received by Agent's employee or officer who administers the Account. Agent shall not be responsible or liable for the authenticity or accuracy of notices or directions properly given hereunder if the written form and execution thereof on its face purports to satisfy the requirements applicable thereto as set forth in Schedule II, as determined by Agent in good faith without additional confirmation or investigation.
8. **Books and Records.** Agent shall maintain books and records regarding its administration of the Account, and the deposit, investment, collections and disbursement or transfer of Assets, shall retain copies of all written notices and directions sent or received by it in the performance of its duties hereunder, and shall afford each Depositor reasonable access, during regular business hours, to review and make photocopies (at Depositor's cost) of the same.
9. **Disputes Among Depositor and/or Third Parties.** In the event Agent is notified of any dispute, disagreement or legal action between the Depositor, and/or any third parties, relating to or arising in connection with the Account, the Assets or the performance of the Agent's duties under this Agreement, the Agent shall be authorized and entitled, subject to Section 2 hereof, to suspend further performance hereunder, to retain and hold the Assets then in the Account and take no further action with respect thereto until the matter has been fully resolved, as evidenced by written notification signed by an

authorized representative of the Depositor and any other parties to such dispute, disagreement or legal action.

10. **Notice by Agent.** Any notices which Agent is required or desires to give hereunder to the Depositor shall be in writing and may be given by mailing the same to the address indicated in this agreement (or to such other address as said Depositor may have theretofore substituted therefore by written notification to Agent), by United States certified or registered mail, postage prepaid. For all purposes hereof any notice so mailed shall be as effectual as though served upon the person of the Depositor to whom it was mailed at the time it is deposited in the United States mail by Agent whether or not such undersigned thereafter actually receives such notice. Whenever under the terms hereof the time for Agent's giving a notice or performing an act falls upon a Saturday, Sunday, or holiday, such time shall be extended to the next business day.
11. **Agent Compensation.** Agent shall be paid a fee for its services as set forth on Schedule IV attached hereto and incorporated herein, which shall be subject to increase upon notice sent to Depositor, and reimbursed for its reasonable costs and expenses incurred. If Agent's fees, or reasonable costs or expenses, provided for herein, are not promptly paid, Agent shall have the right to sell such portion of the Assets held in the Account as necessary and reimburse itself therefor from the proceeds of such sale or from the cash held in the Account. In the event that the conditions of this Agreement are not promptly fulfilled, or if Agent renders any service not provided for in this Agreement, or if the Parties request a substantial modification of its terms, or if any controversy arises, or if Agent is made a Party to, or intervenes in, any litigation pertaining to this custody or its subject matter, Agent shall be reasonably compensated for such extraordinary services and reimbursed for all costs, attorney's fees, including allocated costs of in-house counsel, and expenses occasioned by such default, delay, controversy or litigation and Agent shall have the right to retain all documents and/or other things of value at any time held by Agent in this custody until such compensation, fees, costs, and expenses are paid. The Parties jointly and severally promise to pay these sums upon demand. Unless otherwise provided, the Parties each will pay one-half of all Agent's usual charges and Agent may deduct such sums from the funds deposited. The Depositor and its respective successors and assigns agree jointly and severally to indemnify and hold Agent harmless against any and all losses, claims, damages, liabilities, and expenses, including reasonable costs of investigation, counsel fees, including allocated costs of in-house counsel and disbursements that may be imposed on Agent or incurred by Agent in connection with the performance of his/her duties under this Agreement, including but not limited to any litigation arising from this Agreement or involving its subject matter. Agent shall have a first lien on the property and papers held under this Agreement for such compensation and expenses.
12. **Agent Resignation.** It is understood that Agent reserves the right to resign at any time by giving written notice of its resignation, specifying the effective date thereof, to the Depositor. Within 30 days after receiving the aforesaid notice, the Depositor agree to appoint a successor custodial agent to which Agent may transfer the Assets then held in the Account, less its unpaid fees, costs and expenses. If a successor custodial agent has

not been appointed and has not accepted such appointment by the end of the 30-day period, Agent may apply to a court of competent jurisdiction for the appointment of a successor custodial agent, and the costs, expenses and reasonable attorney's fees which Agent incurs in connection with such a proceeding shall be paid by the Depositor.

13. **Custody Termination.** If, as provided in Schedule II, this Custody Agreement shall not have previously terminated, then it shall terminate on October 1, 2018, at which time the Assets then held in the Account, less Agent's unpaid fees, costs and expenses shall be distributed to the Depositor.
14. **Governing Law.** This Custody Agreement shall be construed, enforced, and administered in accordance with the laws of the State of Minnesota. The undersigned Agent hereby agrees to hold, deal with and dispose of the Assets at any time deposited to the Account in accordance with the foregoing Custody Agreement.
15. **Automatic Succession** Any company into which the Agent may be merged or with which it may be consolidated, or any company to whom Agent may transfer a substantial amount of its custody business, shall be the Successor to the Agent without the execution or filing of any paper or any further act on the part of any of the Parties, anything herein to the contrary notwithstanding.

DEPOSITOR

Name and Address of the Depositor

County of San Mateo

Signatures, Names and Titles of Authorized Signatories

**U.S. Bank National
Association, as Agent**

By: _____

SCHEDULE I

INSTRUCTIONS OF THE DEPOSITOR

PURPOSE OF CUSTODY AGREEMENT:

Deposit funds from the County of San Mateo into an Custody Account maintained with U.S. Bank National Association designated “Warm Shell Special Project Fund”.

<u>Initial Transfer</u>	<u>Means of Delivery</u>	<u>Date of Delivery</u>
\$1,000,000	Wire	_____

SCHEDULE II

INSTRUCTIONS OF DEPOSITOR

Please see attached Form of Requisition from the Warm Shell Special Project Fund.

SCHEDULE III

In the absence of specific written direction to the contrary, you are hereby directed to invest and reinvest proceeds and other available monies in the San Mateo County Pool **#00405**.

SCHEDULE IV

Agent's Fees

County of San Mateo

Acceptance Fee: (Includes review of Agreement and establishing procedures and controls)	\$ 500.00
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First year's administrative fee: (payable upon opening account, nonrefundable)	\$ 1,000.00
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Subsequent year administration fee: (non-proratable to commence on first anniversary date)	as above
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**WRITTEN REQUEST OF COUNTY OF SAN MATEO
REQUISITION FROM WARM SHELL
SPECIAL PROJECT FUND**

U. S. Bank National Association
60 Livingston Avenue – EPMNWS3T
St. Paul, Minnesota 55107-2292

**Payment
Request No. ____**

Re: San Mateo County
Warm Shell Special Project Fund Account Number: **268276000**

Ladies and Gentlemen:

This letter is our authorization to you, on behalf of the San Mateo County, to disburse from the Warm Shell Special Project Fund provided for in the Custody Agreement, dated as of October 1, 2015, (the, "Custody Agreement"), providing for the amounts indicated on Schedule A attached hereto to the therein-named individuals, firms and corporations for expenses incident to the Warm Shell Project pursuant to the Custody Agreement.

The obligations in the stated amounts have been incurred by the County and each item thereof is a proper charge against the Warm Shell Special Project Fund and has not been the subject of a prior requisition.

Amounts remaining in the Warm Shell Special Project Fund, together with earnings anticipated to be received thereon and on other funds during the construction period and other moneys designated by the County for the construction of the Phase of the Project for which this expenditure is being made, will be sufficient to complete construction of such Project.

No event of Default has occurred and is continuing.

Amount to be Disbursed: \$ _____, 2015

COUNTY OF SAN MATEO

By: _____
County Authorized Signature

SCHEDULE A

1. Payee: _____

Amount: \$ _____

Payment Instructions: Please **wire/send** the payment to: