

DISPOSITION, DEVELOPMENT AND FUNDING AGREEMENT

(Roseland Village Neighborhood Center Redevelopment- Phase I)

BY AND AMONG

SONOMA COUNTY COMMUNITY DEVELOPMENT COMMISSION

AND

MIDPEN HOUSING CORPORATION

AND

URBANMIX DEVELOPMENT, LLC

TABLE OF CONTENTS

PAGE

ARTICLE 1. DEFINITIONS AND EXHIBITS	4
Section 1.1 Definitions.....	4
Section 1.2 Exhibits.	17
ARTICLE 2. PURPOSE AND OVERVIEW	18
Section 2.1 Project Overview.	18
Section 2.2 Property.....	18
Section 2.3 Development Components.....	19
ARTICLE 3. PLAZa TEMPORAL	21
Section 3.1 Plaza Temporal Activities and Lease.....	21
Section 3.2 Plaza Temporal Funding	22
Section 3.3 Plaza Temporal Lease.....	22
Section 3.4 Plaza Temporal Uses.....	22
Section 3.5 Plaza Temporal Lease Term.	23
Section 3.6 Commission's Right to Enter the Plaza Temporal Property.	23
ARTICLE 4. TERM OF AGREEMENT	23
Section 4.1 Effective Date.	23
Section 4.2 Term.....	23
Section 4.3 Development Schedule.	23
Section 4.4 Forced Delay.....	24
ARTICLE 5. FINANCIAL TERMS	25
Section 5.1 Agency Non-Housing Funds.....	25
Section 5.2 Affordable Housing Loan.	27
Section 5.3 Plaza Funding.....	28
Section 5.4 Financing Proposals.....	28
Section 5.5 Affordable Development Financing Plan.	28
Section 5.6 Tax Credit Reservation; Financing	30
Section 5.7 Other Approved Financing.	31
Section 5.8 Market Rate Development Financing Plan.	31
Section 5.9 Market Rate Development.....	33
Section 5.10 Remediation and Infrastructure Financing Plan.	33
ARTICLE 6. PREDEVELOPMENT COMPONENT	34
Section 6.1 Predevelopment Component Activities.	34
Section 6.2 Environmental Remediation Agreements and Response Plan.....	34
Section 6.3 State Water Resource Control Board Remediation Funding Application.....	34
Section 6.4 Pollution Legal Liability Coverage.....	35

TABLE OF CONTENTS

	<u>PAGE</u>
Section 6.5 Relocation and Demolition Activities.....	36
Section 6.6 Commencement and Completion of Remediation Work.....	36
Section 6.7 Public Infrastructure Financing.....	37
Section 6.8 Commencement and Completion of Infrastructure Improvements.	38
ARTICLE 7. PREDISPOSITION REQUIREMENTS FOR CONVEYANCE OF PHASE I DEVELOPER PARCELS.....	40
Section 7.1 Conditions Precedent to Disposition of the Phase I Developer Parcels.	40
Section 7.2 Governmental Approvals.....	40
Section 7.3 Commission Review and Approval of Design and Construction Documents.	41
Section 7.4 Creation of Parcels, Subdivision Approval and Recordation.	41
Section 7.5 Evidence of Availability of Funds.	42
Section 7.6 Insurance.....	42
Section 7.7 Approval of Developer Entity.....	42
ARTICLE 8. TRANSFER OF AFFORDABLE development PARCEL.....	43
Section 8.1 Sale and Purchase.	43
Section 8.2 Purchase Price.....	43
Section 8.3 Opening Escrow.....	43
Section 8.4 Close of Escrow.....	44
Section 8.5 Condition of Title.....	45
Section 8.6 Condition of Affordable Development Parcel.....	45
Section 8.7 Costs of Escrow and Closing.....	49
ARTICLE 9. TRANSFER OF MARKET RATE development PARCEL.....	49
Section 9.1 Sale and Purchase.	49
Section 9.2 Purchase Price.....	49
Section 9.3 Opening Escrow.....	50
Section 9.4 Close of Escrow.....	50
Section 9.5 Condition of Title.....	51
Section 9.6 Condition of Market Rate Development Parcel.....	52
Section 9.7 Costs of Escrow and Closing.....	55
ARTICLE 10. EXCLUSIVE RIGHTS.....	56
Section 10.1 Exclusive Rights.....	56
Section 10.2 Master Planning.....	57
Section 10.3 Negotiating Period.....	57
Section 10.4 Exclusive Negotiations.....	57
Section 10.5 Identification of Master Developer's Representative.....	57
Section 10.6 Financing and Costs of Development.....	58
Section 10.7 Commission Funding.....	59

TABLE OF CONTENTS

	<u>PAGE</u>
Section 10.8 Phasing Plan.....	59
Section 10.9 Phase II DDA.....	59
Section 10.11 Construction of Plaza Improvements.....	60
Section 10.12 Plaza Ownership, Operation and Maintenance.....	61
ARTICLE 11. CONSTRUCTION OF IMPROVEMENTS	61
Section 11.1 Construction Pursuant to Plans.....	61
Section 11.2 Building Permits.....	61
Section 11.3 Construction of Improvements.....	62
Section 11.4 Course of Construction.....	62
Section 11.5 Change in Construction of Affordable Development Improvements.....	62
Section 11.6 Construction Pursuant to Laws.....	63
Section 11.7 Construction Contract.....	63
Section 11.8 Construction Bonds.....	64
Section 11.9 Bid Package.....	64
Section 11.10 Commencement of Construction.....	64
Section 11.11 Completion of the Construction of Development Improvements.....	65
Section 11.12 Prevailing Wage.....	65
Section 11.13 Equal Opportunity.....	67
Section 11.14 Progress Report.....	67
Section 11.15 Construction Responsibilities.....	68
Section 11.16 Mechanics Liens, Stop Notices, and Notices of Completion.....	68
Section 11.17 Inspections.....	69
Section 11.18 Financing; Revisions to Plan.....	69
Section 11.19 Information.....	69
Section 11.20 Relocation.....	69
Section 11.21 Certificate of Completion.....	70
ARTICLE 12. ONGOING DEVELOPER OBLIGATIONS.....	71
Section 12.1 Applicability.....	71
Section 12.2 Affordable Housing Development Use and Ongoing Obligations.....	71
Section 12.3 Maintenance of Developer Parcel and Development Improvements.....	71
Section 12.4 Mandatory Language in All Subsequent Deeds, Leases and Contracts.....	71
Section 12.5 Development Hazardous Materials.....	73
Section 12.6 Audits.....	75
Section 12.7 Safety Conditions.....	75
Section 12.8 Taxes and Assessments.....	76
Section 12.9 Notice of Litigation.....	76

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 13. ASSIGNMENT AND TRANSFERS.....	76
Section 13.1 Definitions.....	76
Section 13.2 Purpose of Restrictions on Transfer.....	77
Section 13.3 Prohibited Transfers.....	78
Section 13.4 Permitted Transfers.....	78
Section 13.5 Transfers of Market Rate Development.....	79
Section 13.6 Effectuation of Certain Permitted Transfers.....	80
Section 13.7 Other Transfers with Commission Consent.....	81
Section 13.8 Assumption of Obligations.....	81
ARTICLE 14. DEFAULT AND REMEDIES.....	81
Section 14.1 General Applicability.....	81
Section 14.2 Developer Events of Default.....	81
Section 14.3 No Fault of Parties.....	84
Section 14.4 Commission Event of Default.....	84
Section 14.5 Commissions Remedies Prior to Conveyance.....	85
Section 14.6 Remedies Against Affordable Developer Following Conveyance.....	86
Section 14.7 Right to Cure at Affordable Developers' Expense.....	88
Section 14.8 Right of Reverter.....	88
Section 14.9 Rights of Mortgagees.....	88
Section 14.10 Remedies Cumulative.....	89
Section 14.11 Waiver of Terms and Conditions.....	89
Section 14.12 Limited Liability of Tax Credit Investor.....	89
ARTICLE 15. SECURITY FINANCING AND RIGHTS OF HOLDERS	90
Section 15.1 No Encumbrances Except for Development Purposes.....	90
Section 15.2 Holder Not Obligated to Construct.....	90
Section 15.3 Notice of Default and Right to Cure.....	90
Section 15.4 Failure of Holder to Complete Improvements.....	91
Section 15.5 Right of Commission to Cure.....	91
Section 15.6 Right of Commission to Satisfy Other Liens.....	91
Section 15.7 Holder to be Notified.....	91
ARTICLE 16. REPRESENTATIONS, warranties and Covenants	92
Section 16.1 Developer Representations and Warranties.....	92
Section 16.2 Effect of Representations and Warranties.....	94
Section 16.3 Commission Representations and Warranties.....	94
ARTICLE 17. GENERAL PROVISIONS	94
Section 17.1 Notices, Demands and Communications.....	94
Section 17.2 Non-Liability of Commission Officials, Employees and Agents.....	95
Section 17.3 Inspection of Books and Records.....	95

TABLE OF CONTENTS

	<u>PAGE</u>
Section 17.4 Provision Not Merged with Deeds.....	95
Section 17.5 Title of Parts and Sections.	95
Section 17.6 General Indemnification.	95
Section 17.7 Applicable Law.....	96
Section 17.8 No Brokers.....	96
Section 17.9 Severability.	96
Section 17.10 Legal Actions.....	96
Section 17.11 Attorney's Fees.....	96
Section 17.12 Binding Upon Successors.	96
Section 17.13 Parties Not Co-Venturers.....	97
Section 17.14 Discretion Retained by Commission.	97
Section 17.15 Time of the Essence.....	97
Section 17.16 Action by the Commission.....	97
Section 17.17 Entry by the Commission.....	97
Section 17.18 Entire Understanding of the Parties.	98
Section 17.19 Operating Memoranda; Implementation Agreements.	98
Section 17.20 Amendments.	98
Section 17.21 Counterparts; Multiple Originals.	98

TABLE OF CONTENTS

PAGE

Exhibit A-1:	Legal Description of Roseland Site
Exhibit A-2:	Legal Description of Gee Parcel
Exhibit B	Conceptual Site Plan
Exhibit C-1:	Affordable Development Financing Proposal
Exhibit C-2:	Market Rate Development Financing Proposal
Exhibit C-3:	Remediation and Infrastructure Financing Proposal
Exhibit D:	Scope of Development
Exhibit E:	Development Schedule
Exhibit F:	Scope of Infrastructure Work
Exhibit G:	Form of Assignment Agreement (Collateral Documents)
Exhibit H:	Form of Memorandum of DDA
Exhibit I:	Form of Grant Deed
Exhibit J:	Form of DDA Assignment and Assumption Agreement
Exhibit K:	Insurance Requirements
Exhibit L:	Form of Certificate of Completion
Exhibit M:	Terms of DDA Surviving Termination
Exhibit N:	Appraisal Instructions
Exhibit O:	Environmental Assessment Documents
Exhibit P:	Plaza Temporal Site Map
Exhibit Q:	Plaza Temporal Improvements
Exhibit R:	Plaza Temporal Short-term Lease Term Sheet
Exhibit S:	PLL Policy
Exhibit T:	CLLRA
Exhibit U:	Form of Housing Loan Agreement

DISPOSITION, DEVELOPMENT AND FUNDING AGREEMENT
(Roseland Village Neighborhood Center- Phase I)

This Disposition, Development and Funding Agreement (the "Agreement") is entered into as of _____, 2018 (the "Effective Date"), by and among the Sonoma County Community Development Commission, a public body corporate and politic (the "Commission") acting in its capacity as housing successor pursuant to Health and Safety Code Section 34176(b), and MidPen Housing Corporation, a California nonprofit public benefit corporation (the "Affordable Developer" and also referred to as the "Master Developer") and UrbanMix Development, LLC, a California limited liability company (the "Market Rate Developer"), with reference to the following facts, understandings and intentions of the parties:

RECITALS

A. These Recitals refer to and utilize certain capitalized terms which are defined in Article 1 of this Agreement. The Parties intend to refer to those definitions in connection with the use of capitalized terms in these Recitals.

B. On January 10, 2012, in anticipation of dissolution of the Former Agency, the Board of Supervisors elected not to retain the housing assets and functions previously performed by the Former Agency and instead, pursuant to Health and Safety Code Section 34176(b), selected the Commission (which operates the Sonoma County Housing Authority) to retain the housing assets and functions previously performed by the Former Agency.

C. The Commission, acting in its capacity as housing successor pursuant to Health and Safety Code Section 34176(b), is now responsible for implementation of the Redevelopment Plan for the Project Area, consistent with the policies and standards of the General Plan and consistent with the goals and standards of the Redevelopment Plan; including alleviation of blighting conditions, revitalization of Project Area businesses and business districts, economic development that leads to increased employment opportunities, and the provision of affordable housing and modern community service facilities in the Project Area.

D. In 2005, the Commission and City joined together to sponsor a community visioning process in an effort to create a consensus among the local community regarding future development of the Sebastopol Road Corridor, an area located between Dutton Avenue to the east and Stony Point Road to the west. The Sebastopol Road Corridor is a core corridor of the Project Area. The result was the creation of the June 2007 Sebastopol Road Urban Vision Plan (the "Urban Vision Plan") which details the community's vision for redevelopment of the Sebastopol Road Corridor.

E. On March 18, 2011, to further the goals of the Urban Vision Plan and the Redevelopment Plan, the Former Agency acquired the Roseland Site utilizing funds from the Dissolved Redevelopment Agency's low and moderate income housing fund, established pursuant to Section 33334.2 of the California Health and Safety Code. The Roseland Site is improved with the Existing Improvements which currently house a Dollar Store (subject to the terms of an existing lease) and are subject to interim non-leasehold use by the Sonoma County Library and the Boys and Girls Club. The Commission will demolish the Existing Improvements in accordance with the terms of this Agreement.

F. The Commission succeeded to fee ownership of the Roseland Site, which constitutes a "housing asset" pursuant to Health and Safety Code Section 34176, included in the Housing Asset Transfer List approved by the DOF, and as such must be used in accordance with the Dissolution Statutes and applicable sections of the Community Redevelopment Law.

G. In September 2015, the Successor Agency and DOF entered into a Settlement Agreement associated with the Dissolution Litigation that, inter alia, approved as an "enforceable obligation" as such term is defined in Section 34171(d) of the Dissolution Statutes, that certain "Supplemental Agreement by and between the Successor Agency and County of Sonoma" re-authorizing that certain Agreement for Public Improvements for the Roseland Redevelopment Project Area (the "Public Improvement Agreement") to use up to Six Million Nine Hundred Twenty Thousand Dollars (\$6,920,000) in non-housing tax increment funds to pay for public improvements to support the mixed-used development on the Roseland Site, and authorizing the Successor Agency to use all available Roseland Redevelopment cash reserves and future Redevelopment Site Tax Trust Fund ("RPTTF") receipts to pay for remaining costs up to the amounts included in the Public Improvement Agreement.

H. Pursuant to Health and Safety Code Section 33421 and Section 33445 and subject to the terms hereof, the Commission will make best efforts to obtain additional public financing and together with the existing Agency Funds contribute toward the completion of the Remediation Work, the planning and construction of the Infrastructure Improvements as part of the Predevelopment Component of the Project. Future phases of the Project may also require the commitment of existing Agency Funds to fund the completion of the Plaza Improvements.

I. After conducting an extensive developer selection process, and through the implementation of the ENRA, the Commission has determined that the Developers have the necessary expertise, skill and ability to carry out the commitments set forth in this Agreement.

J. In August 2016, as a means to augment the Roseland Site's overall development potential, MidPen entered into a contract to purchase the Gee Parcel, a parcel located immediately adjacent to the Roseland Site. Upon Effective Date, MidPen will transfer the Gee Parcel to the Commission. The Gee Parcel together with the Roseland Site will constitute the "Master Development Site" which shall be subdivided in accordance with the terms of this Agreement. The Commission through the tentative map process intends to reconfigure and subdivide the Master Development Site to create separate development parcels, as depicted in the Conceptual Site Plan and as further described in Section 2.2 of this Agreement.

K. Under the ENRA, the Commission contemplated that the revitalization and transformation of the Roseland Site and development of the Project would occur in a series of phases and components, all as further described in Section 2.3 of this Agreement. This Agreement governs the implementation of the Predevelopment Component and the first phase of the Project which will result in the completion of the Affordable Development and the Market Rate Development ("Phase I"). The Commission and the Master Developer intend to, as outlined in Article 10 hereof, conduct arm's length voluntary contract negotiations in order to determine the land uses and Phasing Plan for the Retail Development and the Civic Development (and potentially Plaza Improvements) components of the Project, make a preliminary determination on the feasibility of the proposed second Phase of the Project, and, if desired by both Parties, to establish procedures and standards for the negotiation by the Commission and the Master

Developer of a mutually acceptable disposition and development agreement (a "Phase II DDA") for the Board of Supervisors consideration.

L. This Agreement will further the Commission's goals to promote affordable rental housing opportunities. Under the terms of this Agreement, the Commission is imposing occupancy and affordability restrictions on portions of the Project in compliance with the Dissolution Statutes. The Commission intends to apply the Affordable Units to be developed pursuant to this Agreement toward satisfaction of the statutorily mandated affordable housing production requirements for the Project Area under Health and Safety Code Section 33413(b)(2) and to meet any replacement housing requirements applicable to the Project Area pursuant to Health and Safety Code Section 34176.1.

M. The Board of Supervisors has determined that this Agreement is in the best interests of the community, and will materially contribute to the implementation of the General Plan, the Redevelopment Plan, the Urban Vision Plan, and the Roseland Redevelopment Project Area Five Year Implementation Plan.

N. The Affordable Developer and Market Rate Developer intend to finance the development of Phase I of the Project with public and private sources as more particularly set forth in Exhibit C-1 and C-2 attached to this Agreement incorporated herein by this reference, which provides the Developers' "Financing Proposals" for the anticipated financing of the development costs for Phase I of the Project as of the Effective Date, including an estimate of the sources and uses of funds for the construction of the various Development Improvements.

O. The Board of Supervisors has conducted a duly noticed public hearing on this Agreement pursuant to Health and Safety Code 33433, and the Commission is authorized and intends to convey the portions of the Master Development Site in compliance with Health and Safety Code Section 33433 and the applicable Dissolution Statutes.

P. The Affordable Developer's construction and operation of the Affordable Development is not financially feasible without the Commission's financial assistance. The amount of the Affordable Housing Loan provided pursuant to this Agreement does not exceed the amount of assistance necessary to make the Affordable Developer's acquisition of the Affordable Development Parcel and the construction and operation of the Affordable Development, as restricted by this Agreement, financially feasible.

Q. Pursuant to Government Code Section 65402, the City Planning Commission has made the findings of General Plan conformance with respect to the Agreement.

R. The City of Santa Rosa has prepared a statement of Statutory Exemption under CEQA and pursuant to 14 California Code of Regulations Section 15070. Concurrently with the consideration of this Agreement, the Commission acting in its capacity as responsible agency, in accordance with CEQA, considered the environmental effects of the Project as shown in the statement of Statutory Exemption and determined that no further CEQA analysis is required pursuant to 14 California Code of Regulations Section 15162.

S. This Agreement does not authorize or guarantee the granting of the Governmental Approvals, closing of any additional loans or grants, or the construction of the Project. Such

actions may be authorized and will become possible only upon subsequent action of the City and the parties performance under this Agreement.

THEREFORE, and in consideration of the foregoing recitals which are hereby incorporated into this Agreement by this reference, and for other good and valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the Commission, the Market Rate Developer and the Affordable Developer do hereby agree as follows:

ARTICLE 1. DEFINITIONS AND EXHIBITS

Section 1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, the following definitions apply throughout this Agreement.

(a) "Affiliate" means, with respect to a specified Person, any other Person that directly or indirectly Controls, is controlled by or is under Common Control with such specified Person.

(b) "Affordable Developer" means MidPen Housing Corporation, a California nonprofit public benefit corporation and its successors and assigns as permitted by this Agreement. The Affordable Developer is also herein sometimes referred to as the "Partnership".

(c) "Affordable Development" means the Affordable Development Parcel and the Affordable Development Improvements.

(d) "Affordable Development Close of Escrow" refers to the date that all of the following have occurred, pursuant to the terms of this Agreement: (1) the Grant Deed conveying the Affordable Development Parcel to the Affordable Developer has been recorded in the Official Records; (2) a Memorandum of DDA has been recorded against the Affordable Development Parcel; (3) the Affordable Development Loan Deed of Trust is recorded against the Affordable Development Parcel; (4) the Affordable Housing Regulatory Agreement has been recorded against the Affordable Development Parcel; (5) the Commission Housing Loan Documents have been executed and recorded pursuant to the terms thereunder; and (6) all deeds of trust (or assignments of deeds of trust) associated with the Approved Financing necessary for the construction financing of the Affordable Development, as shown on the approved Affordable Development Financing Plan, have been recorded in the Official Records against the Affordable Development Parcel.

(e) "Affordable Development Financing Plan" means the Affordable Developer's plan for financing the acquisition of the Affordable Development Parcel, the construction of the Affordable Development Improvements and the operation of the Affordable Development. The Affordable Development Financing Plan shall be approved by the Commission pursuant to Section 5.5 and may be revised from time to time with the approval of the Commission pursuant to Section 12.18.

(f) "Affordable Development Improvements" means the seventy-five (75) units of permanently affordable multifamily housing units, including the manager's units, all common areas, amenities, plans, entitlements, appurtenances, improvement easements, buildings and fixtures, and landscaping associated with the Affordable Development together with the Affordable Infrastructure Improvements.

(g) "Affordable Development Parcel" means that certain portion of the Master Development Site on which the Affordable Development Improvements will be constructed, as depicted in the attached Conceptual Site Plan.

(h) "Affordable Development Permanent Closing" means the date that all deeds of trust (or assignments of deeds of trust) associated with Approved Financing necessary for the permanent financing of the Affordable Development as shown on the approved Affordable Development Financing Plan that have been recorded in the Official Records against the Affordable Development Parcel are converted to permanent loans deeds of trust.

(i) "Affordable Housing Loan" has the meaning set forth in Section 5.2 hereof.

(j) "Affordable Housing Loan Deed of Trust" means the deed of trust executed by the Affordable Developer in connection with the Affordable Housing Loan, in a form to be provided by the Commission. The Affordable Housing Deed of Trust will be recorded in the Official Records against the Affordable Developer's fee interest of the Affordable Development Parcel upon the Affordable Development Close of Escrow.

(k) "Affordable Housing Loan Note" means the promissory note from the Developer to the Commission evidencing the Affordable Developers obligation to repay the Affordable Housing Loan, in in a form to be provided by the Commission.

(l) "Affordable Housing Regulatory Agreement" means that certain Regulatory Agreement and Declaration of Restrictive Covenants imposing the specified affordability requirements associated with the Housing Authority Loan for the Affordable Development, in in a form to be provided by the Commission. The Affordable Housing Regulatory Agreement will be recorded in the Official Records against the Affordable Developer's fee interest of the Affordable Development Parcel upon the Affordable Development Close of Escrow.

(m) "Affordable Infrastructure Agreement has the meaning set forth in Section 6.7(a).

(n) "Affordable Infrastructure Loan" has the meaning set forth in Section 5.1 hereof.

(o) "Affordable Infrastructure Improvements" means the portion of the Infrastructure Improvements constructed as part of the Affordable Infrastructure Work. .

(p) "Affordable Infrastructure Work" means that certain portion of the Infrastructure Work to be undertaken by the Affordable Developer as required by the and this Agreement City planning approvals and requirements as a condition of the building permit and/or certificate of occupancy for the Affordable Development Improvements.

(q) "Affordable Unit" means one of the units to be constructed as part of the Affordable Development Improvements on the Affordable Development Parcel.

(r) "Agency Funds" has the meaning set forth in Section 5.1, below.

(s) "Agreement" means this Disposition, Development and Funding Agreement, as such may be amended from time to time.

(t) "AMI" means the median family income (adjusted for family size) for the Sonoma County area as annually estimated by HUD pursuant to Section 8 of the United States Housing Act of 1937, and as published annually by HCD pursuant to Title 25, Section 6932 of the California Code of Regulations. If such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, then the Commission will provide other income determinations that are reasonably similar with respect to methods of calculations to those previously published by the state or provide an adequate substitute manner for determining the AMI.

(u) "Appraisal" means an appraisal performed in accordance with the Uniform Standards of Professional Appraisal Practice ("USPAP"). The interest appraised in each appraisal shall be a fee simple interest in the applicable Developer Parcel. Each appraisal of a Developer Parcel shall determine the "fair market value" or the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, as enumerated in the Appraisal Institute's definition of "fair market value." Each appraisal shall include industry-standard information and analysis to support such current fair market value determination.

(v) "Appraisal Instructions" means the appraisal instructions contained in the attached Exhibit N, incorporated herein by this reference.

(w) "Appraiser" means an appraiser selected by the Commission, with the consent of the applicable Developer, which consent will not be unreasonably delayed, withheld or denied.

(x) "Approved Financing" means the loans, grants, and other financing to be secured by a Developer, and approved by the Commission for the purpose of financing the costs of a particular component of the Project, consistent with the applicable approved Development Financing Plan.

(y) "Assignment Agreement" means any one the Assignment Agreements assigning Collateral Documents for a particular Development Improvement, securing the Commission's interest in the Project Documents, to be executed concurrently with this Agreement, substantially in the form attached hereto as Exhibit G, incorporated herein by this reference.

(z) "Bid Package" means the package of documents the Affordable Developer's general contractor is required to distribute to potential bidders as part of the process of selecting subcontractors for the Affordable Development Improvements. The Bid Package is to include the following: (1) an invitation to bid; (2) copy of the proposed construction contract; and (3) all applicable Project Documents.

(aa) "Board of Supervisors" means the Board of Supervisors of the County.

(bb) "Business Day" means a day other than a Saturday, Sunday or other day on which national banks in California are closed to the public for carrying on substantially all business functions.

(cc) "CEQA" means the California Environmental Quality Act (Public Resource Code 21000 et seq.), and its implementing regulations.

(dd) "Certificate of Completion" means the certificate to be issued by the Commission pursuant to Section 11.21 of this Agreement, a form of which is attached hereto as Exhibit L, or comparable Commission sign-off on the completion of construction of the improvements associated with a Phase or particular component of the Project. The Certificate of Completion issued by the Commission under this Agreement does not constitute a Certificate of Occupancy, which shall be issued by the City.

(ee) "Certificate of Occupancy" means one of the certificates to be issued by the City upon Completion of Construction and final inspection by the City Building Division, approving occupancy of any unit in any of the improvements associated with a particular component of the Project.

(ff) "Certified Access Specialist" means a certified access specialist registered with the State of California Department General Services Division of State Architect and who has met the requirements of Government Code Section 4459.5.

(gg) "City" means the City of Santa Rosa, a California charter city.

(hh) "Civic Development" means the Civic Development Parcel together with the Civic Development Improvements.

(ii) "Civic Development Improvements" means civic use space, other community serving space and which may include second floor office space, including all common areas, amenities, plans, entitlements, appurtenances, improvement easements, buildings and fixtures, and landscaping associated with the Civic Development. As part of the Master Planning contemplated pursuant to Article 10 hereof, the Master Developer intends to further refine the scope and scale of the Civic Development.

(jj) "Civic Development Parcel" means that certain portion of the Master Development Site on which the Civic Development Improvements will be constructed, as depicted in the attached Conceptual Site Plan.

(kk) "CLRRRA Agreement" means that certain Standard Agreement for Participating under California's Land Reuse and Revitalization Act (CLRRRA) Program, by and between the Commission and the Water Board further discussed in Section 6.2, below and attached hereto as Exhibit T, incorporated herein by this reference.

(ll) "Collateral Documents" means a Developer's right, title and interest to all project agreements, including but not limited to development reports, all contracts, architect's agreements, engineer's agreements, management agreements, and all other contracts and agreements which concern the development and/or operation of the Project (or any component thereof), all Governmental Approvals (including but not limited to all permits and licenses), plans, specifications, drawings, franchises, utility agreements and similar materials not yet obtained, and any other documents and information related to the Project, reports, Plans and Specifications, and general documents associated with the Project. For purposes of clarifying the foregoing, Collateral Documents expressly exclude any documents that, pursuant to applicable law, a Developer does not have the right to pledge and assign as contemplated by this Agreement.

(mm) "Commencement of Construction" means the date on which a Developer or the Commission commences construction on a specified component of the Project.

(nn) "Commercial Development" means the Commercial Parcel together with the Commercial Development Improvements.

(oo) "Commercial Development Improvements" means the commercial space, including all common areas, amenities, plans, entitlements, appurtenances, improvement easements, buildings and fixtures, and landscaping associated with the Commercial Development. As part of the Master Planning contemplated pursuant to Article 10 hereof, the Master Developer intends to further refine the scope and scale of the Commercial Development.

(pp) "Commercial Development Parcel" means that certain portion of the Master Development Site on which the Commercial Development Improvements will be constructed, as depicted in the attached Conceptual Site Plan.

(qq) "Commission" has the meaning set forth in the first paragraph of this Agreement.

(rr) "Commission Event of Default" has the meaning set forth in Section 14.4.

(ss) "Commission Housing Loan Documents" means this Agreement, the Affordable Housing Loan Note, the Affordable Housing Loan Deed of Trust, the Affordable Housing Regulatory Agreement, the Notice of Affordability Covenants, an Assignment Agreement (for the Collateral Documents associated with the Affordable Development), and any other documents executed by the Commission and the Affordable Developer or by the Affordable Developer for the benefit of the Commission in connection with this Agreement.

(tt) "Community Redevelopment Law" means California Health and Safety Code 33000 et seq.

(uu) "Completion of Construction" means the date a Developer receives a Certificate of Occupancy for the Developer's respective Development Improvements.

(vv) "Concept Drawings" means the basic site plan, elevations and sections of the Phase I Development Improvements.

(ww) "Conceptual Site Plan" means the schematic document showing the basic physical characteristics of the Development Improvements and the location of the Development Improvements. The Conceptual Site Plan is attached hereto as Exhibit B, incorporated herein by this reference.

(xx) "Construction Bonds" means copies of labor and material bonds and performance bonds for the Construction Work in an amount equal to one hundred percent (100%) of the scheduled cost of the Construction Work.

(yy) "Construction Contracts" means the construction contracts approved by the Commission pursuant to the terms of Section 11.7 hereof.

(zz) "Construction Work" means the physical Construction Work to construct the respective Development Improvements in accordance with the approved Plans and Specifications and the Governmental Approvals, applicable to each component of the Project.

(aaa) "Control" means direct or indirect management or control of the: (1) managing member or members in the case of a limited liability company; (2) the managing general partner or general partners in the case of a partnership; and (3) boards of directors that overlap by fifty percent (50%) or more of their directors, or a majority of the directors in the case of a corporation.

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

(ccc) "Developer Event of Default" has the meaning set forth in Section 14.2.

(ddd) "Developers" means the Affordable Developer, the Market Rate Developer, the Master Developer, and their successors and assigns as permitted by this Agreement.

(eee) "Developer Parcels" means any one of the Affordable Development Parcel or the Market Rate Development Parcel. The term Developer Parcel means any one of the Developer Parcels. For the avoidance of doubt, the Commercial Parcel, Civic Parcel and Plaza Parcel are all excluded from the definition of "Developer Parcels".

(fff) "Development Improvements" means any one of the Affordable Development Improvements or the Market Rate Development Improvements, as applicable. For the avoidance of doubt, improvements to the Commercial Parcel, Civic Parcel and Plaza Parcel are all excluded from the definition of "Development Improvements."

(ggg) "Development Schedule" means the schedule attached hereto as Exhibit E, as approved by the Commission setting forth the Developers anticipated schedule for the conveyance of the Developer Parcels and construction of the phases of the Project by the Developers.

(hhh) "Dissolution Litigation" refers to the following cases *Successor Agency to Sonoma County Community Redevelopment Agency v. Matosantos*, Sacramento Superior Court, Case No. 34-2013-80001378, and *Successor Agency to Sonoma County Community Redevelopment Agency v. Matosantos*, Sacramento Superior Court, Case No. 34-2013-80001537.

(iii) "Dissolution Statutes" means the Community Redevelopment Law, Health and Safety Code Section 33000 et seq., as modified by AB 1x 26, AB 1484, SB 107 and SB 341.

(jjj) "DOF" means the California Department of Finance.

(kkk) "Effective Date" means the date this Agreement is entered into by the Parties as first written above.

(lll) "ENRA" means that certain Exclusive Negotiating Agreement dated June 29, 2016, by and between the Commission and MidPen.

(mmm)"Environmental Assessment Documents" are the documents listed in Exhibit O, incorporated herein by this reference.

(nnn) "Executive Director" means the individual duly appointed to the position of Executive Director of the Commission, or that person's authorized designee. Whenever an administrative action is required by the Commission to implement the terms of this Agreement, the Executive Director, or the Executive Director's authorized designee, shall have authority to act on behalf of the Commission, except with respect to matters reserved for the Board of Supervisors.

(ooo) "Existing Improvements" means the free standing 33,656 square foot retail building, the existing 11,000 square foot building located on the Gee Parcel, together with surface parking and vacant lands.

(ppp) "Existing Tenants" means the occupants of the Existing Buildings, including the leasehold tenant of the Dollar Tree, and non-leasehold licensees including the County library and the Boys and Girls Club.

(qqq) "Final Construction Drawings" means the construction drawings described in Section 7.3 of this Agreement.

(rrr) "Financing Plans" means a Developers' plan for financing the acquisition of a Developer Parcel and the development of the applicable Development Improvements, including a detailed development budget, construction and permanent financing commitment letters, to be approved by the Commission pursuant to Sections 5.5 or Section 5.8, and which may be revised from time to time with the approval of the Commission pursuant to Sections 11.18 of this Agreement.

(sss) "Financing Proposal" means the proposed sources and uses breakdown of development of the Development Improvements prepared by the Developers and approved by the Commission as of the date of this Agreement. The initial Commission approved Financing Proposals for the Development Improvements are attached to this Agreement as Exhibit C-1 and Exhibit C-2, incorporated herein by this reference. The initial Commission approved Financing Proposals shall serve as the base documents for the Financing Plans which the Developers must submit for Commission approval pursuant to Sections 5.5 or Section 5.8 of this Agreement.

(ttt) "Final Subdivision Map" means the final subdivision map creating the Developer Parcels.

(uuu) "Former Agency" means the former Sonoma County Community Redevelopment Agency.

(vvv) "Gee Parcel" means that certain property located at 883 Sebastopol Rd, Santa Rosa, APN 125-101-031 immediately adjacent to the Roseland Site, as more particularly described in the legal description attached hereto as Exhibit A-2, incorporated herein by this reference.

(www) "General Plan" means the County's General Plan, and as applicable the City's General Plan.

(xxx) "Governmental Approvals" has the meaning set forth in Section 7.2, below.

(yyy) "Grant Deed" means the grant deed by which the Commission conveys a Developer Parcel to the applicable Developer, substantially in the form attached hereto as Exhibit I, incorporated herein by this reference.

(zzz) "Hazardous Materials" means: (1) any "hazardous substance" as defined in Section 101(14) of CERCLA (42 U.S.C. Section 9601(14)) or Section 25281(d) or 25316 of the California Health and Safety Code as amended from time to time; (2) any "hazardous waste" "infectious waste" or "hazardous material" as defined in Section 25117, 25117.5 or 25501(j) of the California Health and Safety Code as amended from time to time; (3) any other waste, substance or material designated or regulated in any way as "toxic" or "hazardous" in the RCRA (42 U.S.C. Section 6901 et seq.), CERCLA (42 U.S.C. Section 9601 et seq.), Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), Safe Drinking Water Act (42 U.S.C. Section 300(f) et seq.), Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.), Clean Air Act (42 U.S.C. Section 7401 et seq.), California Health and Safety Code (Section 25100 et seq., Section 39000 et seq.), or California Water Code (Section 13000 et seq.) as amended from time to time; and (4) any additional wastes, substances or materials which at such time are classified, considered or regulated as hazardous or toxic under any other present or future environmental or other similar laws relating to the Project. The term "Hazardous Materials" does not include: (A) construction materials, gardening materials, household products, office supply products or janitorial supply products customarily used in the construction or maintenance, of residential or commercial developments, or typically used in office or residential activities; or (B) certain substances which may contain chemicals listed by the State of California pursuant to California

Health and Safety Code Sections 25249.8 et seq., which substances are commonly used by a significant portion of the population living within the region of the Project, including, but not limited to, alcoholic beverages, aspirin, tobacco products, nutrasweet and saccharine, so long as such materials and substances are stored, used and disposed of in compliance with all applicable Hazardous Materials Laws.

(aaaa) "Hazardous Materials Laws" means all federal, state, and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials in, on or under the Master Development Site (and any future parcels created pursuant to the terms of this Agreement) or any portion thereof.

(bbbb) "HCD" means the State of California Department of Housing and Community Development.

(cccc) "Housing Asset Transfer List" means the list prepared by the Commission in August 2012 pursuant to Health and Safety Code Section 34176(a)(2), and submitted to the DOF, including the Roseland Site as a housing asset. The DOF did not object to the transfer of the Roseland Site as a housing asset and on September 1, 2012, the Roseland Site was deemed approved as a housing asset.

(dddd) "Indemnitees" means the Commission, the County, and their board members, officers, directors, representatives, consultants, agents and employees, individually and collectively.

(eeee) "Infrastructure Improvements" means the backbone infrastructure work, which generally includes, sewer, water, storm, utility services installation, roadways, sidewalks, street lighting and other related improvements, as further detailed in the Scope of Infrastructure Work described in Exhibit F, attached hereto and incorporated herein by this reference.

(ffff) "Infrastructure Work" means the demolition, grading, and design and installation of the Infrastructure Improvements, as further detailed in Exhibit F attached hereto and incorporated herein by this reference.

(gggg) "Market Rate Developer" means UrbanMix Development, LLC, and its successors and assigns as permitted by this Agreement.

(hhhh) "Market Rate Development" means the Market Rate Development Parcel together with the Market Rate Development Improvements.

(iiii) "Market Rate Development Close of Escrow" refer to the date that all of the following have occurred, pursuant to the terms of this Agreement: (1) the Grant Deed conveying the Market Rate Development Parcel to the Market Rate Developer has been recorded in the Official Records; (2) all deeds of trust (or assignments of deeds of trust) associated with the Approved Financing necessary for the construction financing of the Market Rate Development, as shown on the approved Market Rate Development Financing Plan, have been recorded in the Official Records against the Market Rate Development Parcel.

(jjjj) "Market Rate Development Financing Plan" means the Market Rate Developer's plan for financing the acquisition of the Market Rate Development Parcel and the development and operation of the Market Rate Development Improvements to be approved by the Commission pursuant to Section 5.8 and which may be revised from time to time with the approval of the Commission pursuant to Section 11.18.

(kkkk) "Market Rate Development Improvements" means the one hundred (100) market rate multifamily housing units including all common areas, amenities, plans, entitlements, appurtenances, improvement easements, buildings and fixtures, and landscaping associated with the Market Rate Development.

(llll) "Market Rate Development Parcel" means that certain portion of the Master Development Site on which the Market Rate Development Improvements will be constructed, as depicted in the attached Conceptual Site Plan.

(mmmm) "Master Development Site" has the meaning set forth in Recital J.

(nnnn) "Memorandum of DDA" means the Memorandum of Disposition and Development and Funding Agreement to be recorded against the applicable Developer Parcels at the Close of Escrow for the respective Developer Parcels contemplated to be transferred under this Agreement. A form of the Memorandum of DDA is attached hereto as Exhibit H, and incorporated herein by this reference.

(oooo) "MidPen" means MidPen Housing Corporation, a California nonprofit public benefit corporation, and its successors and assigns as permitted by this Agreement, which shall also be referred to herein as the Sponsor.

(pppp) "Notice of Affordability Restrictions" means that certain Notice of Affordability Restrictions on Transfer of Property that will be recorded in the Official Records against the Affordable Developer's fee interest of the Affordable Development Parcel at the Affordable Development Close of Escrow and will restrict the development and operation of the Affordable Development Parcel to affordable housing in perpetuity, in in in a form to be provided by the Commission, pursuant to Sections 33334.3 and/or 33413(c)(5) of the Community Redevelopment Law, or successor provisions.

(qqqq) "Official Records" means the official land records of the County of Sonoma maintained by the Sonoma County Recorder.

(rrrr) "Operating Memorandum" has the meaning set forth in Section 17.19, below.

(ssss) "Parties" means the Commission, the Affordable Developer, the Market Rate Developer, and the Master Developer and the term Party refers to each of them individually, as applicable.

(tttt) "Partnership" means a limited partnership created for the purpose of syndicating the Tax Credits, which will assume ownership of the Affordable Development and the Developer's obligations under this Agreement pursuant to an assignment and assumption

agreement in a form provided by the Commission. The Partnership will own the Affordable Development and is herein also referred to as the Affordable Developer.

(uuuu) "Partnership Agreement" means the limited partnership agreement of the Partnership and related documents (including, without limitation, a budget for the use of capital contributions, any funding agreement, any option for MidPen, the Affordable Developer or another affiliate of MidPen to repurchase the Affordable Development from the Partnership) approved by the Commission pursuant to Section 13.4.

(vvvv) "Permanent Financing" means the sources of approved permanent financing as listed in the Affordable Development Financing Plan.

(www) "Phase" shall mean generally a phase or component phase of the Project as described in Section 2.3, below.

(xxxx) "Phase I" has the meaning set forth in Recital K, above.

(yyyy) "Phase II DDA" has the meaning set forth in Recital K, above.

(zzzz) "Phasing Plan" has the meaning set forth in Section 10.8, below.

(aaaaa) "Plans and Specifications" means all construction documentation upon which a Developer, and a Developer's several contractors, shall rely in building each and every part of the applicable Development Improvements and shall include, but not necessarily be limited to, final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications (also known as "working drawings"). Submission of digital copies of the documents constituting the Plans and Specifications will be deemed sufficient to meet the requirements of Section 7.3, below.

(bbbbb) "Plaza Development" means the Plaza Parcel together with the Plaza Improvements.

(ccccc) "Plaza Funding" means approximately Five Hundred Thousand Dollars (\$500,000) of funds committed by the Open Space District which may only be used by the Commission to fund the construction of the Plaza Improvements.

(ddddd) "Plaza Improvements" means the plaza; adjacent street and sidewalk improvements; and landscape, lighting, and open space improvements not otherwise included in the backbone infrastructure.

(eeee) "Plaza Temporal Lease" has the meaning set forth in Section 3.3 hereof.

(ffff) "Plaza Parcel" means that certain portion of the Master Development Site, on which the permanent Plaza Improvements will be constructed, as depicted in the attached Conceptual Site Plan.

(ggggg) "Plaza Temporal Activities Plan" has the meaning set forth in Section 3.1 hereof.

(hhhhh) "Plaza Temporal Funding" means approximately Three Hundred Fifty Thousand Dollars (\$350,000) of funds committed by the Commission which may only be used by the Commission to fund the design and construction of the Plaza Temporal Improvements and the Plaza Temporal Activities.

(iiii) "Plaza Temporal Improvements" means the fencing, lighting, restroom, and other similar temporary improvements, as further detailed in in Exhibit Q, incorporated herein by this reference.

(jjjj) "Plaza Temporal Operator" means Octavio Diaz or a single purpose entity Controlled by Octavio Diaz.

(kkkkk) "Plaza Temporal Property" means that portion of the Master Development Site identified in the Plaza Temporal Site Map and designated to be used for the Plaza Temporal Activities.

(llll) "Plaza Temporal Site Map" means the site map attached hereto as Exhibit P, incorporated herein by this reference depicting the portion of the Master Development Site designated to be used for the Plaza Temporal Activities.

(mmmmm) "Predevelopment Component" has the meaning set forth in Section 6.1 below.

(nnnnn) "Professional Services Agreement" means that certain Agreement for Professional Services, by and between the Commission and MidPen, dated as of July 20, 2016, related to services for planning, entitlement, and other predevelopment activities.

(ooooo) "Project Area" means the Roseland Redevelopment Project Area, as more particularly defined in the Redevelopment Plan.

(ppppp) "Project Documents" means all construction documentation, developed pursuant to Section 7.3 of this Agreement, upon which a Developer, and the Developer's several contractors, must rely in building each and every part of the Development Improvements (including landscaping, parking, and common areas) and may include, but not necessarily be limited to, the Concept Drawings, the Schematic Design Drawings and Final Construction Drawings, the final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications (also known as "working drawings") and a time schedule for construction.

(qqqqq) "Redevelopment Plan" means the Redevelopment Plan for the Roseland Redevelopment Project Area, adopted by the Board of Supervisors on November 27, 1984, by Ordinance No. 3377.

(rrrrr) "Remediation and Infrastructure Financing Proposal" means the proposed sources and uses breakdown of development of the Predevelopment Component prepared by the Commission, in consultation with the Developers. The initial Remediation and Infrastructure Financing Proposal is attached to this Agreement as Exhibit C-3, incorporated herein by this reference.

(sssss) "Remediation Work" means all actions identified in the Response Plan required under the CLRRRA Agreement and funded with the SCAP grant to support the redevelopment of the Roseland Village Site for its intended use, including among other things: (1) pilot tests; (2) sampling and assessment; (3) remedial and contingency actions; (4) interim response actions (e.g., vapor intrusion mitigation measures); (5) contingency measures; and (6) operating and maintenance obligations. As used in this Agreement, the term "Active Remediation Work" shall mean all actions identified in the Response Plan other than operating and maintenance obligations, engineering controls and other monitoring that will continue after the conveyance of the Developer Parcels.

(ttttt) "Released Parties" means the Commission, the County, and their board members, officers, directors, representatives, consultants, agents and employees, individually and collectively.

(uuuuu) "Response Plan" means the response plan containing the information specified in Health and Safety Code Section 25395.96 (a) and (b) and required under the CLRRRA Agreement, attached hereto as Exhibit T. The Response Plan may be revised to incorporate additional items required under the Scope of Work to be attached as Exhibit A of the SCAP Grant Agreement.

(vvvvv) "Roseland Implementation Plan" means that certain Roseland Redevelopment Project Five Year Implementation Plan for the Period 2006-2001, adopted by the Former Agency on October 03, 2006 as amended on December 15, 2009. For the purposes of implementation of this Agreement, the Roseland Implementation Plan continues to apply for the term of this Agreement.

(wwwww) "Roseland Site" means that certain real property commonly known as 665 Sebastopol Road, Santa Rosa, CA, designated in the Sonoma County land records as APN 125-111-037, as more particularly described in the legal description attached hereto as Exhibit A-1, incorporated herein by this reference.

(xxxxx) "SCAP Grant Agreement" means an agreement between the State Water Board and the Commission under which the State Water Board would provide the Commission funding under the Site Clean Subaccount Program ("SCAP") to remediate harm or threat of harm to human health, safety, and the environment from surface water or groundwater contamination.

(yyyyy) "Schematic Design Drawings" means the initial drawings for the Development Improvements showing site plans, elevations and landscape features for the Development Improvements as more particularly described in Section 7.3, below.

(zzzzz) "Scope of Development" means the description of the basic physical characteristics of the Project, including a basic site plan, which will serve as a basis for the Developers' application for the Governmental Approvals and for the preparation of the Project Documents. The Scope of Development is attached to this Agreement as Exhibit D, incorporated herein by this reference.

(aaaaaa) "Security Financing Interest" has the meaning set forth in Section 15.1, below.

(bbbbbb) "State Water Board" means the California State Water Resources Control Board.

(ccccc) "Subdivision Code" means Title 19 of the City Municipal Code and Chapter 25 of the Sonoma County Code of Ordinances.

(ddddd) "Tax Credit Investor" means a reputable equity investor, reasonably acceptable to the Commission, committed to in consideration of an allocation of Tax Credits, acquires a limited partner interest in the Partnership.

(eeeeee) "Tax Credit Reservation" means a preliminary allocation of Tax Credits from TCAC.

(fffff) "Tax Credits" means 4% Low Income Housing Tax Credits granted pursuant to Section 42 of the Internal Revenue Code and/or California Revenue and Taxation Code Sections 17057.5, 17058, 23610.4 and 23610.5 and California Health and Safety Code Sections 50199, et seq., as such may be amended.

(ggggg) "TCAC" means the California Tax Credit Allocation Committee.

(hhhhh) "Term" has the meaning set forth in Section 4.2, below.

(iiiiii) "Title Company" means Old Republic Title Company, or such other title company as the Parties may mutually select.

(jjjjj) "Title Report" means that certain title report dated _____, 20__, issued by the Title Company for the Master Development Site.

(kkkkk) "Transfer" has the meaning set forth in Section 13.1.

(lllll) "Water Board" means the North Coast Regional Water Quality Control Board.

Section 1.2 Exhibits. The following exhibits are attached to and incorporated in the Agreement:

Exhibit A-1:	Legal Description of Roseland Site
Exhibit A-2:	Legal Description of Gee Parcel
Exhibit B:	Conceptual Site Plan
Exhibit C-1:	Remediation and Infrastructure Financing Proposal
Exhibit C-2:	Affordable Development Financing Proposal
Exhibit C-3:	Market Rate Development Financing Proposal
Exhibit D:	Scope of Development
Exhibit E:	Development Schedule
Exhibit F:	Scope of Infrastructure Work

Exhibit G:	Form of Assignment Agreement (Collateral Documents)
Exhibit H:	Form of Memorandum of DDA
Exhibit I:	Form of Grant Deed
Exhibit J:	Form of DDA Assignment and Assumption Agreement
Exhibit K:	Insurance Requirements
Exhibit L:	Form of Certificate of Completion
Exhibit M:	Terms of DDA Surviving Termination
Exhibit N:	Appraisal Instructions
Exhibit O:	Environmental Assessment Documents
Exhibit P:	Plaza Temporal Site Map
Exhibit Q:	Plaza Temporal Improvements
Exhibit R:	Plaza Temporal Lease
Exhibit S:	PLL Policy
Exhibit T:	CLRRRA Agreement
Exhibit U:	Form of Housing Loan Agreement

ARTICLE 2. PURPOSE AND OVERVIEW

Section 2.1 Project Overview.

(a) The redevelopment of the Roseland Village Site will necessarily occur as a multi-phased mixed use development (the "Project") which is anticipated to include various components, as further described in Section 2.3 below. The Commission has found that the feasibility of the Affordable Housing Development is dependent on the success and implementation of the mixed used Project that includes the Market Rate Development, and potentially, the Commercial Development, and the Civic Development and the Plaza Development. The first phase of the Project will prioritize the development of the Affordable Housing Development and the Market Rate Housing Development, and the implementation of the Plaza Temporal Activities as further described in Article 3 hereof. The second Phase of the Project will consist of the Commercial Development, and the Civic Development.

(b) The purposes of this Agreement, as more specifically set forth herein, are to: (1) govern the use of the Agency Funds by the Commission to fund in part specified portions of the Predevelopment Component; (2) provide for the orderly completion of the Remediation Work; (3) provide for the orderly creation of the Development Parcels; (4) allow for the implementation of the Plaza Temporal Activities; (5) cause the construction and completion of the Infrastructure Improvements, the Affordable Development Improvements, and the Market Rate Development Improvements; (6) set forth the ongoing requirements for the operation and maintenance of the Affordable Development Improvements; and (7) set the parameters for preliminary feasibility determinations on future Phases of the Project.

Section 2.2 Property.

(a) Land Ownership as of Effective Date. As of the Effective Date, the Commission owns the Roseland Site and the Gee Parcel. The Gee Parcel will be incorporated into the Roseland Site to form the Master Development Site. Following the recordation of the

tentative map, the Master Development Site will be subdivided and the following parcels will be created and owned by the Commission: (1) the Plaza Parcel; (2) the Affordable Development Parcel (including the entire Gee Parcel); (3) the Market Rate Development Parcel; (4) the Commercial Development Parcel; and (5) the Civic Development Parcel.

(b) Plaza Temporal Property. The Commission intends to make portions of the Master Development Site available for purposes of implementing the Plaza Temporal Activities in accordance with the Plaza Temporal Activities Plan. The Plaza Temporal Property is depicted in the Plaza Temporal Site Map attached here to as Exhibit P, incorporated herein by this reference. The Parties agree and acknowledge that the Plaza Temporal Property is not a separate legal parcel, and the fee title to the underlying Master Development Site or any of the parcels to be created pursuant to Section 2.2(a) above with respect to the Plaza Temporal Property, shall remain with the Commission regardless of the implementation of the Plaza Lease under Section 3.3, below.

(c) Land Ownership Following Conveyances Pursuant to Agreement. Following the recordation of the final map and assuming the completion of the conveyances contemplated pursuant to the requirements of this Agreement, the following entities will own the following parcels: (1) the Affordable Developer will own the Affordable Development Parcel; (2) the Market Rate Developer will own the Market Rate Development Parcel; (3) the Commission intends to retain ownership of the Plaza Parcel, the Commercial Development Parcel, and the Civic Development Parcel. The parties anticipate that specified portions of the public improvements to be constructed as part of the Predevelopment Component will be dedicated to the City, following recordation of the Final Map.

(d) Use of Terms. When this Agreement refers to a parcel that has not yet been formed, it is intended to cover the existing parcel or portion of the existing parcel of which such unformed parcel is a part. When this Agreement refers to a parcel that has been formed, it is intended to cover the portions of the previous parcel of which such formed parcel is a part.

Section 2.3 Development Components.

(a) The redevelopment of the Master Development Site and implementation of the Project is currently planned to consists of the following phased components: (1) the Predevelopment Component; (2) the Affordable Housing Development; (3) a Market Rate Housing Development; (4) the Commercial Development; (5) a Civic Development, and (6) the Plaza Development.

(b) Interim Use. The Parties desire to use the Master Development Site for the interim uses specified in Article 3 hereof.

(c) Predevelopment Component Commission Obligations. The Predevelopment Component shall commence prior to Phase I of the Project. During the Predevelopment Component the Commission shall make best efforts to: (1) continue to fund the Professional Services Agreement; (2) relocate the Existing Tenants; (3) address any title objections set forth by the Master Developer and cause the demolition of the Existing Buildings; (4) apply for and accept additional funding to fund the Remediation Work; (5) make available to the Master Developer and Plaza Temporal Operator, the Plaza Temporal Property for purposes of

implementing the Plaza Temporal Improvements and the Plaza Temporal Activities pursuant to the Plaza Temporal Lease; (6) fund the preparation and recordation of a tentative map; (7) to the extent the Commission receives sufficient funding and subject to the satisfaction of the requirements set forth in Section 6.6, complete the Active Remediation Work on the Roseland Site pursuant to the terms of the CLRRA Agreement and Response Plan (e.g., groundwater treatment, soil vapor extraction, soil excavation and associated monitoring); (8) to the extent the Commission receives sufficient funding and subject to the satisfaction of the requirements set forth in Section 6.8, complete construction of the Infrastructure Improvements; and (9) undertake the Plaza Temporal Improvements.

(d) Predevelopment Component Developer Obligations. During the Predevelopment Component, the Master Developer shall: (1) pursue approval by the Commission of the Plaza Temporal Activities Plan and implement the Plaza Temporal Development Activities on Plaza Temporal Property; (2) assist the Commission with applying for funding and managing the implementation of the Remediation Work; (3) coordinate the predevelopment and entitlement of the Infrastructure Improvements; and (4) continue performance under the Professional Services Agreement. In addition, the Market Rate Developer shall conduct planning activities for the Market Rate Development Improvements included in Phase I and the Affordable Developer shall conduct planning activities for the Affordable Development Improvements included in Phase I.

(e) Phase I Component. Phase I of the Project shall consist of the construction, including implementation of passive Remediation Work on the Roseland Site pursuant to the terms of the CLRRA Agreement, the SCAP Grant Agreement, and the Response Plan (e.g., installation and testing of vapor intrusion mitigation measures, groundwater and soil gas monitoring), of the Affordable Development Improvements on the Affordable Development. All of the low-income housing tax credit units will be made available to households at or below eighty percent (80%) of AMI, as adjusted for household size, and subject to the requirements under the TCAC regulations. The construction of the Affordable Development Improvements will be implemented by the Affordable Developer. Phase I of the Project shall also consist of the construction of the Market Rate Development Improvements on the Market Rate Development Parcel. The construction of the Market Rate Improvements will be implemented by the Market Rate Developer. The Parties hereby acknowledge and agree that all of the components of Phase I may not proceed simultaneously, notwithstanding the requirement of Sonoma County Code 26-89-040 (c)(1) and Santa Rosa City Code 21-02.050, the Market Rate Component may precede the Affordable Housing Component, subject to any requirements that may be imposed by the City.

(f) Future Phases. The remaining components of the Project, as set forth herein, are anticipated to be constructed in one or more additional Phases. The future Phases consist of the Commercial Development Improvements on the Commercial Development Parcel, and the design and construction of the Civic Development Improvements on the Civic Development Parcel. It shall also include the ongoing operation, maintenance and monitoring portion of the Remediation Work required under the Response Plan, as applicable. Pursuant to Article 10 hereof, the Master Developer and the Commission will work toward defining the scope and scale of the Commercial Development Improvements and the Civic Development Improvements and the feasibility of the future Phases of the Project.

Section 2.4 Recordation of Memorandum of Agreement.

(a) Concurrently with a Developers acquisition of a Developer Parcel, a Memorandum of DDA shall be recorded in the Official Records against title to the applicable Developer Parcel, subject only to such liens, encumbrances and other exceptions to title approved in writing and in advance by the Commission.

(b) As part of the Affordable Development Close of Escrow, the Affordable Housing Regulatory Agreement shall be recorded in the Official Records against title to the Affordable Development Parcel, subject only to such liens, encumbrances and other exceptions to title approved in writing and in advance by the Commission. The Affordable Housing Regulatory Agreement shall be recorded senior to all liens and will not be subordinated, without the prior approval of the Executive Director, or by any person(s) who have been designated in writing by the Executive Director. Without limiting the generality of the foregoing, the Commission agrees that in the event of a foreclosure, or delivery of deed in lieu of foreclosure, of any lien recorded in connection with financing approved in the Affordable Housing Financing Plan, the Commission hereby agrees that, to the extent required by any other lender in connection with the Affordable Development Parcel and to the extent such modification is necessary to make the Affordable Housing Development financially feasible, the rents and affordability restrictions in the Regulatory Agreement shall be increased to the minimum extent required necessary to achieve financial feasibility of the Affordable Housing Development.

ARTICLE 3. PLAZA TEMPORAL

Section 3.1 Plaza Temporal Activities and Lease.

(a) The Parties desire to introduce temporary uses on portions of the Master Development Site designated as the Plaza Temporal Property to provide community events, food and beverage service, public gathering space and other activities to maximize use of the Roseland Site (the "Plaza Temporal Activities"). To assist the Master Developer in planning, the Master Developer intends to coordinate with the Plaza Temporal Operator. The Plaza Temporal Property must at all times be managed by an experienced operator reasonably acceptable to the Commission, with demonstrated ability to operate facilities like the Plaza Temporal Property in a manner consistent with the Plaza Activities Plan (defined below). The Commission hereby preapproves Notre Mere Inc., DBA: Mitotero Food Park as the Plaza Temporal Operator.

(b) No later than the date set forth in the Development Schedule, the Plaza Temporal Operator, shall present to the Commission for approval a Plaza Temporal Activities Plan ("Plaza Temporal Activities Plan"). The Plaza Temporal Activities Plan shall: (1) set forth a budget for maintenance costs for the upcoming year, a timeline for implementation of the Plaza Temporal Activities, the activities to be performed, a projection of any costs associated with the activities and any projected revenues, and the reimbursement schedule and process for maintenance costs incurred pursuant to the Plaza Temporal Activities Plan; (2) a date for commencement of Plaza Temporal Activities; (3) a calendar for all Plaza Temporal Activities

events for the first year; (4) a site plan for all events; and (5) a marketing plan for Plaza Temporal Activities.

(c) The Commission shall review the Plaza Temporal Activities Plan and either approve or disapprove the Plaza Temporal Activities Plan, which shall be incorporated into the Plaza Temporal Lease once approved by the Commission.

Section 3.2 Plaza Temporal Funding.

(a) The Commission shall make available the Plaza Temporal Funding in the amount of Three Hundred Fifty Thousand Dollars (\$350,000) for Plaza Temporal Activities and the Plaza Temporal Improvements, subject to approval by the CDC of Plaza Temporal Activities Plan. The Commission and Plaza Temporal Operator shall use the Plaza Temporal Funding to pay for the installment of the Plaza Temporal Improvements on the Plaza Temporal Property and the Plaza Temporal Activities. The Commission, the Master Developer and Plaza Temporal Operator may execute a funding agreement, or disbursement agreement, and any and all documents necessary for the Commission to coordinate the disbursement of the Plaza Temporal Funding.

(b) The Plaza Temporal Operator hereby agrees that lease revenues generated from the Plaza Temporal Lease and the use of the Plaza Temporal Property will be used by the Commission to cover costs associated with the Plaza Temporal Activities and maintenance of the Plaza Temporal Property or to fund other Project costs at the Commission's sole and absolute discretion and subject to the approval of the Board of Commissioners. The Plaza Temporal Operator and Commission further agree that net revenue, including lease revenue, generated from the Plaza Temporal Activities in excess of revenues used to cover costs associated with the Plaza Temporal Activities and the use and maintenance of the Plaza Temporal Property shall be set aside by the Commission to fund the Plaza Improvements or to fund other Project costs at the Commission's sole and absolute discretion and subject to the approval of the Board of Commissioners.

Section 3.3 Plaza Temporal Lease.

The Commission and the Plaza Temporal Operator have agreed to the terms of a short-term lease for the Plaza Temporal Property (the "Plaza Temporal Lease") to allow the Commission to implement installation of Plaza Temporal Improvements and to allow the Plaza Temporal Operator access and use the Plaza Temporal Property solely for the purpose set forth in the approved Plaza Temporal Activities Plan, and in accordance with the terms and conditions of this Agreement and the Plaza Temporal Activities Plan. The form of the Plaza Temporal Lease is attached hereto as Exhibit R, incorporated herein by this reference.

Section 3.4 Plaza Temporal Uses.

Subject to the negotiation and approval of the Plaza Temporal Lease, the Commission shall permit the Plaza Temporal Operator to enter upon the Plaza Temporal Property for the sole and exclusive purpose of implementing installation of the Plaza Temporal Improvements and the Plaza Temporal Operator conducting activities approved in the Plaza Temporal Activities Plan. The lessee under the Plaza Temporal Lease shall not use the Plaza Temporal Property for (nor

shall the Master Developer or Plaza Temporal Operator permit any party claiming by, under, or through them to use the Plaza Temporal Property for) any purpose other than as specifically set forth in the Plaza Temporal Activities Plan.

Section 3.5 Plaza Temporal Lease Term.

The Plaza Temporal Lease with the Commission shall commence as of the date of execution of the Lease but no earlier than the date the Board of Supervisors approves the Plaza Temporal Lease and shall terminate the earlier of (1) obtaining a Temporary Certificate of Occupancy for the Improvements of the Plaza Temporal, or (2) three hundred sixty (360) days from the Commencement of the Plaza Temporal Lease, unless earlier terminated in accordance with other applicable provisions in the Lease. Notwithstanding anything to the contrary, the Plaza Temporal Lease shall include terms that allow the Commission to terminate the lease with thirty (30) days written notice, and contains a waiver by the Plaza Temporal Operator of any relocation assistance benefits under the Federal Uniform Relocation Assistance Act (42 U.S.C. 4601 et seq.) and the California Relocation Assistance Law (Cal. Gov. Code 7270, et seq.).

Section 3.6 Commission's Right to Enter the Plaza Temporal Property. The Plaza Temporal Operator agrees and acknowledges that the Commission, its agents and employees, right to enter onto the Plaza Temporal Property shall be provided for in the Plaza Temporal Lease.

ARTICLE 4.
TERM OF AGREEMENT

Section 4.1 Effective Date. The Effective Date of this Agreement is stated in the first paragraph of this Agreement.

Section 4.2 Term. The Term of this Agreement shall mean the following:

(a) Affordable Housing Development. As applied to the Affordable Housing Development, the Term of this Agreement shall commence on the Effective Date and end on the earliest of: (1) the Affordable Development Permanent Closing; or (2) the date of any termination of this Agreement in accordance with the provisions hereof.

(b) Market Rate Housing. As applied to the Market Rate Development, the Term of this Agreement shall commence on the Effective Date and end on the earliest of: (1) the Close of Escrow for the transfer of the Market Rate Development Parcel; or (2) the date of any termination of this Agreement in accordance with the provisions hereof.

(c) Future Phases. As applied to the future Phases of the Project, the Term of this Agreement shall commence on the Effective Date and end on the earliest of: (1) expiration of the Negotiation Period pursuant to Section 10.3 hereof; (2) the date a Phase II DDA is executed by the Commission and the Master Developer; or (3) the date of any termination of this Agreement in accordance with the provisions hereof.

Section 4.3 Development Schedule.

(a) Status of Development Schedule. The Parties recognize that Predevelopment Component and Phase I of the Project will be developed and constructed over a period of several years. The Commission and the Developers have prepared the Development Schedule based on the most current information that the Parties have as of the date of this Agreement. A preliminary development schedule of the deadlines for performance of various conditions and requirements under this Agreement is attached hereto as Exhibit E, incorporated herein by this reference.

(b) Updates to Development Schedule. During the Term, the Developers and the Commission will each be required to perform certain tasks and to fulfill certain obligations as set forth in this Agreement, the exhibits and other implementing documents. All deadlines set forth in the Development Schedule that are not considered Major Milestone Dates are considered "Progress Milestone Dates." The Parties shall make commercially reasonable efforts to meet the Progress Milestone Dates but failure to meet a Progress Milestone Date shall not be considered an Event of Default pursuant to Section 14.2 unless, as a result of such failure, it would be impossible for a Major Milestone Date to be met. If a Party fails to meet a Progress Milestone Date, either Party can require the other Party to meet and confer regarding the impact to the Development Schedule of such failure with the goal of the Parties reaching mutual agreement on adjustments to the Progress Milestone Dates in the Development Schedule. Any Party receiving a request to meet and confer shall participate in the meet and confer within thirty (30) days of receipt of notice from the other Party.

(c) Extension Payments. Any time after the completion of the Infrastructure Improvements, the Market Rate Developer shall have the right, but not the obligation to extend the closing date for acquisition of the Market Rate Development Parcel by providing written notice of the extension to the Commission and making a payment of Fifty Thousand Dollars (\$50,000) to the Commission (each, an "Extension Payment") pursuant to the provisions of this Section 4.3.

(d) Each Extension Payment shall entitle the Market Rate Developer to a one (1) year extension of the Market Rate Development Close of Escrow. Each Extension Payment shall be due and payable upon Market Rate Developer's exercise of the right to extend the Market Rate Development Close of Escrow for acquisition of the Market Rate Development Parcel pursuant to this Section 4.3. The Market Rate Developer shall have the right to extend the Market Rate Development Close of Escrow for acquisition of the Market Rate Development Parcel for up to five (5) times and may also extend the Market Rate Development Close of Escrow pursuant to Section 4.4(b) below, but only after the Market Rate Developer has exhausted the extensions under this Section 4.3.

(e) Each Extension Payment shall be immediately non-refundable to the Market Rate Developer. Any Extension Payments paid to the Commission shall be credited toward the purchase price for the Market Rate Development.

Section 4.4 Forced Delay.

(a) Standard Force Majeure. In addition to specific provisions of this Agreement, performance by either party hereunder will not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires;

casualties; acts of God, or other deities; acts of terrorism or the public enemy; epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; litigation (including suits filed by third parties concerning or arising out of this Agreement); acts of the other party; acts or failure to act of any public or governmental agency or entity (other than the acts or failure to act of the Commission); or any other causes (other than Developers' inability to obtain financing for the Development Improvements) beyond the control or without the fault of the party claiming an extension of time to perform. Times of performance under this Agreement may also be extended in writing by the Commission and a Developer. Subject to Section 4.3 above and Sections 6.6 and 6.8 below, in no event will the cumulative delays exceed one hundred eighty (180) days, unless otherwise agreed to by the Parties in writing; provided, however times of performance under this Agreement shall automatically be extended during the pendency of any action or lawsuit challenging any entitlements, actions or approvals (including but not limited to actions related to the condition of title to the Roseland Development Site) associated with the Project.

(b) Economic Force Majeure. Economic Force Majeure shall mean a significant decline in the residential real estate market, as measured by a decline of more than ten percent (10%) in the Home Price Index during the preceding twelve (12) month period, measured on a quarterly basis. Economic Force Majeure shall commence upon the Market Rate Developer's notification to the Commission of the Economic Force Majeure (together with appropriate backup evidence). Economic Force Majeure shall continue prospectively on a quarterly basis and remain in effect until the Home Price Index increases for two consecutive quarters during the preceding twelve (12) month period and the index has increased by a total of at least ten percent (10%) from its most recent minimum point. "Home Price Index" means the quarterly (not seasonally adjusted) "purchase only" index published by the Federal Housing Finance Agency representing home price trends for Santa Rosa, California. If the Home Price Index is discontinued, the Market Rate Developer and the Commission shall approve a substitute index that tracks the residential market with as close a geography to Santa Rosa California, as possible.

(c) Except if an event of Economic Force Majeure has been declared and only after the Market Rate Developer has exhausted the extensions under this Section 4.3, the Market Rate Developer's inability or failure to timely satisfy the pre-disposition requirements in Section 9.7 shall not be deemed to be a cause outside the reasonable control of the Market Rate Developer and shall not be the basis for an excused delay under this Section 4.4.

ARTICLE 5. FINANCIAL TERMS

Section 5.1 Agency Non-Housing Funds.

(a) The full implementation of the Predevelopment Component and construction of the Plaza Improvements is currently estimated to cost approximately Nine Million Two Hundred Thousand Dollars (\$9,200,000). The Commission, through that certain Public Improvement Agreement, has made available a total of approximately Six Million Six Hundred Thousand Dollars (\$6,600,000) of RPTTF funds from the Successor Agency for the Project (the "Agency Funds"), of which approximately Two Million Two Hundred Thousand

(\$2,200,000) has been committed or spent as part of the implementation of the Professional Services Agreement. The Commission anticipates that the Agency Funds will be applied partially towards the Remediation Work and the construction of Infrastructure Improvements. As of the Effective Date, the Commission's obligation to fund and make available funding for the Predevelopment Component under this Agreement and the construction of the Plaza Improvements, is currently limited to Four Million Four Hundred Thousand Dollars (\$4,400,000).

(b) Under this Agreement, the Commission agrees to make best efforts to: (1) obtain funding sufficient to pay for Remediation Work and continued monitoring of the Roseland Site, including applying to the State Water Board and other sources for sufficient grant funding; (2) pending available additional funds made available through the SCAP Grant Agreement, to pay for remediation and continued monitoring of the Roseland Site; (3) continue to plan for and seek funding to pay for the installation of the Infrastructure Component; and (4) continue to plan for and seek funding to pay for the installation of the permanent Plaza Improvements. To the extent the SCAP Grant Agreement provides sufficient funding, the Commission will reimburse Developers for costs associated with the installation of engineering controls required for either the Market Rate Development or the Affordable Development under the approved Response Plan.

(c) The Commission and the Developer shall collaborate in securing such further funds as may be required for the completion of the Predevelopment Component, including but not limited to seeking remediation funding, gap loans, application for infrastructure financing loans. If the Commission is unable to secure sufficient funds to complete the Predevelopment Component within the time specified in the Development Schedule, the parties will confer in good faith for a period not to exceed ninety (90) days to determine if the parties should submit further funding applications or if a feasible and mutually acceptable alternate arrangement can be made to finance development of the Predevelopment Component. If no agreement is reached between the parties within such ninety (90) day period regarding the alternative financing structure to fund the construction of the Predevelopment Component, this Agreement may be terminated by the Master Developer or Commission by written notice from the Commission to the Developers or Master Developer to Commission, as applicable. Any agreements that are reached between the parties regarding an alternative financing plan for the construction of the Predevelopment Component shall be memorialized in an implementation agreement to this Agreement.

(d) The construction of the Affordable Infrastructure Improvements is currently projected to cost approximately \$_____. Upon the receipt of necessary funding for the Infrastructure Improvements, including the Affordable Infrastructure Improvements, the Commission hereby agrees to provide the Affordable Developer the "Affordable Infrastructure Loan" which will be used to pay for costs associated with the construction of the Affordable Infrastructure Improvements. The Affordable Infrastructure Loan shall be evidenced by that certain Loan Agreement substantially in the form attached hereto as Exhibit XX, incorporated herein by this reference (the "Affordable Infrastructure Loan Agreement").

(e) In the event the Commission or one or both Developers terminates this Agreement in accordance with the provisions of Section 14.3 below of this Agreement prior to the conveyance of the Developer Parcels, the Commission shall reimburse the Developers for

costs incurred (which costs are not covered by the Professional Services Agreement) if: (1) the Master Developer or Developers received the Commission's prior written approval for a specified expenditure to pay for third party costs incurred by a Developer (excluding all legal costs); and (2) the total reimbursements required to be made to each of the Developers under this Section 5.1 shall not exceed Five Hundred Thousand Dollars (\$500,000) with respect to each Developer.

Section 5.2 Affordable Housing Loan.

(a) The construction of the Affordable Development Improvements is currently projected to cost approximately Fifty-Nine Million Dollars (\$59,000,000). The Commission hereby agrees to provide the Affordable Developer the "Affordable Housing Loan" which among other things will be used to pay for costs associated with the development of the Affordable Development Parcel, as determined pursuant to Section 8.2, below. The Affordable Housing Loan shall be evidenced by that certain Loan Agreement substantially in the form attached hereto as Exhibit U, incorporated herein by this reference (the "Housing Loan Agreement").

(b) In addition to the Affordable Housing Loan, the Commission, subject to the approval of the Board of Commissioners and to the extent the Commission has made the requisite findings, which findings shall be at the Commission's sole and absolute discretion, shall make additional financial commitments to the Affordable Development under this Agreement, including, but not limited to, the loaning of any portions of the sales proceeds generated from the sale of the Market Rate Development Parcel together with any impact fees paid in connection with the Market Rate Development, the Commercial Development Parcel and the Civic Development Parcel; and any other funds obtained by the Commission for the benefit of the Affordable Development. It is the responsibility of the Affordable Developer to propose, prepare and ascertain the sufficiency of the Affordable Housing Financing Plan, discuss its conclusions with the Commission, and the Affordable Developer shall have primary responsibility for securing such further funds as may be required for the Affordable Development.

(c) In no event shall the amount of the Affordable Housing Loan provided pursuant to this Agreement exceed the amount of assistance necessary to make the Affordable Developer's acquisition of the Affordable Development Parcel and the construction and operation of the Affordable Development, as restricted by this Agreement, financially feasible.

(d) The Commission's participation in the Affordable Development is solely as a lender and Commission is not participating in the Affordable Development as a developer or owner. Any actions by the Commission's which are not fully consistent with the Commission's role as a lender are intended only to carry out routine government functions and impose constitutionally or statutorily authorized conditions acceptable to the Affordable Developer. As such, the Commission's participation in the Affordable Development through this Agreement are outside the scope of California Constitution Article XXXIV and its enabling legislation.

Section 5.3 Plaza Funding.

The Commission and the Sonoma County Agricultural Preservation and Open Space District have entered into a Funding Agreement, under which the Sonoma County Agricultural Preservation and Open Space District has committed to provide the Plaza Funding to the Commission in the amount of Five Hundred Thousand Dollars (\$500,000), which funds may only be used to fund the Plaza Improvements. The Commission may execute an amendment to the Funding Agreement, a construction monitoring and disbursement agreement, and any and all documents necessary for the Commission and the Sonoma County Agricultural Preservation and Open Space District to coordinate the disbursement of the Plaza Funding pursuant to the terms of the Funding Agreement.

Section 5.4 Financing Proposals.

(a) As of the Effective Date, the Commission has approved the preliminary Financing Proposals for the Market Rate Development Parcel and Affordable Development Parcel attached to this Agreement as Exhibits C-1 and C-2 respectively, incorporated herein by this reference. Each Developer must submit for Commission approval an update to the Financing Proposal in the form of a Financing Plan as required under Section 5.5 and 5.8 respectively, evidencing availability of the funds necessary to finance the acquisition of the fee interest in its respective Developer Parcel and development and operation of the Development Improvements on its respective Developer Parcel.

(b) As of the Effective Date, the Commission has prepared the preliminary Remediation and Infrastructure Financing Proposal for the Predevelopment Component and the Infrastructure Component attached to this Agreement as Exhibits C-3. The Commission shall provide updates to the Remediation and Infrastructure Financing Proposal in the form of a Financing Plan as required under Section 5.10, evidencing availability of the funds necessary to finance the construction of the Predevelopment Component.

Section 5.5 Affordable Development Financing Plan.

(a) By the time specified in the Development Schedule, the Affordable Developer shall submit for the Commission's approval an affordable Development Financing Plan, which at a minimum must contain: (1) a proposed development budget; (2) a "sources and uses" breakdown of the costs of purchasing the Affordable Development Parcel and constructing the Affordable Development Improvements, and an updated operating proforma for the Affordable Development, including an analysis of subsidized financing necessary from the Commission, if any, and/or other public bodies, if any; (3) copies of all required funding commitments for construction and permanent financing for the Affordable Development, including a preliminary tax credit reservation and an executed commitment letter from an equity investor acceptable to the Commission for the Tax Credit Funds, if any; (4) a rent schedule showing the anticipated rents for Affordable Units, as well as all other Tax Credits-assisted units, and appropriate utility allowances; (5) a project cash flow showing the estimated costs of operating the Affordable Development in accordance with this Agreement, the Affordable Housing Regulatory Agreement and other Project Documents, as applicable, for fifty-five (55) years after the anticipated date of completion; (6) an initial operating budget for Affordable Development, including without limitation an operating reserve fund, capital replacement reserve

fund; (7) any other information that is deemed reasonably necessary by the Commission in determining that the Affordable Developer has the financial capability to pay all costs of purchasing the Affordable Development Parcel and constructing the Affordable Development Improvements, such as evidence of the availability of equity funds required to construct the Affordable Development Improvements, other than tax credit investor equity; (8) as requested by the Commission, financial information concerning the providers of the funds showing their ability to provide the committed funds, including certified financial statement or other financial statement in such form reasonably satisfactory to the Commission evidencing other sources of capital sufficient to demonstrate that the Affordable Developer has adequate funds available and is committing such funds to cover the difference, if any, between costs of development and construction of the Affordable Development Improvements and the amount available to the Affordable Developer from external sources; and (9) all underlying assumptions for each of the above, including terms, conditions, and approximate pricing of all anticipated debt and equity.

(b) The Commission shall review the Affordable Development Financing Plan and any proposed amendments of the Affordable Development Financing Plan to determine if, in the Commission's reasonable judgment, the Affordable Developer has the financial capability (taking into account all committed funds), to pay all realistically established costs of purchasing the Affordable Development Parcel and constructing the Affordable Development Improvements. The Commission shall either approve or disapprove the Affordable Development Financing Plan in writing within thirty (30) business days of receipt. If disapproved, the Commission shall give specific reasons for disapproval. If the Affordable Development Financing Plan is disapproved, the Affordable Developer may resubmit, and the Commission shall promptly review, a revised Affordable Development Financing Plan that addresses the reasons for disapproval. The Commission shall either approve or disapprove any proposed amendments of the Affordable Development Financing Plan in writing within five (5) business days of receipt. Approval of the Affordable Development Financing Plan by the Commission shall be a condition precedent to the Commission's obligation to disburse the Affordable Housing Loan.

(c) The Affordable Developer shall submit any material revision to an approved Affordable Development Financing Plan to the Commission for its review and approval. Any proposed revised Affordable Development Financing Plan shall be considered and approved or disapproved by the Commission in the same manner and according to the same timeframe set forth above for the initial Affordable Development Financing Plan. Until a revised Affordable Development Financing Plan is approved by the Commission, the previously approved Affordable Development Financing Plan shall govern the financing of the Affordable Development.

(d) All Approved Financing necessary to purchase the Affordable Development Parcel and construct the Affordable Development Improvements, as approved by the Commission in the Affordable Development Financing Plan, must be closed by the Affordable Developer prior to, or simultaneously with, the conveyance of the Affordable Development Parcel by the Commission to the Affordable Developer. The Affordable Developer must also submit to the Commission evidence, reasonably satisfactory to the Commission, that any conditions to the release or expenditure of the Approved Financing described in the approved Affordable Development Financing Plan as the sources of funds to pay the costs of purchasing the Affordable Parcel and constructing the Affordable Development

Improvements have been met, or will be met upon conveyance of the Affordable Development Parcel to the Affordable Developer, and that such funds will be available upon such conveyance for purchasing the Affordable Parcel and, subject to the Affordable Developer's satisfaction of standard disbursement preconditions required to be satisfied on a periodic basis, for constructing the Affordable Development Improvements. Submission by the Affordable Developer, and approval by the Commission, of such evidence of Affordable Development Approved Financing availability is a condition precedent to the Commission's obligation to convey the Affordable Development Parcel to the Affordable Developer.

Section 5.6 Tax Credit Reservation; Financing.

(a) The Affordable Developer intends to utilize Tax Credit Investor Equity to partially finance the Affordable Development. Receipt by the Affordable Developer of a Tax Credit Reservation pursuant to this Section is a condition precedent to the Commission's obligation to transfer the Affordable Development Parcel to the Affordable Developer. To satisfy the requirements of this Section, the Tax Credit Reservation must be for an amount sufficient to meet the requirements of the Affordable Housing Financing Plan to be approved by the Commission pursuant to Section 5.5.

(b) By the time specified in the Development Schedule, the Affordable Developer must submit a timely and complete application for a preliminary reservation of 4% Tax Credits. If the Affordable Developer does not receive a Tax Credit Reservation, then the Developer must submit a timely and complete application for the Tax Credit Reservation to TCAC in the next available TCAC preliminary reservation application round. If the Affordable Developer does not receive a Tax Credit Reservation, then the Developer must submit a timely and complete application for the Tax Credit Reservation to TCAC in the next available TCAC preliminary reservation application round. If the Affordable Developer does not receive a Tax Credit Reservation after the third application cycle, then the Commission may either: (1) terminate this Agreement pursuant to Section 14.3, as it relates to the Affordable Development; or (2) confer with the Affordable Developer in good faith for a period not to exceed sixty (60) days to determine if the Affordable Developer should submit a further application to TCAC in a subsequent preliminary reservation round or if a feasible and mutually acceptable alternate arrangement can be made to finance development of the Affordable Development Improvements. If no agreement is reached by the Parties within such sixty (60) day period regarding the alternative financing structure for the construction of the Affordable Development Improvements, this Agreement may be terminated in accordance with the provisions of Section 14.3 below. Any agreement that is reached between the Commission and the Affordable Developer regarding an alternative financing plan for the construction of the Affordable Development Improvements will be memorialized in an implementation agreement to this Agreement and reflected in an update to the Affordable Development Financing Plan.

(c) Upon an award of the Tax Credit Reservation from TCAC, the Affordable Developer must exercise diligent good faith efforts to obtain a funding commitment from the Tax Credit Investor for the Tax Credit Investor Equity. Such funding commitment must be in a form reasonably acceptable to the Commission. Procurement of the Tax Credit Reservation and an acceptable funding commitment for the Tax Credit Investor Equity is a condition precedent to the Commission's obligation to convey the Affordable Development Parcel to the Affordable Developer.

Section 5.7 Other Approved Financing.

(a) Affordable Development. As set forth in the Development Schedule, in addition to the Tax Credit Funds all other financing necessary to construct the Affordable Development Improvements, as required and approved by the Commission in the Affordable Development Financing Plan, must be closed by the Affordable Developer prior to, or simultaneously with the Affordable Development Close of Escrow. The Affordable Developer must also submit to the Commission evidence reasonably satisfactory to the Commission that any conditions to the release or expenditure of funds described in the approved Affordable Development Financing Plan as the sources of funds to pay the costs of constructing the Affordable Development Improvements have been met or will be met by the Affordable Development Close of Escrow and subject to the Affordable Developer's satisfaction of standard disbursement preconditions required to be satisfied on a periodic basis, for constructing the Affordable Development Improvements. Submission by the Affordable Developer, and approval by the Commission, of such evidence of funds availability is a condition precedent to the Commission's obligation to convey the Affordable Development Parcel to the Affordable Developer.

(b) AHSC. The AHSC program funds land-use, housing, transportation, and land preservation projects to support infill and compact development that reduce greenhouse gas emissions. AHSC funding is subject to a competitive application process administered by the Strategic Growth Council and implemented by HCD subject to the announcement of a notice of funding availability by HCD for AHSC funding and the Strategic Growth Council, the Affordable Developer anticipates submitting a timely and complete application to HCD for AHSC funding to assist in the construction of the Affordable Development, and the associated transit improvement project.

(c) Project Based Housing Vouchers. The Affordable Developer, the Commission and the City will cooperate in attempting to secure a Housing Assistance Payment Basic Contract with the Housing Authority of the City of Santa Rosa to secure "Project Based Housing Vouchers" for the Affordable Development. The Affordable Developer expect that the Housing Authority of the City of Santa Rosa will provide not less than twenty-four (24) Project Based Housing Vouchers for the Affordable Development for not less than two (2) consecutive twenty (20) years terms. If the Affordable Developer is unable to secure the Project Based Housing Vouchers, then the Commission and the Affordable Developer will confer in good faith for a period not to exceed sixty (60) days to determine a feasible and mutually acceptable alternate arrangement can be made to finance development of the Affordable Development Improvements. If no agreement is reached by the Parties within such sixty (60) day period regarding the alternative financing structure for the construction of the Affordable Development Improvements, this Agreement may be terminated with respect to the Affordable Developer (but not the Market Rate Developer) in accordance with the provisions of Section 14.3 below. Any agreement that is reached between the parties regarding an alternative financing plan for the construction of the Affordable Development Improvements shall be memorialized in an implementation agreement amendment to this Agreement and reflected in an update to the Affordable Development Financing Plan.

Section 5.8 Market Rate Development Financing Plan.

(a) By the time specified in the Development Schedule, the Market Rate Developer shall submit for the Commission's approval a draft Market Rate Development Financing Plan, which at a minimum must contain: (1) a proposed development budget; (2) a "sources and uses" breakdown of the costs of purchasing the Market Rate Development Parcel and constructing the Market Rate Development Improvements, and an operating proforma for the Market Rate Development; (3) copies of all required funding commitments, or conditional letters of interest, for construction for the Market Rate Development; (4) as requested by the Commission, financial information concerning the providers of the funds showing their ability to provide the committed funds, including certified financial statement or other financial statement in such form reasonably satisfactory to the Commission evidencing other sources of capital sufficient to demonstrate that the Market Rate Developer has adequate funds available and is committing such funds to cover the difference, if any, between costs of development and construction of the Market Rate Development Improvements and the amount available to the Market Developer from external sources; (5) any other information that is reasonably necessary to the Commission in determining that the Market Rate Developer has the financial capability to pay all costs of purchasing the Market Rate Development Parcel and constructing the Market Rate Development Improvements; (6) a description of any joint ventures, partnerships or conveyances that the Market Rate Developer proposes to enter into in order to provide equity funds for acquiring, developing and constructing the Market Rate Development, including copies of any then executed joint venture, partnership and/or conveyance agreements; and (7) all underlying assumptions for each of the above including terms, conditions, and pricing approximate of all anticipated debt and equity.

(b) Prior to the Market Rate Development Close of Escrow, the Commission shall review the Market Rate Development Financing Plan and any proposed amendments thereto, to determine if, in the Commission's reasonable judgment, the Market Rate Developer has the financial capability (taking into account all committed funds), to pay all realistically established costs of purchasing the Market Rate Development Parcel and constructing the Market Rate Development Improvements. The Commission shall either approve or disapprove the Market Rate Development Financing Plan and any proposed amendments of the Market Rate Development Financing Plan in writing within thirty (30) business days of receipt. If disapproved, the Commission shall give specific and commercially reasonable reasons for disapproval. If the Market Rate Development Financing Plan is disapproved, the Market Rate Developer may resubmit, and the Commission shall promptly review, a revised Market Rate Development Financing Plan that addresses the reasons for disapproval. Approval of the Market Rate Development Financing Plan by the Commission shall be a condition precedent to the conveyance of the Market Rate Development Parcel. After the Market Rate Development Close of Escrow, the Market Rate Developer shall have no obligation to provide any amendments or updates on the approved Market Rate Development Financing Plan.

(c) Prior to the Market Rate Development Close of Escrow, the Market Rate Developer shall submit any material revision to an approved Market Rate Development Financing Plan to the Commission for its review and approval. Any proposed revised Market Rate Development Financing Plan shall be considered and approved or disapproved by the Commission in the same manner and according to the same timeframe set forth above for the initial Market Rate Development Financing Plan. Until a revised Market Rate Development Financing Plan is approved by the Commission, the previously approved Market Rate Development Financing Plan shall govern the financing of the Market Rate Development.

Section 5.9 Market Rate Development. All financing necessary to construct the Market Rate Development Improvements, as required and approved by the Commission in the Market Rate Development Financing Plan, must be closed by the Market Rate Developer prior to, or simultaneously with the Market Rate Development Close of Escrow. The Market Rate Developer must also submit to the Commission evidence reasonably satisfactory to the Commission that any conditions to the release or expenditure of funds described in the approved Market Rate Development Financing Plan as the sources of funds to pay the costs of constructing the Market Rate Development Improvements have been met or will be met by the Market Rate Development Close of Escrow and subject to the Market Rate Developer's satisfaction of standard disbursement preconditions required to be satisfied on a periodic basis, for constructing the Market Rate Development Improvements. Submission by the Market Rate Developer, and approval by the Commission, of such evidence of funds availability is a condition precedent to the Commission's obligation to convey the Market Rate Development Parcel to the Market Rate Developer.

Section 5.10 Remediation and Infrastructure Financing Plan.

(a) By the time specified in the Development Schedule, the Commission shall deliver to the Developers a copy of the Remediation and Infrastructure Financing Plan, which at a minimum must contain: (1) a proposed development budget for the Remediation Work consistent with the Response Plan and Infrastructure Improvements; (2) a "sources and uses" breakdown of the costs of performing the Remediation Work and constructing the Infrastructure Improvements, including an analysis of subsidized financing necessary from the Commission, if any, and/or other public bodies, if any; (3) copies of all required funding commitments for completion of the Remediation Work and construction of the Infrastructure Improvements; (4) any other information that is deemed reasonably necessary by the Commission in determining that the Commission has the financial capability to pay all costs for completion of the Remediation Work and construction of the Infrastructure Improvements.

(b) The Commission shall submit any material revision to the Remediation and Infrastructure Financing Plan to the Developers, at the times specified in this Agreement and at any other time deemed reasonably necessary by the Commission.

ARTICLE 6.
PREDEVELOPMENT COMPONENT

Section 6.1 Predevelopment Component Activities.

The Parties acknowledge and agree that certain preconstruction activities will be required on the Master Development Site prior to the conveyance of the applicable Developer Parcels to the Developers. Such activities shall include but not be limited to: approval of the Final Subdivision Map, approval of a Public Improvement Plan, the demolition of the Existing Buildings, the realignment or construction of certain utilities and other Public Infrastructure, and the remediation of Hazardous Materials on the Master Development Site (collectively, the "Predevelopment Component"). This Article 6 sets forth the parties expectations as to the implementation of the Predevelopment Component.

Section 6.2 Environmental Remediation Agreements and Response Plan.

(a) The Parties agree and acknowledge that portions of the Roseland Development Site require environmental remediation and on-going mitigation and monitoring. To qualify for specified immunities from liability for certain response costs or damage claims under applicable state statutes, the Commission has voluntarily entered into a cleanup program and CLRRRA Agreement, as an eligible bona fide purchaser to remediate the Roseland Development Site to residential standards.

(b) No later than the time set forth in the Development Schedule (or such later date as the Commission and the Master Developer may agree by written amendment, in their respective sole and absolute discretion), the Commission shall use commercially reasonable efforts to enter into a SCAP Grant Agreement with the State Water Board to fund the remediation of the Roseland Site. Subject to the terms of the Professional Services Agreement, the Developers must render all reasonable non-financial assistance to the Commission in its efforts to obtain funding for the Remediation Work and during the performance of the Remediation Work.

(c) Notwithstanding anything herein to the contrary, the Commission's responsibility and obligation to commence and complete the Remediation Work shall be subject to approval by the State Water Board SCAP Grant Agreement and Response Plan and shall be limited to the amount of funding available to the Commission pursuant to Section 5.1(b) and Section 6.3 hereof.

(d) In the event after making a good faith effort, the Commission and State Water Board have not executed a SCAP Grant Agreement, any Party may terminate this Agreement by providing written notice to the other Parties and thereafter no Party shall have any rights against or liability to the other under this Agreement, except as set forth in Section 5.1(c) above.

Section 6.3 State Water Resource Control Board Remediation Funding Application.

(a) As of the Effective Date, the estimated costs for completion of the remediation work is approximately Two Million Five Hundred Thousand Dollars (\$2,500,000).

As of the Effective Date of this Agreement, the Commission has submitted an application for funding from the Water Board's Division of Financial Assistance which will allow the Commission to fully fund the remediation of the Roseland Site to the specifications required under the Response Plan. Subject to the terms of the Professional Services Agreement, the Developers must render all reasonable assistance (at no cost to the Developers) to the Commission in its efforts to obtain funding for the Remediation Work and during the performance of the Remediation Work.

(b) The Developers further understand and agree that the Commission's obligation to perform the Remediation Work is conditioned on the approval of the CLRRRA Agreement, the State Water Board's approval and funding of the SCAP Grant Agreement, and the Response Plan, and receipt of sufficient funding from the State Water Board and other sources pursuant to this Section. The Commission's responsibility and obligation to complete the Remediation Work shall be limited to the amount of funding available to the Commission under the SCAP Grant Agreement and Agency Funds identified in the Remediation and Infrastructure Financing Plan.

(c) In the event after making a good faith effort, the Commission and State Water Board have not executed a SCAP Grant Agreement under the Site Cleanup Subaccount Program, or if either the Commission or Water Board is in breach of the CLRRRA Agreement, any Party may terminate this Agreement by providing written notice to the other Parties and thereafter no Party shall have any rights against or liability to the other under this Agreement except as expressly set forth in this Agreement, including without limitation, the Commission's obligation to provide reimbursement pursuant to Section 5.1(d).

Section 6.4 Pollution Legal Liability Coverage.

(a) In addition to the insurance coverage required under Section 7.6 of this Agreement, the Commission has acquired and as of the Effective Date has delivered an environmental Pollution Legal Liability ("PLL") policy in the form attached as Exhibit S, incorporated herein by this reference, with respect to the Roseland Development Site, naming the Affordable Developer, Market Rate Developer, and Master Developer and any applicable Developer affiliate as an additional named insured. The Commission shall take all reasonable steps to maintain the PLL policy in full force and effect throughout its entire ten year term.

(b) The Commission's liability for: (1) third party claims first made and reported during the policy period if they arise from a pollution condition that first began before the policy inception date; and is on, at, under or migrated from Roseland Site and Gee Parcel; (2) claims for cleanup costs first made and reported during the policy period that first began before the inception of the policy and is on, at, under or migrated from the Roseland Site; (3) transportation of Cargo to and from the Roseland Site; and (4) pollution at, on or from a non-owned disposal site; shall be strictly limited to the amounts and coverages under the PLL.

(c) From and after the delivery of the PLL policy and the Affordable Development Close of Escrow and the Market Rate Development Close of Escrow, respectively, the Commission shall not be liable for any losses resulting from contamination that first begins with respect to any Developer Parcel after such Developer Parcel is transferred to a Developer.

Section 6.5 Relocation and Demolition Activities.

(a) By the time set forth in the Development Schedule, the Commission shall carry out, at its sole cost and expense, the relocation of any Existing Tenants of the Master Development Site in accordance with any applicable federal, State and local requirements governing the relocation of residents and the provision of replacement housing, including (each as applicable) the Uniform Relocation Act (46 U.S.C. 4600 et seq.), and its implementing regulations (49 C.F.R. Part 24), the relocation requirements of Section 18 of the Housing Act, and its implementing regulations, the California Relocation Assistance Law (California Government Code Section 7260 et seq.) and the California Relocation Assistance and Real Property Acquisition Guidelines (Title 25, California Code of Regulations, Chapter 6, Section 6009 et seq.) (collectively, the "Relocation Laws"). All relocation activities shall be completed in order to permit demolition of the Existing Improvements to commence by the time set forth in the Development Schedule.

(b) By the time set forth in the Development Schedule, the Commission shall carry out, at its sole cost and expense, the demolition of all of the Existing Buildings on the Master Development Site. The Existing Buildings shall be demolished in accordance with the schedule provided in the Development Schedule.

Section 6.6 Commencement and Completion of Remediation Work.

(a) Commencement of Remediation Work. Within the times specified in the Development Schedule, the Commission, its agents, designees or assigns, shall commence the Remediation Work required under the Response Plan, subject to the satisfaction of the following conditions precedent:

(1) The PPL Policy remains in full force and effect;

(2) The Commission has updated the Remediation and Infrastructure Financing Proposal pursuant to Section 5.10 hereof and the Commission holds sufficient funds and/or binding commitments for sufficient funds (including a commitment of funding from the State Water Board pursuant to Section 6.3 above) to complete the Remediation Work;

(3) The Commission, in consultation with the Affordable Developer and Market Rate Developer, has contracted for the completion of the Remediation Work and installation of remediation monitoring equipment as required under the Response Plan or otherwise agreed to pursuant to the CLRRA Agreement and SCAP Grant Agreement.

(b) Limitations on Responsibility. The Commission will have no responsibility for any costs associated with or any obligation to install engineering controls, including, but not limited to, vapor mitigation systems, for housing construction required under the approved remediation Response Plan, unless such costs are funded under the SCAP Grant Agreement. Any costs associated with or any obligation to install engineering controls, including, but not limited to, vapor mitigation systems, for housing construction required under the approved remediation Response Plan not funded under the SCAP Grant Agreement shall be the sole obligation of the Market Rate Developer to the extent they are required for the Market

Rate Development Improvements and the Affordable Developer to the extent they are required for the Affordable Development Improvements, respectively.

(c) Completion of Remediation. Within the times specified in the Development Schedule, the Commission shall complete the Active Remediation Work. If and to the extent that Water Board or State Water Board grants the Commission any extension to complete the Remediation Work under the CLRRA Agreement, the SCAP Grant Agreement or the Response Plan, which request for extension shall be avoided to the extent feasible, the Commission's obligations to complete the Remediation Work under this Agreement shall automatically be extended to reflect the extensions under the CLRRA Agreement, SCAP Grant Agreement, or the Response Plan, and the Developers shall automatically receive a one (1) day extension to perform any obligation with a specified time deadline under this Agreement for each one (1) day of delay by the Commission in performing the obligations required here under.

(d) Termination prior to Commencement of Remediation Work. In the event after making a good faith effort, any of the conditions in Section 6.6(a) have not been satisfied by the Commission (in Developers' sole and absolute discretion) by the time set forth in the Development Schedule after taking diligent efforts, either Party may terminate this Agreement by providing written notice to the other Party and thereafter neither Party shall have any rights against or liability to the other under this Agreement, except as expressly set forth in this Agreement, including without limitation, the Commission's obligation to provide reimbursement pursuant to Section 5.1(d).

(e) Termination prior to Completion of Remediation Work. In the event the conditions in Section 6.6(a) are satisfied and or waived by the Commission and the Commission commences the Remediation Work but fails to complete the Remediation Work by the time set forth in the Development Schedule and Response Plan, either Party may terminate this Agreement by providing written notice to the other Party. Within thirty (30) days of such termination, the Commission shall reimburse the Developers for third party costs associated with the preparation of Project Documents associated with the Developer Improvements to the extent the Developer received prior written approval from the Commission to commence such Project Documents and only to the extent those activities were not funded under the Professional Services Agreement or otherwise funded with Agency Funds. Thereafter neither Party shall have any rights against or liability to the other under this Agreement, except as expressly set forth in this Agreement, including without limitation, the Commission's obligation to provide reimbursement pursuant to Section 5.1(d).

Section 6.7 Affordable Infrastructure Work; Public Infrastructure Financing.

(a) Subject to the terms and conditions of this Agreement and receipt of the Affordable Infrastructure Loan, the Affordable Infrastructure Work shall be an obligation of the Affordable Developer. Notwithstanding the foregoing, the Affordable Developer shall retain the Commission to undertake the Affordable Infrastructure Work concurrently with the balance of the Infrastructure Work pursuant to terms of Agreement for Professional Services in a form agreed to by the Affordable Developer and Commission (the "Affordable Infrastructure Agreement").

(b) As of the Effective Date, the estimated costs for completion of the Infrastructure Improvements, is approximately Five Million Eight Hundred Thousand Dollars (\$5,800,000). The Commission expects to use a portion of the Agency Funds to finance or complete the construction of the Infrastructure Improvements on the Master Development Site. No later than the time set forth in the Development Schedule (or such later date as the Commission and the Developers may agree by written amendment, in their respective sole and absolute discretion), the Commission shall use commercially reasonable efforts to apply for or seek additional public or private financing to allow the Commission to fully fund the construction of the Infrastructure Improvements. Subject to the terms of the Professional Services Agreement, the Master Developer must render all reasonable assistance (at no cost to the Developers) to the Commission in its efforts to obtain funding for the Infrastructure Improvements and during the construction of the Infrastructure Improvements.

(c) The Developers further understand and agree that the Commission's ability to construct the Infrastructure Improvements is contingent on the approval of infrastructure plans pursuant to Section 7.2 hereof, and receipt of sufficient funding to pay for the entire costs of the Infrastructure Improvements. The Commission's responsibility and obligation to complete the Infrastructure Improvements shall be limited to the amount of funding available to the Commission pursuant to Section 5.1(b) and this Section. If the Commission does not have sufficient funding to pay for the entire costs of the Infrastructure Improvements, the parties agree to meet and confer in an effort to establish a revised scope of Services and method for funding the same.

Section 6.8 Commencement and Completion of Infrastructure Improvements.

(a) Commencement of Construction of Infrastructure Improvements. Within the times specified in the Development Schedule and subject to the terms of the Affordable Infrastructure Agreement and subject to its receipt of the Affordable Infrastructure Loan Affordable Developer, its agents or assigns (including, without limitation, the Commission pursuant to the Affordable Infrastructure Agreement), shall cause the commencement of the Affordable Infrastructure Improvements and the Commission, its agents or assigns, shall commence construction of the Infrastructure Improvements (other than the Affordable Infrastructure Improvements), subject to the satisfaction of the following conditions precedent:

(1) Commission has received firm funding commitments or reservations of funding to fully fund the construction of all Infrastructure Improvements;

(2) With respect to the Affordable Infrastructure Work, the Affordable Developer has received the Affordable Infrastructure Loan;

(3) If Interim Response Actions are required and completed under the Response Plan, the Water Board has issued a Letter of Completion of Interim Response Actions and has made the finding that no unreasonable risk to human health and safety for the anticipated mixed use development of the Site have been achieved; or if the Response Plan includes long-term obligations that have not been completed, including operation and maintenance (O&M) requirements or monitoring, Water Board has determined that all response actions other than the long-term O&M requirements and monitoring in the Response Plan have been completed, the

Commission has submitted an adequate long-term O&M plan (O&M Plan) and demonstrated initial compliance with the O&M Plan;

(4) All discretionary governmental approvals necessary for project entitlements for the Market Rate Development and Affordable Development have been granted by the City or County, as applicable;

(5) The City has approved the public improvement plans for all Infrastructure Improvements;

(6) The Market Rate Developer has delivered, to the Commission, conditional letters of interest, and to the extent available letters of commitment, for debt and equity sufficient to fund construction of the Market Rate Development;

(7) The Commission has updated the Remediation and Infrastructure Financing Proposal pursuant to Section 5.10 hereof and the Commission holds sufficient funds and/or binding commitments for sufficient funds to complete the Infrastructure Improvements; and

(8) The Commission, in consultation with the Master Developer, has executed a construction contract for the completion of the Infrastructure Improvements.

(b) Completion of Construction of Infrastructure Improvements. Within the times specified in the Development Schedule, and subject to the terms of the Affordable Infrastructure Agreement and subject to its receipt of the Affordable Infrastructure Loan Affordable Developer, its agents or assigns (including, without limitation, the Commission pursuant to the Affordable Infrastructure Agreement), shall complete construction of the Affordable Infrastructure Improvements and the Commission shall complete construction of the Infrastructure Improvements (other than the Affordable Infrastructure Improvements). If and to the extent that Water Board grants the Commission any extension under the CLRRA Agreement or Response Plan, the Developers shall automatically receive a one (1) day extension to perform any obligation with a specified time deadline under this Agreement for each one (1) day of delay by the Commission in performing the obligations required here under.

(c) Termination prior to Commencement of Construction of Infrastructure Improvements. In the event after making a good faith effort, any of the conditions in Section 6.8(a) have not been satisfied or waived by the Commission or Affordable Developer, as applicable (in its sole and absolute discretion) by the time set forth in the Development Schedule, either Party may terminate this Agreement by providing written notice to the other Party and thereafter neither Party shall have any rights against or liability to the other under this Agreement, except as expressly set forth in this Agreement, including without limitation, the Commission's obligation to provide reimbursement pursuant to Section 5.1(d).

(d) Termination prior to Completion of Construction of Infrastructure Improvements. In the event the conditions in Section 6.8(a) are satisfied and or waived by the Commission and Affordable Developer and the Commission commences construction of the Infrastructure Improvements but fails to complete the construction of Infrastructure

Improvements by the time set forth in the Development Schedule, either Party may terminate this Agreement by providing written notice to the other Party. Within thirty (30) days of such termination, the Commission shall reimburse the Developers for third party costs associated with the preparation of Project Documents associated with the Developer Improvements to the extent the Developer received prior written approval from the Commission to commence such Project Documents and only to the extent those activities were not funded under the Professional Services Agreement or otherwise funded with Agency Funds. Thereafter neither Party shall have any rights against or liability to the other under this Agreement, except as expressly set forth in this Agreement, including without limitation, the Commission's obligation to provide reimbursement pursuant to Section 5.1(d).

(e) The parties agree and acknowledge that portions of the Infrastructure Improvements may be dedicated to the City.

ARTICLE 7.
PREDISPOSITION REQUIREMENTS
FOR
CONVEYANCE OF PHASE I
DEVELOPER PARCELS

Section 7.1 Conditions Precedent to Disposition of the Phase I Developer Parcels.

The requirements set forth in this Article 7 are conditions precedent to the Commission's obligation to convey a Developer Parcel in Phase I of the Project to the respective Developer. The Commission has no obligation to convey any applicable Developer Parcel to the respective Developer unless such Developer has satisfied the conditions precedent set forth in this Article 7 in the manner set forth below and within the timeframe set forth in the Development Schedule. A Developer may request extensions to the time periods and dates set forth in the Development Schedule and the Commission may grant such requests in its sole and absolute discretion. In no event is the Commission obligated to provide such extensions.

Section 7.2 Governmental Approvals.

(a) No later than the date set forth in the Development Schedule, the Affordable Developer shall apply for, and exercise diligent good faith efforts to obtain, all "Governmental Approvals" necessary for development and operation of their respective Development Improvements, including but not limited to necessary entitlements, grading plans, infrastructure plans and a building permit or permits. Without limiting any other provision of this Agreement, a Developer's failure to apply for and diligently pursue building permits for their respective Development Improvements by the date set forth in the Development Schedule will be a material default by such Developer of this Agreement. Subject to the terms of the Professional Services Agreement, the Commission must render all reasonable assistance (at no cost to the Commission) to the Developers to obtain the building permit.

(b) The Developer's application for the Governmental Approvals must be substantially consistent with the Scope of Development. Procurement by Developer of all Governmental Approvals of its respective Development Improvements, including all applicable

land use approvals and a building permit, is a condition precedent to the Commission's obligation to convey a Developer Parcel to the applicable Developer.

(c) In the event that the Affordable Developer intends to use funds disbursed at a Close of Escrow to pay for a building permits, the Commission may convey the Affordable Development Parcel to the Affordable Developer, if the Affordable Developer has obtained a permit-ready letter in place of a building permit; provided, however, the Affordable Developer must provide evidence and assurances reasonably satisfactory to the Commission that the Affordable Developer will pull the permit concurrent with or immediately following the applicable Close of Escrow.

(d) The Developers acknowledges that execution of this Agreement by the Commission does not constitute approval by the Commission, the County or the City of any required entitlements, building permits, applications, or allocations, and in no way limits the discretion of the Commission, the County, or the City in the permit allocation and approval process.

(e) The responsibilities to apply for Governmental Approvals for a particular component of the Project may be assigned by the Master Developer to a Developer in accordance with the terms of this Agreement.

Section 7.3 Commission Review and Approval of Design and Construction Documents.

(a) In designing and constructing any phase or component of the Project, the Developers must cause all design documents to be substantially consistent with the Scope of Development attached hereto as Exhibit D, and the Concept Drawings incorporated therein, and the Schematic Design Drawings prepared pursuant to subsection (b) below. The Scope of Development, the Concept Drawings, and the Schematic Design Drawings will establish the baseline design standards from which each Developer must prepare all subsequent Project Documents. The Project Documents must be substantially consistent with the Scope of Development, the Concept Drawings and the Schematic Drawings and must incorporate any applicable mitigation measures, reasonably imposed on the Project by the City, the County or the Commission.

(b) The Developers acknowledge that the Commission's right to review the Project Documents under this Agreement are in addition to, and will not be limited by, the City or County's obligation and right to review the Project Documents for consistency with applicable building code requirements and other State and local rules and regulations and to impose other reasonably requested changes or modifications to the proposed Project Documents.

Section 7.4 Creation of Parcels, Subdivision Approval and Recordation.

(a) By the time specified in the Development Schedule, the Commission, in cooperation with the Developers, shall prepare and submit for approval by the City, and as applicable the County, a Final Subdivision Map consistent with the Subdivision Code and the Subdivision Map Act, as applicable. The Final Subdivision Map shall be in substantial conformance with the Precise Plans, the applicable conditions of approval and the Governmental

Approvals. The Commission, in cooperation with the Developers, shall diligently pursue and obtain City and County approval of the Final Subdivision Map. The Commission and the Master Developer shall work together to submit a Final Subdivision Map to be recorded in the Official Records prior to the Close of Escrow for the first Developer Parcel to be conveyed.

(b) Recordation of the Final Subdivision Map will create, as applicable, the final Plaza Parcel, the Affordable Development Parcel, the Market Rate Development Parcel, the Commercial Development Parcel, and the Civic Development Parcel as legal parcels and the final legal description for such parcels, as applicable, shall be by reference to the parcels as shown in the recorded Final Subdivision Map.

Section 7.5 Evidence of Availability of Funds.

(a) Affordable Development. As a condition precedent to the Affordable Development Close of Escrow, the Affordable Developer shall submit to the Commission evidence reasonably satisfactory to the Commission that the financing and funding identified in the Affordable Development Financing Plan approved by the Commission pursuant to Section 5.5 will be available following the Affordable Development Close of Escrow for the construction and operation of the Affordable Development. Prior to or concurrently with the Affordable Development Close of Escrow, the Affordable Developer and Commission shall execute the Housing Loan Agreement, substantially in the form attached here to as Exhibit U.

(b) Market Rate Development. As a condition precedent to the Market Rate Development Close of Escrow, the Market Rate Developer shall submit to the Commission commercially reasonable evidence that the financing and funding identified in the Market Rate Development Financing Plan approved by the Commission pursuant to Section 5.8 will be available following the Market Rate Development Close of Escrow for the construction and operation of the Market Rate Development.

Section 7.6 Insurance.

No later than the date set forth in the Development Schedule, the Developers must furnish to the Commission "Evidence of Insurance Coverage" meeting the general requirements set forth in Exhibit K. The Commission shall review and reasonably approve or disapprove of the Evidence of Insurance Coverage not less than ten (10) business days after submission of complete information in the form required by the Commission. If the Commission disapproves the Evidence of Insurance coverage, it shall specify in writing the reasons for such disapproval. The Developers shall resubmit the information required within ten (10) business days of the notification of disapproval. The Commission shall either approve or disapprove the submitted revised evidence of insurance within ten (10) business days of the date such revised information is received by the Commission. No work shall be initiated on the Affordable Development, the Market Rate Development prior to receipt of the Commission's approval of insurance required by this Section with respect to the applicable Parcel.

Section 7.7 Approval of Developer Entity.

(a) Affordable Developer. The Affordable Development will be developed, constructed, owned, and operated by the Affordable Developer. The parties acknowledge that as

of the Effective Date, the Affordable Developer has been selected, and any change to the Affordable Developer must be approved in writing by the Commission. The parties agree and acknowledge that the Affordable Developer's ability to assign or transfer its interest in the Affordable Development is limited and subject to the terms of Article 8 and Article 13, governing Transfers. The approval of the Affordable Developer is a condition precedent to the Commission's obligation to transfer the Affordable Development Parcel.

(b) Market Rate Developer. The Market Rate Development will be developed, constructed, owned, and operated by the Market Rate Developer. The Parties acknowledge that as of the Effective Date, the Market Rate Developer has been selected, and any change to the Market Rate Developer must be approved in writing by the Commission. The parties agree and acknowledge that the Market Rate Developer may assign or transfer its interest in the Market Rate Development subject to the terms of Article 10 and Article 13, governing Transfers. The approval of the Market Rate Developer is a condition precedent to the Commission's obligation to transfer the Market Rate Development Parcel.

ARTICLE 8. TRANSFER OF AFFORDABLE DEVELOPMENT PARCEL

Section 8.1 Sale and Purchase.

Provided the pre-disposition requirements set forth in Article 7, as such apply to the Affordable Development, and the additional closing conditions set forth in this Article 8 have been satisfied in the manner set forth above and by the dates set forth in the Development Schedule, the Commission will sell to the Affordable Developer, and the Affordable Developer will purchase from the Commission, the Affordable Development Parcel pursuant to the terms, covenants, and conditions of this Agreement.

Section 8.2 Purchase Price.

The Purchase Price for the Affordable Development Parcel shall be the fair market value of the Affordable Development Parcel as determined by an Appraisal, which Appraisal shall be completed by the Appraiser not more than twelve (12) months from the Affordable Development Close of Escrow, which Appraisal shall be completed pursuant to the terms of the Escrow Instructions attached hereto as Exhibit N, incorporated herein by this reference.

Section 8.3 Opening Escrow.

To accomplish the purchase and transfer of the Affordable Development Parcel from the Commission to the Affordable Developer, the parties will establish the escrow with the Title Company. The parties will execute and deliver all written instructions to the Title Company to accomplish the terms hereof, which instructions must be consistent with this Agreement. Upon request by the Affordable Developer, the Title Company may be changed to a company requested by the Affordable Developer, provided: (a) the Affordable Developer makes the request prior to the opening of escrow; (b) the title company is approved by the Commission; and

(c) the Affordable Developer must pay all title insurance and escrow costs of the new title company.

Section 8.4 Close of Escrow.

(a) The Affordable Development Close of Escrow must occur no later than the date set forth in the Development Schedule, and only in the event that all conditions precedent to conveyance set forth in Article 7 have been satisfied or waived by the Commission, to the extent such condition solely benefits the Commission. In addition to the conditions precedent set forth in Article 7, the following conditions must be satisfied, or waived in writing by the Commission, prior to or concurrently with, and as conditions of, the Close of Escrow:

(1) There exists no condition, event or act which would constitute a breach or default under this Agreement by the Affordable Developer, the Commission Housing Loan Documents, or under any other project financing agreements or contracts related to the Affordable Development, or which, upon the giving of notice or the passage of time, or both, would constitute such a breach or default.

(2) The Affordable Developer has provided the Commission with copies of the Affordable Developer's organizational documents, a certified copy of corporate authorizing resolutions, approving the transactions contemplated under the Commission Housing Loan Documents and the Developer's execution of the Commission Housing Loan Documents.

(3) There exists no material adverse change in the financial condition of Affordable Developer from that shown by the financial statements and other data and information furnished by the Affordable Developer to the Commission.

(4) The Affordable Developer has executed and delivered to the Commission, the Grant Deed, the Housing Loan Agreement, the Notice of Affordability Restrictions, the Affordable Housing Loan Note, the Assignment Agreement for Collateral Documents associated with the Affordable Development, the Affordable Housing Loan Deed of Trust, the Memorandum of DDA, and all other documents and instruments required to be executed and delivered, all in form and substance satisfactory to the Commission.

(5) The Affordable Developer has furnished the Commission with evidence of the insurance coverage meeting the general insurance requirements set forth in Section 7.6.

(6) The Grant Deed, the Affordable Housing Loan Deed of Trust, the Notice of Affordability Restrictions, and the Memorandum of DDA have been, or concurrently with the Affordable Development Close of Escrow, will be recorded against the Affordable Development and the Title Company has or will issue, for the Affordable Housing Loan Deed of Trust, a 2006 ALTA Lenders Policy of title insurance in the amount of the Housing Loan, with such endorsements as the Commission may reasonably request, which will insure the Affordable Housing Loan Deed of Trust as a lien upon the Affordable Development, subject only to the exceptions authorized by this Agreement.

(7) All deeds of trust (or assignments of deeds of trust) associated with the Approved Financing necessary for the construction financing of the Affordable

Development, as shown on the approved Affordable Development Financing Plan, have been recorded in the Official Records against the Affordable Development Parcel.

(8) The Commission has completed the Active Remediation Work and delivered to the Affordable Developer, a certificate of completion issued by the Water Board under the Response Plan, CLRRRA Agreement and SCAP Grant Agreement, as applicable, and to the extent required by the Water Board, the Commission and Water Board have entered into an O&M Agreement governing the long-term operation and maintenance monitoring activities for the Affordable Development Parcel.

(9) The Commission has caused the construction and completion of a sufficient amount of the Infrastructure Component serving the Affordable Development Parcel to allow for commencement of construction on the Affordable Development Parcel without impeding completion of the Infrastructure Component or the Affordable Development Improvements.

(10) All representations and warranties of the Affordable Developer contained in this Agreement and the Commission Housing Loan Documents are true and correct in all material respects as of the Close of Escrow.

Section 8.5 Condition of Title.

Upon the Close of Escrow, the Affordable Developer will have insurable title to the Affordable Development Parcel which will be free and clear of all liens, encumbrances, clouds and conditions, rights of occupancy or possession, except: (a) applicable building and zoning laws and regulations; (b) the provisions of the Redevelopment Plan; (c) the Memorandum of DDA, the Affordable Housing Loan Deed of Trust, and the Notice of Affordability Restrictions; (d) the Grant Deed; (e) any lien for current taxes and assessments or taxes and assessments accruing subsequent to recordation of the Grant Deed; (f) exceptions in the Title Report mutually agreed to by the Commission and the Affordable Developer; and (g) the liens of any Approved Financing approved by the Commission.

Section 8.6 Condition of Affordable Development Parcel.

(a) Historically the Roseland Site was used for low impact agricultural farming and during the past half century it has been used as neighborhood shopping center. Four commercial buildings have been removed from the Site that were used for a grocery store; storage; laundromat; dry cleaner (Roseland Cleaners); and a bowling alley. A gasoline service station was also formerly located on the Roseland Site. The retail building that remains on the Roseland Site is used as a Dollar Tree and hardware store. The dry cleaner operated from 1965 until 1971 and was demolished in 2009. The neighboring bowling alley, warehouse, and Albertson's store were demolished between 2014 and 2015. Investigations and remedial activities have been undertaken pursuant to the Water Board's jurisdiction since 1988 with respect to both the dry cleaner and the gasoline service station.

(b) The Water Board Case Number for the Sebastopol Road Comingled Plume is Case No. 1TSR394, the Developers are directed to contact the Water Board to obtain additional information about this case. The Commission has delivered evidence to the

Developers of regulatory closure by the Water Board of the Sebastopol Road Comingled Plume (Case No. 1TSR394) in the form of a No Further Action Letter under the Water Board's Low Threat Closure Policy on November 18, 2016.

(c) The Water Board Case Number for the dry cleaners is Case No. 1NSR403 (201 0082), the Developers are directed to contact the Water Board to obtain additional information about this case. Under the regulatory oversight of the Water Board, the Commission has entered into a CLRRA Agreement to implement investigation and remedial work under a Response Plan, with respect to site.

(d) **The Commission does not guarantee: (1) the accuracy of any of the reports discussed in this Agreement; (2) the accuracy of any of the reports available at the Water Board; or (3) the current condition of the Affordable Development Parcel, but provides this information so that the Affordable Developer may independently evaluate the condition of the Affordable Parcel.** Notwithstanding the preceding limitation, Commission is not aware of any material facts relating to contamination at the Affordable Development Parcel that it has not disclosed to Affordable Developer. In fulfillment of Health and Safety Code Section 25359.7(a), the Commission, through the information provided in this Agreement, including documents that the Commission has provided to the Affordable Developer as well as direction for the Affordable Developer to obtain information from the Water Board associated with Case No. 1TSR394 and Case No. 1NSR403, the Commission has provided written notice to the Affordable Developer of the releases of hazardous substances of which the Commission knows, or has reasonable cause to know, that are located on or beneath the Affordable Parcel.

(e) Prior to the Close of Escrow, if the Water Board determines long-term operation and maintenance monitoring is required for the Affordable Development Parcel, the Commission may execute an Operation, Monitoring Plan ("O&M Agreement") with the Water Board that governs long-term operation and maintenance monitoring activities for the Affordable Development Parcel and provides adequate financial assurance as required under the O&M Agreement. Subject to the Water Board's approval, the O&M Agreement may be assigned to the Affordable Developer and terminated as to the Commission's operation and maintenance monitoring obligations, if the Affordable Developer: (1) agrees to assume the long-term operation and maintenance monitoring activities; (2) provides the Water Board with satisfactory evidence of financial assurance for the operation and maintenance monitoring obligations; and (3) executes an acceptable O&M Agreement with Water Board.

(f) The Parties acknowledge that when the Affordable Development Parcel is conveyed to the Affordable Developer, it may contain monitoring wells. The Affordable Developer will coordinate directly with the Commission and Water Board on issues such as: (1) how the Affordable Developer can proceed with its project with the existing monitoring wells; (2) actions necessary to protect or destroy and re-install, to the extent necessary, the monitoring wells during construction; and (3) the Affordable Developer's responsibilities to not harm or destroy the existing wells (under the CLRRA Agreement, Response Plan, or O&M Agreement) except to the extent authorized by the Water Board.

(g) **"AS IS" PURCHASE. PRIOR TO THE CLOSE OF ESCROW, THE AFFORDABLE DEVELOPER WAS PROVIDED THE OPPORTUNITY TO INVESTIGATE THE AFFORDABLE DEVELOPMENT PARCEL, AND HAS**

APPROVED THE PHYSICAL CONDITION OF THE AFFORDABLE DEVELOPMENT PARCEL. THE AFFORDABLE DEVELOPER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE COMMISSION IS SELLING AND THE AFFORDABLE DEVELOPER IS BUYING THE AFFORDABLE DEVELOPMENT PARCEL (AND ALL IMPROVEMENTS THEREON) ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT THE AFFORDABLE DEVELOPER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS (EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT) OR IMPLIED, FROM THE COMMISSION AS TO ANY MATTERS CONCERNING THE AFFORDABLE DEVELOPMENT PARCEL, INCLUDING WITHOUT LIMITATION: (A) THE QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF THE AFFORDABLE DEVELOPMENT PARCEL (INCLUDING, WITHOUT LIMITATION, TOPOGRAPHY, CLIMATE, AIR, WATER RIGHTS, WATER, GAS, ELECTRICITY, UTILITY SERVICES, GRADING, DRAINAGE, SEWERS, ACCESS TO PUBLIC ROADS AND RELATED CONDITIONS); (B) THE QUALITY, NATURE, ADEQUACY, AND PHYSICAL CONDITION OF SOILS, GEOLOGY AND GROUNDWATER; (C) THE EXISTENCE, QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF UTILITIES SERVING THE AFFORDABLE DEVELOPMENT PARCEL; (D) THE DEVELOPMENT POTENTIAL OF THE AFFORDABLE DEVELOPMENT PARCEL, AND THE USE, HABITABILITY, MERCHANTABILITY, OR FITNESS, SUITABILITY, VALUE OR ADEQUACY OF THE AFFORDABLE DEVELOPMENT PARCEL FOR ANY PARTICULAR PURPOSE; (E) THE ZONING OR OTHER LEGAL STATUS OF THE AFFORDABLE DEVELOPMENT PARCEL OR ANY OTHER PUBLIC OR PRIVATE RESTRICTIONS ON THE USE OF THE AFFORDABLE DEVELOPMENT PARCEL; (F) THE COMPLIANCE OF THE AFFORDABLE DEVELOPMENT PARCEL OR ITS OPERATION WITH ANY APPLICABLE CODES, LAWS, REGULATIONS, STATUTES, ORDINANCES, COVENANTS, CONDITIONS AND RESTRICTIONS OF ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY OR OF ANY OTHER PERSON OR ENTITY; (G) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS ON, UNDER OR ABOUT THE AFFORDABLE DEVELOPMENT PARCEL OR THE ADJOINING OR NEIGHBORING PROPERTY; AND (H) THE CONDITION OF TITLE TO THE AFFORDABLE DEVELOPMENT PARCEL. THE AFFORDABLE DEVELOPER AFFIRMS THAT THE AFFORDABLE DEVELOPER HAS NOT RELIED ON THE SKILL OR JUDGMENT OF THE COMMISSION OR ANY OF ITS AGENTS, EMPLOYEES OR CONTRACTORS TO SELECT OR FURNISH THE AFFORDABLE DEVELOPMENT PARCEL FOR ANY PARTICULAR PURPOSE, AND THAT THE COMMISSION MAKES NO WARRANTY THAT THE AFFORDABLE DEVELOPMENT PARCEL IS FIT FOR ANY PARTICULAR PURPOSE. THE AFFORDABLE DEVELOPER ACKNOWLEDGES THAT IT SHALL USE ITS INDEPENDENT JUDGMENT AND MAKE ITS OWN DETERMINATION AS TO THE SCOPE AND BREADTH OF ITS DUE DILIGENCE INVESTIGATION WHICH IT SHALL MAKE RELATIVE TO THE AFFORDABLE DEVELOPMENT PARCEL AND SHALL RELY UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC AND LEGAL CONDITION OF THE AFFORDABLE DEVELOPMENT PARCEL (INCLUDING, WITHOUT LIMITATION, WHETHER THE AFFORDABLE DEVELOPMENT PARCEL IS LOCATED IN ANY AREA WHICH IS DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT

ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY). THE AFFORDABLE DEVELOPER UNDERTAKES AND ASSUMES ALL RISKS ASSOCIATED WITH ALL MATTERS PERTAINING TO THE AFFORDABLE DEVELOPMENT PARCEL'S LOCATION IN ANY AREA DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY.

(h) Survival. The terms and conditions of this Section expressly survive the Affordable Development Close of Escrow, will not merge with the provisions of the Grant Deed, or any other closing documents and are deemed to be incorporated by reference into the Grant Deed. The Commission is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Affordable Development Parcel furnished by any contractor, agent, employee, servant or other person. The Affordable Developer acknowledges that the Purchase Price reflects the "as is" nature of this sale and any faults, liabilities, defects or other adverse matters that may be associated with the Affordable Development Parcel. The Affordable Developer has fully reviewed the disclaimers and waivers set forth in this Agreement with the Affordable Developer's counsel and understands the significance and effect thereof.

(i) Acknowledgment. The Affordable Developer acknowledges and agrees that: (1) to the extent required to be operative, the disclaimers of warranties contained in this Section are "conspicuous" disclaimers for purposes of all applicable laws and other legal requirements; and (2) the disclaimers and other agreements set forth in such sections are an integral part of this Agreement, that the Purchase Price has been adjusted to reflect the same and that the Commission would not have agreed to sell the Affordable Development Parcel to the Affordable Developer for the Purchase Price without the disclaimers and other agreements set forth in this Section.

(j) Developer's Release of the Commission. The Affordable Developer, on behalf of itself and anyone claiming by, through or under the Affordable Developer hereby waives its right to recover from and fully and irrevocably releases the Released Parties from any and all claims, responsibility and/or liability that the Affordable Developer may have or hereafter acquire against any of the Released Parties for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to: (1) the condition (including any construction defects, errors, omissions or other conditions, latent or otherwise), valuation, salability or utility of the Affordable Development Parcel, or its suitability for any purpose whatsoever; (2) any presence of Hazardous Materials; and (3) any information furnished by the Released Parties under or in connection with this Agreement.

(k) Scope of Release. The release set forth in this Section includes claims of which the Affordable Developer is presently unaware or which the Affordable Developer does not presently suspect to exist which, if known by the Affordable Developer, would materially affect the Affordable Developer's release of the Released Parties. The Affordable Developer specifically waives the provision of any statute or principle of law that provides otherwise. In this connection and to the extent permitted by law, the Affordable Developer agrees, represents and warrants that the Affordable Developer realizes and acknowledges that factual matters now

unknown to the Affordable Developer may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and the Affordable Developer further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that the Affordable Developer nevertheless hereby intends to release, discharge and acquit the Released Parties from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses. Accordingly, the Affordable Developer, on behalf of itself and anyone claiming by, through or under the Affordable Developer, hereby assumes the above-mentioned risks and hereby expressly waives any right the Affordable Developer and anyone claiming by, through or under the Affordable Developer, may have under Section 1542 of the California Civil Code, which reads 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."

Affordable Developer's Initials: _____

(a) Notwithstanding the foregoing, this release does not apply to, nor will the Commission be released from, the Commission's actual fraud, misrepresentation or gross negligence or breach of the terms of this Agreement.

Section 8.7 Costs of Escrow and Closing.

Ad valorem taxes, if any, will be prorated as of the date of conveyance of the Affordable Development Parcel from the Commission to the Affordable Developer. The Affordable Developer must pay the cost of title insurance, transfer tax, Title Company document preparation, recordation fees and the escrow fees of the Title Company, if any, and any additional costs to close the escrow. The costs borne by the Affordable Developer are in addition to the Purchase Price for the Affordable Development Parcel.

ARTICLE 9. TRANSFER OF MARKET RATE DEVELOPMENT PARCEL

Section 9.1 Sale and Purchase.

Provided the pre-disposition requirements set forth in Article 7, as such apply to the Market Rate Development, and the additional closing conditions set forth in this Article 9 have been satisfied in the manner set forth above and by the dates set forth in the Development Schedule, the Commission will sell to the Market Rate Developer, and the Market Rate Developer will purchase from the Commission, the Market Rate Development Parcel pursuant to the terms, covenants, and conditions of this Agreement.

Section 9.2 Purchase Price.

The Purchase Price for the Market Rate Development shall be the fair market value of the Market Rate Development Parcel as determined by an Appraisal, which Appraisal shall be completed by the Appraiser not more than sixty (60) days from the Market Rate Development Close of Escrow, which Appraisal shall be completed pursuant to the terms of the Escrow Instructions attached hereto as Exhibit N, incorporated herein by this reference. The Market Rate Developer shall have the right to review and approve the Purchase Price for the Market Rate Development as determined by the Appraisal. In the event the Market Rate Developer disapproves the Purchase Price, the Market Rate Developer shall have the right, its sole cost and expense, to obtain a second Appraisal. Upon receipt of the second Appraisal, Commission and Market Rate Developer shall meet and confer regarding the Purchase Price. Any Party receiving a request to meet and confer shall participate in the meet and confer within thirty (30) days of receipt of notice from the other Party. If after such meeting Market Rate Developer disapproves the Purchase Price, Market Rate Developer shall have the right to terminate this Agreement with respect to the Market Rate Development by providing written notice to the Commission and the Master Developer.

Section 9.3 Opening Escrow.

To accomplish the purchase and transfer of the Market Rate Development Parcel from the Commission to the Market Rate Developer, the parties will establish the escrow with the Title Company. The parties will execute and deliver all written instructions to the Title Company to accomplish the terms hereof, which instructions must be consistent with this Agreement. Upon request by the Market Rate Developer, the Title Company may be changed to a company requested by the Market Rate Developer, provided: (a) the Market Rate Developer makes the request prior to the opening of escrow; (b) the title company is approved by the Commission; and (c) the Market Rate Developer must pay all title insurance and escrow costs of the new title company.

Section 9.4 Close of Escrow.

(a) The Market Rate Development Close of Escrow must occur no later than the date set forth in the Development Schedule, and only in the event that all conditions precedent to conveyance set forth in Article 7 have been satisfied or waived by the Commission. In addition to the conditions precedent set forth in Article 7, the following conditions must be satisfied, or waived in writing by the Commission, prior to or concurrently with, and as conditions of, the Close of Escrow:

(1) There exists no condition, event or act which would constitute a breach or default under this Agreement, or under any other project financing agreements or contracts related to the Market Rate Development, or which, upon the giving of notice or the passage of time, or both, would constitute such a breach or default.

(2) The Market Rate Developer has provided the Commission with copies of the Market Rate Developer's organizational documents, a certified copy of corporate authorizing resolutions, approving the transactions contemplated under this Agreement and the Developer's execution of this Agreement and all ancillary implementing documents.

(3) There exists no material adverse change in the financial condition of Market Rate Developer from that shown by the financial statements and other data and information furnished by the Market Rate Developer to the Commission.

(4) The Market Rate Developer has executed and delivered to the Commission, the Grant Deed, and all other documents and instruments required to be executed and delivered, all in form and substance satisfactory to the Commission.

(5) The Market Rate Developer has furnished the Commission with evidence of the insurance coverage meeting the general insurance requirements set forth in Section 7.6.

(6) The Grant Deed has been, or concurrently with the Market Rate Development Close of Escrow, will be recorded against the Market Rate Development.

(7) All deeds of trust (or assignments of deeds of trust) associated with the Approved Financing necessary for the construction financing of the Market Rate Development, as shown on the approved Market Rate Development Financing Plan, have been, or concurrently with the Market Rate Development Close of Escrow, will be recorded in the Official Records against the Market Rate Development Parcel.

(8) The Market Rate Developer has complied with all requirements imposed by the City to commence construction prior to the Affordable Developer commencing construction on the Affordable Development, as applicable.

(9) The Commission has completed the Active Remediation Work and delivered to the Market Rate Developer, a certificate of completion issued by the Water Board under the Response Plan, CLRRA Agreement, and SCAP Grant Agreement, as applicable, and to the extent required by the Water Board, the Commission and Water Board have entered into an O&M Agreement governing the long-term operation and maintenance monitoring activities for the Market Rate Development Parcel. This condition shall be solely for the Market Rate Developer's benefit.

(10) The Commission has caused the construction and completion of the Infrastructure Component serving the Market Rate Development Parcel. This condition shall be solely for the Market Rate Developer's benefit.

(11) All representations and warranties of the Market Rate Developer contained in this Agreement are true and correct in all material respects as of the Close of Escrow.

Section 9.5 Condition of Title.

Upon the Close of Escrow, the Market Rate Developer will have insurable title to the Market Rate Development Parcel which will be free and clear of all liens, encumbrances, clouds and conditions, rights of occupancy or possession, except: (a) applicable building and zoning laws and regulations; (b) the provisions of the Redevelopment Plan; (c) the Memorandum of DDA; (d) the Grant Deed; (e) any lien for current taxes and assessments or taxes and assessments accruing subsequent to recordation of the Grant Deed; (f) exceptions in the Title

Report approved by the Market Rate Developer; and (g) the liens of any Approved Financing approved by the Commission.

Section 9.6 Condition of Market Rate Development Parcel.

(a) Historically the Roseland Site was used for low impact agricultural farming and during the past half century it has been used as neighborhood shopping center. Four commercial buildings have been removed from the Site that were used for a grocery store; storage; laundromat; dry cleaner (Roseland Cleaners); and a bowling alley. A gasoline service station was also formerly located on the Roseland Site. The retail building that remains on the Roseland Site is used as a Dollar Tree store. The dry cleaner operated from 1965 until 1971 and was demolished in 2009. The neighboring bowling alley, warehouse, and Albertson's store were demolished between 2014 and 2015. Investigations and remedial activities have been undertaken pursuant to the Water Board's jurisdiction since 1988 with respect to both the dry cleaner and the gasoline service station.

(b) The Water Board Case Number for the Sebastopol Road Comingled Plume is Case No. 1TSR394, the Developers are directed to contact the Water Board to obtain additional information about this case. The Commission has delivered evidence to the Developers of regulatory closure by the Water Board of the Sebastopol Road Comingled Plume (Case No. 1TSR394) in the form of a No Further Action Letter under the Water Board's Low Threat Closure Policy on November 18, 2016.

(c) The Water Board Case Number for the dry cleaners is Case No. 1NSR403, the Developers are directed to contact the Water board to obtain additional information about this case. Under the regulatory oversight of the Water Board, the Commission has entered into a CLRRRA Agreement to implement investigation and remedial work under the Response Plan, with respect to the site.

(d) The Commission does not guarantee: (1) the accuracy of any of the reports discussed in this Agreement; (2) the accuracy of any of the reports available at the Water Board; or (3) the current condition of the Market Rate Development Parcel, but provides this information so that Market Rate Developer may independently evaluate the condition of the Market Rate Development Parcel. Notwithstanding the preceding limitation, Commission is not aware of any material facts relating to contamination at the Market Rate Development Parcel that it has not disclosed to Market Rate Developer. In fulfillment of Health and Safety Code Section 25359.7(a), the Commission, through the information provided in this Agreement, including documents that the Commission has provided to the Market Rate Developer as well as direction for the Market Rate Developer to obtain information from the Water Board associated with Case No. 1TSR394 and Case No. 1NSR403, the Commission has provided written notice to the Market Rate Developer of the releases of hazardous substances of which the Commission knows, or has reasonable cause to know, that are located on or beneath the Market Rate Parcel.

(e) Prior to the Close of Escrow, if the Water Board determines long-term operation and maintenance monitoring is required for the Market Rate Development Parcel, the Commission may execute an O&M Agreement with the Water Board that governs long-term operation and maintenance monitoring activities for the Market Rate Development Parcel and provides adequate financial assurance as required under the O&M Agreement. Subject to the

Water Board's approval and with the consent of the Market Rate Developer, the O&M Agreement may be assigned to the Market Rate Developer and terminated as to the Commission's operation and maintenance monitoring obligations, if the Market Rate Developer: (1) agrees to assume the long-term operation and maintenance monitoring activities required under the O&M Agreement; (2) provides the Water Board with satisfactory evidence of financial assurance for the operation and maintenance monitoring obligations; and (3) executes an acceptable O&M Agreement with Water Board.

(f) The Parties acknowledge that when the Market Rate Development Parcel is conveyed to the Market Rate Developer, it may contain monitoring wells. The Market Rate Developer will coordinate directly with the Commission and Water Board on issues such as: (1) how the Market Rate Developer can proceed with its project with the existing monitoring wells; (2) actions necessary to protect the monitoring wells during construction; and (3) the Market Rate Developer's responsibilities to not harm or destroy the existing wells (under the CLRRA Agreement, Response Plan, or O&M Agreement).

(g) **"AS IS" PURCHASE. PRIOR TO THE CLOSE OF ESCROW, THE MARKET RATE DEVELOPER WAS PROVIDED THE OPPORTUNITY TO INVESTIGATE THE MARKET RATE DEVELOPMENT PARCEL, AND HAS APPROVED THE PHYSICAL CONDITION OF THE MARKET RATE DEVELOPMENT PARCEL. THE MARKET RATE DEVELOPER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE COMMISSION IS SELLING AND THE MARKET RATE DEVELOPER IS BUYING THE MARKET RATE DEVELOPMENT PARCEL (AND ALL IMPROVEMENTS THEREON) ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT THE DEVELOPER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS (EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT) OR IMPLIED, FROM THE COMMISSION AS TO ANY MATTERS CONCERNING THE MARKET RATE DEVELOPMENT PARCEL, INCLUDING WITHOUT LIMITATION: (A) THE QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF THE MARKET RATE DEVELOPMENT PARCEL (INCLUDING, WITHOUT LIMITATION, TOPOGRAPHY, CLIMATE, AIR, WATER RIGHTS, WATER, GAS, ELECTRICITY, UTILITY SERVICES, GRADING, DRAINAGE, SEWERS, ACCESS TO PUBLIC ROADS AND RELATED CONDITIONS); (B) THE QUALITY, NATURE, ADEQUACY, AND PHYSICAL CONDITION OF SOILS, GEOLOGY AND GROUNDWATER; (C) THE EXISTENCE, QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF UTILITIES SERVING THE MARKET RATE DEVELOPMENT PARCEL; (D) THE DEVELOPMENT POTENTIAL OF THE MARKET RATE DEVELOPMENT PARCEL, AND THE USE, HABITABILITY, MERCHANTABILITY, OR FITNESS, SUITABILITY, VALUE OR ADEQUACY OF THE MARKET RATE DEVELOPMENT PARCEL FOR ANY PARTICULAR PURPOSE; (E) THE ZONING OR OTHER LEGAL STATUS OF THE MARKET RATE DEVELOPMENT PARCEL OR ANY OTHER PUBLIC OR PRIVATE RESTRICTIONS ON THE USE OF THE MARKET RATE DEVELOPMENT PARCEL; (F) THE COMPLIANCE OF THE MARKET RATE DEVELOPMENT PARCEL OR ITS OPERATION WITH ANY APPLICABLE CODES, LAWS, REGULATIONS, STATUTES, ORDINANCES, COVENANTS, CONDITIONS AND RESTRICTIONS OF ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY OR OF ANY OTHER PERSON OR ENTITY; (G) THE PRESENCE OR**

ABSENCE OF HAZARDOUS MATERIALS ON, UNDER OR ABOUT THE MARKET RATE DEVELOPMENT PARCEL OR THE ADJOINING OR NEIGHBORING PROPERTY; AND (H) THE CONDITION OF TITLE TO THE MARKET RATE DEVELOPMENT PARCEL. THE MARKET RATE DEVELOPER AFFIRMS THAT THE MARKET RATE DEVELOPER HAS NOT RELIED ON THE SKILL OR JUDGMENT OF THE COMMISSION OR ANY OF ITS AGENTS, EMPLOYEES OR CONTRACTORS TO SELECT OR FURNISH THE MARKET RATE DEVELOPMENT PARCEL FOR ANY PARTICULAR PURPOSE, AND THAT THE COMMISSION MAKES NO WARRANTY THAT THE MARKET RATE DEVELOPMENT PARCEL IS FIT FOR ANY PARTICULAR PURPOSE. THE MARKET RATE DEVELOPER ACKNOWLEDGES THAT IT SHALL USE ITS INDEPENDENT JUDGMENT AND MAKE ITS OWN DETERMINATION AS TO THE SCOPE AND BREADTH OF ITS DUE DILIGENCE INVESTIGATION WHICH IT SHALL MAKE RELATIVE TO THE MARKET RATE DEVELOPMENT PARCEL AND SHALL RELY UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC AND LEGAL CONDITION OF THE MARKET RATE DEVELOPMENT PARCEL (INCLUDING, WITHOUT LIMITATION, WHETHER THE MARKET RATE DEVELOPMENT PARCEL IS LOCATED IN ANY AREA WHICH IS DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY). THE MARKET RATE DEVELOPER UNDERTAKES AND ASSUMES ALL RISKS ASSOCIATED WITH ALL MATTERS PERTAINING TO THE MARKET RATE DEVELOPMENT PARCEL'S LOCATION IN ANY AREA DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY.

(h) Survival. The terms and conditions of this Section expressly survive the Market Rate Development Close of Escrow, will not merge with the provisions of the Grant Deed, or any other closing documents and are deemed to be incorporated by reference into the Grant Deed. The Commission is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Market Rate Development Parcel furnished by any contractor, agent, employee, servant or other person. The Market Rate Developer acknowledges that the Purchase Price reflects the "as is" nature of this sale and any faults, liabilities, defects or other adverse matters that may be associated with the Market Rate Development Parcel. The Market Rate Developer has fully reviewed the disclaimers and waivers set forth in this Agreement with the Market Rate Developer's counsel and understands the significance and effect thereof.

(i) Acknowledgment. The Market Rate Developer acknowledges and agrees that: (1) to the extent required to be operative, the disclaimers of warranties contained in this Section are "conspicuous" disclaimers for purposes of all applicable laws and other legal requirements; and (2) the disclaimers and other agreements set forth in such sections are an integral part of this Agreement, that the Purchase Price has been adjusted to reflect the same and that the Commission would not have agreed to sell the Market Rate Development Parcel to the

Market Rate Developer for the Purchase Price without the disclaimers and other agreements set forth in this Section.

(j) Developer's Release of the Commission. The Market Rate Developer, on behalf of itself and anyone claiming by, through or under the Market Rate Developer hereby waives its right to recover from and fully and irrevocably releases the Released Parties from any and all claims, responsibility and/or liability that the Market Rate Developer may have or hereafter acquire against any of the Released Parties for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to: (1) the condition (including any construction defects, errors, omissions or other conditions, latent or otherwise), valuation, salability or utility of the Market Rate Development Parcel, or its suitability for any purpose whatsoever; (2) any presence of Hazardous Materials; and (3) any information furnished by the Released Parties under or in connection with this Agreement.

(k) Scope of Release. The release set forth in this Section includes claims of which the Market Rate Developer is presently unaware or which the Market Rate Developer does not presently suspect to exist which, if known by the Market Rate Developer, would materially affect the Market Rate Developer's release of the Released Parties. The Market Rate Developer specifically waives the provision of any statute or principle of law that provides otherwise. In this connection and to the extent permitted by law, the Market Rate Developer agrees, represents and warrants that the Market Rate Developer realizes and acknowledges that factual matters now unknown to the Market Rate Developer may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and the Market Rate Developer further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that the Market Rate Developer nevertheless hereby intends to release, discharge and acquit the Released Parties from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses. Accordingly, the Market Rate Developer, on behalf of itself and anyone claiming by, through or under the Market Rate Developer, hereby assumes the above-mentioned risks and hereby expressly waives any right the Market Rate Developer and anyone claiming by, through or under the Market Rate Developer, may have under Section 1542 of the California Civil Code, which reads 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."

Market Rate Developer's Initials: _____

(l) Notwithstanding the foregoing, this release does not apply to, nor will the Commission be released from, the Commission's actual fraud or misrepresentation or gross negligence.

Section 9.7 Costs of Escrow and Closing.

Ad valorem taxes, if any, will be prorated as of the date of conveyance of the Market Rate Development Parcel from the Commission to the Market Rate Developer. The Market Rate

Developer must pay the cost of title insurance, transfer tax, Title Company document preparation, recordation fees and the escrow fees of the Title Company, if any, and any additional costs to close the escrow. The costs borne by the Market Rate Developer are in addition to the Purchase Price for the Market Rate Development Parcel.

ARTICLE 10. EXCLUSIVE RIGHTS

Section 10.1 Exclusive Rights.

(a) The Commission holds fee title to the Commercial Development Parcel and the Civic Development Parcel (collectively, the "Phase II Parcels"). The Commission has determined that the development of the Phase II Parcels an integral part of the residential neighborhood located within or immediately adjacent to a neighborhood primarily residential in character. The Commission also holds fee title to the Plaza Parcel. The scale and complexity of the Project requires the Project be developed in multiple phases. The Commission has found that the feasibility of the Affordable Development is dependent on the success and implementation of the Market Rate Development, the Commercial Development, the Civic Development, and the Plaza Improvements. The Commission has further determined that the Plaza Improvements would provide benefits to the residents of the Affordable Development by helping to eliminate blight within the project area. Notwithstanding anything to the contrary, the Commission finds and determines that all future Phases of the Project are integral and necessary components of the residential mixed use Project. The Commission has further determined that collaboration with the Master Developer in designing and developing the Commercial Development, the Civic Development, and the Plaza Improvements will lessen the burdens on the Commission and local government to support community development, economic revitalization and remedy community deterioration.

(b) The Commission and the Master Developer desire to negotiate exclusively to: (1) refine the details of the land uses for the Civic Development and Commercial Development; (2) make a preliminary determination on the financial feasibility of the Civic Development and Commercial Development; (3) ascertain any changes in the land use approvals necessary for the Civic Development and Commercial Development, as necessary; (4) identify the proposed developer that would develop and operate the Civic Development and Commercial Development Developments, respectively; (5) provide a development schedule for the Civic Development and Commercial Development; (6) identify and, if desired by the Parties, establish procedures and standards for the negotiation by the Commission and the Master Developer of a mutually acceptable Phase II DDA for consideration by the Board of Supervisors; and (7) any other matters that may be identified by the Commission or the Master Developer. This Article 10 sets forth the Commission and Master Developers rights, duties and obligations as to the Phase II Parcels. If upon termination of the Negotiating Period, as such may be extended, the parties have not made progress toward a mutually acceptable Phase II DDA the rights granted to the Master Developer under this Article 10 shall terminate without further obligations of either party.

Section 10.2 Master Planning.

The Master Developer shall conduct such master planning activities as is necessary and appropriate to produce an overall plan for the construction of the Plaza Improvements, the Civic Development and the Commercial Development. The Commission and the Master Developer agree, for the Negotiating Period described in Section 10.3, to work cooperatively and in good faith to make a preliminary feasibility determination and, if the Phase II Development is determined to be feasible and desirable by both Parties, to negotiate diligently and in good faith the terms of a Phase II DDA for the construction of the Plaza Improvements, the Civic Development and the Commercial Development. During the Negotiating Period, the Parties shall use good faith efforts to accomplish the respective tasks outlined in in this Article 10.

Section 10.3 Negotiating Period.

(a) The negotiating period (the "Negotiating Period") under this Agreement shall be twenty-four (24) months, commencing on the Effective Date of this Agreement, subject to extension by mutual agreement of the Parties in writing. On the Commission's behalf, the Negotiating Period may be extended for up to two (2) additional twelve (12) month extensions by the Executive Director, if, in the Executive Director's reasonable judgment, sufficient progress toward a mutually acceptable Phase II DDA has been made during the initial Negotiating Period to merit an extension. The Negotiating Period may be extended or modified beyond the extension described in the preceding sentence only by formal action of the Board of Supervisors.

(b) If a Phase II DDA has not been executed by the Commission and the Master Developer (or an assignee of the Master Developer) by the expiration of the Negotiating Period (as the Negotiating Period may be extended pursuant to the preceding paragraph), then the rights, duties and obligations as to the Phase II Parcels under this Agreement shall terminate without further obligations of either party, except that any provision of this Agreement that is specified to survive termination shall remain in effect. If a Phase II DDA is executed by the Commission and the Master Developer, then, upon execution of the Phase II DDA, the provisions of this Agreement that relate to the Phase II Parcels or any applicable portion thereof shall terminate, and all rights and obligations of the Parties pertaining to the Phase II Parcels shall be as set forth in the executed Phase II DDA.

Section 10.4 Exclusive Negotiations.

During the Negotiating Period (as the Negotiating Period as such may be extended), the Commission shall not negotiate with any entity other than the Master Developer regarding development of the Phase II Parcels or solicit or entertain bids or proposals to do so. Nothing in this Agreement shall limit the Commissions rights to solicit or entertain bids or proposals for the development of the Plaza Improvements.

Section 10.5 Identification of Master Developer's Representative.

The Master Developer's representative to negotiate the Phase II DDA with the Commission are Jan Lindenthal, Alicia Gaylord, Riley Weissenborn, and Nicole Deddens. The Master Developer shall make full disclosure to the Commission of all information pertinent to

the ownership, control, and financial capacity of the development entity that is proposed to serve as developer under the Phase II DDA, including, but not limited to, the members of the Master Developer's development team.

Section 10.6 Financing and Costs of Development.

(a) By the time specified in the Development Schedule, the Master Developer shall submit for the Commission's approval a draft Phase II Financing Plan, which at a minimum must contain: (1) a proposed development budget; (2) a "sources and uses" breakdown of the costs of purchasing the Civic Development Parcel and constructing the Civic Development Improvements, and an operating proforma for the Civic Development; (3) a "sources and uses" breakdown of the costs of purchasing the Commercial Development Parcel and constructing the Commercial Development Improvements, and an operating proforma for the Commercial Development; (4) copies of all required funding commitments for construction and permanent financing for the Civic Development and Commercial Development, as applicable; (5) as requested by the Commission, financial information concerning the providers of the funds showing their ability to provide the committed funds, including certified financial statement or other financial statement in such form reasonably satisfactory to the Commission evidencing other sources of capital sufficient to demonstrate that the Master Developer has adequate funds available and is committing such funds to cover the difference, if any, between costs of development and construction of the Civic Development Improvements and Commercial Development Improvements and the amount available to the Master Developer from external sources; (6) any other information that is reasonably necessary to the Commission in determining that the Master Developer has the financial capability to pay all costs of purchasing all or a portion of the Phase II Parcels and constructing the Civic Development Improvements and/or Commercial Development Improvements, as applicable; (7) a description of any joint ventures, partnerships or conveyances that the Master Developer proposes to enter into in order to provide equity funds for acquiring, developing and constructing any portion of Phase II of the Project, including copies of any then executed joint venture, partnership and/or conveyance agreements; and (8) all underlying assumptions for each of the above including terms, conditions, and pricing approximate of all anticipated debt and equity.

(b) The Commission shall review the Phase II Financing Plan and any proposed amendments of the Phase II Financing Plan to determine if, in the Commission's reasonable judgment, the Master Developer has the financial capability (taking into account all committed funds), to pay all realistically established costs of purchasing the Phase II Parcels and constructing the Civic Development Improvements and/or Commercial Development Improvements. The Commission shall either approve or disapprove the Phase II Financing Plan and any proposed amendments of the Phase II Financing Plan in writing within fifteen (15) business days of receipt. If disapproved, the Commission shall give specific reasons for disapproval. If the Phase II Financing Plan is disapproved, the Master Developer may resubmit, and the Commission shall promptly review, a revised Phase II Financing Plan that addresses the reasons for disapproval. Approval of the Phase II Financing Plan by the Commission shall be a condition precedent to the conveyance of the Phase II Parcels.

(c) The Master Developer shall submit any material revision to an approved Phase II Financing Plan to the Commission for its review and approval. Any proposed revised Phase II Financing Plan shall be considered and approved or disapproved by the Commission in

the same manner and according to the same timeframe set forth above for the initial Phase II Financing Plan. Until a revised Phase II Financing Plan is approved by the Commission, the previously approved Phase II Financing Plan shall govern the financing of the development components of Phase II of the Project.

Section 10.7 Commission Funding.

The Commission may, pursuant to Health and Safety Code Section 33753 and Section 33760, provide long-term financing for new construction of a commercial structure or the commercial portion of a mixed residential and commercial structure if conventional financing in an amount sufficient to complete the construction has not been obtained for the construction of such structure or portion thereof. To the extent the Master Developer can demonstrate to the Commission that the conditions and requirements of Health and Safety Code Section 33753 and Section 33760 have been satisfied, and that no other available financing is available for the Commercial Development or the Civic Development, as applicable, the Commission may, at its sole and absolute discretion, commit LMIHAF funds to assist in the funding of the Commercial Development and the Civic Development. Notwithstanding anything to the contrary, no funds may be committed under this Section until such time as the Commission has received sufficient funds to complete the Infrastructure Work and all items under the Predevelopment Component have been completed. Any Commission funding provided under this Section shall be subject to the Commission's ability to make the required legal findings, including but not limited to those identified in Health and Safety Code Section 33753(j)(2).

Section 10.8 Phasing Plan.

By the time specified in the Development Schedule, the Master Developer will submit a "Phasing Plan" detailing the timing for the development of the various sub-phases of the Phase II Parcels, to the Commission for its review and approval. The Commission shall either approve or disapprove the Phasing Plan and any proposed amendments of the Phasing Plan in writing within fifteen (15) business days of receipt. If disapproved, the Commission shall give specific reasons for disapproval. If the Phasing Plan is disapproved, the Master Developer may resubmit, and the Commission shall promptly review, a revised Phasing Plan that addresses the reasons for disapproval. Approval of the Phasing Plan by the Commission shall be a condition precedent to the Commission's obligation to execute the Phase II DDA.

Section 10.9 Phase II DDA.

The transfer of the Phase II Parcels shall be governed by the Phase II DDA. If required, the Commission shall prepare the necessary documentation pursuant to Section 33433(a)(2)(B) of the California Health and Safety Code to be submitted to the Board of Commissioners in conjunction with the Board of Commissioner's consideration of any Phase II DDA that is prepared as a result of the implementation of this Article 10.

Section 10.10 Plaza Financing Plan.

(a) As of the Effective Date, the estimated costs for completion of the Plaza Infrastructure is approximately One Million Two Hundred Thousand Dollars (\$1,200,000). The Commission intends to use all of the Plaza Funding and may use a portion of the Agency Funds

(to the extent available) and make best faith efforts to complete the construction of the Infrastructure Improvements on the Plaza Parcel within the times set forth in the Development Schedule. The Commission's responsibility and obligation to complete the Plaza Infrastructure Improvements shall be limited to the amount of funding available to the Commission pursuant to Section 5.1(a) and its ability to find such additional funding to complete the Plaza Infrastructure Improvements.

(b) By the time specified in the Development Schedule, the Commission shall deliver to the Developers a copy of the Plaza Financing Plan, which at a minimum must contain: (1) a proposed development budget for the Plaza Infrastructure Improvements; (2) a "sources and uses" breakdown of the costs of constructing the Plaza Improvements, including an analysis of subsidized financing necessary from the Commission, if any, and/or other public bodies, if any; (3) copies of all required funding commitments for completion of the construction of the Plaza Improvements; (4) any other information that is deemed reasonably necessary by the Commission in determining that the Commission has the financial capability to pay all costs for the construction of the Plaza Infrastructure Improvements.

(c) The Commission shall submit any material revision to the Plaza Financing Plan to the Developers, at the times specified in this Agreement and at any other time deemed reasonably necessary by the Commission.

Section 10.11 Construction of Plaza Improvements.

(a) The payments to the Commission upon the transfer of the Developer Parcels shall be deposited into the Commission's Low and Moderate Income Housing Asset Fund ("LMIHAF"), as required by the Dissolution Statutes. The Commission, in its sole and absolute discretion, shall have the right to allocate such funds subject to the restrictions of the Dissolution Statutes, including but not limited to Health and Safety Code Section 34176.1.

(b) Pursuant to Health and Safety Code Section 33334.2(e)(2), the Commission may improve the Affordable Development Parcel and portions of the Master Development Site with onsite and offsite improvements that are part of the new construction associated with the Affordable Development and which directly benefit the Affordable Development and are reasonable and fundamental components of the Affordable Development. The Commission may determine that portions of the Plaza Infrastructure, provides direct benefits to the Affordable Development and are reasonable and fundamental components of the Affordable Development, and as such the Commission, may agree to make LMIHAF funds, to the extent such funds become available from the sales proceeds of the Commercial Development Parcel and the Civic Development Parcel.

(c) The Commission and the Master Developer shall collaborate in assisting the Commission to secure such additional funds as may be required for the completion of the Plaza Improvements, including but not limited to seeking gap loans, application for infrastructure financing loans, including potential expenditures of LMIHAF funds. If the Commission is unable to secure sufficient funds for the completion of the Plaza Improvements within the time specified in the Development Schedule, the parties will confer in good faith for a period not to exceed sixty (60) days to determine if the parties should submit further funding applications or if a feasible and mutually acceptable alternate arrangement can be made to finance development of

the Plaza Improvements. If no agreement is reached between the parties within such sixty (60) day period regarding the alternative financing structure for the completion of the Plaza Improvements, this Agreement may be terminated as to the Plaza Improvements and the Plaza Parcel by written notice from the Commission to the Master Developer. Any agreements that are reached between the parties regarding an alternative financing plan for the construction of the Plaza Improvements shall be memorialized in an implementation agreement to this Agreement.

Section 10.12 Plaza Ownership, Operation and Maintenance.

During the Negotiating Period, the Commission and the Master Developer shall determine whether the Plaza Parcel will be retained by the Commission or conveyed to a third party developer or another public entity. In addition, the Affordable Developer, Market Rate Developer, Master Developer (and all permitted successors and assigns) agree to negotiate in good faith: (a) any easement agreement grant access rights and easements over the Plaza Parcel; (b) any necessary agreement to govern the use and allocate the obligations for maintenance and operation of the Plaza Improvements, including potential contributions to pay common area maintenance charges for the improvements on the Plaza Parcel; provided however, annual maintenance charges assessed to the Affordable Developer, Market Rate Developer, Master Developer (and all permitted successor and assigns) for the improvements on the Plaza Parcel shall be determined and agreed to by the Parties as part of the Plaza Financing Plan; provided, however, in no event shall annual maintenance charges assessed to each of the Affordable Developer, Market Rate Developer, Master Developer (and all permitted successor and assigns) for the improvements on the Plaza Parcel exceed Twenty-Five Thousand Dollars (\$25,000) unless approved by the Parties.

ARTICLE 11. CONSTRUCTION OF IMPROVEMENTS

Section 11.1 Construction Pursuant to Plans.

Unless modified by operation of Section 11.5, the Affordable Development Improvements and the Market Rate Development Improvements, shall be constructed substantially in accordance with the Plans and Specifications approved by the City and approved by the Commission pursuant to Section 7.3 and the terms and conditions of the applicable Governmental Approvals. From and after the Market Rate Development Close of Escrow, the Commission shall have no oversight, right of review or inspection over the construction of the Market Rate Development Improvements.

Section 11.2 Building Permits.

(a) Affordable Development. By the time specified in the Development Schedule, the Affordable Developer shall apply for, diligently pursue, and obtain building construction permits for the Affordable Development Improvement. The applications for building and construction permits shall be consistent with and incorporate the approved Plans and Specifications applicable to the Affordable Development.

(b) Market Rate Development. By the time specified in the Development Schedule, the Market Rate Developer shall apply for, diligently pursue, and obtain building construction permits for the Market Rate Development Improvement. The applications for building and construction permits shall be consistent with and incorporate the approved Plans and Specifications applicable to the Market Rate Development.

Section 11.3 Construction of Improvements.

(a) Construction of Affordable Development. The Affordable Developer shall construct the Affordable Development Improvements on the Affordable Development Parcel as detailed in the Plans and Specifications applicable to the Affordable Development and complete construction within the time specified in Section 11.11(a) below, subject to Sections 6.6(c), 6.8(b) and Section 4.4, as applicable.

Section 11.4 Course of Construction.

Once the Affordable Developer commences construction of the Affordable Development Improvements, the Affordable Developer shall not halt or cease construction for a period of more than ten (10) consecutive days, subject to Section 4.4.

Section 11.5 Change in Construction of Affordable Development Improvements.

(a) If the Affordable Developer desires to make any material change in the Affordable Development Improvements which are not substantially consistent with the Final Construction Drawings, the Affordable Developer must submit the proposed change to the Commission for its approval. No change which is required for compliance with building codes or other government health and safety regulation will be deemed material. If the Affordable Development Improvements, as modified by any such proposed change, will conform to the requirements of this Agreement, the Commission will approve the change by notifying the Affordable Developer in writing. For purposes of this Section, a material change means any change which is expected to substantially alter the external appearance of the Affordable Development Improvements (including any color change), reduce, or otherwise alter, the number of units in the Affordable Development Improvements, or which is expected to result in an individual change of One Hundred Fifty Thousand Dollars (\$150,000) or a cumulative change of Three Hundred Thousand Dollars (\$300,000), or more, in the cost of construction of the Affordable Development Improvements. In addition, any change order that will materially reduce the costs of construction of the Affordable Development Improvements (due to value engineering, or any other cause) must be submitted to the Commission for approval. The Commission will approve such change order provided that the Commission has determined (in the Commission's reasonable discretion) that such change order will not substantially change the quality of the Affordable Development Improvements and provided further that the Affordable Developer provides the Commission information, reasonably requested by the Commission, to document the effect of such change order (including, but not limited to any cost savings, and the effect on the quality of the Improvements).

(b) The Commission must use good faith best efforts to either approve or disapprove a proposed change within three (3) business days following the Commission's receipt of the proposed change. If disapproved, the previously approved Final Construction Drawings

for the Affordable Development Improvements will continue to remain in full force and effect. If the Commission rejects a proposed change, the Commission must provide the applicable Developer with the specific reasons therefor.

(c) As set forth in Section 7.3, approval of changes in the Final Construction Drawings for the Affordable Development Improvements by the Commission under this Agreement will not constitute approval by the City and/or County in its land use, permitting or other capacity and may in no way limit the Commission's discretion in approving changes to the Final Construction Drawings for the Affordable Development Improvements.

Section 11.6 Construction Pursuant to Laws.

(a) The Affordable Developer must cause all construction work performed in connection with the Affordable Development Improvements to be performed in compliance with: (1) all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter; and (2) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. The construction work may proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and the Affordable Developer is responsible to the Commission for the procurement and maintenance thereof, as may be required of the Affordable Developer and all entities engaged in work on the Affordable Development Improvements.

(b) The Affordable Developer must construct the Affordable Development Improvements to comply with all applicable federal and state disabled persons accessibility requirements including but not limited to the Federal Fair Housing Act, Section 504 of the Construction Act of 1973, Title II and/or Title III of the Americans with Disabilities Act of 1990, Title 24 of the California Code of Regulations and the Uniform Federal Accessibility Standards ("UFAS"), as applicable. The Affordable Developer must deliver to the Commission, a certification from a Certified Access Specialist certifying that the Affordable Development Improvements (as constructed) meet the requirements of this Section.

(c) In addition, in compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794, et seq.), the Affordable Developer must ensure that a minimum of five (5) units in the Affordable Development must be constructed to be readily accessible and usable by households with a mobility impaired member and a minimum of two (2) unit must be constructed and to be readily accessible and usable by households with a hearing or visually impaired member. The Affordable Developer must deliver to the Commission, a certification from a Certified Access Specialist certifying that the Affordable Development Improvements (as constructed) meet the requirements of this Section.

Section 11.7 Construction Contract.

(a) No later than the date set forth in the Development Schedule, the Affordable Developer must submit to the Commission for its limited approval the proposed general construction contract for the Affordable Development Improvements. The Commission's review and approval of such construction contract will be limited exclusively to a determination

whether: (1) the guaranteed maximum construction cost set forth in the construction contract is consistent with the approved Project Documents and Financing Plan for the Affordable Development Improvements; (2) the construction contract is with a licensed contractor reasonably acceptable to the Commission; (3) the construction contract contains provisions consistent with Article 12 of this Agreement; and (4) the construction contract for the Affordable Development Improvements requires a retention of ten percent (10%) of costs until completion of the applicable Development Improvements (except for specific Subcontractors performing early work on the Development Improvements following the Commission's prior written approval for each specific Subcontractor or line items specifically approved by the Commission in the schedule of values attached to the construction contract and consistent with Commission policy).

(b) The Commission's approval of the applicable construction contract may in no way be deemed to constitute approval of, or concurrence with, any other term or condition of the construction contract, and the Affordable Developer may not rely on the Commission's approval of the construction contract as a representation regarding the enforceability or business advantage of the construction contract. Commission approval merely constitutes satisfaction of the conditions set forth in this Section.

(c) Upon receipt by the Commission of the proposed construction contract for the Affordable Development Improvements, the Commission will promptly review same and approve it within five (5) business days if it satisfies the limited criteria set forth above. If the construction contract is not approved by the Commission, the Commission must set forth in writing and notify the Affordable Developer of the Commission's reasons for withholding such approval. The Affordable Developer will thereafter submit a revised construction contract for Commission approval, which approval may be granted or denied in five (5) days in accordance with the criteria and procedures set forth above. The construction contract for the Affordable Development Improvements executed by the Affordable Developer for the Affordable Development Improvements must be in a form approved by the Commission.

Section 11.8 Construction Bonds.

Not less than three (3) business days prior to commencing construction of an applicable Development Improvement, the Affordable Developer must obtain one (1) labor and material bond and one (1) performance bond for construction of the applicable Development Improvements, each in an amount equal to one hundred percent (100%) of the scheduled cost of construction of the Affordable Development Improvements. Each bond must name the Commission and the County as co-obligee and be issued by a reputable insurance company licensed to do business in California, reasonably acceptable to the Commission. The form of the labor and material bond and the performance bond is subject to the Commission's prior review and written approval, which may not be unreasonably withheld.

Section 11.9 Bid Package.

The Affordable Developer will cause the Affordable Developer's general contractor to provide the Bid Package to all subcontractors.

Section 11.10 Commencement of Construction.

(a) Subject to the terms of Sections 6.6(c), 6.8(b) and Section 4.4, as applicable, the Affordable Developer shall commence construction of the Affordable Development Improvements no later the date set forth in the Development Schedule.

(b) Failure by the Affordable Developer to commence construction of the Affordable Development Improvements within such time period, as such may be extended in accordance with this Agreement or at the discretion of the Executive Director, shall constitute a Default within the meaning and with the effect set forth in Section 14.2.

(c) Notwithstanding anything else to the contrary in this Agreement or Sonoma County Code 26-89-040 (c)(1) if applicable, the Market Rate Developer may commence construction of the Market Rate Development Improvements prior to the commencement of construction of the Affordable Development Improvements, subject to City planning approvals and requirements.

Section 11.11 Completion of the Construction of Development Improvements.

(a) Subject to the terms of Sections 6.6(c), 6.8(b) and Section 4.4, as applicable, the Affordable Developer must diligently prosecute to completion the construction of the Affordable Development Improvements no later the date set forth in the Development Schedule subject to extensions and delays permitted by this Agreement.

(b) Subject to the terms of Sections 6.6(c), 6.8(b) and Section 4.4, failure by the Affordable Developer to complete construction of the Affordable Development Improvements within such time period, as such may be extended at the discretion of the Executive Director, shall constitute a Default within the meaning and with the effect set forth in Section 15.2.

Section 11.12 Prevailing Wage.

(a) Predevelopment Component. The Commission shall cause all work associated with the Predevelopment Component in compliance with the requirements of California Labor Code Section 1720 et seq.

(b) Affordable Development. To the extent required by law, the Affordable Developer must pay and will cause the contractor and subcontractors to pay prevailing wages in the construction of the Affordable Development as those wages are determined pursuant to California Labor Code Section 1720 et seq., to employ apprentices as required by California Labor Code Sections 1777.5 et seq., and the implementing regulations of the Department of Industrial Relations (the "DIR"). As required by applicable law, the Affordable Developer must and will cause the contractor and subcontractors to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., and implementing regulations of the DIR. As required by applicable law, the Affordable Developer must and will cause the contractor and subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to California Labor Code Section 1720 et seq., and apprentices have been employed are required by California Labor Code Section 1777.5 et seq. Copies of the currently applicable per diem prevailing wages are available from DIR. As required by applicable law, during the construction of the Affordable Development, the

Affordable Developer will or will cause the contractor to post at the Affordable Development Parcel the applicable prevailing rates of per diem wages. The Affordable Developer must cause its respective contractors and subcontractors to be registered as set forth in Labor Code Section 1725.5. As required by applicable law, the Affordable Developer must cause its respective contractors and subcontractors to do all the following: (1) all calls for bids, bidding materials and the construction contract documents for the Affordable Development must specify that: (A) no contractor or subcontractor may be listed on a bid proposal nor be awarded a contract for the Affordable Development unless registered with the DIR pursuant to Labor Code Section 1725.5; and (B) the Affordable Development is subject to compliance monitoring and enforcement by the DIR; (2) The Affordable Developer is required to provide the Commission all information required by Labor Code Section 1773.3 as set forth in the DIR's online form PWC-100 within two (2) days of the award of the contract (<https://www.dir.ca.gov/pwc100ext/>); (3) The Affordable Developer must cause its respective contractors to post job site notices, as prescribed by regulation by the DIR; and (4) The Affordable Developer must cause its respective contractors to furnish payroll records required by Labor Code Section 1776 directly to the Labor Commissioner, at least monthly in the electronic format prescribed by the Labor Commissioner.

(c) Market Rate Development. This Agreement has been structured such that the Predevelopment Component work to be completed hereunder will be incorporated into the Purchase Price for the Market Rate Development Parcel and no part of the Market Rate Development will be paid for in whole or in part out of public funds. As a consequence, the Market Rate Development is not a public work subject to the requirements of Labor Code Section 1720. Nonetheless, to the extent the Market Rate Developer, takes any action to trigger said requirements, the Market Rate Developer must pay and will cause the contractor and subcontractors to pay prevailing wages in the construction of the Market Rate Development as those wages are determined pursuant to California Labor Code Section 1720 et seq., to employ apprentices as required by California Labor Code Sections 1777.5 et seq., and the implementing regulations of the DIR to the extent required by law. As required by applicable law, the Market Rate Developer must and cause the contractor and subcontractors to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., and implementing regulations of the DIR. As required by applicable law, the Market Rate Developer must and will cause the contractor and subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to California Labor Code Section 1720 et seq., and apprentices have been employed are required by California Labor Code Section 1777.5 et seq. Copies of the currently applicable per diem prevailing wages are available from DIR. As required by applicable law, during the construction of the Market Rate Development, the Market Rate Developer will or will cause the contractor to post at the Market Rate Development Parcel the applicable prevailing rates of per diem wages. The Market Rate Developer must cause its respective contractors and subcontractors to be registered as set forth in Labor Code Section 1725.5. As required by applicable law, the Market Rate Developer must cause its respective contractors and subcontractors to do all the following: (1) all calls for bids, bidding materials and the construction contract documents for the Market Rate Development must specify that: (A) no contractor or subcontractor may be listed on a bid proposal nor be awarded a contract for the Market Rate Development unless registered with the DIR pursuant to Labor Code Section 1725.5; and (B) the Market Rate Development is subject to compliance monitoring and enforcement by the DIR; (2) The Market Rate Developer is required to provide the Commission all information required by Labor Code Section 1773.3 as set forth in the DIR's online form PWC-100 within two (2) days of the award of the contract

(<https://www.dir.ca.gov/pwc100ext/>); (3) The Market Rate Developer must cause its respective contractors to post job site notices, as prescribed by regulation by the DIR; and (4) The Market Rate Developer must cause its respective contractors to furnish payroll records required by Labor Code Section 1776 directly to the Labor Commissioner, at least monthly in the electronic format prescribed by the Labor Commissioner.

(d) Indemnity. The Developers, individually, and with respect to their individual Parcel, agree to indemnify, hold harmless and defend (with counsel reasonably acceptable to the Commission) the Indemnitees against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including a Developer, its contractor and subcontractors), if required by applicable law, to pay prevailing wages as determined pursuant to California Labor Code Section 1720 et seq., to employ apprentices pursuant to California Labor Code Section 1777.5 et seq., and implementing regulations of the DIR or to comply with the other applicable provisions of California Labor Code Sections 1720 et seq., 1777.5 et seq., to meet the conditions of Section 1771.4 of the Labor Code as set forth above and the implementing regulations of the DIR in connection with the construction of the applicable Development Improvements or any other work undertaken or in connection with the applicable Developer Parcel. The indemnification provided hereunder by each Developer will survive the termination of this Agreement and expiration of the Term, and with respect to the Affordable Developer the indemnification provided hereunder shall also survive the repayment of the Affordable Housing Loan, the reconveyance of the Affordable Housing Loan Deed of Trust. The duty to indemnify under this subsection does not include any public improvements where the Commission contracted for or performed the work directly.

Section 11.13 Equal Opportunity.

During the construction of the Affordable Development Improvements, the Affordable Developer, and its successors, assigns and subcontractors must not discriminate against any employee or applicant for employment in connection with the construction of the Affordable Development Improvements because of race, color, religion, ethnic group identification, sex, sexual preference, marital status, ancestry or national origin. Each of the following activities must be conducted in a non-discriminatory manner: hiring; upgrading; demotion and transfers; recruitment and recruitment advertising; layoff and termination; rate of pay and other forms of compensation; and selection for training including apprenticeship.

Section 11.14 Progress Report.

Until such time as the Affordable Developer has completed construction of the Affordable Development Improvements, as evidenced by the Certificate of Completion, the Affordable Developer must provide the Commission with copies quarterly progress reports, or more frequent updates if the Commission reasonably requires, regarding the status of the construction of the applicable Development Improvements, including comparisons of actual construction costs to date to the costs identified in the Affordable Development Financing Plan (as such may be amended and modified).

Section 11.15 Construction Responsibilities.

(a) The Affordable Developer must coordinate and schedule the work to be performed so that commencement and Completion of Construction of the Affordable Development Improvements will take place in accordance with this Agreement.

(b) The Affordable Developer is solely responsible for all aspects of the Affordable Developer's conduct in connection with the Affordable Development Improvements, including but not limited to the quality and suitability of the Project Documents, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by the Commission with reference to the Development Improvements is solely for the purpose of determining whether a Developer is properly discharging its obligations to the Commission, and should not be relied upon by the Affordable Developer or by any third parties as a warranty or representation by the Commission as to the quality of the design or construction of the Affordable Development Improvements.

(c) The Market Rate Developer is solely responsible for all aspects of the Market Rate Developer's conduct in connection with the Market Rate Development Improvements, including but not limited to the quality and suitability of the Project Documents, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers.

Section 11.16 Mechanics Liens, Stop Notices, and Notices of Completion.

(a) If any claim of lien is filed against the Affordable Developer Parcel or Affordable Development Improvements or a stop notice is served on the Commission or any other lender or other third party in connection with the Affordable Development Improvements, then the Affordable Developer must, within twenty (20) days after such filing or service, either pay and fully discharge or cause the Affordable Developer's contractor to pay and fully discharge, the lien or stop notice, effect the release of such lien or stop notice by delivering to the Commission a surety bond from a surety reasonably acceptable to the Commission in sufficient form and amount, or provide the Commission with other assurance reasonably satisfactory to the Commission that the claim of lien or stop notice will be paid or discharged.

(b) If the Affordable Developer fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section or obtain a surety bond, then in addition to any other right or remedy, the Commission may (but is under no obligation to) discharge such lien, encumbrance, charge, or claim at the Affordable Developer's expense. Alternatively, the Commission may require the Affordable Developer to immediately deposit with the Commission the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The Commission may use such deposit to satisfy any claim or lien that is adversely determined against the Affordable Developer.

(c) The Affordable Developer must file a valid notice of cessation or notice of completion upon cessation of construction of the Affordable Development Improvements for a continuous period of thirty (30) days or more, and take all other reasonable steps to forestall the

assertion of claims of lien against the Affordable Developer Parcel and/or the Affordable Development Improvements. The Affordable Developer authorizes the Commission, but without any obligation, to record any notices of completion or cessation of labor, or any other notice that the Commission deems necessary or desirable to protect its interest in the Affordable Development Improvements and the Affordable Developer Parcel.

Section 11.17 Inspections.

The Affordable Developer must permit and facilitate, and require their contractors to permit and facilitate, observation and inspection at the Development Improvements by the Commission and by public authorities during reasonable business hours upon forty-eight (48) hours' notice for the purposes of determining compliance with this Agreement.

Section 11.18 Financing; Revisions to Plan.

As of the date of this Agreement, the Commission has approved the Financing Proposals set forth in Exhibits C-1 through C-3. In accordance with Section 5.5 and 5.8 respectively, each Developer must obtain the Commission's approval of Financing Plans. The Affordable Developer must promptly submit any proposed material amendments to the Affordable Development Financing Plan, including but not limited to any material amendments or modifications to the development budget, or the commitment letter from any other lender, to the Commission. Written consent of the Commission is required to amend the Affordable Development Financing Plan; provided that the Commission must consent to any amendment of the Affordable Development Financing Plan that increases the cost of the construction of the Affordable Development Improvements if such amendment also demonstrates that there is Approved Financing (or any source other than assistance from the Commission) available to pay for such increases. The Commission will utilize best efforts to approve or disapprove requested amendments to the Affordable Development Financing Plan within five (5) working days of receipt of a request for approval.

Section 11.19 Information.

The Affordable Developer must provide any information reasonably requested by the Commission in connection with the Affordable Development Improvements.

Section 11.20 Relocation.

(a) The parties acknowledge that the Commission shall deliver to each Developer the applicable Developer Parcel and all improvements located thereon vacant and free of any relocation responsibilities. Provided the Commission has fully complied with its obligations pursuant to Section 6.5 above, if and to the extent after the acquisition of the Developer Parcel, during the course of construction of the Development Improvements, implementation of this Agreement by a Developer result in the permanent or temporary displacement of residential tenants, homeowners, or businesses, then such Developer must comply with all applicable local, state, and federal statutes and regulations, (including without limitation California Government Code Section 7260 et seq., and accompanying regulations) with respect to relocation planning, advisory assistance, and payment of monetary benefits. The applicable Developer shall be solely responsible for payment of any relocation benefits to any

displaced persons and any other obligations associated with complying with such relocation laws.

(b) Each Developer hereby agrees to indemnify, hold harmless and defend (with counsel reasonably acceptable to the Commission), Indemnitees against any claim for damages, compensation, fines, penalties, relocation payments or other amounts arising out of the failure or alleged failure of any person or entity (including the Developer and Commission) to satisfy relocation obligations related to the construction of such Developer's applicable Development Improvements; provided however, Developer shall have no obligation to indemnify any Indemnitee with respect to any claim for damages, compensation, fines, penalties, relocation payments or other amounts arising out of the failure or alleged failure of Commission with respect to its obligations under Section 6.5 of this Agreement. The indemnification provided hereunder by each Developer will survive the termination of this Agreement and expiration of the Term, and with respect to the Affordable Developer the indemnification provided hereunder shall also survive the repayment of the Affordable Housing Loan, the reconveyance of the Affordable Housing Loan Deed of Trust. The duty to indemnify under this subsection (b) does not include any relocation activities where the Commission contracted for or performed the work directly.

Section 11.21 Certificate of Completion.

Promptly after completion of the Affordable Development Improvements in accordance with those provisions of this Agreement relating solely to the obligations of the Affordable Developer's obligation to construct the Affordable Development Improvements (including the dates for beginning and completion thereof), the Commission will provide a Certificate of Completion so certifying. Such certification will be conclusive determination that certain covenants in this Agreement with respect to the obligations of the Affordable Developer to construct the Affordable Development Improvements (excluding the Affordable Developer's compliance with Section 11.12, related to the payment of Prevailing Wages) and the dates for the beginning and completion thereof have been met. Such certification must be in substantially in the form attached hereto as Exhibit L, incorporated herein by this reference and be recorded among the Official Records. Such certification and determination will not constitute evidence of compliance with or satisfaction of any obligation of the Affordable Developer: (a) to any holder of deed of trust securing money loaned to finance the Affordable Development Improvements or any part thereof; (b) to pay prevailing wages; (c) to rent the units in accordance with the terms of this Agreement and the Affordable Housing Regulatory Agreement, with respect to the Affordable Development; and (d) may not be deemed a notice of completion under the California Civil Code.

Section 11.22 Necessary Safeguards.

Each Developer shall or shall cause their contractors to erect and properly maintain at all times, as required by the project and site conditions and progress of work performed by the Developer and their contractors, all reasonable and necessary safeguards for the protection of works and public.

ARTICLE 12.
ONGOING DEVELOPER
OBLIGATIONS

Section 12.1 Applicability.

The conditions and obligations set forth in this Article shall apply for the specified period for each particular condition or obligation. The Affordable Developer shall satisfy the obligations in this Article 12 only to the extent they pertain to the Affordable Development, the Market Rate Developer shall satisfy the obligations in this Article 12 only to the extent they pertain to the Market Rate Development.

Section 12.2 Affordable Housing Development Use and Ongoing Obligations.

(a) The Affordable Developer hereby agrees that, for the entire Term, the Affordable Development will be used only for residential use consistent with the Housing Loan Agreement and the Affordable Housing Regulatory Agreement.

(b) The Affordable Developer hereby agrees that for the entire Term of the Housing Loan Agreement, the Affordable Developer shall comply with the terms of Article 5 of the Housing Loan Agreement.

Section 12.3 Maintenance of Developer Parcel and Development Improvements.

Each Developer hereby agrees that, prior to completion of the applicable Development Improvements, the portions of the Developer Parcel undergoing construction shall be maintained in a neat and orderly condition to the extent practicable and in accordance with industry health and safety standards, and that, once the Development Improvements are completed, the Development Improvements shall be well maintained by the applicable Developer as to both external and internal appearance of the units, the common areas, and the open spaces. Upon completion, each Developer shall maintain the applicable Development Improvements in good repair and working order, and in a neat, clean and orderly condition, including the walkways, driveways, alleyways and landscaping, and from time to time make all necessary and proper repairs, renewals, and replacements. This requirements in this Section 12.3 shall survive termination of the Agreement.

Section 12.4 Mandatory Language in All Subsequent Deeds, Leases and Contracts.

(a) Basic Requirement. No Developer may restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Development Improvements on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code. Each Developer or any person claiming under or through the Developer cannot establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Development Improvements. The foregoing covenant runs with the land.

(b) Provisions in Conveyance Documents. All deeds, leases or contracts made or entered into by a Developer, and its successor and assigns permitted under this

Agreement, as to any portion of the Master Development Site must contain therein the following language, or substantially similar language prohibiting discrimination:

(1) In Deeds:

"(1) Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed, nor shall the grantee or any person claiming under or through the grantee, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

(2) In Leases:

"(1) Lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee or any person claiming under or through the lessee, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

(3) In Contracts:

"(1) There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

Section 12.5 Development Hazardous Materials.

(a) Certain Covenants and Agreements. Each Developer covenants and agrees throughout the Term of this Agreement:

(1) The Developer will keep and maintain the applicable Developer Parcel and the Development Improvements located thereon, in compliance with all Hazardous Materials Laws, and may not cause or permit the Development Improvements or any portion thereof to be a site for the release, use, generation, treatment, manufacture, storage, discharge, disposal or transportation of Hazardous Materials or otherwise permit the presence of Hazardous Materials in, on or under the Development Improvements, except such of the foregoing as may be customarily used in construction of projects like the Development Improvements or kept and used in and about residential property of this type;

(2) Each Developer must keep and maintain their respective Development Improvements and any portion thereof in compliance with, and may not cause or permit the Development Improvements or any portion thereof to be in violation of, any Hazardous Materials Laws;

(3) Upon receiving actual knowledge of the same, the Developer must immediately advise the Commission in writing of: (A) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against the Developer or the applicable Development Improvements pursuant to any applicable Hazardous Materials Laws; (B) any and all claims made or threatened by any third party against the Developer or the applicable Development Improvements relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in the foregoing clause (A) and this clause (B) are hereinafter referred to as "Hazardous Materials Claims"); (C) the presence of any Hazardous Materials in, on or under the Development Improvements; or (D) the Developer's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Development Improvements classified as

"borderzone property" under the provisions of California Health and Safety Code Sections 25220 et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Development Improvements under any Hazardous Materials Laws. The Commission has the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorney's fees in connection therewith paid by the Developer.

(4) Without the Commission's prior written consent, which will not be unreasonably withheld, the Developer must not take any remedial action in response to the presence of any Hazardous Materials on, under, or about the Development Improvements (other than in emergency situations or as required by governmental agencies having jurisdiction), nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Materials Claims.

(b) Indemnity. Without limiting the generality of the indemnification set forth in Section 17.6 below, in consideration transfer of the Developer Parcel, and as applicable financial assistance provided to the Developer, by the Commission and from and after the conveyance of the Developer Parcel by the Commission to the Developer, the Developer hereby agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the Commission) the Indemnitees from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, but not limited to, reasonable attorney's fees and expenses), arising directly or indirectly, in whole or in part, out of: (1) the failure of the Developer or any other person or entity during Developer's ownership of the Developer Parcel to comply with any Hazardous Materials Law relating in any way whatsoever to the handling, treatment, presence, removal, storage, decontamination, cleanup, transportation or disposal of Hazardous Materials into, on, under or from the Development Improvements; (2) during Developer's ownership of the Developer Parcel, the presence in, on or under the Development Improvements of any Hazardous Materials or any releases or discharges of any Hazardous Materials into, on, under or from the Development Improvements; or (3) during Developer's ownership of the Developer Parcel, any activity carried on or undertaken on or off the Developer Parcel whether by the Developer or any employees, agents, contractors or subcontractors of the Developer or any third persons at any time occupying or present on the Developer Parcel, in connection with the handling, treatment, removal, storage, decontamination, cleanup, transport or disposal of any Hazardous Materials at any time located or present on or under the Development Improvements. The foregoing indemnity applies to any residual contamination on or under the Development Improvements, or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with Hazardous Materials Laws. The provisions of this subsection survive expiration of the Term or other termination of this Agreement, and will remain in full force and effect. The forgoing indemnity does not apply to any claims, losses, damages, liabilities, fines, penalties, or charges that are caused by the negligence or willful misconduct of the Commission, or to any Remediation Work performed under the Commission's supervision or with respect to any Hazardous Materials first arising prior to any Developer's ownership of its Developer Parcel..

(c) No Limitation. The Developer hereby acknowledges and agrees that the Developer's duties, obligations and liabilities under this Agreement, including, without limitation, under subsection (b) above, are in no way limited or otherwise affected by any information the Commission may have concerning the Development Improvements and/or the presence within the Development Improvements of any Hazardous Materials, whether the Commission obtained such information from the Developer or from its own investigations.

Section 12.6 Audits.

The Affordable Developer must make available for examination at reasonable intervals and during normal business hours to the Commission all books, accounts, reports, files, and other papers or property with respect to all matters covered by this Agreement, and permit the Commission to audit, examine, and make excerpts or transcripts from such records. The Commission may make audits of any conditions relating to this Agreement.

Section 12.7 Safety Conditions.

(a) Each Developer acknowledges that the Commission places a prime importance on the security of Commission assisted projects and the safety of the residents and surrounding community. Each Developer agrees to implement and maintain the following security measures in the Project:

(1) Commencing upon receipt of its Certificate of Occupancy for its respective Project, and for the extent feasible employ defensible space design principles and crime prevention measures in the operation of the Development Improvements including but not limited to maintaining adequate lighting in parking areas and pathways;

(2) The Affordable Developer and the Market Rate Developer must cause the Management Agent to participate in the Sonoma County Sheriff Department's Crime Free Multi-Housing Unit Program, wherein specialized training and other resources are provided to multi-family property owners and managers to reduce the potential for onsite criminal activity. Completion of the Department's all of the training phases and a Full Certification must be achieved and maintained by the Management Agent; and

(3) Provide added security including dead-bolt locks for every entry door, and where entry doors are damaged, replace them with solid-core doors.

(b) Each Developer agrees that the Commission has the right to contact the Sonoma Commission Sheriff's Department if it becomes aware of or is notified of any conditions that pose a danger to the peace, health, welfare or safety of the residents and/or the surrounding community, and with regards to the Affordable Development only, to perform or cause to be performed such acts as are necessary to correct the condition.

(c) The requirements imposed under this Section shall survive termination of the DDA.

Section 12.8 Taxes and Assessments.

(a) Each Developer shall be solely responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Developer Parcel to the extent owed by the Developers, and shall pay such charges prior to delinquency. However, the Developers shall not be required to pay and discharge any such charge so long as: (1) the legality thereof is being contested diligently and in good faith and by appropriate proceedings; and (2) if requested by the Commission, the Developers, as applicable, deposits with the Commission any funds or other forms of assurance that the Commission in good faith from time to time determines appropriate to protect the Commission from the consequences of the contest being unsuccessful.

(b) The Commission acknowledges and agrees that the Affordable Developer shall be allowed to apply to the State Board of Equalization for or obtain a welfare exemption from property taxes under California Revenue and Taxation Code Section 214 for the Affordable Development.

(c) The Market Rate Developer and the Master Developer agree and acknowledge that, other than the Affordable Developer pursuant to subsection (b) above, the Developers shall not be allowed to apply to the State Board of Equalization for or obtain a welfare exemption from property taxes under California Revenue and Taxation Code Section 214 for any portions of the Commercial Development, Civic Development or the Market Rate Development, respectively.

(d) The conditions and obligations set forth in this Section shall survive termination of this Agreement.

Section 12.9 Notice of Litigation.

Each Developer must promptly notify the Commission in writing of any litigation materially affecting the Developer or the applicable Developer Parcel and of any claims or disputes that involve a material risk of such litigation. The obligations under this Section as they apply to the Market Rate Developer shall terminate upon issuance of a Certificate of Completion for the Market Rate Development Improvements. The obligations under this Section as they apply to the Affordable Developer shall continue to apply for the entire Term.

ARTICLE 13. ASSIGNMENT AND TRANSFERS

Section 13.1 Definitions.

The term "Transfer" means:

(a) Any total or partial sale, assignment or conveyance, or any trust or power, or any transfer in any other mode or form, of or with respect to this Agreement or of the Development Improvements or any part thereof or any interest therein or any contract or agreement to do any of the same;

(b) Any total or partial sale, assignment or conveyance, of any trust or power, or any transfer in any other mode or form, of or with respect to any ownership interest in a Developer, or any contract or agreement to do any of the same;

(c) Any merger, consolidation, sale or lease of all or substantially all of the assets of a Developer; or

(d) The leasing of part or all of the Developer Parcel or the Development Improvements thereon, provided the leasing of the Affordable Units included within the Affordable Development Improvements to tenant occupants in accordance with the Affordable Housing Regulatory Agreement will not be deemed a Transfer for purposes of this Article.

Section 13.2 Purpose of Restrictions on Transfer.

(a) This Agreement is entered into solely for the purpose of the development and operation of the Development Improvements in accordance with the terms hereof. The Developers recognize that the qualifications and identity of the Developers are of particular concern to the Commission, in view of:

(1) The importance of the redevelopment of the Master Development Site and each of the Developer Parcels to the general welfare of the community;

(2) The land acquisition assistance and other public aids, as applicable, that have been made available by law and by the government for the purpose of making such redevelopment possible;

(3) The reliance by the Commission upon the unique qualifications and ability of the Affordable Developer, the Market Rate Developer, and the Master Developer, to serve as the catalyst for development of the Master Development Site and each of the Developer Parcels;

(4) The fact that a change in ownership or Control of the Affordable Developer, the Market Rate Developer, or Master Developer, or applicable Developer, or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in ownership or with respect to the identity of the parties in control of a Developer or the degree thereof is for practical purposes a transfer or disposition of the Master Development Site and each of the Developer Parcel;

(5) The fact that the Master Development Site and each of the Developer Parcels is not to be acquired or used for speculation, but only for development and operation by the Developer in accordance with the Agreement and associated ancillary documents; and

(6) The importance to the Commission and the community of the standards of use, operation and maintenance of the Master Development Site and each of the Developer Parcels.

(b) The Affordable Developer, the Market Rate Developer, and the Master Developer further recognize that it is because of such qualifications and identity that the Commission is entering into this Agreement with the Developers and that Transfers are permitted only as provided in this Agreement.

Section 13.3 Prohibited Transfers.

(a) The limitations on Transfers set forth in this Article apply to the Affordable Development throughout the Term. Except as expressly permitted in this Agreement, the Affordable Developer represents and agrees that the Affordable Developer has not made or created, and will not make or create or suffer to be made or created, any Transfer, either voluntarily or by operation of law without the prior written approval of the Commission.

(b) The limitations on Transfers set forth in this Article apply to the Market Rate Development through the Market Rate Development Close of Escrow. Except as expressly permitted in this Agreement, the Market Rate Developer represents and agrees that the Market Rate Developer has not made or created, and will not make or create or suffer to be made or created, any Transfer, either voluntarily or by operation of law without the prior written approval of the Commission.

(c) Any Transfer made in contravention of this Section are void and are deemed to be a default under this Agreement whether or not the Developer knew of or participated in such Transfer.

Section 13.4 Permitted Transfers.

(a) Notwithstanding the provisions of Section 13.3, the following Transfers are permitted and are hereby approved by the Commission, with regards to the Affordable Development Improvements:

(1) Any Transfer creating a Security Financing Interest permitted pursuant to the approved Affordable Development Financing Plan;

(2) Any Transfer directly resulting from the foreclosure of a Security Financing Interest or the granting of a deed in lieu of foreclosure of a Security Financing Interest or as otherwise permitted under Article 15.

(3) The leasing of residential units within the Affordable Development in accordance with the Affordable Housing Regulatory Agreement.

(4) The granting of easements, licenses or permits to facilitate the development of the Affordable Development Parcel.

(b) The Commission hereby approves a Transfer of a limited partnership interest in the Affordable Developer to the Tax Credit Investor, or to an affiliate of the Tax Credit Investor (provided such affiliate provides documentation reasonably acceptable to the Commission that the affiliate has sufficient financial capability to provide the capital contributions set forth in the Affordable Development Financing Plan) and future transfers of

such interest provided that: (1) the Affordable Developer's Partnership Agreement provides for capital contributions of the limited partners consistent with Affordable Development Financing Plan and is first approved by the Commission in its reasonable discretion; (2) all documents associated with the tax credit syndication of the Affordable Development are submitted to the Commission for approval prior to execution, which approval may not be unreasonably withheld; and (3) in subsequent transfers the Tax Credit Investor (or an affiliate of the Tax Credit Investor reasonably acceptable to the Commission) remains liable for all unpaid capital contributions. The Parties agree and acknowledge that under the common control with the Sponsor will remain the managing general partner of the Affordable Developer throughout the Term. In the event the general partner of the Affordable Developer is removed by the limited partner of the Affordable Developer for cause following default under the Developer's partnership agreement, the Commission hereby approves the transfer of the general partner interest to a 501(c)(3) tax-exempt nonprofit public benefit corporation that is selected by the limited partner and approved in advance and in writing by the Commission, which approval may not be unreasonably withheld.

(c) The Commission also hereby approves future Transfers of the limited partner interest provided that: (1) such Transfers do not affect the timing and amount of the limited partner capital contributions provided for in the Partnership Agreement approved by the Commission; (2) in such Transfers, a wholly owned affiliate of the general partners retains a membership or partnership interest and serves as a managing member or managing general partner of the successor limited partner; (3) no fees, charges or payments (including exit fees) incurred as a result of the limited partnership transfer whatsoever may be funded from Operating Income or any reserves of the Affordable Development.

(d) The Commission also hereby approves Transfer of the Affordable Development Parcel and the Improvements and/or the interest in the Limited Partnership from the Affordable Developer to the Sponsor or a nonprofit affiliate of the Sponsor, and an assumption of the Housing Loan by such transferee, provided that: (1) the transferee expressly assumes the obligations of the Affordable Developer under the Commission Housing Loan Documents, utilizing a form of assignment and assumption agreement to be provided by the Commission; and (2) all funds maintained in the Operating Reserve and the Replacement Reserve are transferred to the transferee with the Affordable Development and continue to be reserved solely to pay operating costs or replacement costs of the Affordable Development.

Section 13.5 Transfers of Market Rate Development.

(a) Notwithstanding the provisions of Section 13.3 and subject to satisfaction of the requirements of Section 13.6, for a Transfer of the Market Rate Development prior to the Market Rate Development Close of Escrow, the Commission may, in its reasonable discretion, approve in writing Transfers of the Market Rate Development. In reviewing any particular transfer request under this Section, the Commission, may take the following criteria into consideration:

(1) The identity of the proposed transferee and whether the proposed Transfer is: (A) a subsidiary, affiliate, division, partnership, limited liability company or corporation controlling, controlled by or under common control of the Market Rate Developer;

(B) an entity in which the Market Rate Developer maintains the power to direct the management of, the relevant entity; or (C) an unaffiliated person or entity;

(2) If the proposed Transfer is to occur prior to the Market Rate Development Close of Escrow, the proposed transferee's demonstrated experience in developing multifamily rental housing projects comparable to the Market Rate Development;

(3) The proposed transferee's demonstrated experience in operating multifamily market rate rental housing projects in first-class condition comparable to the Market Rate Development. A preference will be given to proposed transferees with at least five (5) years of experience in operating multifamily market rate rental housing projects in first-class condition comparable to the Market Rate Development;

(4) The proposed transferee's record of loan defaults, maintenance problems, housing or building code violations, or substantiated fair housing complaints at properties it owns and/or operates. The Parties agree and acknowledge that the Commission will have the right to disapprove a proposed Transfer to any person or entity with loan defaults, maintenance problems, housing or building code violations, and/or substantiated fair housing complaints at properties it owns and/or operates;

(5) The proposed transferee's financial status and creditworthiness. The Commission will not consider any proposed transferee unless the proposed transferee has a net worth equal to or greater than the net worth of the Market Rate Developer as of the proposed date of Transfer and satisfactory credit as reasonably determined by the Commission; and

(6) Any other factors or criteria the Commission deems necessary to make a determination of whether a proposed transferee has the necessary expertise, skill and ability to carry out the commitments set forth in this Agreement and the proposed transferee's ability to materially contribute to the timely implementation and performance of the requirements of this Agreement.

(b) In connection with a request under this Section, there shall be submitted to the Commission for review all instruments and other legal documents proposed to effect any such Transfer. If a requested Transfer is approved by the Commission such approval shall be indicated to the Market Rate Developer in writing. Such approval shall be granted or denied by the Commission within thirty (30) business days of receipt by the Commission of the Market Rate Developer's request for approval of a Transfer.

(c) From and after the Market Rate Development Close of Escrow, the Commission shall have no oversight, right of review or impose any limitation on Transfers of the Market Rate Development.

Section 13.6 Effectuation of Certain Permitted Transfers.

(a) No Transfer of this Agreement permitted pursuant to Section 13.4 or 13.5 will be effective unless, at the time of the Transfer, the person or entity to which such Transfer is made, by an instrument in writing prepared by the Commission, substantially in the form of the DDA Assignment and Assumption Agreement attached hereto as Exhibit J, expressly assumes

the obligations of the applicable Developer under this Agreement and agrees to be subject to the conditions and restrictions to which the Developer is subject arising during the term of this Agreement, to the fullest extent that such obligations are applicable to the particular portion of or interest in the Development Improvements conveyed in such Transfer. Anything to the contrary notwithstanding, the holder of a Security Financing Interest whose interest have been acquired by, through or under a Security Financing Interest or have been derived immediately from any holder thereof will not be required to give to Commission such written assumption until such holder or other person is in possession of the Developer Parcel or entitled to possession thereof pursuant to enforcement of the Security Financing Interest.

(b) In the absence of specific written agreement by the Commission, no such Transfer, assignment or approval by the Commission will be deemed to relieve the Developer or any other party from any obligations under this Agreement.

Section 13.7 Other Transfers with Commission Consent.

The Commission may, in its sole discretion, approve in writing other Transfers as requested by a Developer. In connection with such request, there must be submitted to the Commission for review all instruments and other legal documents proposed to effect any such Transfer. If a requested Transfer is approved by the Commission such approval must be indicated to the applicable Developer in writing. Such approval must be granted or denied by the Commission within thirty (30) days of receipt by the Commission of Developer's request for approval of a Transfer.

Section 13.8 Assumption of Obligations.

Upon the occurrence of a Permitted Transfer, described in this Article 13, the transferor of such Transfer or Permitted Transfer shall have no further liability or obligation under this Agreement and all such liabilities and obligations shall be assumed by the transferee of such Transfer or Permitted Transfer.

ARTICLE 14. DEFAULT AND REMEDIES

Section 14.1 General Applicability.

The provisions of this Article 14 govern the Parties' remedies for breach or failure of this Agreement.

Section 14.2 Developer Events of Default.

Each of the following shall constitute a "Default" under this Agreement as to the Developer party whose act or inaction results in such Default:

(a) Failure to Make Payment. Failure of a Developer to pay all amounts due under this Agreement within the times and in the manner specified herein, following written notice by the Commission of such failure and five (5) business days opportunity to cure;

(b) Failure to Commence Construction Work. Failure of the Affordable Developer, to commence the construction of the Affordable Development Improvements within the time frames set forth in this Agreement;

(c) Failure to Complete Construction Work. Failure of the Affordable Developer to complete construction of the Affordable Development Improvements within the time frames set forth in this Agreement;

(d) Breach of Covenants. Failure of a Developer to duly perform, comply with, or observe any of the other conditions, terms, or covenants of this Agreement, and such failure having continued uncured for thirty (30) days after receipt of written notice thereof from the Commission to a Developer, which notice provides reasonable detail of such failure and the required cure for such failure; provided, however, that if a different period or notice requirement is specified under any other section of this Article, the specific provisions shall control;

(e) Default Under Other Loans. There shall occur any default declared by any lender under any loan document related to any loans secured by a deed of trust on the Development Parcel, and all cure periods provided by such loan document have expired without a remedy of the default and the default has not been waived by the lender;

(f) Insolvency. A court having jurisdiction shall have made or entered any decree or order: (1) adjudging a Developer or any of the entities which are general partners, limited partners, members, assigns, affiliates or joint venture partners in the Developer to be bankrupt or insolvent; (2) approving as properly filed a petition seeking reorganization of a Developer or any of the entities which are general partners, limited partners, members, assigns, affiliates or joint venture partners in a Developer seeking any arrangement for either of a Developer or any of the entities which are general partners, limited partners, members, assigns, affiliates or joint venture partners in the Developer under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction; (3) appointing a receiver, trustee, liquidator, or assignee of a Developer or any of the entities which are general partners, limited partners, members, assigns, affiliates or joint venture partners in the Developer in bankruptcy or insolvency or for any of their properties; or (4) directing the winding up or liquidation of a Developer or any of the entities which are general partners, limited partners, members, assigns, affiliates or joint venture partners in a Developer, if any such decree or order described in clauses (1) to (4), inclusive; provided however that in the case of the limited partners in the Affordable Developer, no Default shall occur if the Partnership shall have received all capital contributions required under the Partnership Agreement and such contributions are not subject to recapture pursuant to the any such decree or order described in clauses (1) to (4);

(g) Assignment; Attachment. A Developer or any of the entities which are general partners, limited partners, members, assigns, affiliates members, assigns, affiliates or joint venture partners in a Developer shall have assigned its assets for the benefit of its creditors (other than pursuant to a mortgage loan) or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within thirty (30) days after such event (unless a lesser time period is permitted for cure under any other mortgage on the Affordable Development Parcel, in which event such lesser time period shall apply under this Subsection as

well) or prior to a sooner sale pursuant to such sequestration, attachment, or execution provided however that in the case of the limited partners in the Affordable Developer, no Default shall occur if the Partnership shall have received all capital contributions required under the Partnership Agreement and such contributions are not subject to recapture pursuant to any such decree or order described in clauses (1) to (4);

(h) Suspension; Dissolution. A Developers shall: (1) have the operation of its business voluntarily or involuntarily suspended by the State of California, (2) voluntarily stops or terminates the operation of its business; or (3) if a Developer is a partnership, the partnership shall have the operation of the partnership voluntarily or involuntarily dissolved, suspended or terminated by the State of California; or (4) if a Developer is a limited liability company, the company shall have the operation of the company voluntarily or involuntarily dissolved, suspended or terminated by the State of California;

(i) Liens on Developments. There shall be filed any claim of lien (other than liens approved in writing by the Commission) against the Developer Parcel or any part thereof, or any interest or right made appurtenant thereto, or the service of any notice to withhold proceeds and the continued maintenance of said claim of lien or notice to withhold for a period of thirty (30) days without discharge or satisfaction thereof or provision therefore (including, without limitation, the posting of bonds) satisfactory to the Commission;

(j) Condemnation. The condemnation, seizure, or appropriation by any public agency of all or the substantial part of the Developer Parcel;

(k) Unauthorized Transfer. Any Transfer other than as permitted by Article 14; and/or

(l) Representation or Warranty Incorrect. Any representation or warranty of a Developer, respectively, contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the Commission in connection with this Agreement or any related documents, proves to have been incorrect in any material and adverse respect when made and which default cannot be cured within thirty (30) days after receipt of written notice thereof from the Commission to the Developers.

Upon the following above-described events , the Commission must first notify the Developer in writing of its purported breach or failure, giving the Developer forty-five (45) days from receipt of such notice to cure or, if cure cannot be accomplished within forty-five (45) days, to commence to cure such breach, failure, or act. In the event the Developer does not then so cure within said forty-five (45) days, or if the breach or failure is of such a nature that it cannot be cured within forty-five (45) days, the Developer fails to commence to cure within such forty-five (45) days and thereafter diligently complete such cure within a reasonable time thereafter but in no event later than one hundred twenty (120) days, then the Commission will be afforded all of its rights at law or in equity, by taking all or any of the remedies set forth in this Article 14. Notwithstanding anything to the contrary contained herein, once the conveyance of a particular Developer Parcel occurs in accordance with the terms of this Agreement (each, a

"Transferred Phase"), in no event shall any Event of Default under this Section 14.2 be triggered by or apply to such Transferred Phase.

(m)

Section 14.3 No Fault of Parties. The following events constitute a basis for a party to terminate this Agreement without the fault of the other:

(a) The Commission, despite good faith and diligent efforts, is unable to obtain financing sufficient to complete the Remediation Work;

(b) The Commission, despite good faith and diligent efforts, is unable to secure sufficient funds to pay for the construction of the Infrastructure Improvements, including the Affordable Infrastructure Improvements.

(c) The Commission, despite good faith and diligent efforts, is unable to convey the Master Development Site or a particular Developer Parcel to a Developer and the Developer is otherwise entitled to such conveyance.

(d) Subject to Section 6.6(e) and 5.1(c), the Commission, despite good faith and diligent efforts, is unable to complete the Remediation Work as part of the Predevelopment Component.

(e) Subject to Section 6.8(d) and 5.1(c), the Commission, despite good faith and diligent efforts, is unable to complete the Scope of Infrastructure Work as part of the Predevelopment Component.

(f) A Developer, despite good faith and diligent efforts, is unable to obtain the Commission's approval of the applicable Financing Plan, or obtain Governmental Approvals necessary to develop the applicable Development Improvements.

(g) As it relates to the Phase II Parcels, the parties are unable to agree upon a mutually acceptable Phase II DDA prior to the termination of the Negotiating Period.

(h) Upon the happening of the above-described event and at the election of either party, this Agreement may be terminated by written notice to the other party. After such termination of this Agreement, no party will have any rights against or liability to the other under this Agreement, except that the indemnification provisions of this Agreement will survive such termination and remain in full force and effect.

Section 14.4 Commission Event of Default.

(a) Except as to the events constituting a basis for termination under Section 14.3, the following events each constitute a "Commission Event of Default" and a basis for the Developer to take action against the Commission:

(1) The Commission, without good cause, fails to convey the Developer Parcel to a Developer within the time set forth in the Development Schedule and in

the manner set forth in Article 8 or Article 9, as applicable, and the Developer is otherwise entitled by this Agreement to such conveyance; or

(2) The Commission breaches any other material provision of this Agreement **or the Affordable Infrastructure Agreement** (including failure to timely respond to performance time frames set forth in this Agreement **or the Affordable Infrastructure Agreement**).

(b) Upon the happening of any of the above-described events, a Developer must first notify the Commission in writing of its purported breach or failure, giving the Commission forty-five (45) days from receipt of such notice to cure or, if cure cannot be accomplished within forty-five (45) days, to commence to cure such breach, failure, or act. In the event the Commission does not then so cure within said forty-five (45) days, or if the breach or failure is of such a nature that it cannot be cured within forty-five (45) days, the Commission fails to commence to cure within such forty-five (45) days and thereafter diligently complete such cure within a reasonable time thereafter but in no event later than one hundred twenty (120) days, then the Developer will be afforded all of its rights at law or in equity, by taking all or any of the following remedies: (1) terminating in writing this Agreement (provided, however, that the indemnification provisions of this Agreement will survive such termination); and (2) prosecuting an action for damages, and (3) prosecuting an action for specific performance.

Section 14.5 Commissions Remedies Prior to Conveyance.

Upon the happening of any of the above-described events of Developer Event of Default, and prior to the first close of escrow for any portion of the Developer Parcels, the Commission shall be afforded any of the following remedies including:

(a) Termination. The Commission shall have the right to terminate this Agreement by written notice to the applicable Developer; provided, however, that the Commission's remedies pursuant to this Agreement, the indemnification provisions in this Agreement and the obligations in Exhibit M that are specified to survive termination hereof, shall survive such termination.

(b) Specific Performance. The Commission shall have the right to mandamus or other suit, action, or proceeding at law or in equity to require a Developer to perform its obligations and covenants under this Agreement (other than its obligation to purchase and acquire title to any portion of the Property) or to enjoin acts on things which may be unlawful or in violation of the provisions of this Agreement;

(c) Damages. The Commission may prosecute an action for damages.

(d) Assignment Agreements. The Commission may exercise any of its rights and remedies under the applicable Assignment of Documents.
Limits on Commission's Remedies Against Market Rate Developer/Effect of Termination as to Affordable Developer. Notwithstanding any other provision of this Agreement: (i) A Default by the Affordable Developer shall not constitute a Default by the Market Rate Developer, and the Commission shall have no right to impose any of its remedies in this Section against the Market Rate Developer or against the Market Rate Development for a Default by the Affordable

Developer. (ii) if the Affordable Developer has the right to terminate this Agreement at any time for any reason, it may do so only as to itself and no such termination shall terminate this Agreement as to the Market Rate Developer, and the Agreement will continue with respect to the Market Rate Development; and (iii) if for any reason this Agreement is continued as between the Commission and the Market Rate Developer after the termination hereof as to the Affordable Developer, the Market Rate Developer, unless it agrees to do so pursuant to a proper written amendment to this Agreement, shall not be responsible for any of the obligations of the Affordable Developer hereunder.

Section 14.6 Remedies Against Affordable Developer Following Conveyance.

(a) Upon the happening of any of the above-described events of Default made by the Affordable Developer (or as applicable, by the Affordable Developer's general partners, limited partners, members, assigns, affiliates), following the Affordable Housing Close of Escrow, the Commission shall first notify the Affordable Developer causing the Default in writing of its purported breach, failure or act above described, giving the Developer in writing forty-five (45) days from receipt of such notice to cure, or, if cure cannot be accomplished within said forty-five (45) days, to commence to cure such breach, failure, or act. In the event the Affordable Developer causing the Default fails to cure within said forty-five (45) days, or if such breach is of a nature that it cannot be cured within forty-five (45) days, Affordable Developer causing the Default fails to commence to cure within said forty-five (45) days and diligently complete such cure within a reasonable time thereafter but in no event later than one hundred twenty (120) days, the Commission shall be afforded all of its rights at law or in equity including:

(1) Termination. The Commission shall have the right to terminate this Agreement as to the Affordable Developer; provided, however, that the Commission's remedies pursuant to this Agreement, the indemnification provisions in this Agreement and the obligations in Exhibit N that are specified to survive termination hereof, shall survive such termination;

(2) Specific Performance. The Commission shall have the right to mandamus or other suit, action, or proceeding at law or in equity to require the Affordable Developer to perform its obligations and covenants under this Agreement and the Commission Documents or to enjoin acts on things which may be unlawful or in violation of the provisions of this Agreement or the Commission Housing Loan Documents;

(3) Repayment of Affordable Housing Loan. In the event of a Default, the Commission shall have the right to require the repayment of the Affordable Housing Loan and all other obligations of the Affordable Developer to the Commission under this Agreement and the Commission Housing Loan Documents, together with any accrued interest thereon, to become immediately due and payable. The Affordable Developer waives all right to presentment, demand, protest or notice of protest or dishonor. The Commission may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the Commission as a creditor and secured party under the law including the Uniform Commercial Code, including

foreclosure under the Affordable Housing Loan Deed of Trust. The Affordable Developer shall be liable to pay the Commission on demand all reasonable expenses, costs and fees (including, without limitation, attorney's fees and expenses) paid or incurred by the Commission in connection with the collection of the Affordable Housing Loan and the amounts due under this Agreement and the Commission Documents, and the preservation, maintenance, protection, sale, or other disposition of the security given for the Affordable Housing Loan and the amounts due under this Agreement and the Commission Documents;

(4) Foreclosure. The Commission may exercise any of its rights and remedies under the Affordable Housing Loan Deed of Trust;

(5) Option to Purchase – Affordable Development Parcel. In addition to other remedies of the Commission, and in consideration for the Commission's agreement to enter into this Agreement and convey the Affordable Development Parcel, the Affordable Developer grants to the Commission the additional right at the Commission's option to purchase, enter and take possession of the Affordable Development Parcel with all improvements thereon, after an uncured event of a Default prior to: (A) the issuance of a Certificate of Completion for the Affordable Development; and (B) reconveyance of the Affordable Housing Loan Deed of Trust. Such option to purchase, enter and take possession provided under this Section may be exercised by the Commission in its sole discretion. Such option to purchase, enter and take possession, to the extent provided in this Agreement, shall be subordinate and subject to and be limited by and shall not defeat, render invalid or limit: any Security Financing Interest encumbering the Affordable Development Parcel permitted by this Agreement; or any rights or interest provided in this Agreement for the protection of the holder of such Security Financing Interest encumbering the Affordable Development Parcel.

(6) Damages. The Commission may prosecute an action for damages.

(7) Assignment Agreements. The Commission may exercise any of its rights and remedies under the Assignment Documents applicable to the Affordable Development.

(b) To exercise the rights under this Section with respect to the Affordable Development Parcel, the Commission shall pay to the Affordable Developer, in cash an amount equal to: (1) the fair market value of the improvements existing on the Affordable Development Parcel at the time of the repurchase, reentry and repossession; less (2) any gains or income (including, but not limited to developer fees) withdrawn or made by the Affordable Developer from the Affordable Development Parcel or the improvements thereon; less; (3) the value of any unpaid liens or encumbrances on the Affordable Development which the Commission assumes or takes subject to.

(c) The Commission shall exercise its option to purchase, enter and take possession by giving written notice of such exercise to the Affordable Developer within the later of: (1) ninety (90) days from an uncured event of Default pursuant to Section 14.2 above; or (2) forty-five (45) days from: (A) the Commission's receipt of the 90-Day Notice delivered pursuant to Section 15.3, stating the non-defaulting Developer will not cure the Default; or (B) the expiration of the extended cure period without a cure of the Default. Upon the Commission's exercise of such option, the Affordable Developer shall execute a grant deed in a form acceptable to the Commission

transferring the Affordable Development to the Commission. The granting of this option to purchase, enter and take possession to the Commission shall not impair or limit the Commission's ability to exercise any other rights or remedies granted to the Commission in this Agreement.

Notwithstanding anything to the contrary, the Commission shall have no right to impose any of the remedies in this Section against the Affordable Developer or against the Affordable Development for Default by the Market Rate Developer.

Section 14.7 Right to Cure at Affordable Developers' Expense.

The Commission shall have the right to cure any monetary defaults by the Affordable Developer under a loan in connection with the Affordable Development Parcel after notice to a Developer of the Commission's intent to cure. Notwithstanding anything to the contrary, the Commission shall have no right to impose any of the remedies in this Section against the Affordable Developer or against the Affordable Development for Default by the Market Rate Developer. The Affordable Developer agrees to reimburse the Commission for any funds advanced by the Commission to cure a monetary default by such Developer upon demand therefore, together with interest thereon at the lesser of the rate of ten percent (10%) per annum or the maximum rate permitted by law from the date of expenditure until the date of reimbursement.

Section 14.8 Right of Reverter.

(a) In the event that, following conveyance of the Affordable Development Parcel, this Agreement is terminated pursuant to Section 14.6 and such termination occurs prior to issuance of a Certificate of Completion for the Affordable Development Improvements, then the Commission has the right to reenter and take possession of the Affordable Development Parcel and all improvements thereon and to revest in the Commission the estate of the Affordable Developer in the Affordable Development Parcel.

(b) Upon vesting or revesting in the Commission of title to the Affordable Development Parcel, the Commission will promptly use its best efforts to resell the Affordable Development Parcel consistent with the Commission's obligations under applicable laws. Upon sale the proceeds will be applied as follows: (1) first, to reimburse the Commission for any costs it incurs in managing or selling the Affordable Development Parcel (after exercising its right of reverter), including but not limited to amounts to discharge or prevent liens or encumbrances arising from any acts or omissions of the Developer; (2) second, to reimburse the Commission for damages to which it is entitled under this Agreement by reason of the Affordable Developer's Default; (3) third, to the Affordable Developer up to the sum of the purchase price the Affordable Developer paid for the Affordable Development Parcel pursuant to Section 8.2 and the reasonable cost of the Improvements the Affordable Developer has placed on the Affordable Development Parcel and such other reasonable costs the Affordable Developer has incurred directly in connection with development of the Affordable Development Parcel that were not financed by the Commission; and (4) fourth, any balance to the Commission.

Section 14.9 Rights of Mortgagees.

Any rights of the Commission under this Article will not defeat, limit or render invalid any Security Financing Interest permitted by this Agreement or any rights provided for in this Agreement for the protection of holders of Security Financing Interests. Any conveyance or

reverter of the Affordable Development Parcel to the Commission pursuant to this Article will be subject to Security Financing Interests permitted by this Agreement.

Section 14.10 Remedies Cumulative.

No right, power, or remedy given by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy will be cumulative and in addition to every other right, power, or remedy given by the terms of any such instrument, or by any statute or otherwise. Neither the failure nor any delay to exercise any such rights and remedies will operate as a waiver thereof, nor will any single or partial exercise of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 14.11 Waiver of Terms and Conditions.

The Executive Director may, at the Executive Director's discretion, waive in writing any of the terms and conditions of this Agreement or any of the Commission Housing Loan Documents (as applicable), expressly for the benefit of the Commission without the Commission and a Developer completing an amendment to this Agreement. No waiver of any default or breach by the Developer hereunder will be implied from any omission by the Commission to take action on account of such default if such default persists or is repeated, and no express waiver will affect any default other than the default specified in the waiver, and such waiver will be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein will not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. The consent or approval by the Commission to or of any act by the Developer requiring further consent or approval will not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act. The exercise of any right, power, or remedy will in no event constitute a cure or a waiver of any default under this Agreement or any of the Commission Documents, nor will it invalidate any act done pursuant to notice of default, or prejudice the Commission in the exercise of any right, power, or remedy under the Commission Documents, unless in the exercise of any such right, power, or remedy all obligations of the Developer to Commission are paid and discharged in full.

Section 14.12 Limited Liability of Tax Credit Investor.

No Tax Credit Investor, nor any constituent partner, member, owner, officer, agent, employee, attorney or consultant of the Tax Credit Investor, including any person executing this instrument required under this Agreement, shall be liable personally under this Agreement (provided that the Tax Credit Investor is not acting as the General Partner). No recourse shall be had against any Tax Credit Investor, or any constituent partner, member, owner, officer, employee or agent, as such, of the Tax Credit Investor or any successor whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise (provided that the Tax Credit Investor is not acting as the General Partner).

ARTICLE 15.
SECURITY FINANCING AND
RIGHTS OF HOLDERS

Section 15.1 No Encumbrances Except for Development Purposes.

Notwithstanding any other provision of this Agreement, mortgages and deeds of trust, or any other reasonable method of security are permitted to be placed upon the Affordable Developer's fee interest in the Affordable Development Parcel, but only for the purpose of securing loans approved by the Commission pursuant to the approved Financing Plans. Mortgages, deeds of trust, or other reasonable security instruments securing loans approved by the Commission pursuant to the approved Financing Plans are each referred to as a "Security Financing Interest." The words "mortgage" and "deed of trust" as used in this Agreement include all other appropriate modes of financing real estate acquisition, construction, and land development.

Section 15.2 Holder Not Obligated to Construct.

The holder of any Security Financing Interest authorized by this Agreement is not obligated to construct or complete any improvements or to guarantee such construction or completion; nor will any covenant or any other provision in conveyances from the Commission to the Affordable Developer evidencing the realty comprising the Affordable Development Parcel or any part thereof be construed so to obligate such holder. However, nothing in this Agreement is deemed to permit or authorize any such holder to devote the Affordable Development Parcel or any portion thereof to any uses, or to construct any improvements thereon, other than those uses of improvements provided for or authorized by this Agreement and the Affordable Housing Regulatory Agreement, as applicable.

Section 15.3 Notice of Default and Right to Cure.

Whenever the Commission pursuant to its rights set forth in Article 11 of this Agreement delivers any notice or demand to the Affordable Developer with respect to the commencement, completion, or cessation of the construction of the Affordable Development Improvements, the Commission will at the same time deliver to each holder of record of any Security Financing Interest creating a lien upon the Affordable Developer's fee interest in the Affordable Development Parcel or any portion thereof, and the Tax Credit Investor in the case of the Affordable Development only, a copy of such notice or demand. Each such holder (insofar as the rights of the Commission are concerned) has the right, but not the obligation, at its option, within ninety (90) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such default or breach affecting the Affordable Development Parcel which is subject to the lien of the Security Financing Interest held by such holder and to add the cost thereof to the security interest debt and the lien on its security interest. Nothing contained in this Agreement is deemed to permit or authorize such holder to undertake or continue the construction or completion of the Affordable Development Improvements (beyond the extent necessary to conserve or protect such improvements or construction already made) without first having expressly assumed in writing the Affordable Developer's obligations to the Commission relating to the Affordable Development Improvements under this Agreement pursuant to an assignment and assumption agreement prepared by the Commission and recordable among the

Official Records (the "Security Financing Interest Assignment"). The holder in that event must agree to complete, in the manner provided in this Agreement (or as may be amended by the Security Financing Interest Assignment; provided, however, the Commission is under no obligation to extend the dates for performance set forth in this Agreement), the Affordable Development Improvements. Any such holder properly completing the Affordable Development Improvements pursuant to this paragraph must assume all rights and obligations of the Affordable Developer under this Agreement and will be entitled, upon completion and written request made to the Commission, to a Certificate of Completion from the Commission.

Section 15.4 Failure of Holder to Complete Improvements.

In any case after an uncured Default by the Affordable Developer in completion of construction of the Affordable Development Improvements under this Agreement, the holder of record of any Security Financing Interest, having first exercised its option to construct pursuant to the Security Financing Interest Assignment, has not proceeded diligently with construction (as reasonably determined by the Commission) within six (6) months of taking possession of the Affordable Development Improvements, the Commission must be afforded those rights against such holder it would otherwise have against the Affordable Developer under this Agreement.

Section 15.5 Right of Commission to Cure.

In the event of a default or breach by the Affordable Developer of a Security Financing Interest prior to the completion of the Affordable Development Improvements, and the holder has not exercised its option to complete the Affordable Development Improvements on the Affordable Development Parcel, the Commission may cure the default, prior to the completion of any foreclosure. In such event the Commission will be entitled to reimbursement from the Affordable Developer of all costs and expenses incurred by the Commission in curing the default. The Commission will also be entitled to a lien upon the Affordable Development Parcel or any portion thereof to the extent of such costs and disbursements. The Commission agrees that such lien will be subordinate to any Security Financing Interest, and the Commission will execute from time to time any and all documentation reasonably requested by the Affordable Developer to effect such subordination.

Section 15.6 Right of Commission to Satisfy Other Liens.

After the conveyance of title to the Affordable Development Parcel or any portion thereof and after the Affordable Developer has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on the Affordable Development Parcel or any portion thereof, the Commission will have the right to satisfy any such lien or encumbrances; provided, however, that nothing in this Agreement will require the Affordable Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the Affordable Developer in good faith may contest the validity or amount therein and so long as such delay in payment does not subject the Affordable Development Parcel or any portion thereof to forfeiture or sale.

Section 15.7 Holder to be Notified.

The Affordable Developer will use commercially reasonable efforts to insert each term contained in this Article into each Security Financing Interest or will procure acknowledgement

of such terms by each prospective holder of a Security Financing Interest prior to its coming into any security right or interest in the Affordable Development Parcel or portion thereof.

ARTICLE 16.
REPRESENTATIONS, WARRANTIES
AND COVENANTS

Section 16.1 Developer Representations and Warranties.

Each Developer acquiring a Developer Parcel and assuming the rights hereunder, shall at the close of escrow make the following representations and warranties to the Commission as follows:

(a) Good Standing. The Developer is a duly organized and validly existing and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

(b) Corporate Authority. The Developer has full power and authority to execute and deliver this Agreement and to make and accept the grant contemplated hereunder, to execute and deliver all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Authority of Persons Executing Documents. This Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf the Developer and all actions required under the Developer's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) Valid Binding Agreements. This Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of the Developer, enforceable against the Developer in accordance with their respective terms.

(e) No Breach of Law or Agreement. Neither the execution nor delivery of this Agreement or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever binding on the Developer, or any provision of the organizational documents of the Developer, or will conflict with or constitute a breach of or a default under any agreement to which the Developer is a party, or will result in the creation or imposition of any lien upon any assets or property of the Developer, other than liens established pursuant hereto.

(f) Compliance With Laws; Consents and Approvals. The Developer represents and warrants that the construction of the Development Improvements will comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

(g) Pending Proceedings. The Developer is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of the Developer, threatened against or affecting the Developer, respectively, or the Developer Parcel, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to the Developer, materially affect the Developer's ability to perform its obligations under this Agreement or impair the security to be given to the Commission pursuant hereto.

(h) Title to Land. At the time of recordation of the Grant Deed, the Developer will have good and marketable fee title to the Developer Parcel and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever other than liens for current real property taxes and assessments not yet due and payable, the liens in favor of the Commission mortgage, lien, pledge or other encumbrance permitted by this Agreement and/or approved in writing by the Commission.

(i) Financial Statements. The financial statements of the Developer and other financial data and information furnished by the Developer to the Commission fairly present the information contained therein. There has not been any adverse, material change in the financial condition of the Developer from that shown by such financial statements and other data and information.

(j) Sufficient Funds. The Developer holds sufficient funds and/or binding commitments for sufficient funds to complete the acquisition of the Development Parcel. At the time of recordation of the Affordable Housing Loan Deed of Trust, the Affordable Developer will hold sufficient funds and/or binding commitments for sufficient funds to complete the construction and to begin operation of the Affordable Development in accordance with this Agreement and the other Commission Documents.

(k) Taxes. From and after the Affordable Developer's acquisition of the Affordable Development Parcel, the Affordable Developer will timely file all federal and other material tax returns and reports required to be filed, and will timely pay all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon it or its income or the Affordable Development Parcel otherwise due and payable, except those which are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with generally accepted accounting principles. There is no proposed tax assessment against the Affordable Developer that could, if made, be reasonably expected to have a material adverse effect upon the Affordable Development Parcel, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of the Affordable Developer, taken as a whole, which would be expected to result in a material impairment of the ability of the Affordable Developer to perform under any loan document to which it is a Party, or a material adverse effect upon the legality, validity, binding effect or

enforceability against the Affordable Developer of this Agreement or any other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement.

Section 16.2 Effect of Representations and Warranties.

All of the representations and warranties made by each of the Developers, respectively in this Agreement shall be true and correct in all material respects as of the date made and the Developers shall cause such representations and warranties to remain true in all material respects throughout the Term of this Agreement as they pertain to their properties and entities. Each Developer shall indemnify and defend the Indemnitees against and hold the Indemnitees harmless from all claims, demands, liabilities, losses, damages, costs and expenses, including reasonable attorneys' fees and disbursements, that may be suffered or incurred by the Commission if any representation or warranty made by the Developers, respectively, in this Agreement was untrue or incorrect in any respect when made or that may be caused by any breach of the Developers, respectively, of any such representation or warranty. The foregoing indemnity shall survive the termination or expiration of this Agreement.

Section 16.3 Commission Representations and Warranties.

The Commission hereby represents and warrants to the Affordable Developer that pursuant to Health and Safety Code Section 34176, the County Board of Supervisors declared that the Commission elected to retain the housing assets and functions previously performed by the Former Agency.

ARTICLE 17.
GENERAL PROVISIONS

Section 17.1 Notices, Demands and Communications.

Formal notices, demands, and communications between the Commission and the Developer will be sufficiently given if, and not be deemed given unless, dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by reputable overnight delivery service, or delivered personally, to the principal office of the Commission and the Developer as follows:

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

Affordable Developer:	MidPen Housing Corporation 303 Vintage Park Drive, #250 Foster City, CA 94404 Attention: Chief Real Estate Development Officer
-----------------------	---

Master Developer: MidPen Housing Corporation
303 Vintage Park Drive, #250
Foster City, CA 94404
Attention: Chief Real Estate Development Officer

Market Rate Developer: UrbanMix Development, LLC
1007 Morton Street
Alameda, CA 94501
Attention: Keith McCoy

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by mail as provided in this Section.

Section 17.2 Non-Liability of Commission Officials, Employees and Agents.

No board members, officers, directors, representatives, consultants, employees and agents of the Commission or the County may be personally liable to any Developer, or any successor in interest, in the event of any default or breach by the Commission or for any amount which may become due to the Developer or successor or on any obligation under the terms of this Agreement. No board members, officers, directors, representatives, consultants, employees and agents of the Master Developer or any Developer may be personally liable to the Commission, County or any successor in interest, in the event of any default or breach by the Master Developer and/or any Developer or for any amount which may become due to the County or Commission or successor or on any obligation under the terms of this Agreement.

Section 17.3 Inspection of Books and Records.

Upon request, a Developer must permit the Commission to inspect at reasonable times and on a confidential basis those books, records and all other documents of the Developer necessary to determine Developer's compliance with the terms of this Agreement.

Section 17.4 Provision Not Merged with Deeds.

None of the provisions of this Agreement are intended to or will be merged by any grant deed transferring title to any real property which is the subject of this Agreement from Commission to a Developer or any successor in interest, and any such grant deed will not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 17.5 Title of Parts and Sections.

Any titles of the articles, sections or subsections of this Agreement are inserted for convenience of reference only and should be disregarded in construing or interpreting any part of its provision.

Section 17.6 General Indemnification.

Each Developer, for itself and all assigns hereunder, hereby agrees to indemnify, defend (with counsel reasonably selected by the Commission) and hold the Indemnitees harmless against any and all claims, suits, actions, losses and liability of every kind, nature and description made against all or any of the Indemnitees, and expenses (including reasonable attorneys' fees) which arise out of or in connection with such Developer's breach of this Agreement or any of the Commission Documents, including but not limited to the purchase of the Developer Parcel, development of the Improvements, and the operation of the Development Improvements, except to the extent such claim arises from the grossly negligent or willful misconduct of the Commission. The provisions of this Section survive both the issuance of a Certificate of Completion by the Commission and termination of this Agreement.

Section 17.7 Applicable Law.

This Agreement must be interpreted under and pursuant to the laws of the State of California.

Section 17.8 No Brokers.

Each party represents to the other that it has not had any contact or dealings regarding the property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee. If any broker or finder makes a claim for a commission or finder's fee based upon a contact, dealings, or communications, the party through whom the broker or finder makes this claim must indemnify, defend with counsel of the indemnified party's choice, and hold the indemnified party harmless from all expense, loss, damage and claims, including the indemnified party's reasonable attorneys' fees, if necessary, arising out of the broker's or finder's claim. The provisions of this section survive expiration of the Term or other termination of this Agreement, and will remain in full force and effect.

Section 17.9 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 the provisions will 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.

Section 17.10 Legal Actions.

Any legal action commenced to interpret or to enforce the terms of this Agreement must be filed in the Superior Court of the County of Sonoma.

Section 17.11 Attorney's Fees.

In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the party prevailing in any such action will be entitled to recover against the party not prevailing all reasonable attorney's fees and costs incurred in such action.

Section 17.12 Binding Upon Successors.

This Agreement is binding upon and inures to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the parties hereto, except that there may be no Transfer of any interest by any of the parties hereto except pursuant to the terms of this Agreement. Any reference in this Agreement to a specifically named party is deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

The covenants and restrictions set forth in this Agreement run with the land, and will bind all successors in title to the Developer Parcel. Each and every contract, deed, or other instrument hereafter executed covering or conveying the Developer Parcel will be held conclusively to have been executed, delivered, and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed, or other instrument, unless the Commission expressly releases the Developer Parcel from the requirements of this Agreement.

Section 17.13 Parties Not Co-Venturers.

Nothing in this Agreement is intended to or does establish the parties as partners, co-venturers, or principal and agent with one another.

Section 17.14 Discretion Retained by Commission.

The Commission's execution of this Agreement does not constitute approval by the Commission or the County and in no way limits the discretion of the City or County in the permit and approval process in connection with development of the Development Improvements.

Section 17.15 Time of the Essence.

In all matters under this Agreement, the parties agree that time is of the essence.

Section 17.16 Action by the Commission.

Except as may be otherwise specifically provided in this Agreement, whenever any approval, notice, direction, finding, consent, request, waiver, or other action by the Commission is required or permitted under this Agreement, such action may be given, made, or taken by the Executive Director, or by any person who have been designated in writing to the Developer by the Executive Director, without further approval by the Board of Supervisors. Any such action must be in writing.

Section 17.17 Entry by the Commission.

The Commission, through its officers, agents, consultants or employees, at all reasonable times, and upon forty-eight hours' notice, shall have the right to enter into the Development Improvements: (a) to inspect the work of construction to determine that the same is in conformity with the requirements of this Agreement; and (b), following completion of construction to inspect the ongoing operation and management of the Development Improvements to determine that the same is in conformance with the requirements of this Agreement. The Developer acknowledges that the Commission is under no obligation to supervise, inspect, or inform the Development Improvements of the progress of construction, or

operations and the Developer may not rely upon the Commission therefor. Any inspection by the Commission during the construction is entirely for its purposes in determining whether the Developer is in compliance with this Agreement and is not for the purpose of determining or informing the Developer of the quality or suitability of construction. Each Developer must rely entirely upon its own supervision and inspection in determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers.

Section 17.18 Entire Understanding of the Parties.

This Agreement constitutes the entire understanding and agreement of the parties. All prior discussions, understandings and written agreements are superseded by this Agreement. The Developer and the Developer's counsel have read and reviewed this Agreement and agree that any rule of construction (including, but not limited to Civil Code Section 1654, as may be amended from time to time) to the effect that ambiguities are to be resolved against the drafting party will not apply to the interpretation of this Agreement.

Section 17.19 Operating Memoranda; Implementation Agreements.

(a) The parties acknowledge that the provisions of this Agreement require a close degree of cooperation and that new information and future events may demonstrate that changes are appropriate with respect to the details of performance of the parties under this Agreement. The parties desire, therefore, to retain a certain degree of flexibility with respect to the details of performance for those items covered in general terms under this Agreement. If and when, from time to time, the parties find that refinements or adjustments are desirable, such refinements or adjustments may be accomplished through operating memoranda or implementation agreements approved by the parties which, after execution will be attached to this Agreement as addenda and become a part hereof, each an "Operating Memorandum". This Agreement describes some, but not all, of the circumstances in which the preparation and execution of operating memoranda or implementation agreements may be appropriate.

(b) Each Operating Memorandum or implementation agreements may be executed on the Commission's behalf by the Executive Director, or his or her designee. In the event a particular subject requires notice or hearing, such notice or hearing must be appropriately given. Any significant modification to the terms of performance under this Agreement must be processed as an amendment of this Agreement in accordance with Section 17.20 and must be approved by the Commission Board.

Section 17.20 Amendments.

The parties can amend this Agreement only by means of a writing executed by the Developer and the Commission.

Section 17.21 Counterparts; Multiple Originals.

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

[Signature Page Follows]

IN WITNESS WHEREOF, the Commission and the Developer have executed this Agreement as of the Effective Date.

AFFORDABLE DEVELOPER:

MIDPEN HOUSING CORPORATION, a California
nonprofit public benefit corporation

By: _____

Name: _____

Its: _____

Date: _____

MASTER DEVELOPER:

MIDPEN HOUSING CORPORATION, a California
nonprofit public benefit corporation

By: _____

Name: _____

Its: _____

Date: _____

MARKET RATE DEVELOPER:

URBANMIX DEVELOPMENT, LLC, a California
limited liability company

By: _____

Name: _____

Its: _____

Date: _____

COMMISSION:

SONOMA COUNTY COMMUNITY DEVELOPMENT
COMMISSION, a public body corporate and politic

By: _____
Geoffrey Ross, Interim Executive Director

Date: _____

APPROVED AS TO FORM:

By: _____
Commission Counsel

EXHIBIT A-1

LEGAL DESCRIPTION OF ROSELAND SITE

EXHIBIT A-2

LEGAL DESCRIPTION OF THE GEE PARCEL

EXHIBIT B

CONCEPTUAL SITE PLAN

[Note: Insert Site Plans.]

EXHIBIT C-1

REMEDIATION AND INFRASTRUCTURE FINANCING PROPOSAL

[Note: Insert Financing Proposal]

EXHIBIT C-2

AFFORDABLE DEVELOPMENT FINANCING PROPOSAL

[Note: Insert Financing Proposal]

EXHIBIT C-3

MARKET RATE DEVELOPMENT FINANCING PROPOSAL

[Note: Insert Financing Proposal]

EXHIBIT D

SCOPE OF DEVELOPMENT

[Note: Insert Scope of Development.]

EXHIBIT E

DEVELOPMENT SCHEDULE

[Note: Insert Development Schedule.]

EXHIBIT F

SCOPE OF INFRASTRUCTURE WORK

[Note: Insert Scope of Infrastructure Work.]

EXHIBIT G

FORM OF ASSIGNMENT AGREEMENT
(Collateral Documents)

[Note: Insert Form of Assignment Agreement.]

EXHIBIT H

FORM OF MEMORANDUM OF DDA

[Note: Insert Form of Memorandum of DDA.]

EXHIBIT I

FORM OF GRANT DEED

[Note: Insert Form of Grant Deed.]

EXHIBIT J

FORM OF DDA ASSIGNMENT AND ASSUMPTION AGREEMENT

[Note: Insert Form of DDA Assignment and Assumption Agreement.]

EXHIBIT K

INSURANCE REQUIREMENTS

[Note: Insert Insurance Requirements.]

EXHIBIT L

FORM OF CERTIFICATE OF COMPLETION

[Note: Insert Form of Certificate of Completion.]

EXHIBIT M

TERMS OF DDA SURVIVING TERMINATION

[Note: Insert List of DDA Terms that Survive Termination.]

EXHIBIT N
APPRAISAL INSTRUCTIONS

EXHIBIT O

ENVIRONMENTAL ASSESSMENT DOCUMENTS

[Note: Insert List of Environmental Assessment Documents.]

The term "Environmental Assessment Documents" as used in the Agreements shall mean all of the following:

- (1) the "Phase I Environmental Site Assessment, _____" report, dated _____;
- (2) the environmental clearance letter from the Water Board to be provided pursuant to the CLRRA Agreement.

EXHIBIT P

PLAZA TEMPORAL SITE MAP

[Note: Insert Plaza Temporal Site Map.]

EXHIBIT Q

PLAZA TEMPORAL IMPROVEMENTS

EXHIBIT R

PLAZA TEMPORAL SHORT-TERM LEASE TERM SHEET

EXHIBIT S

PLL POLICY

EXHIBIT T

CCLRA AGREEMENT

EXHIBIT U

FORM OF HOUSING LOAN AGREEMENT