

REAL ESTATE LICENSE AGREEMENT

This REAL ESTATE LICENSE AGREEMENT ("License") is made as of this **[DATE]** day of July, 2020, by and between **[BUSINESS NAME]**, a California **[TYPE OF BUSINESS]**, having its principal office at **[BUSINESS ADDRESS]** ("Licensor"), and County of San Benito, a political subdivision of the State of California, Attn: Registrar of Voters, 440 5th Street, Room 206, Hollister CA 95023 ("Licensee").

WITNESSETH:

WHEREAS, Licensor wishes to facilitate civic engagement of the voters of San Benito County by providing a location for a secure, ballot dropbox during 28 days prior to each statewide election; and

WHEREAS, Licensee, through its Registrar of Voters, wishes to place a ballot dropbox on Licensor's property; and

WHEREAS, Licensee is aware of the Americans with Disability Act (ADA) requirements for the placement of the drop box; has surveyed the site in person and can assure Licensor that the location of the drop box does not impede the path of travel on either side as required by the ADA; and

WHEREAS, Licensor and Licensee agree that installation, removal and maintenance of the ballot dropbox will be the sole responsibility of Licensee acting through its Registrar of Voters.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree as follows:

1. License.

(a) Licensor hereby grants to Licensee a license (the "License") to use and occupy the License Area of approximately **[TO BE DETERMINED]**, as shown on Exhibit A and rights of access thereto for the purpose of placing a secure, ballot dropbox for the use of voters of the County of San Benito.

(b) Licensee has inspected and is familiar with the License Area and accepts same in its "as is" condition as of the Commencement Date.

(c) Licensor shall not be required to perform any work or furnish any materials in order to prepare the License Area for Licensee's occupancy.

2. License Fee. Licensor agrees to allow Licensee use of the License area for the License Periods without any fee.

3. Termination. This license may be terminated by either party with 30 days written notice.

4. Compliance with Law. Licensee shall promptly comply with all present and future applicable laws and regulations of all state, Federal, municipal and local governments, departments, commissions and boards and any direction of any public officer pursuant to law, and all orders, rules and regulations of any Board of Fire Underwriters or any similar body (all of the foregoing being hereinafter collectively referred to as "Laws") having jurisdiction which shall impose any violation, order or duty upon Licensors, provided however, that such compliance relates to Licensee's manner of use of the related License Area.

5. Condition of License Area. Licensee shall take good care of the License Area and the fixtures and appurtenances thereon.

6. Damage and Destruction. Neither Licensors nor Licensee shall have any responsibility to each other in the event of any damage to or theft of any equipment or property of the other party except if caused by the gross negligence or willful misconduct of such party, and the party incurring such loss shall look to its own insurance coverage, if any, for recovery in the event of any such damage, loss or theft.

7. Insurance. Licensee shall maintain in full force and effect with respect to the related License Area, commercial general liability insurance coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of Licensee.

8. Indemnification of Licensors. Licensee shall indemnify, defend and hold Licensors, and any partner, officer, agent, employee and director of Licensors (the "Licensors Indemnitees") harmless from and shall defend the Licensors Indemnitees against all claims made or judicial or administrative actions filed which allege that any one of the Licensors Indemnitees is liable to the claimant (other than to the extent caused by or arising from a Licensors Indemnitee's gross negligence or willful misconduct) by reason of (i) any injury to or death of any person, or damage to or loss of property, or any other thing occurring on or about the License Area, or in any manner growing out of, resulting from or connected with the use, condition or occupancy of, the License Area, if caused by any act or omission of Licensee or its agents, partners, contractors, employees, permitted assignees, licensees, sublessees, invitees or any other person or entity for whose conduct Licensee is legally responsible, (ii) violation by Licensee of any contract or agreement to which Licensee is a party in each case affecting the License Area or the occupancy or use thereof by Licensee, (iii) violation of or failure to observe or perform any condition, provision or agreement of this License Agreement on Licensee's part to be observed or performed hereunder, and (iv) Licensee's manner of use and occupancy of the License Area, except to such extent that any such claim arises from the gross negligence or willful misconduct of Licensors. Licensors shall similarly indemnify, defend and hold Licensee, and any partner, officer, agent, employee and director of Licensee (the "Licensee Indemnitees") harmless from and shall defend the Licensee Indemnitees against all claims made or judicial or

administrative actions filed which allege that any one of the Licensee Indemnitees is liable to the claimant (other than to the extent caused by or arising from a Licensee Indemnitee's negligence or willful misconduct) by reason of (i) any injury to or death of any person, or damage to or loss of property, or any other thing occurring on or about the License Area, or in any manner growing out of, resulting from or connected with the use, condition or occupancy of, the License Area, if caused by any negligent act or willful misconduct of Licensors or its agents, partners, contractors, employees, permitted assignees, licensees, sublessees, invitees or any other person or entity for whose conduct Licensors is legally responsible (other than Licensee), (ii) violation by Licensors of any contract or agreement to which Licensors is a party in each case affecting the License Area or the occupancy or use thereof by Licensors and (iii) violation of or failure to observe or perform any condition, provision or agreement of this License Agreement on Licensors's part to be observed or performed hereunder.

9. Assignment. The License granted hereby is personal to Licensee and shall not be assigned.

10. Default. If either party defaults in the performance of any of its obligations hereunder with respect to the License Area and such default continues for more than thirty (30) days, in all cases after receipt of written notice from the nondefaulting party, the nondefaulting party shall have the right to terminate the License herein granted with respect to the applicable License Area and pursue any other remedies available at law or in equity.

11. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LICENSE AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY PUNITIVE, INDIRECT, CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING LOSS OF GOODWILL OR LOSS OF PROFITS.

12. Notices.

(a) Any notice, demand or request under this License Agreement shall be in writing, shall be addressed as hereinafter provided and delivered by first class mail or hand-delivered and shall be deemed effective upon receipt. Any notice, demand or request by Licensors to Licensee shall be addressed to Licensee at its address stated in the preamble hereto. Any notice, demand or request by Licensee to Licensors shall be addressed to Licensors at its address stated in the preamble hereto.

(b) Rejection or other refusal to accept, or the inability to deliver because of a changed address of which no notice was given, shall be deemed to be receipt of the notice, demand or request sent.

13. Quiet Enjoyment. Licensors covenants and agrees that, so long as Licensee shall meet the terms of this License, Licensee shall and may peaceably and quietly have, hold and enjoy the License Area without disturbance, hindrance, ejection or

molestation by or from Licensor (subject, however, to the provisions hereof) or any one claiming by, through or under Licensor.

14. Waiver of Claims. As to the period from and after the Commencement Date, notwithstanding anything to the contrary herein, each party hereto waives all claims against the other party, its agents and employees for damage to property sustained by the waiving party resulting from damage to the License Area, as the case may be, its fixtures or any of the waiving party's personal property, or resulting directly or indirectly from any act or omission of the other party. All property belonging to the waiving party shall be there at the risk of the waiving party, and any such occupant shall look to any insurance coverage that it may have for recovery of any loss or damage to property that such waiving party or such occupant may sustain.

15. Surrender. Termination of the License with respect to the related License Area, Licensee, if requested by Licensor, shall restore the related portion of the License Area to the condition existing on the Commencement Date insofar as installations and alterations were made by or on behalf of Licensee, ordinary wear and tear, fire and other casualty excepted (or if not so requested by Licensor, shall restore the related License Area only insofar as installations and alterations were made by or on behalf of Licensee)

16. Subordination. The License granted herein is subject and subordinate to all ground and underlying leases affecting the real property of which the License Area forms a part and to all mortgages which may now or hereafter affect such leases or such real property.

17. Warranties. EXCEPT AS SET FORTH IN THIS LICENSE AGREEMENT, THE PARTIES DO NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THIS LICENSE AGREEMENT, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

18. Inability to Perform. Neither party shall be responsible for delays in the performance of its obligations caused by events beyond that party's reasonable control, including, but not limited to, acts of God.

19. Good Faith. The License Area is of such configuration and is not of such size as to justify, in either case, in the opinion of the parties, entering into formal leases and/or subleases covering the License Area. The parties have therefore entered into this License Agreement, which the parties recognize is not dispositive of all matters and issues that may arise in respect to the License Area. As and when issues and matters arise during the course that are not definitively controlled by the provisions of this License Agreement, the parties shall act reasonably and in good faith endeavor to adjust and resolve such issues and matters.

20. Signage. Licensors shall permit Licensee to display temporary directional flags and/or signs at relevant entrances to the parking area to direct voters to the ballot dropbox.

21. Parking. For the License Area, Licensee shall have nonexclusive access to the parking spaces closest to the ballot dropbox solely for the use of voters depositing ballot return envelopes.

22. Miscellaneous.

(a) Counterparts. This License Agreement may be executed in two or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument.

(b) Governing Law. This License Agreement shall, with respect to the License Area, be governed by and construed in accordance with the laws of the State of California.

(c) Section Headings. The section titles herein are for convenience only and do not define, limit or construe the contents of such sections.

(d) Attachments and Exhibits. All attachments and exhibits to this License Agreement are hereby made a part hereof as if fully set out herein.

(e) Severability. If any provision or provisions in this License Agreement is/are found to be in violation of any law or otherwise unenforceable, all other provisions will remain unaffected and in full force and effect.

(f) Other. Time is of the essence with respect to the performance of every provision of this License Agreement in which time of performance is a factor. When a party is required to do something by this License Agreement, it shall do so at its sole cost and expense without right of reimbursement from the other party unless specific provision is made therefor. Whenever one party's consent or approval is required to be given as a condition to the other party's right to take any action pursuant to this License Agreement, unless another standard is expressly set forth, such consent or approval shall not be unreasonably withheld or delayed. Any executed copy of this License Agreement shall be deemed an original for all purposes.

24. No liability. Licensors and Licensee agree that neither their respective directors, officers, employees, shareholders nor any of their respective agents shall have any personal obligation hereunder, and that Licensors and Licensee shall not seek to assert any claim or enforce any of their rights hereunder against such directors, officers, employees, shareholders or agents.

25. Binding Effect. This License Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, and

shall not be modified except by an express written agreement signed by duly authorized representative of both parties.

IN WITNESS WHEREOF, the parties have duly executed this License Agreement as of the date first above written

LICENSOR:

[BUSINESS NAME],
a California **[TYPE OF BUSINESS]**

Date: _____

By: _____
[OWNER NAME],
[BUSINESS TITLE]

LICENSEE:

COUNTY OF SAN BENITO, a political
subdivision of the State of California

Date: _____

By: _____

JOE PAUL GONZALEZ,
County Clerk-Auditor-Recorder
Registrar of Voters

APPROVED AS TO LEGAL FORM
Barbara Thompson, County Counsel

By:  _____
Assistant County Counsel

Date: June 26, 2020