

FUNDING TRANSFER AND USE AGREEMENT
(Sonoma Housing Tax Allocation Bonds Proceeds)

Between

THE CITY OF SONOMA

and

SONOMA COUNTY COMMUNITY
DEVELOPMENT COMMISSION

Dated as of June 11, 2019

This FUNDING TRANSFER AND USE AGREEMENT (Sonoma Housing Tax Allocation Bonds Proceeds) (the "Agreement") is entered into as of June 11,

2019 (the "Effective Date"), by and between the CITY OF SONOMA, a California municipal corporation ("City"), and the SONOMA COUNTY COMMUNITY DEVELOPMENT COMMISSION, an agency of the County of Sonoma ("Commission"). The City and Commission are periodically referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. Pursuant to the provisions of in Part 1.85 of Division 24 of the Health and Safety Code (enacted originally by Stats. 2011, Ch.4 (ABx1 26) and subsequently amended in 2012 by AB 1484, in 2015 by SB 107, and other statutes, and referred to herein as the "Dissolution Law"), the Community Development Agency of the City of Sonoma (the "former RDA") was dissolved effective February 1, 2012, and the Successor Agency to the Community Development Agency of the City of Sonoma ("Successor Agency") assumed by operation of law certain rights and obligations of the former RDA, which, for purposes of this Agreement, do not include the administration of Housing Assets (defined below).

B. Pursuant to the Dissolution Law, the City of Sonoma ("City") in its Resolution No. 06-2012 elected not to retain the former RDA's housing operations. As such, pursuant to Health and Safety Code section 34176(b), "all rights, powers, assets, duties, and obligations associated with the housing activities of the [former RDA], excluding enforceable obligations retained by the [Successor Agency]," including specifically all of the assets described in Health and Safety Code section 34176(e) (the "Housing Assets"), automatically transferred to the Sonoma County Housing Authority on February 1, 2012 by operation of law, and are now administered by its parent body, the Sonoma County Community Development Commission ("Commission").

C. In order to document the transfer of the Housing Assets, to set forth the respective roles and responsibilities of the parties with respect to administrative tasks relating to the transfer, and to increase the ability of the Commission to continue to manage and use the Housing Assets to the maximum benefit of the residents of the City of Sonoma, the Parties entered into that certain Agreement Regarding Redevelopment Housing Assets ("Housing Assets Agreement").

D. The Housing Assets Agreement served the following functions: (1) transferred Real Properties and Housing Assets (as defined in the Housing Assets Agreement) from the Successor Agency to the Commission, (2) the Commission assumed all duties, responsibilities and obligations associated with, encumbering, arising out of, attendant to and/or relating to ownership of said Real Properties and Housing Assets, except as set forth in Section 6 in that agreement, and (3) the Successor Agency would agree to include its Supplemental Educational Revenue Augmentation Fund (SERAF) payment obligation on its Recognized Obligation Payment Schedule ("ROPS") and then forward to said funds to the Commission; and (4) the Commission agreed to enforce the affordability covenants governing and/or applicable to the Housing Assets in accordance with the covenants' terms and conditions.

E. The former Community Development Agency of the City of Sonoma issued on or about March 4, 2011 Tax Allocation Bonds, which may be refinanced or refunded pursuant to the Dissolution Law (referred to as the "2011 Bonds"), of which \$1,450,000 were dedicated for use to improve and increase the supply of low- and moderate-income housing.

F. The Dissolution Law authorizes the City and Successor Agency to use bond proceeds from 2011 issuances of the former RDA when certain conditions have been met.

G. Health and Safety Code section 34176(g) allows the a housing successor to use 100% excess bond proceeds secured by a former redevelopment agency's Low and Moderate Income Housing Fund ("LMIHF"), as long as the "housing" bonds were issued prior to June 28, 2011.

H. the Successor Agency had "excess bond proceeds," i.e., tax allocation bond proceeds, that are not otherwise obligated for a project or other enforceable obligation. The Successor Agency has identified the use of such proceeds for redevelopment and affordable housing purposes consistent with applicable bond covenants.

I. The California Community Redevelopment Law (Health and Safety Code section 33000, et seq.) provides for a cooperative relationship between cities and their redevelopment agencies, as well as their successor agencies who have assumed the duties and obligations of the former redevelopment agencies. Under Health and Safety Code section 33220, a city may aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects. Health and Safety Code section 33220(e) specifically authorizes a city to enter into an agreement with its redevelopment agency or any other public entity to former redevelopment purposes. Health and Safety Code section 34176(g)(1)(A) [for housing bond proceeds] and sections 34191.4(c)(1)(A) and 34191.4(c)(2) [for non-housing bond proceeds] allow a housing successor, successor agency, and sponsoring city to enter into agreements with the approval of the oversight board.

J. On or about May 7, 2013, the Successor Agency received its Finding of Completion under Health and Safety Code section 34179.7 from the California Department of Finance ("Finance" or "DOF").

K. When the California Legislature enacted SB 107 (Stats. 2015, Ch.325) in 2015, "excess bond proceeds" could be used pursuant to the Dissolution Law and as generally described in the recitals above.

L. On or about January 23, 2017, the Successor Agency's Oversight Board ("Oversight Board") approved a resolution and "joint" bond proceeds agreement, entitled Bond Expenditure Agreement (Sonoma Housing & Non-Housing Tax Allocation Bonds) (the "Joint Bond Proceeds Agreement"), which, subject to review and approval of DOF, allowed for the expenditure of "housing" bond proceeds.

M. On or about February 27, 2017, DOF responded to the Oversight Board's action concerning the Joint Bond Proceeds Agreement, providing in pertinent part:

Housing Bond Proceeds

Pursuant to RSC section 34176(g)(1)(A), 100 percent of bond proceeds that were issued for the purposes of affordable housing and that remain after the satisfaction

of enforceable obligations may be utilized by the housing successor for the purposes that are consistent with the bond covenants. Based on the Agency's December 31, 2016 bank statement, the Agency currently has \$1,485,000 of housing bond proceeds on hand. These funds are eligible to transfer to the [City] through a bond expenditure agreement.

N. In order to facilitate the use of housing excess bond proceeds consistent with the bond covenants, the Successor Agency and City negotiated that certain BOND EXPENDITURE AGREEMENT (Sonoma Housing Tax Allocation Bonds) (the "Housing Bonds Expenditure Agreement"), requiring the transfer of housing excess bond proceeds by the Successor Agency to the City, and the use of such excess bond proceeds consistent with applicable bond covenants and DOF February 27, 2017 letter. The Oversight Board and DOF approved the Housing Bonds Expenditure Agreement as constituting an excess bond proceeds obligation within the meaning of Health and Safety Code section 34176(g)(1)(A) for the "housing" excess bonds proceeds. The Successor Agency listed the requirement to use and transfer housing excess bond proceeds pursuant to the Housing Bonds Expenditure Agreement as a separate line-item on the ROPS covering fiscal year 2017-18 (the "ROPS 17-18"). DOF approved the Successor Agency's ROPS 17-18, and thereby approved the transfer of the excess housing bonds proceeds to the City for use consistent with the housing bonds' covenants in the Housing Bonds Expenditure Agreement.

O. The housing bonds' covenants are summarized in the Official Statements for the "Bonds," identified below in the Housing Bonds Expenditure Agreement, and the Official Statements and all bond documents governing the authorized spending of the "Bond Proceeds," as defined below in the Housing Bonds Expenditure Agreement, were incorporated by reference and generally referred to as the "Bond Spending Plan" in that agreement. The Bond Spending Plan is intended to advance the City's community development goals and affordable housing goals, while maximizing fiscal and social benefits flowing to the taxing entities from successful development. The Oversight Board and DOF determined that the expenditure of housing excess bond proceeds in accordance with the Housing Bonds Expenditure Agreement would benefit the affected taxing entities, and approved the execution of the Housing Bonds Expenditure Agreement and the provision of housing excess bond proceeds to the City for the purposes described in the Housing Bonds Expenditure Agreement.

P. The Commission has an agreement with SATELLITE AFFORDABLE HOUSING ASSOCIATES, a California non-profit public benefit corporation ("SAHA") for the planning, construction, operation and maintenance of the Affordable Housing Project (for purposes of this Agreement, SAHA or any other developer of the Affordable Housing Project shall be referred to as the "Proposed Developer"). Among other items proposed, SAHA has proposed to seek 9% tax credits from the California Tax Credit Allocation Committee ("TCAC") for the development of the Affordable Housing Project, which, if awarded, will require SAHA to construct and operate a residential rental project for persons and families that earn less than 60% of area median income.

Q. The purpose of this Agreement is to facilitate the transfer of Housing Excess Bond Proceeds Amount (as defined in this Agreement) from the City to the Commission, and to memorialize the use of those funds for the planning and development of the Affordable Housing Project (as defined in this Agreement).

NOW, THEREFORE, based on the foregoing recitals, which are a substantive part of this Agreement and incorporated into the body of this Agreement by this reference, and for good and valuable consideration, the Parties hereto do mutually agree as follows:

AGREEMENT

1. **DEFINITIONS.** In addition to the capitalized terms elsewhere in this Agreement, the terms below shall have the following meanings:

"Affordable Housing Project" means a residential project that will be located at 20269 Broadway Avenue in the City, currently in the beginning stages of planning and design, but shall as a minimum require, upon completion of construction, occupancy or availability of occupancy at "affordable rent" for "lower income households" as those terms are defined in Health and Safety Code sections 50053 and 50079.5 (or successor statute), for a period of no less than 55 years from the issuance of a certificate of occupancy for the residential project.

"Bonds" means all of the following bond issuances:

- Community Development Agency of the City of Sonoma 2011 Tax Allocation Bonds, issued on or about March 4, 2011, and any refinancing or refunding thereof authorized by the Dissolution Law (referred to in this Agreement as the "2011 Bonds").

"Bond Proceeds" means (1) proceeds remaining from the Bonds secured by a pledge of the Redevelopment Agency's tax increment, (2) rents, sale proceeds and other revenues generated by properties acquired and/or improved with proceeds from the Bonds, (3) interest and principal paid on loans funded by proceeds from the Bonds, and (4) other income or revenues generated from assets acquired or funded with proceeds from the Bonds.

"Bond Spending Plan" is defined in Recital P. In further explanation and not limitation of the definition in Recital I, the "Bond Spending Plan" includes but is not limited to the following projects that would use the following Excess Bond Proceeds:

- Use of Housing Bond Proceeds for affordable housing projects on Broadway Avenue, City of Sonoma.

"County" means the County of Sonoma, a political subdivision of the State of California.

"Eligible Expenses" means any costs and expenses actually included for the planning and construction, including land acquisition, of the Affordable Housing Project. By way of example, SAHA provided the following "Uses" as identified on the Financing Plan attached hereto as Exhibit "A" and incorporated herein by this reference: Land/Acquisition; Construction; Architecture; Survey & Engineering; and Construction Interest and Fees. All such "Uses" would be Eligible Expenses. Notwithstanding any provisions in this Agreement to the contrary, "Eligible

Expenses" shall be consistent with the allowable uses of the Housing Excess Bond Proceeds from the Bonds.

"Eligible Tenant" means a tenant who, pursuant to a valid and binding lease agreement between the Proposed Developer (or duly authorized agent of Proposed Developer, such as an authorized property management company), has a right to occupancy of a unit at the Affordable Housing Project who will pay "affordable rent" and qualifies as (at a minimum) a "lower income households" as those terms are defined in Health and Safety Code sections 50053 and 50079.5 (or successor statute).

"Housing Excess Bond Proceeds" means Excess Bond Proceeds from the 2011 Bonds, which were required to be deposited in the former Redevelopment Agency's Low and Moderate Income Housing Fund and which were secured under the 2011 Bond Documents by the former Low and Moderate Income Housing Fund.

"Housing Excess Bond Proceeds Amount" means the amount of \$1,485,000.00 which constitutes the balance of the Housing Excess Bond Proceeds.

2. TRANSFER OF FUNDS; TERM AND CONTINGENT REMITTANCE.

2.1 Delivery of Bond Proceed Subject to the terms and conditions of this Agreement, the City shall transfer to the Commission, and Commission shall accept from City, the Housing Excess Bond Proceeds in the Housing Excess Bond Proceeds Amount. Transfer of the Housing Excess Bond Proceeds shall occur no later than thirty (30) days after the Effective Date.

2.2 Deposit. The Commission shall deposit the Housing Excess Bond Proceeds into either: (a) the Commission's Low and Moderate Income Housing Asset Fund, created and operating pursuant to Health and Safety Code section 34176; or (b) the escrow or other dedicated account for the acquisition of property for or construction of the Affordable Housing Project. The City shall receive confirmation from the Commission of the deposit and account no later than ten (10) days after such deposit.

2.3 Term of Agreement. The term of this Agreement shall commence on the date it is fully executed by all Parties after its approval by the City and Commission at duly noticed public meetings, which date shall be the "Effective Date" and included in the preamble of this Agreement, until the date of the earliest to occur: (a) The date of delivery to the City of a copy of a recorded Notice of Completion for the entire Affordable Housing Project pursuant to Civil Code section 8182 recorded by the Proposed Developer; (b) The date of delivery to the City of a copy of a recorded Notice of Completion for the entire Affordable Housing Project pursuant to Civil Code section 9204 recorded by the Commission or the County; (c) Lease-up and occupancy of no less than 75% of the units in the Affordable Housing Project to Eligible Tenants; or (d) The date that is ten (10) years from the Effective Date. The "Agreement Term" shall be the entire duration of this Agreement from the Effective Date until event that terminates this Agreement as provided in this Section 2.3. The "Outside Expiration Date" is the date described in clause (d) of this Section 2.3. The Agreement shall expire and terminate with no additional actions required by the Parties (except as expressly set forth herein) upon the end date of the Agreement Term.

2.4 Remittance of Funds Back to City for Failure to Construct Project. If, within

sixty (60) days prior to the Outside Expiration Date of the Agreement Term set forth above, a Proposed Developer has not been issued a building permit for the Affordable Housing Project, and either the Proposed Developer or Commission has possession and/or control of the Housing Excess Bond Proceeds, then the Commission shall remit or cause the remittance from the Proposed Developer funds in the amount of the Housing Excess Bond Proceeds Amount to the City no later than thirty (30) days prior to the Outside Expiration Date of the Agreement Term. This Section 2.4 shall survive the expiration or termination of the Agreement Term. It is the intent of the City with this Section 2.4 to ensure that the Housing Excess Bond Proceeds are used timely and in accordance with the Eligible Expenses in this Agreement and allowable used under the Housing Bond Expenditure Agreement.

3. USE OF FUNDS; COMMISSION RIGHTS AND OBLIGATIONS.

3.1 General Requirement. Any and all Housing Excess Bond Proceeds shall be used for Eligible Expenses, and no other purpose.

3.2 Commission Requirements Prior to Disbursement of Funds. The Commission shall enter into any and all necessary and appropriate agreements, in the Commission's reasonable discretion, with a Proposed Developer to require use of the Housing Excess Bond Proceeds to be used for Eligible Expenses, and for no other purpose. The Commission shall have at least one agreement with a Proposed Developer (and name the City as a third party beneficiary with a right but no obligation to enforce the agreement's terms and conditions) that sets forth funding conditions that the Proposed Developer must satisfy prior to the disbursement of any or all of the Housing Excess Bond Proceeds Amount, including (as may be determined by the Commission in its reasonable discretion) the following:

(a) *Insurance.* The Proposed Developer shall have provided to Commission evidence of the insurance that is required under generally accepted industry practice for the construction and operation of a project similar to the Affordable Housing Project.

(b) *Plans and Permits.* The Proposed Developer has obtained any permits for the Affordable Housing Project necessary for the Eligible Expense to be funded by the Housing Excess Bond Proceeds (or such permits shall be ready to be issued upon the payment of fees.

(c) *Evidence of Financing.* The Commission shall have approved the Proposed Developer's financing for the Affordable Housing Project, and the financing specific to the construction of the Affordable Housing Project shall close and be available to the Proposed Developer.

(d) *TCAC and Other Financing Approvals.* If integral to a Proposed Developer's evidence of financing, the Proposed Developer has been awarded either 4% or 9% tax credits from TCAC for the Affordable Housing Project, and has obtained assurances of funding for any other financial assistance for the planning and construction of the Affordable Housing Project. This Agreement may be deemed as the City's consent for use of the Housing Excess Bond Proceeds, provided the Proposed Developer and Commission comply with its terms and conditions.

(e) *No Default.* There shall be no event of default under this Agreement, and there shall be no event which, with the passage of time or the giving of notice, would constitute a default.

3.3 Proposed Developer Requirements to Obtain Funds. The Commission shall have the obligation to ensure that a Proposed Developer uses of the Housing Excess Bond Proceeds for Eligible Expenses, and for no other purpose. A Proposed Developer shall have at least one agreement with Commission (and name the City as a third party beneficiary with a right but no obligation to enforce the agreement's terms and conditions) that sets forth a process by which the Commission may verify that any and all payments made by the Proposed Developer are for Eligible Expenses, including (as may be determined by the Commission in its reasonable discretion) the following:

(a) *Approval of Invoices.* The Proposed Developer must submit to the Commission an invoice for an actual expense or imminent expense relating to the planning or construction of the Affordable Housing Project before the Commission has any obligation to disburse to the Proposed Developer any Housing Excess Bond Proceeds.

(b) *Purchase and Sale Agreement; Ground Lease; Land Use Covenant.* The Proposed Developer must submit to the Commission a valid and binding agreement effectuating acquisition of the property for the Affordable Housing Project before the Commission has any obligation to disburse to the Proposed Developer any Housing Excess Bond Proceeds for land acquisition.

3.4 Occupancy by Eligible Tenants; Affordability Covenant Recorded Against the Property. The Commission shall require that all units at the Affordable Housing Project shall be occupied, and continuously available for occupancy by, Eligible Tenants except for any management unit(s) or other units that need not be restricted to Eligible Tenants as permitted by any applicable law. Prior to the occupancy of any unit at the Affordable Housing Project, the Commission shall record or cause to be recorded a covenant that satisfies all of the information and formatting required for a "Notice of Affordability Restrictions on Transfer of Property" pursuant to Health and Safety Code section 33334.3(f)(3)(B) (or successor statute).

3.5 Compliance with Bond Covenants, Dissolution Law, and Applicable Community Redevelopment Law. The Commission shall comply with, and shall cause a Proposed Developer to comply with, the Bond Spending Plan (*i.e.*, use of the Housing Excess Bond Proceeds in compliance with covenants applicable to those proceeds under the Bonds), and any and all provisions of the Dissolution Law and Community Redevelopment Law applicable to the Affordable Housing Project from the use of the Housing Excess Bond Proceeds, including but not limited to Health and Safety Code sections 34176 and 34176.1.

3.6 Release from Liability. Upon the transfer of the Housing Excess Bond Proceeds to the Commission pursuant to this Agreement, and unless and until the Housing Excess Bond Proceeds Amount is remitted to the City pursuant to Section 2.4 of this Agreement, the City, and all of its boards, commissions, officials, officers, employees, attorneys, accountants, other professionals, insurers and agents (collectively, the "Released City Parties And Agents"), shall be

and hereby are released from any and all claims, liabilities, damages, demands, actions or causes

of action arising from or related to, in any manner whatsoever, this Agreement and/or the possession, control, use, or non-use, of the Housing Excess Bond Proceeds by the Commission, a Proposed Developer, or any third party (collectively, the "Released Claims"), according to the following:

(a) *Proceeds Exclusively Controlled by Commission.* When the Commission has possession of and is in exclusive control of the Housing Excess Bond Proceeds transferred to the Commission under this Agreement, the Commission (for itself, its agents, assigns and related entities) fully releases, acquits and discharges the Released City Parties And Agents from the Released Claims.

(b) *Proceeds Partly or Completely Distributed to a Proposed Developer.* After the Commission has disbursed to a Proposed Developer all or any portion of the Housing Excess Bond Proceeds pursuant to this Agreement, the Commission may require that the Proposed Developer (for itself, its agents, assigns and related entities) fully releases, acquits and discharges the Released City Parties And Agents from the Released Claims.

This release is intended as a full and complete release and discharge of any and all such claims that either the Commission may have against any of the Released City Parties And Agents from the Released Claims. In making this release, the Commission intends to release the Released City Parties And Agents from any liability of any nature whatsoever for any claim or injury or for damages or equitable or declaratory relief of any kind, whether the claim, or any facts on which such claim might be based, is known or unknown to the party possessing the claim. The Commission expressly waives all rights under Civil Code section 1542, which the Commission understands provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

3.7 Indemnity. The Commission shall indemnify, defend (with counsel of City's choosing), and hold harmless, or, if Commission has disbursed to a Proposed Developer all or any portion of the Housing Excess Bond Proceeds pursuant to this Agreement, the Commission may cause the Proposed Developer to indemnify, defend (with counsel of City's choosing), and hold harmless, the City and all of its boards, commissions, officials, officers, employees, attorneys, accountants, other professionals, insurers and agents (collectively, the "Indemnified City Parties And Agents") from and against any and all claims, causes of action, demands, liabilities, losses, judgments, expenses and attorney's fees resulting from the breach by the Commission (or, as applicable, a Proposed Developer) of any provision of this Agreement and any claims that are defined as "Released Claims" in Section 3.6 above).

3.8 Survival Clause. The indemnity obligations in Section 3.7 and releases in Section 3.6 shall survive the expiration or termination of this Agreement.

4. RECORDS AND AUDIT.

4.1 Records to be Maintained. The Commission shall keep and maintain or cause the Proposed Developer to keep and maintain records providing a full description of the activities undertaken pursuant to this Agreement, including the costs and expenses for the development of the Affordable Housing Project, records demonstrating the eligibility of the activities constituting the Eligible Expenses, records demonstrating compliance with this Agreement, data demonstrating client eligibility for services provided including the name, income level, family size of each client and other information for determining eligibility and a record of the services provided to each client, and such other records as may be reasonably required by City to enable City to evaluate the use of the Housing Excess Bond Proceeds have been used for Eligible Expenses. Books and records pertaining to the Eligible Expenses shall be kept and prepared in accordance with generally accepted accounting principles or as otherwise may be required by the Commission.

4.2 Retention. The Commission shall retain or cause the Proposed Developer to retain the books and records required to be maintained under this Agreement for a period of five (5) years following the date that the 55-year term for affordability covenants at the Affordable Housing Project expires or terminates; provided, however, in the event any litigation, audit, negotiation, or other action involving the books and records is commenced prior to the expiration of the five (5) year retention period, the Commission shall retain or cause the Proposed Developer to retain the books and records until completion of the action and resolution of all issues which arise from it.

4.3 Location of Records. The books and records required to be maintained under this Agreement shall be kept at the Affordable Housing Project or at the office of the Commission or Proposed Developer or such other location as approved by City.

4.4 Access to Records. The City and its representatives shall have full and free access to, and the right to examine, inspect, and audit, all books and records of the Commission or Proposed Developer pertaining to this Agreement at all times during normal business hours.

4.5 Audits. The Commission and Proposed Developer shall be subject to all audit and review requirements imposed on City in connection with the transfer and/or use of the Housing Excess Bond Proceeds and shall, at their respective sole cost and expense, cause such audits and reviews to be timely performed.

5. DEFAULTS AND REMEDIES.

5.1 Defaults-General. The occurrence of any of the following shall be deemed a default under this Agreement:

- (a) The failure or delay by either party to perform any term or provision of this Agreement if such failure is not cured, corrected or remedied within any specific time period set forth in this Agreement..

(b) If no other specific time period is set forth herein, the failure to cure a monetary default under this Agreement within ten (10) days after the nonperforming Party's receipt of written notice from the other Party specifying the nature of the default.

(c) If no other specific time period is set forth herein, the failure to cure a non-monetary default under this Agreement within thirty (30) days after the nonperforming Party's receipt of written notice from the other Party specifying the nature of the default; provided, however, that if the failure cannot reasonably be corrected within such period, it shall not constitute a default if the failure is correctable without material adverse effect on the Affordable Housing Project, and if corrective action is instituted within such period and diligently pursued until the failure is corrected, and provided further that any such failure is cured within ninety (90) days of receipt of notice of such failure.

(d) A Proposed Developer receives all or part of the Housing Excess Bond Proceeds and does not proceed with the commencement, construction and completion of the Affordable Housing Project as described in this Agreement.

(e) A Proposed Developer commits any act of bankruptcy or if any relief under the Bankruptcy Act is sought by or against a Proposed Developer, or if a receiver is appointed to take charge of the assets or affairs of a Proposed Developer, or if a Proposed Developer should make an assignment for the benefit of creditors, or if a Proposed Developer should become insolvent, or upon any liquidation or termination of a Proposed Developer; provided, however, that if any such proceeding is brought involuntarily against a Proposed Developer, the Proposed Developer shall have ninety (90) days to obtain the dismissal of such proceeding.

5.2 Remedies Upon Default. Upon a default under this Agreement, City may take one or more of the following actions:

(a) Wholly or partially suspend or terminate this Agreement.

(b) Demand a return of funds from either the Commission or, if applicable, a Proposed Developer (pursuant to the City's right to be an intended third party beneficiary to an agreement between the Commission and a Proposed Developer for use of the Housing Excess Bond Proceeds, as provided in this Agreement) in the amount of the Housing Excess Bond Proceeds Amount.

(c) Institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purposes of this Agreement.

(d) Pursue any other rights or remedies available at law or in equity.

6. GENERAL PROVISIONS.

6.1 Notices. All notices under this Agreement shall be effective upon personal delivery, upon delivery by reputable overnight courier service that provides a receipt with the date

and time of delivery, or two (2) business days after deposit in the United States mail, registered, certified, postage fully prepaid and addressed to the respective parties as set forth below or as to such other address as the parties may from time to time designate in writing. The Commission shall have the obligation to deliver to the City the address for official notices to be delivered to the Proposed Developer responsible for the completion of the Affordable Housing Project.

Commission: Sonoma County Community Development Commission
1440 Guerneville Road
Santa Rosa, CA 95403
Attn: Executive Director
Attn: County Counsel

City: City of Sonoma
No. 1 The Plaza
Sonoma, CA 95476
Attn: City Manager

Copy to: Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, California 92626
Attn: William Ihrke, Esq.

6.2 Nonliability of City Officials and Employees. No member, official, employee, or contractor of City shall be personally liable to the Commission in the event of any default or breach by City or for any amount which may become due to the Commission or on any obligations under this Agreement.

6.3 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against any Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The section headings are for purposes of convenience only, and shall not be construed to limit or extend the meaning of this Agreement.

6.4 Entire Agreement, Waivers and Amendments. This Agreement, the Housing Bonds Expenditure Agreement, and the Bonds, integrate all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to the transfer and use of the Housing Excess Bond Proceeds. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the party to be charged, and all amendments and modifications hereto must be in writing and signed by the appropriate authorities of the City and Commission.

6.5 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. In the event that all or any portion of this Agreement is found to be unenforceable, this Agreement or that portion which is found to be unenforceable shall be deemed to be a statement of intention

by the Parties; and the Parties further agree that in such event, and to the maximum extent pennitted by law, they shall take all steps necessary to comply with such procedures or requirements as may be necessary in order to make valid this Agreement or that portion which is found to be unenforceable.

6.6 Permitted and Prohibited Assignment and Transfer. Except to a Proposed Developer for the planning and constrnction of the Affordable Housing Project, the Commission shall not, whether voluntarily, involuntarily, or by operation of law, assign, transfer or convey all or any paii of this Agreement or any rights hereunder without City's prior written approval.

6.7 Contract Administration and Approvals. The City Manager or duly authorized designee shall be the person designated by City to administer this Agreement on behalf of City and such administrative authority shall include but not be limited to the right to approve extensions of time on behalf of City, to issue waivers, and to negotiate and execute any implementing agreements for the use of the Housing Excess Bond Proceeds in accordance with this Agreement.

6.8 Authority to Execute. The person(s) executing this Agreement on behalf of the Parties hereto warrant that (a) such party is duly organized and existing, (b) they are duly authorized to execute and deliver this Agreement on behalf of said Party, and (c) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement.

6.9 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

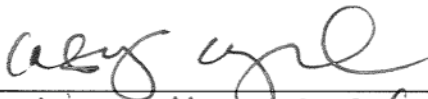
6.10 Exhibits. This Agreement incorporates by reference Exhibit "A" attached.

[Signatures on next page]

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto as of the date first above-written.

CITY:

City of Sonoma, a California municipal corporation

By: 
Its: City Manager, Cathy Cagnida

COMMISSION:

Sonoma County Community Development
Commission, on behalf of the Sonoma County
Housing Authority

By: _____
Its: _____

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-14-

EXHIBIT "A"

"Uses" as identified on the Financing Plan dated March 19, 2018

[attached]

BOND EXPENDITURE AGREEMENT
(Sonoma Housing Tax Allocation Bonds)

This Bond Expenditure Agreement (Sonoma Housing Tax Allocation Bonds) (the "Agreement") is entered into and effective as of fi -, 2017, by and between the City of Sonoma, a California municipal corporation and the "housing successor" pursuant to Health and Safety Code Section 34176(a)(3) (the "City"), and the Successor Agency to the Community Development Agency of the City of Sonoma, a public agency, corporate and politic, pursuant to Health and Safety Code Section 34173 ("Successor Agency").

Recitals:

A. The Successor Agency received its Finding of Completion under Health and Safety Code Section 34179.7 from the California Department of Finance.

B. Health and Safety Code Section 34191.4(c) allows a successor agency that has received a finding of completion to use bond proceeds from "non-housing" bonds issued prior to 2011, and a prescribed percentage of non-housing bond proceeds for bonds issued between January 1, 2011 and June 28, 2011, for purposes for which the bonds were sold, provided that such proceeds in excess of amounts needed to satisfy approved enforceable obligations shall be expended in a manner consistent with the original bond covenants, and further provides that such expenditures shall constitute "excess bond proceeds obligations" that shall be listed separately on the successor agency's Recognized Obligation Payment Schedule ("ROPS").

C. Health and Safety Code section 34176(g) allows the a housing successor to use 100% excess bond proceeds secured by a former redevelopment agency's Low and Moderate Income Housing Fund ("LMIHF"), as long as the "housing" bonds were issued prior to June 28, 2011.

D. The Successor Agency will have so-called "excess bond proceeds," i.e., tax allocation bond proceeds, that are not otherwise obligated for a project or other enforceable obligation. The Successor Agency wishes to use such proceeds for redevelopment and affordable housing purposes consistent with applicable bond covenants.

E. The California Community Redevelopment Law (Health and Safety Code Section 33000, *et seq.*) provides for a cooperative relationship between cities and their redevelopment agencies, as well as their successor agencies who have assumed the duties and obligations of the former redevelopment agencies. Under Health and Safety Code Section 33220, a city may aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects. Health and Safety Code Section 33220(e) specifically authorizes a city to enter into an agreement with its redevelopment agency or any other public entity to further redevelopment purposes. Health and Safety Code Section 34176(g)(1)(A) [for housing bond proceeds] and Sections 34191.4(c)(1)(A) and 34191.4(c)(2) [for non-housing bond proceeds] allow a housing successor, successor agency, and sponsoring city to enter into agreements with the approval of the oversight board.

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F. On or about January 23, 2017, the Successor Agency's Oversight Board ("Oversight Board") approved a resolution and "joint" bond proceeds agreement, entitled Bond Expenditure Agreement (Sonoma Housing & Non-Housing Tax Allocation Bonds) (the "Joint Bond Proceeds Agreement"), which, subject to review and approval of the California Department of Finance ("DOF"), would have allowed for the expenditure of both "housing" and "non-housing" bond proceeds.

G. On or about February 27, 2017, DOF responded to the Oversight Board's action concerning the Joint Bond Proceeds Agreement, providing in pertinent part:

Housing Bond Proceeds

Pursuant to HSC section 34176(g)(1)(A), 100 percent of bond proceeds that were issued for the purposes of affordable housing and that remain after the satisfaction of enforceable obligations may be utilized by the housing successor for the purposes that are consistent with the bond covenants. Based on the Agency's December 31, 2016 bank statement, the Agency currently has \$1,453,261 of housing bond proceeds on hand. These funds are eligible to transfer to the [City] through a bond expenditure agreement.

H. Pursuant to the reconsideration instructions provided by DOF, the Successor Agency desires to provide "housing" excess bond proceeds to the City (as the housing successor agency) to enable the use such funds in a manner consistent with the original "housing" bonds' covenants and DOF's February 27, 2017 letter.

I. The housing bonds' covenants are summarized in the Official Statements for the "Bonds," identified below in this Agreement, and the Official Statements and all bond documents governing the authorized spending of the "Bond Proceeds," as defined below in this Agreement, are incorporated by reference and generally referred to as the "Bond Spending Plan." The Bond Spending Plan is intended to advance the City's community development goals and affordable housing goals, while maximizing fiscal and social benefits flowing to the taxing entities from successful development. The Oversight Board has determined that the expenditure of housing excess bond proceeds in accordance with this Agreement will benefit the affected taxing entities, and has approved the execution of this Agreement and the provision of housing excess bond proceeds to the City for the purposes described herein.

G. In order to facilitate the use of housing excess bond proceeds consistent with the bond covenants, the Successor Agency and City have negotiated this Agreement requiring the transfer of housing excess bond proceeds by the Successor Agency to the City, and the use of such excess bond proceeds consistent with applicable bond covenants and DOF February 27, 2017 letter. The parties intend that this Agreement shall constitute an excess bond proceeds obligation within the meaning of Health and Safety Code Section 34176(g)(1)(A) for the "housing" excess bonds proceeds. The Successor Agency has listed or will list the requirement to use and transfer housing excess bond proceeds under this Agreement as a separate line-item on its Recognized Obligation Payment Schedule ("ROPS").

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. RECITALS.

The recitals above are an integral part of this Agreement and set forth the intentions of the parties and the premises on which the parties have decided to enter into this Agreement.

2. DEFINITIONS.

For purposes of this Agreement, the following terms shall have the indicated meaning:

"Bonds" means all of the following bond issuances:

- Successor Agency to the Community Development Agency of the City of Sonoma Refunding Tax Allocation Bonds, issued on or about October 15, 2015 (used for refinancing/refunding 2003 Tax Allocation Bonds), and any refinancing or refunding thereof authorized by the Dissolution Law (referred to in this Agreement as the "2003 Bonds").
- Community Development Agency of the City of Sonoma 2010 Refunding Tax Allocation Bonds, issued on or about October 5, 2010, and any refinancing or refunding thereof authorized by the Dissolution Law (referred to in this Agreement as the "2010 Bonds").
- Community Development Agency of the City of Sonoma 2011 Tax Allocation Bonds, issued on or about March 4, 2011, and any refinancing or refunding thereof authorized by the Dissolution Law (referred to in this Agreement as the "2011 Bonds").

"Bond Proceeds" means (1) proceeds remaining from the Bonds secured by a pledge of the Redevelopment Agency's tax increment, (2) rents, sale proceeds and other revenues generated by properties acquired and/or improved with proceeds from the Bonds, (3) interest and principal paid on loans funded by proceeds from the Bonds, and (4) other income or revenues generated from assets acquired or funded with proceeds from the Bonds.

"Bond Spending Plan" is defined in Recital I. In further explanation and not limitation of the definition in Recital I, the "Bond Spending Plan" includes but is not limited to the following projects that would use the following Excess Bond Proceeds:

- Use of Housing Bond Proceeds for affordable housing projects on Broadway Avenue, City of Sonoma.

"Dissolution Law" means Parts 1.8 and 1.85 of Division 24 of the California Health and Safety Code, commencing with Section 34170, and other statutes governing the dissolution of redevelopment agencies and the wind-down of redevelopment activities.

"Enforceable Obligations" mean enforceable obligations, other than Excess Bond Proceeds obligations, as defined under the Dissolution Law.

"Excess Bond Proceeds" means Bond Proceeds that are not needed to satisfy Enforceable Obligations (other than this Agreement) approved on a ROPS.

"Housing Excess Bond Proceeds" mean Excess Bond Proceeds in the amount of \$1,453,261.00 from the 2011 Bonds, which were required to be deposited in the former Redevelopment Agency's Low and Moderate Income Housing Fund and which were secured under the 2011 Bond Documents by the former Low and Moderate Income Housing Fund.

"Last and Final ROPS" has the same meaning in Health and Safety Code Section 34191.6 (or successor statute).

"ROPS" means Recognized Obligation Payment Schedule as defined in the Dissolution Law. For purposes of this Agreement, ROPS includes the Last and Final ROPS (and any allowable amendments thereto) pursuant to the Dissolution Law.

3. SUCCESSOR AGENCY'S OBLIGATIONS.

The Successor Agency shall have the following obligations under this Agreement:

3.1 CURRENT HOUSING EXCESS BOND PROCEEDS. The Successor Agency shall transfer to the City, in its capacity as the housing successor agency, the Housing Excess Bond Proceeds held by the Successor Agency no later than 30 days after the later to occur: (i) The approval by DOF of this Agreement (or Oversight Board Resolution approving this Agreement), or (ii) The approval by DOF of the ROPS with the line-item identifying the use of Housing Excess Bond Proceeds.

3.2 CURRENT HOUSING EXCESS BOND PROCEEDS. The City, in its capacity as the housing successor, shall hold any and all Housing Excess Bond Proceeds in a separate account.

3.3 PROJECTS FUNDED BY HOUSING EXCESS BOND PROCEEDS. The Successor Agency assigns to the City, in its capacity as the housing successor, all responsibilities in relation to the administration of any projects or programs funded by Housing Excess Bond Proceeds. The Successor Agency assigns to the City, in its capacity as the housing successor, all contracts entered into by the Successor Agency or the Redevelopment Agency related to activities to be funded by Housing Excess Bond Proceeds, with the exception of those contracts retained by the Successor Agency relating to Enforceable Obligations.

4. CITY'S OBLIGATIONS FOR HOUSING BOND PROCEEDS.

The City, in its capacity as the housing successor, shall have the following obligations under this Agreement:

4.1 RETENTION OF HOUSING EXCESS BOND PROCEEDS. The City shall accept, hold, and disburse Housing Excess Bond Proceeds transferred to the City by the Successor Agency under this Agreement, including current Housing Excess Bond Proceeds and future Housing Excess Bond Proceeds. The City shall retain any Housing Excess Bond Proceeds that it receives, such as revenue generated from properties acquired or improved with Housing

Excess Bond Proceeds or payments on loans funded from Housing Excess Bond Proceeds, without any obligation to return such funds to the Successor Agency, and shall use such funds for uses consistent with applicable bond covenants.

4.2 USE OF HOUSING EXCESS BOND PROCEEDS. The City may spend Housing Excess Bond Proceeds received or retained under this Agreement on any project, program, or activity authorized under the Bond Spending Plan. The City must spend Housing Excess Bond Proceeds consistent with the original bond covenants applicable to the Housing Excess Bond Proceeds, and must comply with all requirements of federal tax law and all applicable requirements of the California Community Redevelopment Law as to the use of such funds. The City shall be solely responsible for ensuring that Housing Excess Bond Proceeds are maintained and spent in accordance with bond covenants and other applicable laws. The City may transfer funds between approved projects, programs and activities, as long as the transfer is within a single project area if applicable bond covenants restrict such funds to a particular project area.

The City assumes all contracts entered into by the Successor Agency or the former Redevelopment Agency related to activities to be funded by Housing Excess Bond Proceeds, with the exception of those contracts retained by the Successor Agency relating to Enforceable Obligations. The City shall perform its obligations hereunder, and under such assumed contracts, in accordance with the applicable provisions of federal, state and local laws, and shall timely complete the work required for each project.

4.3 BOND SPENDING PLAN. The City shall be solely responsible for maintaining and implementing the Bond Spending Plan with respect to Housing Excess Bond Proceeds. The City may amend the Bond Spending Plan, with respect to use of Housing Excess Bond Proceeds, as the City deems necessary in its sole discretion. Any amendments to the adopted Bond Spending Plan shall consider uses that advance the City's affordable housing goals while maximizing fiscal and social benefits flowing to the taxing entities from successful development. The Bond Spending Plan shall conform to applicable bond covenants and all applicable requirements of federal tax law and the California Community Redevelopment Law. Notwithstanding any contrary provision hereof, unless the City expressly agrees otherwise, the City shall not be obligated to provide funding for any program or project in an amount exceeding the Housing Excess Bond Proceeds provided to the City pursuant to this Agreement.

5. ENTIRE AGREEMENT; WAIVERS; AND AMENDMENTS.

5.1 This Agreement constitutes the entire understanding and agreement of the parties with respect to the transfer and use of Excess Bond Proceeds. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the subject matter of this Agreement.

5.2 This Agreement is intended solely for the benefit of the City and the Successor Agency. Notwithstanding any reference in this Agreement to persons or entities other than the City and the Successor Agency, there shall be no third party beneficiaries under this Agreement.

5,3 All waivers of the provisions of this Agreement and all amendments to this Agreement must be in writing and signed by the authorized representatives of the parties.

6. SEVERABILITY.

If any term, provisions, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability. In addition, the parties shall cooperate in good faith in an effort to amend or modify this Agreement in a manner such that the purpose of any invalidated or voided provision, covenant, or condition can be accomplished to the maximum extent legally permissible.

7. DEFAULT.

If either party fails to perform or adequately perform an obligation required by this Agreement within thirty (30) calendar days of receiving written notice from the non-defaulting party, the party failing to perform shall be in default hereunder. In the event of default, the non-defaulting party will have all the rights and remedies available to it at law or in equity to enforce the provisions of this contract, including without limitation the right to sue for damages for breach of contract or to seek specific performance. The rights and remedies of the non- defaulting party enumerated in this paragraph are cumulative and shall not limit the non- defaulting party's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of the Agreement or hereinafter enacted or established, that may be available to the non-defaulting party against the defaulting party.

8. BINDING ON SUCCESSORS.

This Agreement shall be binding on and shall inure to the benefit of all successors and assigns of the parties, whether by agreement or operation of law.

9. FURTHER ASSURANCES.

Each party agrees to execute, acknowledge and deliver all additional documents and instruments, and to take such other actions as may be reasonably necessary to carry out the intent of this Agreement.

10. CITY MANAGER DELEGATED AUTHORITY TO IMPLEMENT.

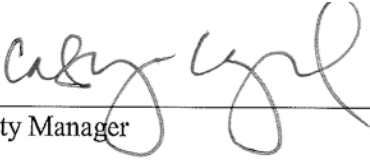
The City Manager shall have the authority to execute this Agreement on behalf of the City, and the Successor Agency's Executive Directors shall have the authority to execute this Agreement on behalf of the Successor Agency . The City Manager or designee shall have the authority to take any and all implementing actions to effectuate the terms and conditions of this Agreement.

[SIGNATURES ON NEXT PAGE]

In witness whereof, the undersigned parties have executed this Bond Expenditure Agreement effective as of the date first above written.

"CITY"

THE CITY OF SONOMA, a municipal corporation, in its capacity as the housing successor agency pursuant to Health & Safety Code section 34176

By:  _____
City Manager

Attest:
I  _____
By: _____
City Clerk

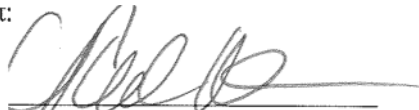
Approved as to form:

By: __ City Attorney

"SUCCESSOR AGENCY"

**THE SUCCESSOR AGENCY TO
COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF SONOMA,**
a public agency, corporate and political, pursuant
to Health **rut f2:to 3**

By: . Executive Director

Attest:
 _____
By: _____
City Clerk

Approved as to form:

By: . Agency Counsel