



NOVA WORKFORCE BOARD AGENDA
12:00 NOON to 1:30 p.m., WEDNESDAY, September 25, 2019
LOS ALTOS ROOM, 505 W. OLIVE AVE., SUITE #767, SUNNYVALE, CA

- 1. CALL TO ORDER**
- 2. PUBLIC ANNOUNCEMENTS**
- 3. APPROVAL OF AGENDA**
- 4. REPORT FROM THE CHAIR** **Motion Information**
 - 4A. Presentation from Board Member Stacey Porter on Outset Medical, industry trends and the future of work
 - 4B. Report out on Digital Promise Challenge Institute Event
 - 4C. July Study Session
- 5. REPORT FROM THE EXECUTIVE DIRECTOR** **Information**
 - 5A. Update AB 1111 Implementation: Breaking Barriers to Employment Initiative
 - 5B. State Evaluation of Regionalism Activities
 - 5C. Extension of Contract Agreements with Central Labor Council Partnership and JobTrain and Award Funding for Services through June 30, 2020
- 6. PUBLIC HEARING**
 - 6A. Approval of Minutes:
 - 6A1. Approval of Minutes of May 22, 2019 Meeting (**Enclosure**) **Motion**
 - 6A2. Approval of Minutes of July 24, 2019 Study Session Meeting (**Enclosure**) **Motion**
 - 6B. GENERAL BUSINESS:
 - 6B1. Approval of NOVAworks Foundation Amended Bylaws and Board of Directors (**Enclosure**) **Motion**
 - 6C. DISCUSSION:
 - 6C1. Opportunity for Dialogue among Board Members and Director
 - 6D. GENERAL INFORMATION:
 - 6D1. Grant Status/Status of Funds (**Enclosure**) **Information**
- 7. ADJOURNMENT**

SCHEDULED MEETINGS

NOVA Board Meeting, Wednesday, December 4, 2019 at 12 Noon

Pursuant to the Americans with Disabilities Act, NOVA will make reasonable efforts to accommodate persons with qualified disabilities. If you require special accommodation, please contact NOVA at (408) 730-7240 at least one day in advance of the Workforce Board Meeting.



NOVA Workforce Board
Draft May 22, 2019 Meeting Minutes

PRESENT: M. Alvarado, T. Baity, J. Chu, L. de Maine, B. Field, B. Guidry-Brown, K. Harasz, B. Knopf, L. Labit, S. Levy, J. Morrill, S. Porter, C. Springsteel, and A. Switky

ABSENT: S. Borgersen, C. Cimino, L. Dalla Betta, V. Dang, R. Foust, C. Galy, H. Goodkind, P. Guevara, E. Hamilton, J. Hill, M. Lucero, A. Manwani, J. Miner, J. Ruigomez, and J. Sugiyama

ALSO PRESENT: K. Stadelman, C. Stahl and E. Stanly

1. CALL TO ORDER

Co-Chairperson J. Morrill called the meeting to order at 12:05 p.m.

2. PUBLIC ANNOUNCEMENTS

No public announcements.

3. APPROVAL OF AGENDA

It was moved by B. Knopf, seconded by K. Harasz and carried by voice vote to approve the agenda as submitted, with one change: agenda item 6B3. moved up to become 4B.

4. CHAIRPERSON'S REPORT

4A. Introduction of New Board members: New Board members M. Alvarado of Communications Workers of America and C. Springsteel of Adobe, Inc. were introduced to the Board. Board members and staff introduced themselves to the new members.

4B. Presentation from Board members Katherine Harasz and Andy Switky: New App for Santa Clara County Housing Authority: Highlights of the presentation included:

- While housing is the foundation of what the Santa Clara County Housing Authority does, the agency has many customers that require extensive customer service in order to be successful, including: U.S. Housing and Urban Development Department (HUD) that regulates the local housing authority programs and provides funding; landlords that can elect to participate in the Section 8 program and have the authority to screen prospective tenants and deny housing for any reason such as eviction history (which makes customer service particularly important with landlords), although there is an effort to promote landlord participation in the Section 8 program through a City of San Jose proposal; and the recipients of housing assistance that require help with

navigating the program's requirements. Given the importance of customer service and employee engagement in this system, the agency asked the question, How might we improve customer service at SCCHA?, which resulted in the launch of a new app.

- Design thinking starts with people and needs. In designing a new product, consideration should be given to three basic principles: Do people want it? (Desirability), Can we make it? (feasibility) and Is it a good business? (viability). For the public sector, the third element would be changed to, Is it compliant and does it serve our clients?.
- The process began with Housing Authority staff participating in design thinking training that entailed: research, synthesis (insights), ideation, focus (concepts), prototype and test + refine. Then staff went out into the community to interview a wide range of individuals that interface with the Housing Authority that included: landlords, tenants, community-based organizations such as Sacred Heart Community Service, and other community partners. Following the interviews, the information collected was used to develop concepts that were clustered into three areas: specialist's dashboard/owner specialists/helping hands communications; owner concierge/owner engagement events; and self-service kiosks/housing solutions app. From these concepts, a new specialist role was created to greet people and distribute the new green form that would help to prevent customers from losing their vouchers and needing to check on their expiration dates. In addition, a new app was developed.
- An app prototype was developed and tested with Housing Authority tenants that was later brought to life by San Francisco-based design and development firms — Daylight Design and Blackbird Studios. The app focused on addressing the six most common things that were needed by customers (tenants) and staff with the end result relieving the burdens encountered by tenants in navigating the system and by staff seeking to assist customers. A sample screenshot of the app was shown to members. The tenant portal went live in February.
- A new improvement was also instituted with the previous wait list for vouchers. The last time the wait list for vouchers was open was in 2006 and received nearly 60,000 applications in five days. The new design principles for improving the current wait list was: make the process clear, give hope, be fair and be buildable. A new interest (wait) list was created that allows someone to join the list at anytime. The list is always open, but subject to periodic lottery and purge. Applicants are asked to check in once a year to reconfirm their interest and update their information; otherwise they are removed from the list, but can always rejoin. A sample screenshot of the app was shown.
- The app will be open-source, so other housing authorities may use the technology recognizing that each agency's operating system is different and uniquely complicated that will make adaptation challenging.

5. EXECUTIVE DIRECTOR'S REPORT

Director Kris Stadelman reported out on the following items:

5A. Update Prison to Employment Initiative (P2E): Implementation of P2E, a State-funded regional initiative targeting the supervised population, has been launched. The Bay-Peninsula

region (that includes NOVA) applied for \$4 million and was awarded \$1.8 million for the region that required a rewriting of the initial proposal and a procurement to distribute the funding. NOVA released a Request for Qualifications and is entering into negotiations with two applicants selected: Center for Employment Opportunities (CEO) serving Santa Clara County that has a current contract with the Department of Transportation for paid employment and JobTrain serving San Mateo County that has a longstanding history of serving this population. NOVA will be fiscal agent and work2future will be program lead for the region.

5B. Update NOVA Foundation: Given the increased donations received for the Foundation over the past few years and the Foundation Board's expressed interest in launching a fundraising campaign, the City of Sunnyvale was approached with formalizing a relationship between the City and the Foundation. The City has hired an outside attorney to develop a written agreement between the City and Foundation that should be finalized in June. The Foundation Board is expected to vote on this agreement at its June Board meeting.

As part of this agreement, one of the responsibilities that is being proposed is for the NOVA Workforce Board to serve as an intermediary between the City and Foundation with the following roles: appoint NOVA Foundation Board members (six seats that includes three current Board members), approve Foundation bylaws and review financial reports through the NOVA Board Finance Committee. This new arrangement will also permit the Foundation Board to fundraise increasing its capacity to support new innovative ventures. Joint Venture's Silicon Valley Talent Partnership is working with NOVA to create a group of volunteer loaned executives with expertise in fundraising to work with the Foundation on this effort. This new agreement will be agendaized for NOVA Board approval at its September 25 Board meeting.

5C. Update New Civic Center Facility: The plans for the new civic center facility are moving forward and NOVA will be located on the first floor of the new city hall on the side of the building that has more square footage. Phase I of the development has now been fully funded.

5D. July 24 Study Session Topic: Last year, the Board devoted the July Board meeting to a study session to discuss the topic of corporate responsibility and what role the business community should play in preparing workers for employment, assist workers find affordable housing close to work, and facilitate worker's commute through alternative transportation. The conversation was lively and productive and continues as part of committee and task force meeting discussions. For the upcoming July 24 Board meeting, another study session will take place with the proposed topic targeting the retirement crisis and to answer the questions: Considering the aging of the present workforce, how might we turn the coming retirement wave into an opportunity?, How might we enable the effective transfer of knowledge from mature workers to the remaining workforce?, Could we encourage later retirement or a blend of work/retirement (a middle step)?, and Is there a model for partnering experience with new labor market entrants (master/apprenticeship)?. This topic will be vetted further over the course of the next several weeks. While this meeting will not require a quorum, Board members were encouraged to attend to promote a meaningful dialogue.

6. PUBLIC HEARING

6A. Approval of Minutes of March 27, 2019 Meeting: It was moved by K. Harasz, seconded by L. de Maine and carried by voice vote to approve the March 27, 2019 Board meeting minutes as submitted, with abstentions from B. Field and S. Levy.

6B. GENERAL BUSINESS:

6B1. Approval of WIOA 2019 Memorandums of Understanding for NOVA Workforce Board AJCC Service System: The State requires that the WIOA Memorandums of Understanding (MOU) be renewed every three years. While the MOUs capture shared customers, shared services and shared costs, it is the relationships among the partners developed over time that are considered most important to the success of local workforce development system. In 2016, the first MOU Phase I was approved detailing shared customers and services. Then in 2017, the MOU Phase II was approved specifying shared costs. In 2019, the State required that the MOU be renewed that combines the previous Phase I and II. There are two MOUs for the NOVA Workforce Board AJCC Service System: one for the County of Santa Clara (Temporary Assistance to Needy Families program) and one for all other mandated partners. In total, there are 29 partners to this MOU. It was moved by B. Knopf, seconded by S. Levy and carried by voice vote to approve the two WIOA MOUs for 2019.

6B2. Approval of WIOA AJCC Certification of Affiliate and Specialized Job Centers for NOVA Workforce Board AJCC Service System: In 2017, the State launched the AJCC certification process for comprehensive job centers and the Board approved the AJCC certification of the NOVA comprehensive center in Sunnyvale. In 2019, as part the certification process, the State required the AJCC certification of affiliate and specialized job centers. In the NOVA AJCC service system, there is one affiliate job center operated by the Central Labor Council Partnership in San Mateo and one specialized job center for youth operated by JobTrain in Menlo Park. The Regional Organizer for the Bay-Peninsula region conducted the certification assessments for Central Labor Council Partnership and JobTrain and has confirmed a ranking of at least three (out of five) for each of the Hallmarks of Excellence. It was moved by S. Levy, seconded by B. Guidry-Brown and carried by voice vote to approve the AJCC certification of the affiliate and specialized job centers for the NOVA Workforce Board AJCC service system.

6C. DISCUSSION

6C1. Opportunity for Dialogue among Board Members and Director: There were no topics identified for discussion at this meeting.

6D. GENERAL INFORMATION

6D1. Grant Status/Status of Funds: NOVA serves as the fiscal agent, on behalf of the Bay-Peninsula region. This is the first report that is showing funding for the region as described under the Notes section. As fiscal lead, NOVA will be reporting out on the expenditures for the region to the Board, as well as to the three other workforce boards in the region. A recommendation was made to break out the regional expenditures by workforce board.

7. ADJOURNMENT

The meeting was adjourned at 1:30 p.m.



NOVA Workforce Board
July 24, 2019 Study Session
Draft Minutes

PRESENT: T. Baity, L. de Maine, E. Hamilton, K. Harasz, J. Hill, A. Manwani, J. Miner, J. Ruigomez, and A. Switky

ABSENT: M. Alvarado, S. Borgersen, J. Chu C. Cimino, L. Dalla Betta, V. Dang, B. Field, R. Foust, C. Galy, H. Goodkind, B. Guidry-Brown, P. Guevara, B. Knopf, L. Labit, S. Levy, M. Lucero, J. Morrill, S. Porter, C. Springsteel, and J. Sugiyama

GUEST: F. Benest

ALSO PRESENT: K. Stadelman, C. Stahl and T. Johnson

1. CALL TO ORDER

Acting Chairperson K. Harasz called the meeting to order at 12:05 p.m.

2. PUBLIC ANNOUNCEMENTS

No public announcements.

3. STUDY SESSION

Discussion Topic: Workforce Retirement Crisis:

- Considering the aging of the present workforce, how might we turn the coming retirement wave into an opportunity?
- How might we enable the effective transfer of knowledge from mature workers to the remaining workforce?
- Could we encourage later retirement or a blend of work/retirement (a middle step)?
- Is there a model for partnering experience with new labor market entrants (master/apprentice)?

Highlights of the discussion included (but were not limited to):

- Acting Chairperson K. Harasz opened the discussion after introductions by posing the question, "How might we turn the coming retirement wave into an opportunity?" The study session format allowed for an open and freewheeling discussion to share perspectives on the issue and discuss approaches to addressing it. There was no expectation that this discussion would result in a strategy or action for NOVA to take, although the Board will continue to follow new information and the efforts of others to address the "Workforce Retirement Crisis."

- Board Member S. Levy's recent report on the topic had been circulated prior to the meeting. In addition, Director K. Stadelman brought an article to the discussion "Boomer Brain Drain: The Big Mistake Employers are Making" which presents the results of a survey of 1,500 baby boomers by Express Employment Professionals (a major North American staffing company), <https://www.pbs.org/newshour/economy/column-employers-are-failing-to-stop-the-baby-boomer-brain-drain>. A tool for phased retirement was also mentioned, <https://www.respectfulexits.org>.
- There is a trend in the government sector. We all want tax dollars to be used well but without effective mature leadership, there isn't a clear path forward. Elected officials cycle in and out due to term limits and career service staff can use experience to prevent waste. Governor Brown's pension reform prevented retirees from returning to work beyond 900 hours per year. Still, this could be a middle step for utilizing retired workers.
- There must be a multi-pronged effort. We need flexibility, possibly phased retirement, and maybe seasonal options. Some people can't afford to retire, but due to physical decline or ageism they can't see a future career path. Some people want to work in unusual patterns, such as work for a few months and then take a few months off or gradually decrease their work hours. We must be better at utilizing people for mentoring, advising, and consulting so people don't leave with all of their knowledge.
- The issue impacts NOVA and its customers in several ways: There is a shift out of tech to other workforce industries, and the challenge is getting local companies to hire NOVA's short- and long-term, underprivileged or retooled customers. Business doesn't always turn to NOVA for talent. Many women are leaving the workforce for caregiving. Deloitte is bringing them back. Mature workers are working longer because they are living longer. Many people are being left out of the economy. Given workers' experience, how do we move them to productivity? Who are our target groups? NOVA should start with its strengths. What are we already doing at NOVA that is working? Use NOVA Alumni and figure out how to amplify.
- The problem is a demographic one. We need a million graduates. There are places where it works well. Board member S. Levy sees it as a demographic wave. Do companies see it that way? Larger companies see this as a crisis (e.g. PG&E). Is it possible that another economic crisis will reduce the impact of the loss of workers from retirement?
- Some see it as a management crisis. There is an analytic approach that experience brings to management. It is succession planning, not necessarily mentoring. It is a quiet crisis. Talent issues and succession were considered nice to do. Now it is a "have to do" scenario. We can't just steal talent anymore in the public sector.
- We have to differentiate between the public and private sectors. In the public sector, the barrier is a disincentive due to the pension situation. The public sector sometimes has trouble recruiting for the public sector because cultures are "stodgy." In addition, the sector has to mentor new people because it can't get experienced people. But the public sector provides a mission that makes it attractive. What can the public sector do

to make its culture more accommodating to younger workers? In the private sector, the workforce crisis has always been an issue. Large companies have always worked on it in order to survive. They don't expect people to be there for more than two years.

- The retirement wave is going to cause problems that will manifest in various ways, like insufficient supply of workers, lower and middle management being promoted or given responsibilities before they're ready. There are three types of knowledge - explicit, tacit, and embedded. It's not so bad losing explicit knowledge since it can be captured and shared easily; tacit knowledge takes experience and is harder to replace; but it's the embedded knowledge - how the company culture works and why it is the way it is, what has been tried in the past, etc. - that's so hard to replace.
- Another perspective expressed is that culture isn't important and that turnover is good as it achieves constant renewal of the workforce. There is no HP (formerly Hewlett-Packard) approach anymore. It's about each person making his or her self a professional. The company owes workers a short learning curve to get them as productive as possible, as quickly as possible. Silicon Valley companies got big by being more productive and cutting workers. It's churn.
- To prepare workers, community colleges are not just fully engaging older workers but better training for new workers and retooling mature workers. We need a shift in resources – how do we get them through the process? Recently, there has been greater investment in Career and Technical programs. Foothill has the largest apprenticeship program and graduates of many programs have a guarantee that they can transfer or “scale up.” Many students must be in the workforce while studying, but the graduation rate is much lower for part-time students. There is a greater appreciation for community colleges and what they can do, such as dual enrollment with high schools. Better collaboration is needed between education, government and business. Colleges see themselves as educators rather than trainers because they are producing good citizens.
- Another perspective is that knowledge could be considered irrelevant unless you have expertise. Everyone wants to hire experts, not just people who are pretty good. They want to maximize profit. We should figure out how to transfer expertise instead of knowledge. We could create technology to capture the expertise of any position and transfer it in 500 hours of training. It could be automated with software. We could get industry to come to us, be a force multiplier.
- We can distill the technical parts of the job, but we need to teach people how to think. Employers say the number one thing they are looking for is soft skills or essential skills and that is challenging in knowledge transfer. How do we teach soft skills? We have a neglected pipeline. We need to be okay with millennials wanting to work differently.
- We should empower people to work and learn differently. Fifty percent of students are taking courses online. The most active time for students online is Saturday night to Sunday morning. When are we open to assist them?

- One approach to addressing the workforce gap is the Trades apprenticeship model that has been very successful. How do we expand upon it, “franchise it”? The trades could use a bigger market share to expand on their success in apprenticeships. They do use retirees to assist with training but have trouble keeping them in the area due to the high cost of housing. The trades only take in the number of apprentices that they need to meet demand so expansion would require more project labor agreements. Expanding to other crafts requires a market share and still housing costs will drive successful trainees out of the area.
- We need a policy view – how to enable a middle step between full-time work and full-time retirement. Sometimes baby boomers must return to the workforce to assist when millennials are not ready. If the older workers are leaving, what do you want to know? Millennials want mentoring and coaching.
- Solutions need to take into consideration corporate needs, as well as the personal needs of retiring workers. Some solutions that were discussed include: create a new category of (semi) retired that allows someone to work without sacrificing or violating pension rules; post-retirement career training at the community colleges; both an older plus younger apprenticeship program and possibly a younger plus older program to help older adults learn how to work in new environments.

4. ADJOURNMENT

The meeting was adjourned at 1:30 p.m.



Date: September 25, 2019
To: NOVA Workforce Board
From: NOVA Staff
Subject: **Approval of NOVAworks Foundation Amended Bylaws and Board of Directors**

REPORT IN BRIEF:

Since its inception, the NOVAworks Foundation (“Foundation”) has existed to support and extend the reach of NOVA services. The City of Sunnyvale has acted as fiscal agent to accept, track, and report funds. Recently, it became apparent that an agreement was necessary to formalize the relationship and set forth roles and responsibilities. It was also desirable to clarify the role of the NOVA Workforce Board with respect to the NOVAworks Foundation. In June, the Foundation Board of Directors and the Sunnyvale City Council approved an agreement between the Foundation and the City, effective July 1, 2019. The agreement necessitated changes in the Foundation Bylaws, Articles of Incorporation, and Conflict of Interest policy to clarify that the Foundation is a supporting organization of the City and to state the role of the NOVA Workforce Board in appointing Foundation directors. The NOVA Workforce Board is requested to approve the Foundation amended Bylaws and the current Foundation Board of Directors.

BACKGROUND:

The NOVAworks Foundation is a non-profit, public benefit corporation. It has been granted 501(c)(3) tax-exempt status by the Internal Revenue Service. The Foundation was created in 1989 to enhance workforce development services provided by NOVA for the residents and businesses of the NOVA local workforce development area under the Workforce Innovation and Opportunity Act (WIOA). Most of NOVA’s funding is provided through WIOA and may be used only for specific activities defined under WIOA and to serve participants eligible under WIOA regulations. The Foundation exists to fill gaps in services that promote economic sustainability as well as to gain a better understanding of the current labor market. Two of the Foundation’s current directors also serve on the NOVA Workforce Board to ensure that the Foundation’s activities are in alignment with NOVA’s overall mission. The Foundation is a supporting organization of the City of Sunnyvale, in accordance with Section 509(a)(3) of the Internal Revenue Code, and the Foundation's charitable purpose furthers the public purposes of the City.

DISCUSSION:

Since the Foundation’s inception, the City of Sunnyvale has acted as its fiscal agent. Funds received by the Foundation are deposited, tracked, and reported by the City. The City’s accounting system allows for separation of these funds from the remainder of NOVA or City funds. As a recipient of

federal funds, the City is audited annually by an independent auditor under federal Single Audit regulations and the NOVAworks Foundation is included in this audit. The Foundation has no staff; however NOVA staff has provided minimal administrative support. Until July 1, 2019, there had been no legal agreement between the City and the Foundation to formalize the fiscal agent relationship and the rights and responsibilities of both the City and the Foundation.

Until 2017, the NOVAworks Foundation generally received and spent under \$50,000 per year. In June of 2017, the Foundation was a recipient of a grant for \$250,000 from the Tides Foundation, on behalf of the Google.org Charitable Giving Fund. As is typical of most foundations providing charitable support, the funder could only award the grant to a 501(c)(3) organization; therefore, the NOVAworks Foundation needed to be the grant recipient for this project providing funding to build a hiring pipeline for low-income youth in the Bay Area and the City could not be a direct recipient of the grant funds.

Due to the large dollar amount, this grant required more extensive tracking and reporting. It also triggered a discussion among the Foundation directors as to the future direction of the Foundation, including its intent relative to fundraising. Given the potential for more extensive Foundation revenue and increased fiscal responsibilities, it became apparent that a formal agreement was needed to govern the relationship between the City and the Foundation. The Sunnyvale City Attorney's office developed a Cooperation and Administration Agreement between the City and the NOVAworks Foundation.

In June 2019, the NOVAworks Foundation directors approved a resolution to approve the Agreement between the City and the NOVAworks Foundation and to approve restated Articles of Incorporation, Bylaws, and a Conflict of Interest Policy for the Foundation. The Articles and Bylaws were updated to reflect that the Foundation is a supporting organization of the City of Sunnyvale. In addition, the amended Bylaws state that the Foundation shall have a minimum of six directors (currently there are five), consisting of three current NOVA Workforce Board members and three individuals appointed by the NOVA Workforce Board. Foundation Board vacancies are to be filled by the NOVA Workforce Board. The Sunnyvale City Council subsequently approved the Agreement with the Foundation. The Agreement is attached for your information.

Given the NOVA Workforce Board's new responsibility for Foundation Board appointments as stated in the amended Foundation Bylaws, the Workforce Board is requested to approve the amended NOVAworks Foundation Bylaws (attached) and also to approve the current Foundation Board of Directors: President – Poncho Guevara, Vice President – Carl Cimino, and Frank Benest, Dennis Cima, and Laura Stefanski.

ALIGNMENT WITH STRATEGIC PLAN:

The mission of the NOVAworks Foundation supports the NOVA Workforce Board's mission to provide strategic leadership to continuously improve the workforce investment system as well as its purpose to support workforce mobility by easing workers' transitions from opportunity to opportunity throughout their career cycles.

RECOMMENDATION:

Staff recommends that the NOVA Workforce Board approve the amended Bylaws of the NOVAworks Foundation as well as the current NOVAworks Foundation Board of Directors: Poncho Guevara, Carl Cimino, Frank Benest, Dennis Cima, and Laura Stefanski.

Prepared by: 
Jeanette Langdell, Employment Training Manager

Approved by: 
Kris Stadelman, Director

Attachments:

- 1) Cooperation and Administration Agreement (NOVAworks Foundation)
- 2) Amended and Restated Bylaws of NOVAworks Foundation

COOPERATION AND ADMINISTRATION AGREEMENT
(NOVAWORKS FOUNDATION)

This Cooperation and Administration Agreement (the "Agreement") is dated for reference purposes on 6/27, 2019, by and between the City of Sunnyvale, a municipal corporation (the "City"), and NOVAworks Foundation, a California nonprofit public benefit corporation (the "Foundation").

RECITALS

A. The Foundation is a California nonprofit public benefit corporation, exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), whose charitable purpose is to provide job training and related activities. The Foundation is a supporting organization of the City, in accordance with Section 509(a)(3) of the Code, and the Foundation's charitable purpose furthers the public purposes of the City.

B. The City and the Foundation desire to enter into this Agreement to set forth: (i) the parties' desire to efficiently and effectively cooperate in furtherance of the charitable purposes of the Foundation, and the public purposes of the City, of increasing and improving job training programs and opportunities within the service area of the NOVA Workforce Board established pursuant to the Workforce Innovation and Opportunity Act (the "Service Area"); and (ii) the relationship between the parties regarding certain administrative assistance and other services provided by the City to the Foundation.

NOW, THEREFORE, in consideration of the covenants and promises contained herein, the City and the Foundation (each a "Party", and, collectively, the "Parties") agree as follows:

ARTICLE I
PURPOSE

Section 1.1 Purpose.

The purpose of this Agreement is to set forth the relationship and the respective rights, duties, and obligations of the Parties regarding the administrative and other assistance provided by the City to the Foundation. The Parties desire to establish procedures to effectively and efficiently administer the charitable assets of the Foundation.

Section 1.2 Annual Payment.

In consideration for the City's performance of its obligations pursuant to this Agreement, the Foundation shall make an annual payment to the City in the amount of One Dollar (\$1.00) no later than January 31 during each year this Agreement is in effect (or such other date mutually determined by the Parties).

Section 1.3 Effective Date. The Effective Date of this Agreement shall be July 1, 2019.

ARTICLE 2
CITY OBLIGATIONS

Section 2.1 Administrative Services.

The City shall provide adequate clerical services and administrative assistance, as reasonably determined by the City, for the benefit of the Foundation.

Section 2.2 Accounting Services.

For the benefit of the Foundation, the City shall provide the necessary accounting and fiscal implementation services of the Foundation's assets, including, but not limited to: (i) establishing and maintaining one, or more, separate account(s) for the Foundation's cash assets at such federally-insured financial institution(s) reasonably determined by the City (collectively, the "Foundation Account"); (ii) depositing the Foundation's cash assets into such Foundation Account; (iii) making disbursements solely from the Foundation Account, on behalf of the Foundation, necessary to satisfy the Foundation's debts and obligations; (iv) preparing the Foundation's IRS Form 990, or any equivalent informational return required to be filed by the Foundation pursuant to the Code, or any other applicable law; and (v) otherwise implementing the financial accounting and records of the Foundation, as mutually determined by the Parties. Notwithstanding the foregoing, nothing in this Agreement imposes any liability on the City for any debts, liabilities, or any obligations of the Foundation, and all such debts, liabilities, or any other obligation of the Foundation shall be satisfied solely by the proceeds of the Foundation Account or such other assets of the Foundation (if any). In the event of any conflict between the preceding sentence and any other provision of this Agreement, the terms of the preceding sentence shall, in all events, control.

Section 2.3 Procurement Services. The City and the Foundation shall create a mutually agreeable procurement procedure to facilitate an efficient and equitable process that adheres to any applicable legal or grant requirements.

ARTICLE 3
FOUNDATION OBLIGATIONS

Section 3.1 Appointment of City as Agent. As of the Effective Date, the Foundation hereby irrevocably appoints the City as the Foundation's agent during the term of this Agreement. As the Foundation's agent, the City is hereby authorized to execute any and all documents, accept cash or other assets, and otherwise take such other actions, on behalf of the Foundation, as necessary to implement the administrative and fiscal services set forth in this Agreement.

Section 3.2 Reimbursement of City Costs. As additional consideration for the City's performance of its duties and obligations set forth herein, the Foundation shall reimburse the City for the costs and expenses incurred by the City on behalf of the Foundation, including, but not limited, to the reimbursement to the City for any City employee, or third-party costs incurred by the City to the extent necessary for the performance of activities for the benefit of the

Foundation. Such reimbursement shall be made on an annual basis, or at such other times mutually determined by the Parties.

Section 3.3 Indemnification. As additional consideration for the City's performance of its duties and obligations set forth herein, the Foundation agrees to indemnify, defend (with counsel reasonably acceptable to the City) and hold the City, its council members, officers, employees, agents and representatives, harmless from any and all claims, causes of action, injuries or damages arising out of this Agreement. This indemnity shall include, but shall not be limited to, the payment to the City of any reasonable costs, including attorneys' fees, incurred in defending any action filed against the City, its officers, employees, agents and representatives covered by this Agreement. This obligation shall survive the termination or expiration of this Agreement.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE FOUNDATION

Section 4.1 General Representations and Warranties of the Foundation.

The Foundation represents and warrants as follows:

- (a) The Foundation is a duly organized, validly existing, California nonprofit public benefit corporation, is in good standing and is qualified to do business under the laws of the State of California, with full power to conduct its business, and undertake the obligations of the Foundation set forth in this Agreement.
- (b) The Foundation is exempt from federal income taxation pursuant to Section 501(c)(3) of the Code.
- (c) All actions and approvals legally required to be taken by the Foundation in connection with authorization and execution of this Agreement and the consummation of the transactions contemplated by and related to this Agreement have been taken or obtained.
- (d) This Agreement has been duly authorized, executed and delivered by the Foundation and, when executed and delivered by the Foundation, will constitute the legal, valid and binding obligation of the Foundation, enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws or equitable principles limiting creditors' rights generally.

Section 4.2 Continuing Obligation of Representations and Warranties.

Upon discovery by the Foundation of a breach of any of such representations, warranties and covenants which materially and adversely affects the City, the Foundation shall give prompt written notice to the City.

ARTICLE 5 DEFAULT AND REMEDIES

Section 5.1 Events of Default by the Foundation.

Upon the occurrence of any one or more of the following events, the City shall have the remedies specified in Section 5.3 of this Agreement:

(a) Failure by the Foundation to observe or perform in any material respect any covenant, condition or agreement in this Agreement or any other agreement between the City and the Foundation (or any entity controlled by the Foundation) to be observed or performed by the Foundation for a period of thirty (30) days (or such shorter time-frame set forth in the applicable agreement between the Parties) after written notice, specifying such failure and requesting that it be corrected, is given to the Foundation by the City;

(b) Entry of a decree or order of a court, agency, or supervisory authority having jurisdiction for the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings, or for the winding up or liquidation of its affairs, against the Foundation and such decree or order shall have remained in force, undischarged or unstayed for a period of ninety (90) days;

(c) Consent by the Foundation to the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings or relating to the Foundation or of or relating to all or substantially all of the Foundation's property;

(d) An admission by the Foundation in writing of the Foundation's inability to pay its debts generally as they become due, or the filing of a petition to take advantage of any applicable insolvency or reorganization statute, or the making of an assignment for the benefit of the Foundation's creditors or voluntarily suspending payment of the Foundation's obligations; or

(e) The discovery by the City that any representation of, or warranty by, the Foundation to the City was false in any material respect when made, or at any time it was warranted to be true pursuant to the terms of this Agreement.

Section 5.2 Events of Default by City.

Upon the occurrence of any one or more of the following events, the Foundation shall have the remedies specified in Section 5.4 of this Agreement:

(a) Failure by the City to observe or perform in any material respect any covenant, condition or agreement in this Agreement to be observed or performed by the City for a period of thirty (30) days after written notice, specifying such failure and requesting that it be corrected, is given to the City by the Foundation; provided, however, if the failure stated in the notice cannot be remedied within such thirty (30) day period, failure by the City to commence to cure within thirty (30) days and to diligently pursue and complete the cure thereafter;

(b) Entry of a decree or order of a court, City, or supervisory authority having jurisdiction for the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings, or for the

winding up or liquidation of its affairs, against the City and such decree or order shall have remained in force, undischarged or unstayed for a period of ninety (90) days;

(c) Consent by the City to the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings or relating to the City or of or relating to all or substantially all of the City's property; or

(d) An admission by the City in writing of the City's inability to pay its debts generally as they become due, or the filing of a petition to take advantage of any applicable insolvency or reorganization statute, or the making of an assignment for the benefit of the City's creditors or voluntarily suspending payment of the City's obligations.

Section 5.3 Remedies for the Foundation Default.

Whenever any event referred to in Section 5.1 of this Agreement shall occur and be continuing, the City may take any one or more of the following remedial steps:

(a) Terminate this Agreement by notice in writing to the Foundation.

(b) The City may take whatever other action at law or in equity necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the Foundation under this Agreement.

Section 5.4 Remedies for City Default.

Whenever any event referred to in Section 5.2 of this Agreement shall occur and be continuing, the Foundation may terminate this Agreement, but shall have no right to any other remedies available at law or at equity. The Foundation hereby waives any right to pursue any other remedy, and shall be estopped from taking or otherwise pursuing any other remedy.

Section 5.5 Non-Exclusive Remedies.

Unless otherwise expressly provided, no remedy conferred or reserved is intended to be exclusive of any other available remedy, but each remedy shall be cumulative and shall be in addition to other remedies given under this Agreement or existing at law or in equity. No delay or omission to exercise any right or power accruing under this Agreement shall impair any such right or power or shall be construed to be a waiver of such right or power, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle a Party to exercise any remedy reserved to it under this Agreement, it shall not be necessary to give any notice, other than such notice as may be required under this Agreement.

ARTICLE 6 MISCELLANEOUS PROVISIONS

Section 6.1 Cooperation Between the Parties. The Parties shall cooperate, and use good faith, commercially reasonable, efforts to cause the performance of each Party's respective

rights, duties, and obligations set forth in this Agreement to efficiently and effectively further the charitable purposes of the Foundation, and the public purposes of the City, of increasing and improving job training programs and opportunities within the Service Area. To the extent applicable, the Parties shall execute such additional documents, and take such other actions (at no cost to the City) as may be reasonably necessary to implement the goals and objectives of this Agreement, including, but not limited to, executing such additional documents required to establish or otherwise maintain the Foundation Account.

Section 6.2 Notices.

Any notices, requests, demands, payments or other communications under this Agreement shall be in writing and shall be deemed to be duly given if delivered by United States mail, certified, with return receipt requested, or express delivery with a delivery receipt. Such notice shall be effective on the date shown on the delivery receipt as of the date of delivery, the date delivery was refused, or the date the notice was returned as undeliverable. Notices shall be addressed as follows:

If to the Foundation:

NOVAworks Foundation
505 W. Olive Ave.
Sunnyvale, CA 94086
Attn: President

If to the City:

City of Sunnyvale
456 W. Olive Ave.
Sunnyvale, CA 94086
Attn.: City Manager

or such other address or addresses as may be furnished in writing to the other Party pursuant to the procedures set forth in this Section.

Section 6.3 Authorized Representatives of City and the Foundation.

(a) The City Manager of the City is designated to be the authorized representative of the City for purposes of this Agreement. Whenever this Agreement provides for consent of the City, the written consent of the City Manager, or his or her designee, shall be deemed to be the consent of the City. Whenever this Agreement provides for any action of the City to be taken, such action shall be taken by the City Manager, or his or her designee.

(b) The Foundation designates the President of the Foundation to be the authorized representative of the Foundation for purposes of this Agreement. Whenever this

Agreement provides for consent of the Foundation, the written consent of the President of the Foundation shall be deemed to be the consent of the Foundation.

Section 6.4 Compliance with Law.

The Foundation agrees to comply with all applicable state and federal laws and regulations in the performance of its obligations under this Agreement.

Section 6.5 Timely Performance.

Time is of the essence of this Agreement.

Section 6.6 Assignment of Rights or Duties Under this Agreement.

The Foundation may not assign or delegate any of its rights, duties or obligations under this Agreement without the prior written approval of the City.

Section 6.7 Amendments.

No amendment to this Agreement shall be effective unless it is reduced to writing and signed by the Parties.

Section 6.8 Waiver.

No waiver of any term or provision of this Agreement shall be effective unless made in writing and signed by each of the Parties. Any written waiver shall be effective only in the instance given and then only with respect to the specific term or provision (or portion of a term or provision) of this Agreement to which it expressly relates and shall not be deemed or construed to constitute a waiver of any other term or provision (or portion of a term or provision) in any other instance.

Section 6.9 Binding on Successors.

This Agreement inures to the benefit of, and is binding upon, the City and the Foundation and their respective agents, representatives, successors, and assigns; provided, however, the Foundation may only assign this Agreement as set forth in Section 6.6.

Section 6.10 Captions.

The captions heading the various sections and subsections of this Agreement are for convenience only and do not in any way expand or limit the provisions of this Agreement.

Section 6.11 Construction of Terms.

Any reference to either the singular or plural shall be deemed to include the other wherever it is necessary for the interpretation of this Agreement.

Section 6.12 Governing Law.

This Agreement shall be interpreted under California law.

Section 6.13 Integration.

This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written.

Section 6.14 No Third-Party Beneficiary.

Nothing in this Agreement shall be construed to make any of the Parties hereto liable for any of the debts or other obligations of any other Party hereto, and the Parties hereto specifically acknowledge, agree and declare that no person is intended to be a third-party beneficiary of this Agreement.

Section 6.15 Term.

This Agreement shall be effective as of the Effective Date and shall continue in effect until the earlier of: (i) this Agreement is terminated pursuant to Section 5.3 or Section 5.4; or (ii) either Party terminates this Agreement by providing written notice to the other Party at least thirty (30) days prior to the date of such termination.

Section 6.16 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original.


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The City and the Foundation have executed this Agreement as of the Effective Date.

CITY:

CITY OF SUNNYVALE, a municipal corporation



 Kent Steffens, City Manager

APPROVED AS TO FORM:



 John A. Nagel, City Attorney

THE FOUNDATION:

NOVAWORKS FOUNDATION, a California
nonprofit public benefit corporation

By: 
Poncho Guevara, President

**AMENDED AND RESTATED
BYLAWS OF
NOVAWORKS FOUNDATION**

ARTICLE 1. NAME AND OFFICES

SECTION 1. NAME AND PRINCIPAL OFFICE

The name of this corporation is NOVAworks Foundation (the "Corporation"). The principal office of this Corporation for the transaction of its business is located in Santa Clara County, California.

SECTION 2. CHANGE OF ADDRESS

The county of the Corporation's principal office can be changed only by amendment of these Bylaws and not otherwise. The Corporation's board of directors (the "Board of Directors" or the "Board") may, however, change the principal office from one location to another within the named county.

SECTION 3. OTHER OFFICES

The Corporation may also have offices at such other places, within or without the State of California, where it is qualified to do business, as its business may require and as the Board of Directors may, from time to time, designate.

ARTICLE 2. PURPOSES

SECTION 1. OBJECTIVES AND PURPOSES

The primary objectives and purpose of this Corporation shall be to develop innovative programs that advance economic sustainability for workers in transition and for new entrants to the labor market.

ARTICLE 3. MEMBERS

SECTION 1. DETERMINATION OF MEMBERS

The Corporation shall make no provisions for members, however, pursuant to Section 5310(b) of the Nonprofit Public Benefit Corporation Law of the State of California, any action which would otherwise, under law or the provisions of the Articles of Incorporation or Bylaws of this Corporation, require approval by a majority of all members or approval by the members, shall only require the approval of the Board of Directors.

ARTICLE 4. DIRECTORS

SECTION 1. NUMBER

The Corporation shall have a minimum of six (6) Directors. The number may be changed by amendment of this Bylaw, or by repeal of these Bylaws. Except for the Directors then in office upon adoption of these Bylaws, the Directors shall consist of: (i) three (3) current members of the NOVA Workforce Board (collectively referred to as the "NOVA Directors"); and (ii) three (3) individuals appointed by the NOVA Board; provided, however, in the event the NOVA Board no longer exists, then all Directors shall be appointed by the city council (the "City Council") of the City of Sunnyvale (the "City").

SECTION 2. POWERS

Subject to the provisions of the California Nonprofit Public Benefit Corporation Law and any limitations in the Articles of Incorporation, the activities and affairs of this Corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board of Directors.

SECTION 3. DUTIES

It shall be the duty of the Directors to:

- (a) Perform any and all duties imposed on them collectively or individually by law, by the Articles of Incorporation of this Corporation, or by these Bylaws.
- (b) Appoint and remove, employ and discharge, and, except as otherwise provided in these Bylaws, prescribe the duties and fix the compensation, if any, of all officers, agents and employees of the Corporation.
- (c) Supervise all officers, agents and employees of the Corporation to assure that their duties are performed properly.
- (d) Meet at such times and places as required by these Bylaws.
- (e) Register their addresses with the Secretary of the Corporation, and notices of meetings mailed or electronically mailed to them at such addresses shall be valid notices thereof.

SECTION 4. TERMS OF OFFICE

Each Director shall hold office until the next annual meeting for election of the Board of Directors as specified in these Bylaws, and until his or her successor is elected and qualifies.

SECTION 5. COMPENSATION

Directors shall serve without compensation.

SECTION 6. RESTRICTION REGARDING INTERESTED DIRECTORS

Notwithstanding any other provision of these Bylaws, not more than forty-nine percent (49%) of the persons serving on the Board may be interested persons. For purposes of this Section, "interested persons" means either:

- (a) Any person currently being compensated by the Corporation for services rendered it within the previous twelve (12) months, whether as a full or part-time office or other employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a Director as Director; or
- (b) Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

SECTION 7. PLACE OF MEETINGS; BROWN ACT

Meetings shall be held at the principal office of the Corporation unless otherwise provided by the Board of at such place within or without the State of California, which has been designated from time to time by resolution of the Board of Directors. Any meeting, regular or special, may be held by conference telephone or similar communications equipment, so long as all Directors participating in such meeting can hear one another. All regular and special meetings of the Board shall, in all respects, conform to provisions of the Ralph M. Brown Act (the "Brown Act"); provided, however, failure to comply with such requirements, in and of itself, shall not modify or invalidate any corporate action. Regular and special meetings of the Board shall be called, noticed and held in accordance with the provisions of section 54956 of the Brown Act; provided, however, failure to comply with such requirements, in and of itself, shall not modify or invalidate any corporate action.

SECTION 8. ANNUAL MEETINGS

The annual meeting of the Directors shall be held in June on such day and at such hour as shall be fixed by the Board of Directors. At the annual meeting, Directors shall be elected by the Board of Directors.

SECTION 9. SPECIAL MEETINGS

Special meetings of the Board of Directors may be called by the President, and Secretary, and such meetings shall be held at the place, within or without the State of California, designated by the persons calling the meetings, and in the absence of such designation, at the principal office of the Corporation.

SECTION 10. NOTICE BY MEETINGS

Regular meetings of the Board may be held without notice. Special meetings of the Board shall be held upon four (4) days' notice by first-class mail or forty-eight (48) hours' notice delivered personally or by telephone or electronic mail. If sent by mail or electronic mail, the notice shall be deemed to be delivered on its deposit in the mails or at the time it is sent via electronic mail. Such notices shall be addressed to each Director at his or her address as shown on the books of the Corporation. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place of the adjourned meeting are fixed at the meeting adjourned and if such adjourned meeting is held no more than twenty-four (24) hours from the time of the original meeting. Notice shall be given of any adjourned regular or special meeting to Directors absent from the original meeting if the adjourned meeting is held more than twenty-four (24) hours from the time of the original meeting.

SECTION 11. CONTENTS OF NOTICE

Notice of meetings not herein dispensed with shall specify the place, day and hour of the meeting. The purpose of any Board meeting need not be specified in the notice.

SECTION 12. WAIVER OF NOTICE AND CONSENT TO HOLDING MEETINGS

The transactions of any meeting of the Board, however called and noticed or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as hereinafter defined, is present and provided that either before or after the meeting each Director not present signs a waiver of notice, a consent to holding the meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals, shall be filed with the corporate records or made a part of the minutes of the meeting.

SECTION 13. QUORUM FOR MEETINGS

A quorum shall consist of two Directors or one-third of the currently serving Directors, whichever is greater.

Except as otherwise provided in these Bylaws or in the Articles of Incorporation of this Corporation, no business shall be considered by the Board at any meeting at which a quorum, as hereinafter defined, is not present, and the only motion which the Chair shall entertain at such meeting is a motion to adjourn from time to time until the time fixed for the next regular meeting of the Board.

When a meeting is adjourned for lack of a quorum, it shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted at such meeting, other than by announcement at the meeting at which the adjournment is taken, except as provided in Section 10 of this article.

The Directors present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of Directors from the meeting, provided that any action thereafter taken must be

approved by the required quorum for such meeting or such greater percentage as may be required by law, or the Articles of Incorporation or Bylaws of this Corporation.

SECTION 14. MAJORITY ACTION AS BOARD ACTION

Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors, unless the Articles of Incorporation or Bylaws of this Corporation, or provisions of the California Nonprofit Public Benefit Corporation Law, particularly those provisions relating to appointment of committees (Section 5212), approval of contracts or transactions in which a Director has a material financial interest (Section 5233) and indemnification of Directors (Section 5238e), require a greater percentage or different voting rules for approval of a matter by the Board.

SECTION 15. CONDUCT OF MEETINGS

Meeting of the Board of Directors shall be presided over by the Chairman of the Board, or, if no such person has been so designated or, in his or her absence, the President of the Corporation or, in his or her absence, by the Vice-President of the Corporation or, in the absence of each of these persons, by a Chairman chosen by a majority of the Directors present at the meeting. The Secretary of the Corporation shall act as Secretary of all meetings of the Board, provided that in his or her absence, the presiding officer shall appoint another person to act as Secretary of the meeting.

Meetings shall be governed by Roberts' Rules of Order, as such rules may be revised from time to time, insofar as such rules are not inconsistent with or in conflict with these Bylaws, with the Articles of Incorporation of this Corporation, or with provisions of law.

SECTION 16. ACTION BY UNANIMOUS WRITTEN CONSENT WITHOUT MEETING

To the extent such action is not inconsistent with any other law governing the Corporation, any action required or permitted to be taken by the Board of Directors under any provision of law may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing (including electronic mail) to such action. For the purposes of this section only, "all members of the Board" shall not include any "interested Director" as defined in Section 5233 of the California Nonprofit Public Benefit Corporation Law. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as the unanimous vote of the Directors. Any certificate or other document filed under any provision of law which relates to action so taken shall state that the action was taken by unanimous written consent of the Board of Directors without a meeting and that the Bylaws of this Corporation authorize the Directors to so act, and such statement shall be prima facie evidence of such authority.

SECTION 17. VACANCIES

Vacancies on the Board of Directors shall exist (1) on the death, resignation or removal of any Director; provided, however, no NOVA Director may be removed by the Directors

without the approval of the NOVA Board, and (2) whenever the number of authorized Directors is increased. In addition, for any of the NOVA Directors, the resignation or removal of each individual from the NOVA Board shall be deemed to be an automatic removal or resignation from the Board (without further action of the applicable NOVA Director or the Directors).

Subject to the limitation on the removal of the NOVA Directors, set forth above, the Board of Directors may declare vacant the office of a Director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order of judgment of any court to have breached any duty under Section 5230 and following of the California Nonprofit Public Benefit Corporation Law.

Any Director may resign effective upon giving written notice to the Chairman of the Board, the President, the Secretary or the Board of Directors, unless the notice specifies a later time for the effectiveness of such resignation. No Director may resign if the Corporation would then be left without a duly elected Director or Directors in charge of its affairs, except upon notice to the Attorney General.

Vacancies on the Board shall be filled by the members of the NOVA Board, or in the event the NOVA Board does not exist, then vacancies shall be filled by the City Council.

A person elected to fill a vacancy as provided in this Section shall hold office until the next annual election of the Board of Directors or until his or her death, resignation or removal from office.

SECTION 18. NON-LIABILITY OF DIRECTORS

The Directors shall not be personally liable for the debts, liabilities, or other obligations of the Corporation.

SECTION 19. INDEMNIFICATION BY CORPORATION OF DIRECTORS, OFFICERS, EMPLOYEES AND OTHER AGENTS

To the extent that a person, who is, or was, a Director, officer, employee or other agent of this Corporation has been successful on the merits in defense of any civil, criminal, administrative or investigative proceeding brought to procure a judgment against such person by reason of the fact that he or she is, or was, an agent of the Corporation, or has been successful in defense of any claim, issue or matter, therein, such person shall be indemnified against expenses actually and reasonable incurred by the person in connection with such proceeding.

If such person either settles any such claim or sustains a judgment against him or her, then indemnification against expenses, judgments, fines, settlements and other amounts reasonably incurred in connection with such proceedings shall be provided by this Corporation but only to extent allowed by, and in accordance with the requirements of, Section 5238 of the California Nonprofit Public Benefit Corporation Law.

SECTION 20. INSURANCE FOR CORPORATE AGENTS

The Board of Directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Corporation (including a Director, officer, employee or other agent of the Corporation) against any liability other than for violation provisions of law relating to self-dealing (Section 5233 of the California Nonprofit Public Benefit Corporation Law) asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the Corporation would have the power to indemnify the agent against such liability under the provisions of Section 5238 of the California Nonprofit Public Benefit Corporation Law.

ARTICLE 5. OFFICERS

SECTION 1. NUMBER OF OFFICERS

The officers of this Corporation shall be a President, a Secretary, and a chief financial officer who shall be designated the Treasurer. The Corporation may also have, as determined by the Board of Directors, a Chairman of the Board, one or more Vice-Presidents, Assistant Secretaries, Assistant Treasurers, or other officers. Any number of offices may be held by the same person except that neither the Secretary nor the Treasurer may serve as the President or Chairman of the Board.

SECTION 2. QUALIFICATION, ELECTION, AND TERM OF OFFICE

Any person may serve as officer of this Corporation. Officers shall be elected by the Board of Directors, at any time, and each officer shall hold office until he or she resigns or is removed or is otherwise disqualified to serve, or until his or her successor shall be elected and qualified, whichever occurs first.

SECTION 3. SUBORDINATE OFFICERS

The Board of Directors may appoint such other officers or agents as it may deem desirable, and such officers shall serve such terms, have such authority, and perform such duties as may be prescribed from time to time by the Board of Directors.

SECTION 4. REMOVAL AND RESIGNATION

Any officer may be removed, either with or without cause, by the Board of Directors, or by the NOVA Board or the City Council at any time. Any officer may resign at any time by giving written notice to the Board of Directors or to the President or Secretary of the Corporation. Any such resignation shall take effect at the date of the receipt of such notice or at any later date specified therein, and, unless otherwise specified there, the acceptance of such resignation shall not be necessary to make it effective. The above provisions of this Section shall be superseded by any conflicting terms of a contract which has been approved or ratified by the Board of Directors relating to the employment of any officer of the Corporation.

SECTION 5. VACANCIES

Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by the NOVA Board, or if the NOVA Board does not exist, then by the City Council. In the event of a vacancy in any office other than that of President, such vacancy may be filled temporarily by appointment by the President until such time as the Board shall fill the vacancy. Vacancies occurring in offices of officers appointed at the discretion of the Board may or may not be filled as the Board shall determine, subject to the approval of the NOVA Board, or if the NOVA Board does not exist, then by the City Council.

SECTION 6. DUTIES OF PRESIDENT

The President shall be the chief executive officer of the Corporation and shall, subject to the control of the Board of Directors, supervise and control the affairs of the Corporation and the activities of the officers. He or she shall perform all duties incident to his or her office and such other duties as may be required by law, by the Articles of Incorporation of this Corporation, or by these Bylaws, or which may be prescribed from time to time by the Board of Directors. Unless another person is specifically appointed as Chairman of the Board of Directors, he or she shall preside at all meetings of the Board of Directors. If applicable, the President shall preside at all meetings of the members. Except as otherwise expressly provided by law, by the Articles of Incorporation, or by these Bylaws, he or she shall, in the name of the Corporation, execute such deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the Board of Directors.

SECTION 7. DUTIES OF VICE-PRESIDENT

In the absence of the President, or in the event of his or her inability or refusal to act, the Vice-President shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions on, the president. The Vice-President shall have other powers and perform such other duties as may be prescribed by law, by the Articles of Incorporation, or by these Bylaws, or as may be prescribed by the Board of Directors.

SECTION 8. DUTIES OF SECRETARY

The Secretary shall:

Certify and keep at the principal office of the Corporation the original, or a copy, of these Bylaws as amended or otherwise altered to date.

Keep at the principal office of the Corporation or at such other place as the Board may determine, a book of minutes of all meetings of the Directors, and, if applicable, meetings of committees of Directors, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof.

See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law.

Be custodian of the records and of the seal of the Corporation and see that the seal is affixed to all duly executed documents, the execution of which on behalf of the Corporation under its seal is authorized by law or by these Bylaws.

Exhibit at all reasonable times to any Director of the Corporation, or to his or her agent or attorney, on request therefore, the Bylaws, and the minutes of the proceedings of the Directors of the Corporation.

In general, perform all duties incident to the office of Secretary and such other duties as may be required by law, by the Articles of Incorporation of this Corporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

SECTION 9. DUTIES OF TREASURER

Subject to the provisions of these Bylaws relating to the "Execution of Instruments, Deposits and Funds," the Treasurer shall:

Have charge and custody of, and be responsible for, all funds and securities of the Corporation, and deposit all such funds in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Board of Directors.

Receive, and give receipt for, monies due and payable to the Corporation from any source whatsoever.

Disburse or cause to be disbursed the funds of the Corporation as may be directed by the Board of Directors, taking proper vouchers for such disbursements.

Keep and maintain adequate and correct accounts of the Corporation's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains and losses.

Exhibit at all reasonable times the books of account and financial records to any Director of the Corporation, or to his or her agent or attorney, on request therefore.

Render to the President and Directors, whenever requested, an account of any or all of his or her transactions as Treasurer and of the financial condition of the Corporation.

Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.

In general, perform all duties incident to the office of Treasurer and such other duties as may be required by law, by the Articles of Incorporation of the Corporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

SECTION 10. COMPENSATION

The salaries of the officers, if any, shall be fixed from time to time by resolution of the Board of Directors, and no officer shall be prevented from receiving such salary by reason of the fact that he or she is also a Director of the Corporation, provided, however, that such compensation paid a Director for serving as an officer of this Corporation shall only be allowed if permitted under the provisions of ARTICLE 4, Section 6, of these Bylaws. In all cases, any salaries received by officers of this Corporation shall be reasonable and given in return for services actually rendered the Corporation which relate to the performance of the charitable or public purposes of this Corporation.

ARTICLE 6. COMMITTEES

SECTION 1. EXECUTIVE COMMITTEE

The Board of Directors may, by a majority vote of Directors then in office, designate two (2) or more of its members (who may also be serving as officers of this Corporation) to constitute an Executive Committee and delegate to such Committee any of the powers and authority of the Board in the management of the business and affairs of the Corporation, except with respect to:

- (a) The approval of any action, which, under law or the provision of these Bylaws, requires the approval of the members or of a majority of all the members.
- (b) The filling of vacancies on the Board or on any committee which has the authority of the Board.
- (c) The fixing of compensation of the Directors for serving on the Board or on any committee.
- (d) The amendment or repeal of Bylaws or the adoption of new Bylaws.
- (e) The amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable.
- (f) The appointment of committees of the Board or members, thereof.
- (g) The approval of any transaction to which this Corporation is a party and in which one or more of the Directors has a material financial interest, except as expressly provided in Section 5233(d)93) of the California Nonprofit Public Benefit Corporation Law.

By a majority vote of its members then in office, the Board may at any time revoke or modify any or all of the authority so delegated, increase or decrease but not below two (2) the number of its members, and fill vacancies therein from the members of the Board. The committee shall keep regular minutes of its proceedings, cause them to be filed with the corporate records, and report the same to the Board from time to time as the Board may require.

SECTION 2. OTHER COMMITTEES

The Corporation shall have such other committees as may from time to time be designated by resolution of the Board of Directors. Such other committees may consist of persons who are not also members of the Board. These additional committees shall act in an advisory capacity only to the Board and shall be clearly titled as "advisory" committees.

SECTION 3. MEETINGS AND ACTION OF COMMITTEES

Meetings and action of committees shall be governed by, noticed, held and taken in accordance with the provisions of these Bylaws concerning meetings of the Board of Directors, with such changes in the context of such Bylaw provisions as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time for regular meetings of committees may be fixed by resolution of the Board of Directors or by the committee. The time for special meetings of committees may also be fixed by the Board of Directors. The Board of Directors may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these Bylaws.

ARTICLE 7. EXECUTION OF INSTRUMENTS, DEPOSITS AND FUNDS

SECTION 1. EXECUTION OF INSTRUMENTS

The Board of Directors, except as otherwise provided in these Bylaws, may by resolution authorize any officer or agent of the Corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

SECTION 2. CHECKS AND NOTES

Except as otherwise specifically determined by resolution of the Board of Directors, or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the Corporation shall be approved by, or approval delegated by, the Treasurer.

SECTION 3. DEPOSITS

All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

SECTION 4. GIFTS

The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the charitable or public purposes of this Corporation.

ARTICLE 8. CORPORATE RECORDS, REPORTS AND SEAL

SECTION 1. MAINTENANCE OF CORPORATE RECORDS

The Corporation shall keep at its principal office in the State of California:

- (a) Minutes of all meetings of Directors, and committees of the Board, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof.
- (b) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses.
- (c) A copy of the Corporation's Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by the Directors, if any, of the Corporation at all reasonable times during office hours.

SECTION 2. CORPORATE SEAL

The Board of Directors may adopt, use, and at will alter, a corporate seal. Such seal shall be kept at the principal office of the Corporation. Failure to affix the seal to corporate instruments, however, shall not affect the validity of any such instrument.

SECTION 3. DIRECTORS' INSPECTION RIGHTS

Every Director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the Corporation.

SECTION 4. RIGHT TO COPY AND MAKE EXTRACTS

Any inspection under the provisions of this Article may be made in person or by agent or attorney and the right to inspection includes the right to copy and make extracts.

SECTION 5. ANNUAL REPORT

The Board shall cause an annual report to be furnished not later than one hundred and twenty (120) days after the close of the Corporation's fiscal year to all Directors of the Corporation, which report shall contain the following information in appropriate detail:

- (a) The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year.

- (b) The principal changes in assets and liabilities, including trust funds, during the fiscal year.
- (c) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year.
- (d) The expenses or disbursements of the Corporation, for both general and restricted purposes, during the fiscal year.
- (e) Any information required by Section 6 of this Article.

The annual report shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation.

SECTION 6. ANNUAL STATEMENT OF SPECIFIC TRANSACTIONS TO MEMBERS

This Corporation shall mail or deliver to all directors a statement within one hundred and twenty (120) days after the close of its fiscal year which briefly describes the amount and circumstances of any indemnification or transaction of the following kind:

- (a) Any transaction in which the Corporation, or its parent or its subsidiary was a party, and in which either of the following had a direct or indirect material financial interest:
 - (1) Any director or officer of the Corporation, or its parent or subsidiary (a mere common directorship shall not be considered a material financial interest); or
 - (2) Any holder of more than ten percent (10%) of the voting power of the Corporation, its parent or its subsidiary.

The above statement need only be provided with respect to a transaction during the previous fiscal year involving more than FIFTY THOUSAND DOLLARS (\$50,000) or which was one of a number of transactions with the same person involving, in the aggregate, more than FIFTY THOUSAND DOLLARS (\$50,000).

Similarly, the statement need only be provided with respect to indemnifications or advances aggregating more than TEN THOUSAND DOLLARS (\$10,000) paid during the previous fiscal year to any Director or officer, except that no such statement need be made if such indemnification was approved by the Directors pursuant to Section 5238(e)(1) of the California Nonprofit Public Benefit Corporation Law.

Any statement required by this Section shall briefly describe the names of the interested persons involved in such transactions, stating each person's relationship to the Corporation, the nature of such person's interest in the transaction and, where practical, the amount of such

interest; provided, that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

ARTICLE 9. FISCAL YEAR

SECTION 1. FISCAL YEAR OF THE CORPORATION

The fiscal year of the Corporation shall begin on the first day of July and end on the last day of June in each year.

ARTICLE 10. BYLAWS

SECTION 1. AMENDMENT

Subject to any provision of law applicable to the amendment of Bylaws of public benefit nonprofit corporations, these Bylaws, or any of them, may be altered, amended, or repealed and new Bylaws adopted as by the Board; provided however, any amendment to these Bylaws are subject to the approval by the NOVA Board, or in the event the NOVA Board does not exist, the approval by the City Council, or the City Manager of the City.

ARTICLE 11. AMENDMENT OF ARTICLES

SECTION 1. AMENDMENT OF ARTICLES


Any amendment of the Articles of Incorporation may be adopted by the approval of the Board of Directors; provided however, any amendment to these Bylaws are subject to the approval by the NOVA Board, or in the event the NOVA Board does not exist, the approval by the City Council, or the City Manager of the City.

CERTIFICATE

I, the undersigned, do hereby certify:

- (1) That I am the duly elected and acting Secretary of the Board of Directors (the "Board") of NOVAworksFoundation, a California nonprofit public benefit corporation (the "Corporation");
- (2) That the foregoing Amended and Restated Bylaws, comprising fourteen (14) pages, constitute the Amended and Restated Bylaws of the Corporation as duly ratified by action of the Board at a duly constituted meeting held on June 19, 2019; and
- (3) That the foregoing Amended and Restated Bylaws amend and restate all bylaws, as amended, of the Corporation previously adopted by the Board.

IN WITNESS THEREOF, I have hereunto subscribed my name, this 17th day of June, 2019.



Kris Stadelman, Secretary

NOVA Grant Status Report									
For the Period from July 1, 2019 thru August 31, 2019									
Source	Title	Period of Performance		PY19 Avail Total	PY19 Avail Spend - Plan	Accounting Period 2		17%	
		From	To			PTD Spend Actual	% Act/Plan	Balance of Plan	
WIOA	Adult	07/19	06/21	1,922,212	1,683,324	111,091	7%	1,572,233	
WIOA	Dislocated Worker	07/19	06/21	2,620,408	2,265,688	198,481	9%	2,067,207	
WIOA	Youth	04/19	06/21	1,765,524	1,530,654	224,337	15%	1,306,317	
WIOA	Rapid Response	07/19	06/20	1,259,112	1,259,112	143,524	11%	1,115,588	
WIOA	RR Layoff Aversion	07/19	06/20	298,028	298,028	59,109	20%	238,919	
	<i>Allocation Subtotal</i>			<i>7,865,284</i>	<i>7,036,806</i>	<i>736,542</i>		<i>6,300,264</i>	
*DOL NDWG	*Silicon Valley DW	01/16	12/19	1,074,536	950,000	179,651	19%	770,349	
State NDWG	DW Trade & Economic Transition	10/18	09/20	848,993	745,000	24,529	3%	720,471	
H1-b	Ready-to-Work	11/14	10/19	170,137	170,137	164,717	97%	5,420	
CEC	Prospect SV - VTA Project	10/17	12/20	40,471	30,000	847	3%	29,153	
	<i>NOVA Subtotal (includes Allocation subtotal)</i>			<i>9,999,422</i>	<i>8,931,943</i>	<i>1,106,286</i>		<i>7,825,657</i>	
	**RPU Funding - NOVA Allotment only								
RPU / WIOA	Regional Plan Imp	01/18	06/19	4,974	4,974	4,974	100%	-	
RPU / CDCR	Prison to Employment	10/18	03/20	23,328	23,328	271	1%	23,057	
RPU / WIOA	Reg Organizer / Reg Training	04/19	09/20	31,390	28,000	326	1%	27,674	
RPU / WIOA	Slingshot 2.0 Regional Plan Imp	04/19	09/20	51,394	48,000	3,592	7%	44,408	
	<i>RPU Subtotal</i>			<i>111,086</i>	<i>104,302</i>	<i>9,163</i>	<i>9%</i>	<i>95,139</i>	
	***NOVA Foundation			94,009	**tbd	1,871		92,138	
	TOTAL			10,204,516	9,036,245	1,117,320	12%	8,012,934	
Budget w City				10,441,805					

Notes:

*DOL NDWG - requested grant extension thru 9/30/2020.

*RPU designates funding received on behalf of 4 WIBs. See attached RPU Grant Status Report for full details

**NOVA Foundation fundraising and spend strategy tbd

PENDING RPU Funding:

CDCR: Prison to Employment Direct Services

CDCR: Prison to Employment Earn & Learn/Support Services

RPU Funding	NOVA Allotment
\$ 1,056,580	\$ 264,433
\$ 740,738	\$ 399,698
\$ 1,797,318	\$ 664,131

Regional Planning Unit (RPU) Grant Status Report						
For the Period from July 1, 2019 thru August 31, 2019						
Source	Title	Period of Performance From To		PY19 Avail Total	PTD Spend Actual	Balance of Plan
RPU / WIOA	Regional Plan Imp 1.0 NOVA	01/18	07/19	4,974	4,974	-
				4,974	4,974	-
RPU / CDCR	Prison to Employment Planning NOVA - Fiscal Lead San Benito San Francisco San Jose	10/18	03/20	56,734	7,609	49,125
				23,328	271	23,057
				18,000	994	17,006
				6,128	1,045	5,083
				9,278	5,299	3,979
RPU / WIOA	Reg Organizer / Reg Training NOVA - Fiscal Lead San Benito San Francisco San Jose Racy Ming Assoc	04/19	09/20	150,152	3,744	146,408
				31,390	326	31,064
				15,000	-	15,000
				15,000	-	15,000
				15,000	-	15,000
				73,762	3,419	70,343
RPU / WIOA	Slingshot 2.0 Regional Plan Imp NOVA - Fiscal Lead San Benito San Francisco - Project Lead San Jose	04/19	09/20	250,000	13,957	236,043
				51,394	3,592	47,802
				10,421	-	10,421
				176,532	10,365	166,167
				11,653	-	11,653
	TOTAL			461,860	30,285	431,575

Notes: RPU designates funding received on behalf of 4 WIBs.

PENDING RPU Funding

CDCR: Prison to Employment Direct Services

CDCR: Prison to Employment Earn & Learn/Support Services

	RPU Funding	NOVA Allotment
	\$ 1,056,580	\$ 264,433
	\$ 740,738	\$ 399,698
	\$ 1,797,318	\$ 664,131